

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. No. 140

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT ON AN INTERIM BASIS; (II) SCHEDULING A COMBINED HEARING ON FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND PLAN CONFIRMATION AND DEADLINES RELATED THERETO; (III) APPROVING THE SOLICITATION, NOTICE AND TABULATION PROCEDURES AND THE FORMS RELATED THERETO; AND (IV) GRANTING RELATED RELIEF**

Upon the *Motion of the Debtors for Entry of an Order (I) Approving the Disclosure Statement on an Interim Basis; (II) Scheduling a Combined Hearing on Final Approval of the Disclosure Statement and Plan Confirmation and Deadlines Related Thereto; (III) Approving the Solicitation, Notice and Tabulation Procedures and the Forms Related Thereto; and (IV) Granting Related Relief* (the "Motion");<sup>2</sup> and based on the record in the Chapter 11 Cases; and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and this Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that sufficient notice of the Motion has been given; and the Court having found that the relief requested

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors' mailing address is 1500 District Avenue, Burlington, MA 01803.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.



in the Motion is in the best interests of the Debtors' estates, creditors and other parties in interest; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court; and the 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 had before the Court; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY FOUND THAT:

A. The Debtors have all necessary authority to propose and prosecute the Plan and the Disclosure Statement.

B. The Debtors have provided adequate notice of the Motion, and the time fixed for filing objections thereto, and no other or further notice need be provided with respect to the Motion.

C. The period, set forth below, during which the Debtors may solicit votes to accept or reject the Plan is a reasonable and adequate period of time under the circumstances for creditors entitled to vote to make an informed decision to accept or reject the Plan, including to make an informed decision to object to the Plan.

D. The notice substantially in the form attached hereto as Exhibit A (the "Confirmation Hearing Notice") and the procedures set forth below for providing such notice to known and unknown creditors and interest holders of the time, date and place of the combined hearing to consider final approval of the Disclosure Statement and confirmation of the Plan (the "Confirmation Hearing"), and the contents of the Confirmation Hearing Notice comply with Bankruptcy Rules 2002, 3017 and Local Rule 3017-2 and constitute sufficient notice to all interested parties.

E. The Confirmation Hearing Notice and the procedures set forth below for providing

such notice to holders of Claims and Interests comply with the requirements of the Bankruptcy Code and is appropriate.

F. The procedures for solicitation and tabulation of votes to accept or reject the Plan (as more fully set out in the Motion and in this Order below) provide for a fair and equitable process and are consistent with Bankruptcy Code section 1126. The form of the Ballots attached hereto as **Exhibits B-1, B-2 and B-3** are sufficiently consistent with Official Form No. 314, adequately addresses the particular needs of the Chapter 11 Cases, and is appropriate for the Voting Classes to vote to accept or reject the Plan.

**NOW THEREFOR, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Motion is **GRANTED** as set forth herein.
2. The Disclosure Statement is approved on an interim basis under Bankruptcy Code section 1125, Bankruptcy Rule 3017 and Local Rule 3017-2. Any objections to the adequacy of the information contained in the Disclosure Statement are expressly reserved for consideration at the Confirmation Hearing.
3. The Confirmation Schedule is approved in its entirety as follows:

<u>EVENT</u>	<u>DATE</u>
<b>Record Date</b>	<b>April 30, 2024 at 4:00 p.m. (prevailing Eastern Time)</b>
<b>Deadline to Serve the Notices and the Solicitation Package</b>	<b>May 3, 2024 (or within 3 business days following entry of the Interim Approval and Procedures Order)</b>
<b>Deadline to file Claims Objections for Voting Purposes Only</b>	<b>May 24, 2024</b>
<b>Deadline to file Rule 3018 Motions</b>	<b>May 24, 2024 at 4:00 p.m. (prevailing Eastern Time)</b>

<u>EVENT</u>	<u>DATE</u>
<b>Deadline to File Plan Supplement</b>	<b>May 24, 2024</b>
<b>Voting Deadline</b>	<b>May 29, 2024 at 5:00 p.m. (prevailing Eastern Time)</b>
<b>Deadline to Object to final approval of the Disclosure Statement and Confirmation of the Plan</b>	<b>May 31, 2024 at 4:00 p.m. (prevailing Eastern Time)</b>
<b>Deadline for Debtors to Respond to 3018 Motions</b>	<b>May 31, 2024</b>
<b>Deadline for Debtors to File Voting Report (which shall also include a list of those who opted out of the third party releases)</b>	<b>June 6, 2024</b>
<b>Deadline for Debtors to File Confirmation Brief and/or Reply to any Plan or Disclosure Statement Objections, Supporting Declarations and the Proposed Form of Order Approving the Disclosure Statement and Confirming the Plan</b>	<b>June 6, 2024</b>
<b>Combined Hearing on Final Approval of the Disclosure Statement and Confirmation of the Plan, and to Rule on Claims Objections and 3018 Motions</b>	<b>June 11, 2024 at 2:00 p.m. (prevailing Eastern Time)</b>

4. The combined hearing on final approval of the adequacy of the Disclosure Statement and confirmation of the Plan is scheduled for **June 11, 2024 at 2:00 p.m. (prevailing Eastern Time)** (the “Confirmation Hearing”). The deadline to file objections to the adequacy of the Disclosure Statement and confirmation of the Plan is **May 31, 2024 at 4:00 p.m. (prevailing Eastern Time)** (the “Objection Deadline”). The Confirmation Hearing may be continued from time to time by the Court or the Debtors without further notice other than adjournments announced in open court and/or by filing a notice of adjournment on the case docket.

5. The deadline for the Debtors to file the Voting Report is **June 6, 2024**. In addition to reporting the results of the members of the Voting Classes returning a completed ballot, the Voting Report will also reflect which votes were not counted, the reasons why and if the Voting Deadline was extended.

6. The Deadline for the Debtors (and other parties in support of the Plan) to file a brief

in support of confirmation of the Plan and/or a reply to any objections to the final approval of the Disclosure Statement and Confirmation of the Plan, any supporting declarations and the proposed form of order approving the Disclosure Statement and confirming the Plan is **June 6, 2024**.

7. Objections to the adequacy of the Disclosure Statement and confirmation of the Plan, if any, must:

- a. be in writing;
- b. conform to the Bankruptcy Rules and Local Rules;
- c. state the name and address of the objecting party and the amount and nature of the Claim or Interest of such entity;
- d. state with particularity the basis and nature of any objection to the Disclosure Statement, the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection; and
- e. be filed, together with a proof of service, with the Court and served on the following parties: ((i) counsel to the Debtors, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801, Attn: Matthew B. McGuire, Esq. (mcguire@lrclaw.com) and Joshua B. Brooks, Esq. (brooks@lrclaw.com); (ii) the Office of The United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Joseph F. Cudia, Esq. (joseph.cudia@usdoj.gov).

