

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): June 24, 2024 (June 21, 2024)

ANI PHARMACEUTICALS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

001-31812
(Commission File Number)

58-2301143
(I.R.S. Employer Identification No.)

210 Main Street West
Baudette, Minnesota
(Address of principal executive offices)

56623
(Zip Code)

Registrant's telephone number, including area code: **(218) 634-3500**

Not Applicable
(Former name or former address, if changed since last report.)

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	ANIP	Nasdaq Stock Market

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

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

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 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.

Item 1.01. Entry into Material Definitive Agreement.

Merger Agreement

On June 21, 2024, ANI Pharmaceuticals, Inc., a Delaware corporation (the "Parent"), entered into an Agreement and Plan of Merger (the "Merger Agreement") with Alimera Sciences, Inc., a Delaware corporation (the "Company") and, following consummation of the Merger, the "Surviving Corporation") and ANIP Merger Sub INC., a Delaware corporation and a wholly owned indirect subsidiary of the Parent ("Merger Sub"), providing for the merger of Merger Sub with and into the Company (the "Merger"), with the Company surviving the Merger as a wholly owned indirect subsidiary of the Parent. Capitalized terms used in this Current Report on Form 8-K but not otherwise defined herein have the meanings set forth in the Merger Agreement.

At the effective time of the Merger (the "Effective Time"), each share of common stock, par value \$0.01 per share, of the Company (the "Company Common Stock") outstanding immediately prior to the Effective Time (including each Company RSA (as defined below), but excluding any treasury shares or shares owned by the Parent, Merger Sub, or any other subsidiary of the Parent or the Company), shall be canceled and cease to exist and shall be converted into the right to receive (i) \$5.50 in cash, without interest (such amount, as may be adjusted in accordance with the Merger Agreement, the "Closing Cash Consideration") and (ii) one contingent value right (a "CVR"), which shall represent the right to receive the Milestone Payments (as defined below) subject to the terms and conditions set forth in the CVR Agreement (as defined below) (the consideration contemplated by (i) and (ii), together, the "Merger Consideration").

Consummation of the Merger is subject to customary closing conditions, including, without limitation, the absence of certain legal impediments, the expiration or termination of the required waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and approval by the holders of a majority of the voting power of the outstanding shares of Company Common Stock entitled to vote on the Merger.

Consummation of the Merger by the Parent and Merger Sub is further subject to satisfaction of customary closing conditions on the part of the Company, including, without limitation, the Company having performed, or complied with, in all material respects, its agreements, covenants and other obligations required to be performed or complied with by the Merger Agreement at or prior to the Closing Date, the representations and warranties of the Company being true and correct (subject in certain instances to materiality qualifiers), and no continuing Company Material Adverse Effect.

Consummation of the Merger by the Company is further subject to satisfaction of customary closing conditions on the part of the Parent and the Merger Sub, including, without limitation, the Parent and Merger Sub having performed, or complied with, in all material respects, all of their respective agreements, covenants and obligations required to be performed or complied with by each of them under the Merger Agreement at or prior to the Closing Date, the representations and warranties of the Parent and Merger Sub being true and correct (subject in certain instances to materiality qualifiers), and the CVR Agreement being in full force and effect.

The Merger Agreement includes covenants requiring the Company not to (i) initiate, solicit or knowingly encourage or facilitate any inquiries or the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, any Acquisition Proposal, (ii) engage in, continue or otherwise participate in any discussions or negotiations regarding, or provide any non-public information or data to any person, in each case relating to, any Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to an Acquisition Proposal, (iii) amend or grant any waiver or release under any standstill or similar agreement with respect to any class of equity securities of the Company or any of the Company Subsidiaries (subject to the Company Board's ability to exercise its fiduciary duties), (iv) approve any transaction under, or any third party becoming an "interested stockholder" under, Section 203 of the Delaware General Corporation Law, (v) otherwise knowingly facilitate any effort or attempt by any third party (or its potential sources of financing) to make any proposal or offer that constitutes an Acquisition Proposal, (vi) approve, endorse, recommend or execute or enter into any letter of intent, agreement in principle, term sheet, memorandum of understanding, merger agreement, acquisition agreement or other similar contract relating to an Acquisition Proposal, or (vii) approve, authorize, agree, or publicly announce any intention to do any of the foregoing, with customary exceptions for superior proposals. The Merger Agreement also includes covenants customary for a transaction of this nature regarding the operation of the business of the Company and its subsidiaries between signing of the Merger Agreement and the Effective Time.

The Merger Agreement requires the Company, as promptly as reasonably practicable, and in any event within 25 business days following the date of the Merger Agreement, to prepare and file with the U.S. Securities and Exchange Commission (the "SEC") a proxy statement for the purpose of seeking stockholder approval to the Merger Agreement.

The Merger Agreement contains certain termination rights for the Company and Parent. Upon termination of the Merger Agreement under specified circumstances, the Company will be required to pay the Parent a termination fee of approximately \$10.4 million. Among other termination rights, and subject to certain limitations, (i) each of the Company and the Parent may terminate the Merger Agreement if the Merger is not consummated by December 21, 2024 and (ii) the Company and the Parent may mutually agree to terminate the Merger Agreement.

The Merger Agreement contains representations and warranties by each of the Parent, Merger Sub and the Company customary for a transaction of this nature, including those relating to, among other things, the parties' ability to enter into the Merger Agreement, their outstanding capitalization, and regulatory matters. These representations and warranties were made solely for the benefit of the parties to the Merger Agreement and:

- should not be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- may have been qualified in the Merger Agreement by disclosures that were made to the other party in connection with the negotiation of the Merger Agreement;
- may apply contractual standards of "materiality" that are different from "materiality" under applicable securities laws; and
- were made only as of the date of the Merger Agreement or such other date or dates as may be specified in the Merger Agreement.

At the Effective Time, outstanding awards of restricted stock with respect to shares of Company Common Stock (each, a "Company RSA"), whether vested or unvested as of immediately prior to the Effective Time, for which the holder thereof made a timely and valid election (an "83(b) Election") under Section 83(b) of the Internal Revenue Code of 1986, as amended, shall be cancelled and cease to exist, and shall be converted into the right to receive the Merger Consideration.

At the Effective Time, each Company RSA for which the holder thereof did not make a timely and valid 83(b) Election shall be canceled and converted into the right to receive (i) an amount in cash (without interest and subject to deduction for any required withholding as contemplated by the Merger Agreement) equal to: (A) the total number of shares of such Company RSAs multiplied by (B) the Closing Cash Consideration, without any interest thereon, and (ii) CVRs in an amount equal to the total number of shares of such Company RSAs.

At the Effective Time, each stock option granted by the Company to purchase Company Common Stock (each, a "Company Option") that is outstanding and unvested immediately prior to the Effective Time will vest in full, and (i) each Company Option that is then outstanding and unexercised and which has a per share exercise price that is less than the Closing Cash Consideration shall be canceled and converted into the right to receive the sum of an amount in cash (without interest and subject to deduction for any required withholding as contemplated in the Merger Agreement) equal to: (a) the excess, if any, of the Closing Cash Consideration over the exercise price per share of such Company Option; multiplied by the number of shares of Company Common Stock underlying such Company Option and (b) one (1) CVR, (ii) each Company Option that is then outstanding and unexercised, and which has a per share exercise price that equals or exceeds the Closing Cash Consideration, but is less than the Maximum Total Consideration (as defined in the Merger Agreement) (each, an "Eligible Option") shall be canceled and converted into the right to receive a cash payment equal to (a) the excess, if any, of (A) the Total Consideration (as defined in the Merger Agreement) over (B) the per share exercise price of such Eligible Option multiplied by (b) the total number of shares of Company Common Stock subject to such Eligible Option immediately prior to the Effective Time, and (iii) each Company Option that is then outstanding and unexercised and that has a per share exercise price that is equal or greater than the Maximum Total Consideration shall be canceled with no consideration payable in respect thereof.

At the Effective Time, each Company performance stock unit ("Company PSU") that is then outstanding shall automatically be canceled and converted into the right to receive (i) from the Surviving Corporation an amount of cash equal to the product of (A) the total number of shares of Company Common Stock then underlying such Company PSUs pursuant to the applicable Company PSU grant terms, with, for the avoidance of doubt, all performance metrics deemed achieved at 100%, multiplied by (B) the Closing Cash Consideration, without any interest thereon and (ii) CVRs in an amount equal to the total number of shares of Company Common Stock then underlying such Company PSUs pursuant to the applicable Company PSU grant terms, with, for the avoidance of doubt, all performance metrics deemed achieved at 100%.

At the Effective Time, each Company restricted stock unit (“Company RSU”) that is then outstanding shall automatically be canceled and converted into the right to receive (i) from the Surviving Corporation an amount of cash equal to the product of (A) the number of shares of Company Common Stock then underlying such Company RSU multiplied by (B) the Closing Cash Consideration, without any interest thereon and (ii) CVRs in an amount equal to the total number of shares of Company Common Stock then underlying such Company RSUs.

At the Effective Time, each Company warrant (“Company Warrant”) that is outstanding as of immediately prior to the Effective Time shall, upon the Effective Time, convert into the right to receive, upon exercise of such Company Warrant, the same Merger Consideration as such holder would have been entitled to receive following the Effective Time if such holder had been, immediately prior to the Effective Time, the holder of the number of shares of Company Common Stock then issuable upon exercise in full of such Company Warrant without regard to any limitations on exercise contained therein.

The foregoing description of the Merger Agreement and the transactions contemplated thereby does not purport to be complete and is subject to, and qualified in its entirety by reference to, the full text of the Merger Agreement, which is filed as Exhibit 2.1 to this Current Report on Form 8-K and incorporated herein by reference.

Voting Agreement

In connection with the execution of the Merger Agreement, the Parent and the Company entered into a voting agreement (the “Voting Agreement”) with Caligan Partners LP, Caligan Partners Master Fund LP and Caligan Partners CV VI LP (collectively, “Caligan”). Pursuant to the Voting Agreement, Caligan has agreed, among other things, to (i) vote or cause to be voted all of its shares of Company Common Stock in favor of the Merger and the transactions contemplated by the Merger Agreement, and (ii) prior to the Expiration Time (as defined in the Voting Agreement) and subject to limited exceptions, not to sell or otherwise transfer any of its shares of Company Common Stock other than with the consent of the Parent and the Company. The shares of Company Common Stock owned by Caligan represent approximately 32.1% of the outstanding shares of Company Common Stock.

The foregoing description of the Voting Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Voting Agreement, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Contingent Value Rights Agreement

At or immediately prior to the Effective Time, the Parent will enter into a contingent value rights agreement (the “CVR Agreement”) with a rights agent (the “Rights Agent”), pursuant to which each holder of Company Common Stock, as well as holders of Company Warrants, Company Options, Company PSUs, Company RSAs and Company RSUs, may become entitled to contingent cash payments per CVR (each, a “Milestone Payment”), such payment(s) being contingent upon, and subject to, satisfaction of the Milestones (as defined below).

When issued, each CVR will entitle the holder (the “Holder”) to receive Milestone Payments for 2026 and 2027, upon satisfaction of the applicable Milestones. The Milestone Payments for each CVR will equal the product (rounded to the nearest 1/100 of \$0.01) of \$0.25 multiplied by a fraction (which is no case will exceed one), and (i) for 2026, equals the amount, if any, by which the 2026 Net Revenue exceeds \$140.0 million, divided by \$10.0 million (subject to adjustment for the exercise price of Eligible Options), and (ii) for 2027, equals the amount, if any, by which the 2027 Net Revenue exceeds \$160.0 million, divided by \$15.0 million (subject to adjustment for the exercise price of Eligible Options) (the occurrence of the events in clauses (i) and (ii), each, a “Milestone”).

If a Milestone is attained, the distributions in respect of the CVRs will be made on or prior to the date that is fifteen (15) business days following the filing by the Parent of its audited financial statements with the SEC on Form 10-K in respect of the applicable year in which such Milestone has been achieved, and will be subject to a number of deductions, exceptions and limitations, including but not limited to certain taxes.

Under the CVR Agreement, the Rights Agent will have, and Holders of at least 35% of the CVRs then-outstanding will have, certain rights to audit and enforcement on behalf of all Holders of the CVRs. The Parent will undertake under the terms of the CVR Agreement to use diligent efforts to achieve the Milestones, as such efforts are further described in the CVR Agreement.

The foregoing description of the CVR Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the form of the CVR Agreement, a form of which is included as Exhibit B to the Merger Agreement, which is filed as Exhibit 2.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 7.01. Regulation FD Disclosure.

On June 24, 2024, the Parent and the Company issued a press release announcing their entry into the Merger Agreement. The text of the press release is attached as Exhibit 99.1 and is incorporated into this Item 7.01 by reference.

On June 24, 2024, management of the Parent will host a conference call to provide supplemental information regarding the proposed Merger to analysts and investors at 8:30 a.m. ET. The telephone number for the call is 800-225-9448. This conference call will also be webcast and can be accessed from the “Investors” section of the Parent’s website at www.anipharma.com. The webcast replay of the call will be available at the same site approximately one hour after the end of the call. A replay of the conference call will also be available within two hours of the call’s completion and will remain accessible for two weeks by dialing 877-856-8965 and entering access code 4630647. The slides that will be made available in connection with this analyst and investor presentation are attached hereto as Exhibit 99.2 and are incorporated into this Item 7.01 by reference.

The information in this item and Exhibits 99.1 and 99.2 are not deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), nor shall this item or Exhibits 99.1 or 99.2 be incorporated by reference into the Company’s filings under the Securities Act of 1933, as amended, or the Exchange Act, except as expressly set forth in such future filing.

Item 8.01. Other Events.

In connection with the Merger, JPMorgan Chase Bank, N.A. and Blackstone Credit & Insurance (the “Lenders”) have committed to provide debt financing for the transaction in an aggregate principal amount equal to \$280.0 million, on the terms and subject to the conditions set forth in a commitment letter, dated June 21, 2024 (the “Debt Commitment Letter”). The obligations of the Lenders to provide debt financing under the Debt Commitment Letter are subject to customary conditions, including, without limitation, execution and delivery of definitive documentation consistent with the Debt Commitment Letter. The Company has agreed to cooperate with and provide customary assistance to the Parent in connection with the debt financing.

Forward-Looking Statements

This communication, and the documents to which the Parent refers you in this communication, contains not only historical information, but also forward-looking statements made pursuant to the safe-harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements represent the Parent’s expectations or beliefs concerning future events, including the timing of the transaction and other information relating to the proposed transactions including statements regarding the benefits of the Merger and the contemplated debt financing (collectively, the “Proposed Transactions”) and the anticipated timing of the Proposed Transactions. These forward-looking statements generally are identified by the words “believe,” “project,” “expect,” “anticipate,” “estimate,” “intend,” “continue,” “strategy,” “future,” “opportunity,” “plan,” “may,” “should,” “will,” “shall,” “would” other words of similar meaning, derivations of such words and the use of future dates. Forward-looking statements are predictions, projections and other statements about future events that are based on current expectations and assumptions and, as a result, are subject to risks and uncertainties.

The following factors, among others, could cause actual results to differ materially from those described in these forward-looking statements: (i) the risk that the Proposed Transactions may not be completed in a timely manner or at all, (ii) the failure to satisfy the conditions to the consummation of the Proposed Transactions, (iii) the occurrence of any event, change or other circumstance that could give rise to the delay or termination of the Merger Agreement, (iv) the inability to complete the Proposed Transactions due to the failure of a party or parties to satisfy conditions to completion of the Merger, including the receipt on a timely basis or at all of any required regulatory clearances related to the Merger and receipt by the Company of stockholder approval, (v) the failure of the contemplated debt financing or any alternative financing to be obtained on a timely basis or at all, (vi) the effect of the announcement or pendency of the Proposed Transactions on the Parent's and/or the Company's business relationships, operating results, and business generally, (vii) risks that the Proposed Transactions disrupt current plans and operations of the Parent and/or the Company and potential difficulties in the Company retaining employees as a result of the Proposed Transactions, (viii) the outcome of any legal proceedings that may be instituted related to the Merger Agreement or the Proposed Transactions, (ix) volatility in the price of the Parent's and/or the Company's stock, including as a result of the Proposed Transactions, (x) changes in competitive and regulated industries in which the Company operates, variations in operating performance across competitors, changes in laws and regulations affecting the Company's business and changes in the combined capital structure, (xi) the ability to implement business plans, forecasts, and other expectations after the completion of the Proposed Transactions, and identify and realize additional opportunities, (xii) costs and regulatory requirements relating to contract manufacturing arrangements, (xiii) delays or failure in obtaining product approvals from the FDA, (xiv) the occurrence of the events or achievement of the milestones giving rise to payments under the CVR Agreement, (xv) general business and economic conditions, (xvi) market trends for the Parent's and/or the Company's products, and the ability to achieve anticipated sales for such products, (xvii) regulatory environment and changes, (xviii) regulatory and other approvals relating to product development and manufacturing, and (xix) costs related to the Proposed Transactions and the failure to realize anticipated benefits of the Proposed Transactions or to realize estimated pro forma results and underlying assumptions.

The foregoing list of factors is not exhaustive. You should carefully consider the foregoing factors and the other risks and uncertainties described in the "Risk Factors" section of the Parent's Annual Report on Form 10-K for the fiscal year ended December 31, 2023, which was filed with the SEC on February 29, 2024, the Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2024, which was filed with the SEC on May 4, 2024, and other documents filed by the Parent from time to time with the SEC. These filings identify and address other important risks and uncertainties that could cause actual events and results to differ materially from those contained in the forward-looking statements. Forward-looking statements speak only as of the date they are made. Readers are cautioned not to put undue reliance on forward-looking statements, and the Parent and the Company assume no obligation and do not intend to update or revise these forward-looking statements, whether as a result of new information, future events, or otherwise. Neither the Parent nor the Company gives any assurance that either the Parent or the Company will achieve its expectations.

Additional Information and Where to Find It

In connection with the Proposed Transactions, the Company intends to file a preliminary and definitive proxy statement. The definitive proxy statement and proxy card will be delivered to the Company's stockholders in advance of the special meeting relating to the proposed acquisition. Each of the Company and the Parent also plan to file other relevant materials with the SEC in connection with the Proposed Transactions. INVESTORS IN AND SECURITY HOLDERS OF THE COMPANY ARE URGED TO READ THE DEFINITIVE PROXY IN ITS ENTIRETY WHEN IT BECOMES AVAILABLE, AS WELL AS ANY OTHER RELEVANT DOCUMENTS THAT ARE FILED OR FURNISHED OR WILL BE FILED OR WILL BE FURNISHED BY EACH OF THE COMPANY AND THE PARENT WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTIONS, RELATED MATTERS AND THE PARTIES TO THE PROPOSED TRANSACTIONS. Materials filed by the Parent and the Company can be obtained free of charge at the SEC's website, www.sec.gov. In addition, materials filed by the Company can be obtained free of charge at the Parent's website, www.anipharma.com, and materials filed by the Company can be obtained free of charge at Company's website, alimerasciences.com.

Participants in Solicitation

Each of the Parent and the Company and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the Company's stockholders in connection with the Proposed Transactions. Information about the Parent's directors and executive officers is included in the definitive proxy statement on Schedule 14A which was filed with the SEC on April 5, 2024. Information about the Company's directors and executive officers and their ownership of the Company's common stock is included in the Company's Annual Report on Form 10-K/A for the fiscal year ended December 31, 2023, which was filed with the SEC on April 29, 2024, and the definitive proxy statement on Schedule 14A which was filed with the SEC on June 29, 2023. Other information regarding the participants in the solicitation of proxies in connection with the proposed transaction and a description of their direct and indirect interests, by security holdings or otherwise, will be contained in the proxy statement and other relevant materials to be filed with the SEC regarding the proposed transaction when they become available. When available, investors may obtain copies of these documents as indicated above.

Item 9.01. Exhibits.

(d) Exhibits

Exhibit No.	Description
2.1*	Agreement and Plan of Merger dated June 21, 2024, by and among ANI Pharmaceuticals, Inc., ANIP Merger Sub INC. and Alimera Sciences, Inc.
10.1*	Voting Agreement, dated June 21, 2024, by and among ANI Pharmaceuticals, Inc., Alimera Sciences, Inc. and Caligan Partners LP, Caligan Partners Master Fund LP and Caligan Partners CV VI LP.
99.1	Press Release dated June 24, 2024.
99.2	Form of Presentation regarding the Merger.
104	Cover Page Interactive Data File (embedded with the Inline XBRL document)

*Portions of these Exhibits have been omitted pursuant to Rule 601(b) of Regulation S-K. For more, see the cover page of such exhibits.

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: June 24, 2024

ANI PHARMACEUTICALS, INC.

By: /s/ Stephen P. Carey

Name: Stephen P. Carey

Title: Senior Vice President Finance and Chief Financial Officer

AGREEMENT AND PLAN OF MERGER
BY AND AMONG:

ANI PHARMACEUTICALS, INC.

ANIP MERGER SUB INC.

and

ALIMERA SCIENCES, INC.

DATED AS OF

JUNE 21, 2024

* The disclosure schedules to this exhibit have been omitted pursuant to Item 601(b)(2)(ii) of Regulation S-K as they contain information that is both not material and of the type that the registrant treats as private or confidential. The registrant agrees to supplementally furnish a copy of any schedule to the SEC upon its request; however, the registrant may request confidential treatment of such schedule.

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Definitions
CVR Agreement

AGREEMENT AND PLAN OF MERGER

This **Agreement and Plan of Merger** ("**Agreement**") is made and entered into as of June 21, 2024 (the "**Agreement Date**") by and among ANI Pharmaceuticals, Inc., a Delaware corporation ("**Parent**"), ANIP Merger Sub INC., a Delaware corporation and wholly owned indirect subsidiary of Parent ("**Merger Subsidiary**"), and Alimera Sciences, Inc., a Delaware corporation (the "**Company**"). Certain capitalized terms used in this Agreement are defined in Exhibit A.

RECITALS

WHEREAS, the parties hereto intend that, on the terms and subject to the conditions set forth herein, Merger Subsidiary shall merge with and into the Company, with the Company being the surviving corporation (the "**Merger**");

WHEREAS, the board of directors of the Company (the "**Company Board**") has unanimously (i) determined and declared advisable that this Agreement, the Voting Agreement, the CVR Agreement, and the Transactions are fair to and in the best interests of the Company and its stockholders, (ii) approved the execution, delivery and performance of this Agreement and the consummation of the Transactions, (iii) resolved to recommend that the Company's stockholders adopt this Agreement and approve the Transactions and (iv) directed that this Agreement be submitted to the Company's stockholders for their adoption;

WHEREAS, the board of directors of Parent has unanimously approved and declared advisable this Agreement and the Transactions;

WHEREAS, the board of directors of the Merger Subsidiary has unanimously (i) determined and declared advisable that this Agreement and the Transactions are fair to and in the best interests of Merger Subsidiary and the sole stockholder of Merger Subsidiary, (ii) approved the execution, delivery and performance of this Agreement and the consummation of the Transactions, (iii) resolved to recommend that the sole stockholder of Merger Subsidiary adopt this Agreement and approve the Transactions and (iv) directed that this Agreement be submitted to the sole stockholder of Merger Subsidiary for its adoption;

WHEREAS, Parent shall, or shall cause the direct holder of the stock of Merger Subsidiary to, immediately following execution and delivery of this Agreement, adopt this Agreement and approve the Transactions in its capacity as sole stockholder of Merger Subsidiary;

WHEREAS, prior to the execution and delivery of this Agreement, and as a condition to the willingness of Parent to enter into this Agreement, a stockholder of the Company has entered into a voting and support agreement (the "**Voting Agreement**") in connection with the Merger pursuant to which such stockholder will, among other things, vote its shares of Company Common Stock in favor of the adoption of this Agreement and take certain other actions in furtherance of the Transactions, in each case, subject to the terms and conditions thereof;

WHEREAS, at or immediately prior to the Effective Time, Parent and a trustee selected by Parent (the "**Rights Agent**") will enter into a Contingent Value Rights Agreement, in the form attached hereto as Exhibit B (subject to changes permitted by Section 5.21) (the "**CVR Agreement**"); and

WHEREAS, the Company, Parent and Merger Subsidiary desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and to set forth certain conditions to the Merger.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties to this Agreement agree as follows:

ARTICLE I THE MERGER

Section 1.1 The Merger.

(a) Upon the terms and subject to the satisfaction or waiver (to the extent permitted by applicable Law) of the conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver (to the extent permitted by applicable Law) of such conditions at the Closing), as of and at the Effective Time, Merger Subsidiary shall be merged with and into the Company in accordance with the Delaware General Corporation Law (the "**DGCL**") whereupon the separate existence of Merger Subsidiary shall cease, and the Company shall be the surviving corporation (the "**Surviving Corporation**") as a wholly owned indirect Subsidiary of Parent.

(b) The consummation of the Merger shall take place at a closing (the "**Closing**") to be held remotely via electronic transmission of related documentation or similar means, on a date and at a time to be agreed upon by Parent and the Company, which date shall be no later than the third (3rd) Business Day after the satisfaction or waiver (to the extent permitted by applicable Law) of the conditions set forth in Article VI (other than those conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver (to the extent permitted by applicable Law) of such conditions at the Closing), or at such other location, date and time as Parent and the Company shall mutually agree upon in writing; provided, however, that, notwithstanding anything to the contrary in this Agreement, Parent shall not be required to consummate the Merger and the other Transactions prior to the earlier of (i) a date prior to the Inside Date specified by Parent on no less than three (3) Business Days' notice to the Company and (ii) the Inside Date. The date upon which the Closing shall actually occur pursuant hereto is referred to herein as the "**Closing Date**."

(c) At the Closing, the Company shall file a certificate of merger in requisite and customary form and substance with the Secretary of State of the State of Delaware and make all other filings or recordings required by the DGCL in connection with the Merger. The Merger shall become effective at such time as the certificate of merger is duly filed with the Secretary of State of the State of Delaware (or at such later time as may be mutually agreed to by the parties and as specified in the certificate of merger). The time as of which the Merger becomes effective is referred to herein as the "**Effective Time**."

(d) From and after the Effective Time, the Surviving Corporation shall possess all the properties, rights, powers, privileges, immunities, licenses, franchises and authority and be subject to all of the obligations, liabilities, restrictions and disabilities of the Company and Merger Subsidiary, all as provided under the DGCL.

Section 1.2 Conversion of Shares of Common Stock. At the Effective Time, by virtue of the Merger and without any further action on the part of Parent, Merger Subsidiary, the Company or any holder of any shares of Company Common Stock or any shares of capital stock of Merger Subsidiary or Parent:

(a) except as otherwise provided in Section 1.2(b) or Section 1.4, each share of Company Common Stock outstanding immediately prior to the Effective Time (including each Company RSA, whether vested or unvested as of immediately prior to the Effective Time, for which the holder

thereof made a timely and valid election under Section 83(b) of the Code (an “**83(b) Election**”); for the avoidance of doubt, each Company RSA for which an 83(b) Election has not been timely and validly made shall be treated in the manner set forth in Section 1.5(a)) shall be cancelled and cease to exist and shall be converted into the right to receive (i) \$5.50 in cash, without interest (such amount, as may be adjusted in accordance with Section 1.8 being the “**Closing Cash Consideration**”) and (ii) one contingent value right (a “**CVR**”), which shall represent the right to receive the Milestone Payments (such defined term whenever used in this Agreement shall have the applicable meaning ascribed to such term in the CVR Agreement) subject to the terms and conditions set forth in the CVR Agreement (the consideration contemplated by (i) and (ii), together, the “**Merger Consideration**”), and each holder of any such share of Company Common Stock shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration in accordance with and at the times provided in Section 1.3 or Section 1.5, as applicable;

(b) each share of Company Common Stock held by the Company as treasury stock or owned by Parent, Merger Subsidiary or any other Subsidiary of Parent or any Company Subsidiary immediately prior to the Effective Time shall be canceled and cease to exist, and no payment shall be made with respect thereto (the “**Excluded Shares**”); and

(c) each share of common stock of Merger Subsidiary outstanding immediately prior to the Effective Time shall be converted into and become one share of common stock, par value \$0.01 per share, of the Surviving Corporation with the same rights, powers and privileges as the shares so converted and shall constitute the only outstanding shares of capital stock of the Surviving Corporation.

Section 1.3 Surrender and Payment.

(a) Prior to the Effective Time, Parent shall appoint an agent reasonably acceptable to the Company (the “**Exchange Agent**”) for the purpose of paying the Merger Consideration as provided in Section 1.2(a) and Section 1.6. Contemporaneously with the Effective Time, Parent shall deposit with and make available to (or shall cause to be deposited with and made available to) the Exchange Agent cash sufficient to pay the full Closing Cash Consideration in respect of shares of Company Common Stock and Company Warrants, but not any Closing Cash Consideration in respect of any Excluded Shares, Dissenting Shares as of the Effective Time or, for the avoidance of doubt, the Company RSA Cash Consideration, the Company Option Cash Consideration, the Company RSU Cash Consideration or the Company PSU Cash Consideration (the “**Exchange Fund**”). If, for any reason (including losses) the Exchange Fund is inadequate to pay the Closing Cash Consideration in respect of the shares of Company Common Stock and Company Warrants (excluding any Closing Cash Consideration in respect of any Excluded Shares, Dissenting Shares as of the Effective Time or, for the avoidance of doubt, the Company RSA Cash Consideration, the Company Option Cash Consideration, the Company RSU Cash Consideration or the Company PSU Cash Consideration), Parent shall take all steps necessary to enable or cause the Surviving Corporation promptly to deposit with and make available to the Exchange Agent additional cash sufficient to pay all such amounts, and Parent and the Surviving Corporation shall in any event be liable for the timely payment thereof. All cash deposited with the Exchange Agent shall only be used for the purposes provided in this Agreement, or as otherwise agreed by the Company and Parent before the Effective Time. Any income from investment of the Exchange Fund will be payable to the Parent or the Surviving Corporation, as the Parent directs. Promptly after the Effective Time (but in no event later than five (5) Business Days after the Effective Time), Parent shall cause the Exchange Agent to send to each holder of shares of Company Common Stock at the Effective Time (other than the Company, Parent, Merger Subsidiary or any Subsidiary of the Company or Parent) a letter of transmittal, in form and substance reasonably acceptable to the Company, and instructions for use in such exchange (which shall specify that the delivery shall be effected, and risk of loss and title shall pass, only upon transfer of the shares of Company Common Stock to the Exchange Agent). Notwithstanding anything to the contrary contained herein, Parent shall not be required to deposit any funds related to any CVR with the Rights Agent unless and until such deposit is required pursuant to the CVR Agreement.

(b) Each holder of shares of Company Common Stock that have been converted into the right to receive the Merger Consideration shall be entitled to receive, upon receipt of an “agent’s message” by the Exchange Agent (or such other evidence, if any, of transfer as the Exchange Agent may reasonably request), the Merger Consideration in respect of such holder’s shares of Company Common Stock; provided that no portion of the Merger Consideration relating to the CVRs will be paid unless and until it is required to be paid pursuant to the CVR Agreement. Until the Merger Consideration in respect of a given share of Company Common Stock has been paid, such share of Company Common Stock shall represent after the Effective Time for all purposes only the right to receive such Merger Consideration. No interest or dividends will be paid or accrue on any Merger Consideration payable to holders of shares of Company Common Stock.

(c) If any portion of the Merger Consideration is to be paid to a Person other than the Person in whose name a transferred share of Company Common Stock is registered, it shall be a condition to such payment that (i) such share of Company Common Stock shall be properly transferred and (ii) the Person requesting such payment shall pay in advance to the Exchange Agent any transfer or other Taxes required as a result of such payment to a Person other than the registered holder of such share of Company Common Stock or establish to the satisfaction of the Exchange Agent that such Tax has been paid or is not payable.

(d) Upon the Effective Time, the transfer books of the Company shall be closed and thereafter there shall be no further registration of transfers of shares of Company Common Stock. If, after the Effective Time, shares of Company Common Stock are presented to the Surviving Corporation or the Exchange Agent, they shall be canceled and exchanged for the Merger Consideration provided for, and in accordance with the procedures set forth, in this Article I.

(e) Any portion of the Closing Cash Consideration made available to the Exchange Agent pursuant to Section 1.3(a) that remains unclaimed by the holders of shares of Company Common Stock nine (9) months after the Effective Time and any portion of any amounts payable in respect of the CVRs and made available to the Rights Agent that remains unclaimed by the holders of shares of Company Common Stock nine (9) months after deposit with the Rights Agent, in each case shall be returned to Parent, upon demand, and any such holder who has not exchanged shares of Company Common Stock for the Merger Consideration in accordance with this Section 1.3 prior to that time shall thereafter look only to Parent for payment of the Merger Consideration, in respect of such shares without any interest thereon. Notwithstanding the foregoing, none of Parent, the Surviving Corporation or the Exchange Agent shall be liable to any holder of shares of Company Common Stock for any amounts paid to a public official pursuant to applicable abandoned property, escheat or similar Laws. Any amounts remaining unclaimed by holders of shares of Company Common Stock immediately prior to such time when such amounts would otherwise escheat to or become property of any Governmental Authority shall become, to the extent permitted by applicable Law, the property of Parent free and clear of any claims or interest of any Person previously entitled thereto.

(f) The agreement with the Exchange Agent shall provide that the Exchange Agent shall invest any cash included in the Exchange Fund as directed by Parent or, after the Effective Time, the Surviving Corporation; provided that (i) no such investment (including any losses thereon) shall relieve Parent or the Exchange Agent from making the payments required by this Article I, (ii) no such investment shall have maturities that could prevent or delay payments to be made pursuant to this Agreement and (iii) all such investments shall be in short-term obligations of the United States of America or guaranteed by the United States of America, in commercial paper obligations rated P-1 or A-1 or better by Moody’s Investors Service, Inc. or Standard & Poor’s Financial Services LLC, respectively, in certificates of deposit, bank repurchase agreements or banker’s acceptances of commercial banks with capital exceeding \$50 billion, or in money market funds having a rating in the highest investment category granted by a recognized credit rating agency at the time of acquisition or a combination of the foregoing. Any interest or income produced by such investments will be payable to the Surviving Corporation or Parent, as directed by Parent. To the extent (A) there are any losses with respect to any

investments of the Exchange Fund; (B) the Exchange Fund diminishes for any reason below the level required for the Exchange Agent to promptly pay the cash amounts contemplated by [Section 1.2](#) and [Section 1.6](#); or (C) all or any portion of the Exchange Fund is unavailable for Parent (or the Exchange Agent on behalf of Parent) to promptly pay the cash amounts contemplated by [Section 1.2](#) and [Section 1.6](#) for any reason, Parent shall, or shall cause the Surviving Corporation to, promptly replace or restore the amount of cash in the Exchange Fund so as to ensure that the Exchange Fund is at all times fully available for distribution and maintained at a level sufficient for the Exchange Agent to make the payments contemplated by [Section 1.2](#) and [Section 1.6](#).

(g) Any portion of the Closing Cash Consideration made available to the Exchange Agent in respect of any Dissenting Shares shall be returned to Parent, upon demand.

Section 1.4 [Dissenting Shares](#). Notwithstanding anything in this Agreement to the contrary, shares of Company Common Stock issued and outstanding immediately prior to the Effective Time (other than the Excluded Shares) and held by a holder who has not voted in favor of adoption of this Agreement or consented thereto in writing and who has properly exercised appraisal rights of such shares in accordance with Section 262 of the DGCL (such shares being referred to collectively as the “*Dissenting Shares*” until such time as such holder fails to perfect, withdraws or otherwise loses such holder’s appraisal rights under the DGCL with respect to such shares) shall not be converted into the right to receive the Merger Consideration. At the Effective Time, all Dissenting Shares shall no longer be outstanding and shall be canceled and cease to exist, and each holder of Dissenting Shares shall cease to have any rights with respect thereto except such rights as are granted by Section 262 of the DGCL to a holder of Dissenting Shares; provided, however, that if, after the Effective Time, such holder fails to perfect, withdraws or otherwise loses such holder’s right to appraisal pursuant to the DGCL, such shares of Company Common Stock shall be treated as if they had been converted as of the Effective Time into the right to receive the Merger Consideration in accordance with [Section 1.2\(a\)](#), without interest thereon, upon transfer of such shares of Company Common Stock in compliance with [Section 1.3](#). The Company shall provide Parent prompt written notice of any demands received by the Company for appraisal of shares of Company Common Stock, any waiver or withdrawal of any such demand and any other demand, notice or instrument delivered to the Company prior to the Effective Time pursuant to the DGCL that relates to such demand, and Parent shall have the opportunity and right to participate in and control all negotiations and proceedings with respect to such demands under the DGCL, in all cases consistent with the obligations of the Company thereunder to the extent not inconsistent with applicable Law, including the DGCL. Except with the prior written consent of Parent, the Company shall not make any payment with respect to, or offer to settle or settle, any such demands. From and after the Effective Time, a holder of Dissenting Shares shall not be entitled to exercise any of the voting rights or other rights of an equity owner of the Surviving Corporation or of a stockholder of Parent.

Section 1.5 [Company Equity Awards](#).

(a) [Company RSAs](#). Neither the Surviving Corporation nor Parent shall assume any Company RSA or substitute for any Company RSA any similar award for the Surviving Corporation or Parent stock, in connection with the Merger or any of the other Transactions. Effective as of the Effective Time and without any action on the part of any holder of Company RSAs, each Company RSA that is then outstanding and unvested shall become fully vested and any restrictions or risk of forfeiture shall lapse and each such Company RSA for which the holder thereof did not make a timely and valid 83(b) Election shall be cancelled and converted into the right to receive (i) an amount in cash (without interest and subject to deduction for any required withholding as contemplated in [Section 1.7](#)) equal to: (A) the total number of shares of such Company RSAs multiplied by (B) the Closing Cash Consideration, without any interest thereon (the “*Company RSA Cash Consideration*”) and (ii) CVRs in an amount equal to the total number of shares of such Company RSAs, and each holder of any such Company RSA shall cease to have any rights with respect thereto, except the right to receive consideration in accordance with this [Section 1.5\(a\)](#). The Surviving Corporation shall pay the Company RSA Cash Consideration, without interest thereon and subject to deduction for any required withholding as contemplated in [Section 1.7](#), at

the Effective Time or at the Surviving Corporation's next ordinary course payroll date (that is at least 5 Business Days following the Effective Time) and with respect to a CVR such payment will be made, without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, if, and only if, a Milestone Payment for 2026 and/or a Milestone Payment for 2027 (as each such term is defined in the CVR Agreement) is made and will be made at the same time such applicable Milestone Payment is made to other holders of CVRs; provided that notwithstanding anything to the contrary contained herein, payment in respect of the CVR shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount in respect of the CVR shall be paid to the holder of such Company RSA after such five year period.

(b) Company Options. Neither the Surviving Corporation nor Parent shall assume any Company Options or substitute for any Company Option any option for the Surviving Corporation or Parent stock, in connection with the Merger or any of the other Transactions. Effective as of the Effective Time and without any action on the part of any holder of Company Options, (x) all Unvested Company Options (whether time and/or performance-based) which are outstanding as of immediately prior to the Effective Time shall fully vest and become exercisable, and become Vested Company Options, and (y) to the extent not exercised prior to the Effective Time, each Vested Company Option and each formerly Unvested Company Option shall be canceled at the Effective Time. The former holders of the cancelled Company Options shall be paid out as follows, depending on the exercise price per share of any such Company Option:

(i) At the Effective Time, each Company Option that is then outstanding and unexercised and which has a per share exercise price that is less than the Closing Cash Consideration shall be cancelled and converted into the right to receive the sum of (A) an amount in cash (without interest and subject to deduction for any required withholding as contemplated in Section 1.7) equal to: (A) the excess, if any, of the Closing Cash Consideration over the exercise price per share of such Company Option; multiplied by the number of shares of Company Common Stock underlying such Company Option and (B) one (1) CVR. The Surviving Corporation shall pay the cash amounts payable pursuant to Section 1.5(b)(i)(A) (the "**Company Option Cash Consideration**"), without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, at the Effective Time or at the Surviving Corporation's next ordinary course payroll date (that is at least 5 Business Days following the Effective Time), and with respect to a CVR such payment will be made, without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, if, and only if, a Milestone Payment for 2026 and/or a Milestone Payment for 2027 is made and will be made at the same time such applicable Milestone Payment is made to other holders of CVRs; provided that notwithstanding anything to the contrary contained herein, payment in respect of the CVR shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount in respect of the CVR shall be paid to any holder of Company Options after such five year period.

(ii) At the Effective Time, each Company Option that is then outstanding and unexercised, and which has a per share exercise price that equals or exceeds the Closing Cash Consideration, but is less than the Maximum Total Consideration (each, an "**Eligible Option**") shall be cancelled and converted into the right to receive a cash payment equal to (A) the excess, if any, of (x) the Total Consideration over (y) the per share exercise price of such Eligible Option, multiplied by (B) the total number of shares of Company Common Stock subject to such Eligible Option immediately prior to the Effective Time. The Surviving Corporation shall pay the cash amounts payable pursuant to this Section 1.5(b)(ii), without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, if, and only if, a Milestone Payment for 2026 and/or a Milestone Payment for 2027 is made in respect of a CVR and such applicable Milestone Payment, together with the Closing Cash Consideration per share and, with respect to a Milestone Payment for 2027, any previously paid Milestone Payment for 2026 in respect of a CVR, exceeds the exercise price per share of the Eligible Option, and will be made at the same time such applicable Milestone Payment is made to holders of CVRs; provided that notwithstanding anything to the contrary contained herein, payment shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount

shall be paid to any holder of Eligible Options after such five year period. If the CVR is terminated or expires without payment, no payment will be made with respect to any Eligible Option. For purposes of this Section, "**Total Consideration**" means the sum of the Closing Cash Consideration plus the actual Milestone Payment for 2026 and the actual Milestone Payment for 2027, if any, made in respect of one (1) CVR. For the avoidance of doubt, no payment will be made with respect to any Eligible Option that has an exercise price per share that is equal or greater than the Total Consideration.

(iii) At the Effective Time, each Company Option that is then outstanding and unexercised and that has an exercise price per share that is equal or greater than the Maximum Total Consideration shall be cancelled with no consideration payable in respect thereof.

(c) **Company PSUs.** Neither the Surviving Corporation nor Parent shall assume any Company PSU or substitute for any Company PSU any similar award for the Surviving Corporation or Parent stock, in connection with the Merger or any of the other Transactions. Effective as of the Effective Time and without any action on the part of any holder of Company PSUs, each Company PSU that is then outstanding shall automatically be canceled and converted into the right to receive (i) from the Surviving Corporation an amount of cash equal to the product of (A) the total number of shares of Company Common Stock then underlying such Company PSUs pursuant to the applicable Company PSU grant terms, with, for the avoidance of doubt, all performance metrics deemed achieved at 100%, multiplied by (B) the Closing Cash Consideration, without any interest thereon (the "**Company PSU Cash Consideration**") and (ii) CVRs in an amount equal to the total number of shares of Company Common Stock then underlying such Company PSUs pursuant to the applicable Company PSU grant terms, with, for the avoidance of doubt, all performance metrics deemed achieved at 100%, and each holder of any such Company PSU shall cease to have any rights with respect thereto, except the right to receive consideration in accordance with this [Section 1.5\(c\)](#). The Surviving Corporation shall pay the Company PSU Cash Consideration, without interest thereon and subject to deduction for any required withholding as contemplated in [Section 1.7](#), at the Effective Time or at the Surviving Corporation's next ordinary course payroll date (that is at least 5 Business Days following the Effective Time) and with respect to a CVR such payment will be made, without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, if, and only if, a Milestone Payment for 2026 and/or a Milestone Payment for 2027 is made and will be made at the same time such applicable Milestone Payment is made to other holders of CVRs; provided that notwithstanding anything to the contrary contained herein, payment in respect of the CVR shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount in respect of the CVR shall be paid to any holder of Company PSUs after such five year period.

(d) **Company RSUs.** Neither the Surviving Corporation nor Parent shall assume any Company RSU or substitute for any Company RSU any similar award for the Surviving Corporation or Parent stock, in connection with the Merger or any of the other Transactions. Effective as of the Effective Time and without any action on the part of any holder of Company RSUs, each Company RSU that is then outstanding shall automatically be canceled and converted into the right to receive (i) from the Surviving Corporation an amount of cash equal to the product of (A) the number of shares of Company Common Stock then underlying such Company RSU multiplied by (B) the Closing Cash Consideration, without any interest thereon (the "**Company RSU Cash Consideration**") and (ii) CVRs in an amount equal to the total number of shares of Company Common Stock then underlying such Company RSUs, and each holder of any such Company RSU shall cease to have any rights with respect thereto, except the right to receive consideration in accordance with this [Section 1.5\(d\)](#). The Surviving Corporation shall pay the Company RSU Cash Consideration, without interest thereon and subject to deduction for any required withholding as contemplated in [Section 1.7](#), at the Effective Time or at the Surviving Corporation's next ordinary course payroll date (that is at least 5 Business Days following the Effective Time) and with respect to a CVR such payment will be made, without interest thereon and subject to deduction for any required withholding as contemplated in Section 1.7, if, and only if, a Milestone Payment for 2026 and/or a Milestone Payment for 2027 is made and will be made at the same time such applicable Milestone Payment is made to other holders of CVRs; provided that notwithstanding anything to the contrary

contained herein, payment in respect of the CVR shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount in respect of the CVR shall be paid to any holder of Company RSUs after such five year period.

(e) The Company Board (or, if appropriate, any committee thereof administering the Stock Plan or Company Inducement Grant) and the Company, as applicable, shall take such actions as are necessary to approve and effectuate the foregoing provisions of this Section 1.5, including making any determinations and/or resolutions of the Company Board or a committee thereof or any administrator of a Stock Plan or Company Inducement Grant as may be necessary; provided, however, that such actions shall not include the obligation to seek any consent, acknowledgment, representation, covenant or release from any holder of any Company Equity Award, except to the extent such consent, acknowledgment, representation, covenant or release is a condition to vesting, settlement or payment of a Company Equity Award as set forth in an employment, award or other agreement to which the holder is a party.

(f) Prior to the Agreement Date, the Company Board (or, if applicable, any committee thereof administering the Company ESPP) adopted such resolutions or took such other necessary actions to provide that, (i) with respect to any outstanding Offering Period(s) (as such term is defined in the Company ESPP) under the Company ESPP as of the Agreement Date, no participant in the Company ESPP may increase the percentage amount of his or her payroll deduction election in effect on the Agreement Date for such Offering Period and no new participants may participate in such Offering Period; (ii) no new Offering Period shall be commenced under the Company ESPP on or after the Agreement Date; (iii) any such Offering Period under the Company ESPP that does not end prior to the Effective Time shall terminate and a Purchase Date (as such term is defined in the Company ESPP) shall occur under the Company ESPP immediately prior to the Effective Time with respect to such Offering Period, in which case any shares of Company Common Stock purchased pursuant to such Offering Period shall be treated the same as all other shares of Company Common Stock in accordance with Section 1.2(a); and (iv) immediately prior to, and subject to the occurrence of the Effective Time, the Company ESPP shall terminate.

Section 1.6 Warrants. At the Effective Time, by virtue of the Merger and without any action on the part of Parent, Merger Subsidiary, the Company or any holder of Company Warrants, each Company Warrant that is outstanding as of immediately prior to the Effective Time shall, upon the Effective Time, convert into the right to receive, upon exercise of such Company Warrant, the same Merger Consideration as such holder would have been entitled to receive following the Effective Time pursuant to Section 1.2(a) if such holder had been, immediately prior to the Effective Time, the holder of the number of shares of Company Common Stock then issuable upon exercise in full of such Company Warrant without regard to any limitations on exercise contained therein.

