

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

**FINAL FEE APPLICATION COVER SHEET FOR THE PERIOD
FEBRUARY 13, 2024, THROUGH AND INCLUDING AUGUST 2, 2024**

In re Invitae Corporation, *et al.*¹

Applicant: FTI Consulting, Inc.

Case No. 24-11362 (MBK)

Client: Debtors and Debtors in Possession

Chapter 11

Case Filed: February 13, 2024

COMPLETION AND SIGNING OF THIS FORM CONSTITUTES A CERTIFICATION
UNDER PENALTY OF PERJURY PURSUANT TO 28 U.S.C. § 1746.

RETENTION ORDER ATTACHED.

/s/ Andrew Hinkelman 9/20/2024
Andrew Hinkelman Date
Senior Managing Director
FTI Consulting, Inc.

¹ The last four digits of Debtor Invitae Corporation’s tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/invitae>. The Debtors’ service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.



**SECTION I
FEE SUMMARY**

Interim Fee Application or Final Fee Application

Summary of Amounts Requested for Previous Periods

	<u>FEES</u>	<u>EXPENSES</u>
Total Previous Fee/Expenses Requested:	\$ 6,036,519.50	\$ 17,607.00
Total Fees/Expenses Allowed to Date:	0.00	0.00
Total Retainer (If Applicable):	500,000.00	0.00
Total Holdback (If Applicable):	1,207,438.90	0.00
Total Received by FTI Consulting, Inc.:	4,016,792.53	15,524.93
Total Fees/Expenses Outstanding	\$ 2,037,333.97	

**SECTION II
SUMMARY OF SERVICES**

SUMMARY OF MONTHLY FEE STATEMENTS FILED

Fee Statement Filing Date Docket No.	Period Covered	Requested		Paid		CNO Filing Date	Amount Outstanding
		Fees	Expenses	Fees	Expenses		
First 05/09/2024 Dkt. 468	2/13/2024 - 3/31/2024	\$ 2,132,002.50	\$ 2,568.69	\$ 1,705,602.00	\$ 2,568.69	5/28/2024	\$ 426,400.50
Second 05/24/2024 Dkt. 543	4/1/2024 - 4/30/2024	1,255,051.00	6,373.96	1,004,040.80	6,373.96	6/10/2024	251,010.20
Third 06/25/2024 Dkt. 692	5/1/2024 - 5/31/2024	756,382.50	2,662.37	605,106.00	2,662.37	7/10/2024	151,276.50
Fourth 07/26/2024 Dkt. 882	6/1/2024 - 6/30/2024	858,148.50	3,919.91	686,518.80	3,919.91	8/12/2024	171,629.70
Fifth 09/04/2024 Dkt. 1011	7/1/2024 - 8/2/2024	1,034,935.00	2,082.07	-	-	N/A	1,037,017.07
Total Compensation		\$ 6,036,519.50	\$ 17,607.00	\$ 4,001,267.60	\$ 15,524.93		\$ 2,037,333.97

(Continued on the following page)

**SUMMARY OF HOURS INCURRED BY PROFESSIONAL
FROM FEBRUARY 13, 2024, THROUGH AUGUST 2, 2024**

Professional	Position	Billing Rate	Total Hours	Total Fees
Martin Kuehne	Senior Managing Director	\$ 1,390	10.0	\$ 13,900.00
Andrew Hinkelman	Senior Managing Director	1,315	287.2	377,668.00
Rachel Chesley	Senior Managing Director	1,130	61.2	69,156.00
Thomas Welsh	Managing Director	1,110	202.2	224,442.00
Philip Langton	Managing Director	1,110	6.1	6,771.00
Gilbert Jones	Managing Director	1,110	9.5	10,545.00
Andrew Spirito	Managing Director	1,075	1,057.4	1,136,705.00
Michael Yoshimura ¹	Managing Director	980	274.9	269,402.00
Michael Yoshimura	Senior Director	970	239.9	232,703.00
Matthew Ventimiglia	Managing Director	920	3.3	3,036.00
Rose Temple	Managing Director	920	3.5	3,220.00
Sean Higgins	Director	865	885.0	765,525.00
Chase D'agostino	Managing Director	800	2.2	1,760.00
Keven Shang	Senior Consultant	790	425.4	336,066.00
Jacob Baltaytis	Senior Consultant	730	720.9	526,257.00
Victoria Zaharoff	Director	685	128.1	87,748.50
Andrew Bland	Senior Consultant	675	732.0	494,100.00
Ashray Kalra	Senior Consultant	675	15.1	10,192.50
Grace Shiau	Senior Consultant	675	702.7	474,322.50
Nicholas Lucci	Senior Consultant	675	794.7	536,422.50
Kyle Schanzer	Senior Consultant	675	240.7	162,472.50
Christopher Tkach	Director	610	2.0	1,220.00
Alexander Kurowski ¹	Senior Consultant	595	188.4	112,098.00
Jaime Roth	Senior Consultant	595	5.2	3,094.00
Helena Nicholls	Senior Consultant	550	40.0	22,000.00
Alexander Kurowski	Consultant	500	182.6	91,300.00
Helena Nicholls ¹	Consultant	420	29.4	12,348.00
Neha Narayan	Consultant	420	100.0	42,000.00
John Sweeney	Consultant	370	3.0	1,110.00
Yuan Xu	Consultant	370	3.0	1,110.00
Gordon Lee	Senior Director	275	3.2	880.00
Jorge Nunez	Assistant Review Manager	275	13.8	3,795.00
Danielle Huston	Senior Consultant	250	0.6	150.00
Cara Holmes	Consultant	250	12.0	3,000.00
GRAND TOTAL			7,385.2	\$6,036,519.50

¹ Indicates individuals that received a promotion in April 2024.

**SUMMARY OF HOURS INCURRED BY PROJECT CATEGORY
FROM FEBRUARY 13, 2024, THROUGH AUGUST 2, 2024**

Task Code	Task Description	Total Hours	Total Fees
1	Business Operations	694.3	\$ 621,908.50
2	Cash Management and Reporting	734.3	608,632.50
3	Financial Planning Analysis & Support	47.9	42,407.00
4	Transaction Support and Asset Sales	2,038.6	1,659,496.50
5	Strategic Communications	364.4	238,946.50
6	Work on Motions or Court Filings	125.5	98,023.00
7	Court Attendance	81.4	87,381.50
8	Monthly Operating Reports and Other Bankruptcy Reporting	598.6	426,021.00
9	SOFA/SOAL	216.7	168,864.00
10	Claims Management & Analysis	629.4	485,304.00
11	Plan and Disclosure Statement	612.9	524,936.00
12	Executory Contracts	70.8	41,273.00
13	Case Strategy / Communications with Debtors' Advisers	243.8	253,922.00
14	Communications or Research for Secured Creditors or their Counsel	64.9	55,017.00
15	Communications or Research for Unsecured Creditors or their Counsel	301.5	286,777.50
16	Litigation and Adversary Proceedings	17.7	20,323.50
17	Travel	26.5	31,802.50
18	Case Administration	244.2	200,917.00
19	Fee Application Preparation	271.8	184,566.50
GRAND TOTAL		7,385.2	\$6,036,519.50

**SECTION III
SUMMARY OF DISBURSEMENTS**

**SUMMARY OF EXPENSES INCURRED
FROM FEBRUARY 13, 2024, THROUGH AUGUST 2, 2024**

Expense Type	Amount
Airfare	\$ 4,232.40
Lodging	9,434.62
Meals	772.92
Transportation	3,082.06
Miscellaneous	20.00
Purchased Services	65.00
GRAND TOTAL	\$ 17,607.00

**SECTION IV
CASE HISTORY**

- (1) Date cases filed: February 13, 2024
- (2) Chapter under which cases commenced: Chapter 11
- (3) Date of Retention: April 23, 2024, *nunc pro tunc* to February 13, 2024. **See Exhibit A**.
If limit on number of hours or other limitations to retention, set forth: N/A
- (4) Summarize in brief the benefits to the estate and attach supplements as needed:
 - (a) The Applicant assisted the Debtors in developing materials for diligence requests in the Debtors' sales process.
 - (b) The Applicant assisted the Debtors in developing a cash collateral budget and updated the budget for periodic reporting to both internal and external parties.
 - (c) The Applicant assisted the Debtors with near-term liquidity management.
 - (d) The Applicant assisted the Debtors' FP&A team in finalizing the go-forward business plan.
 - (e) The Applicant assisted and provided analyses supporting the go-forward business plan.
 - (f) The Applicant assisted the Debtors in its preparation of its Statement of Financial Affairs, Statement of Assets and Liabilities, Monthly Operating Reports, and any other necessary reporting during its bankruptcy cases.
 - (g) The Applicant assisted the Debtors in its negotiations with secured creditors, unsecured creditors, potential buyers, and other external parties.
 - (h) The Applicant assisted the Debtors in planning communications strategies and tactics in connection with its bankruptcy cases and developed associated restructuring communications materials for all critical stakeholder audiences.
 - (i) The Applicant assisted the Debtors with the identification of executory contracts and unexpired leases, performed a cost/benefit analysis with respect to the assumption or rejection of each, and prepared schedules detailing executory contracts and unexpired leases in support of the Debtors' ongoing sales process and bankruptcy preparations.
 - (j) The Applicant rendered all other services set forth below.

- (k) To the extent not addressed by the foregoing descriptions, the Applicant performed other services on behalf of the Debtors that were necessary and appropriate during these bankruptcy cases.
- (l) Further summaries of the work performed during the Fee Period are provided in the monthly fee statements filed by FTI Consulting, Inc. [Docket Nos. 468, 543, 692, 882, and 1011].
- (5) Anticipated distribution to creditors:
 - (a) Administration expense: Paid in full.
 - (b) Secured creditors: To be paid in accordance with the *Third Amended Joint Plan of Invitae Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 909] (the "Plan").
 - (c) Priority creditors: To be paid in accordance with the Plan.
 - (d) General unsecured creditors: To be paid in accordance with the Plan.
- (6) Final disposition of case and percentage of dividend paid to creditors Distributions to creditors will be made in accordance with the Plan.
- (7) This is the first and final fee application.

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Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

INVITAE CORPORATION, *et al.*,

Debtors.²

Chapter 11

Case No. 24-11362 (MBK)

(Jointly Administered)

**FINAL FEE APPLICATION OF FTI CONSULTING, INC. FOR
PAYMENT OF COMPENSATION AND REIMBURSEMENT OF
EXPENSES AS FINANCIAL ADVISOR TO THE DEBTORS FOR
THE PERIOD FROM FEBRUARY 13, 2024, THROUGH AUGUST 2, 2024**

² The last four digits of Debtor Invitae Corporation’s tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.veritaglobal.net/invitae>. The Debtors’ service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.