8. The Confirmation Hearing Notice, in substantially the form attached hereto as **Exhibit A**, complies with the requirements of Bankruptcy Rules 2002(b), 2002(d) and 3017(d) and Local Rule 3017-2 and is approved in all respects. The Confirmation Hearing Notice shall be served upon: (i) holders of claims or interests, whether in Voting Classes or in the Non-Voting Classes, or unclassified, (ii) the Internal Revenue Service, (iii) all state and local taxing authorities in which the Debtors have tax liabilities, (iv) the United States Attorney for the District of Delaware, (v) all counterparties to executory contracts and leases; (vi) the United States Trustee;

(vii) all persons and entities listed on the Debtors' creditor mailing matrix, and (viii) all parties requesting notice pursuant to Bankruptcy Rule 2002 within three (3) business days of the entry of this Order.

9. The Debtors shall serve a copy of this Order, with all exhibits, and a copy of the Plan and Disclosure Statement, with all exhibits, on the parties set forth in subsections (ii), (iii), (iv), (vi), and (viii) of paragraph 8 above.

10. The Debtors shall transmit to holders of Claims or Interests in the Voting Classes who are entitled to vote a package (the "Solicitation Package") containing: (a) a cover letter describing the contents of the Solicitation Package, (b) the Disclosure Statement, the Plan and all exhibits thereto (on a flash drive in PDF format), (b) the Ballot, including voting instructions, (c) the Confirmation Hearing Notice, and (d) this Order (on a flash drive in PDF Format) within three (3) business days following entry of this Order.

11. Only the following holders of Claims or Interests in the Voting Classes are entitled to vote:

- a. holders of Claims or Interests for which Proofs of Claim or Interest have been filed, as reflected on the claims register as of the Record Date;
- b. holders of Claims that are listed in the Debtors' Schedules and Statements, with the exception of those Claims that are scheduled as contingent, unliquidated or disputed (excluding such scheduled Claims that have been superseded by a filed Proof of Claim);
- c. holders whose Claims or Interests arise pursuant to an agreement or settlement with the Debtors, as reflected in a document filed with the Bankruptcy Court, in a final order of the Bankruptcy Court, or in a document executed by the Debtors pursuant to authority granted by the Bankruptcy Court, in each case regardless of whether a Proof of Claim or Interest has been filed; and

- d. the assignee of any transferred or assigned Claim, only if:
  - (i) transfer or assignment has been fully effectuated pursuant to the procedures dictated by Bankruptcy Rule 3001(e) and
  - (ii) such transfer is reflected on the Claims Register on or before the Record Date.

12. In tabulating votes, the following hierarchy will be used to determine the amount of the Claim or Interest associated with each vote:<sup>3</sup>

- a. the amount of the Claim or Interest settled and/or agreed upon by the Debtors, as reflected in a Bankruptcy Court pleading, stipulation, agreement, or other document filed with the Bankruptcy Court, in a final order of the Bankruptcy Court or in a document executed by the Debtors pursuant to authority granted by the Bankruptcy Court;
- b. the amount of the Claim or Interest Allowed (temporarily or otherwise) pursuant to a Resolution Event in accordance with the Solicitation Procedures;
- c. the amount of the Claim or Interest contained in a Proof of Claim or Interest that has been timely filed; provided that Ballots cast by holders whose Claims are not listed in the Schedules, but that file a Proof of Claim in an unliquidated or unknown amount that are not the subject of an objection, will count for satisfying the numerosity requirement of Bankruptcy Code section 1126(c) and will count as Ballots for Claims in the amount of \$1.00 solely for the purposes of satisfying the dollar amount provisions of section 1126(c) of the Bankruptcy Code;
- d. the amount of the Claim listed in the Schedules; provided, that such Claim is not listed in the Schedules as contingent, unliquidated or disputed, or any combination thereof, and has not been paid; and
- e. in the absence of any of the foregoing, zero.

13. As part of the Solicitation Package, the Debtors shall distribute to creditors entitled to vote on the Plan the ballot based on Official Form No. 314, modified to address the particular

---

<sup>3</sup> Any Ballot cast by a holder of a Proof of Claim in which the amount of the Claim is listed in any currency other than USD will have the dollar amount of the Claim converted to USD, as of the date the Ballot is received by the Balloting Agent (defined below), for the purposes of the dollar amount provisions of section 1126(c) of the Bankruptcy Code.

circumstances of the Chapter 11 Cases and to include certain additional information that the Debtors believe to be relevant and appropriate for the Voting Classes to vote to accept or reject the Plan. The form of Ballots attached hereto as **Exhibits B-1, B-2** and **B-3** are hereby approved.

14. The deadline to submit Ballots to accept or reject the Plan shall be **May 31, 2024 at 5:00 p.m. (prevailing Eastern Time)** (the “Voting Deadline”).

15. Ballots shall be transmitted by mail, as part of the Solicitation Package, to the record holders of claims in the Voting Classes. All other holders of Claims will not be provided with a Ballot because such holders are either unimpaired and presumed to accept the Plan under Bankruptcy Code section 1126(f). Such non-voting holders will receive a copy of the Confirmation Hearing Notice.

16. The procedures set forth in the Motion for effectively submitting a Ballot are hereby approved in their entirety. In order to submit a Ballot, parties must fully complete and execute the Ballot and return it by (a) first class mail, over-night courier or hand-delivery to the Debtors’ noticing, claims and administrative agent, Kurtzman Carson Consultants LLC (the “Balloting Agent”) at the address set forth in the Ballot on or before the Voting Deadline or (b) electronic online transmission solely through the customized online balloting portal (the “Balloting Portal”) on the Debtors’ case website, <https://www.kccllc.net/invivo>, and clicking on the link for balloting on or before the Voting Deadline. The secured ballot data and audit trail created by such electronic submission shall become part of the record of any Ballot submitted in this manner, and the creditor’s electronic signature shall be deemed to be immediately legally valid and effective. Ballots submitted via the Balloting Portal shall be deemed to contain an original signature. Ballots otherwise sent by facsimile, telecopy, or electronic submissions (other than those submitted via the Balloting Portal) will **not** be accepted. Only properly completed, executed and timely



submitted Ballots will be accepted by the Debtors. The Debtors reserves their right to extend the Voting Deadline at their discretion.

17. The following Ballots shall not be counted in tabulating votes to accept or reject the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of the Claim or Interest; (b) any Ballot submitted by a Party that does not hold a Claim or Interest in the Classes that are entitled to vote on the Plan; (c) any unsigned Ballot; (d) any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan; and (e) any Ballot submitted by any Party not entitled to vote pursuant to the Solicitation Procedures, as applicable.

18. The record date for determining which holders of Claims or Interests are to be served with the Solicitation Package and the Notices shall be the date on which this Order is entered (the "Record Date").