Section 1.7 Withholding Rights. Notwithstanding any provision contained herein to the contrary, each of the Company, Exchange Agent, Rights Agent, Surviving Corporation, Parent and their respective Affiliates shall be entitled to deduct and withhold from the consideration otherwise payable to any Person pursuant to this Agreement or the CVR Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of Tax Law. If the Company, Exchange Agent, Rights Agent, Surviving Corporation, Parent or any of their respective Affiliates, as the case may be, so withholds amounts and properly pays such amounts over to a Governmental Authority, such amounts shall be treated for all purposes of this Agreement or the CVR Agreement as having been paid to the holder of shares of Company Common Stock, Company RSAs, Company Options, Company PSUs, Company RSUs and Company Warrants, as applicable, in respect of which the Company, Exchange Agent, Surviving Corporation, Parent or any of their respective Affiliates, as the case may be, made such deduction and withholding.

Section 1.8 Adjustments to Merger Consideration. The Merger Consideration shall be adjusted appropriately and equitably to reflect the effect of any stock split, reverse stock split, stock dividend (including any dividend or distribution of securities convertible into Company Common Stock), reorganization, recapitalization, reclassification, combination, merger, issuer tender offer, exchange of shares or other like change with respect to Company Common Stock occurring on or after the Agreement Date and prior to the Effective Time, and such adjustment to the Merger Consideration shall provide to the holders of Company Common Stock the same economic effect as contemplated by this Agreement prior to such action and shall, as so adjusted from and after the date of such event, be the Merger Consideration; provided, however, that nothing in this Section 1.8 shall be construed to permit the Company to take any action with respect to the Company Common Stock or otherwise that is prohibited by the terms of this Agreement, including Section 5.2.

ARTICLE II THE SURVIVING CORPORATION

Section 2.1 Certificate of Incorporation. At the Effective Time, the certificate of incorporation of Merger Subsidiary as in effect immediately prior to the Effective Time shall be the certificate of incorporation of the Surviving Corporation (except that all references to the name of Merger Subsidiary therein shall be modified to refer to the name of the Company), until thereafter amended in accordance with the DGCL and such certificate of incorporation.

Section 2.2 Bylaws. At the Effective Time, the bylaws of Merger Subsidiary as in effect immediately prior to the Effective Time shall be the bylaws of the Surviving Corporation (except that all references to the name of Merger Subsidiary therein shall be modified to refer to the name of the Company), until thereafter amended in accordance with the DGCL and such bylaws.

Section 2.3 Directors and Officers.

(a) At the Effective Time, the directors of Merger Subsidiary immediately prior to the Effective Time shall be the directors of the Surviving Corporation until their successors have been duly elected or appointed and qualified or until their earlier death, resignation or removal in accordance with the certificate of incorporation and bylaws of the Surviving Corporation.

(b) At the Effective Time, the officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation until their successors have been duly appointed and qualified or until their earlier death, resignation or removal in accordance with the bylaws of the Surviving Corporation.

**ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE COMPANY**

Except as set forth in (i) the reports, schedules, forms, registration statements, definitive proxy statements and other documents (including exhibits and all information incorporated by reference) filed or furnished by the Company with the United States Securities and Exchange Commission (the “**SEC**”) or filed or furnished by the Company to the SEC in connection with this Agreement or the Transactions that are publicly available on EDGAR (collectively, the “**Company SEC Reports**”) after January 1, 2022 and prior to the Agreement Date (excluding in each case any disclosures contained therein under the captions “Risk Factors,” “Special Note Regarding Forward-Looking Statements and Projections,” “Quantitative and Qualitative Disclosures About Market Risk” and any other disclosures contained therein to the extent they are predictive, cautionary or forward-looking in nature) or (ii) the Company Disclosure Schedules (each section of which qualifies the correspondingly numbered representation and warranty or covenant to the extent specified therein, *provided* that any disclosure set forth with respect to any particular Section shall be deemed to be disclosed in reference to all other applicable Sections of this Agreement if the disclosure in respect of the particular Section is reasonably apparent on its face to inform Parent of the information required to be disclosed in respect of such other Sections) delivered by the Company to Parent in connection with the execution of this Agreement (the “**Company Disclosure Schedules**”), the Company hereby represents and warrants to Merger Subsidiary and Parent as follows:

Section 3.1 **Organization.** Each of the Company and the Subsidiaries of the Company (the “**Company Subsidiaries**”) is a corporation, limited liability company, limited partnership or other legal entity duly organized, validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its organization (to the extent the “good standing” concept is applicable in the case of any jurisdiction outside the United States), except where the failure to be so organized, existing or in good standing has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each of the Company and the Company Subsidiaries has all requisite corporate or similar power and authority to enable it to own, operate and lease its properties and to carry on its business as now conducted, except for such power or authority, the lack of which has not had, or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company has delivered or made available to Parent accurate and complete copies of the certificate of incorporation and bylaws of the Company (and any amendments thereto) (the “**Company Charter Documents**”). The Company is not in violation of any of the Company Charter Documents.

Section 3.2 **Capitalization.**

(a) The authorized capital stock of the Company consists of (i) 150,000,000 shares of Company Common Stock and (ii) 10,000,000 shares of preferred stock, par value \$0.01 per share (“**Company Preferred Stock**”). As of the close of business on June 19, 2024 (the “**Capitalization Date**”): (A) 52,388,513 shares of Company Common Stock were issued and outstanding; (B) no shares of Company Preferred Stock were issued or outstanding; (C) no shares of Company Common Stock were held by the Company in its treasury; (D) there were outstanding Company Options to purchase 3,275,893 shares of Company Common Stock; (E) 900,000 shares of Company Common Stock were subject to issuance pursuant to outstanding Company PSUs (assuming all applicable performance conditions with respect to Company PSUs are satisfied at 100%); (F) 869,638 shares of Company Common Stock were subject to issuance pursuant to outstanding Company RSUs; (G) 410,732 shares of Company Common Stock were subject to outstanding Company RSAs; (H) 421,679 shares of Company Common Stock were reserved for the future grant of Company Equity Awards under the Stock Plans (excluding shares reserved for issuance upon exercise of the Company Options or settlement of the Company RSUs or Company PSUs); (I) 19,135 shares of Company Common Stock were reserved for the future issuance under the Company ESPP; and (J) 3,600,000 shares of Company Common Stock were subject to issuance pursuant to outstanding Company Warrants. Such issued and outstanding shares of Company Common Stock have been, and all shares that may be issued pursuant to any Stock Plan, Company Inducement Grant, the Company ESPP or as contemplated or permitted by this Agreement will be, when issued in

accordance with the respective terms thereof, duly authorized and validly issued, or in the case of shares that have not yet been issued, will be, fully paid and nonassessable and free of preemptive rights. There are no outstanding contractual obligations of the Company of any kind to redeem, purchase or otherwise acquire any Equity Interests of the Company, except as may be issued after the date of this Agreement by the Company pursuant to Section 5.2(b) or as expressly consented to in writing by Parent. Other than the Company Common Stock, there are no outstanding bonds, debentures, notes or other Indebtedness or securities of the Company having the right to vote (or, other than the outstanding Company Equity Awards and Company Warrants, convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company may vote, except as may be issued after the date of this Agreement by the Company pursuant to Section 5.2(b) or as expressly consented to in writing by Parent. Neither Company nor any Company Subsidiary is a party to any voting agreement with respect to any Equity Interests of any Company Subsidiary.

(b) From the close of business on the Capitalization Date to the date of this Agreement, the Company has not issued any shares of Company Common Stock, or any other capital stock or Equity Interests, except upon the exercise of the Company Options or vesting of Company RSUs or Company PSUs, in each case outstanding as of the close of business on the Capitalization Date. Except as may be issued after the date of this Agreement by the Company pursuant to Section 5.2(b) or as expressly consented to in writing by Parent, no Equity Interests are issued, reserved for issuance or outstanding and there are no outstanding commitments, agreements, arrangements or undertakings of any kind to which the Company or any of the Company Subsidiaries is a party or by which any of them is bound obligating the Company or any of the Company Subsidiaries to issue, deliver, sell, grant, or enter into, or cause to be issued, delivered, sold, granted, or entered into: (i) any Equity Interests in the Company or any of the Company Subsidiaries, (ii) any security convertible into, or exchangeable or exercisable for any Equity Interests in the Company or any of the Company Subsidiaries, (iii) any option, warrant, call, right, commitment, agreement, arrangement or undertaking to acquire from the Company or any of the Company Subsidiaries any security convertible into, or exchangeable or exercisable for any Equity Interests in the Company or any of the Company Subsidiaries, or (iv) restricted shares, restricted stock units, stock appreciation rights, performance units, contingent value rights, profit participation rights, "phantom" stock or similar securities or rights that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any Equity Interests in the Company or any of the Company Subsidiaries. There are no preemptive, registration or similar rights granted by the Company or any Company Subsidiary to any holders of any class or series of securities of the Company or any Company Subsidiary.

(c) Section 3.2(c) of the Company Disclosure Schedules sets forth, as of the Capitalization Date, a list of the holders of (i) Company Equity Awards, including (to the extent applicable) the date on which each such Company Equity Award was granted, the number of shares of Company Common Stock subject to such Company Equity Award, the expiration date of such Company Equity Award and the price at which such Company Equity Award may be exercised (if any) under an applicable Stock Plan or Company Inducement Grant and the vested or unvested status of such Company Equity Award, and (ii) Company Warrants, including (to the extent applicable) the date on which such Company Warrants were granted, the number of shares of Company Common Stock subject to such Company Warrants, the expiration date of such Company Warrants and the price at which such Company Warrants may be exercised (if any), as well as for the Company ESPP, the maximum number of shares of Company Common Stock issuable at the end of the current Offering Period. Other than as set forth in Section 3.2(c) of the Company Disclosure Schedules, there are no issued, reserved for issuance, outstanding or authorized stock option, stock appreciation, phantom stock, stock unit, restricted stock unit, stock-based performance unit, profit participation or similar rights or equity-based awards with respect to the Company. All shares of Company Common Stock issuable upon exercise of Company Options and Company Warrants and the settlement of Company RSUs or Company PSUs have been duly reserved for issuance by the Company. The Company has delivered or made available to Parent or Parent's Representatives copies of all Stock Plans and Company Inducement Grants covering the

Company Equity Awards outstanding as of the date of this Agreement and the forms of all equity award agreements evidencing such Company Equity Awards.

Section 3.3 ~~Authorization; No Conflict.~~

(a) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the Merger and the other Transactions are within the Company's corporate powers and, subject to the adoption of the Agreement and approval of the Merger by the holders of at least a majority of the outstanding shares of Company Common Stock entitled to vote thereon (the "**Company Stockholder Approval**"), have been duly authorized by all necessary corporate action on the part of the Company and no other corporate proceedings on the part of the Company or its stockholders are necessary to authorize the execution, delivery and performance of this Agreement or to consummate the Merger and the other Transactions, subject only, in the case of consummation of the Merger, to the receipt of the Company Stockholder Approval. The Company has duly executed and delivered this Agreement and, assuming due authorization, execution and delivery by Parent and Merger Subsidiary, this Agreement constitutes a valid and binding agreement of the Company enforceable against the Company in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors' rights generally and general principles of equity). The Company Stockholder Approval is the only vote or consent of the holders of any class or series of the Company's capital stock necessary to approve and adopt this Agreement, approve the Merger, and consummate the Merger and the other Transactions.

(b) At a meeting duly called and held, the Company Board has (i) determined that this Agreement and the Transactions, the Voting Agreement, the CVR Agreement and the transactions contemplated hereby and thereby are fair to and in the best interests of the Company and its stockholders, (ii) approved and declared advisable this Agreement and the Voting Agreement, including the execution, delivery, and performance thereof, and the consummation of the Transactions, and the transactions contemplated hereby and thereby, (iii) resolved, subject to Section 5.3, to recommend that the Company's stockholders adopt this Agreement and approve the Merger (such recommendation, the "**Company Board Recommendation**") and (iv) directed that this Agreement be submitted to the Company's stockholders for their adoption, which such resolutions, subject to Section 5.3, have not been rescinded, modified or withdrawn in any way.

(c) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the Transactions require no consent, approval, license, permission, order, or authorization of, or registration, declaration, or filing with, or notice to (any of the foregoing being a "**Consent**") any Governmental Authority, other than (i) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State and appropriate documents with the relevant authorities of other states in which the Company is qualified to do business, (ii) compliance with any applicable requirements of the HSR Act and competition, merger control, antitrust or similar applicable Law of any jurisdiction outside of the United States ("**Foreign Antitrust Laws**"), (iii) compliance with any applicable requirements of the Securities Act and the Exchange Act, (iv) compliance with any applicable requirements set forth on Section 3.3(c) of the Company Disclosure Schedules, (v) compliance with any applicable state securities or "blue sky" Laws and the securities Laws of any foreign country or any applicable rules of Nasdaq, and (vi) any additional Consents with any other Governmental Authority, except, in the case of clause (vi), those that the failure of which to make or obtain has had and would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(d) Except as set forth on Section 3.3(d) of the Company Disclosure Schedules, the execution, delivery and performance by the Company of this Agreement and the consummation of the Transactions, do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the Company Charter Documents or the equivalent documents of any Company Subsidiary, (ii) assuming compliance with the matters referred to in Section 3.3(c), contravene, conflict with or result in a violation or breach of any provision of any applicable Law or Order, (iii) assuming compliance with

the matters referred to in Section 3.3(c), result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the Company's or any of the Company Subsidiaries' loss of any benefit or the imposition of any additional payment or other liability under, or alter the rights or obligations of any third party under or give to any third party any rights of termination, amendment, acceleration, or cancellation, or require any Consent under, any Company Material Contract to which the Company or any of its Subsidiaries is a party, or (iv) result in the creation or imposition of any Lien on any asset of the Company or any of the Company Subsidiaries, with only such exceptions, which in the case of each of clauses (ii) through (iv), have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 3.4 Subsidiaries.

(a) The Company has delivered or made available to Parent a complete and accurate list as of the Agreement Date of each of the Company Subsidiaries and their respective jurisdictions of organization.

(b) All of the outstanding Equity Interests in each Company Subsidiary are, where applicable, duly authorized, validly issued, fully paid, nonassessable and not subject to (or issued in violation of) any preemptive or similar rights or any Law, and such Equity Interests are owned by the Company or by a Company Subsidiary free and clear of any Liens (other than Permitted Liens) or limitations or restrictions on voting rights. There are no subscriptions, options, warrants, calls, rights, convertible securities or other agreements or commitments of any character relating to the issuance, transfer, sales, delivery, voting or redemption (including any rights of conversion or exchange under any outstanding security or other instrument) for any of the Equity Interests of any Company Subsidiary. Section 3.4 of the Company Disclosure Schedules sets forth, as of the Agreement Date, the Equity Interests of each Person that is owned, directly or indirectly by the Company. The Company has delivered or made available to Parent accurate and complete copies of the certificate of incorporation, statutory register (including registers of members) and bylaws (or equivalent governing documents) of each Company Subsidiary and no Company Subsidiary is in violation thereof.

Section 3.5 SEC Reports and Financial Statements.

(a) Since January 1, 2023, the Company has timely filed or furnished with the SEC all Company SEC Reports required to be filed or furnished by the Company with the SEC. As of their respective filing dates, and giving effect to any amendments or supplements thereto filed prior to the Agreement Date, the Company SEC Reports complied in all material respects as to form with the requirements of the Securities Act, the Exchange Act, the Sarbanes-Oxley Act and the respective rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Reports. None of the Company SEC Reports, including any financial statements, schedules, or exhibits included or incorporated by reference therein at the time they were filed (or, if amended or superseded by a subsequent filing prior to the date hereof, as of the date of the last such amendment or superseding filing), contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. To the Knowledge of the Company, none of the Company SEC Reports is the subject of ongoing SEC review or outstanding SEC investigation and there are no outstanding or unresolved comments received from the SEC with respect to any of the Company SEC Reports. None of the Company Subsidiaries is required to file any forms, reports or other documents with the SEC pursuant to Section 13 or 15 of the Exchange Act and neither the Company nor any of its Subsidiaries is required to file or furnish any forms, reports, or other documents with any securities regulation (or similar) regime of a non-United States Governmental Authority.

(b) The consolidated balance sheets and the related consolidated statements of operations, comprehensive income or loss, changes in stockholders' equity and cash flows (including, in each case, any related notes and schedules thereto) of the Company contained in the Company SEC

Reports, as of their respective dates of filing with the SEC (or, if such Company SEC Reports were amended prior to the Agreement Date, the date of the filing of such amendment, with respect to the consolidated financial statements that are amended or restated therein), comply as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC with respect thereto, have been prepared in conformity with GAAP (except, in the case of unaudited statements, as permitted by Form 10-Q of the SEC) applied on a consistent basis during the periods involved (except as otherwise noted therein or to the extent required by GAAP) and present fairly in all material respects the consolidated financial position and the consolidated statements of operations, income or loss, changes in stockholders' equity and cash flows of the Company and the Company Subsidiaries as of the dates or for the periods presented therein (subject, in the case of unaudited statements, to normal and recurring year-end adjustments), except to the extent that information contained in such Company SEC Report has been reviewed, amended, modified or supplemented (prior to the date of the Agreement) by a subsequent Company SEC Report.

(c) The Company's and each Company Subsidiary's system of internal controls over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) is reasonably designed in all material respects to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP including policies and procedures regarding: (i) transactions being recorded as necessary to permit preparation of financial statements in conformity with GAAP, (ii) receipts and expenditures being executed in accordance with the authorization of management, (iii) prevention or timely detection of the unauthorized acquisition, use or disposition of the Company's assets that would materially affect the Company's financial statements, and (iv) the maintenance of records in reasonable detail that accurately and fairly reflect the transactions and dispositions of the assets of the Company and the Company Subsidiaries.

(d) The Company's "disclosure controls and procedures" (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) are reasonably designed to ensure that (i) all material information (both financial and non-financial) required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported to the individuals responsible for preparing such reports within the time periods specified in the rules and forms of the SEC, and (ii) all such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure and to make the certifications of the principal executive officer and principal financial officer of the Company required pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act. Neither the Company nor, to the Knowledge of the Company, the Company's independent registered public accounting firm has identified or been made aware of: (A) any significant deficiency or material weakness (each as defined in Rule 13a-15(f) of the Exchange Act) in the system of internal control over financial reporting utilized by the Company and the Company Subsidiaries that; or (B) any fraud that involves the Company's management or other employees who have a role in the preparation of financial statements or the internal control over financial reporting utilized by the Company and the Company Subsidiaries.

(e) The audited balance sheet of the Company dated as of December 31, 2023, contained in the Company SEC Reports filed prior to the date hereof is hereinafter referred to as the "**Company Balance Sheet**." Neither the Company nor any of the Company Subsidiaries has any liabilities other than liabilities that: (i) are specifically and adequately reflected or reserved against in the Company Balance Sheet; (ii) were incurred since the date of the Company Balance Sheet in the ordinary course of business consistent with past practice (none of which is a liability for breach of contract, breach of warranty, tort, infringement, violation of Law, or that relates to any cause of action, claim or lawsuit); (iii) are incurred in connection with the transactions contemplated by this Agreement; or (iv) have not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(f) Off-Balance Sheet Arrangements. Except as described in the Company SEC

Reports filed as of the date of this Agreement, neither the Company nor any of the Company Subsidiaries is a party to, or has any commitment to become a party to: (i) any joint venture, off-balance sheet partnership, or any similar Contract or arrangement (including any Contract or arrangement relating to any transaction or relationship between or among the Company or any of its Subsidiaries, on the one hand, and any other Person, including any structured finance, special purpose, or limited purpose Person, on the other hand); or (ii) any “off-balance sheet arrangements” (as defined in Item 2.03(d) of the SEC’s Current Report on Form 8-K or as described in Instruction 8 to Item 303(b) of Regulation S-K promulgated by the SEC).

(g) Sarbanes-Oxley and Nasdaq Compliance. Each of the principal executive officer and the principal financial officer of the Company (or each former principal executive officer and each former principal financial officer of the Company, as applicable) has made all certifications required by Rule 13a-14 or 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act with respect to the Company SEC Reports, and the statements contained in such certifications are true and accurate in all material respects. For purposes of this Agreement, “principal executive officer” and “principal financial officer” shall have the meanings given to such terms in the Sarbanes-Oxley Act. The Company is also in compliance in all material respects with all of the other applicable provisions of the Sarbanes-Oxley Act and the applicable listing and corporate governance rules of Nasdaq.

(h) Accounting, Securities, or Other Related Complaints or Reports. Since January 1, 2022: (i) none of the Company or any of the Company Subsidiaries nor any director or officer of the Company or any of its Subsidiaries has received any written, or, to the Knowledge of the Company, oral, complaint, allegation, assertion, or claim regarding the financial accounting, internal accounting controls, or auditing practices, procedures, methodologies, or methods of the Company or any of the Company Subsidiaries or any written, or, to the Knowledge of the Company, oral, complaint, allegation, assertion, or claim from employees of the Company or any of the Company Subsidiaries regarding questionable financial accounting or auditing matters with respect to the Company or any of the Company Subsidiaries; and (ii) no attorney representing the Company or any of the Company Subsidiaries, whether or not employed by the Company or any of the Company Subsidiaries, has reported evidence of any material violation of securities Laws, breach of fiduciary duty, or similar violation by the Company, any of the Company Subsidiaries, or any of their respective officers, directors, employees, or agents to the Company Board or any committee thereof, or to the chief executive officer, chief financial officer, or general counsel of the Company.

Section 3.6 Absence of Material Adverse Changes, etc. Since March 31, 2024, except for actions expressly contemplated by this Agreement, (a) the Company and the Company Subsidiaries have conducted their business in all material respects in the ordinary course of business consistent with past practice; (b) there has not been or occurred any event, condition, change, occurrence or development that has or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect; and (c) the Company and the Company Subsidiaries have not (i) made or changed any material Tax election, (ii) filed any material amended Tax Return, or (iii) changed any material method of Tax accounting.

Section 3.7 Litigation. There are no Legal Proceedings (other than investigations) pending or, to the Knowledge of the Company, investigations pending or Legal Proceedings threatened, to which the Company or any of the Company Subsidiaries is a party, or, to the Knowledge of the Company, any officer or director of the Company or any of the Company Subsidiaries in their capacities as such that have or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. There are no Orders outstanding against the Company or any of the Company Subsidiaries that have or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 3.8 Broker's or Finder's Fees. Except for fees payable pursuant to the engagement letters set forth on Section 3.8 of the Company Disclosure Schedules, a correct and complete copy of which has been provided to Parent prior to the Agreement Date, no agent, broker, Person or firm acting on behalf of the Company or any Company Subsidiary or under the Company's or any Company Subsidiary's authority is or will be entitled to any advisory or broker's or finder's fee or commission from any of the parties hereto in connection with any of the Transactions.

Section 3.9 Employee Plans.

(a) Section 3.9(a) of the Company Disclosure Schedules sets forth a true, correct and complete list as of the Agreement Date of each material Company Plan (other than any offer letter or other employment Contract that is terminable "at-will" or following a notice period imposed by applicable Law and does not provide for severance, equity or equity-based compensation or retention, change of control, transaction or similar bonuses other than severance payments required to be made by the Company or any Company Subsidiaries under applicable foreign Law).

(b) With respect to each Company Plan set forth on Section 3.9(a) of the Company Disclosure Schedules, the Company has made available to Parent a true, correct and complete copy of, as applicable: (i) each written Company Plan and all material amendments thereto, if any, or, with respect to any unwritten Company Plan, a summary of the material terms thereof; (ii) the current summary plan description of each Company Employee Benefit Plan and any material modifications thereto, if any, or any written summary provided to participants with respect to any Company Employee Benefit Plan for which no summary plan description exists; (iii) the most recent determination letter (or if applicable, advisory or opinion letter) from the Internal Revenue Service or other Governmental Authority; (iv) the most recent annual report on Form 5500 or such similar report, statement or information return required to be filed with or delivered to any Governmental Authority, if any; (v) all material notices given to the administrator of such Company Employee Benefit Plan by the Internal Revenue Service, Department of Labor, Pension Benefit Guarantee Corporation, or other Governmental Authority with respect to such Company Plan within the past three (3) years; and (vi) the most recent financial statements and actuarial or other valuation reports prepared with respect thereto.

(c) Each Company Employee Benefit Plan that is intended to be "qualified" within the meaning of Section 401(a) of the Code has been the subject of a favorable determination letter (or, if applicable, advisory or opinion letter) from the Internal Revenue Service that has not been revoked or meets the requirements for such treatment and, to the Knowledge of the Company, no event has occurred and no condition exists that would reasonably be expected to affect the qualified status of any such Company Employee Benefit Plan or result in the imposition of any material liability, penalty or Tax under ERISA or the Code.

(d) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) each Company Employee Benefit Plan is now and has been established, maintained, funded, operated and administered in accordance with its provisions and in compliance with all applicable provisions of Law, including ERISA and the Code; (ii) all material payments and contributions required to be made under the terms of any Company Plan have been made or the amount of such payment or contribution obligation has been reflected in the Company SEC Reports

which are publicly available prior to the Agreement Date; and (iii) nothing has occurred and no condition exists with respect to any Company Employee Benefit Plan that could result in a material Tax, penalty or other liability of the Company or any of its Subsidiaries, including under Sections 4980B, 4980D, 4980H, 6721 and 6722 of the Code.

(e) Neither the Company nor any Company Subsidiary maintains, sponsors, contributes to, is required to contribute to, or otherwise has any current or contingent liability or obligation under or with respect to, any “defined benefit plan” (as defined under 3(35) of ERISA) or any other plan that is or was subject to Section 302 or Title IV of ERISA or Code Section 412, including any “single employer” defined benefit plan or any “multiemployer plan,” (as defined in Section 4001 or 3(37) of ERISA) or a “multiple employer plan” (within the meaning of Section 210 of ERISA or Section 413 of the Code). Neither the Company nor any Company Subsidiary has any current or contingent liability or obligation on account of a Company ERISA Affiliate.

(f) Except to the extent required under Section 601 et seq. of ERISA or 4980B of the Code (or any other similar state or local Law) for which the covered Person pays the full cost of coverage, none of the Company, any Company Subsidiary, or any Company Employee Benefit Plan has any present or future obligation or liability to provide post-employment or post-termination or post-ownership welfare benefits to or make any payment to, or with respect to, any present or former employee, officer, owner or director of the Company or any Company Subsidiary or to any other Person with respect to such benefits.

(g) There are no pending or, to the Knowledge of the Company, threatened Legal Proceedings or claims (other than routine claims for benefits) relating to any Company Employee Benefit Plan and, to the Knowledge of the Company, there is no fact or circumstance that would reasonably be expected to give rise to any such Legal Proceeding or claim. There has been no non-exempt “prohibited transaction” (as defined in Section 4975 of the Code or Section 406 or 407 of ERISA) or breach of fiduciary duty (as determined under ERISA) with respect to any Company Employee Benefit Plan that would result in material liability to the Company or any Company Subsidiary. All material contributions, distributions and premium payments have been timely made or paid in accordance with the terms of the Company Employee Benefit Plan and in compliance with applicable Law, or properly accrued in accordance with GAAP.

(h) With respect to each Company Employee Benefit Plan or other benefit or compensation plan, program, agreement, or arrangement that is subject to the applicable Law of a jurisdiction other than the United States (whether or not United States Laws also apply) or primarily for the benefit of employees, directors, individual independent contractors or other service providers of the Company or any Company Subsidiary who reside or work primarily outside of the United States (each a “*Non-U.S. Plan*”), without limiting the generality of this Section 3.9: (i) each Non-U.S. Plan required to be registered, or intended to meet certain regulatory requirements for favorable tax treatment, has been timely and properly registered and has been maintained in good standing with the applicable regulatory authorities and requirements, in each case, in all material respects; (ii) no Non-U.S. Plan is a defined benefit plan (as defined in ERISA, whether or not subject to ERISA), or has any unfunded or underfunded liabilities; (iii) all Non-U.S. Plans that are required to be funded are funded to the required level, and adequate reserves have been established with respect to any Non-U.S. Plan to the extent not required to be funded or fully funded; and (iv) to the Company’s Knowledge, in the last three (3) years no claim (other than routine registration and returns) about any Non-U.S. Plan has been made to any applicable Governmental Authority.

(i) Except as set forth on Section 3.9(i) of the Company Disclosure Schedules, no payment or benefit, individually or together with any other payment or benefit, that could be received (whether in cash, property or the vesting of property), as a result of the Transactions, either alone or in combination with another event, by any current or former employee, officer, director, independent contractor or other individual service provider of the Company would not be deductible by reason of Section 280G of the Code or would be subject to an excise tax under Section 4999 of the Code.

(j) Except as set forth on Section 3.9(j) of the Company Disclosure Schedules, neither the Company nor any Subsidiary has any current or contingent obligation under any contract, agreement, plan or arrangement to indemnify, gross-up, reimburse or otherwise make whole any Person for any Taxes, including those imposed under Section 4999 or Section 409A of the Code (or any corresponding provisions of state, local or foreign Tax law).

(k) Each Company Plan that constitutes in any part a “nonqualified deferred compensation plan” (as defined under Section 409A(d)(1) of the Code) subject to Section 409A of the Code has been operated and administered in all respects in operational compliance with, and is in all respects in documentary compliance with, Section 409A of the Code and all U.S. Internal Revenue Service guidance promulgated thereunder, and no amount under any such plan, agreement or arrangement is, has been or could reasonably be expected to be subject to any additional Tax, interest or penalties under Section 409A of the Code.

(l) Except as set forth in Section 3.9(l) of the Company Disclosure Schedules, neither the execution of this Agreement nor the consummation of the Transactions (alone or in conjunction with any other event) will (i) entitle any current or former director, officer, employee, individual independent contractor or other individual service provider of the Company or any of the Company Subsidiaries to any compensation or benefit, (ii) accelerate the time of payment or vesting, or trigger any payment or funding, of any compensation or benefits or trigger any other obligation under any Company Plan or otherwise, or (iii) restrict the ability of the Company to merge, amend or terminate any Company Employee Benefit Plan.

Section 3.10 Opinion of Financial Advisor. The Company Board (in such capacity) has received the oral opinion (to be subsequently confirmed in writing) of the Company Financial Advisor, as financial advisor to the Company, that, as of the date of such opinion and based on and subject to the matters set forth therein, including the various assumptions made, procedures followed, matters considered and qualifications and limitations set forth therein, the Merger Consideration to be paid to the holders of Company Common Stock (other than shares of Company Common Stock then owned by the Company, Parent, Merger Sub or any other Subsidiary of Parent or the Company, Dissenting Shares and shares of Company Common Stock held by any Affiliate of the Company or Parent) pursuant to this Agreement is fair, from a financial point of view, to such holders. As of the date of this Agreement, such opinion has not been withdrawn or modified. Promptly following the date of this Agreement, an executed copy of such written opinion shall be provided to Parent for informational purposes only.

Section 3.11 Taxes.

(a) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) each of the Company and the Company Subsidiaries has timely filed all Tax Returns required to be filed by it in the manner prescribed by applicable Law and all such Tax Returns are true, correct and complete in all respects and have been prepared in compliance with all applicable Laws; and (ii) all Taxes required to be paid by the Company or any Company Subsidiary (including Taxes required to be withheld or collected) have been paid in full (or withheld and remitted to the appropriate taxing authority in accordance with applicable Law) and each of the Company and the Company Subsidiaries has made adequate provision (or adequate provision has been made on its behalf) in the Company’s consolidated financial statements for all accrued Taxes not yet due.

(b) There is no claim, audit, action, suit or proceeding currently pending or, to the Knowledge of the Company, threatened against or with respect to the Company or any Company Subsidiary in respect of any material Taxes or material Tax Return. No waiver or extension of any statute of limitations in respect of a material amount of Taxes or any extension of time with respect to a material Tax assessment or deficiency is currently in effect for the Company or any Company Subsidiary.

(c) Neither the Company nor any Company Subsidiary has been a party to a “listed transaction” within the meaning of Treasury Regulation Section 1.6011-4(b)(2).

(d) Neither the Company nor any Company Subsidiary (i) is a party to (A) any Tax sharing agreement, Tax allocation, Tax indemnity obligation or similar agreement (other than (x) Contracts entered into in the ordinary course of business a principal purpose of which is unrelated to Taxes or (y) Contracts between the Company, on the one hand, and any Company Subsidiary, on the other hand, or between Company Subsidiaries), or (B) any other written arrangement with respect to Taxes (including any advance pricing agreement, closing agreement or other similar agreement relating to Taxes) with any taxing authority that is specific to the Company or such Company Subsidiary, (ii) is or has been in the past five (5) years, a member of an affiliated group (within the meaning of Section 1504 of the Code) or an affiliated, consolidated, combined, unitary, or aggregate group for state, local or non-U.S. Tax purposes, other than a group of which the Company (or a predecessor thereof) is or was the common parent, or (iii) has incurred any material amount of liability in the past five (5) years for the Taxes of any Person (other than the Company or any Company Subsidiary) under Section 1.1502-6 of the Treasury Regulations (or any similar provision of state, local or foreign Tax Law) or as a transferee or successor.

(e) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, there are no Liens for Taxes on any of the assets of the Company or any Company Subsidiary other than Permitted Liens.

(f) Neither the Company nor any Company Subsidiary has entered into any “closing agreement” under Section 7121 of the Code, or other similar written agreement with any taxing authority in respect of Taxes that remains in effect, and no request for a ruling, relief or similar written agreement or ruling that relates specifically to the material Taxes or Tax Returns of the Company or any Company Subsidiary is currently pending with any Governmental Authority.

(g) No written claim that has not been resolved has been made by any taxing authority in the past five (5) years in a jurisdiction where the Company or any Company Subsidiary does not file a Tax Return that the Company or such Company Subsidiary is, or may be, subject to Tax by or required to file or be included in a Tax Return in that jurisdiction.

(h) The Company (i) was not a distributing corporation or a controlled corporation in any transaction intended to qualify under Section 355 of the Code in the two (2) year period ending on the date of this Agreement, (ii) is not nor has ever been a surrogate foreign corporation as described in Section 7874(b) of the Code and (iii) has not entered into a gain recognition agreement (within the meaning of Treasury Regulations Section 1.367-8) with respect to any Company Subsidiary that remains in effect.

(i) The characterization of the Company and each Company Subsidiary as a corporation, partnership, or disregarded entity for U.S. federal income tax purposes is as set forth in Section 3.11 of the Company Disclosure Schedules.

Section 3.12 Compliance with Laws: Regulatory Matters.

(a) Since January 1, 2023, neither the Company nor the Company Subsidiaries is or has been in violation of any Law applicable to the Company or the Company Subsidiaries or by which any of their respective properties or businesses are bound or any regulation issued under any of the foregoing or has been notified in writing by any Governmental Authority of any violation by the Company of, or any investigation with respect to any such Law, except for any such violation that have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) Since January 1, 2018, neither the Company nor any of the Company Subsidiaries, nor to the Knowledge of the Company, any of their respective officers, directors, employees, agents or other Representatives have received written notice of any actual, alleged or potential violation of any Anti-Bribery Law or have been a party to or the subject of any pending (or to the Knowledge of the Company, threatened) action, or, to the Knowledge of the Company, any audit or investigation, by or before any Governmental Authority (including receipt of any subpoena) related to any actual, alleged or potential violation of any Anti-Bribery Law, except as has not or would not reasonably be material to the Company and the Company Subsidiaries taken as a whole. Since January 1, 2018, neither the Company nor any of the Company Subsidiaries, nor to the Knowledge of the Company, any of their respective officers, directors, employees, agents or other Representatives has offered, paid, authorized or promised to pay anything of value to any Person for the purpose of improperly influencing any decision of any officer, employee, representative or body of any Governmental Authority (including any entity owned or controlled by any Governmental Authority) or improperly obtaining or retaining business or a business advantage. For the purpose hereof, "Anti-Bribery Laws" means the U.S. Foreign Corrupt Practices Act of 1977, the UK Bribery Act of 2010, all Laws enacted to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and all other applicable Laws relating to bribery, corruption or kick-backs.

(c) The Company and the Company Subsidiaries have complied in all material respects with all applicable Export Laws, neither the Company nor any of the Company Subsidiaries has (A) received written notice of any actual, alleged or potential violation of any Export Law or (B) been a party to or the subject of any pending (or to the Knowledge of the Company, threatened) action, or, to the Knowledge of the Company, any audit or investigation, by or before any Governmental Authority (including receipt of any subpoena) related to any actual, alleged or potential violation of any Export Law. For the purpose hereof, "**Export Laws**" means (i) all applicable Laws imposing trade sanctions on any Person and all anti-boycott or anti-embargo Laws administered by the U.S. Department of the Treasury's Office of Foreign Assets Control, all sanctions Laws or embargos imposed or administered by the U.S. Department of State, the United Nations Security Council, Her Majesty's Treasury or the European Union, or any other Governmental Authority with jurisdiction over the Company or any of the Company Subsidiaries, and all anti-boycott or anti-embargo Laws and (ii) all applicable Laws relating to the import, export, re-export, transfer of information, data, goods, and technology imposed by a Governmental Authority with jurisdiction over the Company or any of the Company Subsidiaries, including the Export Administration Regulations administered by the U.S. Department of Commerce and the International Traffic in Arms Regulations administered by the U.S. Department of State.

(d) Neither the Company, the Company Subsidiaries, nor, to the Company's Knowledge, any officer, employee, contractor or agent of, or any consultant of the Company or any Company Subsidiary has made or received an illegal payment, bribe, kickback, political contribution or other similar questionable illegal payment in connection with the operation or the business of the Company or any Company Subsidiary. The Company or any Company Subsidiary and their respective operations have been and are being conducted in material compliance with, and have appropriate internal controls that ensure compliance with all applicable Laws, including, without limitation 31 U.S.C. §3729 et seq. (the "**False Claims Act**"), 42 U.S.C. §1320a-7b(b) (the "**Anti-Kickback Statute**"), 42 U.S.C. §1320a-7a (the "**Civil Monetary Penalty Law**"), 42 U.S.C. §1395nn (the "**Stark Law**"), 21 U.S.C. § 301

et seq. (the “*Federal Food, Drug, and Cosmetic Act*”), 15 U.S.C. §§ 41-58 (the “*Federal Trade Commission Act*”), the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d et seq., as amended by the Health Information Technology for Economic and Clinical Health Act, all Laws relating to the disclosure of payments or other value to healthcare providers, including but limited to the Physician Payments Sunshine Act, 42 C.F.R. §401-403, and any comparable federal, state or local Laws and the regulations promulgated thereunder (“*Healthcare Laws*”), and all other federal, state and local Laws relating to the prevention of fraud and abuse, the regulation of the Company’s and Company Subsidiaries’ products and services to ensure they are not adulterated or misbranded, and the regulation of the Company’s or any Company Subsidiary’s operations, and have not committed any act for which it would be prosecuted under the Civil Monetary Penalty Law and any other applicable Laws for the type of products and services provided by the Company and Company Subsidiaries.

(e) All reimbursement and rebate agreements, patient assistance programs, market access services, and hub services and programs comply in material respects with all applicable Laws, including, but not limited to, the False Claims Act, the Anti-Kickback Statute, the Civil Monetary Penalty Law, the Stark Law, the Federal Food, Drug, and Cosmetic Act, the Federal Trade Commission Act, the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 as well as the Medicaid rebate requirements of the Omnibus Budget Reconciliation Act of 1990, or the OBRA, the Veterans Health Care Act of 1992, Deficit Reduction Act of 2005, Patient Protection and Affordable Care Act, the Inflation Reduction Act of 2022, Hart-Scott-Rodino Antitrust Improvements Act of 1976, Sherman Antitrust Act of 1890, each as amended, the Medicaid Drug Rebate Program, and all rules, regulations, and administrative policies of the Federal Trade Commission, U.S. Food and Drug Administration, Centers for Medicare & Medicaid Services, and the U.S. Department of Health and Human Services.

(f) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each of the Company and the Company Subsidiaries is, and has been since January 1, 2023, in compliance with all applicable requirements under any applicable Law, including those regarding non-clinical testing and research, clinical research, establishment registration, drug and device listing, good manufacturing practices, Company Product storage, handling distribution, advertising, promotion and sale, record-keeping, adverse event reporting, and reporting of corrections and removals (collectively, “*Regulatory Laws*”), in each case as applicable to the operation of its business. Neither the Company nor any Company Subsidiary is subject to any ongoing enforcement, regulatory or administrative proceedings against the Company or any Company Subsidiary alleging non-compliance with any Regulatory Laws, and neither the Company nor any Company Subsidiary has received any written notification or communication from the FDA or any other Governmental Authority performing functions similar to those performed by the FDA alleging any material non-compliance with any Regulatory Law, including any FDA Form-483, FDA Warning Letter, Establishment Inspection Report, adverse inspectional findings, notice of an integrity review, notice of an investigation, request for corrective or remedial action, notice of adverse finding, or notice of deficiency or violation, or similar communication from the FDA or any other Governmental Authority alleging that the Company, the Company Subsidiaries, or the Company Products are in violation of any applicable Law or Authorization.

(g) All clinical, pre-clinical and other studies and testing conducted by or on behalf of, or sponsored by, the Company or any of the Company Subsidiaries, or in which the Company or any of the Company Subsidiaries or the Company Products have participated, were and, if still pending, are being conducted in compliance in all material respects with all applicable Laws and regulations enforced by the FDA or any comparable Governmental Authority, including without limitation, 21 C.F.R. Parts 50, 54, 56, 58 and 312. Neither the Company nor the Company Subsidiaries have received any written notice or other written correspondence from the FDA, any other Governmental Authority, any Institutional Review Board (“*IRB*”), or other Person or board responsible for the oversight or conduct of any clinical or preclinical study, requesting, requiring or threatening the termination, suspension, material

modification or restriction, delay, or clinical hold of, or otherwise rejecting any clinical or preclinical study that was, is planned to be, or is being conducted. All studies were and, if still pending, are being conducted in all material respects in accordance with all applicable Laws, good clinical practices, good laboratory practices, the protocols, procedures and controls designed and approved for such studies, professional medical and scientific standards, and in accordance with any requirement of an IRB or other Person or board responsible for review of such studies. For all clinical trials concerning a Company Product, the final study reports, protocols, and statistical analysis plans (collectively, the "*Data*") accurately, completely, and fairly reflect the results from and plans for the studies. The Company has no Knowledge of any other studies, the results of which are inconsistent with, or otherwise call into question, the study results. The Company is not aware of any material facts or circumstances related to the safety or efficacy of any Company Product that would materially and adversely affect the ability to receive or maintain an Authorization or that would otherwise delay the receipt of an Authorization.

(h) The Company and the Company Subsidiaries have not received or otherwise learned of any complaints, information, or adverse event reports related to a Company Product that, individually or in the aggregate, would reasonably have a Company Material Adverse Effect or that would reasonably prevent the receipt or maintenance of an Authorization.

(i) No Company Product has been or has been requested by a Governmental Authority or other Person to be recalled, withdrawn, removed, suspended, seized, the subject of a corrective action, or discontinued (whether voluntarily or otherwise) (collectively "*Recall*"). Neither the Company nor any Company Subsidiary has sought or is seeking to, or, to the Company's Knowledge, is currently being requested, required or, threatened by any Governmental Authority or other Person for any Recall of a Company Product.

(j) Each of the Company and the Company Subsidiaries is, and has been since January 1, 2023, in possession of all material governmental franchises, licenses, permits, Authorizations and approvals (collectively, "*Permits*") necessary to enable it to own, operate and lease its properties, to research, test, manufacture, distribute, market and sell Company Products, and to carry on its business as now conducted. The Permits are, in all material respects, valid and in full force and effect. The Company and the Company Subsidiaries are in compliance with the terms and requirements of the Permits, except as would not be, individually or in the aggregate, material to the Company and the Company Subsidiaries taken as a whole. All such Permits are renewable by their terms or in the ordinary course of business without the need to comply with any special qualification procedures or to pay any amounts other than routine filing fees and will not be adversely affected by the completion of the transactions contemplated by this Agreement. Neither the Company nor any Company Subsidiary has received any written notification of any Permit revocation, cancellation, limitation, modification, lapse, suspension, integrity review, withdrawal or other adverse action.

(k) Each of the Company and the Company Subsidiaries has filed with the FDA and any other applicable Regulatory Authorities all required material filings, declarations, listings, registrations, applications, application supplements, reports or submissions, including but not limited to adverse event reports. All such filings, declarations, listings, registrations, reports or submissions were in material compliance with applicable Regulatory Laws when filed, and no deficiencies have been asserted in writing by any applicable Governmental Authority with respect to any such filings, declarations, listings, registrations, reports or submissions.

(l) Neither the Company, the Company Subsidiaries, nor, to the Company's Knowledge, any Person providing services to the Company has made an untrue statement of a material fact or fraudulent statement to the FDA or a Governmental Authority, failed to disclose a material fact required to be disclosed to the FDA or a Governmental Authority, or otherwise committed an act, made a statement, or failed to make a statement, that would reasonably be expected to provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities" Final Policy set forth in 56 Fed. Reg. 46191 (September 10, 1991) and any amendments

thereto (the “*FDA Ethics Policy*”). Neither the Company, the Company Subsidiaries, nor, to the Company’s Knowledge, any Person providing services to the Company has ever been investigated by the FDA or other Governmental Authority for data or healthcare program fraud. Neither the Company, the Company Subsidiaries, nor, to the Company’s Knowledge, any Person providing services to the Company is the subject of any pending or, to the Company’s Knowledge, threatened investigation pursuant to the FDA Ethics Policy, or resulting from any other untrue or false statement or omission.

(m) Neither the Company, the Company Subsidiaries, nor, to the Company’s Knowledge, any Person providing services to the Company, nor their respective officers, directors, partners, employees, or agents have been:

- (i) debarred or suspended pursuant to 21 U.S.C. § 335a;
- (ii) excluded under 42 U.S.C. § 1320a-7 or any similar law, rule or regulation of any Governmental Authority;
- (iii) excluded, debarred, suspended or deemed ineligible to participate in federal procurement and non-procurement programs, including those produced by the U.S. General Services Administration;
- (iv) charged, named in a complaint, convicted, or otherwise found liable in any Legal Proceeding that falls within the ambit of 21 U.S.C. § 331, 21 U.S.C. § 333, 21 U.S.C. § 334, 21 U.S.C. § 335a, 21 U.S.C. § 335b, 42 U.S.C. § 1320a - 7, 31 U.S.C. §§ 3729 – 3733, 42 U.S.C. § 1320a-7a, or any other applicable Law;
- (v) disqualified or deemed ineligible pursuant to 21 C.F.R. Parts 312, 511, or 812, or otherwise restricted, in whole or in part, or subject to an assurance; or
- (vi) had a pending Legal Proceeding, or otherwise received any notice or other communication from any Governmental Authority or any Person threatening, investigating, or pursuing (i)-(v) above.

Section 3.13 Intellectual Property; Data Protection; Company Systems.

(a) Section 3.13(a) of the Company Disclosure Schedules sets forth, as of the date of this Agreement, true, correct, and complete list, specifying as to each as applicable, the name of the current owners, jurisdictions, and application or registration numbers, of all material Company Registered Intellectual Property that, as of the Agreement Date, has not lapsed, been abandoned, expired, or been cancelled.

(b) Except as set forth in Section 3.13 of the Company Disclosure Schedules, the Company or one of the Company Subsidiaries is the exclusive owner of the Company Intellectual Property, free and clear of all Liens other than Permitted Liens, except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Except as would not have a Company Material Adverse Effect, the Company Intellectual Property and the Intellectual Property Rights licensed by the Company and the Company Subsidiaries from third parties (the “*Licensed Intellectual Property*”) are sufficient for the conduct of the business of the Company and the Company Subsidiaries as currently conducted. Except as has not had or would not be reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company and each of the Company Subsidiaries possess a valid and enforceable license to use all Licensed Intellectual Property (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors’ rights generally and general principles of equity), (ii) the Company and each of the Company Subsidiaries have paid all applicable license, royalty, service, and usage fees for its use of Licensed Intellectual Property required under any Contracts entered into by

Company or any of the Company Subsidiaries, and (iii) neither the Company nor any Company Subsidiary has breached, committed any default under, or violated any Contracts entered into by the Company or any of the Company Subsidiaries that are applicable to Licensed Intellectual Property, and, to the Knowledge of Company, no other Person has breached, committed any default under, or violated any such Contract.