FTI Consulting, Inc. (together with its wholly owned subsidiaries, “FTI”), financial advisor to the above-captioned debtors and debtors in possession (collectively, the “Debtors”), hereby submits this final fee application (the “Application”),³ pursuant to (a) 11 U.S.C. §§ 327, 328, 330, and 331, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2016-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”), (b) the *Administrative Fee Order Establishing Procedures for the Allowance and Payment of Interim Compensation and Reimbursement of Expenses of Professionals Retained by Order of This Court* entered on March 18, 2024 [Docket No. 187] (the “Administrative Fee Order”), and (c) the *United States Trustee’s Appendix B Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330* (the “Appendix B Guidelines”), for entry of an order: (i) allowing on a final basis, compensation in the amount of \$6,036,519.50 for the reasonable and necessary professional services that FTI rendered to the Debtors from February 13, 2024 through August 2, 2024 (the “Application Period”), and reimbursement for the actual and necessary costs and expenses that FTI incurred during the Application Period in the amount of \$17,607.00; and (ii) directing payment to FTI for 100% of all allowed fees and expenses. In support of this Application, FTI respectfully represents as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of New Jersey (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). The Debtors confirm their consent to the Court

³ Capitalized terms used in this Application but not otherwise defined herein shall have the meanings ascribed to them in the Plan.

entering a final order in connection with this Application to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), rule 2016 of the Bankruptcy Rules, and rule 2016-1 of the Local Rules.

BACKGROUND

4. On February 13, 2024 (the “Petition Date”), the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On February 16, 2024, the Court entered an order [Docket No. 54] authorizing procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). On March 1, 2024, the United States Trustee for the District of New Jersey (the “U.S. Trustee”) appointed an official committee of unsecured creditors (the “Committee”) [Docket No. 131] pursuant to section 1102 of the Bankruptcy Code. No request for appointment of a trustee or examiner has been made in these chapter 11 cases.

5. On March 14, 2024, the Debtors filed the *Debtors’ Application for Entry of an Order Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor Effective as of the Petition Date* [Docket No. 171].

6. On April 23, 2024, the Court entered the *Order Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor Effective as of the Petition Date* (the “Retention Order”) [Docket No. 353]. The Retention Order authorized the compensation and reimbursement of FTI pursuant to applications, such as this Application, filed in accordance with

applicable authority, including sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules, the Interim Compensation Order, and the Appendix B Guidelines. A true and correct copy of the Retention Order is attached hereto as **Exhibit A**.

7. On August 2, 2024, the Bankruptcy Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Third Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 913] (the “Confirmation Order”) confirming the *Third Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 909].

8. On August 7, 2024, the Effective Date occurred, and the Plan Administrator was appointed. *See Notice of (I) Entry of the Order Confirming the Third Amended Joint Plan of Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code and (II) Occurrence of the Effective Date* [Docket No. 932].

9. This is FTI’s final application for allowance and payment of fees and expenses incurred in connection with its representation of the Debtors in these cases.

10. FTI performed the services for which it is seeking compensation on behalf of or for the Debtors and not on behalf of any other entity. Except for its right to payment of fees and expenses allowed by this Court, FTI has received no promises of payment from any source for services rendered to or to be rendered in these chapter 11 cases. Pursuant to Bankruptcy Rule 2016(b), FTI has not shared, nor has FTI agreed to share (a) the compensation it has received, or may receive, with another party or person other than with the employees of FTI; or (b) the compensation another person or party has received or may receive.

PROFESSIONAL SERVICES RENDERED AND EXPENSES INCURRED

11. By this Application, FTI seeks entry of an order (i) allowing compensation for professional services rendered to the Debtors during the Application Period in the aggregate

amount of \$6,036,519.50 and reimbursement of expenses incurred in connection with rendering such services in the aggregate amount of \$17,607.00, for a total allowed amount of \$6,054,126.50.

12. The fees sought by this Application represent an aggregate of 7,385.2 hours of professional time performing services for the Debtors during the Application Period.

13. In the ordinary course of its practice, FTI maintains computerized records of the time expended in rendering professional services on behalf of the Debtors. Time entries are recorded in tenths of an hour with detailed descriptions of the services performed by each professional on behalf of the Debtors. Detailed time entry records for time incurred during the Application Period were included in the monthly fee applications previously filed with the Court, as summarized in the cover sheet (section IV) of this application. The fees and disbursements sought in this Application are billed at rates customarily charged by FTI and generally accepted by FTI's clients.

14. All of the compensation and expenses sought by this Application were actual, reasonable, and necessary expenses of representing the Debtors and preserving the value of the Debtors' estates for the benefit of the Debtors. These services required a high level of professional competence and expertise, and FTI submits that the services were performed efficiently and effectively. The hourly rates billed by FTI are customary for professional services rendered in similar matters and were fair and reasonable under the circumstances.

15. The following paragraphs are intended to highlight key services rendered by FTI during the Application Period and are not meant to be a detailed description of all of the work performed.

Code 1 – Business Operations (694.3 hours).

16. Time billed to this task code primarily relates to advising and assisting the

Debtors with the planning, development, evaluation, and implementation of the Debtors' strategic, business, and operating plans. This code also includes time to manage vendors and negotiate postpetition service terms.

Code 2 – Cash Management and Reporting (734.3 hours).

17. Time billed to this task code primarily relates to preparing and evaluating actual cash flow reporting, preparing cash forecasts, tracking professional fees, and other cash-related activities. Additionally, FTI advised and assisted the Debtors with treasury-related matters, including, but not limited to, compliance with reporting requirements detailed in the cash management and cash collateral orders, bank account management, and other financial analyses.

Code 3 – Financial Planning Analysis and Support (47.9 hours).

18. Time billed to this category relates to assisting the Debtors with financial planning analysis and support, including the analysis and determination of liabilities subject to compromise, the coordination and preparation of financial projections, the impact of rejected leases and contracts, the determination of reorganization items, and related financial reporting matters.

Code 4 – Transaction Support and Asset Sale (2,038.6 hours).

19. Time billed to this category relates to assisting the Debtors with transaction support and asset sale processes, including the evaluation and preparation of assets for sale, financial analysis to determine fair market value, the negotiation and execution of asset purchase agreement and transaction service agreement, conducting due diligence, coordinating with stakeholders to ensure an orderly transfer of assets, and addressing any related liabilities, as well as providing financial reporting and analysis to support decision-making throughout the sale transaction.

Code 5 – Strategic Communications (364.4 hours).

20. Time billed to this category relates to assisting the Debtors with strategic communications, including the development and execution of communication plans for internal and external stakeholders, managing public relations and media inquiries, preparing key messaging for creditors, employees, and other stakeholders, coordinating with legal and financial advisors to ensure consistency in communications, and supporting the Debtors' overall strategy to mitigate reputational risk and avoid value destruction throughout the sale process.

Code 6 – Work on Motions or Court Filings (125.5 hours).

21. Time billed to this category relates to assisting the Debtors with the preparation and review of motions or court filings, including drafting and reviewing declarations and motions, coordinating with legal counsel to ensure accuracy and compliance with court requirements, gathering and analyzing financial data to support filings, preparing exhibits and other documentation, responding to diligence requests from legal counsel, and supporting the Debtors in responding to objections or inquiries from the court, creditors, or other stakeholders.

Code 7 – Court Attendance (81.4 hours).

22. Time billed to this category relates to in-person or virtual court attendance, including attending hearings and other court proceedings.

Code 8 – Monthly Operating Reports and Other Bankruptcy Reporting (598.6 hours).

23. Time billed to this category relates to assisting the Debtors with the preparation of Monthly Operating Reports, including gathering financial data, ensuring compliance with U.S. Trustee guidelines, preparing reports on key financial metrics, and reconciling financial statements. Time billed to this category also entailed preparing and maintaining compliance with first day order reporting requirements.

Code 9 – Statement of Financial Affairs and Schedules of Assets and Liabilities (216.7 hours).

24. Time billed to this category relates to assisting the Debtors with preparing the Statement of Financial Affairs and Schedules of Assets and Liabilities, including gathering and verifying data, ensuring compliance with bankruptcy requirements, and coordinating with legal counsel to complete and file the documents accurately.

Code 10 – Claims Management and Analysis (629.4 hours).

25. Time billed to this category relates to assisting the Debtors with claims management and analysis, including reviewing, reconciling, and categorizing claims, analyzing the validity and priority of claims, coordinating with creditors and advisors, and resolving disputes while maintaining accurate records.

Code 11 – Plan and Disclosure Statement (612.9 hours).

26. Time billed to this category relates to assisting the Debtors with the development of the Plan and Disclosure Statement, including drafting, reviewing, and revising the documents, analyzing financial projections and recovery estimates, and preparing for negotiations with creditors and other stakeholders.

Code 12 – Executory Contracts (70.8 hours).

27. Time billed to this category relates to assisting the Debtors with the analysis and management of executory contracts, including identifying contracts and leases subject to assumption or rejection, evaluating the financial impact of potential actions, coordinating with legal counsel on the drafting and filing of motions, negotiating with counterparties, and maintaining records of contract statuses and related liabilities.

Code 13 – Case Strategy / Communications with Debtors’ Advisers (243.8 hours).

28. Time billed to this category relates to assisting the Debtors with case strategy

and communications, including coordinating with legal and financial advisors, participating in strategy sessions, and ensuring alignment across all workstreams.

Code 14 – Communications or Research for Secured Creditors or their Counsel (64.9 hours).

29. Time billed to this category relates to assisting the Debtors with communications or research for secured creditors and/or the secured creditors' legal counsel, including providing financial information, responding to inquiries, preparing reports, conducting research on secured claims, and coordinating with legal counsel to address secured creditor concerns.

Code 15 – Communications or Research for Unsecured Creditors or their Counsel (301.5 hours).

30. Time billed to this category relates to assisting the Debtors with communications or research for unsecured creditors or their counsel, including providing financial data, responding to inquiries, preparing reports, conducting research on unsecured claims, and coordinating with legal counsel to address unsecured creditor concerns.

Code 16 – Litigation and Adversary Proceedings (17.7 hours).

31. Time billed to this category relates to assisting the Debtors with litigation and adversary proceedings, including supporting legal counsel with gathering and analyzing financial data, preparing exhibits, and providing input on settlement negotiations or litigation outcomes.

Code 17 – Travel (26.5 hours).

32. Time billed to this category relates with travel, including time spent traveling to and from meetings, court hearings, and other required engagements related to the case. FTI charged travel time at 50% of the time incurred.

Code 18 – Case Administration (244.2 hours).

33. Time billed to this category relates to assisting the Debtors with case

administration, including organizing and maintaining case files, tracking key deadlines, coordinating filings and submissions, managing communications with stakeholders, and supporting the overall administration of the bankruptcy case.

Code 19 – Fee Application Preparation (271.8 hours).

34. Time billed to this category relates to assisting with the preparation of fee applications, including gathering and reviewing billing records, ensuring compliance with court and U.S. Trustee guidelines, drafting and revising the fee applications, and submitting the applications for approval.