19. The Debtors shall mail only the Confirmation Hearing Notice to holders of Claims or Interests and all parties requesting notice pursuant to Bankruptcy Rule 2002 and shall not be required to mail any Plan Documents to such entities. Instead, the Debtors are authorized to provide in the Confirmation Hearing Notice directions for such parties to obtain electronic copies of the Plan Documents from the Balloting Agent.

20. To the extent Claims or Interest in the Voting Classes are subject to an objection that is filed with the Court on or prior to May 24, 2024 , which is seven (7) days before the Voting Deadline, the holders of such Claims shall not be entitled to vote to accept or reject the Plan unless one or more of the following has occurred no later than two (2) days prior to the Voting Deadline (each, a "Resolution Event"):

- a. an order of the Bankruptcy Court is entered allowing such Claim or Interest pursuant to section 502(b) of the Bankruptcy Code, after notice and a

hearing;

- b. an order of the Bankruptcy Court is entered temporarily allowing such Claim or Interest *for voting purposes only* pursuant to Bankruptcy Rule 3018(a), after notice and a hearing;
- c. a stipulation or other agreement is executed between the holder of such Claim or Interest and the Debtors resolving the objection and allowing such Claim in an agreed upon amount;
- d. a stipulation or other agreement is executed between the holder of such Claim or Interest and the Debtors temporarily allowing the holder of such Claim or Interest to vote its Claim or Interest in an agreed upon amount; or
- e. the pending objection is voluntarily withdrawn by the objecting party.

21. If a Claim or Interest is the subject of an amended Proof of Claim or Interest, the originally filed Proof of Claim or Interest shall be deemed superseded by the later filed, amended Proof of Claim or Interest, regardless of whether or not the Debtors have objected to the originally filed Proof of Claim or Interest, and only the amended Proof of Claim or Interest shall be used for the purpose of determining voting eligibility in accordance with the provisions herein.

22. Notwithstanding anything to the contrary contained herein, any creditor who has filed or purchased one or more duplicate Claims or Interests within the same Voting Class shall be provided with only one Solicitation Package and one Ballot for voting a single Claim or Interest in such Voting Class, regardless of whether the Debtors have objected to such duplicate Claims or Interests.

23. The Solicitation Procedures set forth herein are hereby approved in their entirety, provided that the Debtors reserve their right to amend or supplement the Solicitation Procedures and related documents to better facilitate the confirmation process. The Debtors will file a notice of any revisions to the Solicitation Procedures.

24. The Solicitation Procedures for service of the Solicitation Package and the Notices

as attached hereto satisfy the requirements of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

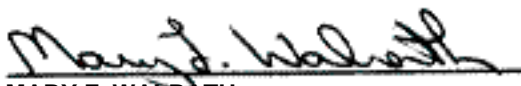
25. The Debtors are authorized to make non-material changes to the Disclosure Statement, Plan, Solicitation Procedures, Notices, Ballot and related pleadings without further order of the Court, including without limitation, changes to correct typographical and grammatical errors and to make conforming changes among the foregoing documents before their distribution.

26. The Debtors are hereby authorized to take any action necessary or appropriate to implement the terms of, and the relief granted in, this Order without seeking further order of the Court.

27. The terms and conditions of this Order shall be immediately effective and enforceable upon entry of this order.

28. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this order.

Dated: April 29th, 2024  
Wilmington, Delaware

  
MARY F. WALRATH  
UNITED STATES BANKRUPTCY JUDGE

# **EXHIBIT A**

Confirmation Hearing Notice

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. No. \_\_\_\_

**NOTICE OF (A) INTERIM APPROVAL OF THE DISCLOSURE STATEMENT  
AND (B) COMBINED HEARING TO CONSIDER FINAL APPROVAL OF THE  
DISCLOSURE STATEMENT AND CONFIRMATION OF THE PLAN  
AND THE OBJECTION DEADLINE RELATED THERETO**

**TO ALL PARTIES IN INTEREST, PLEASE TAKE NOTICE THAT:**

- Filing of the Disclosure Statement and Plan.** On April 8, 2024, the above-captioned debtors and debtors-in-possession (the “Debtors”) filed the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as amended from time to time and including all exhibits and supplements thereto, the “Disclosure Statement”) and the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as may be amended, supplemented or modified, including all exhibits thereto, the “Plan”).<sup>2</sup>
- Interim Bankruptcy Court Approval of the Disclosure Statement and the Notice Procedures.** On April [•], 2024, the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) entered an order [D.I. [•]] (the “Interim Approval and Procedures Order”) approving, among other things, the Disclosure Statement on an interim basis, as required under Local Rule 3017-2 and authorizing the Debtors to provide notice of their intent to seek confirmation of the Plan pursuant to certain procedures set forth therein, including the solicitation of votes to accept or reject the Plan. The Bankruptcy Court’s interim approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court.
- The Combined Hearing.** A combined hearing to consider final approval of the Disclosure Statement and confirm the Plan (the “Combined Hearing”) will commence on **June 11, 2024 at 2:00 p.m. (prevailing Eastern Time)** before the Honorable Mary F. Walrath,

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan or the Disclosure Statement, as applicable.

United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Delaware, located at 824 Market Street, 5th Floor, Courtroom No. 4, Wilmington, DE 19801. Please be advised that the Combined Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment filed with the Bankruptcy Court and served on parties entitled to notice under Bankruptcy Rule 2002 and the Local Rules or otherwise. In accordance with the Plan, the Plan may be modified, if necessary, prior to, during, or as a result of the Combined Hearing by further action of the Debtors and without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

4. **Objections to Final Approval of the Disclosure Statement and Confirmation of the Plan.** The Bankruptcy Court has established **May 31, 2024 at 4:00 p.m. (prevailing Eastern Time)**, as the last date and time for filing and serving objections to the adequacy of the information in the Disclosure Statement and to confirmation of the Plan (the “Objection Deadline”). Any objection to the final approval of the Disclosure Statement and confirmation of the Plan must (a) be in writing, (b) conform to the Bankruptcy Rules and the Local Rules, (c) state the name and address of the objecting party and the amount and nature of the Claim or Interest of such Entity, (d) state with particularity the basis and nature of any objection to the Disclosure Statement, the Plan and, if practicable, a proposed modification to the Plan that would resolve such objection, and (e) be filed with the Clerk of the Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, DE 19801, and served on the following: (i) counsel to the Debtors, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801, Attn: Matthew B. McGuire, Esq. (mcguire@lrclaw.com), Joshua B. Brooks, Esq. (brooks@lrclaw.com), and George A. Williams III, Esq. (williams@lrclaw.com); (ii) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Joseph F. Cudia, Esq. (joseph.cudia@usdoj.gov) with proof of service of such objection filed when and as required under the Local Rules of the Bankruptcy Court.

