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Co-Counsel to the Plan Administrator and Wind-Down Debtors

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

In re:

INVITAE CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11362 (MBK)

(Jointly Administered)

**PLAN ADMINISTRATOR'S MOTION FOR ENTRY
OF AN ORDER EXTENDING THE DEADLINE TO OBJECT TO CLAIMS**

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.



TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Andrew Spirito, as the plan administrator (the “Plan Administrator”) for the above-captioned wind-down debtors (collectively, the “Debtors,” or as may be referred to after the Effective Date, the “Wind-Down Debtors”) respectfully states as follows in support of this motion (the “Motion”):

Relief Requested

1. The Plan Administrator seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), extending the Claims Objection Deadline (as defined in the Plan), to and including August 1, 2025 (the “Proposed Deadline”).²

Jurisdiction and Venue

2. 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 Plan Administrator confirms his consent to the Court entering a final order in connection with this Motion 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.

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

4. The bases for the relief requested herein are sections 502 and 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), rules 3007 and 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 3007-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”).

² Capitalized terms not otherwise defined herein shall have the meaning set forth in the Plan, defined below.

Background

5. On February 13, 2024 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.³ On the February 16, 2024, the Court entered an order [Docket No. 54] authorizing the joint administration and procedural consolidation of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b), under the lead case of *In re Invitae Corporation, et al.*, Case No. 24-11362 (MBK) (Bankr. D.N.J.) (the “Lead Case”).⁴

6. On March 18, 2024, the Court entered the *Order (I) Setting Bar Dates for Submitting Proofs of Claim, Including Requests for Payment Under Section 503(b)(9), (II) Establishing an Amended Schedules Bar Date and a Rejection Damages Bar Date, (III) Approving the Form, Manner, and Procedures for Filing Proofs of Claim, and (IV) Approving Notice Thereof* [Docket No. 189] (the “Bar Date Order”) setting certain deadlines and establishing procedures for filing proofs of claims. The Bar Date Order set (a) April 15, 2024 as the last day for filing Proofs of Claim (including Proofs of Claim for Claims arising under Section 503(b) of the Bankruptcy Code) against the Debtors that arose (or was deemed to have arisen) before the Petition Date and (b) August 11, 2024 as the last day for filing Proofs of Claim of Governmental Unit (as defined in the Bar Date Order).

7. On August 2, 2024, the 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*

³ A description of the Debtors and their businesses, and the facts and circumstances supporting the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Ana Schrank, Chief Financial Officer of Invitae Corporation, in Support of Chapter 11 Filing, First Day Motions, and Access to Cash Collateral* [Docket No. 21].

⁴ Unless otherwise indicated, all docket references refer to the Lead Case.

Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 913, Exhibit A] (the “Plan”). The Plan further set an Administrative Claims Bar Date.

8. Pursuant to the Plan:

“Claims Objection Deadline” means the deadline for objecting to a Claim asserted against a Debtor, which shall be on the date that is the later of (a) 180 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by the Debtors or the Wind-Down Debtors, as applicable, or by an order of the Bankruptcy Court for objecting to such Claims.

See Plan, Article I.A., ¶ 42. The Claims Objection Deadline occurs on February 3, 2025.

9. Over 1,300 claims were filed during the course of the Wind-Down Debtors’ chapter 11 cases. The Debtors, prior to the Effective Date, and the Plan Administrator (on behalf of the Wind-Down Debtors) following the Effective Date, together with their advisors, have commenced the Claims reconciliation process, including reviewing, analyzing and reconciling claims to ensure that the Claims Register is accurate so the Plan Administrator may make distributions in compliance with the Plan.

Basis for Relief

10. Pursuant to section 502(a) of the Bankruptcy Code, “a claim or interest. . . is deemed allowed, unless a party in interests . . . objects.” As stated above, the Plan expressly established February 3, 2025 as the Claims Objection Deadline while also providing that the Claims Objection Deadline may be fixed by order of the Court, implicitly recognizing that circumstances may warrant one or more extensions of time.

