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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)

(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER ESTABLISHING
CERTAIN NOTICE, CASE MANAGEMENT, AND ADMINISTRATIVE PROCEDURES**

TO THE HONORABLE 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' proposed claims and noticing agent at www.kccllc.net/invitae. The Debtors' service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.



The above-captioned debtors and debtors in possession (collectively, the “Debtors”) respectfully state the following in support of this motion (this “Motion”):²

Relief Requested

1. The Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), (a) authorizing the Debtors to designate these chapter 11 cases as complex cases and (b) approving and implementing certain notice, case management, and administrative procedures as described in Exhibit 1 to the Order (collectively, the “Case Management Procedures”).

2. There are thousands of creditors and parties in interest in these chapter 11 cases. Notice of all pleadings and other papers filed in these chapter 11 cases to each of these parties would be extremely burdensome and costly to the Debtors’ estates. The costs of photocopying, postage, and other expenses associated with such large mailings would be excessive and practically prohibitive. The relief sought in this Motion is tailored to address such concerns while simultaneously ensuring timely notification to those parties actively participating in these chapter 11 cases or those parties whose rights are directly affected by a given matter.

Jurisdiction and Venue

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

² A detailed description of the Debtors and their businesses, including the facts and circumstances giving rise to the Debtors’ chapter 11 cases, is set forth 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* (the “First Day Declaration”), filed contemporaneously herewith. Capitalized terms used but not immediately defined are defined later in this Motion, in the First Day Declaration, or in the Cash Collateral Motion, as applicable.

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.

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

5. The bases for the relief requested herein are sections 102(1), 105(a), 107(c), and 521 of title 11 of the United States Code (the “Bankruptcy Code”), rules 1001, 1007, 2002, 9007, 9013-1, 9014, and 9036 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 1007-1 of the Local Bankruptcy Rules for the District of New Jersey (the “Local Rules”).

Background

6. On February 13, 2024 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrent with the filing of this Motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no official committees have been appointed or designated.

Case Management Procedures

7. On November 25, 2009, the Hon. Judith H. Wizmur, Ret., entered the *General Order Governing Procedures for Complex Chapter 11 Cases* (the “General Order”). The General Order was designed to provide “special scheduling and other procedures” in cases where certain factors, including a large creditor base or high assets and liabilities, were present. *See* General Order ¶ 1. Debtors seeking complex case treatment filed a simple application setting forth the factors that warranted complex treatment and an order would be entered designating the cases as

“complex cases.”³ The General Order provided that, “[i]n a Complex Chapter 11 Case, counsel for the debtor, at the hearing on First Day Matters, shall: [d]iscuss with the Court, provisions regarding the entry of a proposed case management order in accordance with the instructions set forth in the Guidelines Establishing Case Management and Administrative Procedures For Cases Designated As Complex Chapter 11 Cases [(the “General Guidelines”)], a copy of which [was] attached [to the General Order] as Exhibit F.” *Id.* ¶ 6(a).

8. Although the General Guidelines were state of the art in 2009, in the ensuing fifteen (15) years, technology has developed rapidly, and best practices have adjusted accordingly. In light of these changes, the General Guidelines do not satisfy the Debtors’ particular needs in 2024. For example, the General Guidelines require paper service, which is no longer necessary or practicable in light of the fact that, among other things: (a) most people check their email multiple times a day, giving them instant access to pleadings and information electronically served on them; (b) many people do not check their paper mail with any regularity; (c) many people do not work from offices five (5) days a week; and (d) the size of today’s chapter 11 cases and the current inflationary environment makes paper service cost prohibitive, even when effectuated via first class mail (*i.e.*, when not served via overnight carrier).

9. In light of these realities, the Debtors seek authority to implement a set of Case Management Procedures—based on and closely correlated with the General Guidelines—that have

³ Out of an abundance of caution, the Debtors are seeking authority to designate these chapter 11 cases as complex cases in compliance with the General Order, which is considered an archived general order. *See Transcript of First Day Motions, In re SLT HoldCo, Inc.*, No. 20-18268 (MBK), Hr’g Tr. at 17:2–8 (Bankr. D.N.J. July 10, 2020) (noting that the United States Trustee for Region 3 has “question[ed] whether this relief is necessary in light of the fact that the November 25 [*sic*], 2009 order is an archived general order”). The Court recently granted similar relief designating the debtors’ chapter 11 cases as complex cases via the debtors’ case management motion. *See, e.g., In re Careismatic Brands, LLC*, No. 24-10561 (JFP) (Bankr. D.N.J. Jan. 24, 2024); *In re WeWork Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. Nov. 8, 2023); *In re Rite Aid Corp.* No. 23-18993 (MBK) (Bankr. D.N.J. Oct. 18, 2023); *In re Cyxtera Techs., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 7, 2023); *In re Whittaker, Clark & Daniels, Inc.*, No. 23-13575 (MBK) (Bankr. D.N.J. May 8, 2023).

been tailored to the Debtors' particular facts and circumstances, as well as the practicalities of service and bankruptcy practice in 2024.