5. The following chart summarizes the classification and treatment of Claims and Interests under the Plan:

<b>CLAIMS/INTERESTS &amp; DESCRIPTION</b>	<b>ESTIMATED ALLOWED CLAIMS</b>	<b>TREATMENT</b>	<b>ESTIMATED RECOVERY</b>
Administrative Claims (unclassified)	\$0.00	Unimpaired	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
Priority Tax Claims (unclassified)	\$0.00	Unimpaired	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
Secured Tax Claims (Class 1)	\$0.00	Unimpaired – Deemed to Accept	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash

Other Secured Claims (Class 2)	\$0.00	Unimpaired – Deemed to Accept	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
Other Priority Claims (Class 3)	\$0.00	Unimpaired – Deemed to Accept	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
General Unsecured Claims (Class 4)	\$1,41,287.97 <sup>3</sup>	Impaired – Entitled to Vote	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
ARE Subordinated Claims (Class 5)	\$54,527.00	Impaired – Entitled to Vote	Estimated Recovery Percentage: <b>100%</b> Form of Recovery: Cash
Interests (Class 6)	3,105,446	Impaired – Entitled to Vote	Estimated Recovery: \$1,296,605 or \$0.417 per share Form of Recovery: Cash

6. **Voting Procedures.** Holders of Claims in Class 4 (General Unsecured Claims), Class 5 (ARE Subordinated Claims) and Class 6 (Interests) as of **April 30, 2024 at 4:00 p.m. (prevailing Eastern Time)** (the “Record Date”) are entitled to vote to accept or reject the Plan. If you hold such a Claim, you will receive a solicitation package which shall include, among other things, a copy of (i) this Notice, (ii) the Plan (on a disk in PDF format), (iii) the Disclosure Statement (on a disk in PDF format), and (iv) a ballot. Please review the ballot and the instructions included therewith for how to vote on the Plan. Failure to follow the voting instructions may disqualify your vote. Please be advised that the Holders of Claims in Classes 4, 5 and 6 are the only holders of Claims or Interests that are entitled to vote on the Plan.
7. **Voting Deadline.** The deadline to vote on the Plan is **May 31, 2024 at 5:00 pm (prevailing Eastern Time)** (the “Voting Deadline”). The Debtors’ notice, claims and balloting agent, Kurtzman Carson Consultants LLC (the “Balloting Agent” or “KCC”), must receive your ballot with an original signature by the Voting Deadline, otherwise your vote will not be counted. In order for your Ballot to count, you must (1) properly complete, date, and execute the Ballot and (2) deliver the Ballot by (a) first class mail, in the return envelope provided with each Ballot; (b) overnight courier; (c) hand-delivery, or (d) electronic online transmission solely through the customized online balloting portal (the “Balloting Portal”) on the Debtors’ case website, <https://www.kccllc.net/invivo>, and clicking on the link for balloting so that such Ballot is actually received by the Balloting Agent on or before the Voting Deadline.
8. **Directions to Obtain the Plan Documents and Make Inquiries.** If you have not received copies of the Plan, the Disclosure Statement, the Interim Approval and Procedures Order (the “Plan Documents”) and wish to obtain copies of the same, you may do so by: (i) writing to InVivo Ballot Processing Center, c/o KCC, 222 N. Pacific Coast Highway,

<sup>3</sup> Represents claims scheduled or filed as of April 29, 2024 and is subject to change based on claims that may be filed arising from contract rejections and claim reconciliation process.

Suite 300, El Segundo, CA 90245; and/or (ii) emailing [brooks@lrclaw.com](mailto:brooks@lrclaw.com) with a reference to “Infinity Pharmaceuticals Inc.” in the subject line; (iii) visiting <https://www.kccllc.net/invivo> or (iv) visiting (for a fee) PACER at <http://www.deb.uscourts.gov>. Additionally, if you have any questions regarding this Notice, any of the Plan Documents, or any matters related thereto, including, without limitation, the procedures for objecting to the Plan, please contact the Balloting Agent at (888) 802-7206 (Toll-Free) or (781) 575-2087 (International). Please be advised that the Balloting Agent cannot provide you with legal advice, and you should consult with an attorney to provide any legal advice you may need.

9. **Settlement, Release, Exculpation, and Injunction Language in the Plan.** Please be advised that Article VIII of the Plan, as proposed, contains the following exculpation, releases, and injunction provisions.

Article VIII.B Exculpation

**Effective as of the Effective Date, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any Exculpated Claim or any obligation, Cause of Action, or liability for any Exculpated Claim; provided, however, that the foregoing exculpation shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.**

Article VIII.C Releases by the Debtor

**Pursuant to section 1123(b) of the Bankruptcy Code and to the fullest extent authorized by applicable law, and except as otherwise specifically provided in the Plan, including, without limitation the Retained Causes of Action, for good and valuable consideration, the adequacy of which is hereby confirmed, on and after the Effective Date, each Released Party is expressly, unconditionally, generally and individually and collectively released, and acquitted by the Debtors and their Estates from any and all actions, claims, obligations, rights, suits, judgments, damages, demands, debts, rights, remedies, Causes of Action, and liabilities of any nature whatsoever, or any other claim against any Released Party, asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, matured or unmatured, fixed or contingent, liquidated or unliquidated, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the purchase, sale or rescission of the purchase or sale of, or any other transaction relating to any Security of the Debtors, the Debtors, the Debtors’ restructuring efforts, the Chapter 11 Cases, the Plan, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the**



Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests before or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan or related agreements, instruments or other documents (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Released Party on the Plan or the Confirmation Order in lieu of such legal opinion), upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date; provided, however, that the foregoing releases shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct; and provided further that nothing herein shall act as a release of a direct claim any holder of a Claim or Interest or other Entity may have against any Released Party.

Article VIII.D Injunction

Except as otherwise provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, hold or may hold any Interest in the Debtors or a Claim, Cause of Action, or other debt or liability against the Debtors or against any Released Party that have been released and/or exculpated under the this Plan (the “Released Claims and Interests”) are permanently enjoined from taking any of the following actions against the Debtors, the Estates, the Liquidation Trust, the Liquidation Trustee, the Liquidation Trust Assets, or the Released Parties or their respective predecessors, successors and assigns, subsidiaries, Affiliates, current (as of the Effective Date) directors, officers, principals, shareholders, members, partners, employees, agents, advisory board members, financial advisors, attorneys, accounts, investment bankers, consultants, representatives, and other Professionals solely in their respective capacities as such or any property of the same, on account of such Released Claims and Interests: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting any right of setoff (other than setoffs exercised prior to the Petition Date), or subrogation of any kind against any debt, liability or obligation on account of or in connection with or with respect to any Released Claims or Interests; and (v) commencing or continuing in any manner or in any place, any action that does not comply with or is inconsistent with this provision; provided, however, that the foregoing injunction shall have no effect on the liability of any person or Entity that results from any act or omission based on or arising out of gross negligence, fraud or willful misconduct.