EXPENSES INCURRED

35. FTI incurred a total of \$17,607.00 in expenses in connection with services rendered to the Debtors during the Application Period. FTI seeks reimbursement of only its actual costs, which the firm customarily charges to non-bankruptcy clients. A categorized summary of expenses incurred during the remainder of the Application Period was included in the monthly fee applications previously filed with this Court, as summarized in the cover sheet (section II) of this Application.

STATEMENT FROM FTI CONSULTING, INC.

36. At all relevant times, FTI has been a disinterested person, as that term is defined at § 101(14) of the Bankruptcy Code, as modified by § 1103(b) of the Bankruptcy Code, and has not represented or held any interest adverse to any interest of the Debtors.

37. FTI has received no payment and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Application. No agreement or understanding exists between FTI and any other entity (other than shareholders or employees of FTI), for the sharing of compensation received or

to be received for services rendered in or in connection with these cases.

38. All services for which FTI requests compensation were performed at the direction or instruction of the Debtors and for or on behalf of the Debtors. The professional services and related expenses for which FTI requests allowance of compensation and reimbursement of expenses were rendered and incurred in connection with these cases in the discharge of FTI's professional responsibilities as Financial Advisors to the Debtors in the Debtors' chapter 11 cases.

39. FTI respectfully submits that, in accordance with the factors enumerated in § 330 of the Bankruptcy Code, the services provided were necessary and beneficial to the Debtors, the Debtors' estates, creditors and other parties in interest and as such the compensation being sought for its services is fair and reasonable.

BASIS FOR RELIEF

40. Section 328(a) of the Bankruptcy Code allows a professional to obtain prior court approval of the terms of its retention. *See* 11 U.S.C. § 328(a). Under section 328(a), a professional may avoid uncertainty by obtaining (i) advance court approval of compensation terms agreed to with the estate and (ii) a court's finding that such terms are "reasonable" in advance of the professional's providing related services. *See In re Nat'l Gypsum Co.*, 123 F.3d 861, 862–63 (5th Cir. 1997). Section 328(a) explicitly contemplates court approval of contingent fees. *See* 11 U.S.C. § 328(a) ("The trustee . . . with the court's approval, may employ or authorize the employment of a professional person . . . on any reasonable terms and conditions of employment, including . . . on a fixed or percentage fee basis, or on a contingent fee basis.").

41. If a court has entered an order authorizing a professional's employment that "expressly and unambiguously states specific terms and conditions (*e.g.*, specific hourly rates or

contingency fee arrangements) that are being approved pursuant to the first sentence of Section 328(a),” the court is constrained to apply only the “improvident” standard of section 328(a) in any later review of such professional’s requested compensation. *Zolfo, Cooper & Co. v. Sunbeam-Oster Co., Inc.*, 50 F.3d 253, 261 (3d Cir. 1995).

42. Under the section 328(a) standard, a bankruptcy court wishing to render a previously approved fee arrangement “improvident” must find that there have been “developments not capable of being anticipated at the time of the fixing of the terms and conditions” of the engagement. 11 U.S.C. § 328(a). It is not enough that developments in a case are simply unforeseen. *Daniels v. Barron (In re Barron)*, 225 F.3d 583, 585 (5th Cir. 2000).

43. Section 330 of the Bankruptcy Code, moreover, provides that a court may award a professional employed under section 327 of the Bankruptcy Code “reasonable compensation for actual, necessary services rendered . . . and reimbursement for actual, necessary expenses.” 11 U.S.C. § 330(a)(1). Section 330 also sets forth the following non-exclusive criteria for the award of such compensation and reimbursement:

In determining the amount of reasonable compensation to be awarded to . . . [a] professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including –

- A. the time spent on such services;
- B. the rates charged for such services;
- C. whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- D. whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
- E. with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

F. whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3); *see also In re XO Commc'ns, Inc.*, 398 B.R. 106, 113 (Bankr. S.D.N.Y. 2008) (stating that, “in considering a transaction fee, courts recognize that certain of these factors do not apply, such as ‘time spent’ or the ‘rates charged’”) (quoting *In re Intelogic Trace, Inc.*, 188 B.R. 557, 559 (Bankr. W.D. Tex. 1995)).

44. Here, the Retention Order approved FTI’s compensation under section 328(a) of the Bankruptcy Code, and the U. S. Trustee retained the right to review FTI’s compensation based on the reasonableness standard of section 330.

45. Each component of FTI’s compensation that became payable during the Application Period was earned under the terms of the Court-approved Engagement Letter as modified by the Retention Order. FTI submits that the services it performed on behalf of the Debtors, as summarized above were necessary for and beneficial to the Debtors’ estates. Moreover, FTI’s services were consistently performed in a timely, expert and considered manner commensurate with the complexity and importance of the issues involved.

COMPLIANCE WITH U. S. TRUSTEE GUIDELINES

46. FTI submits that this Application substantially complies with the Local Rules, the Interim Compensation Order and the Appendix B Guidelines for fee applications in cases such as these. To the extent there has not been material compliance with any particular rule or guideline, FTI respectfully requests a waiver or an opportunity to cure.

47. This is FTI’s final application pursuant to sections 330 and 331 of the Bankruptcy Code for allowance of fees and reimbursement of expenses in these cases.

48. FTI has made no prior or other application to this or any other Court for the relief requested herein.

WHEREFORE, FTI respectfully requests (i) that the Court allow, on a final basis, the sum of \$6,036,519.50 for services rendered to the Debtors from February 13, 2024, through and including August 2, 2024, plus expenses in the amount of \$17,607.00, for a total allowance of \$6,054,801.50; (ii) approving the payment of the 100% of allowed fees and expenses; and (iii) grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: September 20, 2024

/s/ Andrew Hinkelman

Andrew Hinkelman
Senior Managing Director,
FTI Consulting, Inc.

EXHIBIT A

Retention Order



Caption in Compliance with D.N.J. LBR 9004-1(b)

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY
In re: INVITAE CORPORATION, <i>et al.</i> , Debtors. ¹

Order Filed on April 23, 2024
by Clerk
U.S. Bankruptcy Court
District of New Jersey

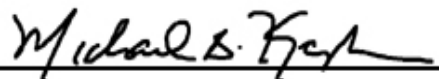
Chapter 11

Case No. 24-11362 (MBK)(Jointly Administered)

**ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC.
AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE**

The relief set forth on the following pages, numbered three (3) through ten (10), is
ORDERED.

DATED: April 23, 2024


Honorable Michael B. Kaplan
United States Bankruptcy Judge

¹ The last four digits of Debtor Invitae Corporation's tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at www.kccllc.net/invitae. The Debtors' service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.



Caption in Compliance with D.N.J. LBR 9004-1(b)

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(Page | 3)

Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE

Upon the *Debtors' Application for Entry of an Order Authorizing the Employment and Retention of FTI Consulting, Inc. as Financial Advisor as of the Petition Date* (the "Application")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order") (a) authorizing the Debtors to employ and retain FTI Consulting, Inc. ("FTI") as the Debtors' financial advisor as of the Petition Date in accordance with the terms and conditions set forth in the engagement letter between FTI and certain of the Debtors, dated February 8, 2024 (the "Engagement Letter") which is attached as **Exhibit 1** to this Order, pursuant to sections 327(a) and 328(a) of title 11 of the United States Code (the "Bankruptcy Code") and (b) approving the provisions of the Engagement Letter, including the compensation arrangements and indemnification and reimbursement provisions set forth therein, all as more fully set forth in the Application; and upon the First Day Declaration; and upon the Hinkelman Declaration; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11* of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that sufficient cause exists for the relief set forth herein; and this Court having found that the Debtors' notice of the Application was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application.

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE

Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court being satisfied, based on the representations made in the Application and the Hinkelman Declaration, that (a) FTI does not hold or represent an interest adverse to the Debtors’ estates and (b) FTI is a “disinterested person” as defined in section 101(14) of the Bankruptcy Code as required by section 327(a) of the Bankruptcy Code; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor **IT IS HEREBY ORDERED THAT:**

1. The Application is **GRANTED** as set forth herein.
2. In accordance with sections 327(a) and 328 of the Bankruptcy Code, the Debtors are hereby authorized to retain FTI as financial advisors to the Debtors, effective as of the Petition Date on the terms set forth in the Engagement Letter, as modified by this Order.
3. Notwithstanding anything to the contrary contained herein or in the Application and/or Engagement Letter, FTI shall file interim and final fee applications for allowance of compensation and reimbursement of reasonable and documented out-of-pocket expenses pursuant to sections 330 and 331 of the Bankruptcy Code, the Bankruptcy Rules as may then be applicable, the Local Rules, the U.S. Trustee Fee Guidelines, any interim compensation orders entered by this Court, and any amendments or modifications thereto.
4. Notwithstanding anything in the Motion, Hinkelman Declaration, or Engagement Letter to the contrary, FTI shall apply any remaining amounts of the Retainer and advanced payments as a credit toward postpetition fees and expenses to the extent such

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Debtors: INVITAE CORPORATION, *et al.*

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postpetition fees and expenses are not objected to. At the conclusion of FTI's engagement by the Debtors, if the amount of the Retainer held by FTI is in excess of the amount of FTI's outstanding and estimated fees, expenses, and costs, FTI will pay to the Debtors the amount by which the Retainer exceeds such fees, expenses, and costs, in each case in accordance with the Engagement Letter.

5. FTI is entitled to reimbursement of actual and necessary expenses. In the event that, during the pendency of these chapter 11 cases, FTI requests reimbursement for any attorneys' fees and/or expenses, the invoices and supporting time records from such attorneys shall be billed in one-tenth hour increments and shall be included in FTI's fee applications, both interim and final, and such invoices and time records shall be in compliance with the Local Rules, the U.S. Trustee Guidelines, and the standards of section 330 and 331 of the Bankruptcy Code, without regard to whether such attorney has been retained under section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy section 330(a)(3)(C) of the Bankruptcy Code. Notwithstanding the foregoing, FTI shall only be reimbursed for any legal fees incurred in connection with these chapter 11 cases to the extent permitted under applicable law.

6. The terms of the Engagement Letter, as modified herein are approved and the indemnification, contribution, and reimbursement provisions as set forth therein are approved, subject, during the pendency of these chapter 11 cases, to the following modifications:

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE

- a) FTI shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Engagement Letter, unless the indemnification, contribution, or reimbursement is approved by the Court.
- b) Notwithstanding anything to the contrary in the Engagement Letter, the Debtors shall have no obligation to indemnify FTI, or provide contribution or reimbursement to FTI, for any claim or expense that is either: (i) judicially determined (the determination having become final) to have arisen from FTI's gross negligence, willful misconduct, bad faith, self-dealing or fraud; (ii) for a contractual dispute in which the Debtors allege the breach of FTI's contractual obligations if the Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to applicable law; or (iii) settled prior to a judicial determination under (i) or (ii), but determined by this Court, after notice and a hearing, to be a claim or expense for which FTI should not receive indemnity, contribution, or reimbursement under the terms of the Engagement Letter as modified.
- c) If, before the earlier of (i) the effective date of a chapter 11 plan in these chapter 11 cases or (ii) the entry of an order closing these chapter 11 cases, FTI believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, or reimbursement obligations under the Engagement Letter (as modified by this Order), including without limitation the advancement of defense costs, FTI must file an application therefor in this Court, and the Debtors may not pay any such amounts to FTI before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time under which the Court shall have jurisdiction over any request for fees and expenses by FTI for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify FTI. All parties in interest shall retain the right to object to any demand by FTI for indemnification, contribution, or reimbursement.

