



**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)

Order Filed on January 10, 2025
by Clerk
U.S. Bankruptcy Court
District of New Jersey

**JOINT STIPULATION AND AGREED ORDER
TO LIFT THE AUTOMATIC STAY TO ALLOW JPM
TO REIMBURSE ITSELF FOR AMOUNTS DRAWN ON LETTERS OF CREDIT**

The relief set forth on the following pages, numbered three (3) through eight (8) is **ORDERED**.

DATED: January 10, 2025


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 <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)

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)

Nicole L. Greenblatt, P.C. (admitted *pro hac vice*)

Francis Petrie (admitted *pro hac vice*)

Jeffrey Goldfine (admitted *pro hac vice*)

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

joshua.sussberg@kirkland.com

nicole.greenblatt@kirkland.com

francis.petrie@kirkland.com

jeffrey.goldfine@kirkland.com

-and-

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Spencer A. Winters, P.C. (admitted *pro hac vice*)

William E. Arnault, P.C. (admitted *pro hac vice*)

333 West Wolf Point Plaza

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

spencer.winters@kirkland.com

william.arnault@kirkland.com

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.

Warren A. Usatine, Esq.

Felice R. Yudkin, Esq.

Daniel J. Harris, Esq.

Court Plaza North, 25 Main Street

Hackensack, New Jersey 07601

Telephone: (201) 489-3000

msirota@coleschotz.com

wusatine@coleschotz.com

fyudkin@coleschotz.com

dharris@coleschotz.com

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

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: JOINT STIPULATION AND AGREED ORDER TO LIFT THE AUTOMATIC STAY TO ALLOW JPM TO REIMBURSE ITSELF FOR AMOUNTS DRAWN ON LETTERS OF CREDIT

This stipulation and agreed order (this “Stipulation and Agreed Order”) is made this [●]th day of December, 2024, by Andrew Spirito as the Plan Administrator (the “Plan Administrator”) to the above-captioned wind-down debtors (collectively, the “Debtors”) and JPMorgan Chase Bank, N.A (“JPM” and together with the Plan Administrator, the “Parties”), each as signatory hereto. The Parties hereby stipulate as follows:

RECITALS

WHEREAS, on February 13, 2024 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), and such cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure [Docket No. 54].

WHEREAS, 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] confirming 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”).⁴

WHEREAS, on August 7, 2024, the Effective Date occurred and the Plan Administrator was appointed. *See Notice of (A) Entry of the Order Confirming the Third Amended Joint Plan of*

⁴ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Plan.

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Debtors: INVITAE CORPORATION, *et al.*

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Invitae Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code
[[Docket No. 932](#)].

WHEREAS, the Debtors have represented that pursuant to their books and records, prior to the Petition Date, certain of the Debtors were party to the following leases: (i) the lease dated as of November 1, 2018 by and between Invitae Corporation (“Invitae”) as tenant, and RREEF America REIT II Corp. PPP (“RREEF”), as lessor; (ii) the lease dated as of January 1, 2021 by and between Invitae as tenant, and ASB De Haro Place, LLC (“ASB”), as lessor; (iii) the lease dated as of September 2, 2015 by and between Invitae as tenant, and 1400 16th Street LLC (“1400 16th”), as lessor; (iv) the lease dated as of January 31, 2020 by and between Invitae as tenant, and 449 Broadway LLC (“Broadway”), as lessor; and (v) the lease dated June 5, 2019 by and between Invitae as tenant, and Alton Tech ADA LLC (“Alton”) as lessor (each, a “Lease” and together, the “Lease Agreements”). Pursuant to the Lease Agreements, Invitae was obligated to provide either a letter of credit or cash security deposit to the respective lessors.

WHEREAS, JPM issued certain letters of credit (each, a “Letter of Credit”, and together, the “Letters of Credit”) on behalf of Invitae, as applicant, and in favor of RREEF (the “RREEF LOC”), ASB (the “ASB LOC”), 1400 16th (the “1400 16th LOC”), Broadway (the “Broadway LOC”), and Alton (the “Alton LOC”), each as beneficiary, respectively. Pursuant to each Letter of Credit’s documentation, Invitae is obligated to reimburse JPM for any amounts drawn under the Letters of Credit, and any related fees, costs, and expenses. Invitae’s obligations under the documentation for the Letters of Credit are secured by cash collateral held in a Debtor bank account at JPM (x1322) (the “JPM LOC Account”).

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WHEREAS, since the Petition Date, the beneficiaries have made draw requests on their Letters of Credit in the following amounts: (i) \$750,000.00 under the RREEF LOC; (ii) \$3,520,075.38 under the ASB LOC; (iii) \$4,644,585.00 under the 1400 16th LOC; (iv) \$160,284.00 under the Broadway LOC; and (v) \$450,000.00 under the Alton LOC. In connection with each draw request, Invitae incurred fees pursuant to the documentation for the Letters of Credit, in the following amounts: (a) \$750.00 under the RREEF LOC; (b) \$3,520.08 under the ASB LOC; (c) \$4,644.59 under the 1400 16th LOC; (d) \$500.00 under the Broadway LOC; and (e) \$500.00 under the Alton LOC.

WHEREAS, JPM timely filed the following proofs of claim (collectively, the “Proofs of Claim”):

- a. Claim No. 854, in the amount of \$750,000.00 for the RREEF LOC;
- b. Claim No. 852, in the amount of \$3,523,595.46 for the ASB LOC;
- c. Claim No. 851, in the amount of \$4,649,229.59 for the 1400 16th LOC;
- d. Claim No. 850, in the amount of \$160,284.00 for the Broadway LOC; and
- e. Claim No. 853, in the amount of \$450,000.00 for the Alton LOC.