**YOU ARE ADVISED TO CAREFULLY REVIEW AND CONSIDER THE PLAN, INCLUDING THE RELEASES, EXCULPATION, AND INJUNCTION PROVISIONS, AS**

**YOUR RIGHTS MIGHT BE AFFECTED.**

Dated: May [•], 2024  
Wilmington, Delaware

**LANDIS RATH & COBB LLP**

*/s/ DRAFT*

---

Matthew B. McGuire (No. 4366)

Joshua B. Brooks (No. 6765)

George A. Williams (No. 6964)

919 Market Street, Suite 1800

Wilmington, Delaware 19801

Telephone: (302) 467-4400

Facsimile: (302) 467-4450

Email: mcguire@lrclaw.com

brooks@lrclaw.com

williams@lrclaw.com

*Counsel for the Debtors and Debtors-In-Possession*

# **EXHIBIT B-1**

Class 4 Ballot

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

**BALLOT FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION  
OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS  
HOLDINGS CORP. PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**CLASS 4 — GENERAL UNSECURED CLAIMS**

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS CAREFULLY  
BEFORE COMPLETING THE BALLOT**

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY KURTZMAN CARSON  
CONSULTANTS LLC BY MAY 31, 2024 AT 5:00 P.M. PREVAILING  
EASTERN TIME (THE “VOTING DEADLINE”)**

The Debtors have sent this Ballot to you because their records indicate that you are a holder of a Class 4 General Unsecured Claim, and accordingly, you have a right to vote to accept or reject the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as may be amended, supplemented or modified, including all exhibits thereto, the “Plan”). Your rights are described in the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation. and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* and all exhibits related thereto [D.I. [•]] (as amended from time to time and including all exhibits and supplements thereto, the “Disclosure Statement”). On February 1, 2024, the Bankruptcy Court entered an order [D.I. [•]] (the “Interim Approval and Procedures Order”)<sup>2</sup> approving on an interim basis the adequacy of the Disclosure Statement. At the Confirmation Hearing, the Debtors will seek final approval of the adequacy of the Disclosure Statement, as well as confirmation of the Plan.

Copies of the Disclosure Statement, the Interim Approval and Procedures Order, the Plan and certain other materials contained in the Solicitation Package are included in the packet you are receiving with this Ballot. Additionally, the Solicitation Package may be obtained by (i) writing to InVivo Ballot Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan, the Disclosure Statement or the Interim Approval and Procedures Order, as applicable.

Segundo CA 90245; and/or (ii) emailing brooks@lrclaw.com with a reference to “InVivo Therapeutics Corporation” in the subject line; (iii) visiting <https://www.kccllc.net/invivo> or (iv) visiting (for a fee) PACER at <http://www.deb.uscourts.gov>. Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. This Ballot may not be used for any purpose other than to vote to accept or reject the Plan. If you believe you have received this Ballot in error, please contact the Balloting Agent at the address or email address set forth above.

*You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan’s classification and treatment of your Claim. Your Claim has been placed in Class 4 (General Unsecured Claims) under the Plan.*

**If the Balloting Agent does not receive your Ballot on or before the Voting Deadline, May 31, 2024 at 5:00 P.M. prevailing Eastern Time and if the Voting Deadline is not extended, your vote as either an acceptance or rejection of the Plan will not count. If the Bankruptcy Court confirms the Plan, it will bind you regardless of whether you vote.**

**Item 1. Principal Amount of Class 4 General Unsecured Claim.**

The undersigned hereby certifies that as of the Record Date, April 30, 2024, the undersigned was the holder of a Class 4 General Unsecured Claim in the aggregate principal amount against the Debtors as set forth below (insert amount in box below):

\$ _____
----------

**Item 2. Class 4 General Unsecured Claim Vote on the Plan.**

The holder of the Class 4 General Unsecured Claim set forth in Item 1 votes to (please check one):

ACCEPT THE PLAN

REJECT THE PLAN

**ANY BALLOT THAT IS EXECUTED BY THE HOLDER OF A CLAIM BUT THAT INDICATES BOTH AN ACCEPTANCE AND A REJECTION OF THE PLAN OR DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN WILL NOT BE COUNTED.**

**Item 3. Certifications**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and to the Debtors:

- a. that either: (i) the Entity is the holder of the Class 4 Claim being voted; or (ii) the Entity is an authorized signatory for an Entity that is a holder of the Class 4 Claim being voted;
- b. that the Entity has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- c. that the Entity has cast the same vote with respect to all Class 4 Claims that it holds or for which it is the authorized signatory; and
- d. that no other Ballots with respect to the amount of the Class 4 Claim identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such Claims, then any such Ballots dated earlier are hereby revoked.

Name of holder: \_\_\_\_\_  
(Print or Type)

Social Security or Federal Tax Identification Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_  
(If other than holder)

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**THE BALLOT MUST BE COMPLETED AND SUBMITTED, ON OR BEFORE THE VOTING DEADLINE, BY THE FOLLOWING APPROVED SUBMISSION METHODS:**

**By first class mail, overnight courier or hand-delivery to:**  
InVivo Ballot Processing Center  
c/o KCC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, CA 90245

**By electronic online transmission solely through the customized online balloting portal (the “Balloting Portal”) on the Debtors’ case website: <https://www.kcellc.net/invivo>  
Click on the link for balloting**

**BALLOTS OTHERWISE SUBMITTED BY FACSIMILE, TELECOPY, OR ELECTRONIC SUBMISSIONS (OTHER THAN THOSE SUBMITTED VIA THE BALLOTING PORTAL) WILL NOT BE ACCEPTED.**

**YOUR BALLOT MUST BE RECEIVED BY THE VOTING DEADLINE, WHICH IS MAY 31, 2024, AT 5:00 P.M. PREVAILING EASTERN TIME.**

**INSTRUCTIONS FOR COMPLETING BALLOTS**

1. The Debtors are soliciting the votes of holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions but not otherwise defined in the Ballot or these instructions shall have the meanings set forth in the Plan or the Disclosure Statement, copies of which also accompany the Ballot.
2. The Bankruptcy Court may confirm the Plan and thereby bind you by the terms of the Plan if, among other things, the Plan is confirmed. Please review the Disclosure Statement for more information.
3. To ensure that your vote is counted, you must: (a) complete the Ballot; (b) indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) submit the Ballot to the address set forth on the enclosed pre-addressed envelope. The Voting Deadline for the receipt of Ballots by the Balloting Agent is May 31, 2024 at 5:00 p.m. (prevailing Eastern Time). Your completed Ballot must be received by the Balloting Agent on or before the Voting Deadline.
4. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, if a holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular holder within a Class for the purpose of counting votes.
5. If a Ballot is received after the Voting Deadline, it will not be counted unless the Debtors determine otherwise. The method of delivery of Ballots to the Balloting Agent is at the election and risk of each holder of a Claim. Delivery will be deemed made only when the Balloting Agent **actually receives** the originally executed Ballot. If a holder of a Claim chooses effecting delivery by mail, it is recommended, though not required, that holders use an overnight or hand-delivery service to assure timely delivery. No Ballot should be sent to the Debtors or the Debtors' agents (other than the Balloting Agent).
6. Delivery of a Ballot to the Balloting Agent by facsimile, telecopy, or electronic submissions (other than those submitted via the Balloting Portal) will **not** be accepted.
7. If multiple Ballots are received from the same holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last dated valid Ballot timely received will supersede and revoke any earlier dated Ballots.

8. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan. Accordingly, at this time, holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Balloting Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
9. This Ballot does not constitute, and shall not be deemed to be: (a) a Proof of Claim; or (b) an assertion or admission of a Claim.
10. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you should indicate such capacity when signing and, if requested by the Balloting Agent, the Debtors, or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
11. The following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of the Claim; (b) any Ballot cast by a Party that does not hold a Claim in a Class that is entitled to vote on the Plan; (c) any unsigned Ballot; (d) any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan; and (e) any Ballot submitted by any Entity not entitled to vote pursuant to the Solicitation Procedures.
12. If you believe you have wrongly received a Ballot, you should contact the Balloting Agent by telephone immediately at (888) 802-7206 (Toll-Free) or (781) 575-2087 (International).

**PLEASE SUBMIT YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE NOTICE, CLAIMS, AND BALLOTING AGENT AT (888) 802-7206 (TOLL-FREE) OR (781) 575-2087 (INTERNATIONAL).**



# **EXHIBIT B-2**

Class 5 Ballot

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

**BALLOT FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION  
OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS  
HOLDINGS CORP. PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**CLASS 5 – ARE SUBORDINATED CLAIMS**

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS CAREFULLY  
BEFORE COMPLETING THE BALLOT**

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY KURTZMAN CARSON  
CONSULTANTS LLC BY MAY 31, 2024 AT 5:00 P.M. PREVAILING  
EASTERN TIME (THE “VOTING DEADLINE”)**

The Debtors have sent this Ballot to you because their records indicate that you are a holder of a Class 5 ARE Subordinated Claim, and accordingly, you have a right to vote to accept or reject the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as may be amended, supplemented or modified, including all exhibits thereto, the “Plan”). Your rights are described in the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation. and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* and all exhibits related thereto [D.I. [•]] (as amended from time to time and including all exhibits and supplements thereto, the “Disclosure Statement”). On February 1, 2024, the Bankruptcy Court entered an order [D.I. [•]] (the “Interim Approval and Procedures Order”)<sup>2</sup> approving on an interim basis the adequacy of the Disclosure Statement. At the Confirmation Hearing, the Debtors will seek final approval of the adequacy of the Disclosure Statement, as well as confirmation of the Plan.

Copies of the Disclosure Statement, the Interim Approval and Procedures Order, the Plan and certain other materials contained in the Solicitation Package are included in the packet you are receiving with this Ballot. Additionally, the Solicitation Package may be obtained by (i) writing to InVivo Ballot Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan, the Disclosure Statement or the Interim Approval and Procedures Order, as applicable.

Segundo CA 90245; and/or (ii) emailing brooks@lrclaw.com with a reference to “InVivo Therapeutics Corporation” in the subject line; (iii) visiting <https://www.kccllc.net/invivo> or (iv) visiting (for a fee) PACER at <http://www.deb.uscourts.gov>. Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. This Ballot may not be used for any purpose other than to vote to accept or reject the Plan. If you believe you have received this Ballot in error, please contact the Balloting Agent at the address or email address set forth above.

*You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan’s classification and treatment of your Claim. Your Claim has been placed in Class 5 (ARE Subordinated Claims) under the Plan.*

**If the Balloting Agent does not receive your Ballot on or before the Voting Deadline, May 31, 2024 at 5:00 P.M. prevailing Eastern Time and if the Voting Deadline is not extended, your vote as either an acceptance or rejection of the Plan will not count. If the Bankruptcy Court confirms the Plan, it will bind you regardless of whether you vote.**

**Item 1. Principal Amount of Class 5 ARE Subordinated Claim.**

The undersigned hereby certifies that as of the Record Date, April 30, 2024, the undersigned was the holder of a Class 5 ARE Subordinated Claim in the aggregate principal amount against the Debtors as set forth below (insert amount in box below):

\$ _____
----------

**Item 2. Class 5 ARE Subordinated Claim Vote on the Plan.**

The holder of the Class 5 ARE Subordinated Claim set forth in Item 1 votes to (please check one):

ACCEPT THE PLAN

REJECT THE PLAN

**ANY BALLOT THAT IS EXECUTED BY THE HOLDER OF A CLAIM BUT THAT INDICATES BOTH AN ACCEPTANCE AND A REJECTION OF THE PLAN OR DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN WILL NOT BE COUNTED.**

**Item 3. Certifications**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and to the Debtors:

- a. that either: (i) the Entity is the holder of the Class 5 Claim being voted; or (ii) the Entity is an authorized signatory for an Entity that is a holder of the Class 5 Claim being voted;
- b. that the Entity has received a copy of the Disclosure Statement and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- c. that the Entity has cast the same vote with respect to all Class 5 Claims that it holds or for which it is the authorized signatory; and
- d. that no other Ballots with respect to the amount of the Class 5 Claim identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such Claims, then any such Ballots dated earlier are hereby revoked.

Name of holder: \_\_\_\_\_  
(Print or Type)

Social Security or Federal Tax Identification Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Signatory: \_\_\_\_\_  
(If other than holder)

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date Completed: \_\_\_\_\_

**THE BALLOT MUST BE COMPLETED AND SUBMITTED, ON OR BEFORE THE VOTING DEADLINE, BY THE FOLLOWING APPROVED SUBMISSION METHODS:**

**By first class mail, overnight courier or hand-delivery to:**  
 InVivo Ballot Processing Center  
 c/o KCC  
 222 N. Pacific Coast Highway, Suite 300  
 El Segundo, CA 90245

**By electronic online transmission solely through the customized online balloting portal (the “Balloting Portal”) on the Debtors’ case website: <https://www.kcellc.net/invivo>**  
 Click on the link for balloting

**BALLOTS OTHERWISE SUBMITTED BY FACSIMILE, TELECOPY, OR ELECTRONIC SUBMISSIONS (OTHER THAN THOSE SUBMITTED VIA THE BALLOTING PORTAL) WILL NOT BE ACCEPTED.**