(c) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each item of Company Registered Intellectual Property (other than applications for Company Registered Intellectual Property) is subsisting and, with respect to Company Registered Intellectual Property issued by an applicable Governmental Authority, to the Company's Knowledge, valid and enforceable (assuming registration where required for enforcement).

(d) Except as set forth in Section 3.13 of the Company Disclosure Schedules, neither the Company nor any Company Subsidiary has granted to any person a joint ownership interest of, or has granted, or permitted any person to retain, any exclusive rights that remain in effect in, any material Company Intellectual Property.

(e) The Company and each of the Company Subsidiaries have maintained the Company Intellectual Property in the ordinary course as determined by the Company in its good faith business judgment and taken steps reasonable under the circumstances to protect and preserve the confidentiality of all Trade Secrets included in the Company Intellectual Property, except where the failure to take such actions has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(f) Since January 1, 2023, there have been no Legal Proceedings pending or threatened in writing against Company or any of the Company Subsidiaries: (i) alleging any infringement, misappropriation, or violation by the Company or any of the Company Subsidiaries, or the conduct of businesses of the Company or any of the Company Subsidiaries, of the Intellectual Property Rights of any Person; or (ii) challenging the validity, enforceability, scope, registrability, ownership or use of any Company Intellectual Property or Licensed Intellectual Property other than office actions in the ordinary course of prosecution; in each case except for such Legal Proceedings that have not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company and the Company Subsidiaries are not subject to any outstanding Order that restricts or impairs in any manner the use of any Company Intellectual Property, except where compliance with such Order has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(g) Except as has not had or would not be reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect: (i) the conduct of the businesses of the Company and any of the Company Subsidiaries has not infringed, misappropriated, or otherwise violated, and is not infringing, misappropriating, or otherwise violating, any Intellectual Property Rights of any other Person; and (ii) no third party is infringing upon, violating, or misappropriating any Company Intellectual Property.

(h) To the Knowledge of the Company, there is no material unauthorized use, disclosure or misappropriation by any Person of any such Trade Secrets that are Company Intellectual Property.

(i) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, since January 1, 2022, the Company and each of the Company Subsidiaries (i) are, and have been, in compliance with applicable Data Security Requirements and (ii) have not experienced any Security Incidents affecting Personal Information in the Company's or a Company Subsidiary's possession or control. Except as has not had or would not

reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, since January 1, 2023, no Person who Processes Personal Information on behalf of Company or any of the Company Subsidiaries has experienced any Security Incidents affecting Company or Company Subsidiary Personal Information.

(j) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company Systems are in good working order and sufficient for the current conduct of the business of the Company and each of the Company Subsidiaries, (ii) the Company and the Company Subsidiaries have purchased a sufficient number of license seats, and scope of rights, for all third party software used by the Company or the Company Subsidiaries, as applicable, for the business of the Company or the Company Subsidiaries, as applicable, as currently conducted and have complied with the terms of the corresponding license agreements in all material respects and (iii) the Company and each of the Company Subsidiaries maintain reasonable safeguards designed to protect the security and integrity of the Company Systems. To the Knowledge of the Company, since January 1, 2023, there have been no material failures or breakdowns of the Company Systems which significantly interrupted the business and operations of the Company or Company Subsidiaries that have not been remedied in all material respects.

Section 3.14 Employment Matters.

(a) Neither the Company nor any Company Subsidiary is a party to or otherwise bound by any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization (collectively, "**CBAs**"), nor is any such contract or agreement presently being negotiated, nor, to the Knowledge of the Company, is there, a representation campaign respecting any of the employees of the Company or any of the Company Subsidiaries. Since January 1, 2023, there have been no pending or, to the Knowledge of the Company, threatened, labor strike, dispute, walkout, work stoppage, slow-down, lockout or other form of industrial action involving the Company or any of the Company Subsidiaries which has or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(b) The Company and the Company Subsidiaries are, and since January 1, 2023 have been, in compliance in all material respects with all applicable Law respecting labor, employment and employment practices, including all Laws respecting terms and conditions of employment, health and safety, wages and hours (including the classification of independent contractors and exempt and non-exempt employees), immigration (including the completion of Forms I-9 for all U.S. employees and the proper confirmation of employee visas), employment discrimination, harassment, retaliation, restrictive covenants, pay transparency, disability rights or benefits, equal opportunity, plant closures and layoffs (including the WARN Act), workers' compensation, labor relations, employee leave issues, employee trainings and notices, COVID-19, affirmative action and unemployment insurance.

(c) To the Knowledge of the Company, no current or former employee of the Company or any Company Subsidiaries is in any material respect in violation of any material term of any Company Employee Agreement or any other employment agreement, nondisclosure agreement or restrictive covenant agreement containing a noncompetition agreement or restrictive covenant obligation owed to: (i) the Company or any Company Subsidiaries; or (ii) any third party with respect to such person's right to be employed or engaged by the Company or any Company Subsidiaries.

(d) In the past three (3) years, the Company and the Company Subsidiaries have complied in all material respects with statutory and contractual termination entitlements owed with respect to employees of such entities that have been terminated unilaterally.

Section 3.15 Insurance. Except as has not had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and the Company Subsidiaries maintain insurance coverage adequate and customary in the industry for the operation of their respective businesses (taking into account the cost and availability of such insurance) and provide insurance in such amounts and against such risks as the Company reasonably has determined to be prudent, taking into account the industries in which the Company and the Company Subsidiaries operate, and as is sufficient to comply with applicable Law. To the Knowledge of the Company, all such insurance policies are in full force and effect and all related premiums have been paid as of the date of this Agreement. Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, neither the Company nor any of the Company Subsidiaries is in breach or default, and neither the Company nor any of the Company Subsidiaries has taken any action or failed to take any action which would constitute such a breach or default, or permit termination or modification of, any of such insurance policies. Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and to the Knowledge of the Company, no notice of cancellation or termination, other than pursuant to the expiration of a term in accordance with the terms thereof, has been received with respect to any such policy.

Section 3.16 Material Contracts.

(a) Except for this Agreement or as set forth in Section 3.16 of the Company Disclosure Schedules, as of the Agreement Date, none of the Company or any of the Company Subsidiaries is a party to or bound by (each a "**Company Material Contract**"):

(i) any Contract that would be required to be filed by the Company as a "material contract" pursuant to Item 601(b)(10) of Regulation S-K promulgated by the SEC, other than those agreements and arrangements described in Item 601(b)(10)(iii);

(ii) any Contract with a related person (as defined in Item 404 of Regulation S-K of the Securities Act) that would be required to be disclosed in the Company SEC Reports but has not been disclosed;

(iii) any Contract that contains a put, call, right of first refusal or similar right pursuant to which the Company or any Company Subsidiary could be required to purchase or sell, or offer for purchase or sale of any business, stock or assets of any other Person or any real property (whether by merger, sale of stock, sale of assets or otherwise), in each case involving amounts in excess of \$1,000,000;

(iv) any Contract relating to the borrowing or lending of Indebtedness in a principal amount in excess of \$500,000 (whether incurred, assumed, guaranteed or secured by any asset);

(v) any Contract that is a settlement, conciliation or similar agreement between the Company or any Company Subsidiary and any Governmental Authority pursuant to which the Company or a Company Subsidiary will be required after the date of this Agreement to pay any material monetary obligations;

(vi) any Contract between the Company or any Company Subsidiary, on the one hand, and any third Person, on the other hand (A) materially limiting the freedom or right of the Company or any Company Subsidiary (or, following the Closing, Parent or any of its Affiliates) to engage in any line of business or to compete with any other Person in any location or line of business, (B) containing any "most favored nations" terms and conditions (including with respect to pricing) granted by the Company or any Company Subsidiary, or (C) containing exclusivity obligations or otherwise materially limiting the freedom or right of the Company or any Company Subsidiary (or, following the Closing, Parent or any of its Affiliates) to solicit, sell, distribute or manufacture any products or services or any technology or other assets to or for any other Person;

(vii) any Contract that requires by its terms or is reasonably expected to require the payment or delivery by the counterparty thereto of cash or other consideration to the Company or any Company Subsidiary in an amount having an expected value in excess of \$1,000,000 in the fiscal year ending December 31, 2024 or by the Company or any Company Subsidiary in an amount having an expected value in excess of \$1,000,000 in the fiscal year ending December 31, 2024 and, in each case, (A) which cannot be cancelled by the Company or such Company Subsidiary without penalty or further payment without more than sixty (60) days' notice and (B) excluding commercially available off-the-shelf software licenses and software-as-a-service offerings, in each case entered into in the ordinary course of business consistent with past practice;

(viii) any Contract between the Company or any Company Subsidiary and a third Person (A) relating to the disposition of any assets or business of the Company and the Company Subsidiaries with a fair market value in excess of \$2,000,000 or (B) relating to the acquisition of any assets or business of, or ownership interests in, any third Person with a fair market value in excess of \$2,000,000, in each case of clauses (A) and (B), whether by merger, sale of stock or assets or otherwise, and that contains continuing indemnities or other material obligations or any continuing "earn-out" or other contingent payment obligation on the part of the Company or any Company Subsidiary;

(ix) any Contract between the Company or any Company Subsidiary and any third Person that establishes a joint venture, partnership or limited liability company;

(x) any Contract that by its express terms requires the Company or any Company Subsidiary, or any successor to, or acquirer of, the Company or any Company Subsidiary, to make any material payment to another Person as a result of a change of control of the Company or any such Company Subsidiary (a "Change of Control Payment") or gives another Person a right to receive or elect to receive a Change of Control Payment;

(xi) any Contract that prohibits the declaration or payment of dividends or distributions in respect of the capital stock of the Company or any Company Subsidiary, the pledging of the capital stock or other equity interests of the Company or any Company Subsidiary or the issuance of any guaranty by the Company or any Company Subsidiary;

(xii) any Contract (excluding in each case Contracts entered into in the ordinary course of business consistent with past practice) pursuant to which (a) both (i) the Company or any Company Subsidiary is granted a license to, including any covenant not to sue under, any material Intellectual Property Right owned by any third party that is necessary for or used by the Company or any Company Subsidiary in their respective businesses as currently conducted, and (ii) that requires by its terms or is reasonably expected to require the payment or delivery by the Company or any Company Subsidiary in an amount having an expected value in excess of \$1,000,000 in the fiscal year ending December 31, 2024, or (b) both (i) the Company or any Company Subsidiary grants a third party a license to, including any covenant not to sue under, any material Company Intellectual Property and (ii) that requires by its terms or is reasonably expected to require the payment or delivery by the counterparty thereto of cash or other consideration to the Company or any Company Subsidiary in an amount having an expected value in excess of \$1,000,000 in the fiscal year ending December 31, 2024;

(xiii) any CBA;

(xiv) any Contract with any supplier that involved the payment of more than \$1,000,000 in the Company's last fiscal year;

(xv) any material Contract with any university or other academic institution, research center, international organization or Governmental Authority having an expected value in excess of \$1,000,000 in the fiscal year ending December 31, 2024, or in any single fiscal year thereafter, other than any sponsored research agreements, clinical trial site agreements, material transfer agreements,

sponsorship agreements or grant agreements entered into in the ordinary course of business;

(xvi) any Contract that indemnifies any director or executive officer of the Company or any Company Subsidiary (other than any indemnification provisions set forth in the certificate of incorporation or bylaws or comparable governing documents of the Company or any Company Subsidiary or Contracts entered into on substantially the same form as the Company's standard forms previously made available to Parent) or

(xvii) any Contract that requires any capital commitment or capital expenditure (or series of capital expenditures) by the Company or any Company Subsidiary after the date hereof in an amount in excess of \$2,000,000 in the aggregate.

(b) Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, each of the Contracts to which the Company or any of the Company Subsidiaries is a party is in full force and effect, and represents a valid and binding obligation of the Company or a Company Subsidiary, enforceable in accordance with its terms against the Company or the Company Subsidiary (as the case may be) and, to the Knowledge of the Company, any other party thereto, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforcement of creditors' rights generally, and general principles of equity (regardless of whether such enforceability is considered in a proceeding in Law or equity). Neither the Company nor any Company Subsidiary is in breach of or default, with or without notice, lapse of time or both, under any Contract to which the Company or any of the Company Subsidiaries is a party, nor, to the Company's Knowledge, is any other party to any such Contract, excluding, however, any breach or default which has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

Section 3.17 Properties.

(a) Neither the Company nor any Company Subsidiary owns any real property.

(b) Section 3.17(b) of the Company Disclosure Schedules sets forth a true, correct, and complete list of all properties leased, subleased, licensed, sublicensed or occupied by the Company or a Company Subsidiary as of the Agreement Date (collectively, the "**Leased Real Property**") and the Real Property Leases in connection therewith. Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company or a Company Subsidiary has a valid leasehold interest in all of the Leased Real Property, free and clear of all Liens (except for Permitted Liens), (ii) each Real Property Lease is valid and binding on the Company or a Company Subsidiary and, to the Company's Knowledge, each counterparty thereto, and is full force and effect, and (iii) neither the Company nor any Company Subsidiary is in breach of or default under any Real Property Lease, nor, to the Company's Knowledge, is any other party to such Real Property Lease.

(c) Neither the Company nor any Company Subsidiary has leased, subleased, licensed, sublicensed, transferred or mortgaged any portion of any Leased Real Property to any Person.

(d) Neither the Company nor any Company Subsidiary has received any written notice of existing, pending or threatened (i) condemnation proceedings affecting the Leased Real Property, or (ii) zoning, building code or other moratorium proceedings, or similar matters which would reasonably be expected to materially and adversely affect the ability to operate the Leased Real Property as currently operated.

(e) The Leased Real Property constitutes all interests in real property of the Company and the Company Subsidiaries.

(f) The Company has delivered or made available to Parent true, correct and

complete copies of all Real Property Leases

(g) Neither the Company nor any Company Subsidiaries has received any written notice of violations (that remain unresolved) with respect to the condition, operation, occupancy or use of the Leased Real Property.

(h) To the Company's Knowledge, all buildings, structures, improvements, fixtures and building systems located in or on the Leased Real Property are in reasonable operating condition in all material respects subject to ordinary wear and tear, maintenance and repair, and are adequate for their current uses.

(i) Except as has not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and each of the Company Subsidiaries are in possession of and have good and marketable title to, or valid leasehold interests in or valid rights under contract to use, the machinery, equipment, furniture, fixtures, and other personal property and assets owned, leased, or used by the Company or any of its Subsidiaries, free and clear of all Liens other than Permitted Liens.

Section 3.18 Environmental Matters.

(a) The Company and the Company Subsidiaries, and the Leased Real Property are, and have been, in compliance in all material respects with all applicable Environmental Laws and Environmental Permits.

(b) The Company and the Company Subsidiaries possess all material Environmental Permits that are required for the operation of their business as presently operated and for the ownership and use of their assets (including the Leased Real Property) as presently owned and used.

(c) Except as has not had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company and the Company Subsidiaries have not received any written notices alleging (i) any failure by the Company or any Company Subsidiaries to comply with any Environmental Law or Environmental Permit, or (ii) any liabilities under any Environmental Law respecting the business of the Company and the Company Subsidiaries, any Leased Real Property or any other site where Hazardous Materials generated by the business of the Company and the Company Subsidiaries were transferred, stored, recycled or disposed of, which in the case of any such notice under clauses (i) and (ii) have not been resolved as of the date of this Agreement.

(d) Except as has not had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect: (i) there have been no Releases of Hazardous Materials on, at, from or under the Leased Real Property in an amount or concentration that would reasonably be expected to require the Company or any Company Subsidiaries to perform any notification, investigation, assessment, or Remedial Action or to pay for the cost of any such action under applicable Environmental Law; (ii) neither the Company nor any Company Subsidiaries have Released, transported or disposed of Hazardous Materials except in compliance with applicable Environmental Laws; and (iii) there has been no use, generation or storage of any Hazardous Material, at, on, onto, under, or from any of the Leased Real Property by the Company and its Subsidiaries, except in compliance with applicable Environmental Laws.

(e) Neither the Company nor any Company Subsidiaries has agreed in writing to assume or accept responsibility, by contract or otherwise, for any liabilities of any other Person under Environmental Laws.

(f) Except as has not had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, neither the Company nor any Company Subsidiaries

has entered into or agreed to any Order, and is not subject to any Order, relating to compliance with any Environmental Law or to investigate, remove or remediate Hazardous Materials under any Environmental Law which, in each case, remains pending or unresolved or is the source of ongoing and material obligations or requirements.

(g) Since January 1, 2023, there have been no insurance claims made by the Company and the Company Subsidiaries with respect to any liability under any Environmental Law.

Section 3.19 Inapplicability of Anti-takeover Statutes. Assuming the accuracy of the representations set forth in Section 4.4, the Company Board has taken all action necessary so that the restrictions on “business combinations” contained in Section 203 of the DGCL do not apply to this Agreement, the Voting Agreement, the CVR Agreement, the Merger and the other Transactions, and, accordingly, no such restrictions nor other anti-takeover or similar statute or regulation in any jurisdiction (“*Anti-Takeover Law*”) applies or purports to apply to this Agreement, the Voting Agreement, the CVR Agreement, the Merger or any such other Transactions.

Section 3.20 Proxy Statement. None of the information included or incorporated by reference in the Proxy Statement to be filed with the SEC in connection with the Merger, will, at the time it is filed with the SEC in definitive form, at the time it (or any amendment or supplement thereto) is first disseminated to the Company’s stockholders, or at the time of the Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding the foregoing, no representation or warranty is made by the Company with respect to statements made or incorporated by reference therein based on information supplied by Parent or Merger Subsidiary expressly for inclusion or incorporation by reference in the Proxy Statement. The Proxy Statement will comply as to form in all material respects with the requirements of the Exchange Act.

Section 3.21 Related Party Transactions. Since January 1, 2022, there have been no transactions, or series of related transactions, agreements, arrangements, or understandings in effect, nor are there any currently proposed transactions, or series of related transactions, agreements, arrangements, or understandings, that would be required to be disclosed under Item 404(a) of Regulation S-K that have not been otherwise disclosed in the Company SEC Reports filed prior to the date hereof.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUBSIDIARY**

Except as set forth in the Parent Disclosure Schedules delivered by Parent to the Company on the Agreement Date (the “*Parent Disclosure Schedule*”) (each section of which qualifies the correspondingly numbered representation and warranty or covenant to the extent specified therein, *provided* that any disclosure set forth with respect to any particular Section shall be deemed to be disclosed in reference to all other applicable Sections of this Agreement if the disclosure in respect of the particular Section is reasonably apparent on its face to inform the Company of the information required to be disclosed in respect of such other Sections), each of Merger Subsidiary and Parent represents and warrants to the Company as follows:

Section 4.1 Organization. Each of Parent and Merger Subsidiary is a corporation duly incorporated, validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its organization (to the extent the “good standing” concept is applicable in the case of any jurisdiction outside the United States), except where the failure to be so incorporated, existing or in good standing, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on the ability of Merger Subsidiary or Parent to consummate the Transactions. Each of Parent and Merger Subsidiary has all requisite corporate or similar power and authority to enable it to own, operate and lease its properties and to carry on its business as now conducted. Parent has delivered or made available to the Company complete and correct copies of the certificate of incorporation, bylaws or other constituent documents, as amended as of the Agreement Date, of Merger Subsidiary and Parent.

Section 4.2 Authorization: No Conflict.

(a) The execution, delivery and performance by each of Parent and Merger Subsidiary of this Agreement (and with respect to Parent, the CVR Agreement) and the consummation by each of Parent and Merger Subsidiary of the Merger and the other Transactions are within the corporate or similar powers of Parent and Merger Subsidiary, as applicable, and, subject to the completion of the actions contemplated by Section 5.15, have been duly authorized by all necessary corporate or similar action on the part of each of Parent and Merger Subsidiary and no other corporate proceedings on the part of Parent or Merger Subsidiary are necessary to authorize the execution, delivery and performance of this Agreement or to consummate the Merger and the other Transactions, subject only, in the case of consummation of the Merger, to the receipt of the approval of the Merger by Parent, in its capacity as the sole stockholder of Merger Subsidiary. Each of Parent and Merger Subsidiary has duly executed and delivered this Agreement (and with respect to Parent, the CVR Agreement) and, assuming due authorization, execution and delivery by the Company, this Agreement constitutes a legal, valid and binding agreement of each of Parent and Merger Subsidiary enforceable against each of Parent and Merger Subsidiary in accordance with its terms (subject to applicable bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and other laws affecting creditors’ rights generally and general principles of equity).

(b) The execution, delivery and performance by Merger Subsidiary and Parent of this Agreement (and with respect to Parent, the CVR Agreement) and the consummation by Merger Subsidiary and Parent of the Transactions require no Consent of any Governmental Authority, other than (i) the filing of a certificate of merger with respect to the Merger with the Delaware Secretary of State, (ii) compliance with any applicable requirements of the HSR Act and Foreign Antitrust Laws, (iii) compliance with any applicable requirements set forth on Section 4.2 of the Parent Disclosure Schedules, (iv) the filing of any reports under the Exchange Act as may be required in connection with this Agreement, the Merger, and the other Transactions including pursuant to Schedule 13D, (v) compliance with applicable state securities or “blue sky” Laws and the securities Laws of any foreign country or any applicable rules of Nasdaq, and (v) any additional Consents with any other Governmental Authority, except, in the case of clause (v), those that the failure of which to make or obtain, individually or in the aggregate, would, individually or in the aggregate, reasonably be expected to have a material

adverse effect on Parent's or Merger Subsidiary's ability to consummate the Merger and the other Transactions.

(c) The execution, delivery and performance by Merger Subsidiary and Parent of this Agreement (and with respect to Parent, the CVR Agreement) and the consummation of the Transactions, including the Merger, do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the certificate of incorporation, bylaws or other constituent documents of Merger Subsidiary and Parent, (ii) assuming compliance with the matters referred to in Section 4.2(b), contravene, conflict with or result in a violation or breach of any provision of any applicable Law or Order, (iii) assuming compliance with the matters referred to in Section 4.2(b), result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in Parent or Merger Subsidiary's loss of any benefit or the imposition of any additional payment or other liability under, or alter the rights or obligations of any third party under, or give to any third party any rights of termination, amendment, acceleration, or cancellation, or require any Consent under, any Contract to which Parent or Merger Subsidiary is a party, or (iv) result in the creation or imposition of any Lien on any asset of Parent or Merger Subsidiary, with only such exceptions, in the case of each of clauses (ii) through (iv), which, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on Parent's or Merger Subsidiary's ability to consummate the Merger and the other Transactions.

Section 4.3 No Legal Proceedings Challenging the Merger. There are no Legal Proceedings pending or, to the Knowledge of Parent, threatened, to which Parent or any Subsidiary of Parent is a party that, individually or in the aggregate, would reasonably be expected to have a material adverse effect on Parent's ability to consummate the Merger and the other Transactions.

Section 4.4 Ownership of Company Common Stock. Other than as a result of this Agreement, none of Parent, Merger Subsidiary, nor any of their Affiliates directly or indirectly own any shares of Company Common Stock or any options, warrants or other rights to acquire Company Common Stock or other securities, of, or any economic interest (through derivatives, securities or otherwise) in the Company. None of Merger Subsidiary or Parent or any of their controlled "affiliates" or "associates" are, or at any time during the period commencing three (3) years prior to the date hereof has been, an "interested stockholder" of the Company as defined in Section 203 of the DGCL. Prior to the Agreement Date, neither Parent nor Merger Subsidiary has taken, or authorized or permitted any Representatives of Parent or Merger Subsidiary to take, any action that would reasonably be expected to cause, Parent, Merger Subsidiary or any of their "affiliates" or "associates" to be deemed an "interested stockholder" as defined in Section 203 of the DGCL of the Company.

Section 4.5 Broker's or Finder's Fees. Except for Guggenheim Securities, LLC (whose fees and commissions will be paid by Parent or its Subsidiaries), no agent, broker, Person or firm acting on behalf of Parent or any of its Subsidiaries or under Parent's or any of its Subsidiaries' authority is or will be entitled to any advisory or broker's or finder's or other similar fee or commission from any of the parties hereto in connection with any of the Transactions.

Section 4.6 Activities of Merger Subsidiary. Merger Subsidiary was formed solely for the purpose of engaging in the Transactions. Merger Subsidiary has not engaged, and will not prior to the Effective Time engage, in any activities other than those contemplated by this Agreement and has, and will have as of immediately prior to the Effective Time, no material liabilities other than those incident to its formation and pursuant to the Transactions.

Section 4.7 Disclosure Documents. None of information supplied or to be supplied by or on behalf of Parent, Merger Subsidiary or any other Subsidiary of Parent for inclusion or incorporation by reference in the Proxy Statement will, at the time it is filed with the SEC in definitive form, at the time it (or any amendment or supplement thereto) is first disseminated to the Company's stockholders, or at the time of the Stockholders Meeting, contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. Notwithstanding the foregoing, no representation or warranty is made by Parent or the Merger Subsidiary with respect to statements or omissions included or incorporated by reference in the Proxy Statement based upon information supplied by the Company or any of its Representatives specifically for use or incorporation by reference therein. The information supplied or to be supplied by or on behalf of Parent, Merger Subsidiary or any other Subsidiary of Parent for inclusion or incorporation by reference in the Proxy Statement will comply as to form in all material respects with the requirements of the Exchange Act.

Section 4.8 Sufficiency of Funds. Assuming the satisfaction of the closing conditions set forth in Section 6.1 and Section 6.2 and that the Debt Financing is funded in accordance with the Debt Commitment Letter (including any "market flex" provisions related thereto), the aggregate net proceeds of the Debt Financing (both before and after giving effect to the exercise of any and all "market flex" provisions related thereto) when funded in accordance with the terms of the Debt Commitment Letter, together with cash and cash equivalents of Parent, will be sufficient to consummate the Transactions, including the payment of the Closing Cash Consideration pursuant to this Agreement on the Closing Date, other than pursuant to the CVR Agreement.

Section 4.9 Solvency. None of Parent or Merger Subsidiary is entering into this Agreement with the intent to hinder, delay or defraud either present or future creditors of the Company or any of the Company Subsidiaries. Assuming (i) the representations and warranties of the Company are true and correct in all material respects (disregarding any references to "Knowledge of the Company," "Company Material Adverse Effect," "materiality", "in all material respects" or similar qualifications contained in such representations or warranties) and (ii) all material liabilities of the business of the Company and its Subsidiaries are disclosed in the Company Disclosure Schedules or in the Company SEC Reports filed prior to the date of this Agreement (excluding "risk factors" sections or any language in the Company SEC Reports that is predictive or forward-looking or that is not factual information but merely cautionary language), after giving effect to the Transactions, the incurrence of the Debt Financing, the payment of the Closing Cash Consideration, and payment of all other amounts required to be paid in connection with the consummation of the Merger or any other transaction contemplated by this Agreement (other than pursuant to the CVR Agreement) and the payment of all related fees and expenses, be Solvent at and after the Closing. As used in this Section 4.9, the term "**Solvent**" shall mean, with respect to a particular date, that on such date, (a) the sum of the assets, at a fair valuation, of Parent will exceed its debts, (b) Parent has not incurred debts beyond its ability to pay such debts as such debts mature, and (c) Parent will have, sufficient capital and liquidity with which to conduct its business. For purposes of this Section 4.9, "**debt**" will be generally determined in accordance with applicable Laws governing determinations of the insolvency of debtors.

Section 4.10 Debt Financing. Parent has delivered to the Company a true, correct and complete copy of the executed Debt Commitment Letter. As of the date of this Agreement, the Debt Commitment Letter has not been amended or modified in any manner since Parent provided, on or prior to the date of this Agreement, a fully executed copy of the Debt Commitment Letter. Neither Parent nor any of its Affiliates has entered into any amendment or modification to the Debt Commitment Letter or any agreement, side letter or other arrangement with respect to the Debt Financing contemplated by the Debt Commitment Letter among the parties thereto, in each case, that would add any condition precedent to funding of the Debt Financing or otherwise expand or adversely amend or modify any of the conditions precedent to the receipt of the Debt Financing, reduce the amount of the Debt Financing below an amount necessary (together with cash and cash equivalents of Parent) to fund all of the amounts required to be

provided by Parent or Merger Subsidiary for the consummation of the Transactions (including the payment of the Closing Cash Consideration, but excluding payment of any amounts pursuant to the CVR Agreement), adversely affect the availability of the Debt Financing or delay or prevent the Closing or make the funding of the Debt Financing less likely to occur. As of the date of this Agreement, the commitment contained in the Debt Commitment Letter has not been withdrawn, rescinded or repudiated in any respect and no such withdrawal, rescission or repudiation is contemplated. As of the date of this Agreement, the Debt Commitment Letter is in full force and effect and represents a legal, valid, binding and enforceable obligation of Parent and, to the Knowledge of Parent, each other party thereto, to provide the financing contemplated thereby subject only to the satisfaction or waiver of the conditions set forth in the Debt Commitment Letter and except as enforceability may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization or moratorium Laws, other similar Laws affecting creditors' rights and general principles of equity affecting the availability of specific performance and other equitable remedies. Parent has fully paid (or caused to be fully paid) any and all commitment fees and other amounts that are due and payable by Parent on or prior to the date of this Agreement in connection with the Debt Financing. As of the date of this Agreement, no event has occurred which, with or without notice, lapse of time or both, would or would reasonably be expected to constitute a breach or default on the part of Parent or, to the Knowledge of Parent, any other party thereto under the Debt Commitment Letter or that would result in the Debt Financing contemplated thereby to be unavailable or materially delayed. Assuming the satisfaction of the conditions set forth in [Section 6.1](#) and [Section 6.2](#) and compliance by the Company with [Section 5.18](#) (other than any failures to comply with [Section 5.18](#) that, individually and in the aggregate, are not material), Parent has no reason to believe that it or any Financing Source will be unable to satisfy on a timely basis any term or condition of the Debt Commitment Letter required to be satisfied by it or that the full amount of the Debt Financing contemplated by the Debt Commitment Letter will not be available on the Closing Date. The only conditions precedent or other contingencies related to the funding of the Debt Financing contemplated by the Debt Commitment Letter on the Closing Date that will be included in the related Debt Financing Documents shall be the conditions set forth in the Debt Commitment Letter as in effect on the date of this Agreement. Notwithstanding anything to the contrary contained herein, the Debt Financing is not a condition precedent to the consummation of the transactions contemplated by this Agreement.

ARTICLE V COVENANTS

Section 5.1 Access and Investigation. During the period commencing on the Agreement Date and ending on the earlier of (a) the Effective Time and (b) the termination of this Agreement pursuant to [Section 7.1](#) (such period being referred to herein as the "*Interim Period*"), the Company shall, and shall cause the Company Subsidiaries to, upon reasonable advance notice to the Company from Parent: (i) provide Parent and Parent's Representatives with reasonable access during normal business hours to the Company's and the Company Subsidiaries' books, records, Tax Returns, material operating and financial reports, work papers, assets, officers, offices and other facilities, Contracts and other documents and information relating to the Company and the Company Subsidiaries and (ii) provide Parent and Parent's Representatives with such copies of the books, records, Tax Returns, work papers, Contracts and other documents and information relating to the Company and the Company Subsidiaries, and with such additional financial, operating and other data and information regarding the Company and the Company Subsidiaries, as Parent may reasonably request; provided, however, that any such access shall be conducted at Parent's expense, under the supervision of appropriate personnel of the Company, and in such a manner not to interfere in any material respect with the normal operation of the business of the Company and the Company Subsidiaries or create risk of damage or destruction to any material assets or property. Any such access shall be subject to the Company's and the Company Subsidiaries' security measures and insurance requirements, to the extent such measures and requirements shall be disclosed to Parent or its applicable Representatives in advance of being granted such access. Information obtained by Merger Subsidiary or Parent pursuant to this [Section 5.1](#) will constitute "Proprietary Information" under the Confidentiality Agreement and will be subject to the provisions of the Confidentiality Agreement.

Nothing in this Section 5.1 will require the Company or any Company Subsidiary to permit any inspection, or to disclose any information, that in the reasonable judgment of the Company: (A) would result in a violation of applicable Law; or (B) would result in the loss of a legal protection afforded by the attorney-client privilege or the attorney work product doctrine or similar privilege.

Section 5.2 Operation of the Company's Business.

(a) Except (i) as expressly contemplated or required by this Agreement, (ii) as required by applicable Law, (iii) as set forth in Section 5.2(a) or Section 5.2(b) of the Company Disclosure Schedules, or (iv) as consented to in writing by Parent, during the Interim Period, the Company shall and shall cause the Company Subsidiaries to: (A) use commercially reasonable efforts to ensure that it conducts its and their respective businesses in the ordinary course consistent with past practice and (B) use commercially reasonable efforts to preserve intact its and their respective current business organizations, keep available the services of its and their respective key employees and maintain its and their respective relations and goodwill with the Persons having material business relationships with the Company or the Company Subsidiaries.

(b) Except (w) as expressly contemplated or required by this Agreement, (x) as required by applicable Law, (y) as set forth in Section 5.2(a) or Section 5.2(b) of the Company Disclosure Schedules, or (z) as consented to in writing by Parent (which consent will not be unreasonably withheld, conditioned or delayed, other than with respect to subsections (i), (ii), (iii), (iv), (v), (vi), (ix), (x), (xi), (xii), (xiii)(F), (xiv), (xviii), (xxii), (xxiii), (xiv), and, to the extent relating to the foregoing subsections, (xxv)), during the Interim Period, the Company shall not and shall cause the Company Subsidiaries not to:

(i) except as permitted by Section 5.2(b)(ii), declare, accrue, set aside or pay any dividend, make or pay any dividend or other distribution (whether in cash, stock, property or otherwise) in respect of any shares of capital stock or any other Company or Company Subsidiary securities (other than dividends or distributions paid in cash from a direct or indirect wholly owned Company Subsidiary to the Company or another direct or indirect wholly owned Company Subsidiary); adjust, split, subdivide, combine or reclassify any capital stock or otherwise amend the terms of any Company or Company Subsidiary securities; or acquire, redeem or otherwise reacquire or offer to acquire, redeem or otherwise reacquire any shares of capital stock or other securities, other than (1) the withholding or retirement of shares of Company Common Stock to satisfy Tax obligations with respect to Company Equity Awards outstanding on the Agreement Date, and (2) the acquisition by the Company of shares of Company Common Stock in connection with the surrender of shares of Company Common Stock by holders of Company Options outstanding on the Agreement Date in order to pay the exercise price thereof and/or any related withholding taxes;

(ii) sell, issue, grant, or authorize the sale, issuance or grant of any Equity Interests, except that (x) the Company may issue shares of Company Common Stock pursuant to the exercise, vesting or settlement of Company Equity Awards under the Stock Plans or a Company Inducement Grant outstanding on the Agreement Date and disclosed on the Company Disclosure Schedules; and (y) the Company may grant, in the aggregate, Company Equity Awards with a value no more than \$250,000 (based on the price per share of Company Common Stock contemplated to be paid pursuant to this Agreement) (1) to any newly hired employees of the Company and the Company Subsidiaries in accordance with the Company's grant guidelines as of the Agreement Date or (2) to Company Employees in the ordinary course of business (consistent with the Company's grant guidelines as of the Agreement Date and which have been disclosed to the Parent prior to the date of this Agreement) in connection with the Company's review and promotion processes or otherwise to recognize performance;

(iii) except as otherwise contemplated by Section 1.5, amend or otherwise modify any of the terms of any outstanding Company Equity Awards;

(iv) amend or permit the adoption of any amendment to the Company Charter Documents or the equivalent documents of any Company Subsidiary;

(v) subject to Section 5.3, acquire any Equity Interest, business, or assets (other than, solely with respect to assets, (x) in the ordinary course of business consistent with past practice or (y) purchases pursuant to commitments under Contracts of the Company or any Company Subsidiary as in effect on the date of this Agreement (and if required to be disclosed on Section 3.16 of the Company Disclosure Schedules, scheduled therein) of any other Person, or effect or become a party to any merger, consolidation, share exchange, business combination, amalgamation, recapitalization, reclassification of shares, stock split, reverse stock split, division or subdivision of shares, consolidation of shares or similar transaction;

(vi) enter into any Contract that would explicitly impose any material restriction on the right or ability of the Company or any Company Subsidiary: (A) to compete with any other Person; (B) to acquire any product or other asset or any services from any other Person; (C) to perform services for or sell products to any other Person; (D) to transact business with any other Person; or (E) to operate at any location in the world, in each case, other than Contracts that contain covenants that prohibit the Company or any Company Subsidiary from using any trade names other than the Company's or a Company Subsidiary's trade names;

(vii) other than in the ordinary course of business consistent with past practice, enter into, amend, modify, or terminate (other than expiration in accordance with its terms), or waive any material right, remedy or default under, any Company Material Contract, Real Property Lease or any other Contract that, if in effect as of the date hereof would constitute a Company Material Contract or grant any material refunds, credits, rebates, allowances to any customers;

(viii) make any capital expenditures in excess of \$100,000 or as otherwise set forth on Section 5.2(b)(viii) of the Company Disclosure Schedules;

(ix) make any material FDA or other applicable regulatory filings, declaration, listing, registration, report or submission, other than in the ordinary course of business consistent with past practice or in response to any request or demand from a Governmental Authority, or make any filing or submission to consolidate or change the indications in the label for Iluvien or Yutiq in any respect;

(x) transfer, sell or otherwise dispose of, or lease or license, or pledge, encumber, mortgage, or otherwise subject to any Lien (other than a Permitted Lien), any right, asset or property material to the Company and the Company Subsidiaries, taken as a whole, to any other Person, except inventory and transactions in the ordinary course of business;

(xi) adopt or effect a plan of complete or partial liquidation, dissolution, restructuring, recapitalization, consolidation, or other reorganization;

(xii) repurchase, prepay, assume, issue, or lend money to any Person (other than (i) advances to customers or Company Employees in the ordinary course of business or (ii) loans between or among the Company and any Company Subsidiary), make any capital contributions (other than capital contributions to a direct or indirect wholly owned Company Subsidiary), guarantee any Indebtedness other than with respect to the Company or any Company Subsidiary, or incur any Indebtedness (other than guarantees and letters of credit provided to customers in the ordinary course of business consistent with past practice);

(xiii) except as required pursuant to the terms of any Company Plan in effect as of the Agreement Date or applicable Law, (A) provide for any increase in compensation or benefits payable to any current or former director, officer or employee of the Company or any of the Company

Subsidiaries (other than, in the aggregate across all such individuals, a \$50,000 increase in annual base compensation), other than with respect any current officer or employee of the Company or any of the Company Subsidiaries with annual base cash compensation of less than \$325,000 in the ordinary course consistent with past practice; (B) grant or increase any severance, termination, retention, change in control or similar compensation or benefits of any current or former director, officer, or employee of the Company or any of the Company Subsidiaries, other than providing severance in the ordinary course of business consistent with past practice to Company Employees terminated other than for cause (as defined in any applicable Company Employee Agreement(s) or Company Plans in each case as in effect as of the Agreement Date); (C) establish, adopt, terminate, enter into or amend in any respect any Company Plan (or any plan, program, policy, contract, arrangement or agreement that would be a Company Plan if it were in existence on the Agreement Date), or amend or waive any of its rights under, or accelerate the vesting, funding or payment of any compensation or benefits under, any provision of any of the Company Plans (or any plan, program, policy, contract, arrangement or agreement that would be a Company Plan if it were in existence on the Agreement Date) or reduce any exercise or purchase price of Company Options or grant any employee or director any increase in compensation, bonuses or other benefits, other than entry into offer letters or other employment Contracts with new hires permitted pursuant to clause (D) below; (D) hire any employee that would be entitled to receive annual base cash compensation of \$325,000 or more (except in order to fill any position vacated after the Agreement Date at a substantially similar level of compensation as the position being filled), or terminate any employee that is entitled to receive annual base cash compensation of \$325,000 or more; (E) promote any officers or employees, except in connection with the Company's annual or quarterly compensation review cycle or as the result of the termination or resignation of any officer or employee; or (F) enter into any CBA or recognize or certify any labor union, labor organization, works council or group of employees as the bargaining representative for any employees of the Company or Company Subsidiaries;

(xiv) institute, settle, or compromise any Legal Proceedings involving the payment of monetary damages by the Company or any of its Subsidiaries of any amount exceeding \$100,000 individually or \$500,000 in the aggregate, other than (i) any Legal Proceeding brought against Parent or Merger Subsidiary arising out of a breach or alleged breach of this Agreement by Parent or Merger Subsidiary, and (ii) the settlement of claims, liabilities, or obligations reserved against on the Company Balance Sheet; provided, that neither the Company nor any of its Subsidiaries shall settle or agree to settle any Legal Proceeding which settlement involves a conduct remedy or injunctive or similar relief or has a restrictive impact on the Company's business, other than injunctive or similar relief with a de minimis adverse effect on the Company and its Subsidiaries;

(xv) other than as required by changes in GAAP or SEC rules and regulations, change any of its methods of financial accounting or financial accounting practices in any material respect;

(xvi) (A) settle or compromise any Tax claim or assessment with respect to a proposed Tax liability in excess of \$100,000 individually or \$500,000 in the aggregate with any taxing authority (or extend or waive any statute of limitations with respect thereto), or (B) enter into any "closing agreement" within the meaning of Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) with respect to a Tax liability in excess of \$100,000 individually or \$500,000 in the aggregate;

(xvii) enter into any material agreement, agreement in principle, letter of intent, memorandum of understanding, or similar Contract with respect to any joint venture, strategic partnership, or alliance;

(xviii) except in connection with actions permitted by Section 5.3 hereof, take any action to exempt any Person from, or make any acquisition of securities of the Company by any Person not subject to, any state takeover statute or similar statute or regulation that applies to Company with respect to an Acquisition Proposal or otherwise, including the restrictions on "business

combinations” set forth in Section 203 of the DGCL, except for Parent, Merger Subsidiary, or any of their respective Subsidiaries or Affiliates, or the transactions contemplated by this Agreement;

- (xix) abandon, allow to lapse, sell, assign, transfer, grant any security interest in otherwise encumber or dispose of any Company Intellectual Property, or grant any right or license to any Company Intellectual Property other than pursuant to non-exclusive licenses entered into in the ordinary course of business consistent with past practice;
- (xx) terminate or modify in any material respect, or fail to extend, replace or exercise renewal rights with respect to, any material insurance policy;
- (xxi) conduct any clinical trials that are not being conducted or proposed to be conducted prior to the date of this Agreement;
- (xxii) engage in any transaction with, or enter into any agreement, arrangement or understanding with, any Affiliate of the Company or other Person covered by Item 404 of Regulation S-K promulgated by the SEC that would be required to be disclosed pursuant to Item 404 of Regulation S-K promulgated by the SEC;
- (xxiii) adopt or implement any stockholder rights plan or similar arrangement
- (xxiv) pay fees to financial advisors except as set forth on Section 3.8 of the Company Disclosure Schedules; or
- (xxv) authorize any of, or commit, resolve, propose or agree in writing or otherwise to take any of, the foregoing actions.

Section 5.3 Acquisition Proposals.

(a) No Solicitation. From the Agreement Date until the earlier of the Effective Time and the valid termination of this Agreement in accordance with Article VII, and except as permitted by this Section 5.3, neither the Company nor any of the Company Subsidiaries nor any of the directors and officers of the Company or the Company Subsidiaries shall, and the Company shall direct the Company and the Company Subsidiaries’ other Representatives not to, directly or indirectly:

- (i) initiate, solicit or knowingly encourage or facilitate any inquiries or the making of any proposal or offer that constitutes, or would reasonably be expected to lead to, any Acquisition Proposal (other than discussions solely to clarify whether such proposal or offer constitutes an Acquisition Proposal or informing such Person of the provisions contained in this Section 5.3(a));
- (ii) engage in, continue or otherwise participate in any discussions (other than informing any Person of the provisions contained in this Section 5.3(a)) or negotiations regarding, or provide any non-public information or data to any Person or afford access to the business properties, assets, books, or records of the Company or any of its Subsidiaries to any third party, in each case relating to, any Acquisition Proposal or any proposal or offer that would reasonably be expected to lead to an Acquisition Proposal;
- (iii) amend or grant any waiver or release under any standstill or similar agreement with respect to any class of equity securities of the Company or any of the Company Subsidiaries; provided, however, that if, and only if, the Board of Directors determines in good faith, after consultation with its outside legal counsel and independent financial advisor, that the failure to amend or grant any waiver or release under any such standstill or similar agreement would be inconsistent with the Company Board’s fiduciary duties under applicable Law, the Company may then amend or grant a waiver or release under such standstill or similar agreement, solely to the extent necessary to permit a Person to

make, on a confidential basis to the Board of Directors, an Acquisition Proposal, conditioned upon such Person agreeing to disclosure of such Acquisition Proposal to Parent as contemplated by this Section 5.3:

- (iv) approve any transaction under, or any third party becoming an “interested stockholder” under, Section 203 of the DGCL;
- (v) otherwise knowingly facilitate any effort or attempt by any third party (or its potential sources of financing) to make any proposal or offer that constitutes an Acquisition Proposal;
- (vi) except as permitted by Section 5.3(e), approve, endorse, recommend, or execute or enter into any letter of intent, agreement in principle, term sheet, memorandum of understanding, merger agreement, acquisition agreement or other similar Contract relating to an Acquisition Proposal (other than an Acceptable Confidentiality Agreement) (an “**Alternative Acquisition Agreement**”); or
- (vii) or approve, authorize, agree or publicly announce any intention to do any of the foregoing.

Any breach by the directors, officers and attorneys of the Company or any of the Company Subsidiaries, or the Company Financial Advisor or any other Representative of the Company (at the Company’s direction), of this Section 5.3(a) shall be deemed a breach hereof by the Company.

(b) Exceptions. Notwithstanding anything to the contrary contained in this Agreement, at any time prior to the time the Company Stockholder Approval is obtained, the Company and its Representatives may in response to a *bona fide* Acquisition Proposal received after the date of this Agreement that did not rise from a material breach of the obligations set forth in this Section 5.3 may (i) provide information in response to a request therefor by a Person who has executed and delivered a confidentiality agreement on terms that, taken as a whole, are not materially less restrictive to the other party than those contained in the Confidentiality Agreement (it being understood that such confidentiality agreement need not contain a standstill provision or otherwise prohibit the making, or amendment, of an Acquisition Proposal (any confidentiality agreement satisfying the criteria of this clause (b) being an “**Acceptable Confidentiality Agreement**”)); provided, that such information has previously been made available to, or is made available to, Parent prior to or substantially concurrently (and in any event within twenty-four (24) hours) with the time it is made available to such Person; (ii) engage or participate in any discussions or negotiations with any Person who has made such an Acquisition Proposal, subject to such Person agreeing to an Acceptable Confidentiality Agreement; or (iii) after having complied with Section 5.3(e), authorize, adopt, approve, recommend or otherwise declare advisable or propose to authorize, adopt, approve, recommend or declare advisable (publicly or otherwise) such an Acquisition Proposal, if and only to the extent that, (A) prior to taking any action described in clause (i), (ii), or (iii) above, the Company Board determines in good faith (after consultation with its outside legal counsel and independent financial advisor) that failure to take such action would reasonably be expected to be inconsistent with the directors’ fiduciary duties under applicable Law, and (B) in each such case referred to in clause (i), (ii), or (iii) above the Company Board determines in good faith (after consultation with its outside legal counsel and independent financial advisor) based on the information then available that such Acquisition Proposal either constitutes a Superior Proposal or is reasonably likely to result in a Superior Proposal. Any breach by the directors, officers or attorneys of the Company or any of the Company Subsidiaries, or the Company Financial Advisor or any other Representative of the Company (at the Company’s direction), of this Section 5.3(b) shall be deemed a breach hereof by the Company.