11. Bankruptcy Rule 9006(b) provides that the Court may extend a time period provided under the Bankruptcy Rules or order of the Court, except for time periods provided under certain Bankruptcy Rules that are not applicable here. *See* Fed. R. Bankr. P. 9006(b)

12. In addition, section 105(a) of the Bankruptcy Code provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” It is also generally recognized that “[s]ection 105(a) authorizes the bankruptcy court, or the district court sitting in bankruptcy, to fashion such orders as are required to further the substantive provisions of the Code.” *See In re Morristown & E. R. Co.*, 885 F.2d 98, 100 (3d Cir. 1989) (citing Collier on Bankruptcy ¶ 105.04 at 105–15 & n.5 (15th rev. ed. 1989)).

13. The Wind-Down Debtors have made substantial progress with the reconciliation of Claims, and have resolved many in a consensual manner; however, there are outstanding Claims which will require additional time and attention. Accordingly, the Wind-Down Debtors seek to extend the deadline to object to such Claims. The requested extension of time to the Proposed Deadline will allow the Wind-Down Debtors to continue working on consensual resolutions, thus avoiding objections that may otherwise prove unnecessary.

14. Furthermore, although the definition of Claims Objection Deadline in the Plan allows the Wind-Down Debtors to extend the Claims Objection Deadline as necessary, the Plan Administrator files this Motion out of an abundance of caution. The Plan Administrator, on behalf of the Wind-Down Debtors, therefore seeks authority in the Order to further extend the Claims Objection Deadline, as necessary, by filing a notice on the Court’s docket, with service to affected parties.

A Bridge Order Is Not Required

15. To the extent the Court does not rule on this Motion prior to the expiration of the Claims Objection Deadline, the time period shall automatically be extended until the Court acts on the Motion, without the necessity for the entry of a bridge order. *See Order Establishing*

Certain Notice, Case Management, and Administrative Procedures [Docket No. 62] (the “Case Management Order”), Exhibit 1, ¶ 24.

16. The Case Management Order remains in effect pursuant to the terms of the Confirmation Order which provides “all prior orders entered in these Chapter 11 Cases and all documents and agreements executed by the Debtors as authorized and directed thereunder as of the Effective Date shall be binding upon and shall inure to the benefit of the Debtors or the Wind-Down Debtors, as applicable, and their respective successors and assigns.” Confirmation Order, ¶ 72.

Waiver of Memorandum of Law

17. The Plan Administrator respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to Local Rule 9013-1(a)(3) because the legal basis upon which the Plan Administrator relies is set forth herein and the Motion does not raise any novel issues of law.

No Prior Request

18. No prior request for the relief sought in this Motion has been made to this Court or any other court.

Notice

19. The Plan Administrator will provide notice of this Motion to the following parties and/or their respective counsel, as applicable: (a) the office of the United States Trustee for the District of New Jersey, One Newark Center, Suite 2100, Newark, NJ 07102; (b) counsel to the Committee; (c) counsel to the agent to the Secured Notes; (d) the indenture trustee to the 2024 Convertible Notes; (e) the indenture trustee to the 2028 Convertible Notes; (f) Sullivan & Cromwell LLP, as counsel to the Required Holders; (g) Wollmuth Maher & Deutsch LLP, as

counsel to the Required Holders; (h) counsel to the 2028 Convertible Noteholders; (i) the U.S. Securities and Exchange Commission; (j) the United States Attorney's Office for the District of New Jersey; (k) the attorneys general in the states where the Debtors conduct their business operations; (l) the Internal Revenue Service; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Plan Administrator submits that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of the page left blank]

WHEREFORE, the Plan Administrator respectfully requests that the Court enter the Order, substantially in the form attached hereto as **Exhibit A** granting the relief requested herein.

Dated: January 7, 2025

/s/ Michael D. Sirota

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Exhibit A

Proposed Order

Caption in Compliance with D.N.J. LBR 9004-1(b)	
UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
In re:	Chapter 11
INVITAE CORPORATION, <i>et al.</i> ,	Case No. 24-11362 (MBK)
Debtors. ¹	(Jointly Administered)

ORDER EXTENDING THE DEADLINE TO OBJECT TO CLAIMS

The relief set forth on the following pages, numbered three (3) through four (4), is
ORDERED.

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.