WHEREAS, in connection with the preparation and filing of the Proofs of Claim, JPM incurred and paid outside counsel fees and expenses in the amount of \$7,823.20.

WHEREAS, out of an abundance of caution, JPM did not use cash collateral held in the JPM LOC Account to pay out the draw requests, related fees, or its outside counsel fees and expenses.

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WHEREAS, JPM has a valid, secured claim on account of obligations arising from the Letters of Credit, related fees, and JPM's outside counsel fees and expenses under the documentation for the Letters of Credit in the amount of \$9,542,682.25 (the "Reimbursement Claim"). The Reimbursement Claim is secured by the cash collateral held in the JPM LOC Account, and the Debtors are obligated to reimburse JPM on account of the Reimbursement Claim. Accordingly, cause exists to grant JPM limited relief from the automatic stay to exercise its setoff rights pursuant to section 553 of the Bankruptcy Code.

WHEREAS, the Plan Administrator agrees to lift the automatic stay for the limited purpose of permitting JPM, solely in its capacity as the issuer of the Letters of Credit, to apply the cash held in the JPM LOC Account against the Reimbursement Claim, up to the amount of the Reimbursement Claim.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND UPON APPROVAL BY THE BANKRUPTCY COURT OF THIS STIPULATION, THE FOLLOWING IS SO ORDERED:

1. This Stipulation and Agreed Order shall only be effective and enforceable upon its approval and entry by the Bankruptcy Court on the docket for these chapter 11 cases, and then it shall be immediately effective and enforceable.
2. The foregoing recitals are hereby incorporated by reference into this Stipulation and Agreed Order.
3. The automatic stay is lifted solely for the purpose of permitting JPM to apply the amounts held in the JPMC LOC Account against the Reimbursement Claim, up to the amount of

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the Reimbursement Claim. JPM shall notify the Plan Administrator within five (5) business days or as soon as reasonably practicable thereafter upon the final application of cash held in the JPM LOC Account against the Reimbursement Claim. Upon such notice, the Plan Administrator may withdraw any remaining funds from the JPM LOC Account and JPM shall provide reasonable assistance to the Plan Administrator in withdrawing such remaining funds.

4. The application of funds against the Reimbursement Claim pursuant to the terms of this Agreed Order and Stipulation shall be in full and final satisfaction of all of JPM's claims (as defined by section 101(5) of the Bankruptcy Code) in connection with their Proofs of Claim against the Debtors existing as of the date hereof.

5. The Plan Administrator and the Debtors are authorized, to the extent permitted under the Plan and Confirmation Order, to take all actions necessary to effectuate the relief provided for in this Stipulation and Agreed Order. Without limiting the generality of the foregoing, following the notification by JPM to the Plan Administrator of its final application of cash as set forth herein, the Plan Administrator may instruct the Debtors' claims and noticing agent to reflect the satisfaction of the Proofs of Claim in the official claims register for the Debtors.

6. Neither this Stipulation and Agreed Order nor any actions taken pursuant hereto shall constitute evidence admissible against the Parties in any action or proceeding other than one to enforce the terms of this Stipulation and Agreed Order.

7. The Parties intend for this Stipulation and Agreed Order to be binding upon their successors, agents, assigns, including bankruptcy trustees and estate representatives and any parent, subsidiary, or affiliated entity of the Parties.

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8. The undersigned hereby represent and warrant that they have full authority to execute this Stipulation and Agreed Order on behalf of the respective Parties and that the respective Parties have full knowledge of and have consented to this Stipulation and Agreed Order.

9. Nothing in this Stipulation and Agreed Order is an admission or acknowledgement by the Plan Administrator or the Debtors of the setoff rights or purported setoff rights available to any other party, and the Plan Administrator and Debtors reserve all rights to dispute the setoff rights or purported setoff rights asserted by any other party.

10. The Parties agree that each of them, through their respective counsel, has had a full opportunity to participate in the drafting of this Stipulation and Agreed Order, and, accordingly, any claimed ambiguity shall be construed neither for nor against either of the Parties.

11. This Stipulation and Agreed Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect thereto.

12. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Stipulation and Agreed Order.

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Dated: January 2, 2025

/s/ Renu P. Shah

JPMorgan Chase Bank, N.A.

Renu P. Shah
10 South Dearborn, 6th Floor
Mail Code IL1-0080
Telephone: 312-732-2715
renu.p.shah@jpmchase.com

Attorney for JPMorgan Chase Bank, N.A.

/s/ Michael D. Sirota

COLE SCHOTZ P.C.

Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Daniel J. Harris, Esq.
Court Plaza North, 25 Main Street
Hackensack, New Jersey 07601
Telephone: (201) 489-3000
Email: msirota@coleschotz.com
wusatine@coleschotz.com
fyudkin@coleschotz.com
dharris@coleschotz.com

Co-Counsel to the Debtors

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)
Nicole L. Greenblatt, P.C. (admitted *pro hac vice*)
Francis Petrie (admitted *pro hac vice*)
Jeffrey Goldfine (admitted *pro hac vice*)
601 Lexington Avenue
New York, New York 10022
Telephone: (212) 446-4800
Facsimile: (212) 446-4900
Email: joshua.sussberg@kirkland.com
nicole.greenblatt@kirkland.com
francis.petrie@kirkland.com
jeffrey.goldfine@kirkland.com

-and-

KIRKLAND & ELLIS LLP

KIRKLAND & ELLIS INTERNATIONAL LLP

Spencer A. Winters, P.C. (admitted *pro hac vice*)
William E. Arnault, P.C. (admitted *pro hac vice*)
333 West Wolf Point Plaza
Chicago, Illinois 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
spencer.winters@kirkland.com
william.arnault@kirkland.com

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