**YOUR BALLOT MUST BE RECEIVED BY THE VOTING DEADLINE, WHICH IS MAY 31, 2024, AT 5:00 P.M. PREVAILING EASTERN TIME.**

**INSTRUCTIONS FOR COMPLETING BALLOTS**

1. The Debtors are soliciting the votes of holders of Claims with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions but not otherwise defined in the Ballot or these instructions shall have the meanings set forth in the Plan or the Disclosure Statement, copies of which also accompany the Ballot.
2. The Bankruptcy Court may confirm the Plan and thereby bind you by the terms of the Plan if, among other things, the Plan is confirmed. Please review the Disclosure Statement for more information.
3. To ensure that your vote is counted, you must: (a) complete the Ballot; (b) indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) submit the Ballot to the address set forth on the enclosed pre-addressed envelope. The Voting Deadline for the receipt of Ballots by the Balloting Agent is May 31, 2024 at 5:00 p.m. (prevailing Eastern Time). Your completed Ballot must be received by the Balloting Agent on or before the Voting Deadline.
4. You must vote all of your Claims within a particular Class either to accept or reject the Plan and may not split your vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, if a holder has multiple Claims within the same Class, the Debtors may, in their discretion, aggregate the Claims of any particular holder within a Class for the purpose of counting votes.
5. If a Ballot is received after the Voting Deadline, it will not be counted unless the Debtors determine otherwise. The method of delivery of Ballots to the Balloting Agent is at the election and risk of each holder of a Claim. Delivery will be deemed made only when the Balloting Agent **actually receives** the originally executed Ballot. If a holder of a Claim chooses effecting delivery by mail, it is recommended, though not required, that holders use an overnight or hand-delivery service to assure timely delivery. No Ballot should be sent to the Debtors or the Debtors' agents (other than the Balloting Agent).
6. Delivery of a Ballot to the Balloting Agent by facsimile, telecopy, or electronic submissions (other than those submitted via the Balloting Portal) will **not** be accepted.
7. If multiple Ballots are received from the same holder of a Claim with respect to the same Claim prior to the Voting Deadline, the last dated valid Ballot timely received will supersede and revoke any earlier dated Ballots.

8. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan. Accordingly, at this time, holders of Claims should not surrender certificates or instruments representing or evidencing their Claims, and neither the Debtors nor the Balloting Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
9. This Ballot does not constitute, and shall not be deemed to be: (a) a Proof of Claim; or (b) an assertion or admission of a Claim.
10. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you should indicate such capacity when signing and, if requested by the Balloting Agent, the Debtors, or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
11. The following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of the Claim; (b) any Ballot cast by a Party that does not hold a Claim in a Class that is entitled to vote on the Plan; (c) any unsigned Ballot; (d) any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan; and (e) any Ballot submitted by any Entity not entitled to vote pursuant to the Solicitation Procedures.
12. If you believe you have wrongly received a Ballot, you should contact the Balloting Agent by telephone immediately at (888) 802-7206 (Toll-Free) or (781) 575-2087 (International).

**PLEASE SUBMIT YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE NOTICE, CLAIMS, AND BALLOTING AGENT AT (888) 802-7206 (TOLL-FREE) OR (781) 575-2087 (INTERNATIONAL).**

# **EXHIBIT B-3**

Class 6 Ballot

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,<sup>1</sup>  
Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

**BALLOT FOR ACCEPTING OR REJECTING THE JOINT PLAN OF LIQUIDATION  
OF INVIVO THERAPEUTICS CORPORATION AND INVIVO THERAPEUTICS  
HOLDINGS CORP. PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**CLASS 6 – INTERESTS**

**PLEASE READ AND FOLLOW THE ENCLOSED INSTRUCTIONS CAREFULLY  
BEFORE COMPLETING THE BALLOT**

**THIS BALLOT MUST BE ACTUALLY RECEIVED BY KURTZMAN CARSON  
CONSULTANTS LLC BY MAY 31, 2024 AT 5:00 P.M. PREVAILING  
EASTERN TIME (THE “VOTING DEADLINE”)**

The Debtors have sent this Ballot to you because their records indicate that you are a holder of a Class 6 Interest, and accordingly, you have a right to vote to accept or reject the *Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* [D.I. [•]] (as may be amended, supplemented or modified, including all exhibits thereto, the “Plan”). Your rights are described in the *Disclosure Statement for the Joint Plan of Liquidation of InVivo Therapeutics Corporation and InVivo Therapeutics Holdings Corp. Pursuant to Chapter 11 of the Bankruptcy Code* and all exhibits related thereto [D.I. [•]] (as amended from time to time and including all exhibits and supplements thereto, the “Disclosure Statement”). On February 1, 2024, the Bankruptcy Court entered an order [D.I. [•]] (the “Interim Approval and Procedures Order”)<sup>2</sup> approving on an interim basis the adequacy of the Disclosure Statement. At the Confirmation Hearing, the Debtors will seek final approval of the adequacy of the Disclosure Statement, as well as confirmation of the Plan.

Copies of the Disclosure Statement, the Interim Approval and Procedures Order, the Plan and certain other materials contained in the Solicitation Package are included in the packet you are receiving with this Ballot. Additionally, the Solicitation Package may be obtained by (i) writing to InVivo Claims Processing Center, c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo CA 90245; and/or (ii) emailing [brooks@lrclaw.com](mailto:brooks@lrclaw.com) with a reference to “InVivo Therapeutics

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan, the Disclosure Statement or the Interim Approval and Procedures Order, as applicable.



Corporation” in the subject line; (iii) visiting <https://www.kccllc.net/invivo> or (iv) visiting (for a fee) PACER at <http://www.deb.uscourts.gov>. Bankruptcy Court approval of the Disclosure Statement does not indicate approval of the Plan by the Bankruptcy Court. This Ballot may not be used for any purpose other than to vote to accept or reject the Plan. If you believe you have received this Ballot in error, please contact the Balloting Agent at the address or email address set forth above.