(c) Notice of Acquisition Proposals. From the Agreement Date until the earlier of the Effective Time and the valid termination of the Agreement in accordance with Article VI, the Company agrees that it will promptly (and, in any event, within twenty-four (24) hours) provide Parent with written notice of (i) any proposals or offers with respect to an Acquisition Proposal that are received by the Company or any request for access to the business, properties, assets, books, or records of the Company

or any of the Company Subsidiaries in connection with an Acquisition Proposal, (ii) any information requested from the Company in connection with an Acquisition Proposal or any request for access to the business, properties, assets, books, or records of the Company or any of the Company Subsidiaries in connection with an Acquisition Proposal, and (iii) any discussions or negotiations regarding an Acquisition Proposal that are sought to be initiated, had or continued with the Company or any of its Representatives, and in each case will provide, in connection with such written notice, the identity of such Person and a written summary of the material terms and conditions of any requests, proposals or offers (including, if applicable, copies of any written requests, proposals or offers, including proposed agreements). Thereafter, the Company shall keep Parent reasonably informed, on a prompt basis (and, in any event, within twenty-four (24) hours), of the status and material terms of any such requests, proposals or offers (including any amendments thereto and any material communications with respect to) any such Acquisition Proposal, inquiries or requests (and copies of any amended or modified written Acquisition Proposal, inquiry or request, including modified written proposed agreements).

(d) No Change of Recommendation or Alternative Acquisition Agreement. Except as expressly permitted by Section 5.3(e), the Company agrees that the Company Board and each committee of the Company Board shall not: (i) withhold, withdraw, qualify, change, amend or modify (or publicly propose to withhold, withdraw, qualify, change, amend or modify), in a manner adverse to Parent or Merger Subsidiary, the Company Board Recommendation with respect to the Merger, (ii) approve, adopt, declare advisable (publicly or otherwise), or recommend (publicly or otherwise) an Acquisition Proposal, (iii) fail to include the Company Board Recommendation in any version of the Proxy Statement, (iv) fail to recommend, in a solicitation/recommendation statement on Schedule 14D-9, against any Acquisition Proposal that is a tender offer or exchange offer subject to Regulation 14D promulgated under the Exchange Act (other than any tender offer or exchange offer by Parent or Merger Subsidiary) within ten (10) Business Days after the commencement (within the meaning of Rule 14d-2 under the Exchange Act) of such tender offer or exchange offer; *provided that* the taking no position or a neutral position by the Board of Directors in respect of the acceptance of any such tender offer or exchange offer as of the end of such period shall constitute a failure to recommend against acceptance of any such offer, (v) approve or recommend, or publicly propose to approve or recommend, or cause or allow the Company or any of its Affiliates to execute or enter into (or resolve or agree to take any of the foregoing actions with respect to), any letter of intent, memorandum of understanding, agreement in principle, merger agreement, acquisition agreement, option agreement, joint venture agreement, partnership agreement or other similar agreement, arrangement or understanding (A) constituting, or relating to, or that is intended to or would reasonably be expected to lead to, any Acquisition Proposal (including an Alternative Acquisition Agreement) or (B) requiring it (or that would require it) to abandon, terminate or fail to consummate this Agreement, the Merger or the other Transactions or (vi) upon the occurrence of a material event or development, fail to publicly affirm or reaffirm the Company Board Recommendation within ten (10) Business Days of Parent so requesting in writing (it being understood that the Company shall have no obligation to make such affirmation or reaffirmation on more than two (2) separate occasions) (any action described in clauses (i) through (vi), a “*Change of Recommendation*”).

(e) Change of Recommendation / Superior Proposal Termination. Notwithstanding anything to the contrary in this Agreement, (i) at any time prior to the time the Company Stockholder Approval is obtained, the Company Board may make a Change of Recommendation (A) in connection with a Superior Proposal that is made and not withdrawn (and that continues to be a Superior Proposal) and did not result from a material breach of this Section 5.3 or (B) other than in connection with an Acquisition Proposal, in response to an event, occurrence, development or state of facts or circumstances occurring after the Agreement Date that was not known by the Company Board prior to the Agreement Date (an “*Intervening Event*”), in either case of (A) or (B), only if the Company Board determines in good faith (after consultation with its outside legal counsel and independent financial advisor) that the failure to take such action would reasonably be expected to be inconsistent with the directors’ fiduciary duties under applicable Law and (ii) if the Company Board is permitted to make a Change of Recommendation pursuant to clause (i)(A), the Company may also terminate this Agreement pursuant to

Section 7.1(f) to enter into an Alternative Acquisition Agreement with respect to such Superior Proposal; provided, however, that neither the Company Board nor the Company shall take any of the foregoing actions unless:

(i) the Company shall have complied in all material respects with its obligations under this Section 5.3(e);

(ii) the Company shall have provided prior written notice (a "**Determination Notice**") to Parent at least four (4) Business Days in advance (the "**Notice Period**") to the effect that the Company Board intends to take such action and specifying in reasonable detail the circumstances giving rise to such proposed action, including, (A) in the case such action is proposed to be taken in connection with an Acquisition Proposal, the information specified by Section 5.3(c) with respect to such Acquisition Proposal as well as identify the Person or group of Persons making such Superior Proposal and the material terms and conditions of such Superior Proposal (and such notice shall include an unredacted copy of the latest draft of the proposed Alternative Acquisition Agreement and all other material documents relating to such Superior Proposal including financing documents) and (B) in the case of an Intervening Event, a reasonably detailed description of the Intervening Event (it being understood and agreed that the delivery of a Determination Notice shall not, in and of itself, be deemed a Change of Recommendation);

(iii) the Company shall have, and shall have caused each of the Company Subsidiaries to have, and shall have instructed Representatives of the Company and the Company Subsidiaries to have, negotiated with Parent and its Representatives during the Notice Period in good faith (to the extent Parent desires to negotiate) to make such adjustments in the terms and conditions of this Agreement (and permitted Parent to make a presentation to the Company Board regarding such adjustments) such that with respect to any such action to be taken in connection with (A) an Acquisition Proposal, the Company Board determined in good faith (after consultation with the Company's outside legal counsel and independent financial advisor) that such Acquisition Proposal ceases to constitute a Superior Proposal or that the Parent's offer rendered the failure by the Company Board to make such Change of Recommendation no longer a breach of its fiduciary duties under applicable Law and (B) an Intervening Event, the Company Board no longer determines in good faith (after consultation with the Company's outside legal counsel and independent financial advisor) that the failure to take such action would cause the Company Board to be in breach of its fiduciary duties under applicable Law, and in each of (A) and (B) the Company shall have agreed in writing to all adjustments in the terms and conditions of this Agreement as are necessary to reflect the Parent's offer and, in each such case, the Company's notice of the proposed Change of Recommendation or the termination of this Agreement shall be deemed to have been rescinded and of no further force and effect; provided, however, that in the event of any material revision to the terms or conditions of such Superior Proposal, the Company shall be required to deliver a new Determination Notice to Parent and to comply with the requirements of Section 5.3(e)(i) and this Section 5.3(e)(iii) with respect to such new Determination Notice and the revised Superior Proposal contemplated thereby (except that the Notice Period in respect of such new Determination Notice shall be three (3) Business Days) and Parent shall have had the right to submit a new or revised offer with respect thereto;

(iv) at or following the end of such Notice Period, the Company Board shall have determined in good faith (after consultation with its outside legal counsel and independent financial advisor) based on the information then available that with respect to any such action to be taken in connection with (A) an Acquisition Proposal, such Acquisition Proposal continues to constitute a Superior Proposal and that none of Parent's offers pursuant to Section 5(e)(iii) (if any) rendered the failure by the Company Board to make a Change of Recommendation no longer to be a breach of its fiduciary duties under applicable Law and (B) an Intervening Event, that the failure to take such action would cause the Company Board to be in breach of its fiduciary duties under applicable Law; and

(v) in the event of a termination of this Agreement to enter into an

Alternative Acquisition Agreement with respect to a Superior Proposal, the Company shall have validly terminated this Agreement in accordance with Section 7.1(f), and prior to or concurrently with any termination of this Agreement, the Company shall have paid the Company Termination Fee and any other amounts required by Section 7.4, including interest, if applicable, pursuant to Section 7.4(e).

(f) Certain Permitted Disclosure. Nothing contained in this Section 5.3 shall be deemed to prohibit the Company or the Company Board from (i) complying with its disclosure obligations under U.S. federal securities Laws regarding an Acquisition Proposal, including taking and disclosing to the Company's stockholders a position contemplated by Rule 14d-9 or Rule 14e-2(a) promulgated under the Exchange Act if the Company determines, after consultation with its independent financial advisor and outside legal counsel, that failure to disclose such position would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law, or (ii) making any "stop-look-and-listen" communication to the Company's stockholders pursuant to Rule 14d-9(f) under the Exchange Act (or any similar communications to the Company's stockholders); provided, however, that the Company Board shall not make or resolve to make a Change of Recommendation except pursuant to (and in compliance with) Section 5.3(e).

(g) Existing Discussions. Subject to Section 5.3(b) and Section 5.3(e), upon execution and delivery of this Agreement, the Company agrees that it will and will direct its Representatives to (i) cease and cause to be terminated any activities, discussions or negotiations with any parties conducted with respect to any Acquisition Proposal or proposal that would reasonably be expected to lead to an Acquisition Proposal, (ii) cease providing any information to any such Person or its Representatives, and (iii) terminate all access granted to any such Person and its Representatives to any physical or electronic data room and request the return or destruction of all confidential information furnished prior to the execution of this Agreement to or for the benefit of such Person by or on behalf of the Company or any of the Company Subsidiaries.

Section 5.4 Proxy Filing.

(a) The Company shall prepare and file with the SEC, as promptly as reasonably practicable after the Agreement Date (and no later than twenty five (25) Business Days after the Agreement Date), a proxy statement in preliminary form relating to the Stockholders Meeting (such proxy statement, including any amendment or supplement thereto, the "Proxy Statement"). Except as expressly permitted to make a Change of Recommendation pursuant to (and in compliance with) Section 5.3(e), (i) the Company Board shall recommend that the holders of Company Common Stock vote in favor of the adoption of this Agreement at the Stockholders Meeting and (ii) shall include the Company Board Recommendation in the Proxy Statement. The Company shall not file the Proxy Statement, or any amendment or supplement thereto, without providing Parent and its counsel a reasonable opportunity to review and comment thereon (which comments shall be reasonably considered in good faith by the Company). The Company agrees that all information relating to Parent or Merger Subsidiary included in the Proxy Statement shall be in form and content satisfactory to Parent, acting reasonably. Each of Parent and the Company shall provide the other with the information contemplated by Section 5.6(b) and shall otherwise reasonably assist and cooperate with the other in connection with any of the actions contemplated by this Section 5.4, including the preparation, filing and distribution of the Proxy Statement and the resolution of any comments in respect thereof received from the SEC.

(b) The Company shall promptly notify Parent of the receipt of any comments of the SEC with respect to the Proxy Statement and of any request by the SEC for any amendment or supplement thereto or for additional information and shall promptly provide to Parent copies of all correspondence between the Company and/or any of its Representatives and the SEC with respect to the Proxy Statement. The Company and Parent shall each use its reasonable best efforts to promptly provide responses to the SEC with respect to all comments received in respect of the Proxy Statement by the SEC, and the Company shall cause the definitive Proxy Statement to be mailed as promptly as reasonably practicable after the date the SEC staff advises that it has no further comments thereon or that the

Company may commence mailing the Proxy Statement (and in any event no later than twenty (20) days before the Stockholder Meeting). The Company shall ensure that the Proxy Statement complies as to form in all material respects with the provisions of the Exchange Act (and the rules and regulations promulgated thereunder). The Company agrees to consult with Parent prior to responding to (A) any written response to any comments from the SEC on the Proxy Statement, requests or other communications from the SEC or its staff and (B) any proposed amendments or supplements to the Proxy Statement (whether in response to such comments, requests or communications from the SEC or its staff, or otherwise) and consider reasonably and in good faith any comments of Parent and its counsel. The Company agrees that all information relating to Parent or Merger Subsidiary included in such written response or such proposed amendment or supplement to the Proxy Statement shall be in form and content satisfactory to Parent, acting reasonably. If at any time prior to the Stockholders Meeting, any fact, event or circumstance relating to the Company or Parent or any of their respective Affiliates is discovered by the Company or Parent, which such fact, event or circumstance is required, pursuant to the Exchange Act, to be set forth in an amendment or supplement to the Proxy Statement, (i) the applicable party shall promptly inform the other parties hereto and (ii) the Company shall promptly amend or supplement the Proxy Statement to include disclosure of such fact, event or circumstance.

(c) Each of the Company and Parent shall furnish all information concerning itself and its respective Affiliates that is required to be included in the Proxy Statement or that is customarily included in proxy statements prepared in connection with transactions of the type contemplated by this Agreement. Each of the Company and Parent covenants that none of the information supplied or to be supplied by it for inclusion or incorporation by reference in the Proxy Statement (or any amendment or supplement thereto) will, on the date the Proxy Statement is first mailed to the Company's stockholders or at the time the Proxy Statement (or any amendment or supplement thereto) is filed with the SEC or on the date of the Stockholder Meeting (as it may be adjourned or postponed in accordance with this Agreement), contain any untrue statement of any material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, at the time and in light of the circumstances under which they were made, not false or misleading. Each of Parent, Merger Subsidiary and the Company agrees to correct any information provided by it for use in the Proxy Statement which shall have become materially false or misleading.

(d) All filings by the Company with the SEC in connection with the Stockholders Meeting, and all mailings by the Company to the holders of Company Common Stock (in addition to the Proxy Statement) in connection therewith, shall be subject to the same review and comment procedures as set forth in [Section 5.4\(a\)](#) above with respect to the Proxy Statement.

Section 5.5 Stockholders Meeting. The Company shall use its reasonable best efforts to take, all action necessary to duly call, give notice of, convene, and hold a meeting of the stockholders of the Company Common Stock (the "Stockholders Meeting") as promptly as reasonably practicable after the execution of this Agreement to consider and vote upon the adoption of this Agreement, which meeting date shall be no later than thirty (30) Business Days after (a) the tenth (10th) day after the preliminary Proxy Statement has been filed with the SEC (or if such date is not a Business Day, the next succeeding Business Day) if by such date the SEC has not informed the Company that it intends to review the Proxy Statement or (b) if by such tenth (10th) day the SEC has informed the Company that it intends to review the Proxy Statement, the date on which the SEC confirms that it has no further comments on the Proxy Statement. The Company shall not submit any other proposals for approval at the Stockholders Meeting without the prior written consent of Parent (not to be unreasonably withheld, conditioned or delayed), other than (x) procedural matters and matters required by applicable Law to be voted on by the Company's stockholders in connection with the adoption of this Agreement and (y) in accordance with Regulation 14A under the Exchange Act seeking advisory approval of a proposal in connection with a non-binding, advisory note to approve certain compensation that may become payable to the Company's named executive officers in connection with the consummation of the Merger. The Company shall (A) provide Parent reasonably detailed periodic updates concerning proxy solicitation results on a timely basis and (B) give written notice to Parent one day prior to the Stockholder Meeting, and on the day of, but prior to the Stockholder Meeting, indicating whether as of such date sufficient proxies representing the Company Stockholder Approval has been obtained. Following the distribution of the Proxy Statement pursuant to Section 5.4, the date of the Stockholders Meeting may not be changed, and the Stockholders Meeting may not otherwise be adjourned or postponed, without the consent of Parent (not to be unreasonably withheld, conditioned or delayed) or as required by applicable Law; provided, however, that the Company may, without the written consent of Parent (not to be unreasonably withheld, conditioned or delayed), adjourn, recess or postpone the Stockholders Meeting (i) if the Company believes in good faith, after consultation with outside legal counsel, it will not receive proxies sufficient to obtain the Company Stockholder Approval, whether or not a quorum is present (provided that, the Company may not, without the prior written consent of Parent, adjourn or postpone the Stockholder Meeting more than ten (10) Business Days on any single occasion), (ii) if it is necessary to adjourn or postpone the Stockholders Meeting to ensure that the holders of Company Common Stock are given sufficient time to evaluate any required supplement or amendment to the Proxy Statement (as determined by the Company in good faith after consultation with its outside legal counsel) (provided that, the Company may not, without the prior written consent of Parent (not to be unreasonably withheld, conditioned or delayed), adjourn or postpone the Stockholder Meeting more than ten (10) Business Days on any single occasion), or (iii) if and to the extent such adjournment or postponement of the Stockholder Meeting is required by Law. The Company shall, except to the extent that the Company Board is expressly permitted to make a Change of Recommendation pursuant to (and in compliance with) Section 5.3(e) (which shall not, in any event, affect the Company's obligation to hold the Stockholders Meeting at which this Agreement shall be submitted to the holders of the Company Common Stock for adoption as aforesaid except to the extent this Agreement is terminated in accordance with Section 7.1), (i) use commercially reasonable efforts to solicit from the holders of Company Common Stock proxies in favor of the adoption of this Agreement and approval of the Merger; and (ii) upon Parent's reasonable request, adjourn or postpone the Stockholders Meeting up to two (2) times for a period not in excess of twenty (20) calendar days each time, if it is reasonably expected that there will be an insufficient number of votes of Company Common Stock represented (either in person or by proxy) to achieve Company Stockholder Approval and if such action would not be a violation of the directors' fiduciary duties under applicable Law and (iii) use other commercially reasonable efforts to secure the vote or consent of the holders of Company Common Stock as required by applicable Law, the rules of the Nasdaq and the Company Charter Documents. Without limiting the generality of the foregoing, the Company's obligations pursuant to this Section 5.5 shall not be affected by the commencement, public proposal, public disclosure or communication to the Company of any Acquisition Proposal unless this Agreement has been terminated in accordance with Section 7.1(f).

(a) Cooperation. Subject to the terms and conditions set forth in this Agreement, the Company and Parent shall cooperate to take or cause to be taken the following actions:

(i) Company and Parent shall cooperate with each other and use (and shall cause their respective Subsidiaries to use) their respective reasonable best efforts to take or cause to be taken all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under this Agreement and applicable Laws, including the Antitrust Laws, to consummate and make effective the Merger no later than the Termination Date, including (x) preparing and filing as promptly as practicable (and in any event shall make appropriate filings pursuant to the HSR Act within ten (10) Business Days of the Agreement Date) all documentation to effect all necessary notices, reports and other filings to, and to obtain as promptly as practicable all consents, registrations, approvals, permits and authorizations necessary or advisable to be obtained from, any third party and/or any Governmental Authority in order to consummate the Merger and the other Transactions and (y) executing and delivering any additional instruments necessary to consummate the Merger and the other Transactions and to fully carry out the purposes of this Agreement. The Company and Parent will each request early termination of the waiting period with respect to the Merger under the applicable Foreign Antitrust Laws, in each case where available. Parent shall pay all filing fees due to any Governmental Authority in connection with any filings under the HSR Act or Foreign Antitrust laws. The Company and Parent, and their respective Subsidiaries and Representatives, shall, unless prohibited by applicable Law or the applicable Governmental Authority, (i) keep one another promptly apprised of any substantive communications with a Governmental Authority concerning the Merger or any of the other Transactions; (ii) respond as promptly as practicable to all requests for additional information from a Governmental Authority under any Antitrust Law concerning the Merger or any of the other Transactions; (iii) provide each other in advance, with a reasonable opportunity for review and comment, drafts of contemplated substantive communications with any Governmental Authority concerning the Merger or any of the other Transactions; and (iv) provide each other advance notice of all meetings, conferences, or substantive discussions with a Governmental Authority concerning the Merger or any of the other Transactions, and, unless prohibited by the Governmental Authority, permit one another to attend and participate therein either directly or through counsel. Subject to applicable Laws relating to the exchange of information, and subject to reasonable confidentiality considerations, Parent and the Company shall have the right to review reasonably in advance and, to the extent practicable, each will consult with the other on and consider in good faith the views of the other in connection with, any filing made with, or written materials submitted to, any third party and/or any Governmental Authority in connection with the Merger and the other Transactions. In exercising the foregoing rights, each of the Company and Parent shall act reasonably and as promptly as practicable. Nothing in this Agreement shall require the Company or the Company Subsidiaries to take or agree to take any action with respect to its business or operations unless the effectiveness of such agreement or action is conditioned upon Closing. Notwithstanding the foregoing, neither Parent nor the Company may extend any waiting period or enter into any agreement or understanding with any Governmental Authority without the consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) Information. Subject to applicable Laws, the Company and Parent each shall, upon the reasonable request by the other, furnish the other with the requested information concerning itself, its respective Subsidiaries, directors, officers and stockholders and such other matters, in each case, as may be reasonably necessary or advisable in connection with the Proxy Statement or any other statement, filing, notice or application made by or on behalf of Parent, Merger Subsidiary, the Company or any of their respective Subsidiaries to any third party and/or any Governmental Authority in connection with the Merger, and shall provide the other party with final copies of any filings made with a Governmental Authority.

(c) Regulatory Matters. Subject to the terms and conditions set forth in this Agreement, without limiting the generality of the other undertakings pursuant to this Section 5.6, each of

the Company (in the case of Section 5.6(c)(1) set forth below) and Parent (in all cases set forth below) agree to take or cause to be taken the following actions:

(i) the prompt provision to each and every federal, state, local or foreign court or Governmental Authority with jurisdiction over enforcement of any applicable Antitrust Laws (“**Government Antitrust Entity**”) of non-privileged information and documents requested by any Government Antitrust Entity that are necessary or advisable to permit consummation of the Transactions; and

(ii) the prompt use of its reasonable best efforts to avoid the entry of any permanent, preliminary or temporary injunction or other order, decree, decision, determination or judgment that would restrain, prevent, enjoin or otherwise prohibit consummation of the Transactions, including by defending through litigation on the merits of any claim asserted in any court, agency or other proceeding by any Person, including any Governmental Authority, seeking to restrain, prevent, enjoin or otherwise prohibit consummation of such transactions and the proffer and agreement by Parent of its willingness to sell, lease, license or otherwise dispose of, or hold separate pending such disposition, and promptly to effect the sale, lease, license, disposal and holding separate of, such assets, rights, product lines, licenses, categories of assets or businesses or other operations, or interests therein, of Parent, its Subsidiaries or Affiliates, or any Company Subsidiary (and the entry into agreements with, and submission to orders of, the relevant Government Antitrust Entity giving effect thereto) if such action should be necessary or advisable to avoid, prevent, eliminate or remove the actual, anticipated or threatened (x) commencement of any proceeding in any forum or (y) issuance of any order, decree, decision, determination, judgment or Law, in each case that would restrain, prevent, enjoin or otherwise prohibit consummation of the Transactions by any Government Antitrust Entity (it being understood that any such action affecting the assets or operations of the Company or any Company Subsidiary shall be contingent upon the occurrence of the Closing); provided, however, notwithstanding anything to the contrary contained in this Agreement (A) none of Parent, Merger Subsidiary, or any of their respective Affiliates shall have any obligation under this Section 5.6(c) or otherwise to take or agree to take any such actions with respect to any assets, rights, product lines, licenses, categories of assets or businesses or other operations, or interests therein, relating to any product containing corticotropin in any formulation or dosage and (B) none of Parent, Merger Subsidiary, or any of their respective Affiliates shall be required to defend, contest, or resist any action or proceeding, whether judicial or administrative, or to take any action to have vacated, lifted, reversed, or overturned any Order, in connection with the transactions contemplated by this Agreement.

(d) Notwithstanding anything to the contrary set forth in this Agreement, neither the Company nor any of the Company Subsidiaries will be required to agree (nor shall the Company or any Company Subsidiary so agree without the consent of Parent) to the payment of a consent fee, “profit sharing” payment or other consideration (including increased or accelerated payments) or the provision of additional security (including a guaranty), in connection with the Merger, including in connection with obtaining any consent pursuant to any Company Material Contract.

(e) Parent shall not, and shall cause its Subsidiaries not to, enter into, agree to enter into, or consummate any Contracts for an acquisition (by stock purchase, merger, consolidation, or any purchase of assets) of any ownership interest, equity interests, assets or rights in or of any Person, in each case, that would reasonably be expected to, individually or in the aggregate, (i) prevent, materially delay or materially impede the obtaining of, or adversely affect in any material respect the ability of Parent, the Company or any of their respective Affiliates to procure, any material authorizations, consents, orders, declarations or approvals of any Governmental Authority or the expiration or termination of any applicable material waiting period necessary to consummate the Transactions, including the Merger, or (ii) materially increase the risk of any Governmental Authority entering an order, ruling, judgment or injunction prohibiting the consummation of the Transactions, including the Merger, or (iii) cause Parent, the Company or any of their respective Affiliates to be required to obtain any additional, material clearances, consents, approvals and waivers under any Laws with respect to the Merger and the other

Transactions.

Section 5.7 Stock Exchange De-listing. Prior to the Closing Date, the Company shall cooperate with Parent and use reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under applicable Laws and rules and policies of Nasdaq to enable the delisting by the Surviving Corporation of the Company Common Stock from Nasdaq and the deregistration of the Company Common Stock under the Exchange Act as promptly as practicable after the Effective Time.

Section 5.8 Public Announcements. The initial press release regarding this Agreement shall be a joint press release mutually agreed by Parent and the Company. Thereafter, each of the Company and Parent agrees that no public release, statement, announcement, or other disclosure concerning the Merger and the other transactions contemplated hereby shall be issued by any party without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned, or delayed), except as may be required by (a) applicable Law, (b) court process, (c) the rules or regulations of any applicable United States securities exchange or by obligations pursuant to any listing agreement with respect to such rules, (d) any Governmental Authority to which the relevant party is subject or submits, or (e) with respect to communications by the Company regarding an Acquisition Proposal or from and after a Change of Recommendation to the extent permitted by Section 5.3 and effected in accordance with and pursuant to Section 5.3, or by Parent in response thereto.

Section 5.9 Directors and Officers Exculpation, Indemnification and Insurance.

(a) Existing Agreements and Protections. The Surviving Corporation shall (and Parent shall cause the Surviving Corporation and the Company Subsidiaries to, provided that Parent shall not be required to (i) spend any money, other than for administrative management expenses that individually and in the aggregate are de minimis, or (ii) guarantee performance of the Surviving Corporation) honor and fulfill in all respects the indemnification, exculpation, and advancement obligations of the Company and the Company Subsidiaries to any of their respective current or former directors and officers and any person who becomes a director or officer of the Company or any of the Company Subsidiaries prior to the Effective Time (the "Indemnified Persons") for any matters arising out of acts or omissions occurring at or prior to the Effective Time, or matters by reason of an Indemnified Person's status as such, in each case as provided in the Company Charter Documents, the certificate of incorporation and bylaws (or other similar organizational documents) of the Company Subsidiaries, and any indemnification or other agreement between any Indemnified Person and the Company or any Company Subsidiary in effect on the date hereof and made available to the Parent. In addition, during the period commencing at the Effective Time and ending on the sixth (6th) anniversary of the Effective Time, the Surviving Corporation and Parent shall (and Parent shall cause the Surviving Corporation and the Company Subsidiaries to) cause the certificate of incorporation and bylaws (and other similar organizational documents) of the Surviving Corporation and the Company Subsidiaries to contain provisions with respect to indemnification, exculpation and the advancement of expenses with respect to any matters arising out of acts or omissions at or prior to the Effective Time, or matters by reason of an Indemnified Person's service for or status with the Company or any of the Company Subsidiaries, that are at least as favorable as the indemnification, exculpation and advancement of expenses provisions set forth in the Company Charter Documents, the certificate of incorporation and bylaws (or other similar organizational documents) of the Company Subsidiaries as of the Agreement Date, and any indemnification or other agreement between any Indemnified Person and the Company or any Company Subsidiary in effect on the date hereof and made available to the Parent, and such provisions shall not be repealed, amended or otherwise modified (whether by operation of Law or otherwise) in any manner except as required by applicable Law.

(b) Insurance. Prior to the Effective Time, notwithstanding anything to the contrary set forth in this Agreement, the Company shall purchase a six-year "tail" prepaid policy on the Company's current or renewal directors' and officers' liability insurance or reasonable replacement

insurance policies with insurers at the Company's sole discretion ("**D&O Insurance**") with respect to claims arising out of or relating to events which occurred before or at the Effective Time (including in connection with the transactions contemplated by this Agreement); provided that in no event shall the cost of any such tail policy exceed three hundred percent of the last annual premium paid by the Company or any of the Company Subsidiaries for such insurance prior to the date of this Agreement, which policy and amount is set forth in Section 5.9(b) of the Company Disclosure Schedules (the "**Maximum Amount**"), and if such cost would exceed the Maximum Amount, then the Company may obtain a tail policy with the greatest coverage available for a cost not exceeding the Maximum Amount. The Surviving Corporation shall maintain such "tail" policy in full force and effect and continue to honor their respective obligations thereunder (for the avoidance of doubt, without the expenditure of any additional money premium for such policies).

(c) Successors and Assigns. If the Surviving Corporation or any of its successors or assigns shall (i) consolidate with or merge into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Surviving Corporation shall assume all of the obligations of the Surviving Corporation set forth in this Section 5.9.

(d) No Impairment; Third Party Beneficiaries. The obligations set forth in this Section 5.9 shall not be terminated, amended or otherwise modified in any manner that adversely affects any Indemnified Person (or any other person who is a beneficiary under the D&O Insurance or the "tail" policy referred to in Section 5.9(b) (and their heirs and representatives)) without the prior written consent of such affected Indemnified Person or other person who is a beneficiary under the D&O Insurance or the "tail" policy referred to in Section 5.9(b) (and their heirs and representatives). Each of the Indemnified Persons who are beneficiaries under the D&O Insurance or the "tail" policy referred to in Section 5.9(b) are intended to be third party beneficiaries of this Section 5.9, with full rights of enforcement as if a party thereto.

(e) Joint and Several Obligations. The obligations and liability of the Surviving Corporation and its Subsidiaries under this Section 5.9 shall be joint and several.

(f) Preservation of Other Rights. Nothing in this Agreement is intended to, shall be construed to or shall release, waive or impair any indemnification, advancement, exculpation, or insurance rights of Indemnified Persons, and any such rights are primary rights and not secondary to, limited by, or adversely affected by any Indemnified Person's rights under any policy of insurance.

Section 5.10 Transaction Litigation. Prior to the earlier of the Effective Time or the date of the valid termination of this Agreement pursuant to Section 7.1, the Company shall promptly notify Parent of all Legal Proceedings commenced or threatened in writing against the Company or any of the Company Subsidiaries, in each case in connection with, arising from or otherwise relating to the Merger or any of the other Transactions ("**Transaction Litigation**") (including by providing copies of all pleadings with respect thereto) and thereafter keep Parent reasonably informed with respect to the status thereof. The Company shall (a) give Parent the opportunity (at Parent's sole expense and subject to a customary joint defense agreement) to participate in the defense, settlement or prosecution of any Transaction Litigation; and (b) keep Parent reasonably apprised on a prompt basis of proposed strategy and other significant decisions with respect to any Transaction Litigation and consult with Parent with respect to the defense, settlement and prosecution of any Transaction Litigation. Further, the Company may not compromise, settle or come to an arrangement regarding, or agree to compromise, settle or come to an arrangement regarding, any Transaction Litigation unless Parent has consented thereto in writing (which consent will not be unreasonably withheld, conditioned or delayed). For purposes of this Section 5.10, "participate" means that Parent will be kept reasonably apprised of proposed strategy and other significant decisions with respect to the Transaction Litigation by the Company (to the extent that the attorney-client privilege between the Company and its counsel is not undermined or otherwise affected), and Parent may offer

comments or suggestions with respect to such Transaction Litigation which the Company will consider in good faith, but will not be afforded any decision-making power or other authority over such Transaction Litigation except for the settlement or compromise consent set forth above.

Section 5.11 Rule 16b-3. Prior to the Effective Time, the Company shall take all such steps as may be required to cause the Transactions, and any other dispositions of equity securities (including derivative securities) of the Company or acquisitions of equity securities of Parent resulting from the Transaction by each individual who is or will be subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company immediately prior to the Effective Time, to be exempt under Rule 16b-3 promulgated under the Exchange Act.

Section 5.12 Employee Matters.

(a) For purposes of this Section 5.12, (i) the term “**Covered Employees**” means employees who are employed by the Company or any Company Subsidiary as of immediately prior to the Effective Time; and (ii) the term “**Continuation Period**” means the period beginning at the Effective Time and ending on the first anniversary of the Effective Time (or until the date of termination of the relevant Covered Employee, if earlier).

(b) During the Continuation Period, the Surviving Corporation or any Company Subsidiary shall, provide to each Covered Employee for so long as such Covered Employee remains employed by Parent, the Surviving Corporation or the Company Subsidiary during the Continuation Period, (i) compensation (such term to include salary, annual cash bonus opportunities, and commissions but excluding long-term incentives, change in control, retention, transition, stay or similar arrangements) that is no less favorable than the compensation provided to such Covered Employee immediately prior to the Effective Time, and (ii) employee benefits (including the costs thereof to Company Employee Benefit Plan participants) that are no less favorable than the benefits (excluding, any defined benefit pension plan or retiree medical benefits) provided to such Covered Employee immediately prior to the Effective Time. Without limiting the generality of the foregoing, the Surviving Corporation will cause each Covered Employee who is terminated during the Continuation Period by the Surviving Corporation or any Company Subsidiary without cause to be provided with severance benefits that are no less favorable than the severance benefits made available to such Covered Employee under the Company’s severance policies as in effect immediately prior to the Effective Time; provided that the Surviving Corporation may condition such payments and benefits upon the execution by the applicable Covered Employee of a commercially standard release of claims in a form reasonably satisfactory to Surviving Corporation.

(c) In the event any Covered Employee first becomes eligible to participate under any employee benefit plan, program, policy, or arrangement of the Surviving Corporation or any Company Subsidiary (“**Surviving Corporation Employee Benefit Plan**”) during the plan year in which the Closing Date occurs, the Surviving Corporation shall use commercially reasonable efforts to: (i) waive any preexisting condition exclusions and waiting periods with respect to participation and coverage requirements applicable to any Covered Employee under any Surviving Corporation Employee Benefit Plan providing medical, dental, or vision benefits to the same extent such limitation would have been waived or satisfied under the comparable Company Employee Benefit Plan, if any, the Covered Employee participated in immediately prior to coverage under the Surviving Corporation Employee Benefit Plan and (ii) provide each Covered Employee with credit for any copayments and deductibles paid prior to the Covered Employee’s coverage under any Surviving Corporation Employee Benefit Plan during the calendar year in which such amount was paid, to the same extent such credit was given under the comparable Company Employee Benefit Plan, if any, in which the Covered Employee participated in immediately prior to coverage under the Surviving Corporation Employee Benefit Plan, in satisfying any applicable deductible or out-of-pocket requirements under the Surviving Corporation Employee Benefit Plan.

(d) As of the Effective Time, the Surviving Corporation and the Company

Subsidiaries shall recognize all service of each Covered Employee prior to the Effective Time to the Company (or any predecessor entities of the Company or any of the Company Subsidiaries) for vesting and eligibility purposes (but not for benefit accrual purposes) to the same extent as such Covered Employee was entitled, before the Effective Time, to credit for such service under any similar Company Plan in which such Covered Employee participated immediately prior to the Effective Time. In no event shall anything contained in this Section 5.12(d) result in any duplication of benefits for the same period of service.

(e) If requested by Parent at least five (5) days prior to the Closing Date, the Company shall, no later than one (1) business day prior to the Closing Date, cease contributions to, and adopt a written consent or resolution and take other necessary and appropriate action to, terminate the Alimera Sciences, Inc. 401(K) Plan (the "**401(k) Plan**") and to one hundred percent (100%) vest all participants under the 401(k) Plan, with such termination and vesting to be effective no later than the business day immediately prior to the Closing Date; provided, however, that such 401(k) Plan cessation of contributions, vesting and termination may be made contingent upon the Closing. The Company shall provide Parent with an advance copy of such proposed consent or resolutions and a reasonable opportunity to comment thereon prior to adoption or execution.

(f) Without limiting the generality of Section 8.4, the provisions of this Section 5.12 are solely for the benefit of the parties to this Agreement and no Company Employee or any Person shall be regarded for any purpose as a third-party beneficiary of Section 5.12 of this Agreement. Nothing in this Section 5.12, express or implied, shall (i) be construed to limit the right of Parent, the Company, or any of the Company Subsidiaries (including, following the Effective Time, the Surviving Corporation) to amend or terminate any Company Plan or other employee benefit or compensation plan, program, agreement or arrangement to the extent such amendment or termination is permitted by the terms of the applicable plan, (ii) be construed as an amendment to any Company Plan or other employee benefit or compensation plan, program, agreement or arrangement, or (iii) be construed to require Parent, the Company, or any of the Company Subsidiaries (including, following the Effective Time, the Surviving Corporation) to retain the employment of any particular Person for any fixed period of time following the Effective Time or provide any particular term or condition of employment.

Section 5.13 Confidentiality. The parties hereto acknowledge that Parent and the Company have previously executed a mutual nondisclosure agreement, dated as of March 18, 2024 (the "**Confidentiality Agreement**"), which Confidentiality Agreement shall continue in full force and effect in accordance with its terms notwithstanding the execution and delivery of this Agreement, except as expressly modified herein.

Section 5.14 Obligations of Merger Subsidiary. Parent shall take all action necessary to cause Merger Subsidiary to perform its obligations under this Agreement and to consummate the Merger and the other Transactions upon the terms and subject to the conditions set forth in this Agreement. Parent and Merger Subsidiary will be jointly and severally liable for the failure by either of them to perform and discharge any of their respective covenants, agreements and obligations pursuant to and in accordance with this Agreement.

Section 5.15 Parent Vote. Promptly, and in any case within twenty four (24) hours, following the execution and delivery of this Agreement, Parent, in its capacity as the sole stockholder of Merger Subsidiary, will execute and deliver to Merger Subsidiary and the Company a written consent approving the Merger in accordance with the DGCL.

Section 5.16 Takeover Statutes. In connection with and without limiting the foregoing, (a) the Company shall take all action necessary to ensure that no “fair price,” “business combination,” “control share acquisition” or other state takeover statute or similar Law is or becomes applicable to this Agreement, the Voting Agreement, the CVR Agreement, or any of the Transactions and (b) if any “fair price,” “business combination,” “control share acquisition” or other state takeover statute or similar Law becomes applicable to this Agreement, the Voting Agreement, the CVR Agreement or any of the Transactions, take all actions as are necessary to ensure that such transactions may be consummated as promptly as practicable on the terms required by, or provided for, in this Agreement, the Voting Agreement and the CVR Agreement and otherwise to eliminate or minimize the effect of such Law on the Merger, the other Transactions, or the Surviving Corporation (including with respect to any potential limitations on Parent’s exercise of voting rights of the Surviving Corporation under any Anti-Takeover Law or similar Law). Except to the extent expressly permitted by Section 5.3, the Company shall not take any action to exempt any Person other than Parent or Merger Subsidiary or any action by such Person from, or make such Person or such action not subject to, any Anti-Takeover Law or the restrictions on “business combinations” as set forth in the DGCL or any similar Law.

Section 5.17 Notification of Certain Matters. Unless prohibited by applicable Law, Parent and the Company shall each notify as soon as practicable the other party upon receiving Knowledge of any event, effect, occurrence, fact, circumstance, condition or change that would reasonably be expected to give rise to a failure of a condition precedent in Article VI; provided, however, that the failure to make any such notification (in and of itself) shall not be taken into account in determining whether the conditions set forth in Article VI have been satisfied or give rise to any right of termination to any party hereto under Article VII; and provided, further, that the delivery of any notice pursuant to this Section 5.17 shall not cure any breach of, or noncompliance with, any other provision of this Agreement or limit the remedies available to the party receiving such notice.

Section 5.18 Debt Financing.

(a) Parent shall use its reasonable efforts to take, or cause to be taken, all reasonable actions and to do, or cause to be done, all things reasonably necessary or advisable to obtain the Debt Financing contemplated by the Debt Commitment Letter on the terms and subject to the conditions described in the Debt Commitment Letter, including to (i) maintain in effect the Debt Commitment Letter (including any definitive agreements entered into in connection therewith) until the earliest of the consummation of the Transactions, the termination of this Agreement or the time at which any Alternative Financing is obtained, (ii) satisfy on a timely basis (taking into account the anticipated timing of the Inside Date) all conditions in the Debt Financing Agreements (as defined below) and in the Debt Commitment Letter applicable to Parent and Merger Subsidiary (and that are within their control) to obtaining the Debt Financing contemplated thereby, (iii) negotiate and enter into definitive agreements with respect to the Debt Financing contemplated by the Debt Commitment Letter on terms and conditions contained in the Debt Commitment Letter (as modified, to the extent exercised, by the “market flex” provisions applicable thereto) or otherwise consistent in all material respects with the Debt Commitment Letter and on other terms that would not (A) add any condition precedent to funding of the Debt

Financing, or otherwise expand or adversely amend or modify any of the conditions precedent to the receipt of the Debt Financing, or (B) reduce the amount of the Debt Financing below an amount necessary (together with cash and cash equivalents held by Parent) to fund all of the amounts required to be provided by Parent or Merger Subsidiary for the consummation of the Transactions at the Effective Time contemplated by this Agreement (including the payment of the Closing Cash Consideration, but excluding, for the avoidance of doubt, any amounts payable pursuant to the CVR Agreement) (such definitive agreements, together with the Debt Commitment Letter, the “**Debt Financing Agreements**”), and (iv) consummate the Debt Financing at or prior to the Closing, taking into account the anticipated timing of the Inside Date (which efforts shall include making demand upon the Financing Sources to consummate the Debt Financing to the extent the conditions thereto have been satisfied (other than those which are dependent upon, or are to occur simultaneously with, the funding of the Debt Financing)), in each case, subject to the Company’s compliance with its obligations under Section 5.18(c) (other than any failures to comply with Section 5.18(c) that, individually and in the aggregate, are not material). Parent shall keep the Company informed on a reasonably current basis and in reasonable detail of the status of its efforts to arrange the Debt Financing to the extent reasonably requested by the Company for purposes of monitoring the progress of the activities relating to the Debt Financing to the extent not prohibited by the confidentiality provisions contained in the Debt Financing Agreements. Without limiting the generality of the foregoing, Parent will promptly notify the Company (A) if Parent becomes aware of any material breach or material default by any party to any of the Debt Financing Agreements, (B) of the receipt of any written notice or other written communication from any Financing Source with respect to (x) any material breach, default, termination or repudiation under or in respect of any Debt Financing Agreement by any party thereto or (y) any material dispute or material disagreement between or among any parties to any of the Debt Financing Agreements with respect to the obligation to fund the Debt Financing or the amount of the Debt Financing necessary to fund the Transactions and (C) if at any time for any reason Parent believes in good faith that it will not be able to obtain all or any portion of the Debt Financing necessary (together with cash and cash equivalents held by Parent) to fund the amounts required to be provided by Parent or Merger Subsidiary for the consummation of the Transactions at the Effective Time (but excluding, for the avoidance of doubt, any amounts payable pursuant to the CVR Agreement).

(b) If any portion of the Debt Financing necessary (together with cash and cash equivalents held by Parent) to fund the amounts required to be provided by Parent or Merger Subsidiary for the consummation of the Transactions contemplated by this Agreement at the Effective Time (excluding, for the avoidance of doubt, any amounts payable pursuant to the CVR Agreement) becomes, or is reasonably likely to become, unavailable on the terms and conditions contemplated by the applicable Debt Financing Agreements (giving effect to, to the extent exercised, the “market flex” provisions applicable thereto) or for any reason any of the Debt Financing Agreements, after execution and delivery thereof by all parties thereto, shall be withdrawn, repudiated, terminated or rescinded, Parent will use its reasonable efforts to arrange and obtain in replacement thereof, as promptly as reasonably practicable following the occurrence of such event (and in any event no later than the Closing), alternative debt financing from alternative debt sources (such alternative financing, the “**Alternative Financing**”) (i) in an amount sufficient to consummate the Transactions at the Effective Time, including the payment of the Closing Cash Consideration pursuant to this Agreement on the Closing Date, but excluding, for the avoidance of doubt, any amounts payable pursuant to the CVR Agreement, (ii) the availability of which shall not be subject to additional or expanded conditions as compared to those set forth in the Debt Commitment Letter, (iii) which would not prevent or materially delay and would not reasonably be expected to prevent or materially delay the consummation of the Debt Financing or the Transactions and (iv) otherwise on terms and conditions that, taken as a whole, are not materially less favorable to Parent, Merger Subsidiary and the Company than the terms and conditions of the Debt Commitment Letter. Parent shall deliver to the Company true, correct and complete copies of all commitment letters or other similar arrangements (including fee letters redacted only for fee, “market flex” and certain economic terms in a manner customary for transactions of this type) related to any Alternative Financing. For purposes of this Agreement, (A) the term “Debt Financing” as used in this Agreement will be deemed to include any such Alternative Financing, (B) the term “Debt Commitment Letter” will be deemed to

include any commitment letters with respect to any such Alternative Financing and (C) the term “Debt Financing Agreements” will be deemed to include any definitive agreement with respect to the Alternative Financing.