7. Any limitations of liability provisions or limitation on amounts to be contributed provisions in the Application, Engagement Letter and the attachments to the Engagement Letter including but not limited to section 6.2 of the Standard Terms & Conditions shall be eliminated during the pendency of these Chapter 11 Cases.

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Debtors: INVITAE CORPORATION, *et al.*

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Caption of Order: ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE

8. FTI will keep its time records in tenth-of-an-hour increments in accordance with Local Rule 2016-1 of this Court and shall otherwise comply with the requirements of that Local Rule, as well as Bankruptcy Rule 2016(a), and the Fee Guidelines.

9. FTI will only bill fifty percent (50%) of its professionals' hourly rate for non-working travel.

10. Notwithstanding anything to the contrary contained in the Application, the Hinkelman Declaration, the Engagement Letter or any other provision in this Order, FTI's interim and final applications for compensation and reimbursement of fees and actual expenses shall be subject to review under the reasonableness standard in section 330 of the Bankruptcy Code.

10. Notwithstanding anything in the Application to the contrary and for the avoidance of doubt, FTI will not be entitled to recover attorneys' fees or expenses for defending its fee applications in these chapter 11 cases.

11. Prior to applying any increases in its hourly rates, FTI shall provide ten (10) business days' notice of any such increases to the Debtor, the U.S. Trustee, and the Unsecured Creditors' Committee, and shall file such notice with the Court. The U.S. Trustee retains all rights to object to any rate increase on all grounds, including the reasonableness standard set forth in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

12. Notwithstanding anything in the Application, the Hinkelman Declaration or the Engagement Letter to the contrary, to the extent FTI retains the services of independent

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Debtors: INVITAE CORPORATION, *et al.*

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contractors or subcontractors (collectively, the “Contractors”) in these chapter 11 cases and FTI seeks to pass through to the Debtors, and requests to be reimbursed for, the fees and/or costs of the Contractors, FTI shall (a) pass through the fees of such Contractors to the Debtors at the same rate that FTI pays the Contractors; (b) seek reimbursement for actual costs of the Contractors only; (c) ensure that the Contractors perform the conflicts check required by Bankruptcy Rule 2014 and file with the Court such disclosures as required by Bankruptcy Rule 2014; and (d) attach any such Contractor invoices to its monthly fee statements, interim fee applications and/or final fee applications filed in these chapter 11 cases.

13. None of the fees payable to FTI under the Engagement Letter shall constitute a “bonus” or fee enhancement under applicable law.

14. Notwithstanding anything in the Application to the contrary, FTI shall seek reimbursement from the Debtors’ estates for its engagement-related expenses at FTI’s actual cost paid.

15. Section 5.1 of the Standard Terms & Conditions attached to the Engagement Letter is revised to reflect that termination will only be allowed upon entry of an Order by the Bankruptcy Court.

16. Such services other than set forth in the Application that the Debtors may request that FTI provide during the course of these chapter 11 cases, and as agreed to by FTI, shall be subject to separate application and order of this Court.

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17. Notwithstanding anything in the Application or the Engagement Letter to the contrary, FTI shall provide any and all monthly fee statements, interim fee applications, and final fee applications in searchable electronic format (“LEDES” or “Excel”) to the U.S. Trustee.

18. If the Court denies the *Debtors’ Motion for Entry of an Order Authorizing the Debtors to File Under Seal the Names of Certain Confidential Transaction Parties in Interest Related to the Debtors’ Professional Retention Applications* [Docket No. 156], or such motion is withdrawn or the relief requested is moot, FTI will, within fourteen days of such denial, withdrawal or other resolution, and through a supplemental declaration, disclose the identities of all Confidential Transaction Parties that were filed under seal.

19. The Debtors shall use their best efforts to avoid any duplication of services provided by FTI and any of the Debtors’ other retained professionals in these chapter 11 cases, and, in connection with the services to be rendered pursuant to the Engagement Letter, FTI shall endeavor to coordinate and work together with the Debtors’ other retained professionals to minimize or avoid unnecessary duplication of services.

20. To the extent there is any inconsistency between the terms of the Application, the Hinkelman Declaration, and this Order, the terms of this Order shall govern.

21. The Debtors and FTI are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Application.

22. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF FTI CONSULTING, INC. AS FINANCIAL ADVISOR EFFECTIVE AS OF THE PETITION DATE

23. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

24. Notwithstanding anything to the contrary in the Application, the Hinkelman Declaration or the Engagement Letter, this Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of the Engagement Letter and this Order.

Exhibit 1

Engagement Letter



Andrew Hinkelman
FTI Consulting, Inc.
50 California Street, Suite 1900
San Francisco, CA 94111
+1 415.283.4214
andrew.hinkelman@fticonsulting.com

PRIVATE & CONFIDENTIAL

February 8, 2024

Invitae Corporation
Ms. Ana Schrank
Chief Financial Officer
1400 16th Street
San Francisco, CA 94103

Re: Project Ionic – Financial Advisory Services

Dear Ms. Schrank:

1. Introduction

This letter confirms that we, FTI Consulting, Inc. (“FTI”), have been retained by you, Invitae Corporation (the “Company”), to provide certain financial advisory and consulting services (the “Services”) set out below. This letter of engagement (the “Engagement”) and the related Standard Terms and Conditions constitute the engagement contract (the “Engagement Contract”) pursuant to which the Services will be provided. For the avoidance of foubt, this Agreement supersedes all prior agreements, engagement letters, and statements of work between FTI and the Client.

2. Scope of Services

The Services, to be performed at your direction, are expected to include the following:

- Assist the Company in developing materials for diligence requests in the Company’s ongoing sales process.
- Assist the Company in its preparation of a potential Chapter 11 Bankruptcy filing and development of any motions throughout the course of its bankruptcy cases.
- Assist the Company in developing a cash collateral budget, and update the budget for periodic reporting to both internal and external parties.
- Assist the Company with near-term liquidity management.
- Assist the Company’s FPA team in finalizing the go-forward business plan.
- Assist and provide analyses supporting the go-forward business plan.
- Assist the Company in its preparation of its Statement of Financial Affairs, Statement of Assets and Liabilities, Monthly Operating Reports, and any other necessary reporting during its bankruptcy cases.
- Assist the Company in its preparation of its plan of reorganization and disclosure statement.
- Assist the Company in its negotiations with secured creditors, unsecured creditors, potential buyers, and other external parties.

Invitae Corporation
February 8, 2024

- Assist the Company in planning communications strategies and tactics in connection with its bankruptcy cases, and develop associated restructuring communications materials for all critical stakeholder audiences.
- Assist the Company with the identification of executory contracts and unexpired leases, perform a cost/benefit analysis with respect to the assumption or rejection of each, and prepare schedules detailing executory contracts and unexpired leases in support of the Company's ongoing sales process and bankruptcy preparations.
- Other financial advisory and consulting services as mutually agreed to between FTI and the Company.

The Services may be performed by FTI or by any subsidiary of FTI, as FTI shall determine. FTI may also provide Services through its or its subsidiaries' agents or independent contractors. References herein to FTI and its employees shall be deemed to apply also, unless the context shall otherwise indicate, to employees of each such subsidiary and to any such agents or independent contractors and their employees.

The Services, as outlined above, are subject to change as mutually agreed between us.

FTI is engaged by the Company to provide financial advisory and consulting services only. Accordingly, while we may from time to time suggest options which may be available to you and further give our professional evaluation of these options, the ultimate decision as to which, if any, of these options to implement rests with the Company, its management and board of directors. FTI and its employees will not make any management decisions for the Company and will not be responsible for communicating information concerning the Company to the public, the Company's shareholders or others.

As part of the Services, FTI may be requested to assist the Company (and its legal or other advisors) in negotiating with the Company's creditors and equity holders and with other interested parties. In the event that we participate in such negotiations, the representations made and the positions advanced will be those of the Company and its management, not FTI or its employees.

If cases under the Bankruptcy Code are commenced and our retention is approved, our role will include serving as principal bankruptcy financial advisors to the debtors and debtors in possession in those cases under a general retainer, subject to court approval. Our role also will encompass all out-of-court planning and negotiations attendant to these tasks.

The services we will provide in connection with the Engagement will encompass all services normally and reasonably associated with this type of engagement that we are requested and are able to provide and that are consistent with our ethical obligations. With respect to all matters of our Engagement, we will coordinate closely with the Company as to the nature of the services that we will render and the scope of our engagement.

As usual, our Engagement is to represent the Company and not its individual directors, officers, employees or shareholders. However, we anticipate that in the course of that Engagement, we may provide information or advice to directors, officers or employees in their corporate capacities.

Invitae Corporation
February 8, 2024

3. **Fees and Cash on Account**

Fees in connection with this Engagement will be based upon the time incurred providing the Services, multiplied by our standard hourly rates, summarized as follows:

United States

	<u>Per Hour (USD)</u>
Senior Managing Directors	\$1,095 – 1,495
Directors / Senior Directors / Managing Directors	825 – 1,110
Consultants/Senior Consultants	450 – 790
Administrative / Paraprofessionals	185 – 370

International

	<u>Per Hour (USD)</u>
Senior Managing Directors	\$785 – 875
Directors / Senior Directors / Managing Directors	415 – 750
Consultants/Senior Consultants	275 – 555
Administrative / Paraprofessionals	180

Hourly rates are generally revised periodically. To the extent this engagement requires services of our International divisions or personnel, the time will be multiplied by our standard hourly rates applicable on International engagements. Note that we do not provide any assurance regarding the outcome of our work and our fees will not be contingent on the results of such work.

In addition to the fees outlined above, FTI will bill for reasonable direct expenses which are likely to be incurred on your behalf during this Engagement. Direct expenses include reasonable and customary out-of-pocket expenses which are billed directly to the engagement such as certain telephone, overnight mail, messenger, travel, meals, accommodations and other expenses specifically related to the engagement. Further, if FTI and/or any of its employees are required to testify or provide evidence at or in connection with any judicial or administrative proceeding relating to this matter, FTI will be compensated by you at its regular hourly rates and reimbursed for reasonable allocated and direct expenses (including counsel fees) with respect thereto.