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 EXTENDING THE DEADLINE TO OBJECT TO CLAIMS

Upon the *Plan Administrator's Motion for Entry of an Order Extending the Deadline to Object to Claims* (the "Motion"),² Andrew Spirito, as the plan administrator (the "Plan Administrator") for the above-captioned wind-down debtors (collectively, the "Debtors," or as may be referred to after the Effective Date, the "Wind-Down Debtors"), for entry of an order (this "Order") pursuant to the Plan, sections 502 and 105(a) of title 11 of the United States Code (the "Bankruptcy Code"), Rules 3007 and 9006 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and rule 3007-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the "Local Rules"), extending the Claims Objection Deadline; and the Court having jurisdiction to consider the Motion 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 Motion 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 Wind-Down Debtors' notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"), if any; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings

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

(Page | 4)

Debtors: INVITAE CORPORATION, *ET AL.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER EXTENDING THE DEADLINE TO OBJECT TO CLAIMS

had before the Court and after due deliberation and sufficient cause appearing therefor **IT IS**

HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.
2. The Claims Objection Deadline, as set forth in Article I.A., Paragraph 42 of the Plan, is extended to and including August 1, 2025.
3. Pursuant to the terms of the Plan, the Plan Administrator and Wind-Down Debtors may further extend the Claims Objection Deadline, as necessary and without further order of the Court, by filing a notice on the Court's docket and serving such notice on all affected parties.
4. This Order shall be without prejudice to the right of the Plan Administrator or Wind-Down Debtors to seek further extensions of the Claims Objection Deadline.
5. The Plan Administrator is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
6. The requirement set forth in Local Rule 9013-1(a)(3) that any motion be accompanied by a memorandum of law is hereby deemed satisfied by the contents of the Motion or otherwise waived.
7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

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

In re:

INVITAE CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11362 (MBK)

(Jointly Administered)

**NOTICE OF HEARING ON PLAN ADMINISTRATOR'S MOTION FOR
ENTRY OF AN ORDER EXTENDING THE DEADLINE TO OBJECT TO CLAIMS**

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.

PLEASE TAKE NOTICE that on **February 6, 2025 at 10:00 a.m. (prevailing Eastern Time)** or as soon thereafter as counsel may be heard, Andrew Spirito, as the plan administrator (the “Plan Administrator”) for the above-captioned wind-down debtors (collectively, the “Debtors,” or as may be referred to after the Effective Date, the “Wind-Down Debtors”), by and through the undersigned counsel, shall move the *Plan Administrator’s Motion for Entry of an Order Extending the Deadline to Object to Claims* (the “Motion”) before the Honorable Michael B. Kaplan, United States Bankruptcy Judge, in Courtroom 8 of the United States Bankruptcy Court for the District of New Jersey (the “Court”), 402 East State Street, Trenton, NJ 08608, for entry of an order (the “Order”), substantially in the form submitted herewith, extending the deadline by which the Plan Administrator may object to claims.

PLEASE TAKE FURTHER NOTICE that in support of the relief requested therein, the Plan Administrator shall rely on the accompanying Motion, which sets forth the relevant legal and factual bases upon which the relief requested should be granted. A proposed Order granting the relief requested in the Motion is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion shall: (i) be in writing; (ii) state with particularity the basis of the objection; and (iii) be filed with the Clerk of the Court electronically (x) by attorneys who regularly practice before the Court in accordance with the *General Order Regarding Electronic Means for Filing, Signing, and Verification of Documents* dated March 27, 2002 (the “General Order”) and the *Commentary Supplementing Administrative Procedures* dated as of March 2004 (the “Supplemental Commentary”) (the General Order, the Supplemental Commentary, and the User’s Manual for the Electronic Case Filing System can be found at www.njb.uscourts.gov, the official website for the Court) and (y) by all other parties in interest, on CD-ROM in Portable Document Format (PDF), and shall be

served in accordance with the General Order and the Supplemental Commentary so as to be received no later than seven (7) days before the hearing date set forth above.

PLEASE TAKE FURTHER NOTICE that copies of all documents filed in these chapter 11 cases may be obtained free of charge by visiting the website of Kurtzman Carson Consultants LLC dba Verita Global at <https://www.veritaglobal.net/invitae>. You may also obtain copies of any pleadings by visiting the Court's website at <https://www.njb.uscourts.gov> in accordance with the procedures and fees set forth therein.

PLEASE TAKE FURTHER NOTICE that unless objections are timely filed and served, the Motion shall be decided on the papers in accordance with D.N.J. LBR 9013-3(d) and the relief requested may be granted without further notice or hearing.

[Remainder of page intentionally left blank]

Dated: January 7, 2025

/s/ Michael D. Sirota

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