(c) On and prior to the Closing Date, the Company shall use reasonable efforts, and shall cause its Subsidiaries and their respective officers, employees, advisors and other Representatives to use their reasonable efforts, to provide such cooperation in connection with the arrangement of, and satisfaction of the conditions to, the Debt Financing as is reasonably requested by Parent. Such cooperation shall include the following, each of which shall be at Parent’s written request with reasonable prior notice:

(i) participation by the senior management team (with appropriate seniority and expertise) of the Company and its Subsidiaries in lender meetings and ratings agency presentations in connection with the marketing of the Debt Financing, including (A) assistance in preparation of customary marketing materials related thereto, (B) preparation for and participation in a reasonable and limited number of lender meetings, conference calls, presentations and other customary syndication activities with prospective lenders and debt investors, in each case, at reasonable times and upon reasonable notice and (C) delivery of customary authorization and representation letters (including customary representations (solely with respect to the Company and its Subsidiaries) with respect to the absence of material non-public information in the public-side version of documents distributed to potential lenders and the absence of material misstatements);

(ii) providing reasonable assistance with obtaining ratings from one or more rating agencies (including corporate ratings and ratings for the Debt Financing), including participation by senior management of the Company and its Subsidiaries in, and assistance with, the preparation of rating agency presentations and meetings with rating agencies;

(iii) (A) furnishing financial and other pertinent information relating to the Company and its Subsidiaries and its and their respective businesses (including information to be used in the preparation of rating agency presentations, bank confidential information memoranda, offering documents, prospectus and offering memoranda reasonably required in connection with the Debt Financing) to Parent, Merger Subsidiary and the Financing Sources, in each case that is customary for purposes of the syndication and consummation of the Debt Financing to the extent reasonably requested by Parent to assist in the preparation of customary marketing materials to be used in connection with the Debt Financing (including, without limitation, the Required Information) and that is reasonably available to the Company and (B) reviewing and commenting on Parent’s draft of a business description (solely as it relates to the Company and its Subsidiaries) to be included in such marketing materials. For the avoidance of doubt, the Company shall not be required to prepare or deliver any pro forma financial statements, adjustments or projections;

(iv) providing as promptly as reasonably practicable (and, in any event, no less than three (3) Business Days prior to the Closing Date) such other documentation and other information reasonably requested by the Financing Sources at least ten (10) Business Days prior to the Closing Date under applicable “know-your-customer” and anti-money laundering rules and regulations (including the USA PATRIOT Act), including, without limitation, if applicable, a certification regarding beneficial ownership as required by 31 C.F.R. § 1010.230 relating to the Company or any of its Subsidiaries;

(v) cooperating to facilitate the pledging of, granting of security interests in and obtaining perfection of any Liens on, collateral required to be provided as collateral under the Debt Commitment Letter, as may be reasonably requested by Parent and the Financing Sources;

(vi) executing and delivering, subject to the occurrence of the Effective Time, financing agreements and such pledge and security and related documents and certificates as may be

reasonably requested by Parent or the Financing Sources;

(vii) with respect to any Alternative Financing, to the extent applicable, executing and delivering any certificates as may be reasonably requested by Parent (other than as to solvency matters) with respect to certain financial information in any offering documents described above not otherwise covered by "comfort" letters so long as such certificate does not relate to (A) any financial information concerning the Company and its Subsidiaries that the Company and its Subsidiaries do not maintain in the ordinary course of business consistent with past practices or (B) any other information not reasonably available to the Company under its current reporting systems; and

(viii) with respect to any Alternative Financing, requesting that its independent auditors assist and cooperate with the Debt Financing, including by providing the Specified Auditor Assistance;

provided, however, that, notwithstanding the foregoing, (A) no obligation of the Company or any of its Subsidiaries under any such certificate, document or instrument (other than (1) the certificates referred to in clause (vii) above, (2) the authorization and representation letters referred to in clause (i) above and (3) "know-your-customer" and beneficial ownership information referred to in clause (iv) above) shall be effective until the Effective Time, (B) none of the Company or any of its Subsidiaries shall be required to execute or take any action under any such certificate, document or instrument (other than (x) the certificates referred to in clause (vii) above, (y) the authorization and representation letters referred to in clause (i) above and (z) "know-your-customer" and beneficial ownership information referred to in clause (iv) above) that is not contingent upon the Closing (including the entry into any agreement that is effective before the Closing) or that would be effective prior to the Effective Time, (C) the Company and its Subsidiaries and their respective directors, officers and employees shall not be required to pass any resolution or consent to, approve or authorize the Debt Financing that would be effective prior to the Effective Time or take any action that would cause any such director, officer or employee to incur or be exposed to any actual or potential personal liability, and (D) the Company and its Subsidiaries shall not be required to take any action that (1) conflicts with any Law or the organizational documents of the Company or any of its Subsidiaries existing on the date hereof, or that conflicts with or would result in a breach of or a default under any Company Material Contract existing on the date hereof, (2) would require the Company or any of its Subsidiaries to disclose information subject to any attorney-client privilege (provided, however, that the Company shall use its reasonable efforts to allow for such access or disclosure to the extent that does not result in a loss of any such attorney-client privilege), (3) would unreasonably interfere with the conduct of the business of the Company and its Subsidiaries or (4) would require the Company or any of its Subsidiaries to bear any out-of-pocket third party cost or expense or pay any fee prior to the Closing (except to the extent Parent will reimburse such cost, expense or fee, other than as provided in the proviso to subsection (e), below). Nothing in this Section 5.18 or otherwise shall require the Company or any of its Subsidiaries, prior to the Closing, to be an issuer or other obligor with respect to any of the Debt Financing.

(d) The Company hereby consents to the use of its and its Subsidiaries' logos in connection with the Debt Financing so long as such logos are used solely in connection with the Debt Financing in a manner that is not intended or reasonably likely to harm, disparage or otherwise adversely affect in any material respect the Company or any of its Subsidiaries or the reputation or goodwill of the Company or any of its Subsidiaries.

(e) Parent shall indemnify and hold harmless the Company and its Subsidiaries, and each of their respective directors, officers, employees, agents and other Representatives, from and against any and all liabilities, costs, losses and expenses suffered or incurred by the Company, its Subsidiaries and their respective directors, officers, employees, agents and other Representatives in connection with the Debt Financing or any assistance or activities provided in connection therewith (other than with respect to any historical information provided in writing by the Company or its Subsidiaries specifically for use in connection therewith); provided, however, that the foregoing shall not apply to the extent that

such liabilities, costs, losses or expenses are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct, bad faith or gross negligence of the Company, any of its Subsidiaries or any of their respective directors, officers, employees, agents or other Representatives.

(f) Parent shall, promptly upon request by the Company, reimburse the Company for all reasonable and documented out-of-pocket third party costs and expenses incurred by the Company, its Subsidiaries and their respective officers, directors, agents and employees in connection with the cooperation contemplated by this [Section 5.18](#); provided, that Parent shall not be required to reimburse the Company, any of its Subsidiaries or any of their respective officers, directors, agents or employees for any costs and expenses incurred with respect to the Company SEC Reports or with respect to other financial statements, financial information or any other materials (i) prepared prior to the date hereof that may be used in connection with the Debt Financing (it being understood that this clause (i) shall not exclude the reasonable and documented fees and expenses of the Company's auditors, accountants and counsel in providing the assistance required by this [Section 5.18](#)) and (ii) prepared after the date hereof in connection with the Proxy Statement or the applicable requirements of the Exchange Act (it being understood that this clause (ii) shall not exclude the reasonable and documented fees and expenses of the Company's auditors, accountants and counsel in providing the assistance or comfort required by this [Section 5.18](#)).

(g) The Company shall use reasonable best efforts to (i) deliver to Parent the executed Payoff Letter[s] no less than one (1) Business Day prior to the Closing Date and (ii) obtain any Lien terminations and instruments of discharge to allow for the payoff, discharge and termination in full on the Closing Date of any indebtedness for borrowed money, bonds, debenture notes or other similar instruments of the Company or its Subsidiaries (including, for the avoidance of doubt, the SLR Loan Agreement) that Parent desires (upon reasonable prior notice to the Company) to payoff, discharge and terminate at Closing or that is otherwise subject to mandatory prepayment (howsoever described) as a result of the consummation of the Merger.

(h) Until the earlier of the Closing or the valid termination of this Agreement pursuant to [Section 7.1](#), Parent shall retain an amount of cash and cash equivalents that, together with the aggregate net proceeds of the Debt Financing (both before and after giving effect to the exercise of any and all "market flex" provisions related thereto) when funded in accordance with the terms of the Debt Commitment Letter (assuming the satisfaction of the closing conditions set forth in [Section 6.1](#) and [Section 6.2](#) and that the Debt Financing is funded in accordance with the Debt Commitment Letter (including any "market flex" provisions related thereto)), will be sufficient to consummate the Transactions, including the payment of the Closing Cash Consideration pursuant to this Agreement on the Closing Date, other than pursuant to the CVR Agreement.

Section 5.19 Resignations. At the written request of Parent, the Company shall cause each director of the Company or any director of any of the Company's Subsidiaries to resign in such capacity, with such resignations to be effective as of the Effective Time.

Section 5.20 Further Assurances. At and after the Effective Time, the officers and directors of the Surviving Corporation shall be authorized to execute and deliver, in the name and on behalf of the Company or Merger Subsidiary, any deeds, bills of sale, assignments, or assurances and to take and do, in the name and on behalf of the Company or Merger Subsidiary, any other actions and things to vest, perfect, or confirm of record or otherwise in the Surviving Corporation any and all right, title, and interest in, to and under any of the rights, properties, or assets of the Company acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

Section 5.21 CVR Agreement. At or prior to the Effective Time, Parent shall authorize and duly adopt, execute and deliver, and will ensure that a duly qualified Rights Agent executes and delivers, the CVR Agreement, subject to any reasonable revisions to the CVR Agreement that are requested by such Rights Agent (provided that such revisions are not, individually or in the aggregate, detrimental or adverse in any material respect, taken as a whole, to any holder of a CVR). Parent and the Company shall cooperate, including by making changes to the form of CVR Agreement, as necessary to ensure that the CVRs are not subject to registration under the Securities Act, the Exchange Act or any applicable state securities or "blue sky" laws.

Section 5.22 FIRPTA Certificate. Prior to the Closing, the Company shall use commercially reasonable efforts to deliver to Parent (i) a statement, in form and substance reasonably satisfactory to Parent, certifying that the Company is not, and has not been during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code, a "United States real property holding company" within the meaning of Section 897(c)(2) of the Code, which statement shall satisfy the requirements of Treasury Regulations Sections 1.897-2(h) and 1.1445-2(c)(3), together with (ii) a notice prepared and executed in accordance with Treasury Regulations Section 1.897-2(h) to be mailed by Parent (with a copy of the statement described in clause (i)) to the Internal Revenue Service in accordance with Treasury Regulation Section 1.897-2(h); provided that the Company's failure to provide such documentation will not be deemed to be a failure of the condition set forth in Section 6.2(a) to have been met and Parent's sole remedy for the Company's failure to provide such documentation will be to withhold in accordance with Section 1.7 from the payments to be made pursuant to this Agreement to the extent required under Section 1445 of the Code.

ARTICLE VI CONDITIONS TO MERGER

Section 6.1 Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of each party to this Agreement to effect the Merger shall be subject to the satisfaction (or waiver by the party entitled to the benefit thereof) of each of the following conditions at or prior to the Closing:

- (a) Company Stockholder Approval. The Company Stockholder Approval shall have been obtained.
- (b) Governmental Approvals. The waiting periods (and any extensions thereof) applicable to the consummation of the Merger under the HSR Act shall have expired or been terminated, and the consents, approvals, permits, Orders or declarations of, filings with, or notices to, any Governmental Authority required to be made or obtained in connection with the consummation of the Merger and set forth on Section 6.1(b) of the Company Disclosure Schedules (each, a "**Governmental Approval**") shall have been made or obtained.
- (c) No Legal Prohibition. No Governmental Authority having competent jurisdiction

over any party, shall have enacted, issued, promulgated, entered, enforced or deemed applicable to the Merger any applicable Law, or issued or granted any Order (whether temporary, preliminary or permanent) (any such Law or Order, a “*Legal Restraint*”), that is in effect and that has the effect of making the Merger illegal or which has the effect of prohibiting, enjoining, preventing or restraining the consummation of the Merger.

Section 6.2 Additional Parent and Merger Subsidiary Conditions. The obligations of Parent and Merger Subsidiary to consummate the Merger shall be further subject to the satisfaction (or waiver by Parent) of each of the following conditions at or prior to the Closing:

(a) Compliance with Agreements and Covenants. The Company shall have performed, or complied with, in all material respects its agreements, covenants and other obligations required by this Agreement to be performed or complied with by the Company at or prior to the Closing Date.

(b) Accuracy of Representations and Warranties.

(i) The representations and warranties of the Company set forth in Section 3.2(a) and the first sentence of Section 3.2(b) shall be true and correct in all respects (other than *de minimis* inaccuracies) as of the Agreement Date and as of the Closing Date with the same force and effect as if made on and as of such date, except, in each case, for those representations and warranties which address matters only as of a particular date (which representations shall have been true and correct in all material respects as of such particular date).

(ii) The representations and warranties of the Company set forth in Sections 3.1, 3.3, 3.8 and 3.10 shall be true and correct in all material respects as of the Agreement Date and as of the Closing Date with the same force and effect as if made on and as of such date, except, in each case, for those representations and warranties which address matters only as of a particular date (which representations shall have been true and correct in all material respects as of such particular date) and, in the case of this paragraph, interpreted without giving effect to any Company Material Adverse Effect or materiality qualifications.

(iii) The representations and warranties of the Company set forth in Section 3.6(b) shall be true and correct in all respects as of the Agreement Date and as of the Closing Date with the same force and effect as if made on and as of such date.

(iv) The other representations and warranties of the Company contained in this Agreement shall be true and correct in all respects both as of the date of this Agreement and as of the Closing Date as though made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all respects as of such earlier date), and, in the case of this paragraph, interpreted without giving effect to any Company Material Adverse Effect or materiality qualifications, except where all failures of such representations and warranties referred to in this paragraph to be true and correct, individually or in the aggregate, have not had, and would not reasonably be expected to have, a Company Material Adverse Effect.

(c) No Company Material Adverse Effect. Since the Agreement Date, there shall not have occurred any Company Material Adverse Effect that is continuing.

(d) Receipt of Officers' Certificate. Parent and Merger Subsidiary shall have received a certificate, signed for and on behalf of the Company by an executive officer of the Company, certifying the satisfaction of the conditions set forth in Section 6.2(a), Section 6.2(b) and Section 6.2(c).

Section 6.3 Additional Company Conditions. The obligations of the Company to consummate the Merger shall be further subject to the satisfaction (or waiver by the Company) of each of the following conditions at or prior to the Closing:

(a) Compliance with Agreements and Covenants. Parent and Merger Subsidiary shall have performed, or complied with, in all material respects all of their respective agreements, covenants and obligations required by this Agreement to be performed or complied with by each of them at or prior to the Closing Date.

(b) Accuracy of Representations and Warranties.

(i) The representations and warranties of Parent and Merger Subsidiary set forth in Section 4.1, Section 4.2 and Section 4.5 shall be true and correct in all material respects as of the Agreement Date and as of the Closing Date with the same force and effect as if made on and as of such date (except for those representations and warranties which address matters only as of a particular date, which representations shall have been true and correct in all material respects as of such particular date).

(ii) The other representations and warranties of Parent and Merger Subsidiary contained in this Agreement shall be true and correct in all respects both as of the Agreement Date and as of the Closing Date as though made on and as of such date (except to the extent such representations and warranties speak as of an earlier date, in which case, such representations and warranties shall be true and correct in all respects as of such earlier date), and, in the case of this paragraph, interpreted without giving effect to any materiality qualifications, except where all failures of such representations and warranties referred to in this paragraph to be true and correct, individually or in the aggregate, have not had, and would not reasonably be expected to have a material adverse effect on the ability of Merger Subsidiary or Parent to consummate the Transactions in accordance with the terms of this Agreement.

(c) Receipt of Officers' Certificate. The Company shall have received a certificate, signed for and on behalf of Parent and Merger Subsidiary by an executive officer of each of Parent and Merger Subsidiary, certifying the satisfaction of the conditions set forth in Section 6.3(a) and Section 6.3(b).

(d) CVR Agreement. The CVR Agreement shall be in full force and effect.

ARTICLE VII TERMINATION

Section 7.1 Termination. This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after receipt of the Company Stockholder Approval (except as provided herein), only as follows:

(a) by mutual written agreement of Parent and the Company; or

(b) by either Parent or the Company if the Effective Time shall not have occurred on or before December 21, 2024 (the "**Termination Date**"); provided, however, that the right to terminate this Agreement pursuant to this Section 7.1(b) shall not be available to any party hereto whose failure to perform or comply with any obligation under this Agreement has been the principal cause of, or resulted in, the failure of the Effective Time to have occurred on or before the Termination Date; or

(c) by either Parent or the Company if the Stockholders Meeting shall have been duly convened and at which the polls were closed after a vote of the holders of the Company Common Stock, and the Company Stockholder Approval shall not have been obtained thereat or at any adjournment or postponement thereof taken in accordance with this Agreement; or

(d) by either Parent or the Company if any Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced, or entered any Legal Restraint making illegal, permanently enjoining, or otherwise permanently prohibiting the consummation of the Merger or the other Transactions and such Legal Restraint shall become final and nonappealable (whether before or after the receipt of the Company Stockholder Approval); or

(e) by the Company in the event (i) of a breach of any covenant or agreement on the part of Parent or Merger Subsidiary set forth in this Agreement or (ii) that any of the representations and warranties of Parent and Merger Subsidiary set forth in this Agreement shall have been inaccurate when made or shall have become inaccurate, in either case such that the conditions set forth in Section 6.3(a) and Section 6.3(b) would not be satisfied as of the time of such breach or as of the time such representation or warranty shall have become inaccurate, as applicable; provided, however, that notwithstanding the foregoing, in the event that such breach by Parent or Merger Subsidiary or such inaccuracies in the representations and warranties of Parent or Merger Subsidiary are curable by Parent or Merger Subsidiary prior to the Termination Date, then the Company shall not be permitted to terminate this Agreement pursuant to this Section 7.1(e) until the earlier of (1) thirty (30) calendar days after delivery of written notice from the Company to Parent of such breach or inaccuracy, as applicable or (2) the Termination Date; provided further, that the Company shall not have the right to terminate this Agreement pursuant to this Section 7.1(e) if the Company is then in breach of any representation, warranty, covenant, or obligation hereunder that would cause any condition set forth in Section 6.2(a) or Section 6.2(b) not to be satisfied; or

(f) by the Company, at any time prior to the time the Company Stockholder Approval is obtained, if (i) the Company Board authorizes the Company, subject to compliance in all material respects with the applicable terms and conditions of Section 5.3 hereof (interpreted without giving effect to any materiality qualifications therein), to enter into an Alternative Acquisition Agreement with respect to a Superior Proposal; (ii) the Company pays to Parent (or its designee) the Company Termination Fee in accordance with Section 7.4(b) in accordance with the terms, and at the times, specified therein (and if required to be paid concurrently with the Company Termination Fee, any amounts required to be paid pursuant to Section 7.4(g)) and (iii) the Company substantially concurrently enters into such Alternative Acquisition Agreement; or

(g) by Parent in the event (i) of a breach of any covenant or agreement on the part of the Company set forth in this Agreement or (ii) that any of the representations and warranties of the Company set forth in this Agreement shall have been inaccurate when made or shall have become inaccurate, in either case such that the conditions set forth in Section 6.2(a) or Section 6.2(b), as applicable, would not be satisfied as of the time of such breach or as of the time such representation or warranty shall have become inaccurate, as applicable; provided, however, that notwithstanding the foregoing, in the event that such breach by the Company or such inaccuracies in the representations and warranties of the Company are curable by the Company prior to the Termination Date, then Parent shall not be permitted to terminate this Agreement pursuant to this Section 7.1(g) until the earlier of (A) thirty (30) calendar days after delivery of written notice from Parent to the Company of such breach or inaccuracy, as applicable or (B) the Termination Date; provided further, that Parent shall not have the right to terminate this Agreement pursuant to this Section 7.1(g) if Parent is then in breach of any representation, warranty, covenant, or obligation hereunder that would cause any condition set forth in Section 6.3(a) or Section 6.3(b) not to be satisfied; or

(h) by Parent, at any time prior to the time the Company Stockholder Approval is obtained, a Change of Recommendation shall have occurred.

Section 7.2 Notice of Termination. A party terminating this Agreement pursuant to Section 7.1 (other than Section 7.1(a)) shall deliver a written notice to the other party setting forth specific basis for such termination and the specific provision of Section 7.1 pursuant to which this Agreement is being terminated. Subject to the cure rights in Sections 7.1(e) and 7.1(g), a valid termination of this Agreement pursuant to Section 7.1 (other than Section 7.1(a)) shall be effective upon delivery of the foregoing written notice to the other parties hereto.

Section 7.3 Effect of Termination. In the event of a valid termination of this Agreement pursuant to Section 7.1, this Agreement shall be of no further force or effect without liability of any party or parties hereto, as applicable (or any stockholder, director, manager, officer, employee, agent, consultant or representative of such party or parties) to the other party or parties hereto, as applicable, except (a) for the terms of Section 5.13, Section 5.18(g), this Section 7.3, Section 7.4 and Article VIII, each of which shall survive the termination of this Agreement and (b) that nothing herein shall relieve the Company, Parent or Merger Subsidiary from liability for Willful Breach in connection with this Agreement or any of the Transactions. In addition to the foregoing, no termination of this Agreement shall affect the obligations of the parties hereto set forth in the Confidentiality Agreement, all of which shall survive termination of this Agreement in accordance with their respective terms and remain fully enforceable in accordance with their respective terms. For purposes of this Agreement, "Willful Breach" means a knowing and intentional material breach of this Agreement that is a consequence of an act or omission undertaken by the breaching party with the Knowledge that the taking of or the omission of taking such act would be the primary cause of a failure of any of the conditions set forth in Article VII to be satisfied; provided that, without limiting the meaning of Willful Breach, the parties hereto acknowledge and agree that any failure by any party to consummate the Merger and the Transactions after the applicable conditions to the Closing set forth in Article VI have been satisfied or waived as a result of a failure to have necessary financing to cause the Closing to occur, shall constitute a Willful Breach of this Agreement.

Section 7.4 Termination Fees.

(a) In the event that (A) this Agreement is terminated pursuant to (1) Section 7.1(g), (2) Section 7.1(b), or (3) Section 7.1(c), (B) prior to such termination an offer or proposal for a Competing Acquisition Transaction is publicly announced, shall become publicly known or is otherwise made or communicated to the Company or the Company Board, and (C) within twelve (12) months following any such termination of this Agreement, the Company shall have entered into a definitive agreement with respect to any Competing Acquisition Transaction, or consummated any Competing Acquisition Transaction (in each case, whether or not such Competing Acquisition Transaction is the same as the original Competing Acquisition Transaction made, communicated, or publicly disclosed), then in any such event within two (2) Business Days after the consummation of such Competing Acquisition Transaction, the Company shall pay to Parent (or its designee) the Company Termination Fee. "Company Termination Fee" means an amount equal to \$10,391,000.00.

(b) In the event that this Agreement is terminated pursuant to Section 7.1(f), then as a condition to such termination of this Agreement, the Company shall pay to Parent (or its designee) the Company Termination Fee by wire transfer of immediately available funds to an account or accounts designated in writing by Parent substantially concurrent with the termination of this Agreement.

(c) In the event that this Agreement is terminated pursuant to Section 7.1(h), then within two (2) Business Days after demand by Parent (or its designee), the Company shall pay to Parent (or its designee) the Company Termination Fee by wire transfer of immediately available funds to an account or accounts designated in writing by Parent.

(d) The parties hereto acknowledge and hereby agree that in no event shall the Company be required to pay the Company Termination Fee on more than one occasion, whether or not the Company Termination Fee may be payable under more than one provision of this Agreement at the

same or at different times and the occurrence of different events.

(e) Recovery. Parent, Merger Subsidiary and the Company hereby acknowledge and agree that the covenants set forth in this Section 7.4 are an integral part of this Agreement and the Merger, and that, without these agreements, Parent, Merger Subsidiary and the Company would not have entered into this Agreement. Accordingly, if the Company fails to promptly pay any amounts due pursuant to Section 7.4 and, in order to obtain such payment, Parent commences a Legal Proceeding that results in a judgment against the Company for the amount set forth in Section 7.4 or any portion thereof, the Company will pay to Parent its out-of-pocket costs and expenses (including reasonable attorneys' fees and costs) in connection with such Legal Proceeding, together with interest on such amount or portion thereof at the annual rate equal to the prime rate as published in The Wall Street Journal in effect on the date that such payment or portion thereof was required to be made through the date that such payment or portion thereof was actually received, or a lesser rate that is the maximum permitted by applicable Law.

(f) Acknowledgment. Each of the parties acknowledges and agrees that:

(i) the agreements contained in this Section 7.4 are an integral part of this Agreement and the Merger, and that, without these agreements, Parent, Merger Subsidiary and the Company would not have entered into this Agreement; and

(ii) the damages resulting from termination of this Agreement under circumstances where a Company Termination Fee is payable are uncertain and incapable of accurate calculation and therefore, the amounts payable pursuant to Section 7.4 are not a penalty but rather constitute liquidated damages in a reasonable amount that will compensate Parent for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transactions and shall be (together with all interest as described in Section 7.4(e)) the sole remedy of Parent in the event of a termination of this Agreement where the Company Termination Fee is payable by the Company pursuant to Section 7.4.

ARTICLE VIII MISCELLANEOUS PROVISIONS

Section 8.1 Amendment or Supplement.

(a) Subject to applicable Law, this Agreement may be amended by the parties hereto at any time only by execution of an instrument in writing signed on behalf of each of Parent, Merger Subsidiary and the Company; provided, however, that after the Company Stockholder Approval shall have been obtained, no amendment shall be made to this Agreement that requires the further approval of such stockholders of the Company without such further approval.

(b) Notwithstanding anything to the contrary contained herein, Section 7.4, this Section 8.1(b), Section 8.4(b), Section 8.5(c), Section 8.5(e), Section 8.7 and Section 8.13 (and any provisions of this Agreement to the extent a modification, waiver or termination of such provision would modify the substance of the foregoing Sections) may not be modified, waived or terminated in a manner that is adverse to the Financing Sources without the prior written consent of the Financing Sources.

Section 8.2 Extension of Time, Waiver, etc. At any time prior to the Effective Time, any party may, subject to applicable Law: (a) waive any inaccuracies in the representations and warranties of any other party hereto; (b) extend the time for the performance of any of the obligations or acts of any other party hereto; or (c) to the extent permitted by applicable Law, waive compliance by the other party with any of the agreements contained in this Agreement. Notwithstanding the foregoing, no failure or delay by the Company, Merger Subsidiary or Parent in exercising any right hereunder shall operate as a waiver of rights, nor shall any single or partial exercise of such rights preclude any other or further exercise of such rights or the exercise of any other right hereunder. Any agreement on the part of a party hereto to any such extension or waiver shall be valid only if set forth in an instrument in writing signed on behalf of such party.

Section 8.3 No Survival. None of the representations, warranties and covenants in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Closing. Notwithstanding the foregoing, this Section 8.3 shall not limit the survival of any covenant or agreement of the parties hereto contained in this Agreement which by its terms contemplates performance in whole or in part after the Closing.

Section 8.4 Entire Agreement; No Third Party Beneficiary.

(a) This Agreement, including the exhibits hereto, the Company Disclosure Schedules, the CVR Agreement, and the documents and instruments relating to the Merger referred to in this Agreement, constitutes, together with the Confidentiality Agreement, the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties hereto with respect to the subject matter of this Agreement, provided, however, the Confidentiality Agreement shall not be superseded, shall survive any termination of this Agreement and shall continue in full force and effect until the earlier to occur of (a) the Effective Time at which time the Confidentiality Agreement shall terminate and (b) the date on which the Confidentiality Agreement is terminated in accordance with its terms. EACH PARTY HERETO AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS AGREEMENT, NEITHER PARENT AND MERGER SUBSIDIARY, ON THE ONE HAND, NOR THE COMPANY, ON THE OTHER HAND, MAKES ANY REPRESENTATIONS OR WARRANTIES AND EACH PARTY HEREBY DISCLAIMS ANY OTHER REPRESENTATIONS OR WARRANTIES (EXPRESS OR IMPLIED), AS TO THE ACCURACY OR COMPLETENESS OF ANY OTHER INFORMATION MADE OR MADE AVAILABLE BY ITSELF OR ANY OF ITS AFFILIATES OR REPRESENTATIVES WITH RESPECT TO, OR IN CONNECTION WITH, THE NEGOTIATION, EXECUTION OR DELIVERY OF THIS AGREEMENT OR THE TRANSACTIONS OR, IN THE CASE OF ANY REPRESENTATIONS AND WARRANTIES MADE BY THE COMPANY, ANY COMPANY SUBSIDIARY OR ANY OF THEIR RESPECTIVE AFFILIATES OR REPRESENTATIVES, REGARDING THE COMPANY OR COMPANY SUBSIDIARIES OR THEIR RESPECTIVE BUSINESS OR OPERATIONS, NOTWITHSTANDING THE DELIVERY OR DISCLOSURE TO THE OTHER OR THE OTHER'S REPRESENTATIVES OF ANY DOCUMENTATION OR OTHER INFORMATION WITH RESPECT TO ANY ONE OR MORE OF THE FOREGOING.

(b) This Agreement is not intended, and shall not be deemed, to create any agreement of employment with any person, to confer any rights or remedies upon any Person other than the parties hereto and their respective successors and permitted assigns or to otherwise create any third-party beneficiary hereto, except (a) with respect to the Indemnified Persons who are express third party beneficiaries of Section 5.9, (b) the Financing Sources with respect to Section 7.4, Section 8.1(b), this Section 8.4(b), Section 8.5(c), Section 8.5(e), Section 8.7 and Section 8.13 (it being acknowledged and agreed that the Financing Sources shall be express third party beneficiaries of, and have the right to rely upon and enforce, such Sections) and (c) from and after the Effective Time, the right of the holders of Company Common Stock to receive the Merger Consideration payable in accordance with Section 1.3.

Section 8.5 Applicable Law; Jurisdiction.

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE AND SHALL BE INTERPRETED, CONSTRUED AND GOVERNED IN ALL RESPECTS BY AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE CONFLICTS OF LAW PRINCIPLES. The parties hereto hereby irrevocably submit to the personal jurisdiction of the Court of Chancery of the State of Delaware or, if such Court of Chancery shall lack subject matter jurisdiction, the federal courts of the United States of America located in the County of New Castle, Delaware, solely in respect of the interpretation and enforcement of the provisions of (and any claim or cause of action arising under or relating to) this Agreement and of the documents referred to in this Agreement, and in respect of the Transactions, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims relating to such action, suit or proceeding shall be heard and determined in such courts. The parties hereto hereby consent to and grant any such court jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 8.8 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(b) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HEREBY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 8.5.

(c) The parties hereto agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy would occur in the event that the parties hereto do not perform the provisions of this Agreement (including any party hereto failing to take such actions as are required of it hereunder in order to consummate this Agreement) in accordance with its specified terms or otherwise breach such provisions. The parties hereto acknowledge and agree that, subject to Section 7.4, (i) the parties hereto will be entitled, in addition to any other remedy to which they are entitled at law or in equity, to an injunction, specific performance and other equitable relief to prevent breaches (or threatened breaches) of this Agreement and to enforce specifically the terms and provisions hereof; (ii) the provisions of Section 7.4 are not intended to and do not adequately compensate the parties hereto for the harm that would result from a breach of this Agreement, and will not be construed to diminish or otherwise impair in any respect any party's right to an injunction, specific performance and other equitable relief; and (iii) the right to an injunction, specific enforcement and other equitable relief is an integral part of the Transactions and without that right, none of the parties hereto would have entered into this Agreement. Notwithstanding the foregoing and subject to the rights of the parties to the definitive agreements for any Debt Financing under the terms thereof, none of the Company and its Affiliates (other than Parent and Merger Subsidiary) and their direct and indirect equityholders shall have any rights or

claims (whether in contract or in tort or otherwise) against any Financing Source, solely in their respective capacities as lenders or arrangers in connection with the Debt Financing, and in no event shall the Company, any of its Affiliates (other than Parent and Merger Subsidiary) or its or their direct or indirect equityholders be entitled to directly seek the remedy of specific performance of this Agreement against any Financing Source.

(d) The parties hereto hereby agree not to raise any objections to the availability of the equitable remedy of specific performance to prevent or restrain breaches or threatened breaches of this Agreement by any party hereto, and to specifically enforce the terms and provisions of this Agreement to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of any party under this Agreement. Any party hereto seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement will not be required to provide any bond or other security in connection with such injunction or enforcement, and each party hereto irrevocably waives any right that it may have to require the obtaining, furnishing or posting of any such bond or other security. The parties hereto further agree that (i) by seeking the remedies provided for in this Section 8.5, a party hereto shall not in any respect waive its right to seek any other form of relief that may be available to a party under this Agreement in the event that this Agreement has been terminated or in the event that the remedies provided for in this Section 8.5 are not available or otherwise are not granted, and (ii) nothing set forth in this Section 8.5 shall require any party hereto to institute any proceeding for (or limit any party's right to institute any proceeding for) specific performance under this Section 8.5 prior or as a condition to exercising any termination right under Article VII (and pursuing damages after such termination), nor shall the commencement of any legal proceeding pursuant to this Section 8.5 or anything set forth in this Section 8.5 restrict or limit any party's right to terminate this Agreement in accordance with the terms of Article VII or pursue any other remedies under this Agreement that may be available then or thereafter. Notwithstanding the foregoing, in no event shall a party be awarded both (x) a remedy of specific performance to consummate the Closing pursuant to this Section 8.5 and (y) damages.

(e) Notwithstanding anything to the contrary in this Agreement, to the extent any party hereto brings an action, suit or proceeding to enforce specifically the consummation of the Closing when expressly available to such party pursuant to the terms of this Agreement, the Termination Date shall automatically be extended to (i) the twentieth (20th) business day following the resolution of such action, suit or proceeding, or (ii) such other time period established by the court presiding over such action, suit or proceeding.

(f) Notwithstanding anything herein to the contrary, each of the parties hereto hereby agrees (i) that any action of any kind or nature, whether at law or equity, in contract, in tort or otherwise, against a Financing Source in connection with this Agreement, the Debt Financing, the Transactions or the performance of any services under the Debt Commitment Letter shall be brought exclusively in the Supreme Court of the State of New York, County of New York, or, if under applicable Law exclusive jurisdiction is vested in the federal courts, the United States District Court for the Southern District of New York, in each case sitting in the Borough of Manhattan, New York, New York (and the appellate courts thereof), and each party submits for itself and its property with respect to any such action to the exclusive jurisdiction of such courts, (ii) that service of process, summons, notice or document by registered mail addressed to it at its address provided in Section 8.8 shall be effective service of process against it for any such action brought in any such court, (iii) to waive and hereby irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of venue of, and the defense of an inconvenient forum to the maintenance of, any such action in any such court, (iv) that a final judgment in any such action shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law, (v) that the Laws of the State of New York shall govern any such action (without giving effect to any conflicts of law principles that would result in the application of the laws of another state) and (vi) TO IRREVOCABLY WAIVE AND HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH ACTION TO THE SAME EXTENT SUCH RIGHTS ARE WAIVED PURSUANT TO SECTION 8.5(b), AS IN EFFECT

ON THE DATE OF THIS AGREEMENT.

Section 8.6 Non-Reliance.

(a) Parent and Merger Subsidiary hereby acknowledge and agreement (each for itself and on behalf of its Affiliates and Representatives) that, as of the Agreement Date, Parent, Merger Subsidiary and their respective Affiliates and Representatives (i) have received full access to (A) such books and records, facilities, equipment, contracts and other assets of the Company that Parent and Merger Subsidiary and their respective Affiliates and Representatives, as of the Agreement Date, have requested to review and (B) the electronic data room hosted by the Company in connection with the transactions contemplated by this Agreement, and (ii) have had full opportunity to meet with the management of the Company and to discuss the business and assets of the Company.

(b) In connection with the due diligence investigation of the Company by Merger Subsidiary and Parent and their respective Affiliates and Representatives, Merger Subsidiary and Parent and their respective Affiliates and Representatives have received and may continue to receive after the Agreement Date from the Company and its Affiliates and Representatives certain estimates, projections, forecasts and other forward-looking information, as well as certain business plan information, regarding the Company and its business and operations. Merger Subsidiary and Parent hereby acknowledge and agree that: (i) there are uncertainties inherent in attempting to make such estimates, projections, forecasts and other forward-looking statements, as well as in such business plans, with which Merger Subsidiary and Parent are familiar, (ii) Merger Subsidiary and Parent are taking full responsibility for making their own evaluation of the adequacy and accuracy of all estimates, projections, forecasts, forward-looking information, as well as such business plans, so furnished to them (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking information or business plans), and (iii) Merger Subsidiary and Parent hereby waive any claim against the Company or any Company Subsidiary, or any of their respective Affiliates or Representatives with respect to any information described in this Section 8.6 and have relied solely on the results of their own independent investigation and on the representations and warranties made by the Company and contained in Article III, absent fraud in the making of the representations and warranties of the Company contained in Article III. Accordingly, Merger Subsidiary and Parent hereby acknowledge and agree that none of the Company nor any Company Subsidiaries, or any of their respective Affiliates or Representatives, has made or is making any express or implied representation or warranty with respect to such estimates, projections, forecasts, forward-looking statements or business plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking statements or business plans).

Section 8.7 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other parties hereto, and any attempt to make any such assignment without such consent shall be null and void, except that each of Parent and Merger Subsidiary may (i) assign, in its sole discretion, any or all of its rights, interests and obligations under this Agreement to any one or more direct or indirect wholly owned Subsidiaries of Parent or (ii) collaterally assign any or all of its rights, interests and obligations under this Agreement (including its rights under covenants, representations, warranties and indemnities) to any and all Financing Sources, in each case, without the consent of the Company, but no such assignment shall relieve Parent or Merger Subsidiary of any of its obligations under this Agreement. Any assignee pursuant to the preceding clause (i) or (ii) may enforce its rights and remedies under this Agreement at law or in equity. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.

Section 8.8 Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with proof of delivery); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 8.8):

if to Merger Subsidiary or Parent:

ANI Pharmaceuticals Inc.
210 Main Street West
Baudette, MN 56623
Email: [redacted]
Attention: Nikhil Lalwani

with a copy to the General Counsel, [redacted]

with a copy to (which copy shall not constitute notice):

Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10024
Attention: Ken Lefkowitz, Scott Naturman and Gary Simon
Email: ken.lefkowitz@hugheshubbard.com
scott.naturman@hugheshubbard.com
gary.simon@hugheshubbard.com

if to the Company:

Alimera Sciences, Inc.
6310 Town Square, Suite 400
Alpharetta, GA 30005
Email: [redacted]
Attention: Richard S. Eiswirth Jr.

with a copy to (which copy shall not constitute notice):

DLA Piper LLP (US)
51 John F. Kennedy Parkway, Suite 120
Short Hills, NJ 07078
Attention: Andrew P. Gilbert and Scott A. Cowan
Email: andrew.gilbert@us.dlapiper.com; scott.cowan@us.dlapiper.com

and

DLA Piper LLP (US)
303 Colorado Street, Suite 3000
Austin, TX 78701
Attention: Jeffrey Scharfstein, P.C.
Email: jeffrey.scharfstein@us.dlapiper.com

Section 8.9 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

Section 8.10 Fees and Expenses. Except as expressly provided for in this Agreement, all fees and expenses shall be paid by the party incurring such fees or expenses, whether or not the Merger is consummated; provided, however, that Parent and the Company shall be equally responsible for the printing and mailing costs for the Proxy Statement.

Section 8.11 Construction.

(a) For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include the masculine and feminine genders.

(b) The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

(c) As used in this Agreement, (i) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words "without limitation", (ii) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if", (iii) the word "or" shall not be exclusive, (iv) the word "will" shall be construed to have the same meaning as the word "shall" and (v) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof.

(d) Except as otherwise indicated, all references in this Agreement to "Sections" and "Exhibits" are intended to refer to Sections of this Agreement and Exhibits to this Agreement. The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(e) The phrases "made available to", "provided to," "furnished to," by the Company, and phrases of similar import when used in this Agreement, unless the context otherwise requires, means that a copy of the information or material referred to (i) has been provided by the Company to Parent, for review in the electronic data room hosted by the Company in connection with the Transactions, in connection with this Agreement or (ii) has been filed by the Company in EDGAR, in each case no later than one (1) Business Day prior to the date hereof.

(f) When calculating the period of time before which, within which or after which any act is to be done or step taken pursuant to this Agreement, (i) the date that is the reference date in calculating such period shall be excluded and (ii) if the last day of such period is not a Business Day, the period in question shall end on the next succeeding Business Day. All references in this Agreement to a

number of days are to such number of calendar days unless Business Days are specified.

(g) Unless otherwise specifically indicated, any reference in this Agreement to \$ means U.S. dollars.

(h) References to a Person are also to its permitted successors and assigns.

Section 8.12 Counterparts; Signatures. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means.

Section 8.13 Non-Recourse.

(a) No past, present or future Financing Source, or shareholder, partner, member, Representative or Affiliate (other than Parent or Merger Subsidiary) of Parent or Merger Subsidiary (and no Representative of any such Affiliate) shall have any liability for any liabilities of Parent or Merger Subsidiary under this Agreement.

(b) This Agreement may only be enforced against, and any claim or cause of action (whether in contract or in tort, in law or in equity, or granted by statute) based upon, arising out of, or related to this Agreement may only be brought against, the Persons who are expressly named as parties hereto and then only with respect to the specific obligations set forth herein with respect to such Person. None of the Financing Sources shall have any liability (whether in contract or in tort, in law or in equity, or granted by statute) (including, for the avoidance of doubt, any special, consequential, punitive or indirect damages or damages of a tortious nature) for any obligations or liabilities of any party hereto under this Agreement or for any claim based on, in respect of, or by reason of, the Transactions, including any dispute arising out of or relating in any way to the Debt Commitment Letter or, in each case, the performance thereof; provided, that in no event shall the foregoing relieve the Financing Sources from any obligations to Parent or Merger Subsidiary (and following the Closing Date, the Company and its Subsidiaries) arising under the Debt Commitment Letter or the Debt Financing Documents.

Signature page follows.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ANI PHARMACEUTICALS, INC.

By: /s/ Nikhil Lalwani
Name: Nikhil Lalwani
Title: President and Chief Executive Officer

ANIP MERGER SUB INC.

By: /s/ Nikhil Lalwani
Name: Nikhil Lalwani
Title: President and Chief Executive Officer

ALIMERA SCIENCES, INC.

By: /s/ Richard S. Eiswirth Jr.
Name: Richard S. Eiswirth Jr.
Title: President and Chief Executive Officer

EXHIBIT A

DEFINITIONS

1.1 Cross Reference Table. The following terms defined elsewhere in this Agreement in the Sections set forth below will have the respective meanings therein defined.

Terms Definition

401(k) Plan	Section 5.12(e)
Agreement	Preamble
Agreement Date	Preamble
Alternative Acquisition Agreement	Section 5.3(a)(vi)
Alternative Financing	Section 5.18(b)
Anti-Takeover Laws	Section 3.19
Capitalization Date	Section 3.2(a)
Change of Control Payment	Section 3.16(a)(x)
Closing	Section 1.1(b)
Closing Cash Consideration	Section 1.2(a)
Closing Date	Section 1.1(b)
Company	Preamble
Company Balance Sheet	Section 3.5(e)
Company Board	RECITALS
Company Board Recommendation	Section 3.3(b)
Company Charter Documents	Section 3.1
Company Disclosure Schedules	Article III
Company Material Contract	Section 3.16(a)
Company Preferred Stock	Section 3.2(a)
Company PSU Cash Consideration	Section 1.5(c)
Company RSA Cash Consideration	Section 1.5(a)
Company RSU Cash Consideration	Section 1.5(d)
Company SEC Reports	Article III
Company Stockholder Approval	Section 3.3(a)
Company Subsidiaries	Section 3.1
Company Termination Fee	Section 7.4(a)
Confidentiality Agreement	Section 5.13
Consent	Section 3.3(c)
CVR	Section 1.2(a)
CVR Agreement	RECITALS
D&O Insurance	Section 5.9(b)
debt	Section 4.9
Debt Financing Agreements	Section 5.18(a)
DGCL	Section 1.1(a)
Dissenting Shares	Section 1.4
Effective Time	Section 1.1(c)
Eligible Option	Section 1.5(b)(ii)
Exchange Agent	Section 1.3(a)
Exchange Fund	Section 1.3(a)
Excluded Shares	Section 1.2(b)
Foreign Antitrust Laws	Section 3.3(c)
Government Antitrust Entity	Section 5.6(c)(i)
Governmental Approval	Section 6.1(b)
Indemnified Persons	Section 5.9(a)
Interim Period	Section 5.1

Leased Real Property Section 3.17(b)
Legal Restraint Section 6.1(e)
Licensed Intellectual Property Section 3.13(b)
Maximum Amount Section 5.9(b)
Merger RECITALS
Merger Consideration Section 1.2(a)
Merger Subsidiary Preamble
Parent Preamble
Parent Disclosure Schedules Article IV
Proxy Statement Section 5.4(a)
Rights Agent RECITALS
SEC Article III
Solvent Section 4.9
Stockholders Meeting Section 5.5
Surviving Corporation Section 1.1(a)
Surviving Corporation Employee Benefit Plan Section 5.12(c)
Termination Date Section 7.1(b)
Transaction Litigation Section 5.10
Voting Agreement RECITALS
Willful Breach Section 7.3

1.2 Certain Definitions. The following terms, as used herein, have the following meanings, which meanings shall be applicable equally to the singular and plural of the terms defined:

“Acquisition Proposal” means any written offer, proposal or similar indication of interest contemplating or otherwise relating to an Acquisition Transaction (other than an offer, proposal or similar indication of interest by Parent, Merger Subsidiary or one of Parent’s other Subsidiaries).

“Acquisition Transaction” means any transaction or series of related transactions (other than the Transactions) involving: (a) any acquisition or purchase by any Person, directly or indirectly, of more than twenty percent (20%) of any class of outstanding voting or equity securities of the Company, or any tender offer (including a self-tender offer) or exchange offer that, if consummated, would result in such Person beneficially owning more than twenty percent (20%) of any class of outstanding voting or equity securities of the Company; (b) any direct or indirect acquisition of twenty percent (20%) or more of the voting equity interests of Company Subsidiaries whose business constitutes twenty percent (20%) or more of the consolidated net revenues, net income, or assets of the Company and the Company Subsidiaries, taken as a whole; (c) any merger, consolidation, share exchange, business combination, joint venture, recapitalization, reorganization or other similar transaction involving the Company, or any of the Company Subsidiaries, pursuant to which such Person would own twenty percent (20%) or more of the consolidated net revenues, net income, or assets of the Company, and the Company Subsidiaries, taken as a whole; (d) any direct or indirect sale, lease, exchange, transfer or other disposition of assets of the Company or the Company Subsidiaries equal to twenty percent (20%) or more of the consolidated assets, revenue or net income of the Company and the Company Subsidiaries (with assets being measured by the fair market value thereof) or (e) liquidation, dissolution (or the adoption of a plan of liquidation or dissolution), or recapitalization or other significant corporate reorganization of the Company which, individually or in the aggregate, generate or constitute twenty percent (20%) or more of the consolidated net revenues, net income, or assets of the Company and the Company Subsidiaries, taken as a whole; provided that, for the avoidance of doubt, all references to “Person” in this definition shall include any “group” as defined pursuant to Section 13(d) of the Exchange Act but shall exclude Parent or any of its Affiliates or Representatives.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Antitrust Law” means the Sherman Act, as amended, the Clayton Act, as amended, the Federal Trade Commission Act, as amended, the HSR Act, and all other Laws, including merger control Laws and Foreign Antitrust Laws, prohibiting, limiting, or promulgated or intended to govern conduct having the purpose or effect of monopolization, restraint of trade, or substantial lessening of competition.

“Authorization” means any consent, order, license, permit, approval and other similar authorization of or from (including any applications to) any Governmental Authority, together with any renewals, extensions, supplemental approvals or modifications thereof and additions thereto.

“Business Day” means any day except Saturday, Sunday or any other day on which commercial banks located in Alpharetta, Georgia and New York, New York are authorized or required by Law to be closed for business.

“Code” means Internal Revenue Code of 1986, as amended.

“Company Common Stock” means the common stock, par value \$0.01 per share, of the Company.

“**Company Employee**” means any current employee or officer of the Company or any of the Company Subsidiaries.

“**Company Employee Agreement**” means any employment, consulting, bonus, incentive, deferred compensation, equity or equity-based compensation, severance, termination, retention, transaction bonus, change in control, or other similar Contract, other than any Company Employee Benefit Plan, between: (a) the Company or any Company Subsidiaries and (b) any current Company Employee or director or other individual service provider of the Company or any Company Subsidiary.

“**Company Employee Benefit Plan**” means an Employee Benefit Plan maintained, adopted, sponsored, contributed or required to be contributed to by the Company, any Company Subsidiary or any Entity with which the Company or any Company Subsidiary is considered a single employer under Section 414(b), (c) or (m) of the Code (a “**Company ERISA Affiliate**”) with respect to any current or former employee, officer or director of the Company or any of the Company Subsidiaries or any beneficiary or dependent thereof and with respect to which the Company, any of the Company Subsidiaries would reasonably be expected to have any material liability.

“**Company Equity Awards**” means the Company Options, Company RSAs, Company RSUs, Company PSUs and Company Inducement Grants.

“**Company ESPP**” means the Company’s 2010 Employee Stock Purchase Plan, as amended.

“**Company Financial Advisor**” means Centerview Partners LLC.

“**Company Inducement Grant**” means an inducement stock option grant whether pursuant to standalone grants or the Company’s 2024 Equity Inducement Plan, or otherwise made by the Company pursuant to NASDAQ Listing Rule 5635(c)(4) outside of the Stock Plans.

“**Company Intellectual Property**” means all of the registered and unregistered Intellectual Property Rights owned by the Company or any Company Subsidiary.