Cash on Account

Initially, the Company will forward to us the amount of \$500,000, which funds will be held "on account" to be applied to our professional fees, charges and disbursements for the Engagement (the "Initial Cash on Account").¹ To the extent that this amount exceeds our fees, charges and disbursements upon the completion of the Engagement, we will refund any unused portion. The Company agrees to increase or supplement the Initial Cash on Account from time to time during the course of the Engagement in such amounts as the Company and we mutually shall agree are reasonably necessary to increase the Initial Cash on Account to a level that will be sufficient to fund Engagement fees, charges, and disbursements to be incurred.

¹ FTI is currently holding a cash on account balance of \$500,000 relating to work performed under the Sixth Addendum Dated September 26, 2023 to the Engagement Letter Dated July 15, 2021. These amounts will be applied to the Initial Cash on Account for this Agreement.

Invitae Corporation
February 8, 2024

We will send the Company periodic invoices (not less frequently than monthly) for services rendered and charges and disbursements incurred on the basis discussed above, and in certain circumstances, an invoice may be for estimated fees, charges and disbursements through a date certain. Each invoice constitutes a request for an interim payment against the fee to be determined at the conclusion of our Services. Upon transmittal of the invoice, we may immediately draw upon the Initial Cash on Account (as replenished from time to time) in the amount of the invoice. The Company agrees that invoices are due upon receipt and will promptly wire the invoice amount to us as replenishment of the Initial Cash on Account (together with any supplemental amount to which we and the Company mutually agree), without prejudice to the Company's right to advise us of any differences it may have with respect to such invoice. We have the right to apply to any outstanding invoice (including amounts billed prior to the date hereof), up to the remaining balance, if any, of the Initial Cash on Account (as may be supplemented from time to time) at any time subject to (and without prejudice to) the Company's opportunity to review our statements.

The Company agrees to promptly notify FTI if the Company or any of its subsidiaries or affiliates extends (or solicits the possible interest in receiving) an offer of employment to a principal or employee of FTI involved in this Engagement and agrees that FTI has earned and is entitled to a cash fee, upon hiring, equal to 150% of the aggregate first year's annualized compensation, including any guaranteed or target bonus and equity award, to be paid to FTI's former principal or employee that the Company or any of its subsidiaries or affiliates hires at any time up to one year subsequent to the date of the final invoice rendered by FTI with respect to this Engagement.

In a case under the Bankruptcy Code, fees and expenses may not be paid without the express prior approval of the bankruptcy court. In most cases of this size and complexity, on request of a party in interest, the bankruptcy court permits the payment of interim fees during the case. The Company agrees that, if asked to do so by us, the Company will request the bankruptcy court to establish a procedure for the payment of interim fees during the case that would permit payment of interim fees. If the bankruptcy court approves such a procedure, we will submit invoices on account against our final fee. These interim invoices will be based on such percentage as the bankruptcy court allows of our internal time charges and costs and expenses for the work performed during the relevant period and will constitute a request for an interim payment against the reasonable fee to be determined at the conclusion of our representation.

In preparation for the filing of any cases under the Bankruptcy Code, we also may require an additional on account payment to supplement the Initial Cash on Account to cover fees, charges and disbursements to be incurred during the initial phase of the chapter 11 cases (the "Additional Cash on Account"). We will hold the Additional Cash on Account, as we have the Initial Cash on Account. Of course, the reasonableness of the Additional Cash on Account remains subject to review by the court in any ensuing case.

If any of the Company's entities become a debtor in one or more cases under the Bankruptcy Code, some fees, charges, and disbursements (whether or not billed) incurred before the filing of bankruptcy petitions (voluntary or involuntary) might remain unpaid as of the date of the filing. The unused portion, if any, of the Initial Cash on Account and the Additional Cash on Account will be applied to any such unpaid pre-petition fees, charges and disbursements. Any requisite court permission will be obtained in advance. We will then hold any portion of the Initial Cash on Account and the Additional Cash on Account not otherwise properly applied for the payment of any such unpaid pre-filing fees, charges and disbursements (whether or not

Invitae Corporation
February 8, 2024

billed) as on account cash to be applied to our final invoice in any case under the Bankruptcy Code.

Post-petition fees, charges and disbursements will be due and payable immediately upon entry of an order containing such court approval or at such time thereafter as instructed by the court. The Company understands that while the arrangement in this paragraph may be altered in whole or in part by the bankruptcy court, the Company shall nevertheless remain liable for payment of court approved post-petition fees and expenses. Such items are afforded administrative priority under 11 U.S.C. § 503(b)(1). The Bankruptcy Code provides in pertinent part, at 11 U.S.C. § 1129(a)(9)(A), that a plan cannot be confirmed unless these priority claims are paid in full in cash on the effective date of any plan (unless the holders of such claims agree to different treatment). It is agreed and understood that the unused portion, if any, of the Initial Cash on Account (as may be supplemented from time to time) and the Additional Cash on Account shall be held by us and applied against the final fee application filed and approved by the court.

4. Terms and Conditions

The attached Standard Terms and Conditions set forth the duties of each party with respect to the Services. Further, this letter and the Standard Terms and Conditions attached comprise the entire Engagement Contract for the provision of the Services to the exclusion of any other express or implied terms, whether expressed orally or in writing, including any conditions, warranties and representations, and shall supersede all previous proposals, letters of engagement, undertakings, agreements, understandings, correspondence and other communications, whether written or oral, regarding the Services.

5. Conflicts of Interest

Based on our understanding of the parties involved in this matter, we have compiled a list of interested parties (the "Potentially Interested Parties") and have undertaken a limited review of our records to determine FTI's professional relationships with the Company and such Potentially Interested Parties. From the results of such review, we are not aware of any conflicts of interest or relationships that we believe would preclude us from performing the Services.

As you know, however, we are a large consulting firm with numerous offices throughout the world. We are regularly engaged by new clients, which may include one or more of the Potentially Interested Parties. The FTI professionals providing services hereunder will not accept an engagement that directly conflicts with this Engagement without your prior written consent.

6. Acknowledgement and Acceptance

Please acknowledge your acceptance of the terms of this Engagement Contract by signing both the confirmation below and the attached Standard Terms and Conditions and returning a copy of each to us at the above address.

If you have any questions regarding this letter or the attached Standard Terms and Conditions, please do not hesitate to contact Andrew Hinkelman at (415) 283-4200.

Invitae Corporation
February 8, 2024

Yours faithfully,

FTI CONSULTING, INC.

By: 

Andrew Hinkelman
Senior Managing Director

Attachment – As stated

Invitae Corporation
February 8, 2024
Confirmation of Terms of Engagement

We agree to engage FTI Consulting, Inc. upon the terms set forth herein and in the attached Standard Terms and Conditions.

Invitae Corporation

By: Ana Schrank
Ana Schrank
Chief Financial Officer

Date: 2/12/24

FTI CONSULTING, INC.

STANDARD TERMS AND CONDITIONS

The following are the Standard Terms and Conditions on which we will provide the Services to you set forth within the attached letter of engagement with Invitae Corporation dated February 8, 2024. The Engagement letter and the Standard Terms and Conditions (collectively the “Engagement Contract”) form the entire agreement between us relating to the Services and replace and supersede any previous proposals, letters of engagement, undertakings, agreements, understandings, correspondence and other communications, whether written or oral, regarding the Services. The headings and titles in the Engagement Contract are included to make it easier to read but do not form part of the Engagement Contract.

1. Reports and Advice

1.1 **Use and purpose of advice and reports** – Any advice given or report issued by us is provided solely for your use and benefit and only in connection with the purpose in respect of which the Services are provided. Unless required by law, you shall not provide any advice given or report issued by us to any third party, or refer to us or the Services, without our prior written consent, which shall be conditioned on the execution of a third party release letter in the form provided by FTI and attached hereto as Schedule A. In no event, regardless of whether consent has been provided, shall we assume any responsibility to any third party to which any advice or report is disclosed or otherwise made available.

2. Information and Assistance

- 2.1 **Provision of information and assistance** – Our performance of the Services is dependent upon your providing us with such information and assistance as we may reasonably require from time to time.
- 2.2 **Punctual and accurate information** – You shall use reasonable skill, care and attention to ensure that all information we may reasonably require is provided on a timely basis and is accurate and complete and relevant for the purpose for which it is required. You shall also notify us if you subsequently learn that the information provided is incorrect or inaccurate or otherwise should not be relied upon.
- 2.3 **No assurance on financial data** – While our work may include an analysis of financial and accounting data, the Services will not include an audit, compilation or review of any kind of any financial statements or components thereof. Company management will be responsible for any and all financial information they provide to us during the course of this Engagement, and we will not examine or compile or verify any such financial information. Moreover, the circumstances of the Engagement may cause our advice to be limited in certain respects based upon, among other matters, the extent of sufficient and available data and the opportunity for supporting investigations in the time period. Accordingly, as part of this Engagement, we will not express any opinion or other form of assurance on financial statements of the Company.
- 2.4 **Prospective financial information** - In the event the Services involve prospective financial information, our work will not constitute an examination or compilation, or apply agreed-upon procedures, in accordance with standards established by the American Institute of Certified Public Accountants or otherwise, and we will express no assurance of any kind on such information. There will usually be differences between estimated and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We will take no responsibility for the achievability of results or events projected or anticipated by the management of the Company.

3. Additional Services

3.1 **Responsibility for other parties** – You shall be solely responsible for the work and fees of any other party engaged by you to provide services in connection with the Engagement regardless of whether such party was introduced to you by us. Except as provided in this Engagement Contract, we shall not be responsible for providing or reviewing the advice or services of any such third party, including advice as to legal, regulatory, accounting or taxation matters. Further, we acknowledge that we are not authorized under our Engagement Contract to engage any third party to provide services or advice to you, other than our agents or independent contractors engaged to provide Services, without your written authorization.

4. Confidentiality

4.1 **Restrictions on confidential information** – Both parties agree that any confidential information received from the other party shall only be used for the purposes of providing or receiving Services under this or any other contract between us. Except as provided below, neither party will disclose the other party's confidential information to any third party without the other party's consent. Confidential information shall not include information that:

4.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause 4.1;

4.1.2 is acquired from a third party who, to the recipient party's knowledge, owes no obligation of confidence in respect of the information; or

4.1.3 is or has been independently developed by the recipient.

4.2 **Disclosing confidential information** – Notwithstanding Clause 1.1 or 4.1 above, either party will be entitled to disclose confidential information of the other to a third party to the extent that this is required by valid legal process, provided that (and without breaching any legal or regulatory requirement) where reasonably practicable not less than 2 business days' notice in writing is first given to the other party.

4.3 **Citation of engagement** – Without prejudice to Clause 4.1 and Clause 4.2 above, to the extent our engagement is or becomes known to the public, we may cite the performance of the Services to our clients and prospective clients as an indication of our experience, unless we and you specifically agree otherwise in writing.