10. The Case Management Procedures, among other things: (a) establish requirements for filing and serving notices, motions, applications, declarations, affidavits, objections, replies, responses, memoranda, briefs, supporting documents, and other papers filed in these chapter 11 cases, including with regard to any contested matters and any related adversary proceedings (collectively, the "Court Filings"), and any orders entered in these chapter 11 cases, including with regard to any contested matters and any related adversary proceedings (together with the Court Filings, the "Court Filings and Orders"); (b) delineate standards for notices of hearings and agendas; (c) fix periodic omnibus hearing dates and provide mandatory guidelines for scheduling hearings and setting objection and reply deadlines; and (d) minimize potential burdens on the Court by limiting matters that are required to be heard by the Court.

11. The Debtors believe that the Case Management Procedures will facilitate service of Court Filings and Orders in a manner that will maximize the efficiency and orderly administration of the chapter 11 cases, while at the same time ensuring that appropriate notice is provided, particularly to parties who express an interest in these chapter 11 cases and those directly affected by a request for relief. In particular, the Case Management Procedures are intended to:

- a. reduce the need for expedited hearings and requests for expedited relief;
- b. provide for omnibus hearings for the Court to consider motions, applications, other pleadings, and any responses thereto, as applicable;
- c. promote consensual resolution of important matters;
- d. assure prompt receipt of appropriate notice by potentially affected parties;
- e. allow for electronic notice in accordance with the Court's electronic filing system (the "ECF System");

- f. provide ample opportunity for parties in interest to prepare for and respond to matters before the Court;
- g. reduce the substantial administrative and financial burden that otherwise may be placed on the Debtors and other parties in interest who file documents in these chapter 11 cases; and
- h. reduce the administrative burdens on the Court and the office of the clerk of the United States Bankruptcy Court for the District of New Jersey.

12. To ensure that parties in interest in these chapter 11 cases are made aware of the Case Management Procedures, the Debtors propose to: (a) serve the Case Management Procedures via electronic mail (where available) or regular mail on each of the parties on the Master Service List (as defined in the Case Management Procedures) as soon as practicable after entry of the Order; (b) publish the Case Management Procedures on the Debtors' restructuring website at <https://www.kcellc.net/invitae> (the "Case Website"); and (c) make the Case Management Procedures readily available upon request to the Debtors' proposed claims and noticing agent, Kurtzman Carson Consultants LLC (the "Claims and Noticing Agent"). If the Case Management Procedures are modified during these chapter 11 cases, the Debtors will (a) make updated versions of the Case Management Procedures available on the Case Website, (b) file a notice of the updated procedures (along with a copy of the updated procedures) electronically on the docket, and (c) serve such updated procedures in accordance with the revised Case Management Procedures.

Basis for Relief

13. The Bankruptcy Rules and Bankruptcy Code provide the Debtors with authority to establish notice and case management procedures. In particular, Bankruptcy Rule 2002(a) provides that, unless otherwise ordered by the Court, notice of certain matters must be given to, among others, all of the Debtors' creditors, equity security holders, and other parties in interest. The Bankruptcy Rules further provide that "[t]he court may from time to time enter orders

designating the matters in respect to which, the entity to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules.” *See* Fed. R. Bankr. P. 2002(m); *see also* Fed. R. Bankr. P. 9007 (“When notice is to be given under these rules, the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.”).

14. In addition, section 105(a) of the Bankruptcy Code grants bankruptcy courts broad authority and discretion to enforce the provisions of the Bankruptcy Code either under specific statutory fiat or under equitable common law principles. Specifically, section 105(a) provides:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.

11 U.S.C. § 105(a).

15. Under section 102(1) of the Bankruptcy Code, where the Bankruptcy Code provides for an action to occur “after notice and a hearing,” such action may occur “after such notice as is appropriate in the particular circumstances, and such opportunity for a hearing as is appropriate in the particular circumstances” 11 U.S.C. § 102(1)(A). Finally, and perhaps most importantly, Bankruptcy Rule 1001 requires the Bankruptcy Rules to be “construed . . . to secure the just, speedy, and inexpensive determination of every case and proceeding.” Fed. R. Bankr. P. 1001.

16. The Debtors’ chapter 11 cases are complex, will likely be fast-paced, and will involve large numbers of creditors and other parties in interest. The costs and burdens associated with the possibility of frequent and fragmented hearings, plus the costs associated with copying and mailing or otherwise serving all documents filed with the Court to all such entities, will impose

an extraordinarily expensive administrative and economic burden on the Debtors' estates, the Court, and the parties in interest. Indeed, constant mass mailings will be extremely costly to the Debtors' estates and will require the Debtors to divert valuable resources to comply with all administrative requirements. Additionally, hard copy mailing is not available for all parties in interest, so the Debtors request to serve such parties, through the Claims and Noticing Agent, via electronic mail to ensure service on such parties.