“**Company Material Adverse Effect**” means any event, effect, occurrence, fact, circumstance, development, condition or change that, individually or in the aggregate, has or would be reasonably likely to have a material adverse effect on (a) the business, operations, condition (financial or otherwise), or results of operations of the Company and the Company Subsidiaries, taken as a whole, or (b) the ability of the Company to timely perform in all material respects its obligations under the Agreement or consummate the Transactions on a timely basis; provided, however, that for the purposes of clause (a) none of the following shall be deemed in and of themselves, either alone or in combination, to constitute, and except as provided below, none of the following shall be taken into account in determining whether there is, or would reasonably be likely to be, a Company Material Adverse Effect:

(i) general economic or political conditions (or changes or disruptions in such conditions);

(ii) conditions (or changes or disruptions in such conditions) generally affecting the industries in which the Company and Company Subsidiaries operate;

(iii) conditions (or changes or disruptions in such conditions) in the securities markets, capital markets, credit markets, currency markets or other financial markets in the United States or any other country or region in the world, including (A) changes in interest rates in the United States or any other country or region in the world and changes in exchange rates for the currencies of any countries, (B) any suspension of trading in equity, debt, derivative or hybrid securities, securities generally (including Company Common Stock but only if all other such securities are also delisted) on any securities exchange or over-the-counter market operating in the United States or any other country or

region in the world, (C) any decline in the price or trading volume of any security (other than the Company Common Stock) or any market index, and (D) the availability and cost of equity finance, debt finance or other finance;

(iv) regulatory, legislative or political conditions (or changes or disruptions in such conditions) in the United States or any other country or region in the world or acts of war (whether or not declared), armed or unarmed hostilities or attacks (including cyber-attacks), acts of terrorism, sabotage, or the escalation or worsening thereof in the United States or any other country or region in the world;

(v) actions taken as required or specifically permitted by the Agreement or actions or omissions taken with Parent's consent;

(vi) any changes in applicable Law (including COVID-19 Measures), accounting rules (including GAAP) or other legal or regulatory conditions or the enforcement, implementation or interpretation thereof;

(vii) the announcement of this Agreement or pendency of the Transactions (other than for purposes of any representation or warranty contained in Section 3.3(d) but subject to disclosures in Section 3.3(d) of the Company Disclosure Schedule), including (A) the identity of Parent, and (B) the loss or departure of officers or other employees of the Company or any of the Company Subsidiaries;

(viii) any natural or man-made disaster, hurricane, earthquake, flood, disaster, acts of God, public health emergency, pandemic or other force majeure events; or

(ix) any change, in and of itself, in the market price or trading volume of the Company's securities or any failure by the Company to meet any internal or published forecasts, estimates, projections or expectations of the Company's revenue, earnings or other financial performance or results of operations for any period (provided that the underlying causes of any such changes and failures (subject to the other provisions of this definition) shall not be excluded);

provided, however, that any event, effect, occurrence, fact, circumstance, development, condition or change referred to in clauses (i), (ii), (iii), (iv), (vi), or (viii) immediately above shall be taken into account in determining whether a Company Material Adverse Effect has occurred or would reasonably be expected to occur if it has a disproportionate effect on the Company and its Subsidiaries, taken as a whole, compared to other participants in the industries in which the Company and its Subsidiaries conduct their businesses.

"Company Option" means an option to purchase shares of Company Common Stock.

"Company Plan" means any Company Employee Benefit Plan or Company Employee Agreement.

"Company Product(s)" means any and all products and services that currently are marketed, offered, sold, licensed, provided or distributed by the Company or any Company Subsidiary.

"Company PSU" means an award of restricted stock units with respect to shares of Company Common Stock that is subject to performance-based vesting conditions.

"Company Registered Intellectual Property" means the Company Intellectual Property that are United States, international and foreign: (a) Patents; (b) Trademarks; (c) Copyrights; (d) Domain Names; and (e) any other Intellectual Property Rights; in each case, that are the subject of an application filed with or registration issued by any Governmental Authority or Domain Name registrar.

"Company RSA" means an award of restricted stock with respect to shares of Company Common

Stock.

“**Company RSU**” means an award of restricted stock units with respect to shares of Company Common Stock, other than Company PSUs, including awards of restricted stock units that were previously Company PSUs and for which the performance-based vesting conditions were previously met.

“**Company Systems**” means the computer systems, servers, hardware, software, websites, networks, servers, workstations, and all other physical or virtual information technology equipment owned or controlled by the Company or any of the Company Subsidiaries.

“**Company Warrants**” means issued and outstanding warrants to purchase shares of Company Common Stock issued by the Company that are unexpired and unexercised as of the Effective Time.

“**Competing Acquisition Transaction**” has the same meaning as “Acquisition Transaction” except that all references therein to “20%” shall be references to “50%.”

“**Contract**” means any agreement, contract, subcontract, lease, license, understanding, instrument, note, bond, mortgage, indenture, option, warranty, insurance policy, benefit plan or other binding commitment, whether written or oral.

“**Data Security Requirements**” means, to the extent governing the privacy, data protection or security of any Personal Information, all applicable (a) Law (including, to the extent applicable, the Health Insurance Portability and Accountability Act of 1996 and the EU General Data Protection Regulation), (b) external-facing written privacy policies and privacy notices of the Company or any of the Company Subsidiaries, (c) written information security policies of the Company or any of the Company Subsidiaries, and (d) requirements in any Company Material Contracts.

“**Debt Commitment Letter**” means the debt commitment letter, dated the date hereof, together with any related fee letters (with pricing, other economic and “market flex” terms redacted), in each case, as amended, restated, amended and restated, supplemented or replaced from time to time, pursuant to which the Financing Sources party thereto have agreed to provide or cause to be provided the debt financing set forth therein for the purposes of financing the Transactions, including payment of a portion of the Merger Consideration.

“**Debt Financing**” means the debt financing incurred or intended to be incurred pursuant to the Debt Commitment Letter and/or any other debt or preferred equity financing the proceeds of which will be used for the purposes of financing the Transactions, including payment of a portion of the Merger Consideration.

“**Debt Financing Documents**” means the agreements, documents and certificates contemplated by the Debt Financing, including: (a) all credit agreements, loan documents, incremental facility agreements, purchase agreements, underwriting agreements, indentures, debentures, notes, intercreditor agreements and security documents pursuant to which the Debt Financing will be governed or otherwise contemplated by the Debt Commitment Letter; (b) officer, secretary, solvency and perfection certificates, legal opinions, corporate organizational documents, good standing certificates, Lien searches, and resolutions contemplated by the Debt Commitment Letter or reasonably requested by Parent or its Financing Sources; (c) all documentation and other information required by bank regulatory authorities under applicable “know-your-customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act; and (d) agreements, documents or certificates that facilitate the creation, perfection or enforcement of Liens securing the Debt Financing (including original copies of all certificated securities (with transfer powers executed in blank), control agreements, surveys, title insurance, landlord consent and access letters) as are reasonably requested by Parent or its Financing Sources.

“**EDGAR**” means the Electronic Data Gathering, Analysis, and Retrieval Database for the SEC.

“Employee Benefit Plan” means (a) each “employee benefit plan” (as such term is defined in ERISA § 3(3)); and (b) each other employee benefit plan, program, policy or arrangement, including any retirement, post-retirement, paid time-off, deferred compensation, profit sharing, unemployment compensation, health or welfare benefits, sick pay, fringe benefit, bonus, incentive, equity or equity-based compensation, severance, termination, retention, transaction bonus, change in control plan, program, policy or arrangement (whether or not subject to ERISA § 3(3)).

“Entity” means any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

“Environmental Laws” means any and all foreign, federal, state or local laws, statutes, ordinances, codes, policies, decrees, guidelines, rules, regulations, orders or decisions, including the common and civil law, arising out of or relating to: (a) emissions, discharges, releases or threatened releases of any Hazardous Materials into the environment (including ambient air, surface water, ground water, land surface or subsurface strata); (b) the manufacture, processing, distribution, use, generation, treatment, storage, disposal, transport or handling of any Hazardous Material; and (c) workplace health and safety and protection of employees from exposure to Hazardous Materials.

“Environmental Permits” shall mean all Permits required under any Environmental Law.

“Equity Interest” means any share, capital stock, partnership, limited liability company, membership, member or similar interest in any Person, and any option, warrant, right or other security (including debt securities) or interest convertible, exchangeable or exercisable thereto or therefor.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the regulations promulgated thereunder.

“FDA” shall mean the United States Food and Drug Administration.

“Financing Sources” means the Persons that have committed to provide or arrange or have otherwise entered into agreements in connection with all or any part of the Debt Financing (including, without limitation, the Persons that are party to the Debt Commitment Letter, including any amendments or joinders thereto) or other financings in connection with the Merger and the other Transactions, including the parties to any commitment letters, engagement letters, joinder agreements, indentures or credit agreements entered into pursuant thereto or relating thereto, together with their affiliates and their affiliates’ officers, directors, employees, attorneys, partners (general or limited), controlling parties, shareholders, advisors, members, managers, accountants, consultants, agents, representatives and funding sources involved in the Debt Financing and their respective successors and permitted assigns.

“GAAP” means United States generally accepted accounting principles.

“Governmental Authority” means any federal, state, local, international, multinational, supranational or foreign government or political subdivision thereof, or any agency, commission, instrumentality or other governmental authority of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority, quasi-governmental authority or private body exercising any regulatory or other governmental or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.

“Hazardous Materials” means any solid, liquid or gaseous material, alone or in combination, mixture or solution, which is now or hereafter defined, listed or identified as “hazardous” (including “hazardous substances” or “hazardous wastes”), “toxic”, a “pollutant” or a “contaminant” pursuant to any Environmental Law, including asbestos, urea formaldehyde, polychlorinated biphenyls (PCBs), radon, petroleum (including its derivatives, by-products or other hydrocarbons); and any other substance which is subject in any respect to any Environmental Law, or which poses or could pose a threat or nuisance to health or the environment.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the regulations promulgated thereunder.

“Indebtedness” means, with respect to any Person, all (a) indebtedness of such Person for borrowed money (including the issuance of any debt security) to any Person, (b) other indebtedness of such Person evidenced by credit agreements, notes, bonds, indentures, securities, debentures or similar Contracts, (c) any reimbursement obligations in respect of letters of credit and bankers’ acceptances, (d) all indebtedness created with respect to, or arising under, any deferred purchase price of property or services, any conditional sale or other title retention agreement with respect to property acquired, (e) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value any capital stock of such Person or any warrants, rights or options to acquire such capital stock, valued, in the case of redeemable preferred stock, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends, (f) all obligations of such Person under interest rate or currency swap transactions, (g) obligations with respect to any capital leases that is classified as a liability on a balance sheet in conformity with GAAP, (h) any principal, accreted value, accrued and unpaid interest, prepayment and redemption premiums or penalties (if any), unpaid fees or expenses and other monetary obligations in respect of clauses (a) through (g) above, and (i) all indebtedness of another Person referred to in clauses (a) through (h) above guaranteed by such Person.

“Inside Date” means September 9, 2024 (the **“Initial Inside Date”**); provided, however, that the Initial Inside Date shall be automatically extended for each day on or after the Initial Inside Date on which (but only for so long as) the Company has failed to comply with any of its obligations set forth in Section 5.18 (other than any failures to comply with Section 5.18 that, individually and in the aggregate, are not material).

“Intellectual Property Rights” means any and all statutory and/or common law rights throughout the world in, arising out of, or associated with any of the following: (a) all United States and foreign patents and utility models and applications therefor (including provisional applications) and all reissues, divisions, renewals, extensions, provisional applications, continuations and continuations in part thereof (collectively, **“Patents”**); (b) all Trade Secrets and similar rights in confidential information, know-how, and materials; (c) copyrights and all other rights corresponding thereto in any works of authorship (collectively, **“Copyrights”**); (d) all trademark rights and the goodwill thereof and similar rights in trade names, logos, trademarks and service marks (collectively, **“Trademarks”**); (e) all rights in databases and data collections (including knowledge databases, customer lists and customer databases); (f) all rights to uniform resource locators, web site addresses and domain names (collectively, **“Domain Names”**); (g) any similar, corresponding or equivalent rights to any of the foregoing; and (h) any registrations of or applications to register any of the foregoing.

“Knowledge” means, with respect to (a) the Company, the actual knowledge of those individuals set forth in Section 1.0(a) of the Company Disclosure Schedules and (b) Parent or Merger Subsidiary, the actual knowledge of those individuals set forth in Section 1.0(b) of the Parent Disclosure Schedules, in each case after due inquiry of their direct reports who would reasonably be expected to have actual knowledge of the matter in question. With respect to Company Intellectual Property, “Knowledge” or “Known” does not require the Company to conduct, have conducted, obtain, have obtained, review or have reviewed any freedom-to-operate opinions or similar opinions of counsel or any patent, trademark or other Company Intellectual Property clearance searches or search for or review any prior art.

“**Law**” means any federal, state, local, municipal, foreign or multi-national statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, Orders, or other requirement or rule of law of any Governmental Authority, excluding, for the avoidance of doubt, the provisions of any Contract between the Company or any Company Subsidiary and a Governmental Authority entered into in the ordinary course with respect to Company Products.

“**Legal Proceeding**” means any action, suit, litigation, arbitration, proceeding (including any legal, arbitral, civil, criminal, administrative, investigative or appellate proceeding), claim, charge, complaint, indictment, hearing, inquiry, audit, examination, investigation or other similar legal proceeding commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Authority, any arbitrator or arbitration panel, mediator, or other tribunal.

“**Lien**” means any lien, pledge, hypothecation, charge, mortgage, deed of trust, security interest, security arrangement, claim, infringement, interference, option, restriction, title retention device, claim easement, right of way, encroachment, right of first refusal, right of first offer, conditional sale agreement, tenancy, license, charge, preemptive right, encumbrance or community property interest of any kind or nature whatsoever.

“**Maximum Total Consideration**” shall mean the sum of the Closing Cash Consideration and the maximum amount payable in respect of one (1) CVR.

“**Nasdaq**” means The NASDAQ Market, LLC.

“**Order**” means, with respect to any Person, any order, judgment, decision, decree, injunction, ruling, writ, assessment or other similar requirement issued, enacted, adopted, promulgated or applied by any Governmental Authority, arbitrator or other tribunal, whether temporary, preliminary, or permanent.

“**Payoff Letter**” means a customary payoff letter, from the collateral agent and the lenders under that certain Loan and Security Agreement, dated as of December 31, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**SLR Loan Agreement**”), among SLR Investment Corp., a Maryland corporation (formerly known as Solar Capital Ltd.), as collateral agent, the lenders from time to time party thereto, and the Company, as the borrower, specifying the amount of all Indebtedness outstanding under the SLR Loan Agreement as well as all other amounts required to fully pay off such Indebtedness and all other obligations thereunder on the Closing Date and agreeing that, upon such collateral agent’s and lenders’ receipt of the applicable payoff amount (a) all outstanding principal, interest, fees, costs, expenses and other obligations of the Company and its Subsidiaries arising under the SLR Loan Agreement and all related loan documents shall be repaid and discharged in full (to the extent applicable, other than in respect of obligations which by their express terms survive such repayment) and (b) any Liens granted in connection with the SLR Loan Agreement and all related loan documents shall be released and terminated.

“**Permitted Lien**” means (a) mechanics’, carriers’, workmen’s, warehousemen’s, repairmen’s or other like Liens arising or incurred in the ordinary course of business that are not due and payable or that are being contested in good faith by appropriate proceedings; (b) Liens for Taxes that are not due and payable or that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in the Company’s consolidated financial statements; (c) Liens affecting the interest of the grantor of any easements benefiting any real property provided such easements do not materially impair the continued use and operations of the Leased Real Property; (d) defects or irregularities in title, easements, rights of way, covenants, restrictions, and other, similar Liens that would not, individually or in the aggregate, reasonably be expected to materially impair the value of or continued use and operation of the properties and assets to which they relate; (e) zoning, building and other similar Laws imposed by Governmental Authorities having jurisdiction over such Person’s owned or leased real property, which are not violated by the current use and operation of such real property; (f) statutory Liens to secure obligations to landlords, lessors or renters under leases or rental agreements that

have not been breached: (g) deposits or pledges made in connection with, or to secure payment of, workers' compensation, unemployment insurance or similar programs mandated by applicable Law; (h) non-exclusive licenses to Intellectual Property Rights granted in the ordinary course of business and restrictions associated with third party rights and licenses; and (i) covenants, conditions, restrictions, easements, and other similar non-monetary matters of record affecting title to such Person's owned or leased real property that do not, individually or in the aggregate, materially interfere with the use, operation or transfer of, or any of the benefits of ownership of, the property of the Company and the Company Subsidiaries taken as a whole.

"Person" means any individual, Entity or Governmental Authority.

"Personal Information" means data or other information that is defined as "personal information," "personal data," "personally identifiable information," or "protected health information" or equivalent terms under any applicable Law.

"Processed" means any operation or set of operations that is performed on data, including access, collection, use, processing, securing, storage, transfer, disclosure, destruction, modification, or disposal.

"Real Property Leases" means the leases, subleases, licenses, sublicenses, and occupancy agreements, together with all amendments, modifications, and side letters thereto, underlying the Leased Real Property or otherwise affecting the Leased Real Property.

"Release" means any release, spilling, leaking, pumping, pouring, discharging, emitting, emptying, escaping, leaching, injecting, dumping, abandonment, or disposing into the environment.

"Remedial Action" means any removal, abatement, response, investigative (including pre-remedial studies, investigations or monitoring), treatment, cleanup, restoration and/or monitoring activities undertaken to address any pollution, contamination, degradation, damage or injury caused by, related to, arising from, or in connection with the generation, handling, use, treatment, storage, transportation, or Release of any Hazardous Material.

"Representatives" means officers, directors, employees, agents, attorneys, accountants, advisors, consultants, investment bankers, brokers, and other advisors and representatives.

"Required Information" means the financial statements relating to the Company and its Subsidiaries identified in paragraph 7 of Exhibit C of the Debt Commitment Letter and such other information relating to the Company and its Subsidiaries reasonably requested by Parent and necessary to complete an Information Memorandum (as such term is defined in the Debt Commitment Letter).

"Sarbanes-Oxley Act" means the Sarbanes-Oxley Act of 2002, as amended and the regulations promulgated thereunder.

"Securities Act" means the Securities Act of 1933, as amended, and the regulations promulgated thereunder.

"Security Incident" means any (a) breach of security, phishing incident, ransomware or malware attack affecting any Company Systems, or (b) incident in which Personal Information is Processed (including any exfiltration or disclosure) in an unauthorized or unlawful manner.

"SLR Loan Agreement" has the meaning assigned to such term in the definition of "Payoff Letter" contained in this [Exhibit A](#).

"Specified Auditor Assistance" means (a) providing customary "comfort letters" (including customary "negative assurances" and change period comfort) for a public registration statement, a private

placement transaction or the financial statements included in the Required Information, (b) providing consent to offering memoranda that include or incorporate the Company's consolidated financial statements and the notes thereto and audit reports, and (c) providing customary consents to references to the auditor as an expert in any public registration statement.

"Stock Plans" means the Company's 2010 Equity Incentive Plan, the Company's 2019 Omnibus Incentive Plan, the Company's 2023 Omnibus Incentive Plan, and the Company's 2024 Equity Inducement Plan, including any sub-plans, and any other stock option, stock bonus, stock award, or stock purchase plan, program, standalone stock grant agreement, or arrangement of the Company or any of the Company Subsidiaries or any predecessor thereof or any other contract or agreement entered into by the Company or any of the Company Subsidiaries.

"Subsidiary" An Entity shall be deemed to be a "Subsidiary" of another Person if such Person directly or indirectly owns, beneficially or of record: (a) an amount of voting securities of other interests in such Entity that is sufficient to enable such Person to elect at least a majority of the members of such Entity's board of directors or other governing body; or (b) at least 50% of the outstanding equity or financial interests of such Entity.

"Superior Proposal" means a bona fide Acquisition Proposal that did not result from a material breach of [Section 5.3](#) that if consummated would result in a Person owning, directly or indirectly, (a) more than 50% of the outstanding shares of the Company Common Stock or (b) more than 50% of the assets of the Company and the Company Subsidiaries, taken as a whole, in either case, which the Company Board determines in good faith (after consultation with its independent financial advisor and outside legal counsel): (i) to be reasonably likely to be consummated in accordance with its terms if accepted; and (ii) if consummated, would result in a transaction more favorable to the holders of the Company Common Stock from a financial point of view than the Merger, in each case, taking into account: (A) all financial considerations; (B) the identity of the third party making such Acquisition Proposal; (C) the anticipated timing, conditions (including any financing condition or the reliability of any debt or equity funding commitments) and prospects for completion of such Acquisition Proposal; (D) the other terms and conditions of such Acquisition Proposal and the implications thereof on the Company, including relevant legal, regulatory, and other aspects of such Acquisition Proposal deemed relevant by the Company Board (including any conditions relating to financing, stockholder approval, regulatory approvals, or other events or circumstances beyond the control of the party invoking the condition); and (E) any revisions to the terms of this Agreement and the Merger proposed by Parent during the Notice Period set forth in [Section 5.3\(e\)](#).

"Tax" means any tax (including any income tax, franchise tax, capital gains tax, gross receipts tax, value-added tax, surtax, excise tax, ad valorem tax, transfer tax, stamp tax, sales tax, use tax, property tax, business tax, withholding tax or payroll tax), levy, assessment, tariff, duty (including any customs duty), deficiency or fee in the nature of a tax, and any related charge or amount (including any fine, penalty or interest), imposed, assessed or collected by or under the authority of any Governmental Authority.

"Tax Return" means any return (including any information return), report, statement, declaration, estimate, schedule, notice, notification, form, election, certificate or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Authority in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Law relating to any Tax.

"Trade Secrets" has the meaning given to it under the United States Uniform Trade Secrets Act.

"Transactions" means the Merger and the other transactions contemplated by this Agreement.

"Unvested Company Option" means an outstanding and unexercised Company Option (or

portion thereof) that is not a Vested Company Option.

“*Vested Company Option*” means a Company Option (or portion thereof) that is vested as of immediately prior to the Effective Time and includes any Company Option (or portion thereof) which accelerates vesting contingent and effective immediately prior to the Effective Time and/or in connection with the Closing.

EXHIBIT B
CVR AGREEMENT

(See attached.)

FORM OF CONTINGENT VALUE RIGHTS AGREEMENT

This CONTINGENT VALUE RIGHTS AGREEMENT, dated as of [●] (this "**Agreement**"), is entered into by and between ANI Pharmaceuticals, Inc., a Delaware corporation ("**Parent**"), and [●], a [●], as Rights Agent (as defined herein). Capitalized terms used but not defined herein shall have the meaning assigned to such terms in the Merger Agreement (as defined herein).

RECITALS

WHEREAS, Parent, ANIP Merger Sub INC., a Delaware corporation and wholly owned indirect subsidiary of Parent ("**Merger Subsidiary**"), and Alimera Sciences, Inc., a Delaware corporation (the "**Company**"), have entered into an Agreement and Plan of Merger, dated as of June 21, 2024 (as it may be amended or supplemented from time to time pursuant to the terms thereof, the "**Merger Agreement**"), pursuant to which, among other things, Merger Subsidiary shall merge with and into the Company (the "**Merger**"), with the Company continuing as the surviving corporation in the Merger, whereby (i) each share of common stock of the Company, par value \$0.01 per share ("**Company Common Stock**") outstanding as of the Effective Time (other than Excluded Shares and Dissenting Shares) will be converted into the right to receive (a) \$5.50 per share, in cash, without interest and (b) one (1) contingent value right (a "**CVR**"), which shall represent, subject to the terms set forth in this Agreement and the Merger Agreement, the right to receive the Milestone Payment (as defined below) (clauses (a) and (b), collectively, the "**Merger Consideration**"), and (ii) the Company shall continue as a wholly owned subsidiary of Parent; and

WHEREAS, as an integral part of the consideration for the Merger, pursuant to and subject to the terms and conditions of this Agreement and the Merger Agreement, holders of Company Common Stock (other than Excluded Shares and Dissenting Shares), as well as holders of Company Warrants, Company Options, Company PSUs, Company RSAs and Company RSUs may become entitled (any such holders, the "**Initial Holders**") to receive up to one (1) contingent cash payment per CVR, such payment being contingent upon, and subject to, the achievement of the Milestone (as defined below).

NOW, THEREFORE, in consideration of the foregoing and the consummation of the transactions referred to above, the parties agree, for the equal and proportionate benefit of all Holders (as defined herein), as follows:

ARTICLE I
DEFINITIONS; CERTAIN RULES OF CONSTRUCTION

Section 1.1 Definitions. As used in this Agreement, the following terms will have the following meanings:

“**Acting Holders**” means, at the time of determination, Holders of not less than thirty-five percent (35%) of outstanding CVRs as set forth in the CVR Register.

“**Agreement**” has the meaning set forth in the preamble hereto.

“**Assignee**” has the meaning set forth in [Section 6.3](#).

“**Assignment Transaction**” means any transaction (including a sale of assets, spin-off, split-off or licensing transaction), other than a Change in Control, pursuant to which rights in and to the CVR Products are sold, licensed, assigned or transferred to or acquired by any Person other than an Affiliate. For purposes of clarification, an “Assignment Transaction” shall not apply to (a) sales of the CVR Products made by Parent or its Subsidiaries or controlled Affiliates or ordinary course licensing, collaboration or distribution arrangements in which less than exclusive worldwide rights are granted for purposes of developing or commercializing CVR Products and (b) any Change of Control. Notwithstanding the foregoing, a sale of a business, a spin off, a split off or an exclusive licensing transaction pursuant to which rights in and to the CVR Products are sold, licensed, assigned or transferred to or acquired by any Person other than an Affiliate shall not be considered “ordinary course” pursuant to clause (a) of the immediately foregoing sentence.

“**Assignment Transaction Acquirer**” has the meaning set forth in [Section 4.3\(a\)](#).

“**Change of Control**” means (a) a sale or other disposition of all or substantially all of the assets of Parent on a consolidated basis (other than to any Subsidiary (direct or indirect) of Parent), (b) a merger or consolidation involving Parent in which Parent is not the surviving entity, and (c) any other transaction involving Parent in which Parent is the surviving or continuing entity but in which the stockholders of Parent immediately prior to such transaction (as stockholders of Parent) own less than fifty percent (50%) of Parent’s voting power immediately after the transaction.

“**Company**” has the meaning set forth in the Recitals hereto.

“**Company Common Stock**” has the meaning set forth in the Recitals hereto.

“**CVRs**” means the rights of Holders hereunder (granted to Initial Holders as part of the consideration of the Merger pursuant to the terms of the Merger Agreement) to receive contingent cash payments on the terms and subject to the conditions of this Agreement and the Merger Agreement.

“**CVR Products**” means the pharmaceutical products currently marketed and sold under the trademarks ILUVIEN® and YUTIQ® in their current formulations and for their current or future indications.

“**CVR Register**” has the meaning set forth in [Section 2.3\(b\)](#).

“**CVR Shortfall**” has the meaning set forth in [Section 4.6\(b\)](#).

“**Delaware Courts**” has the meaning set forth in [Section 6.6\(a\)](#).

“**Depository**” means [●].

“**Diligent Efforts**” means, with respect to the CVR Products, efforts of a Person to carry out its

obligations in a diligent and sustained manner without undue pause, interruption or delay, which level is at least commensurate with the level of efforts of a pharmaceutical company of comparable size and resources as those of Parent and its Affiliates would devote to the commercialization of a pharmaceutical product having similar market potential as the CVR Products, at a similar stage of its development or product life, taking into account issues of market exclusivity, product profile, including safety, tolerability and efficacy, the competitiveness of alternate products in the marketplace or under development, the launch or sales of a generic or biosimilar product, the availability of supply, the regulatory environment and the profitability of the CVR Products (including pricing and reimbursement status achieved), Parent's portfolio at the time of consideration and other technical, commercial, legal, scientific and/or medical factors; provided, that such level of efforts and resources shall be determined without taking into account the fact of the potential Milestone Payment payable in accordance with, and subject to, the terms of this Agreement. For the avoidance of doubt, [Section 4.4](#) shall apply to Parent and its successors and assigns. Notwithstanding anything to the contrary in this Agreement, the Holders acknowledge that Parent has fiduciary obligations to operate its business in the best interests of its stockholders, and any potential obligation to pay the Milestone Payments under this Agreement does not create any express or implied obligation to operate Parent's business in any particular manner and further that the use of Diligent Efforts does not mean that Parent guarantees it will actually achieve any Milestone, and that the failure to achieve any Milestone may still be consistent with the use of Diligent Efforts.

"Dispute Notice" has the meaning set forth in [Section 4.6\(a\)](#).

"DTC" means The Depository Trust Company or any successor thereto.

"Equity Award CVR" means a CVR received by an Initial Holder in respect of a Company Option, Company RSU, Company RSA (for which a timely and valid Section 83(b) election has not been made) or Company PSU.

"Funds" has the meaning set forth in [Section 2.6](#).

"GAAP" means the generally accepted accounting principles in the United States as established by the Financial Accounting Standards Board or any successor entity or other entity generally recognized as having the right to establish such principles in the United States, in each case, (i) which principals are currently used at the applicable time by Parent in the preparation of the consolidated financial statements of Parent and (ii) as consistently applied throughout the periods involved.

"Gross Revenue" means, for any relevant period, on an accrual basis in accordance with GAAP any arm's length transaction in which CVR Products are sold by the Company or its Affiliates (or any Transaction Assignment Acquiror or any of its Affiliates) to a third party, the gross invoice price (other than sales, use, VAT or similar taxes) for CVR Products in such transactions (for the avoidance of doubt such amounts exclude Products intended for use solely as samples, including, without limitation, as free clinical trial materials, and Products utilized in patient assistance or other similar programs) including but not limited to royalty revenue and milestone consideration, that is earned or received by the Company or its Affiliates (or any Transaction Assignment Acquiror or any of its Affiliates) with regard to a CVR Product. For the avoidance of doubt, any remuneration that the Company receives in connection with any Assignment Transaction itself (excluding, for the avoidance of doubt, sales of CVR Products to third parties) shall be excluded from the calculation of Gross Revenue and Net Revenues, whether taking the form of a lump sum payment, milestone, upfront consideration, royalty, or otherwise.

"Holder" means a Person in whose name a CVR is registered in the CVR Register as of the applicable date and time of determination.

"Initial Holder" has the meaning set forth in the Recitals hereto.

"Merger" has the meaning set forth in the Recitals hereto.

“**Merger Agreement**” has the meaning set forth in the Recitals hereto.

“**Merger Consideration**” has the meaning set forth in the Recitals hereto.

“**Merger Subsidiary**” has the meaning set forth in the Recitals hereto.

“**Milestone**” means the achievement of (a) aggregate worldwide Net Revenue for 2026 in excess of \$140,000,000 or (b) aggregate worldwide Net Revenue for 2027 in excess of \$160,000,000, as the case may be.

“**Milestone Notice**” has the meaning set forth in Section 2.4(a).

“**Milestone Payment for 2026**” means for each CVR an amount payable equal to the product (rounded to the nearest 1/100 of \$0.01) of \$0.25 multiplied by a fraction (not exceeding one), the numerator of which is the amount, if any, by which the Net Revenue for 2026 exceeds \$140,000,000 and the denominator of which is \$10,000,000, without interest. By way of examples, (a) if the Net Revenue for 2026 were \$147,000,000, then the calculation would be $(\$147,000,000 - \$140,000,000) \div \$10,000,000$, which equals 0.70, multiplied by \$0.25, and the Milestone Payment for 2026 would be \$0.1750, and (b) if the Net Revenue for 2026 were \$151,000,000, then the fraction would exceed one and would count as one, multiplied by \$0.25, and the Milestone Payment for 2026 would be \$0.25. For the avoidance of doubt, in no circumstance will more than \$0.25 per CVR be payable in respect of the Net Revenue for 2026.

“**Milestone Payment for 2027**” means for each CVR an amount payable equal to the product (rounded to the nearest 1/100 of \$0.01) of \$0.25 multiplied by a fraction (not exceeding one), the numerator of which is the amount, if any, by which the Net Revenue for 2027 exceeds \$160,000,000 and the denominator of which is \$15,000,000, without interest. By way of examples, (a) if the Net Revenue for 2027 were \$171,000,000, then the calculation would be $(\$171,000,000 - \$160,000,000) \div \$15,000,000$, which equals 0.73333, multiplied by \$0.25, and the Milestone Payment for 2027 would be \$0.18333, and (b) if the Net Revenue for 2027 were \$176,000,000, then the fraction would exceed one and would count as one, multiplied by \$0.25, and the Milestone Payment for 2027 would be \$0.25. For the avoidance of doubt, in no circumstance will more than \$0.25 per CVR be payable in respect of the Net Revenue for 2027.

“**Milestone Payment Amount for 2026**” means, for a given Holder, the product of (a) the Milestone Payment for 2026 and (b) the number of CVRs held by such Holder as reflected on the CVR Register as of the close of business on the date of the applicable Milestone Notice. Notwithstanding the foregoing or anything to the contrary in this Agreement, the Milestone Payment Amount for 2026 in respect of any Company Option that constitutes an Eligible Option shall be payable subject to and in accordance with Section 1.5(b)(ii) of the Merger Agreement. For the avoidance of doubt, each Company Option that is outstanding and unexercised at the Effective Time and that has an exercise price per share that is equal to or greater than the Maximum Total Consideration shall, at the Effective Time, be cancelled with no consideration payable in respect thereof in accordance with Section 1.5(b)(iii) of the Merger Agreement and shall not be entitled to receive any Milestone Payment Amount for 2026.

“**Milestone Payment Amount for 2027**” means, for a given Holder, the product of (a) the Milestone Payment for 2027 and (b) the number of CVRs held by such Holder as reflected on the CVR Register as of the close of business on the date of the applicable Milestone Notice. Notwithstanding the foregoing or anything to the contrary in this Agreement, the Milestone Payment Amount for 2027 in respect of any Company Option that constitutes an Eligible Option shall be payable subject to and in accordance with Section 1.5(b)(ii) of the Merger Agreement. For the avoidance of doubt, each Company Option that is outstanding and unexercised at the Effective Time and that has an exercise price per share that is equal to or greater than the Maximum Total Consideration shall, at the Effective Time, be cancelled with no consideration payable in respect thereof in accordance with Section 1.5(b)(iii) of the

Merger Agreement and shall not be entitled to receive any Milestone Payment Amount for 2027.

“**Milestone Payment**” refers to a Milestone Payment for 2026 or a Milestone Payment for 2027, and “**Milestone Payments**” refers to both a Milestone Payment for 2026 and a Milestone Payment for 2027.

“**Milestone Payment Date**” has the meaning set forth in [Section 2.4\(a\)](#).

“**Net Revenue**” for any year means, with regard to a CVR Product, on an accrual basis, for any relevant period, Gross Revenue less normal and customary deductions in accordance with GAAP; including, but not limited to:

- (i) all chargebacks, rebates, administrative fees, trade, cash and quantity discounts, and other customary discounts to customers, wholesalers, resellers, distributors, or similar
- (ii) rebates and reimbursements to managed care organizations, PBMs, group purchasing organizations or other buying groups, health maintenance organizations, other providers of health insurance coverage, health care organizations and other health care institutions (including hospitals), healthcare administrators and other similar entities;
- (iii) compulsory payments, rebates and discounts in any form pursuant to government regulations by reason of any national or local health insurance program or similar program (inclusive of Medicaid, Medicare and similar programs), including government levied fees;
- (iv) patient level coupons, copay assistance, other patient out-of-pocket cost funding, and similar;
- (v) credits and allowances for spoiled, damaged, outdated, rejected, returned and recalled Products previously sold;
- (vi) retroactive price adjustments, billbacks, billing errors, failure to supply, price protection, shelf stock adjustments;
- (vii) uncollectable amounts on prior commercial sales;
- (viii) only to the extent included in Gross Revenue, reasonable and customary outbound freight, shipping, insurance and other transportation expenses, the extent actually borne by the Parent or its Subsidiaries without reimbursement from any third party;
- (ix) only to the extent included in Gross Revenue, tariffs, duties, excise, sales, value-added, medical device and other similar Taxes (other than Taxes based upon income or profits) customs duties or other charges of a governmental authority, only to the extent such taxes are not reimbursable or refundable;

provided that (a) the costs associated with administering any contractual and governmental rebates or co-pay assistance program shall be excluded as a deduction from Gross Revenues; and (b) in all instances in which the Company or its Affiliates (or any Assignment Transaction Acquiror or any of its Affiliates) invoices a sublicensee or distributor separately for the fully burdened cost of a CVR Product (other than amounts specifically identified on such invoice, and invoiced at cost or less, for a CVR Product to be used as samples or for clinical trials), such amounts are to be included as a component of Gross Revenues at their invoiced net amount.

For the avoidance of doubt, Net Revenue shall include the price concessions, fees and other deductions listed above paid to any private, public, or other insurer, pharmacy, customer, distributor, institution, health system, hospital or patient. in countries outside of the United States.

“**Net Revenue Statement**” for any year means a written statement of Parent, setting forth with reasonable detail (a) the Net Revenue for such year (together with a reconciliation of Gross Revenue to Net Revenue), and (b) to the extent achieved, a calculation of the Milestone Payment for 2026 or the Milestone Payment for 2027, as the case may be.

“**Officer’s Certificate**” means a certificate signed by an authorized officer of Parent, in his or her capacity as such an officer, and delivered to the Rights Agent.

“**Parent**” has the meaning set forth in the preamble hereto.

“**Parent Accounting Practices**” means, as of any time, determined in accordance with the Parent’s books and records in accordance with GAAP.

“**Permitted CVR Transfer**” means: a transfer of CVRs (a) by will or intestacy upon death of a Holder; (b) by instrument to an inter vivos or testamentary trust in which the CVRs are to be passed to beneficiaries upon the death of the settlor; (c) pursuant to a court order; (d) by operation of law (including by consolidation or merger of the Holder) or if effectuated without consideration in connection with the dissolution, liquidation or termination of any Holder that is a corporation, limited liability company, partnership or other entity; (e) in the case of CVRs held in book-entry or other similar nominee form, from a nominee to a beneficial owner, and if applicable, through an intermediary; (f) if the Holder is a partnership or limited liability company, a distribution by the transferring partnership or limited liability company to its partners or members, as applicable (provided that such distribution does not subject the CVRs to a requirement of registration under the Securities Act of 1933, as amended or the Securities Exchange Act of 1934, as amended); (g) to the controlled Affiliates of a Holder; or (h) as provided in [Section 2.7](#).

“**Review Request Period**” has the meaning set forth in [Section 4.6\(a\)](#).

“**Rights Agent**” means the Rights Agent named in the preamble of this Agreement, until a successor Rights Agent is appointed pursuant to the applicable provisions of this Agreement, and thereafter “Rights Agent” will mean such successor Rights Agent.

“**Significant Pharmaceutical Company**” means a company (a) which, together with its Affiliates, has substantial capabilities and experience in the manufacture, distribution and commercialization of pharmaceutical products for human use, and (b) which, together with its Affiliates, has development, regulatory and scientific infrastructure relevant to the CVR Products that is at least reasonably comparable to that of Parent and its Affiliates.

“**Subsidiary**” means an entity of which another Person directly or indirectly owns, beneficially or of record: (a) an amount of voting securities of other interests in such entity that is sufficient to enable such Person to elect at least a majority of the members of such entity’s board of directors or other governing body; or (b) at least 50% of the outstanding equity or financial interests of such entity.

“**Termination Date**” has the meaning set forth in [Section 6.9](#).

Section 1.2 **Rules of Construction**. For purposes of this Agreement, whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include the masculine and feminine genders. Except as otherwise indicated, all references in this Agreement to “Sections” are intended to refer to Sections of this Agreement. The word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if.” All references to “dollars” or “\$” shall refer to the lawful currency of the United States. As used in this Agreement, the word “including” and words of similar

import shall mean including without limiting the generality of any description preceding such term, unless otherwise specified. The word “or” will not be exclusive. The word “will” shall be construed to have the same meaning and effect as the word “shall.” Whenever used in this Agreement, any noun or pronoun will be deemed to include the plural as well as the singular and to cover all genders. Any reference to any Person shall be construed to include such Person’s successors and assigns. The words “ordinary course of business” and “ordinary course” shall mean the ordinary course of business consistent with past practice. All references to days or months shall be deemed references to calendar days or months unless otherwise specified herein. Any reference to (i) any Governmental Authority includes any successor to that Governmental Authority; and (ii) any applicable Law refers to such applicable Law as amended, modified, supplemented, or replaced from time to time (and, in the case of statutes, include any rule and regulation promulgated under such statute) and references to any section of any applicable Law includes any successor to such section (provided that, for purposes of any representation and warranty in this Agreement that is made as of a specific date, references to any Law shall be deemed to refer to such Law, as amended, and to any rule or regulation promulgated thereunder, in each case, as of such date). The underlined headings contained in this Agreement are for convenience of reference only, shall not be deemed to be a part of this Agreement and shall not be referred to in connection with the construction or interpretation of this Agreement. The parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement.

ARTICLE II CONTINGENT VALUE RIGHTS

Section 2.1 CVRs. Each CVR represents the contractual right of a Holder (granted to each Initial Holder as part of the consideration of the Merger pursuant to the terms of the Merger Agreement) to receive the Milestone Payments pursuant to, and subject to the terms and conditions of, this Agreement.

Section 2.2 Nontransferable. The CVRs shall not be sold, assigned, transferred, pledged, encumbered or in any other manner transferred or disposed of, in whole or in part, other than through a Permitted CVR Transfer; the foregoing restrictions shall apply notwithstanding that certain of the CVRs will be held through DTC. Any attempted sale, assignment, transfer, pledge, encumbrance or disposition of CVRs, in whole or in part, in violation of this Section 2.2 shall be void *ab initio* and of no effect. The CVRs will not be listed on any quotation system or traded on any securities exchange.

Section 2.3 No Certificate; Registration; Registration of Transfer; Change of Address.

(a) The CVRs will not be evidenced by a certificate or other instrument.

(b) The Rights Agent will create and maintain a register (the “CVR Register”) for the purpose of (i) identifying the Holders of CVRs and (ii) registering CVRs in book-entry position and Permitted CVR Transfers thereof. The CVR Register shall set forth (x) with respect to holders of Company Common Stock that hold such shares in book-entry form through DTC immediately prior to the Effective Time, one (1) position for Cede & Co. (as nominee of DTC) representing all such shares of Company Common Stock that were converted into the right to receive the Merger Consideration as a consequence of the Merger in accordance with the terms of the Merger Agreement, and (y) with respect to (A) holders of shares of Company Common Stock that hold such shares in certificated form immediately prior to the Effective Time that were converted into the right to receive the Merger Consideration as a consequence of the Merger in accordance with the terms of the Merger Agreement, upon delivery to the Depository by each such holder of the applicable stock certificates, together with a validly executed letter of transmittal and such other customary documents as may be reasonably requested by the Depository, in accordance with the Merger Agreement, (B) holders of shares of Company Common Stock who hold such shares in book-entry form through the Company’s transfer agent immediately prior to the Effective Time, and (C) holders of Company Warrants, Company Options, Company PSUs, Company RSUs, Company

RSAs, in each case of clauses (A), (B) and (C), the applicable number of CVRs to which each such holder is entitled pursuant to the Merger Agreement or the Company Warrants (other than, in the case of the foregoing clauses (X), (Y)(A) and (Y)(B), those who have perfected their appraisal rights in accordance with Section 262 of the General Corporation Law of the State of Delaware). The CVR Register will be updated as necessary by the Rights Agent to reflect the addition or removal of Holders (pursuant to any Permitted Transfers), upon the written receipt of such information by the Rights Agent.

(c) Subject to the restrictions on transferability set forth in Section 2.2, every request made to transfer a CVR must be in writing and accompanied by a written instrument of transfer, in form reasonably satisfactory to the Rights Agent pursuant to its guidelines, duly executed by the Holder thereof, the Holder's attorney duly authorized in writing, the Holder's personal representative duly authorized in writing, or the Holder's survivor (with written documentation evidencing such person's status as the Holder's survivor), as applicable, and setting forth in reasonable detail the circumstances relating to the requested transfer. Upon receipt of such written notice, the Rights Agent will, subject to its reasonable determination that the transfer instrument is in proper form and the transfer otherwise complies with the other terms and conditions of this Agreement (including the provisions of Section 2.2), register the transfer of the CVRs in the CVR Register. As a condition of such transfer, Parent and the Rights Agent may require a transferring Holder or its transferee to pay to the applicable Governmental Authority any transfer, stamp or other similar Tax or governmental charge that is imposed in connection with any such registration of transfer. The Rights Agent shall have no duty or obligation to take any action under any section of this Agreement that requires the payment by a Holder of a CVR of such applicable Taxes or charges unless and until the Rights Agent is reasonably satisfied that all such Taxes or charges have been paid or that such Taxes or charges are not applicable. All CVRs duly transferred in accordance with Section 2.2 that are registered in the CVR Register will be the valid obligations of Parent and will entitle the transferee to the same benefits and rights under this Agreement as those held immediately prior to the transfer by the transferor. No transfer of a CVR will be valid until registered in the CVR Register in accordance with this Agreement.

(d) A Holder may make a written request to the Rights Agent to change such Holder's address of record in the CVR Register. The written request must be duly executed by the Holder. Upon receipt of such written notice, the Rights Agent will promptly record the change of address in the CVR Register.

Section 2.4 Payment Procedures; Notices.

(a) For each Milestone that is attained, on or prior to the date that is fifteen (15) Business Days following the filing by Parent of its audited financial statements with the Securities and Exchange Commission on Form 10-K for the year in which such Milestone was attained (such date, a "Milestone Payment Date"), (i) Parent shall deliver to the Rights Agent (x) a written notice indicating that such Milestone has been achieved (each, a "Milestone Notice"), (y) the Net Revenue Statement for the applicable year, and (z) any letter of instruction reasonably requested by the Rights Agent and (ii) Parent shall deliver to the Rights Agent the payment required by Section 4.2. For the avoidance of doubt, each of the Milestone Payment for 2026 and the Milestone Payment for 2027 shall only be due once, subject to the conditions set forth herein, if at all.

(b) The Rights Agent will promptly, and in any event within fifteen (15) Business Days after receipt of a Milestone Notice as well as any letter of instruction reasonably requested by the Rights Agent, send each Holder at its registered address a copy of such Milestone Notice and pay the Milestone Payment Amount for 2026 or the Milestone Payment Amount for 2027, as the case may be, to each Holder (other than a Holder of an Equity Award CVR) (i) by check mailed to the address of each Holder as reflected in the CVR Register as of the close of business on the date of such Milestone Notice or (ii) with respect to any such Holder that is due an amount in excess of \$100,000 in the aggregate who has provided the Rights Agent wiring instructions in writing as of the close of business on the date of such Milestone Notice, by wire transfer of immediately available funds to the account specified on such

instruction. Parent or one of its Subsidiaries will pay the Milestone Payment Amount for 2026 or the Milestone Payment Amount for 2027, as the case may be, to each Holder of an Equity Award CVR within fifteen (15) Business Days of the receipt of such Milestone Notice, subject to Section 2.4(c) of this Agreement; provided that notwithstanding anything to the contrary contained herein, payment in respect of an Equity Award CVR shall only be made to the extent such payment is made not later than five years after the Closing Date, and no amount in respect of an Equity Award CVR shall be paid to any Holder of such Equity Award CVR after such five year period.