4.4 **Internal quality reviews** – Notwithstanding the above, we may disclose any information referred to in this Clause 4 to any other FTI entity or use it for internal quality reviews.

4.5 **Maintenance of workpapers** – Notwithstanding the above, we may keep one archival set of our working papers from the Engagement, including working papers containing or reflecting confidential information, in accordance with our internal policies.

4.6 **Data Protection** - If this Engagement involves the processing of personal data (also referred to herein as personal information) (i) as governed by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, the terms of the EU Data Protection Schedule attached hereto as Schedule B shall apply to this engagement and it shall form an integral part of this Agreement and (ii) as governed by the California Consumer Privacy Act, the terms of the California Data Protection Schedule attached hereto as Schedule C shall apply to this engagement and it shall form an integral part of this Agreement. In the event of a conflict between the terms of this Agreement and the terms of Schedule B or Schedule C, the terms of Schedule B or Schedule C shall prevail in relation to the

processing of such personal data. If such personal data is processed in connection with this engagement, Client shall notify FTI in writing before any personal data is disclosed to FTI.

5. Termination

- 5.1 **Termination of Engagement with notice** – Either party may terminate the Engagement Contract for whatever reason upon written notice to the other party. Upon receipt of such notice, we will stop all work immediately. You will be responsible for all fees and expenses incurred by us through the date termination notice is received.
- 5.2 **Continuation of terms** – The terms of the Engagement that by their context are intended to be performed after termination or expiration of this Engagement Contract, including but not limited to, Clauses 3 and 4 of the Engagement letter, and Clauses 1.1, 4, 6 and 7 of the Standard Terms and Conditions, are intended to survive such termination or expiration and shall continue to bind all parties.

6. Indemnification, Liability Limitation, and Other Matters

- 6.1 **Indemnification** - The Company agrees to indemnify and hold harmless FTI and any of its subsidiaries and affiliates, officers, directors, principals, shareholders, agents, independent contactors and employees (collectively “Indemnified Persons”) from and against any and all claims, liabilities, damages, obligations, costs and expenses (including reasonable attorneys’ fees and expenses and costs of investigation) arising out of or relating to your retention of FTI, the execution and delivery of this Engagement Contract, the provision of Services or other matters relating to or arising from this Engagement Contract, except to the extent that any such claim, liability, obligation, damage, cost or expense shall have been determined by final non-appealable order of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Indemnified Person or Persons in respect of whom such liability is asserted (an “Adverse Determination”). The Company shall pay damages and expenses, including reasonable legal fees and disbursements of counsel as incurred in advance. FTI agrees that it will reimburse any amounts paid in advance to the extent they relate directly to an Adverse Determination.
- 6.2 **Limitation of liability** - You agree that no Indemnified Person shall be liable to you, or your successors, affiliates or assigns for damages in excess of the total amount of the fees paid to FTI under this Engagement Contract. Without limiting the generality of the foregoing, in no event shall any Indemnified Person be liable for consequential, indirect or punitive damages, damages for lost profits or opportunities or other like damages or claims of any kind.

7. Governing Law, Jurisdiction, WAIVER OF JURY TRIAL, and Compliance with Law

- 7.1 **Governing Law**The Engagement Contract shall be governed by and interpreted in accordance with the laws of the State of New York, without giving effect to the choice of law provisions thereof.
- 7.2 **Jurisdiction.** - The United States District Court for the Southern District of New York and the appropriate Courts of the State of New York sitting in the Borough of Manhattan, City of New York shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Engagement Contract and any matter arising from it. If cases under the Bankruptcy Code are commenced, the Bankruptcy Court having jurisdiction over the Client’s Bankruptcy case shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Engagement Contract and any matter arising from it. The parties submit to the jurisdiction of such Courts and irrevocably waive any right they may have to object to any action being brought in these Courts, to

claim that the action has been brought in an inconvenient forum or to claim that those Courts do not have jurisdiction.

- 7.3 **WAIVER OF JURY TRIAL** – TO FACILITATE JUDICIAL RESOLUTION AND SAVE TIME AND EXPENSE, THE COMPANY AND FTI IRREVOCABLY AND UNCONDITIONALLY AGREE TO WAIVE A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE SERVICES OR THIS ENGAGEMENT CONTRACT.
- 7.4 **Compliance with Laws** - The Company agrees that it will comply with all anti-corruption, anti-money laundering, anti-bribery and other economic sanctions laws and regulations of the United States, United Kingdom, European Union and United Nations (collectively, the “ABC/AML/Sanction Laws”) in connection with this Engagement. The Company further agrees that it shall not, and it shall procure its employees not to, pay or cause other person(s) to pay FTI using any funds that would result in a violation of any of the ABC/AML/Sanction Laws by either Company or FTI, or otherwise take any action that would result in a violation of any of the ABC/AML/Sanction Laws by either Company or FTI. The Company shall promptly notify FTI in the event of any violation or failure to comply with ABC/AML/Sanction Laws in connection with this Engagement, or allegations relating thereto, by the Company or its directors, officers, employees or agents.

FTI CONSULTING, INC

Confirmation of Standard Terms and Conditions

We agree to engage FTI Consulting, Inc. upon the terms set forth in these Standard Terms and Conditions as outlined above.

Invitae Corporation

By: 
Ana Schrank
Chief Financial Officer

Date: 2/12/24

TO BE ON FTI LETTERHEAD

SCHEDULE A

STANDARD RELEASE LETTER

[Nonclient Recipient Letterhead]

[Date]

FTI Consulting, Inc.

Dear Mr./Ms. _____:

_____ (“Client”) has informed **[name of recipient]** that FTI Consulting, Inc. (“FTI”) has performed certain procedures to assist Client in connection with the _____. We understand that the work performed by FTI was performed in accordance with instructions provided by Client and was performed exclusively for Client’s sole benefit and use.

Client has requested that FTI provide **[name of recipient]** access to the report of its findings dated **[date]**. **[name of recipient]** acknowledges that this report was prepared at the direction of Client and may not include all procedures deemed necessary for the purposes of **[name of recipient]** and that certain findings and information may have been communicated to Client that are not reflected in the report. **[name of recipient]** further acknowledges that (a) the report is being provided for informational purposes only; (b) the report shall not constitute, either expressly or impliedly, any representation or affirmation by FTI as to the accuracy, completeness and/or fairness of presentation of the Report or any statements or information contained therein; and (c) **[name of recipient]** will make any decisions based on its own investigation, due diligence and analysis, independent of, and without reliance on or reference to, the contents of the report or any other opinions or conclusions of FTI.

In consideration of FTI allowing **[name of recipient]** access to the report and, if requested by **[name of recipient]**, discussing the report, **[name of recipient]** agrees that it does not acquire any rights as a result of such access that it would not otherwise have had and acknowledges that FTI does not assume any duties or obligations to **[name of recipient]** in connection with such access.

[name of recipient] agrees to release FTI and its personnel from any claim by **[name of recipient]** that arises as a result of FTI permitting **[name of recipient]** access to the report. Further, **[name of recipient]** agrees not to disclose or distribute the report, or information received, orally or in writing from FTI to any other parties without FTI’s prior written consent.

Acknowledged by **[name of recipient]** representative:

By: _____
(Name of Company official)

Title: _____

Date: _____

SCHEDULE B

FTI CONSULTING DATA PROTECTION SCHEDULE

This Data Protection Schedule ("**Schedule**") forms part of the contract for services to which it is an attachment (the "**Contract**") between the client party identified in the Contract (the "**Client**") and the relevant FTI Consulting group entity identified in the Contract ("**FTI**").

1. Definitions

1.1 In this Schedule, unless otherwise defined herein, all defined terms shall have the meaning set out in the Contract.

1.2 In this Schedule, the following terms shall have the meanings set out below:

1.2.1 "**Data Protection Laws**" means all legislation protecting the personal data of natural persons that is applicable to the processing of Personal Data under this Schedule, including (without limitation) the GDPR and any national legislation which supplements the GDPR, and the data protection laws of any other country, state or territory which apply to such processing;

1.2.2 "**EEA Standard Contractual Clauses**" means the Standard Contractual Clauses set out in the European Implementing Decision (EU) 2021/914 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679, as updated, amended, replaced or superseded from time to time by the European Commission;

1.2.3 "**GDPR**" means the General Data Protection Regulation (EU) 2016/679;

1.2.4 "**Restricted Transfer**" means a transfer of Personal Data from Client to FTI in circumstances where such transfer would be prohibited by Data Protection Laws in the absence of the EEA or UK Standard Contractual Clauses;

1.2.5 "**Standard Contractual Clauses**" means either the EEA or UK Standard Contractual Clauses, as applicable to a Restricted Transfer;

1.2.6 "**UK Standard Contractual Clauses**" means the standard contractual clauses for the transfer of personal data to Processors established in third countries which do not ensure an adequate level of protection as set out in Commission Decision 2010/87/EU, as updated, amended, replaced or superseded from time to time by the UK government; "**UK GDPR**" means the GDPR as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019; and

1.2.7 "**Personal Data**", "**Process**", "**Controller**", "**Processor**", "**Data Subject**", "**Supervisory Authority**" and "**Personal Data Breach**" shall have the meanings given to them in the Data Protection Laws.

2. Controller Terms

- 2.1 FTI and the Client will each act as separate and individual Controllers in relation to any Personal Data (including, without limitation, Personal Data relating to any of the Client's workers, FTI's workers, any litigation or arbitration opponent or customer or vendor or transaction partner) Processed by the Client or FTI to deliver the services set out under the Contract.
- 2.2 FTI and the Client will each comply with its own respective obligations under the Data Protection Laws in relation to their Processing of Personal Data under the Contract. In particular, the Client will ensure that any disclosures of Personal Data to FTI are lawful, and, in each case where necessary under the Data Protection Laws, the Client has notified and secured the consent of the relevant Data Subjects.
- 2.3 FTI may appoint Processors as required to deliver the services, who will process the Personal Data on FTI's behalf and at FTI's direction. Further, FTI may disclose Personal Data to other Controllers:
- 2.3.1 where necessary to deliver the services (including, but without limitation, law firms, accountants, other third party experts and any member of FTI's group of companies); or
- 2.3.2 pursuant to a legally binding written request, an order or request of a court of competent jurisdiction or any governmental or regulatory authority or where disclosure is required by applicable law or regulation ("**Legal Process**"). In relation to any Legal Process, FTI shall assess the lawfulness of the request before responding, and shall take any steps required by Data Protection Laws to protect Personal Data prior to its disclosure (including, without limitation, with respect to data minimization and data security);
- 2.4 In respect of any Restricted Transfer subject to the GDPR, the parties hereby enter into Module 1 of the EEA Standard Contractual Clauses (with Client as data exporter and FTI as data importer), which is hereby incorporated by reference into this Schedule and which shall come into effect upon the commencement of a Restricted Transfer. The parties make the following selections for the purposes of Module 1:
- 2.4.1 Clause 7 – Docking clause shall apply;
- 2.4.2 Clause 11(a) – Redress the optional language shall not apply;
- 2.4.3 Clause 13(a) – Supervision
- 2.4.3.1 Where Client is established in an EU Member State, the following shall apply: "The supervisory authority with responsibility for ensuring compliance by the data exporter with Regulation (EU) 2016/679 as regards the data transfer shall be the supervisory authority of the Member State in which Client is established or (if different) the lead supervisory authority of the Client in respect of a cross-border processing activity". OR
- 2.4.3.2 Where Client is not established in an EU Member State, but falls within the territorial scope of application of the GDPR in accordance with Article 3(2) and has appointed a representative pursuant to Article 27(1) of the GDPR the following shall apply: "The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, shall act as competent supervisory authority." OR
- 2.4.3.3 Where Client is not established in an EU Member State, but falls within the territorial scope of application of the GDPR in accordance with Article 3(2) without however having to appoint a representative the following shall apply: "The supervisory authority of one of the Member States in which the data subjects whose personal

data is transferred under these Clauses in relation to the offering of goods or services to them, or whose behaviour is monitored, are located, as indicated in Annex I.C, shall act as competent supervisory authority.”