*You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and the Plan’s classification and treatment of your Interest. Your Interest has been placed in Class 6 (Interests) under the Plan.*

**If the Balloting Agent does not receive your Ballot on or before the Voting Deadline, May 31, 2024 at 5:00 P.M. prevailing Eastern Time and if the Voting Deadline is not extended, your vote as either an acceptance or rejection of the Plan will not count. If the Bankruptcy Court confirms the Plan, it will bind you regardless of whether you vote.**

**Item 1. Amount of Class 6 Interest.**

The undersigned is the holder of an Interest in Class 6 Interests in the aggregate principal amount against the Debtors as set forth below:

\$ \_\_\_\_\_

**Item 2. Class 6 (Interests) Vote on the Plan.**

The holder of the Class 6 Interest set forth in Item 1 votes to (please check one):

ACCEPT THE PLAN

REJECT THE PLAN

**ANY BALLOT THAT IS EXECUTED BY THE HOLDER OF AN INTEREST BUT THAT INDICATES BOTH AN ACCEPTANCE AND A REJECTION OF THE PLAN OR DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN WILL NOT BE COUNTED.**

**Item 3. Certifications**

By signing this Ballot, the undersigned certifies to the Bankruptcy Court and to the Debtor:

- a. that either: (i) the Holder is the holder of the Interest in Class 6 (Interests) being voted; or (ii) the Holder is an authorized signatory for a Holder that is a holder of the Interest in Class 6 (Interests) being voted;

- b. that the Holder has received a copy of the Plan and the Solicitation Package and acknowledges that the solicitation is being made pursuant to the terms and conditions set forth therein;
- c. that the Holder has cast the same vote with respect to all Interests in Class 6 (Interests) that it holds or for which it is the authorized signatory; and
- d. that no other Ballots with respect to the amount of the Interest in Class 6 (Interests) identified in Item 1 have been cast or, if any other Ballots have been cast with respect to such Interests, then any such Ballots dated earlier are hereby revoked.

Name of holder: \_\_\_\_\_  
(Print or Type)

Signature: \_\_\_\_\_  
Name of Signatory: \_\_\_\_\_  
(If other than holder)

Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Date Completed: \_\_\_\_\_

**THE BALLOT MUST BE COMPLETED AND SUBMITTED, ON OR BEFORE THE VOTING DEADLINE, BY ANY OF THE FOLLOWING APPROVED SUBMISSION METHODS:**

**By first class mail, overnight courier or hand-delivery to:**  
InVivo Ballot Processing Center  
c/o KCC  
222 N. Pacific Coast Highway, Suite 300  
El Segundo, CA 90245

**By electronic online transmission solely through the customized online balloting portal (the “Balloting Portal”) on the Debtors’ case website: <https://www.kcellc.net/invivo>  
Click on the link for balloting**

**BALLOTS OTHERWISE SUBMITTED BY FACSIMILE, TELECOPY, OR ANY ELECTRONIC SUBMISSION EXCEPT FOR THE BALLOTING PORTAL WILL NOT BE ACCEPTED.**

**YOUR BALLOT MUST BE SUBMITTED SO AS TO BE ACTUALLY RECEIVED BY THE VOTING DEADLINE, WHICH IS MAY 31, 2024, AT 4:00 P.M. PREVAILING EASTERN TIME.**

**EXCEPT AS EXPRESSLY PERMITTED ABOVE WITH RESPECT TO E-BALLOTS, BALLOTS OTHERWISE SUBMITTED BY FACSIMILE, TELECOPY, ELECTRONIC MAIL, OR OTHER FORM OF ELECTRONIC SUBMISSION WILL NOT BE ACCEPTED.**

**INSTRUCTIONS FOR COMPLETING BALLOTS**

1. The Debtors are soliciting the votes of holders of Interests with respect to the Plan attached as Exhibit A to the Disclosure Statement. Capitalized terms used in the Ballot or in these instructions but not otherwise defined in the Ballot or these instructions shall have the meanings set forth in the Plan or the Disclosure Statement, copies of which also accompany the Ballot.
2. The Bankruptcy Court may confirm the Plan and thereby bind you by the terms of the Plan if, among other things, the Plan is confirmed. Please review the Disclosure Statement for more information.
3. To ensure that your vote is counted, you must: (a) complete the Ballot; (b) indicate your decision either to accept or reject the Plan in the boxes provided in Item 2 of the Ballot; and (c) submit the Ballot to the address set forth on the enclosed pre-addressed envelope. The Voting Deadline for the receipt of Ballots by the Balloting Agent is May 31, 2024 at 5:00 p.m. (prevailing Eastern Time). Your completed Ballot must be received by the Balloting Agent on or before the Voting Deadline.
4. You must vote all of your Interests within a particular Class either to accept or reject the Plan and may not split your vote. Accordingly, a Ballot that partially rejects and partially accepts the Plan will not be counted. Further, if a holder has multiple Interests within the same Class, the Debtors may, in their discretion, aggregate the Interests of any particular holder within a Class for the purpose of counting votes.
5. If a Ballot is received after the Voting Deadline, it will not be counted unless the Debtors determine otherwise. The method of delivery of Ballots to the Balloting Agent is at the election and risk of each holder of an Interest. Delivery will be deemed made only when the Balloting Agent **actually receives** the originally executed Ballot. If a holder of an Interest chooses effecting delivery by mail, it is recommended, though not required, that holders use an overnight or hand-delivery service to assure timely delivery. No Ballot should be sent to the Debtors or the Debtors' agents (other than the Balloting Agent).
6. Delivery of a Ballot to the Balloting Agent by facsimile, telecopy, or electronic submissions (other than those submitted via the Balloting Portal) will **not** be accepted.
7. If multiple Ballots are received from the same holder of an Interest with respect to the same Interest prior to the Voting Deadline, the last dated valid Ballot timely received will supersede and revoke any earlier dated Ballots.

8. The Ballot is not a letter of transmittal and may not be used for any purpose other than to vote to accept or reject the Plan. Accordingly, at this time, holders of Interests should not surrender certificates or instruments representing or evidencing their Interests, and neither the Debtors nor the Balloting Agent will accept delivery of any such certificates or instruments surrendered together with a Ballot.
9. This Ballot does not constitute, and shall not be deemed to be: (a) a Proof of Interest; or (b) an assertion or admission of an Interest.
10. Please be sure to sign and date your Ballot. If you are signing a Ballot in your capacity as a trustee, executor, administrator, guardian, attorney in fact, officer of a corporation, or otherwise acting in a fiduciary or representative capacity, you should indicate such capacity when signing and, if requested by the Balloting Agent, the Debtors, or the Bankruptcy Court, must submit proper evidence to the requesting party to so act on behalf of such holder. In addition, please provide your name and mailing address if it is different from that set forth on the attached mailing label or if no such mailing label is attached to the Ballot.
11. The following Ballots shall not be counted in determining the acceptance or rejection of the Plan: (a) any Ballot that is illegible or contains insufficient information to permit the identification of the holder of the Interest; (b) any Ballot cast by a Party that does not hold an Interest in a Class that is entitled to vote on the Plan; (c) any unsigned Ballot; (d) any Ballot not marked to accept or reject the Plan or any Ballot marked both to accept and reject the Plan; and (e) any Ballot submitted by any Entity not entitled to vote pursuant to the Solicitation Procedures.
12. If you believe you have wrongly received a Ballot, you should contact the Balloting Agent by telephone immediately at (888) 802-7206 (Toll-Free) or (781) 575-2087 (International).

**PLEASE SUBMIT YOUR BALLOT PROMPTLY!**

**IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CONTACT THE BALLOTING AGENT AT (888) 802-7206 (TOLL-FREE) OR (781) 575-2087 (INTERNATIONAL).**