(c) Parent and its Affiliates and the Rights Agent shall be entitled to deduct and withhold from a Milestone Payment Amount for 2026 or a Milestone Payment Amount for 2027, as the case may be, or any other amounts otherwise payable pursuant to this Agreement such amounts as are required to be deducted and withheld therefrom under applicable Law. With respect to Initial Holders who received Equity Award CVRs, any such withholding may be made, or caused to be made, by Parent through its or any of its Subsidiaries' payroll system or any successor payroll system. Prior to paying a Milestone Payment Amount for 2026 or a Milestone Payment Amount for 2027, as the case may be, to the Holders, the Rights Agent shall provide the opportunity for each Holder to provide IRS Forms W-9 or W-8, as applicable, or any other reasonably appropriate forms or information in order to avoid or reduce any applicable withholding amount. Unless otherwise directed by Parent, the Rights Agent shall promptly and timely remit, or cause to be remitted, any amounts withheld in respect of Taxes to the appropriate Governmental Authority. To the extent any amounts are so deducted and withheld and remitted, such amounts shall be treated for all purposes of this Agreement as having been paid to the person in respect of whom such deduction and withholding was made. The parties intend that each Equity Award CVR is exempt from or in compliance with Section 409A of the Code, and this Agreement shall be interpreted and administered in accordance therewith. None of the parties to this Agreement nor any of their employees, directors or representatives shall have any liability to a Holder or transferee or other Person in respect of Section 409A of the Code.

(d) Any portion of a Milestone Payment Amount for 2026 or a Milestone Payment Amount for 2027, as the case may be, that remains undistributed six (6) months after the date of the delivery of the applicable Milestone Notice will be delivered by the Rights Agent to Parent, upon demand, and any Holder will thereafter look only to Parent for payment of any such amount, without interest, but such Holder will have no greater rights against Parent than those accorded to general unsecured creditors of Parent under applicable Law.

(e) None of Parent, any of its Affiliates or the Rights Agent will be liable to any person in respect of a Milestone Payment Amount for 2026 or a Milestone Payment Amount for 2027, as the case may be, delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If, despite efforts by the Rights Agent to deliver any such amount to the applicable Holder pursuant to the Rights Agent's customary unclaimed funds procedures, such amount has not been paid prior to the two (2) year anniversary of the date on which such amount would otherwise escheat to or become the property of any Governmental Authority, such amount will, to the extent permitted by applicable Law, become the property of Parent, free and clear of all claims or interest of any person previously entitled thereto. In addition to and not in limitation of any other indemnity obligation herein, Parent agrees to indemnify and hold harmless the Rights Agent with respect to any liability, penalty, or reasonable cost or expense the Rights Agent may incur or be subject to in connection with transferring such property to Parent, unless such loss has been determined by a court of competent jurisdiction to be a result of the Rights Agent's willful or intentional misconduct, bad faith or gross negligence.

(f) The Rights Agent shall be responsible for information reporting required under applicable Law with respect to the CVRs, including upon the Holders' receipt of such CVRs on Internal Revenue Service Form 1099-B or other applicable form and reporting any Milestone Payments hereunder on Internal Revenue Service Form 1099-B or other applicable form to the extent required under applicable Law. Parent shall use commercially reasonable efforts to cooperate with the Rights Agent to provide any information reasonably necessary for the Rights Agent to carry out its obligations in this

Section 2.4(f).

Section 2.5 No Voting, Dividends or Interest; No Equity or Ownership Interest in Parent or any of its Affiliates.

- (a) The CVRs will not have any voting or dividend rights, and interest will not accrue on any amounts payable on the CVRs to any Holder.
- (b) The CVRs will not represent any equity or ownership interest in Parent, any constituent corporation party to the Merger Agreement or any of their respective Affiliates or Subsidiaries. It is hereby acknowledged and agreed that a CVR shall not constitute a security of Parent, the Company or any other Person.
- (c) Neither Parent nor its directors and officers will be deemed to have any fiduciary or similar duties to any Holder by virtue of this Agreement or the CVRs.

Section 2.6 Holding of Funds. All funds received by the Rights Agent under this Agreement that are to be distributed or applied by the Rights Agent in the performance of its services hereunder (the “**Funds**”) shall be held by the Rights Agent as agent for Parent and deposited in one or more segregated bank accounts to be maintained by the Rights Agent in its name as agent for Parent. Until paid pursuant to the terms of this Agreement, the Rights Agent will hold the Funds through such accounts in deposit accounts of commercial banks with Tier 1 capital exceeding \$1 billion or with an average rating above investment grade by S&P (LT Local Issuer Credit Rating), Moody’s (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P.). The Rights Agent shall keep funds received by it under this Agreement separate on its books and records so that such deposits can be subsequently identified on an individual basis and any such funds shall not be invested by the Rights Agent and shall not be used for any purpose not expressly provided for this Agreement or the Merger Agreement. The Rights Agent shall have no responsibility or liability for any diminution of the Funds that may result from any deposit made by the Rights Agent in accordance with this Section 2.6, including any losses resulting from a default by any bank or financial institution; provided, that in the event the Funds are diminished below the level required for the Rights Agent to make a Milestone Payment Amount for 2026 or a Milestone Payment Amount for 2027, as the case may be (to the extent remaining due), to Holders that are not Holders of Equity Award CVRs, as required under this Agreement, including any such diminishment as a result of investment losses, Parent shall promptly pay additional cash to the Rights Agent in an amount equal to the deficiency in the amount required to make such payments.

Section 2.7 Ability to Abandon CVR. A Holder may at any time, at such Holder’s option, abandon all of such Holder’s remaining rights in a CVR by transferring such CVR to Parent without consideration therefor, which a Holder may effect via delivery of a written abandonment notice to Parent. Nothing in this Agreement shall prohibit Parent or any of its Subsidiaries from offering to acquire (in its sole discretion) or acquiring (on terms acceptable to such Holder) any CVRs for consideration from the Holders, in private transactions or otherwise. Any CVRs acquired by Parent or any of its Subsidiaries shall be automatically deemed extinguished and no longer outstanding or entitled to any further Milestone Payment for 2026 or Milestone Payment for 2027.

Section 2.8 Tax Treatment. The parties hereto agree to treat (a) the CVRs (other than the Equity Award CVRs) for all U.S. federal and applicable state and local Tax purposes as additional consideration for or in respect of the Company Common Stock pursuant to the Merger Agreement, (b) any Milestone Payment Amount received in respect of such CVRs will be treated as an amount realized on the disposition of the applicable CVRs and (c) the Equity Award CVRs for all U.S. federal and applicable state and local Tax purposes as additional compensation (if and when) payment is made for or in respect of Company Options, Company PSUs, Company RSAs (for which a timely and valid Section 83(b) election has not been made), or Company RSUs, as applicable, pursuant to the Merger Agreement,

and none of the parties hereto will take any position to the contrary on any Tax Return, any other filing with a Governmental Authority related to Taxes or for other Tax purposes except as otherwise required by a "determination" within the meaning of Section 1313(a) of the Code (or a similar determination under applicable state or local Law) or a change in applicable Law after the date hereof. Parent and/or Rights Agent, as applicable, shall report imputed interest on the CVRs, except as required by applicable Law.

ARTICLE III
THE RIGHTS AGENT

Section 3.1 Certain Duties and Responsibilities. The Rights Agent will not have any liability for any actions taken or not taken in connection with this Agreement, except to the extent of its fraud, willful or intentional misconduct, bad faith or gross negligence.

Section 3.2 Certain Rights of the Rights Agent. The Rights Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations will be read into this Agreement against the Rights Agent. In addition:

(a) in the absence of willful or intentional misconduct, bad faith, fraud or gross negligence, the Rights Agent may rely and will be protected and held harmless by Parent in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever the Rights Agent will deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Rights Agent may rely upon an Officer's Certificate, which certificate shall be full authorization and protection to the Rights Agent, and the Rights Agent shall, in the absence of fraud, bad faith, gross negligence or willful or intentional misconduct on its part, incur no liability and be held harmless by Parent for or in respect of any action taken, suffered or omitted to be taken by it under the provisions of this Agreement in reliance upon such certificate;

(c) the Rights Agent may engage and consult with counsel of its selection and the written advice of such counsel or any opinion of counsel will, in the absence of gross negligence, fraud, bad faith, or willful or intentional misconduct, be full and complete authorization and protection to the Rights Agent and the Rights Agent shall be held harmless by Parent in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(d) the permissive rights of the Rights Agent to do things enumerated in this Agreement will not be construed as a duty;

(e) the Rights Agent will not be required to give any note or surety in respect of the execution of such powers or otherwise in respect of the premises;

(f) the Rights Agent shall not be liable for or by reason of, and shall be held harmless by Parent with respect to, any of the statements of fact or recitals contained in this Agreement or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by Parent only;

(g) the Rights Agent will have no liability (in the absence of gross negligence, fraud, bad faith, or willful or intentional misconduct) and shall be held harmless by Parent in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution and delivery hereof by the Rights Agent and the enforceability of this Agreement against the Rights Agent assuming the due execution and delivery hereof by Parent); nor shall it be responsible for any breach by Parent of any covenant or condition contained in this Agreement;

(h) Parent agrees to indemnify the Rights Agent for, and hold the Rights Agent harmless against, any loss, liability, claim, demands, suits or expense arising out of or in connection with the Rights Agent's duties under this Agreement, including the reasonable and documented out-of-pocket costs and expenses of defending the Rights Agent against any claims, charges, demands, suits or loss, unless such loss has been determined by a final non-appealable court of competent jurisdiction to be a result of the Rights Agent's fraud, willful or intentional misconduct, bad faith or gross negligence;

(i) Parent agrees (i) to pay the reasonable and documented out-of-pocket fees and expenses of the Rights Agent in connection with this Agreement as agreed upon in writing by the Rights Agent and Parent on or prior to the date hereof, and (ii) to reimburse the Rights Agent for all Taxes and governmental charges (other than Taxes imposed on or measured by the Rights Agent's income and franchise or similar Taxes imposed on it (in lieu of income Taxes)). The Rights Agent will also be entitled to reimbursement from Parent for all reasonable, documented and necessary out-of-pocket expenses paid or incurred by it in connection with the administration by the Rights Agent of its duties hereunder; notwithstanding the foregoing, Parent shall have no obligation to pay the fees of the Rights Agent or reimburse the Rights Agent for the fees of counsel, in each case, in connection with any lawsuit initiated by the Rights Agent on behalf of itself or the Holders; and

(j) No provision of this Agreement shall require the Rights Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of its rights if there shall be reasonable grounds for believing that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to it.

Section 3.3 Resignation and Removal; Appointment of Successor.

(a) The Rights Agent may resign at any time by giving written notice thereof to Parent specifying a date when such resignation will take effect, which notice will be sent at least sixty (60) days prior to the date so specified but in no event will such resignation become effective until a successor Rights Agent has been appointed. Parent has the right to remove Rights Agent at any time by specifying a date when such removal will take effect but no such removal will become effective until a successor Rights Agent has been appointed. Notice of such removal will be given by Parent to Rights Agent, which notice will be sent at least sixty (60) days prior to the date so specified.

(b) If the Rights Agent provides notice of its intent to resign, is removed pursuant to Section 3.3(a) or becomes incapable of acting, Parent will as soon as is reasonably possible, appoint a qualified successor Rights Agent who, unless otherwise consented to in writing by the Acting Holders, shall be a stock transfer agent of national reputation or the corporate trust department of a commercial bank. The successor Rights Agent so appointed will, forthwith upon its acceptance of such appointment in accordance with Section 3.4, become the successor Rights Agent.

(c) Parent will give notice of each resignation and each removal of a Rights Agent and each appointment of a successor Rights Agent by mailing written notice of such event by first-class mail to the Holders as their names and addresses appear in the CVR Register. Each notice will include the name and address of the successor Rights Agent. If Parent fails to send such notice within ten (10) Business Days after acceptance of appointment by a successor Rights Agent in accordance with Section 3.4, the successor Rights Agent will cause the notice to be mailed at the expense of Parent; provided that failure to give any notice provided for in this Section 3.3(c), shall not affect the legality or validity of the resignation or removal of the Rights Agent or the appointment of the successor Rights Agent, as the case may be, in each case, in accordance with this Section 3.3.

(d) The Rights Agent will cooperate with Parent and any successor Rights Agent as reasonably requested in connection with the transition of the duties and responsibilities of the Rights Agent to the successor Rights Agent, including transferring the CVR Register to the successor Rights Agent.

Section 3.4 Acceptance of Appointment by Successor. Every successor Rights Agent appointed pursuant to Section 3.3(b) hereunder will execute, acknowledge and deliver to Parent and to the retiring Rights Agent an instrument accepting such appointment and a counterpart of this Agreement, and thereupon such successor Rights Agent, without any further act, deed or conveyance, will become vested with all the rights, powers, trusts and duties of the retiring Rights Agent. On request of Parent or the successor Rights Agent, the retiring Rights Agent will execute and deliver an instrument transferring to the successor Rights Agent all the rights, powers and trusts of the retiring Rights Agent.

ARTICLE IV
COVENANTS

Section 4.1 List of Holders. Parent will furnish or cause to be furnished to the Rights Agent in such form as Parent receives from the Company's transfer agent (or other agent performing similar services for the Company with respect to the shares of Company Common Stock, Company Warrants, Company Options, Company PSUs, Company RSAs or Company RSUs), the names and addresses of the Initial Holders of CVRs within thirty (30) Business Days after the Effective Time.

Section 4.2 Payment of Milestone Payment Amounts. If a Milestone has been achieved, on or prior to the applicable Milestone Payment Date, Parent shall (i) deposit with the Rights Agent, for payment to the Holders who are not Holders of Equity Award CVRs, in accordance with Section 2.4, the aggregate amount necessary to pay the Milestone Payment Amount for 2026 or the Milestone Payment Amount for 2027, as the case may be, to each Holder who is not a Holder of an Equity Award CVR and (ii) hold or deposit with any of its Subsidiaries, for payment to the Holders of Equity Award CVRs, in accordance with Section 2.4, the aggregate amount necessary to pay such amount to each Holder of an Equity Award CVR. For the avoidance of doubt, each of the Milestone Payment Amount for 2026 and the Milestone Payment Amount for 2027 shall only be paid, one time, if at all, subject to the achievement of the applicable Milestone, and the maximum aggregate potential amount payable under this Agreement shall be \$0.50 per CVR, without interest. If no Milestone has been achieved, then Parent will not be required to make any payment to the Rights Agent or the Holders pursuant to this Agreement.

Section 4.3 Additional Covenant.

(a) Parent shall not, and shall cause its Affiliates, including the Surviving Corporation, not to, consummate any Assignment Transaction in which material commercialization rights to the CVR Products or the obligations set forth in Section 4.4 of this Agreement are transferred other than to an Affiliate of Parent, unless (i) the acquiring Person (each such Person, an "Assignment Transaction Acquiror") is a Significant Pharmaceutical Company and (ii) Parent has delivered to the Rights Agent an Officer's Certificate stating that such condition precedent has been complied with. In the event of the consummation of an Assignment Transaction permitted by this Section 4.3(a) in which the Assignee assumes all of Parent's obligations hereunder, Parent shall be released from any and all obligations hereunder only if the Assignment Transaction Acquiror in connection with such an Assignment Transaction expressly assumes the obligations under this Agreement not yet performed or observed on the part of Parent to be performed or observed. If an Assignment Transaction is consummated with an Assignment Transaction Acquiror and such Assignment Transaction Acquiror does not assume all of Parent's obligations, duties and covenants hereunder, Parent shall retain all such obligations, duties and covenants hereunder; provided, for the avoidance of doubt, Gross Revenue attributable to sales by any Transaction Assignment Acquiror or any of its Affiliates shall be included in "Gross Revenue" and "Net Revenue" hereunder. In the case of the foregoing sentence, Parent shall, as a condition to the consummation of such Assignment Transaction, require such Assignment Transaction Acquiror to agree to financial reporting and audit rights for the benefit of Parent that are sufficient to allow Parent to comply with its obligations to the Holders hereunder (including, for the avoidance of doubt, the calculation of Gross Revenue and Net Revenue).

(b) Notwithstanding Section 4.3(a), Parent may, in its sole discretion and without the consent

of any other party, consummate any Change in Control; provided, that Parent will cause the Person acquiring Parent to expressly assume in writing Parent's obligations, duties and covenants under this Agreement to the extent not effected by operation of law.

Section 4.4 Efforts. Commencing upon the Effective Time and continuing until the Termination Date, Parent (and its successors and assigns) shall, and shall cause its (and their) Subsidiaries to, use Diligent Efforts to achieve the Milestone. Neither Parent nor any of its Affiliates shall take any action, or fail to take any action, whose primary purpose is to avoid the achievement of the Milestone or the payment of the Milestone Payment.

Section 4.5 Further Assurances. Parent agrees that it will perform, execute, acknowledge and deliver or cause to be performed, executed acknowledged and delivered, all such further and other acts, instruments and assurances as may reasonably be required by the Rights Agent for carrying out or performing by the Rights Agent of the provisions of this Agreement.

Section 4.6 Audits.

(a) Upon the reasonable written request of the Acting Holders provided to Parent within forty-five (45) days of the delivery of any Net Revenue Statement pursuant to Section 2.4(a) of this Agreement (the "Review Request Period"), but no more than once following the respective date of delivery of each Net Revenue Statement, Parent shall as promptly as reasonably practicable provide the Acting Holders with reasonable documentation to support its calculation of Net Revenue for 2026 or Net Revenue for 2027, as the case may be, and shall make its financial personnel reasonably available to a designated representative of the Acting Holders to discuss and answer the Acting Holders' questions regarding such calculations; provided that (x) the Acting Holders enter into customary confidentiality agreements reasonably satisfactory to Parent with respect to the confidential information of Parent or its Affiliates to be furnished pursuant to this Section 4.6, (y) such access does not unreasonably interfere with the conduct of the business of Parent or any of its Affiliates and (z) such information or access would not reasonably be expected to result in the waiver of any attorney-client privilege or violate any applicable Law (provided that the Parent shall use commercially reasonable efforts to make alternative arrangements with respect to providing such information or access). If the Acting Holders do not agree with Parent's calculations, the Acting Holders may, no later than twenty (20) Business Days after the Acting Holders request documentation supporting Parent's calculation, submit a written dispute notice to Parent setting forth the specific disputed items in the applicable Net Revenue Statement and a reasonably detailed explanation thereof (such notice, a "Dispute Notice"). If the Acting Holders and Parent fail to agree on the matter under dispute within twenty (20) Business Days after the Acting Holders deliver the Dispute Notice to Parent, Parent shall permit, and shall use commercially reasonable efforts to cause its Affiliates to permit, the [Independent Accountant] (subject to the Independent Accountant's entry into a customary confidentiality agreement reasonably satisfactory to Parent with respect to the confidential information of Parent or its Affiliates to be furnished pursuant to this Section 4.6) to have access at reasonable times during normal business hours to such of the books and records of Parent and any of its Affiliates as may be reasonably necessary to verify the accuracy of such Net Revenue Statement and the figures underlying the calculations set forth therein, provided that such information or access (i) does not unreasonably interfere with the conduct of the business of Parent or any of its Affiliates or (ii) would not reasonably be expected to result in the waiver of any attorney-client privilege or violate any applicable Law (provided that the Parent shall use commercially reasonable efforts to make alternative arrangements with respect to providing such information or access). The Independent Accountant, acting as an expert and not as an arbitrator, shall be charged to come to a final determination solely with respect to those specific items in such Net Revenue Statement that the parties disagree on and submit to it for resolution. All other items in the Net Revenue Statement that the parties do not submit, prior to the end of the Review Request Period, to the Independent Accountant for resolution shall be deemed to be agreed by the parties and the Independent Accountant shall not be charged with calculating or validating those agreed upon items. If issues are submitted to the Independent Accountant for resolution, Parent shall, and shall use commercially reasonable efforts to cause its Affiliates, to furnish to the Independent Accountant such

access, work papers and other documents and information related to those disputed issues as the Independent Accountant may reasonably request and as are available to Parent. The Independent Accountant shall deliver a written report to Parent setting forth its determinations with respect to the disputed matters and shall disclose to the Acting Holders whether a Milestone was achieved and such additional information directly related to its findings. The Independent Accountant shall provide Parent with a copy of all disclosures made to the Acting Holders. Subject to Section 4.6(e) the fees charged by such accounting firm shall be paid by the Acting Holders.

(b) If the Independent Accountant concludes that a Milestone Payment for 2026 or a Milestone Payment for 2027 was properly due and was not paid to the Holders, Parent shall pay or transfer, or cause to be paid or transferred, to the Rights Agent (in each case, for further distribution to the Holders) or to each Holder the applicable amount, *plus* interest on such Milestone Payment Amount at the “prime rate” as published in the Wall Street Journal or similar reputable data source from time to time calculated from when the Milestone Payment should have been paid (if Parent had given notice of achievement of such Milestone pursuant to the terms of this Agreement), as applicable, to the date of actual payment (such amount, including interest, being the “**CVR Shortfall**”). The CVR Shortfall shall be paid by Parent within thirty (30) calendar days of the date the Independent Accountant’s written report is provided to Parent. Absent manifest error, the decision of the Independent Accountant shall be final, conclusive and binding on Parent and the Holders, shall be non-appealable and shall not be subject to further review. In the event Holders are entitled to any amount pursuant to this Section 4.6(b) and such payments are made after March 15 of the calendar year immediately following the last day of the applicable Net Revenue for 2026 or Net Revenue for 2027, the parties hereto intend that such payments remain exempt from Section 409A of the Code as “short-term deferrals” pursuant to Treasury Regulation Section 1.409A-1(b)(4) because payment before such March 15 was administratively impracticable and such administrative impracticability was unforeseeable as of the date hereof, as contemplated by Treasury Regulation Section 1.409A-1(b)(4)(ii).

(c) If, upon the expiration of the applicable Review Request Period, the Acting Holders has not requested a review of the Net Sales Statement, or if the Acting Holders have not delivered a timely Dispute Notice, in each case in accordance with this Section 4.6, the calculations set forth in the applicable Net Revenue Statement shall be and conclusive upon the Holders.

(d) Each Person seeking to receive information from Parent in connection with a review pursuant to this Section 4.6 shall enter into, and shall cause its accounting firm to enter into, a reasonable and mutually satisfactory confidentiality agreement with Parent or any Affiliate obligating such party to retain all such information disclosed to such party in confidence pursuant to such confidentiality agreement.

(e) Any fees charged by the Independent Accountant shall be borne by the Acting Holders unless the Independent Accountant determines that Parent’s determination that the applicable Milestone was not achieved during the applicable Measurement Period was erroneous, in which case such fees shall be borne by Parent.

ARTICLE V AMENDMENTS

Section 5.1 Amendments without Consent of Holders.

(a) Without the consent of any Holders or the Rights Agent, Parent, at any time and from time to time, may enter into one or more amendments hereto, for any of the following purposes:

(i) to evidence the succession of another Person as a successor to Parent and the assumption by any such successor of the covenants of Parent herein, in each case, to the extent permitted by Section 6.3;

(ii) to add to the covenants of Parent such further covenants, restrictions, conditions or provisions as Parent and the Rights Agent will consider to be for the protection of the Holders; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iii) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iv) as may be necessary or appropriate to ensure that the CVRs are not subject to registration under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, and to ensure that the CVRs are not subject to any similar registration or prospectus requirement under applicable state securities or "blue sky" laws or securities laws outside of the United States; provided that, such amendments do not adversely affect the interests of the Holders;

(v) to evidence the succession of another Person as a successor Rights Agent and the assumption by any such successor of the covenants and obligations of the Rights Agent herein in accordance with Section 3.3 and Section 3.4; or

(vi) any other amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, unless such addition, elimination or change is adverse to the interests of the Holders.

(b) Without the consent of any Holders, Parent and the Rights Agent, at any time and from time to time, may enter into one or more amendments hereto, to reduce the number of CVRs in the event any Holder agrees to renounce such Holder's rights under this Agreement in accordance with Section 6.4.

(c) Promptly after the execution by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.1, Parent will mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth the terms of such amendment.

Section 5.2 Amendments with Consent of Holders.

(a) Subject to Section 5.1 (which amendments pursuant to Section 5.1 may be made without the consent of the Holders), only with the prior consent of the Acting Holders, whether evidenced in writing or taken at a meeting of the Holders, Parent and the Rights Agent may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, even if such addition, elimination or change is materially adverse to the interest of the Holders.

(b) Promptly after the execution by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.2, Parent will mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth such amendment.

Section 5.3 Execution of Amendments. In executing any amendment permitted by this Article V, the Rights Agent will be entitled to receive, and will be fully protected in relying upon, an opinion of counsel selected by Parent stating that the execution of such amendment is authorized or permitted by this Agreement. The Rights Agent may, but is not obligated to, enter into any such amendment that it has determined adversely affects the Rights Agent's own rights, privileges, covenants or duties under this Agreement or otherwise.

Section 5.4 Effect of Amendments. Upon the execution of any amendment under this Article V, this Agreement will be modified in accordance therewith, such amendment will form a part of this Agreement for all purposes and every Holder will be bound thereby.

ARTICLE VI
OTHER PROVISIONS OF GENERAL APPLICATION

Section 6.1 Notices. Any notice or other communication required or permitted to be delivered to any party under this Agreement shall be in writing and shall be deemed properly delivered, given and received (a) upon receipt when delivered by hand, (b) two (2) business days after being sent by registered mail or by courier or express delivery service, (c) if sent by email prior to 6:00 p.m. recipient's local time, upon transmission when receipt is confirmed, or (d) if sent by email after 6:00 p.m. recipient's local time and receipt is confirmed, the business day following the date of transmission; provided that in each case the notice or other communication is sent to the physical address or email address set forth beneath the name of such party below (or to such other physical address or email address as such party shall have specified in a written notice given to the other parties):

If to the Rights Agent, to it at:

[•]

With a copy (which shall not constitute notice) to:

[•]

If to Parent, to it at:

ANI Pharmaceuticals Inc.
210 Main Street West
Baudette, MN 56623
Attention: Nikhil Lalwani
Email: [redacted]

With a copy to: the General Counsel, [redacted]

With a copy (which shall not constitute notice) to:

Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10024
Attention: Ken Lefkowitz, Scott Naturman and Gary Simon
Email: ken.lefkowitz@hugheshubbard.com
scott.naturman@hugheshubbard.com
gary.simon@hugheshubbard.com

Any party may specify a different address by giving notice in accordance with this Section 6.1.

Section 6.2 Notice to Holders. Where this Agreement provides for notice to Holders, such notice will be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at the Holder's address as it appears in the CVR Register, not later than the latest date, and not earlier than the earliest date, if any, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder will affect the sufficiency of

such notice with respect to other Holders.

Section 6.3 Successors and Assigns. This Agreement shall not be assignable; provided, however, that (a) Parent may assign any or all of its rights, interests and obligations hereunder in its sole discretion and without the consent of any other party, (i) to any controlled Affiliate of Parent, but only for so long as it remains a controlled Affiliate of Parent; or (ii) with the prior written consent of the Acting Holders, to any other Person (any permitted assignee under clause (i) or (ii), an “Assignee”), in each case provided that the Assignee expressly agrees to assume and be bound by all of the terms of this Agreement and (b) the Rights Agent may assign this Agreement to a successor Rights Agent appointed in compliance with Section 3.3. Any Assignee may thereafter assign any or all of its rights, interests and obligations hereunder in the same manner and subject to the same requirements as Parent pursuant to the prior sentence. In connection with any assignment to an Assignee described in clause (a) above in this Section 6.3, Parent (and the other assignor) shall agree to remain liable for the performance by each further Assignee of all obligations of Parent hereunder with such Assignee substituted for Parent under this Agreement. This Agreement will be binding upon, inure to the benefit of and be enforceable by each of Parent’s successors and each Assignee’s successors, and each Assignee, as applicable, as well as by the Acting Holders on behalf of the Holders. Subject to compliance with the requirements set forth in this Section 6.3 relating to assignments and Section 4.3, this Agreement shall not restrict Parent’s, any Assignee’s or any of their respective successors’ ability to merge or consolidate with, or sell, issue or dispose of its stock or other equity interests or assets to, any other Person, or spin-off or split-off. Each of Parent’s successors and Assignees shall expressly assume by an instrument supplemental hereto, executed and delivered to the Rights Agent, the due and punctual payment of the CVRs and the due and punctual performance and observance of all of the covenants and obligations of this Agreement to be performed or observed by Parent. Any attempted assignment of this Agreement or any such rights in violation of this Section 6.3 shall be void and of no effect.

Section 6.4 Benefits of Agreement. Nothing in this Agreement, express or implied, will give to any Person (other than the Rights Agent, Parent, Parent’s successors and Assignees, the Holders and the Holders’ successors and assigns pursuant to a Permitted CVR Transfer) any benefit or any legal or equitable right, remedy or claim under this Agreement or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the foregoing. The rights of Holders and their successors and assigns pursuant to Permitted CVR Transfers are limited to those expressly provided in this Agreement. Notwithstanding anything to the contrary contained herein, any Holder or Holder’s successor or assign pursuant to a Permitted CVR Transfer may agree to renounce, in whole or in part, its rights under this Agreement by written notice to the Rights Agent and Parent, which notice, if given, shall be irrevocable.

Section 6.5 Limitation on Suits by Holders. Except for the rights of the Rights Agent set forth herein, the Acting Holders will have the sole right, on behalf of all Holders, by virtue of or under any provision of this Agreement, to institute any action or proceeding with respect to this Agreement, and no individual Holder or other group of Holders will be entitled to exercise such rights.

Section 6.6 Governing Law; Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and any matters or disputes relating thereto shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof. In any action or proceeding arising out of or relating to this Agreement: (i) each of the Rights Agent, Parent, Parent’s successors and Assignees, the Holders and the Holders’ successors and assigns Parent, irrevocably and unconditionally consents and submits to the exclusive jurisdiction and venue of the Chancery Court of the State of Delaware and any state appellate court therefrom or, if (but only if) such court lacks subject matter jurisdiction, the United States District Court sitting in New Castle County in the State of Delaware and any appellate court therefrom (collectively, the “Delaware Courts”); and (ii) each of the parties irrevocably consents to service of process by first class certified mail, return receipt requested, postage

prepaid, to the address at which such party is to receive notice in accordance with Section 6.1. Each of the parties irrevocably and unconditionally (1) agrees not to commence any such action or proceeding except in the Delaware Courts, (2) agrees that any claim in respect of any such action or proceeding may be heard and determined in the Delaware Courts, (3) waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the jurisdiction or laying of venue of any such action or proceeding in the Delaware Courts and (4) waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in the Delaware Courts. The parties agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Laws; provided, however, that nothing in the foregoing shall restrict any party's rights to seek any post-judgment relief regarding, or any appeal from, such final trial court judgment.

(b) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING BETWEEN THE PARTIES (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE), INCLUDING ANY COUNTERCLAIM, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY HERETO IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF. EACH PARTY (I) MAKES THIS WAIVER VOLUNTARILY AND (II) ACKNOWLEDGES THAT SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 6.6(b).

Section 6.7 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

Section 6.8 Counterparts. This Agreement may be executed in one or more counterparts, including by facsimile or by email with .pdf attachments, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties.

Section 6.9 Termination. This Agreement will be terminated and of no force or effect, the parties hereto will have no liability or obligations hereunder (other than with respect to monies due and owing by Parent to the Rights Agent in respect of the Rights Agents' services hereunder and any services to be performed by the Rights Agent under Section 2.4(f) hereof), and no payments will be required to be made, upon the earliest to occur of (such time, the "Termination Date") (a) the failure to achieve the Milestones, (b) the mailing by the Rights Agent to the address of each Holder as reflected in the CVR Register the last of the Milestone Payment Amount for 2026 and the Milestone Payment for 2027 (if any) required to be paid under the terms of this Agreement, and (c) the delivery of a written notice of termination duly executed by Parent and the Acting Holders. For the avoidance of doubt, the right of any Holder to receive a Milestone Payment with respect to the applicable Milestone, and any covenants and obligations of Parent (other than pursuant to Section 2.4(d)), shall be irrevocably terminated and extinguished if the applicable Milestone is not achieved. Notwithstanding the foregoing, no termination shall affect any rights or obligations accrued prior to the effective date of such termination or Sections

6.4, 6.6, 6.7, 6.8, 6.10 or this Section 6.9, which shall survive the termination of this Agreement, or the resignation, replacement or removal of the Rights Agent. Notwithstanding anything herein to the contrary, (i) if a Milestone has been achieved on or prior to the Termination Date, this Agreement shall not terminate until the Milestone Payment Amount for 2026 or Milestone Payment Amount for 2027, as the case may be, has been paid in full in accordance with the terms of this Agreement and (ii) no termination of this Agreement shall be deemed to affect the rights of the parties to bring suit in the case of a material breach occurring prior to such Termination Date.

Section 6.10 Entire Agreement. This Agreement and the Merger Agreement (including the schedules, annexes and exhibits thereto and the documents and instruments referred to therein) constitute the entire agreement and supersede all prior agreements and understandings, both written and oral, among or between any of the parties and their respective Affiliates with respect to the subject matter hereof and thereof.

Section 6.11 Legal Holiday. In the event that a Milestone Payment Date shall not be a Business Day, then, notwithstanding any provision of this Agreement to the contrary, any payment required to be made in respect of the CVRs on such date need not be made on such date, but may be made on the next succeeding Business Day with the same force and effect as if made on such Milestone Payment Date.

Section 6.12 Confidentiality. The Rights Agent and Parent agree that all books, records, information and data pertaining to the business of the other party, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement shall remain confidential, and shall not be voluntarily disclosed to any other person, except as may be required by a valid order of a Governmental Authority of competent jurisdiction or is otherwise required by law or regulation.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its duly authorized officers as of the day and year first above written.
ANI PHARMACEUTICALS INC.

By: ___
Name:
Title:

[RIGHTS AGENT]

By: ___
Name:
Title:

** Certain terms of this exhibit have been omitted pursuant to Item 601(b)(10)(iv) of Regulation S-K as they are both not material and of the type that the registrant treats as private or confidential. The registrant agrees to supplementally furnish an unredacted copy of this exhibit to the SEC upon its request; however, the registrant may request confidential treatment of such unredacted copy.

VOTING AGREEMENT

This VOTING AGREEMENT (this "Agreement"), dated as of June 21, 2024, is by and among (i) ANI Pharmaceuticals, Inc., a Delaware corporation ("Parent"), (ii) Alimera Sciences, Inc., a Delaware corporation (the "Company"), and (iii) the stockholders of the Company listed on Schedule A hereto in their capacity as record or beneficial owners of Common Shares (as defined below) (each, a "Stockholder" and, collectively, the "Stockholders"). Each of Parent, the Company and the Stockholders are sometimes referred to as a "Party," and collectively as the "Parties."

RECITALS

A. Concurrently with the execution and delivery of this Agreement, Parent, the Company and ANIP Merger Sub INC., a Delaware corporation and a wholly owned indirect subsidiary of Parent ("Merger Sub"), are entering into an Agreement and Plan of Merger (as it may be amended, supplemented or otherwise modified from time to time, the "Merger Agreement") that, among other things and subject to the terms and conditions set forth therein, provides for the merger of Merger Sub with and into the Company, with the Company being the surviving corporation (the "Merger");

B. As of the date hereof, each Stockholder is the record and/or "beneficial owner" (within the meaning of Rule 13d-3 under the Exchange Act) of the number of shares of common stock, \$0.01 par value per share, of the Company (the "Common Shares") set forth next to such Stockholder's name on Schedule A hereto, being all of the Common Shares owned of record or beneficially by such Stockholder as of the date hereof (with respect to such Stockholder, the "Owned Shares"), and the Owned Shares together with any additional Common Shares or other equity interests of the Company that such Stockholder may own as of the date hereof or acquire record and/or beneficial ownership of after the date hereof (including pursuant to a stock split, reverse stock split, stock dividend or distribution or any change in Common Shares by reason of any recapitalization, reorganization, combination, reclassification, exchange of shares or similar transaction), such Stockholder's "Covered Shares"); and

C. As a condition and material inducement to Parent's and Merger Sub's willingness to enter into the Merger Agreement, Parent has required each Stockholder, and each Stockholder has agreed to, enter into this Agreement with respect to such Stockholder's Covered Shares.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. Definitions. Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Merger Agreement. When used in this Agreement, the following terms shall have the meanings assigned to them in this Section 1.

1.1. "Expiration Time" shall mean the earlier to occur of (a) a Change of Recommendation pursuant to Section 5.3 of the Merger Agreement, (b) the Effective Time, (c) such time as the Merger Agreement is validly terminated in accordance with the terms of Article VII of the Merger Agreement, (d) the termination of this Agreement by written agreement of all of the Parties, or (e) an Adverse Amendment.

1.2. "Transfer" shall mean (a) any direct or indirect offer, sale, assignment, encumbrance, pledge, hypothecation, disposition, or other transfer (by operation of Law or otherwise), either voluntary or involuntary, or entry into any option or other Contract, arrangement or understanding with respect to any offer, sale, assignment, encumbrance, pledge, hypothecation, disposition or other transfer (by operation of Law or otherwise), of any Covered Shares or any interest in any Covered Shares (in each case other than this Agreement); (b) the deposit of such Covered Shares into a voting trust, the entry into a voting agreement or arrangement (other than this Agreement) with respect to such Covered Shares or the grant of any proxy or power of attorney (other than this Agreement) with respect to such Covered Shares; or (c) any Contract or commitment (whether or not in writing) to take any of the actions referred to in the foregoing clauses (a), or (b) above.

2. Agreement to Not Transfer the Covered Shares

2.1. No Transfer of Covered Shares; Permitted Transfers.

(a) Until the Expiration Time, each Stockholder agrees not to Transfer or cause or permit the Transfer of, directly or indirectly, any of such Stockholder's Covered Shares, other than with the prior written consent of Parent and the Company, or as permitted by Section 2.1(b). Any Transfer or attempted Transfer of any Covered Shares in violation of this Section 2.1(a) shall be null and void and of no effect whatsoever.

(b) Section 2.1(a) above shall not prohibit or otherwise restrict a Transfer of Covered Shares by Stockholder to such Stockholder's (i) Affiliates, (ii) spouse, lineal descendant or antecedent, brother or sister, adopted child or grandchild or the spouse of any child, adopted child, grandchild or adopted grandchild of any Stockholder or any of its Affiliates, or (iii) any trust, the trustees of which include only the Persons named in clause (ii) and the beneficiaries of which include only the Persons named in clause (ii); provided, however, that a Transfer referred to in clauses (i) through (iii) of this sentence shall be permitted only if (1) all of the representations and warranties in Section 6 of this Agreement with respect to such Stockholder would be true and correct in all material respects upon such Transfer, subject to necessary adjustment as a result of such Transfer, and (2) the transferee has agreed in a written document, satisfactory in form and substance to the Parent and the Company, to be bound by all of the terms of this Agreement.

3. Agreement to Vote the Covered Shares.

3.1. Voting Agreement. Until the Expiration Time, at every meeting of the Company's stockholders at which any of the following matters are to be voted on (and at every adjournment or postponement thereof), and on any action or approval of the Company's stockholders by written consent with respect to any of the following matters, each Stockholder agrees to cause to be present in person or represented by proxy and to vote (including via proxy) all of such Stockholder's Covered Shares (or cause the holder of record on any applicable record date to vote (including via proxy) all of such Stockholder's Covered Shares), unless the Company Board (or any committee acting in lieu thereof) has recommended to the contrary, (a) in favor of any proposal to approve the adoption of the Merger Agreement and approve the Merger; (b) in favor of any proposal to postpone, recess or adjourn a meeting at which there is a proposal for stockholders of the Company to approve the adoption of the Merger Agreement to a later date if there are not sufficient votes to approve the adoption of the Merger Agreement or if there are not sufficient Common Shares present in person or represented by proxy at such meeting to constitute a quorum; (c) in favor of any proposal to facilitate the Merger and the transactions contemplated by the Merger Agreement and (d) against (i) any amendment or modification of the Company Charter Documents, any reorganization, recapitalization, sale of all or substantially all of the assets, liquidation or winding up of, or any other extraordinary transaction involving, the Company or any of its Subsidiaries or any other action or agreement that is intended or would, or would reasonably be expected to result in any of the conditions to the Company's obligations set forth in Article VI under the Merger Agreement not being fulfilled or result in a breach of any covenant, representation or warranty or any other obligation or agreement of the Company contained in the Merger Agreement or such Stockholder contained in this Agreement and (ii) any Acquisition Proposal or any action intended to or that would, or would reasonably be likely to facilitate an Acquisition Proposal or Acquisition Transaction, or any agreement, transaction or other matter that is intended to, would, or would reasonably be expected to, impede, postpone, materially adversely affect or interfere with the consummation of the Merger and the other transactions contemplated by the Merger Agreement. Notwithstanding anything herein to the contrary in this Agreement, this Section 3.1 shall not require any Stockholder to be present (in person or by proxy) or vote (or cause to be voted) any of its Covered Shares to amend, modify or waive any provision of the Merger Agreement in a manner that reduces the amount or changes the form of the Merger Consideration payable, imposes any material restrictions on or additional material conditions on the payment of the Merger Consideration, extends the Termination Date or otherwise adversely affects such Stockholder (in its capacity as a stockholder of the Company) in any material respect (each of the foregoing, an "Adverse Amendment"). Notwithstanding anything to the contrary in this Agreement, each Stockholder shall remain free to vote (or execute consents or proxies with respect to) its Covered Shares with respect to any matter other than as set forth in Section 3.1 in any manner such Stockholder deems appropriate, including in connection with the election of directors of the Company.

3.2. Quorum Procedure. Except as expressly set forth in Section 3.1, until the Expiration Time, at every meeting of the Company's stockholders (and at every adjournment or postponement thereof), each Stockholder shall be represented in person or by proxy at such meeting (or cause the holders of record on any applicable record date to be represented in person or by proxy at such meeting) in order for the Covered Shares to be counted as present for purposes of establishing a quorum. Any vote required to be cast hereunder shall be cast in accordance with all applicable procedures so as to ensure that it is duly counted for purposes of establishing a quorum and for purposes of recording the results of that vote.

3.3. **Return of Proxy.** Except as expressly set forth in Section 3.1, each Stockholder hereby revokes (and agrees to cause to be revoked and to promptly communicate in writing notice of such revocation to the relevant proxy holder) any proxies that such Stockholder has heretofore granted with respect to the Covered Shares. Each Stockholder shall execute and deliver (or cause the holders of record to execute and deliver), promptly upon receipt (but in any event no later than two (2) Business Days thereafter), any proxy card or voting instructions it or the Stockholders receive that is sent to stockholders of the Company soliciting proxies with respect to any matters described in Section 3.1, which shall be voted in the manner described in Section 3.1 (with Parent to be promptly notified (and provided reasonable evidence) of such execution and delivery of such proxy card or voting instructions).

3.4. **No Inconsistent Agreements.** Each Stockholder hereby represents, covenants and agrees that, except as contemplated by this Agreement, such Stockholder (a) has not entered into, and shall not enter into at any time prior to the Expiration Time, any voting agreement or voting trust with respect to any Covered Shares, except to the extent permitted hereunder and (b) has not granted, and shall not grant at any time prior to the Expiration Time, a proxy or power of attorney with respect to any Covered Shares, in either case, which is inconsistent with such Stockholder's obligations pursuant to this Agreement.

3.5. **Acquisitions of Common Shares.** Prior to the Expiration Time, in the event that any Stockholder acquires record or beneficial ownership of, or the power to vote or direct the voting of, any additional Common Shares or other voting securities with respect to the Company, such Common Shares or voting securities shall, without further action of the parties, be deemed Covered Shares and subject to the provisions of this Agreement, and the number of Common Shares held by such Stockholder set forth on Schedule A hereto will be deemed amended accordingly and such Common Shares or voting securities shall automatically become subject to the terms of this Agreement.

4. **Waiver of Certain Actions: Stop Transfer.** Each Stockholder hereby agrees that (a) it shall not commence or participate in, or facilitate, assist or encourage, and (b) it shall take all actions necessary to opt out of any class in any class action with respect to, in each of cases (a) and (b), any claim, derivative or otherwise, against Parent, Merger Sub, the Company or any of their respective Affiliates, successors, directors, managers or officers (i) challenging the validity of, or seeking to enjoin or delay the operation of, any provision of this Agreement or the Merger Agreement (including any claim seeking to enjoin or delay the closing of the Merger), (ii) alleging a breach of any duty of the Company Board in connection with the Merger Agreement, this Agreement or the transactions contemplated thereby or hereby or (iii) seeking Appraisal Rights (as defined herein) in connection with the Merger. Each Stockholder hereby agrees that such Stockholder shall not assert, exercise or perfect, directly or indirectly, and irrevocably and unconditionally waives, any appraisal rights (including under Section 262 of the DGCL) with respect to the Merger and any rights to dissent with respect to the Merger (collectively, "Appraisal Rights"). Each Stockholder hereby agrees that such Stockholder shall not request that the Company register any transfer of any certificate or book-entry form of Covered Share or other uncertificated interest representing any Covered Shares made in violation of the restrictions set forth in Section 2 until the Expiration Time.

5. Fiduciary Duties; Legal Obligations. Each Stockholder is entering into this Agreement solely in its capacity as the record holder or beneficial owner of such Stockholder's Covered Shares. Nothing in this Agreement shall in any way limit or affect any actions taken by any such Stockholder or any of such Stockholder's designees serving in his or her capacity as a director or officer of the Company or from complying with his or her fiduciary duties or other legal obligations while acting in such capacity as a director or officer of the Company. The taking of any actions (or failures to act) by such Stockholder or such Stockholder's designees serving as a director of the Company (in such capacity as a director) shall not be deemed to constitute a breach of this Agreement.

6. Representations and Warranties of the Stockholder. Each Stockholder hereby represents and warrants to Parent and the Company that:

6.1. Due Authority. Such Stockholder has the full power and capacity to make, enter into and carry out the terms of this Agreement. If such Stockholder is not a natural person, (a) such Stockholder is duly organized, validly existing and in good standing in accordance with the Laws of its jurisdiction of formation, as applicable, (b) such Stockholder has all requisite power and authority and has taken all action necessary in order to execute and deliver this Agreement, to grant the proxy described in Section 3.3(b), to perform such Stockholder's obligations under this Agreement and consummate the transactions contemplated by this Agreement and (c) the execution and delivery of this Agreement, the performance of such Stockholder's obligations hereunder, the consummation of the transactions contemplated hereby have been validly authorized, and no other consents or authorizations are required to give effect to this Agreement or the transactions contemplated by this Agreement. This Agreement has been duly and validly executed and delivered by such Stockholder and constitutes a valid and binding obligation of such Stockholder enforceable against it in accordance with its terms.

6.2. Ownership of the Covered Shares. (a) Such Stockholder is, as of the date hereof, the beneficial owner of such Stockholder's Covered Shares, free and clear of any and all encumbrances of any kind whatsoever, other than those created by this Agreement or under prime broker agreements, and (b) such Stockholder has sole voting and dispositive power over all of the Covered Shares beneficially owned by such Stockholder. Such Stockholder has not entered into any agreement to Transfer any Covered Shares. As of the date hereof, such Stockholder does not own, beneficially or of record, any Common Shares or other voting shares of the Company (or any securities convertible, exercisable or exchangeable for, or rights to purchase or acquire, any Common Shares or other voting shares of the Company) other than the Owned Shares and warrants to purchase Common Shares set forth on Schedule A.

6.3. No Conflict; Consents.

(a) The execution and delivery of this Agreement by such Stockholder does not, and the performance by such Stockholder of its obligations under this Agreement and the compliance by such Stockholder with any provisions hereof does not and will not: (a) conflict with or violate any Laws, or (b) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of any encumbrance of any kind whatsoever on any of the Covered Shares of a Stockholder pursuant to any Contract or obligation to which such Stockholder is a party or by which such Stockholder is subject.

(b) No consent, approval, order or authorization of, or registration, declaration or, except as required by the rules and regulations promulgated under the Exchange Act, filing with, any Governmental Authority or any other Person, is required by or with respect to such Stockholder in connection with the execution and delivery of this Agreement or the consummation by it of the transactions contemplated hereby.