- 2.4.4 Clause 17 – Governing law “Option 1” shall apply and the “Member State” shall be the Republic of Ireland;
- 2.4.5 Clause 18 – Choice of forum and jurisdiction the Member State shall be the Republic of Ireland;
- 2.4.6 Annex 1 – the data exporter is Client and the data importer is FTI (in each case as identified, including in relation to their places of establishment, in the Principal Agreement) and the description of transfer is deemed to be as described in Annex 1 to this Schedule;
- 2.4.7 Annex 2 – the technical and organizational security measures are deemed to be as described in Annex 2 to this Schedule; and
- 2.4.8 Annex 3 – not applicable.
- 2.5 In respect of any Restricted Transfer subject to the UK GDPR, the parties hereby enter into the UK Standard Contractual Clauses (with Client as data exporter and FTI as data importer), which are incorporated by reference into this Schedule and which shall come into effect upon the commencement of a Restricted Transfer. For the purposes of clause II h) of the UK Standard Contractual Clauses, the Parties shall be deemed to have selected option (iii). Annex 2 to the UK Standard Contractual Clauses shall be deemed to be prepopulated with the relevant sections of the Annex to this Schedule. If at any time the UK government approves the EEA Standard Contractual Clauses for use under the UK GDPR, the provisions of paragraph 2.4 shall apply in place of this paragraph 2.5 in respect of Restricted Transfers subject to the UK GDPR, subject to any modifications to the EEA Standard Contractual Clauses required by the UK GDPR (and subject to the governing law of the EEA Standard Contractual Clauses being English law).
- 2.6 The Client acknowledges and agrees that certain Processors or Controllers engaged by FTI under paragraph 2.3 may be located in places that may require cross-border transfers of Personal Data. In respect of transfers by FTI to such Controllers or Processors, FTI will take steps in accordance with the Data Protection Laws to ensure an adequate level of protection for the Personal Data Processed by such Processors or Controllers. Where such a Controller or Processor notifies FTI that it may no longer be able to provide an adequate level of protection in accordance with Data Protection Laws, FTI shall independently assess the level of protection provided and, where necessary, shall take mitigating steps to improve the level of protection or, where this is not possible, terminate the transfer.
- 2.7 The Client acknowledges that FTI’s email records are replicated onto a Microsoft 365 Cloud system in the United States of America and the Client hereby consents that any Personal Data that is provided to FTI by email will be replicated accordingly. To the extent that the Client wishes to transmit certain information or data to FTI and the Client objects to that data being replicated in accordance with this paragraph, the Client will use a communication or transmission method other than e-mail or will use an alternative e-mail system.

SCHEDULE C

FTI CONSULTING CALIFORNIA DATA PROTECTION SCHEDULE

This California Data Protection Schedule (“Schedule”) forms part of the contract for services to which it is an attachment (the “Contract”) between the client party identified in the Contract (the “Client”) and the relevant FTI Consulting group entity identified in the Contract (“FTI”). FTI will be functioning as a service provider.

1. Processing of Personal Information.

In connection with FTI’s provision of services to Client under the Contract, if FTI receives any personal information (as such term is defined under the California Consumer Privacy Act) from or on behalf of Customer, then FTI:

- (a) will only process such personal information for the purpose of providing the services;
- (b) will not retain, use, or disclose such personal information for any purpose other than to perform the services or outside of the direct business relationship between FTI and Client;
- (c) will not sell, rent, release, disclose, disseminate, make available, transfer or otherwise communicate such personal information to any third party for monetary or other valuable consideration; and
- (d) certifies that it understands the restrictions on its processing of such personal information as set forth in this sentence, and will comply with them.

FTI may disclose personal information to FTI’s service providers in connection with such service providers providing services to FTI, and FTI may permit such service providers to process personal information as necessary for FTI to provide the services to Client.

Annex 1: Description of Personal Data Processing

This Annex includes certain details of the Processing of Personal Data by FTI under the Principal Agreement.

1. Subject matter and duration of the Processing of the Personal Data

The subject matter and duration of the Processing of the Personal Data are set out in the Principal Agreement and this Schedule.

2. The nature and purpose of the Processing of the Personal Data

FTI is engaged to provide Services to Client which involve the Processing of Personal Data. The scope of the Services are set out in the Principal Agreement, and the Client Personal Data will be Processed by FTI for purposes determined by it, in connection with the delivery of those Services and compliance with the terms of the Principal Agreement, including this Addendum, as well as applicable laws.

3. The types of the Personal Data to be Processed

Client customer or employee information which may be collected in the course of delivering consulting and advisory services to Client, including name, title, gender, personal contact details (address, telephone number, email address), work address, work email, work telephone numbers, job title, and other types of Personal Data supplied by the Client to FTI pursuant to the Principal Agreement.

4. The categories of Data Subject to whom the Personal Data relates

The categories of Data Subjects are determined by the nature of the client engagement, the details of which are covered in the Principal Agreement.

5. The obligations and rights of Client

The obligations and rights of Client are set out in the Principal Agreement and this Schedule.

6. Frequency of Restricted Transfers (where applicable):

As necessary to deliver Services for the duration of the Principal Agreement.

7. The period for which Personal Data subject to Restricted Transfers will be retained (where applicable):

In accordance with FTI's data retention policies, copies of which are available upon request.

Annex 2: Technical and Organizational Security Measures

FTI Consulting maintains the following technical and organizational security measures when processing Personal Data for its clients.

- Measures of pseudonymisation and encryption of personal data

When data at rest leaves our direct control (such as backup tapes, removable hard drives, etc.) the data is encrypted using AES 256-bit encryption. All laptops utilize full disk encryption. Data that is in transit over public circuits is encrypted in transit using SSL. FTI Consulting additionally deploys firewalls throughout its networks to allow and deny specific network traffic using key indicators such as source/destination address, source/destination port, etc.

- Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services
Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident

FTI requires new employees/contractors to acknowledge receipt of the following policies including: Code of Ethics and Business Conduct, Anti-Corruption Policy, Acceptable Use of Technology Resources, Confidentiality Agreement, Employee Handbook Policy on Inside Information & Insider Trading, and Time Recording Policy.

FTI Consulting has a documented policy for business continuity and disaster recovery that has been approved by management, communicated properly and is maintained and reviewed. The general details are reflected in the FTI Consulting Information Security Policy. The recovery point objective exceeds 4 hours and the recovery time objective exceeds 24 hours. The specific tools used for backups vary by region.

- Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing

FTI has access to all major vendor security bulletins and have controls over identifying, scheduling, testing, and deploying patches. The deployment time is 14 days for high and within 24 hours for critical/emergency patches.

FTI has controls over identification of vulnerabilities, risk ranking, reporting, and remediation. This includes perimeter vulnerability scans that must be performed at least quarterly and semi-annual internal vulnerability scans that cover workstations, servers, and network devices.

FTI performs internal penetration test to identify flaws in the internal security controls that could allow an attacker to surreptitiously gain access to sensitive data and/or disrupt critical business systems. The organization must also perform external network penetration test to identify potential vulnerabilities which could be exploited to gain access to systems and data or to establish a foothold into internal network from which to launch further attacks.

FT's cybersecurity team tracks the resolution of vulnerabilities. Vulnerabilities that are not resolved as part of patching cycles must be tracked on a vulnerability log or similar mechanism.

- Measures for user identification and authorization

FTI uses unique IDs and if generic IDs should be disabled unless there is an approved security exception. FTI users authenticate through Active Directory (AD), SSO used when possible, and remote connection requires two factor authentication and leverages FTI's Corporate DUO two factor technology. Duo Security generates passcodes (similar to a PIN Code) to mobile devices for login and can receive push notifications for easy

updates. Duo Security is integrated with OneLogin (our SSO platform) providing a unified authentication solution.

Privileged and remote access must include multi-factor authentication and secure mechanisms (e.g., TACACS+, RADIUS) must be used on all network devices.

FTI password complexity (i.e. characters, length), lockout settings, expiration settings meets the following requirements:

- Contain both upper and lower case characters (e.g., a-z, A-Z)
- Have digits and punctuation characters as well as letters e.g., 0-9,!@#\$%^&*()_+|=~\`{}[]:;'"<>?,./)
- Contains at least 12 characters for standards accounts and 15 characters in length for admin accounts
- Must be changed at least every 90 days
- Are not words in any language, slang, dialect, jargon, etc.
- Are not based on Confidential Information, names of family, etc.
- User accounts are locked after 10 unsuccessful logins. Account lockout for 30 mins. Reset after 30 mins.
- Password history - 24 passwords remembered

Passwords are stored protected in an encrypted format.

- Measures for the protection of data during transmission and measures for the protection of data during storage

FTI has Data Loss Prevention (DLP) and extrusion prevention tools that restrict sending sensitive data over unsecure mail. Anomalies that exceed the normal traffic patterns are noted and appropriate action is taken to address them.

FTI protects data in transmission which include the following acceptable methods:

- Email: Transport Layer Security ("TLS") Internet protocol, which provides security for all email transmissions over the public Internet may be setup with using opportunistic or mandatory TLS connections. Only TLS 1.2 or TLS 1.3 is acceptable.
- "Mailbox to mailbox" encryption that secures email messages and electronic files (using 256-bit AES encryption).
- Secure FTP: FTP utilizes TLS or SSH to allow us to share data with clients securely over the Internet. Only TLS 1.2 or TLS 1.3 is acceptable.
- External Encrypted Drive: Must use FIPS 140-2/AES 256-bit encryption or stronger.
- File Stores: Matter/Engagement related files stored centrally on the network are secured so that only those explicitly authorized can access the files.

FTI stores data in an environment that is not internet facing and segregated from the demilitarized zone by a firewall. The data must be logically segregated from other client or corporate data. Different tools may be employed depending upon the nature and/or location of the work.