6.4. Absence of Litigation. As of the date hereof, there is no legal action pending against, or, to the knowledge of such Stockholder, threatened against or affecting such Stockholder that would reasonably be expected to impair the ability of such Stockholder to perform its obligations hereunder or to consummate the transactions contemplated hereby on a timely basis.

6.5. Stockholder Has Adequate Information. Such Stockholder acknowledges that such Stockholder is a sophisticated investor with respect to such Stockholder's Covered Shares and has adequate information concerning the business and financial condition of the Company and the transactions contemplated by the Merger Agreement to make an informed decision regarding the transactions contemplated by this Agreement and has, independently and without reliance upon Parent, the Company or any Affiliate of Parent and the Company, and based on such information as such Stockholder has deemed appropriate, made such Stockholder's own analysis and decision to enter into this Agreement. Such Stockholder has received and reviewed a copy of this Agreement and the Merger Agreement, and such Stockholder acknowledges that such Stockholder has had the opportunity to seek independent legal advice prior to executing this Agreement and fully understands and accepts all of the provisions hereof and of the Merger Agreement.

6.6. Reliance. Such Stockholder understands and acknowledges that Parent and Merger Sub are entering into the Merger Agreement in reliance upon such Stockholder's execution, delivery and performance of this Agreement and upon the representations and warranties and covenants of such Stockholder contained in this Agreement.

7. Miscellaneous.

7.1. Certain Adjustments. In the event of a stock split, stock dividend or distribution, or any change in the Common Shares by reason of any split-up, reverse stock split, recapitalization, combination, reclassification, exchange of shares or the like, the terms "Common Shares", and "Covered Shares" shall be deemed to refer to and include such shares as well as all such stock dividends and distributions and any securities into which or for which any or all of such shares may be changed or exchanged or which are received in such transaction.

7.2. Amendments and Waivers. This Agreement may be amended or any provision of this Agreement may be waived; provided that (i) any amendment shall be binding only if such amendment is set forth in a writing executed by Stockholders holding a majority of the Covered Shares held by all Stockholders, the Parent and the Company, and (ii) any waiver of any provision of this Agreement shall be effective against the Stockholders, Parent or the Company only if set forth in a writing executed by the Stockholders holding a majority of the Covered Shares held by all Stockholders, the Parent or the Company, as applicable. No course of dealing between or among any Persons having any interest in this Agreement shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any person under or by reason of this Agreement. No failure or delay of any party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right or power.

7.3. Expenses. All fees, costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby will be paid by the Party incurring such fees, costs or expenses.

7.4. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with proof of delivery); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 7.4):

(a) if to a Stockholder, to the address for notice set forth on its signature page attached hereto;

(b) **if to Merger Sub or Parent, to:**

ANI Pharmaceuticals Inc.
210 Main Street West
Baudette, MN 56623
Phone: 218-634-3500
Email: [redacted]
Attention: Nikhil Lalwani

with a copy to: the General Counsel, Legaldept@anipharmaceuticals.com

with a copy to (which copy shall not constitute notice):

Hughes Hubbard & Reed LLP
One Battery Park Plaza
New York, New York 10024
Attention: Ken Lefkowitz, Scott Naturman and Gary Simon
Email: ken.lefkowitz@hugheshubbard.com
scott.naturman@hugheshubbard.com
gary.simon@hugheshubbard.com

(c) **if to the Company:**

Alimera Sciences, Inc.
6310 Town Square, Suite 400
Alpharetta, GA 30005
Email: [redacted]

Attention: Richard S. Eiswirth Jr.

with a copy to (which copy shall not constitute notice):

DLA Piper LLP (US)
51 John F. Kennedy Parkway, Suite 120
Short Hills, NJ 07078
Attention: Andrew P. Gilbert and Scott A. Cowan
Email: andrew.gilbert@us.dlapiper.com; scott.cowan@us.dlapiper.com

and

DLA Piper LLP (US)
303 Colorado Street, Suite 3000
Austin, TX 78701
Attention: Jeffrey Scharfstein, P.C.
Email: jeffrey.scharfstein@us.dlapiper.com

7.5. Governing Law. THIS AGREEMENT SHALL BE DEEMED TO BE MADE AND SHALL BE INTERPRETED, CONSTRUED AND GOVERNED IN ALL RESPECTS BY AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, REGARDLESS OF THE LAWS THAT MIGHT OTHERWISE GOVERN UNDER APPLICABLE CONFLICTS OF LAW PRINCIPLES.

7.6. Jurisdiction. The parties hereto hereby irrevocably submit to the personal jurisdiction of the Court of Chancery of the State of Delaware or, if such Court of Chancery shall lack subject matter jurisdiction, the federal courts of the United States of America located in the County of New Castle, Delaware (the "Chosen Courts"), in respect of the interpretation and enforcement of the provisions of (and any claim or cause of action arising under or relating to) this Agreement and of the documents referred to in this Agreement, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims relating to such action, suit or proceeding shall be heard and determined in such courts. The parties hereto hereby consent to and grant any such court jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action, suit or proceeding in the manner provided in Section 7.4 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

7.7. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY HEREBY CERTIFIES AND ACKNOWLEDGES THAT (i) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (ii) EACH PARTY UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (iii) EACH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (iv) EACH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION 7.7.

7.8. Counterparts and Signature. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means.

7.9. No Ownership Interest. Nothing contained in this Agreement shall be deemed to vest in Parent or the Company any direct or indirect ownership or incidence of ownership of or with respect to the Covered Shares. All rights, ownership and economic benefits of and relating to the Covered Shares shall remain vested in and belong to the Stockholders.

7.10. Documentation and Information. No Stockholder shall make any public announcement regarding this Agreement or the transactions contemplated hereby without the prior written consent of both the Company and Parent (such consent not to be unreasonably withheld, conditioned or delayed), except as may be required by applicable Law (provided that reasonable notice of, and opportunity to comment on, any such disclosure will be provided to the Company and Parent), and such Stockholder will consider in good faith the reasonable comments of the Company and Parent with respect to such disclosure and otherwise cooperate with the Company and Parent in obtaining confidential treatment with respect to such disclosure. Each Stockholder consents to and authorizes the publication and disclosure by Parent and the Company of such Stockholder’s identity and holding of the Covered Shares, and the terms of this Agreement (including the disclosure of this Agreement), in any press release, the Proxy Statement (defined below) and any other disclosure document required in connection with the Merger Agreement, the Merger and the other transactions contemplated by the Merger Agreement, and each Stockholder acknowledges that Parent and the Company may, in their sole discretion, file this Agreement or a form hereof with the SEC or any other Governmental Authority or securities exchange. Such Stockholder agrees to promptly give the Company and Parent any information it may reasonably require for the preparation of any such disclosure documents, and such Stockholder agrees to promptly notify the Company and Parent of any required corrections with respect to any information supplied by such Stockholder specifically for use in any such disclosure document, if and to the extent that any such information shall have become false or misleading in any material respect.

7.11. Further Assurances. Each Stockholder agrees that it shall, from time to time, at the reasonable request of the Company and without further consideration, execute and deliver such additional documents and take all such further action as may be reasonably required to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement.

7.12. Stop Transfer Instructions. At all times commencing with the execution and delivery of this Agreement and continuing until the Expiration Time, in furtherance of this Agreement, each Stockholder hereby authorizes the Company or its counsel to notify the Company’s transfer agent that there is a stop transfer order with respect to the Covered Shares (and that this Agreement places limits on the voting and transfer of the Covered Shares), subject to the provisions hereof and provided that any such stop transfer order and notice will immediately be withdrawn and terminated by the Company following the Expiration Time; provided, that such stop transfer order will not be applicable to any Transfer effectuated in compliance with Section 2.1 hereof.

7.13. Specific Performance. Each of the Parties acknowledges and agrees that the rights of each party hereto to consummate the transactions contemplated by this Agreement are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each Party agrees that in addition to any other available remedies a party hereto may have in equity or at Law, each Party shall be entitled to seek to enforce specifically the terms and provisions of this Agreement or to seek an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement, consistent with the provisions of Sections 7.5, 7.6, and 7.7, in the Chosen Courts, without necessity of posting a bond or other form of security. If any Legal Proceeding should be brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party hereby waives the defense, that there is an adequate remedy at Law.

7.14. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and thereof and supersedes all other prior and contemporaneous agreements, negotiations, understandings, representations and warranties, whether oral or written, with respect to such matters.

7.15. Interpretation. The Parties have participated jointly in negotiating and drafting this Agreement. If an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement. When a reference is made in this Agreement to Articles, Sections, Exhibits or Schedules, such reference shall be to an Article or Section of or Exhibit or Schedule to this Agreement unless otherwise indicated. The table of contents and headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." The word "or" shall not be exclusive. References to "the date hereof" shall mean the date of this Agreement.

7.16. Assignment; Third-Party Beneficiaries. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned (including by operation of Law) by any Stockholder, Parent or the Company without the prior written consent of Parent, the Company or the Stockholders that own a majority of the Covered Shares owned by all Stockholders, as applicable. Any attempted assignment of this Agreement or any of the rights or obligations hereunder other than in accordance with the terms of this Section 7.16 shall be void *ab initio*. Nothing in this Agreement, express or implied, will confer upon any Person other than the Parties and their respective successors and permitted assigns any right, benefit or remedy of any nature by reason of this Agreement.

7.17. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business, and other purposes of such invalid or unenforceable term or provision.

7.18. Termination. This Agreement shall automatically terminate without further action by any of the Parties and shall have no further force or effect as of the Expiration Time; provided that the provisions of Sections 7.3, 7.4, 7.5, 7.6, 7.7, 7.10, 7.14, 7.15, and 7.18 shall survive any such termination. Notwithstanding the foregoing, termination of this Agreement shall not prevent any Party from seeking any remedies (at Law or in equity) against any other Party for that Party's breach of any of the terms of this Agreement prior to the date of termination.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered on the date and year first above written.

ANI PHARMACEUTICALS, INC.

By: /s/ Nikhil Lalwani
Name: Nikhil Lalwani
Title: President and Chief Executive Officer

ALIMERA SCIENCES, INC.

By: /s/ Richard S. Eiswirth Jr.
Name: Richard S. Eiswirth Jr.
Title: President and Chief Executive Officer

CALIGAN PARTNERS LP

By: /s/ David Johnson
Name: David Johnson
Title: Managing Partner

CALIGAN PARTNERS MASTER FUND LP

By: /s/ David Johnson
Name: David Johnson
Title: Managing Partner

CALIGAN PARTNERS CV VI LP

By: /s/ David Johnson
Name: David Johnson
Title: Managing Partner

Schedule A

[redacted]



FOR IMMEDIATE RELEASE

ANI Pharmaceuticals to Further Expand Rare Disease Business through Acquisition of Alimera Sciences

Conference call scheduled for today at 8:30 a.m. ET

- *Strengthens Rare Disease segment as largest driver of future growth, expected to add approximately \$105 million in highly durable branded revenue*
- *Adds two commercial assets ILUVIEN® and YUTIQ® with significant growth potential, expanding ANI's foothold in key strategic therapeutic area of ophthalmology*
- *Anticipated to drive high single digit to low double digit accretion in adjusted non-GAAP EPS in 2025 and to be substantially accretive thereafter*
- *Expected to generate additional \$35 - \$38 million in 2025 adjusted non-GAAP EBITDA inclusive of approximately \$10 million in identified cost synergies; additional EBITDA contribution expected from accelerated growth of Purified Cortrophin® Gel in ophthalmology*
- *Increased geographic diversification with Alimera's established ex-US footprint, including direct operations in Europe*

Princeton, NJ and Atlanta, GA, June 24, 2024 (GLOBE NEWSWIRE) -- ANI Pharmaceuticals, Inc. (Nasdaq: ANIP) ("ANI" or the "Company") and Alimera Sciences, Inc. (Nasdaq: ALIM) ("Alimera") today announced they have signed a definitive agreement pursuant to which ANI will acquire Alimera for \$5.50 per share in cash at closing and one non-tradable contingent value right (CVR) representing the right to receive up to \$0.50 per share upon the achievement of certain net revenue targets in 2026 and 2027. The transaction, which values Alimera at approximately \$381 million in up front consideration, has been approved by both the ANI and Alimera Boards of Directors and is expected to close late in the third quarter of 2024, as further described below.

Alimera is a global pharmaceutical company whose mission is to be invaluable to patients, physicians and partners concerned with maintaining better vision longer. Alimera's two commercial products treat diabetic macular edema (DME) and chronic non-infectious uveitis affecting the posterior segment (NIU-PS) of the eye. ILUVIEN (fluocinolone acetonide intravitreal implant 0.19mg) is indicated for DME in the U.S., Europe and the Middle East as well as for NIU-PS in Europe and the Middle East.

YUTIQ (fluocinolone acetonide intravitreal implant 0.18mg) is available in the U.S. only and is indicated for the treatment of chronic NIU-PS.

Nikhil Lalwani, President and CEO of ANI, stated, "We believe this is a transformational acquisition for ANI, and one that aligns with our strategy to expand our Rare Disease business and deliver on our purpose of 'Serving Patients, Improving Lives'. Late last year, we identified ophthalmology as a key strategic therapeutic area for the Company and, in the first quarter of 2024, expanded our Rare Disease team to promote Purified Cortrophin[®] Gel (Cortrophin Gel) to ophthalmologists. Alimera represents what we believe is a highly synergistic complement to this newly established specialty and will leverage our existing Rare Disease infrastructure. We believe ANI's proven commercial execution capabilities can further unlock ILUVIEN and YUTIQ, two growing and durable assets that would add approximately \$105 million in pro forma 2024 revenues to our Company. The transaction is expected to drive substantial shareholder value creation through high single-digit to low double-digit accretion in adjusted Non-GAAP EPS in 2025 and a substantial increase in accretion thereafter."

Rick Eiswirth, President and CEO of Alimera, commented, "We are pleased to have reached this agreement with ANI, which we believe recognizes the value we have created at Alimera and creates compelling value for our shareholders. ANI and Alimera share a common mission of putting patients first, and this complementary transaction creates a bigger platform to leverage our global infrastructure and outstanding team. I would like to thank Alimera employees, past and present, for always finding a way to help patients maintain better vision longer. We look forward to working with ANI to complete this transaction and help grow its presence in the ophthalmology segment."

Transaction Rationale

- **Further strengthens ANI's Rare Disease business as the largest driver of future growth:** The combination with Alimera will create an attractive Rare Disease growth platform which is expected to account for approximately 45% of pro forma 2024 revenues with robust growth potential. The transaction also expands ANI's footprint beyond the U.S. with the addition of Alimera's direct marketing operations located in Germany, the United Kingdom, Portugal, and Ireland, as well as its partnerships in Europe, Asia, and the Middle East.
- **The addition of two durable commercial products with significant growth potential that leverage the Company's existing Rare Disease infrastructure:** ILUVIEN and YUTIQ are durable assets with high barriers to genericization which the Company believes have a clear role for patients in need of other therapeutic options. The Company believes there is significant growth potential for both ILUVIEN and YUTIQ that it can unlock through commercial synergies and execution.

- **Expands foothold in ophthalmology and accelerates growth of Cortrophin Gel in this key therapeutic area:** During the first quarter of 2024, ANI launched a targeted ophthalmology-focused sales force for Cortrophin Gel. The transaction will expand the reach of the ophthalmology sales team to over 3,600 physicians. Importantly, the Company estimates that there is over 50% overlap between high potential prescribers of Cortrophin Gel and ILUVIEN / YUTIQ.
- **Potential for substantial shareholder value creation:** ANI expects high single-digit to low double-digit accretion in adjusted non-GAAP EPS in 2025 and substantial accretion thereafter. The transaction is anticipated to deliver additional \$35 - \$38 million in 2025 adjusted non-GAAP EBITDA inclusive of approximately \$10 million in identified cost synergies with additional EBITDA contribution expected from accelerated growth of Cortrophin Gel within ophthalmology. The Company anticipates 3.2x pro-forma leverage upon closing and significant organic de-levering in 2025.

Terms of the Transaction & Financing

Under the terms of the merger agreement, ANI will acquire all of the outstanding shares of Alimera for \$5.50 per share, which represents a 75% premium to Alimera's closing share price of \$3.15 on June 21, 2024 and 82% premium to Alimera's 30-day volume weighted average price of \$3.03. ANI will also repay \$72.5 million of Alimera debt.

Alimera investors will also be entitled to a CVR for up to \$0.50 per share, based on achieving net revenue in excess of specified thresholds in 2026 and 2027:

- Up to \$0.25 per share upon achieving net revenues in excess of \$140M in 2026 (sliding scale for net revenues of up to \$150M)
- Up to \$0.25 per share upon achieving net revenues in excess of \$160M in 2027 (sliding scale for net revenues of up to \$175M)

The transaction is not subject to a financing condition. ANI intends to finance the transaction using a combination of cash on hand and debt financing. ANI has obtained \$280M of committed financing from J.P. Morgan and Blackstone Credit & Insurance.

Timing to Close

The transaction has been approved by the Boards of Directors of both companies. The transaction is expected to close late in the third quarter of 2024, subject to customary closing conditions, including receipt of required regulatory approvals and approval by Alimera's shareholders.

Advisors

Guggenheim Securities, LLC is acting as lead financial advisor to ANI and Raymond James & Associates, Inc. is also acting as financial advisor. Hughes Hubbard & Reed LLP is acting as legal advisor to ANI. Centerview Partners LLC is acting as lead financial advisor to Alimera, with Perella Weinberg Partners also acting as a financial advisor to Alimera. DLA Piper is acting as legal advisor to Alimera.

Conference Call

The Company's management will host a conference call today to discuss this transaction.

Date Monday, June 24, 2024
Time 8:30 ET
Toll free (U.S.) 800-225-9448

This conference call will also be webcast and can be accessed from the "Investors" section of ANI's website at www.anipharma.com. The webcast replay of the call will be available at the same site approximately one hour after the end of the call. A replay of the conference call will also be available within two hours of the call's completion and will remain accessible for two weeks by dialing 877-856-8965 and entering access code 4630647.

About ANI Pharmaceuticals, Inc.

ANI Pharmaceuticals, Inc. (Nasdaq: ANIP) is a diversified biopharmaceutical company serving patients in need by developing, manufacturing, and marketing high-quality branded and generic prescription pharmaceutical products, including for diseases with high unmet medical need. The Company is focused on delivering sustainable growth by scaling up its Rare Disease business through its lead asset Purified Cortrophin® Gel, strengthening its Generics business with enhanced research and development capabilities, delivering innovation in Established Brands, and leveraging its U.S. based manufacturing footprint. For more information, visit our website www.anipharma.com.

About Alimera Sciences, Inc.

Alimera Sciences is a global pharmaceutical company whose mission is to be invaluable to patients, physicians and partners concerned with retinal health and maintaining better vision longer. For more information, please visit www.alimerasciences.com.

ANI Forward-Looking Statements

This press release contains not only historical information, but also forward-looking statements made pursuant to the safe-harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements represent the Company's and Alimera's expectations or beliefs concerning future events, including the timing of the transaction and other information relating to the proposed transactions including statements regarding the benefits of proposed transaction and the anticipated timing of the Proposed Transactions. These forward-looking statements generally are identified by the words "believe," "project," "expect," "anticipate," "estimate," "intend," "continue," "strategy," "future," "opportunity," "plan," "may," "should," "will," "shall," "would" other words of similar meaning, derivations of such words and the use of future dates. Forward-looking statements are predictions, projections and other statements about future events that are based on current expectations and assumptions and, as a result, are subject to risks and uncertainties.

The following factors, among others, could cause actual results to differ materially from those described in these forward-looking statements: (i) the risk that the proposed transaction may not be completed in a timely manner or at all, (ii) the failure to satisfy the conditions to the consummation of the proposed transaction, (iii) the occurrence of any event, change or other circumstance that could give rise to the delay or termination of the proposed transaction, (iv) the inability to complete the proposed transaction due to the failure of a party or parties to satisfy conditions to completion of the proposed transaction, including the receipt on a timely basis or at all of any required regulatory clearances and receipt by Alimera of stockholder approval, (v) the failure of the contemplated debt financing or any alternative financing to be obtained on a timely basis or at all, (vi) the effect of the announcement or pendency of the proposed transaction on the Company's and/or Alimera's business relationships, operating results, and business generally, (vii) risks that the proposed transaction may disrupt current plans and operations of the Company and/or Alimera and potential difficulties of Alimera in retaining employees as a result of the proposed transaction, (viii) the outcome of any legal proceedings that may be instituted in connection with the proposed transaction, (ix) volatility in the price of the Company's and/or Alimera's stock, including as a result of the proposed transaction, (x) changes in competitive and regulated industries in which the Company operates, variations in operating performance across competitors, changes in laws and regulations affecting the Company's business and changes in the combined capital structure, (xi) the ability to implement business plans, forecasts, and other expectations after the completion of the proposed transaction, and identify and realize additional opportunities and, in particular, failure to achieve anticipated synergies, (xii) costs and regulatory requirements relating to contract manufacturing arrangements, (xiii) delays or failure in obtaining product approvals from the FDA, (xiv) general business and economic conditions, (xv) market trends for the Company's and/or Alimera's products, including but not limited to, ILUVIEN, YUTIQ and Cortrophin Gel, and the ability to achieve anticipated sales for such products, (xvi) regulatory environment and changes, (xvii) regulatory and other approvals relating to product development and manufacturing, and (xviii) costs related to the proposed transaction and the failure to realize anticipated benefits of the proposed transactions or to realize estimated pro forma results and underlying assumptions.

This press release refers to financial measures that are not in accordance with U.S. generally accepted accounting principles ("GAAP"). Because the non-GAAP financial measures are not calculated in accordance with GAAP, they should not be considered superior to or as a substitute for the related financial measures that are prepared in accordance with GAAP and are not intended to be considered in isolation and may not be the same as or comparable to similarly titled measures presented by other companies due to possible differences in method and in the items being adjusted. A reconciliation of the forward-looking non-GAAP measures presented in this communication is not provided due to the inherent difficulty in forecasting and quantifying items that are necessary for such reconciliation. In addition, the Company believes such a reconciliation would imply a degree of precision and certainty that could be confusing to investors. The variability of the specified items may have a significant and unpredictable impact on future financial performance. The financial guidance is subject to risks and uncertainties applicable to all forward-looking statements as described elsewhere in this communication.

More detailed information on these and additional factors that could affect the Company's actual results are described in the Company's filings with the Securities and Exchange Commission (SEC), including its most recent annual report on Form 10-K and quarterly reports on Form 10-Q, as well as other filings with the SEC. All forward-looking statements in this news release speak only as of the date of this news release and are based on the Company's current beliefs, assumptions, and expectations. The Company undertakes no obligation to update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

Alimera Forward-Looking Statements

This press release includes “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995 regarding, among other things, Alimera’s expectations with respect to the timing of the transaction and other information relating to the transaction, Alimera’s growth opportunities, the commencement, enrollment, timing and outcome of its and others’ clinical studies, the effect of an expanded label, demand for its product, its business strategy, future operations, future financial position, including future non-GAAP and incremental EBITDA, future revenues, projected costs, prospects, plans and objectives. Words such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” “may,” “plan,” “contemplates,” “predict,” “project,” “target,” “likely,” “potential,” “continue,” “ongoing,” “will,” “would,” “should,” “could,” or the negative of these terms and similar expressions or words, identify forward-looking statements. Forward-looking statements are based on current expectations and involve inherent risks and uncertainties (some of which are beyond Alimera’s control), including factors that could delay, divert or change any of them, and could cause actual results to differ materially from those projected in these forward-looking statements. These risks and uncertainties include, but are not limited to, (i) the risk that the transaction may not be completed in a timely manner or at all, which may adversely affect Alimera’s business, (ii) the failure to satisfy the conditions to the consummation of the transaction, including the adoption of the merger agreement by the stockholders of Alimera and the receipt of regulatory approvals from various governmental entities (including any conditions, limitations or restrictions placed on these approvals) and the risk that one or more governmental entities may deny approval, (iii) the occurrence of any event, change or other circumstance that could give rise to the termination of the merger agreement, (iv) the risk that the definitive merger agreement may be terminated in circumstances that require Alimera to pay a termination fee; (v) risks regarding the failure to obtain the necessary financing to complete the merger, (vi) the effect of the announcement or pendency of the transaction on Alimera’s business relationships, operating results and business generally, (vii) risks that the proposed transaction disrupts current plans and operations, (viii) risks related to diverting management’s attention from Alimera’s ongoing business operations, (ix) the outcome of any legal proceedings that may be instituted against Alimera related to the merger agreement or the transaction, and (x) those factors discussed in the “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” sections of Alimera’s most recently filed Annual Report on Form 10-K, most recently filed Quarterly Report on Form 10-Q, and any of Alimera’s subsequent filings with the U.S. Securities and Exchange Commission (SEC) and available on the SEC’s website at www.sec.gov.

All forward-looking statements contained in this press release are expressly qualified by the cautionary statements contained or referred to herein. Alimera cautions investors not to rely on the forward-looking statements Alimera makes or that are made on its behalf as predictions of future events. These forward-looking statements speak only as of the date of this press release. Alimera undertakes no obligation to publicly update or revise any of the forward-looking statements made in this press release, whether as a result of new information, future events or otherwise, except as may be required under applicable securities laws.

Additional Information and Where to Find It

In connection with the proposed transaction, Alimera intends to file a preliminary and definitive proxy statement. The definitive proxy statement and proxy card will be delivered to Alimera's stockholders in advance of the special meeting relating to the proposed acquisition. Each of the Company and Alimera also plan to file other relevant materials with the SEC in connection with the proposed transaction. INVESTORS IN AND SECURITY HOLDERS OF ALIMERA ARE URGED TO READ THE DEFINITIVE PROXY IN ITS ENTIRETY WHEN IT BECOMES AVAILABLE, AS WELL AS ANY OTHER RELEVANT DOCUMENTS THAT ARE FILED OR FURNISHED OR WILL BE FILED OR WILL BE FURNISHED BY EACH OF THE COMPANY AND ALIMERA WITH THE SEC, AS WELL AS ANY AMENDMENTS OR SUPPLEMENTS TO THESE DOCUMENTS, CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION ABOUT THE PROPOSED TRANSACTION, RELATED MATTERS AND THE PARTIES TO THE PROPOSED TRANSACTION. Materials filed by the Company and Alimera can be obtained free of charge at the SEC's website, www.sec.gov. In addition, materials filed by the Company can be obtained free of charge at the Company's website, www.anipharma.com, and materials filed by Alimera can be obtained free of charge at Alimera's website, www.alimerasciences.com.

For ANI:

Lisa M. Wilson, In-Site Communications, Inc.
212-452-2793
lwilson@insitecony.com

For Alimera:

Scott Gordon
scottg@coreir.com

SOURCE: ANI Pharmaceuticals, Inc.



Acquisition of Alimera Sciences, Inc.

June 24, 2024



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Disclaimer

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Speakers



Nikhil Lalwani

President and Chief
Executive Officer



Chris Mutz

Head of Rare Disease



Steve Carey

Chief Financial Officer

Agenda



Overview & Strategic Rationale

Nikhil Lalwani (*President and Chief Executive Officer*)



Commercial Overview

Chris Mutz (*Head of Rare Disease*)



Financial Overview & Transaction Details

Stephen Carey (*Chief Financial Officer*)



Q&A

Nikhil Lalwani (*President and Chief Executive Officer*)

Chris Mutz (*Head of Rare Disease*)

Stephen Carey (*Chief Financial Officer*)

Agenda



Overview & Strategic Rationale

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Q&A

Nikhil Lalwani (*President and Chief Executive Officer*)

Chris Mutz (*Head of Rare Disease*)

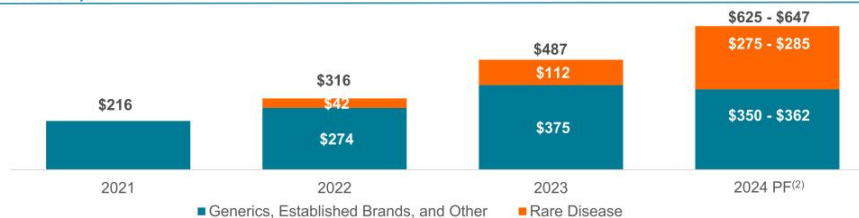
Stephen Carey (*Chief Financial Officer*)

Company Overview	Key Deal Terms
<ul style="list-style-type: none"> Markets two novel differentiated treatments for ophthalmological indications: diabetic macular edema and chronic non-infectious uveitis – posterior segment ~160 global employees 2024 revenue guidance of approximately \$105M Key Products: <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 10px;"> <div style="text-align: center;">  <p>ILUVIEN[®] fluocinolone acetonide intraocular implant (0.19mg)</p> </div> <div style="text-align: center;">  <p>YUTIQ[®] fluocinolone acetonide intraocular implant (0.18 mg)</p> </div> </div> 	<ul style="list-style-type: none"> \$5.50 per share in cash (~75% premium to June 21 closing price) <ul style="list-style-type: none"> CVR of up to \$0.50 per share Transaction value of \$381M Closing expected in late Q3 2024, subject to customary closing conditions, including receipt of required regulatory approvals and approval by Alimera's shareholders
<p>Substantial value creation for shareholders of both companies</p>	

Rare Disease pro-forma revenues expected to increase to ~45% of Company revenues, largest future growth driver

Generics, Established Brands, and Other	Rare Disease	
	Cortrophin Gel	Alimera
Acquired Novitium in November 2021	Launched in January 2022	Announced in June 2024; expected to close in third quarter of 2024
<ul style="list-style-type: none"> Robust pipeline and new product launch execution capabilities 	<ul style="list-style-type: none"> Specialty commercial teams covering ophthalmology and pulmonology with portfolio team focused on rheumatology, neurology and nephrology ACTH category sales growing 8-10%⁽¹⁾ 	<ul style="list-style-type: none"> Highly complementary with ANI's efforts in Rare Disease, significantly expanding focus within ophthalmology Global infrastructure with commercial presence across 20+ countries

ANI Revenue (\$ millions)



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1. Based on FY 2024 ANI and Mallinckrodt net revenue guidance.
 2. Assumes combined revenues of ANI and Alimera based on published guidance.

Transaction to expand ANI's Rare Disease business with potential for substantial shareholder value creation

Further strengthens ANI's Rare Disease business as largest driver of future growth

- 1
 - Expected to add ~\$105M pro forma revenues making Rare Disease ~45% of Company revenues
 - Combination enhances an attractive Rare Disease growth platform serving patients across therapeutic areas
 - Increased geographic diversification with Alimera's established ex-US footprint, including direct operations in Europe

Adds two durable commercial assets with significant growth potential

- 2
 - ILUVIEN and YUTIQ are durable assets with high barriers to genericization which the Company believes have a clear role to treat patients in need of other therapeutic options
 - Long-term clinical studies, real-world use, and ongoing trials provide a strong foundation for ILUVIEN and YUTIQ
 - Significant growth potential expected to be further unlocked through commercial synergies and execution

Expands foothold in ophthalmology and accelerates growth of Cortrophin Gel in this key therapeutic area

- 3
 - Combined nationwide ophthalmology salesforce planned to be ~45 dedicated to Cortrophin, ILUVIEN, and YUTIQ
 - Expands reach to over 3,600 ophthalmologists, with over ~50% overlap between high potential prescribers of Cortrophin and ILUVIEN/YUTIQ

Potential for substantial shareholder value creation

- 4
 - Expected high single-digit to low double-digit accretion in 2025 adjusted non-GAAP EPS and substantially accretive thereafter
 - Anticipated additional \$35-\$38 million in 2025 adjusted non-GAAP EBITDA inclusive of approximately \$10 million in identified cost synergies; incremental EBITDA contribution expected from accelerated growth of Cortrophin Gel within ophthalmology
 - Anticipated 3.2x⁽¹⁾ pro-forma leverage upon close; expect to significantly de-lever organically in 2025



Transaction aligned with M&A strategy



Expands Scope and Scale of Rare Disease Business



Priority Therapeutic Area



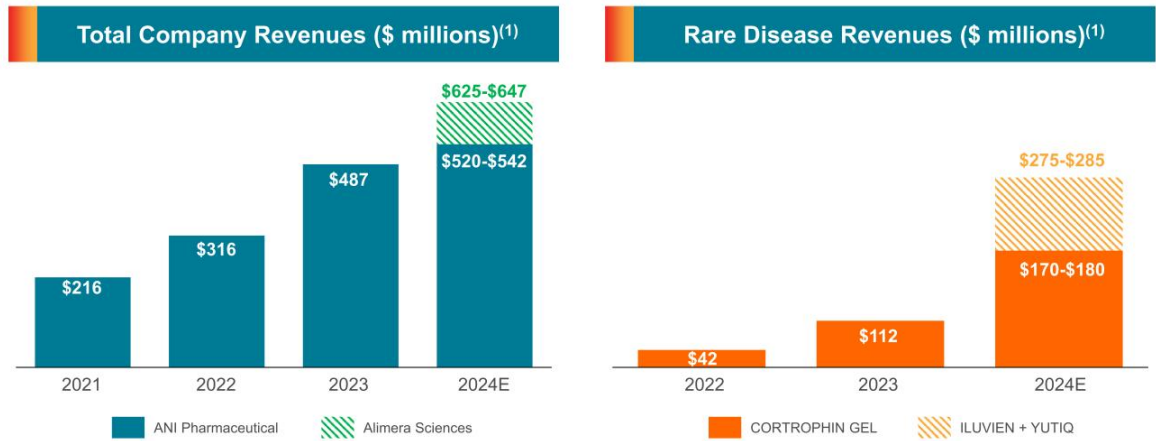
- Ophthalmology as a percentage of total ACTH prescribers has almost doubled to more than 10% over four years⁽¹⁾

Assets with Growth & Durability



- Double-digit growth assets
- Patent protection
- High barriers to genericization

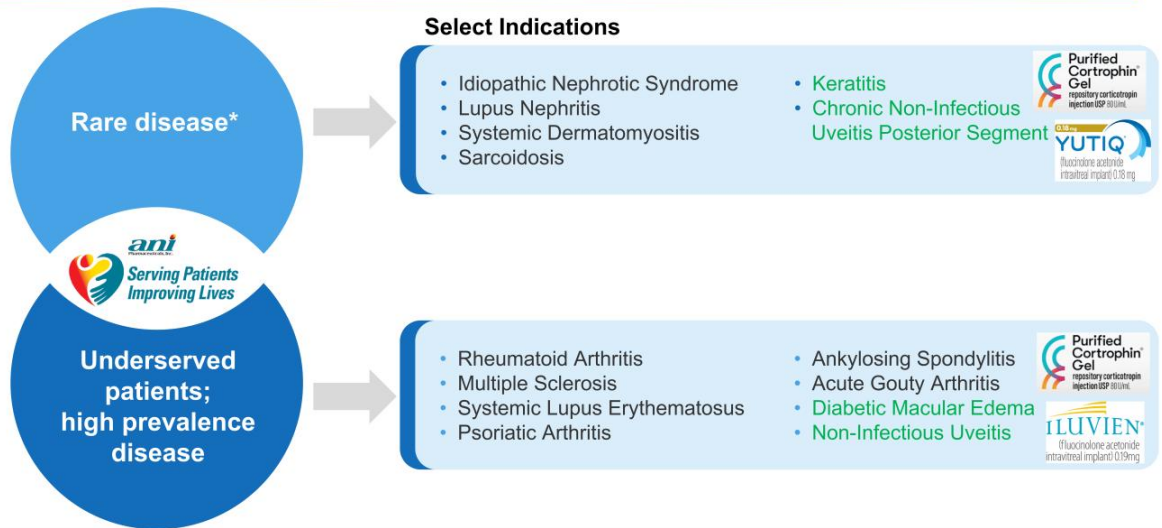
Potential for meaningful expansion in Rare Disease and total Company revenues



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1. ANIP 2024 estimates reflect 2024 guidance, initially provided on February 29, 2024 and reiterated on May 10, 2024; ALIM 2024 estimate reflects 2024 guidance provided on March 7, 2024 and reiterated on May 14, 2024.

ANI's Rare Disease business focuses on patients who are not well served by other therapies



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* Based on [US FDA](#) considered definition of rare disease - disorders affecting <200 000 persons, translating to a prevalence of 58.5 per 100 000 at current time

ILUVIEN and YUTIQ: intravitreal implants designed to deliver continuous low dose treatment

Diabetic Macular Edema



- **Disease state:** DME, a chronic disease that is the leading cause of vision loss in diabetic patients
 - >4% of diabetic patients develop clinically significant macular edema
- Causes blurred vision in the early stage and may cause cumulative damage over the long term

Chronic Non-Infectious Uveitis



- **Disease state:** Chronic non-infectious uveitis affecting the posterior segment (NIU-PS) is inflammation of the eye that can lead to pain, visual impairment and vision loss
- Over 500,000 patients in U.S., many of working age, with non-infectious uveitis
- Classified by onset, duration and etiology

Agenda



1

Overview & Strategic Rationale

Nikhil Lalwani (*President and Chief Executive Officer*)



2

Commercial Overview

Chris Mutz (*Head of Rare Disease*)



3

Financial Overview & Transaction Details

Stephen Carey (*Chief Financial Officer*)



4




Q&A

Nikhil Lalwani (*President and Chief Executive Officer*)

Chris Mutz (*Head of Rare Disease*)

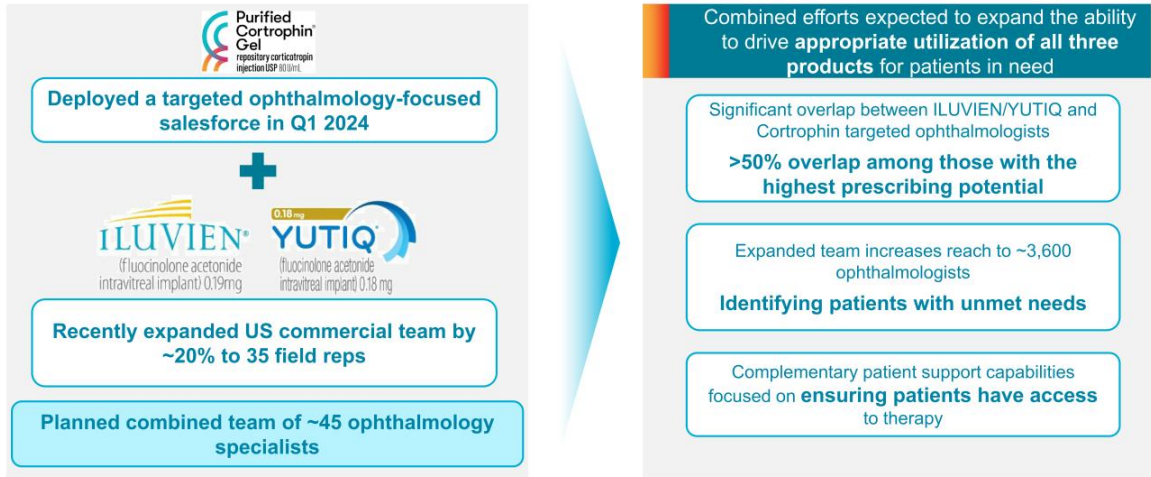
Stephen Carey (*Chief Financial Officer*)

ANI Rare Disease would combine three commercial products with growth and durability

	 ILUVIEN® (flucinolone acetonide intravitreal implant) 0.19mg	 YUTIQ (flucinolone acetonide intravitreal implant) 0.18 mg	 Purified Cortrophin® Gel repository corticotropin injection USP 800U/mL
US Indications	Diabetic macular edema (DME)	Non-infectious uveitis affecting the posterior segment (NIU-PS)	Severe acute and chronic allergic and inflammatory conditions affecting the eye and its adnexa (ophthalmology only)
Ex-US Indications	DME and NIU-PS <i>Middle East and 17 European countries</i>	--	--
US Approval Date	September 2014	October 2018 <i>Alimera acquired from Eyepoint in May 2023</i>	November 2021 <i>sNDA</i>
2023 Sales⁽¹⁾	~\$59 million	~\$36 million	~\$112 million (all indications)

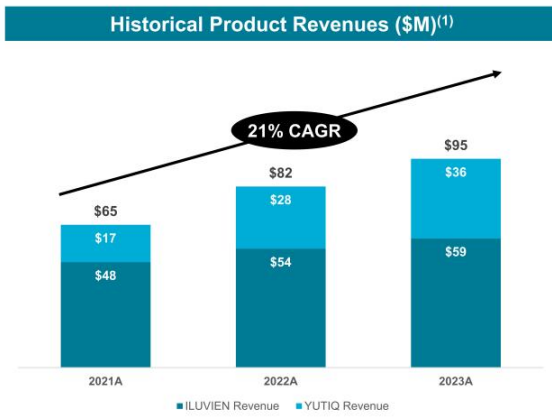
(1) Pro forma results for YUTIQ, including Eyepoint results prior to May 2023 acquisition by Alimera.

Combined sales team expected to accelerate growth across the ophthalmology business



Positioned for robust topline growth

ILUVIEN and YUTIQ are double digit growth assets...



... with significant potential as part of ANI

Expanded sales force promoting three products to accelerate growth

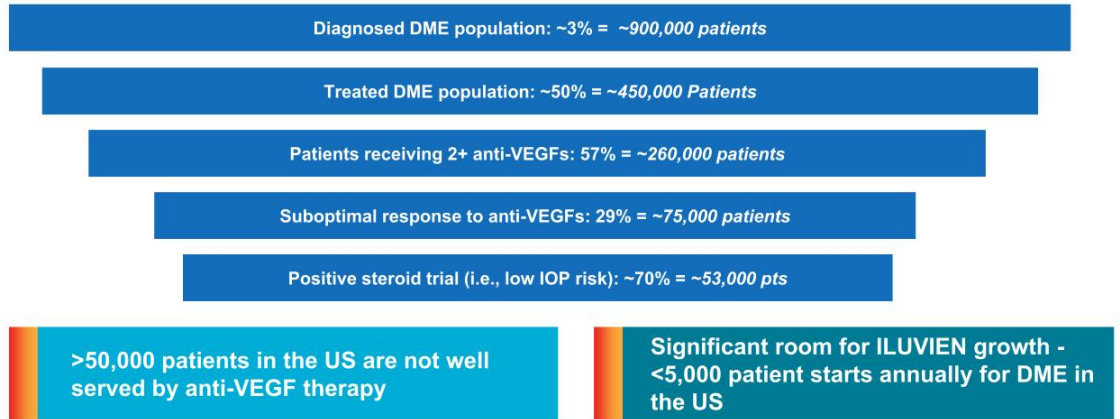
Significant customer overlap between three promoted products to drive commercial efficiencies

ANI commercial team excels at identifying patients who are not well served with other therapeutic options

Ongoing clinical research and real-world evidence generation to further demonstrate the benefit of ILUVIEN and YUTIQ

The most underserved patient group within DME represents more than 50,000 patients in the US alone

DME epidemiology model flow – inputs informed by ANI's market research



Long-term clinical studies, real-world use, and ongoing trials provide a strong foundation for ILUVIEN and YUTIQ

Three-Year Safety and Efficacy of the 0.19-mg Fluocinolone Acetonide Intravitreal Implant for Diabetic Macular Edema
The PALADIN Study

Long-term Benefit of Sustained-Delivery Fluocinolone Acetonide Vitreous Inserts for Diabetic Macular Edema

Peter A. Campochiaro, MD,¹ David M. Brown, MD,² Andrew Portnoy, MD,³ Thomas Cullie, MD,⁴ David Borer, MD,⁵ Frank G. Holz, MD,⁶ Michael Tolentino, MD,⁷ Amal Gupta, MD,⁸ Euliano Duarte, MD,⁹ Steven Masketz, MD,¹⁰ John Gonsky, MD,¹¹ Barry Kozak, BS,¹² Kathleen Wilshaw, BS,¹² Francis E. Kane, PhD,¹² for the FAME Study Group[®]

Body of clinical data expected to continue to grow



Largest head-to-head (306 patients) comparison of any corticosteroid therapy and anti-VEGF therapy in the treatment of newly diagnosed patients suffering from DME
Topline data expected Q1 2025

Synchronicity Study

110 patient eyes enrolled to receive YUTIQ
Recruitment completed in January 2024
Topline data readout expected 2H 2024

Intravitreal fluocinolone acetonide implant (ILUVIEN[®]) for diabetic macular oedema: a literature review
Horacio Masas,¹ Anindya H. Nagpal,^{2,3} Athanasios Vergados,⁴ Panagiotis Daidonis,⁵ Sudeshna Patra⁶ and Georgios D. Panos⁷

Changes in intraocular pressure after intravitreal fluocinolone acetonide (ILUVIEN): real-world experience in three European countries
Usha Chakravarthy,¹ Simon R Taylor,² Frank H Johannes Koch,³ João Paulo Castro de Sousa,⁴ Claire Bailey,⁵ On behalf of the ILUVIEN Registry Safety Study (RISS) Investigators Group

The USER Study: A Chart Review of Patients Receiving a 0.2µg/day Fluocinolone Acetonide Implant for Diabetic Macular Edema
Alexander Lattin,¹ Scott S. Koh,² Jaime Jimenez,³ Christopher D. Berman

Intravitreal Fluocinolone Acetonide Implant (ILUVIEN[®]) for the Treatment of Retinal Conditions. A Review of Clinical Studies
Yusef Moshir,¹ Parag H Mhatre,², Zina Gazioufa,³ Matteo Ripa,⁴ Lorenzo Mana,⁵ Georgios D Panos⁶



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Establishes global commercial footprint for ANI's Rare Disease business unit

Alimera generates ~30% of revenue ex-US (\$24M in 2023, 20% YoY growth)

- Direct commercial operations in
 - United States
 - Germany
 - United Kingdom
 - Portugal
 - Ireland
- High-quality partnerships throughout Europe, the Middle East, and Asia



Agenda



Overview & Strategic Rationale

Nikhil Lalwani (*President and Chief Executive Officer*)



Commercial Overview

Chris Mutz (*Head of Rare Disease*)



Financial Overview & Transaction Details

Stephen Carey (*Chief Financial Officer*)



Q&A

Nikhil Lalwani (*President and Chief Executive Officer*)

Chris Mutz (*Head of Rare Disease*)

Stephen Carey (*Chief Financial Officer*)

Transaction overview

Consideration	<ul style="list-style-type: none">ANI to acquire all outstanding shares of Alimera for up-front consideration of approximately \$381 million comprised of:<ul style="list-style-type: none">\$5.50 per share in cash (~\$320M)Pay-off of \$72.5M of Alimera debt net of estimated Alimera cash at time of close (~\$11M)Non-tradable CVR for up to \$0.50 per share, based on achieving certain levels of net revenue<ul style="list-style-type: none">Up to \$0.25 per share upon net revenues of between \$140M to \$150M in 2026Up to \$0.25 per share upon net revenues of between \$160M to \$175M in 2027
Financing	<ul style="list-style-type: none">Expected to fund using a combination of cash on hand and incremental debtANI has obtained \$280M of committed financing from J.P. Morgan and Blackstone<ul style="list-style-type: none">To be completed within the bounds of our existing credit agreementPro forma net leverage of ~3.2x⁽¹⁾ at time of close<ul style="list-style-type: none">Enhanced cash flow generation from growth and synergies to drive rapid deleveraging
Pro Forma Results	<ul style="list-style-type: none">Expect high single-digit to low double-digit accretion in adjusted non-GAAP EPS in 2025⁽²⁾ and substantially accretive thereafterDeal expected to add \$35-\$38 million in adjusted non-GAAP EBITDA in 2025 inclusive of ~\$10M of identified cost synergies; with incremental EBITDA contribution expected from accelerated growth of Cortrophin Gel within ophthalmology
Timing	<ul style="list-style-type: none">Transaction is expected to close in late Q3 2024, subject to customary closing conditions, including receipt of required regulatory approvals and approval by Alimera's shareholders



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Acquisition of Alimera Sciences, Inc.

June 24, 2024



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