- Measures for ensuring physical security of locations at which personal data are processed

Specific physical security provisions vary depending on office location, however, as per the Information Security policy, access to company premises, including delivery and loading areas, must require badge access. Badge

access is managed by local facilities or ITG, who use a badge kiosk to produce access badges. All badge issuances and updates require management approval.

- Measures for ensuring events logging

FTI logs activity which is stored for 7 years. Data is logged at sufficient level (i.e. user ID, activity) and logging is enabled for the entire environment. The logging must provide relevant information (i.e. authorized & unauthorized attempts, remote access). System event and audit logs should capture the following events as applicable:

- Authentication failures
- Software or service failures
- Logon and use of privileged IDs
- Database changes
- Adding/deleting users
- Password Changes
- Adding/deleting groups and/or users associated with groups
- Changing audit log configuration or disabling audit subsystem

FTI uses SecureWorks which provides a Security Incident and Event Management (SIEM). The foundation of the SIEM includes Red Cloak endpoint event logs analysis, which includes an industry-leading assessment of current and zero-day threats and vulnerabilities.

- Measures for ensuring system configuration, including default configuration Measures for internal IT and IT security governance and management

FTI has processes in place to confirm compliance with configuration standards. This includes a process for newly created device (i.e., checklist), at least annual reviews and hardening, removal of unnecessary / insecure services, and alarms set for key events (i.e. change in security group, configuration).

- Measures for certification/assurance of processes and products

FTI holds the Certified Enterprise designation from Verizon Cybertrust and participates in their Security Management Program (SMP). The SMP is a comprehensive security risk reduction and certification program that addresses all aspects of proactive information security, from network and system analysis to physical and policy inspection. The cornerstone of SMP is the International Standards Organization (ISO) standard 27002.

As part of the Cybertrust Third Party assessment schedule, FTI Consulting's Global Cybersecurity and Privacy function undergoes the following reviews by the Verizon Security Certification organization:

- Policy Review — evaluates the documentation and inspects the contents of key security policies — Annually.
- Process and Procedure Validation — Annually.
- Physical Inspection — evaluates the implementation of security controls in the physical environment surrounding critical network infrastructure, including doors, HVAC, entry logs, power redundancy, etc. — Annually.
- External Risk Assessments (Network and System-level scans) — Quarterly identifies possible risk areas in an organization's external network infrastructure and assesses its consistency with key controls.
- Penetration testing (External and Internal – Network and System-level) is conducted by a separate third-party — Annually.

Individual business units may hold additional certifications or use tools that are supported by additional certifications.

- Measures for ensuring data minimisation

FTI only acquires data for the intended purpose by working with the client or business partner to ensure only the minimum amount of necessary data is obtained.

- Measures for ensuring data quality

FTI Consulting is dedicated to providing its clients with high quality services that meet our standards of excellence and integrity. The quality of the work for each of our clients is monitored by the Senior Managing Directors responsible for each engagement along with the highly qualified colleagues in their practice teams and business segments. On a broader level, FTI sets the tone for our global organization in our Code of Conduct (<https://www.fticonsulting.com/~media/Files/us-files/our-firm/guidelines/fti-code-of-conduct.pdf>) which discusses our commitment to quality throughout, and in particular in our Statement of Values.

FTI takes into account the principle of purpose limitation, while making sure that the data is adequate, relevant and not excessive for the legitimate purpose. FTI enables data subjects to exercise their rights, including the rights of access and, as appropriate, the rectification, erasure or blocking of Personal data and keep data accurate, and not retain it any longer than necessary.

- Measures for ensuring limited data retention

FTI has a records retention policy that ensures records are retained for required and necessary periods of time; providing that records which are no longer useful are properly destroyed; and providing that records to be retained are stored methodically and economically. FTI uses their reasonable and best efforts to prevent the premature destruction of Records. The organization must have processes to return data upon end of contract and destroy data using appropriate mechanisms upon Department of Defense (DoD) and National Institute of Standards and Technology (NIST) standards for all data bearing devices.

- Measures for ensuring accountability

FTI has a defined process to resolve complaints about privacy and its collection or use of personal information in compliance with the EU-US Privacy Shield Principles. FTI has measures in place to ensure complaints are resolved within 1 month. Unless otherwise dictated by local law, the exact number of days to comply with a request varies, depending on the month in which the request was made and is calculated based on the day the request is received plus one (regardless of whether the day is a working day or not) until the corresponding calendar date in the next month.

- Measures for allowing data portability and ensuring erasure

FTI receives requested Personal Data directly or provide access to a tool which allows the requestor to extract the information themselves using a self-service type model.

The Personal Data requested is required to be provided in a format and structure which is commonly used and machine-readable. The following machine-readable formats:

- CSV: (Comma separated values) a format that stores tabular data (numbers and text) in plain-text form;
- PDF: (Portable Document Format) a file format used mainly to represent documents such that layout will stay the same independent of the system environment;

- XML: (eXtensible Markup Language) a markup language that defines a set of rules for encoding documents in a format that can be both human and machine readable;
- JSON: (JavaScript Object Notation) a machine-readable data format derived from the JavaScript language used for representing simple data structures and associative arrays; or
- HTML: (HyperText Markup Language) the main markup language for displaying web pages and other information in a web browser.

FTI has a data erasure process in place to track and manage responses, and, as necessary, provide updates to the relevant regulatory authority and/or input into management reports. The organization must verify the identity of the data subject before disclosing any personal information. The organization should only refuse to comply with an erasure request if it is “manifestly unfounded or excessive” or, alternatively may elect to charge a “reasonable fee.” The response is in written communication together with the documents containing the proper erasure of data.

In re:
Invitae Corporation
Debtor

Case No. 24-11362-MBK
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0312-3
Date Rcvd: Apr 23, 2024

User: admin
Form ID: pdf903

Page 1 of 3
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
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+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.
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Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Apr 25, 2024:

Recip ID	Recipient Name and Address
db	+ Invitae Corporation, 1400 16th Street, San Francisco, CA 94103-5110

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Apr 25, 2024

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on April 23, 2024 at the address(es) listed below:

Name	Email Address
Aaron Applebaum	on behalf of Interested Party ASB De Haro Place LLC aaron.applebaum@us.dlapiper.com, aaron--applebaum--3547@ecf.pacerpro.com
Aaron Applebaum	on behalf of Interested Party 1600 16th Street LLC aaron.applebaum@us.dlapiper.com aaron--applebaum--3547@ecf.pacerpro.com
Andrew Zatz	on behalf of Creditor Official Committee of Unsecured Creditors azatz@whitecase.com mco@whitecase.com
Andrew R. Turner	on behalf of Creditor Fisher Scientific Company LLC courts@turnerlaw.net
Ashley Chase	on behalf of Creditor Official Committee of Unsecured Creditors ashley.chase@whitecase.com
Brett Bakemeyer	

District/off: 0312-3

User: admin

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Date Rcvd: Apr 23, 2024

Form ID: pdf903

Total Noticed: 1

on behalf of Creditor Official Committee of Unsecured Creditors brett.bakemeyer@whitecase.com mco@whitecase.com

Brett D. Goodman

on behalf of Interested Party Wilmington Savings Fund Society FSB brett.goodman@afslaw.com, jeffrey.gleit@afslaw.com;matthew.bentley@afslaw.com;edocket@afslaw.com

Catherine B. Heitzenrater

on behalf of Creditor Chubb Companies cebeideman@duanemorris.com

Christopher P. Mazza

on behalf of Creditor Official Committee of Unsecured Creditors cpmazza@pbnlaw.com mpdermatis@pbnlaw.com;pnbalala@pbnlaw.com;jmoconnor@pbnlaw.com

Damien Nicholas Tancredi

on behalf of Creditor Alton Tech ADA LLC damien.tancredi@flastergreenberg.com damien.tancredi@ecf.infortuptcy.com;krystall.hasker@flastergreenberg.com

Harrison Denman

on behalf of Creditor Official Committee of Unsecured Creditors harrison.denman@whitecase.com

Holly Smith Miller

on behalf of Creditor MassMutual Asset Finance LLC hsmiller@gsbblaw.com

James L Bromley

on behalf of Creditor Deerfield Partners L.P. bromleyj@sullcrom.com

James N. Lawlor

on behalf of Creditor Deerfield Partners L.P. jlawlor@wmd-law.com

Jeffrey M. Sponder

on behalf of U.S. Trustee U.S. Trustee jeffrey.m.sponder@usdoj.gov jeffrey.m.sponder@usdoj.gov

John S. Mairo

on behalf of Creditor Official Committee of Unsecured Creditors jsmairo@pbnlaw.com pnbalala@pbnlaw.com;mpdermatis@pbnlaw.com;jmoconnor@pbnlaw.com

Joseph L. Schwartz

on behalf of Creditor U.S. Bank Trust Company National Association as Trustee and Collateral Agent for the 4.5% Series A and Series B Convertible Senior Secured Notes due 2028 jschwartz@riker.com

Kenneth L. Baum

on behalf of Creditor Amacon Westpark Investment Corporation kbaum@kenbaumdebtssolutions.com ddipiazza@kenbaumdebtssolutions.com

Kristin Wigness

on behalf of Creditor EPAM Systems Inc. kwigness@mcguirewoods.com

Kyle McEvelly

on behalf of Creditor Natera Inc. kmcevilly@gibbonslaw.com

Lauren Bielskie

on behalf of U.S. Trustee U.S. Trustee lauren.bielskie@usdoj.gov

Meredith Mitnick

on behalf of Creditor Tecan Genomics Inc. mmitnick@goodwinlaw.com

Michael D. Sirota

on behalf of Debtor ArcherDX LLC msirota@coleschotz.com, fpisano@coleschotz.com;ssallie@coleschotz.com;lmorton@coleschotz.com;pratkowiak@coleschotz.com;ddelehanty@coleschotz.com

Michael D. Sirota

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Michael D. Sirota

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Michael D. Sirota

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Michael D. Sirota

on behalf of Debtor Ommdom Inc. msirota@coleschotz.com, fpisano@coleschotz.com;ssallie@coleschotz.com;lmorton@coleschotz.com;pratkowiak@coleschotz.com;ddelehanty@coleschotz.com

Michael D. Sirota

on behalf of Debtor Invitae Corporation msirota@coleschotz.com

District/off: 0312-3

User: admin

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Robert Malone

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Samuel P. Hershey

on behalf of Creditor Official Committee of Unsecured Creditors sam.hershey@whitecase.com

Shawn M. Christianson

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Tina Moss

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U.S. Trustee

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Warren J. Martin, Jr.

on behalf of Creditor Official Committee of Unsecured Creditors wjmartin@pbnlaw.com mpdermatis@pbnlaw.com;pnbalala@pbnlaw.com;raparisi@pbnlaw.com;jmoconnor@pbnlaw.com

TOTAL: 36