17. Limited notice procedures are routinely established by bankruptcy courts in large chapter 11 cases to reduce the expense of the administration of the estate. *See, e.g., In re Careismatic Brands, LLC*, No. 24-10561 (JFP) (Bankr. D.N.J. Jan. 24, 2024); *In re WeWork Inc.*, No. 23-19865 (JKS) (Bankr. D.N.J. Nov. 8, 2023); *In re Rite Aid Corp.*, No. 23-18993 (MBK) (Bankr. D.N.J. Oct. 18, 2023); *In re Cyxtera Techs., Inc.*, No. 23-14853 (JKS) (Bankr. D.N.J. June 7, 2023); *In re Whittaker, Clark & Daniels, Inc.*, No. 23-13575 (MBK) (Bankr. D.N.J. May 8, 2023).

18. For the reasons discussed herein, the Debtors believe that the Case Management Procedures are appropriate and should be approved and implemented. The establishment of the Case Management Procedures will promote the efficient and orderly administration of these chapter 11 cases. For these reasons, the Debtors believe that the relief requested herein is in the best interests of the Debtors and their estates and should be approved.

Waiver of Memorandum of Law

19. The Debtors respectfully request 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 Debtors rely is set forth herein and the Motion does not raise any novel issues of law.

Reservation of Rights

20. Nothing contained in this Motion or any order granting the relief requested in this Motion, and no action taken pursuant to the relief requested or granted (including any payment made in accordance with any such order), is intended as or shall be construed or deemed to be: (a) an admission as to the amount of, basis for, priority of, or validity of any claim against the Debtors under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication, admission or finding that any particular claim is an administrative expense claim, other priority claim or otherwise of a type specified or defined in this Motion or any order granting the relief requested by this Motion; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; or (g) a waiver or limitation of any claims, causes of action or other rights of the Debtors or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

No Prior Request

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

Notice

22. The Debtors 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; (b) the Debtors' thirty (30) largest unsecured creditors (on a consolidated basis); (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; (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request entry of the Order, substantially in the form attached hereto as **Exhibit A**, and granting the relief requested herein.

Dated: February 14, 2024

/s/ Michael D. Sirota

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*Proposed Co-Counsel to the Debtors and
Debtors in Possession*

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: INVITAE CORPORATION, <i>et al.</i> , Debtors. ¹

Chapter 11
Case No. 24-11362 (MBK)
(Joint Administration Requested)

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' proposed claims and noticing agent at www.kccllc.net/invitae. The Debtors' service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.

**ORDER ESTABLISHING CERTAIN
NOTICE, CASE MANAGEMENT, AND ADMINISTRATIVE PROCEDURES**

The relief set forth on the following pages, numbered three (3) through six (6), is
ORDERED.

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

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Debtors: INVITAE CORPORATION, *et al.*
Case No. 24-11362 (MBK)
Caption of Order: ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT,
AND ADMINISTRATIVE PROCEDURES

Upon the *Debtors' Motion for Entry of an Order Establishing Certain Notice, Case Management, and Administrative Procedures* (the "Motion"),² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order") (a) authorizing the Debtors to designate these chapter 11 cases as complex cases, and (b) approving and implementing certain notice, case management, and administrative procedures as described in **Exhibit 1** to the Order (collectively, the "Case Management Procedures"), all as more fully set forth in the Motion; and upon the First Day Declaration; 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 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; 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 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 Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

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Debtors: INVITAE CORPORATION, *et al.*
Case No. 24-11362 (MBK)
Caption of Order: ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT,
AND ADMINISTRATIVE PROCEDURES

2. The Court concludes that the above-captioned cases constitute complex chapter 11 cases.

3. The Case Management Procedures set forth in **Exhibit 1** attached hereto are approved and shall apply as provided therein in these chapter 11 cases, except as otherwise ordered by the Court. Notice and service accomplished in accordance with the Case Management Procedures, including service via electronic mail (where available), shall be deemed adequate in all respects pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

4. The next three (3) omnibus hearings are scheduled as follows:

- (a) __: __ .m., prevailing Eastern Time, on ____, 2024;
- (b) __: __ .m., prevailing Eastern Time, on ____, 2024; and
- (c) __: __ .m., prevailing Eastern Time, on ____, 2024.

5. The Debtors are authorized to make non-substantive revisions and corrections as needed to the Case Management Procedures, including filling in (a) the omnibus hearing schedule, and (b) the date and docket number of this Order where indicated therein.

6. Any party may obtain a copy of the Case Management Procedures by: (a) accessing the website maintained by the Claims and Noticing Agent at <https://www.kccllc.net/invitae> free of charge; (b) contacting the Claims and Noticing Agent directly by email at www.kccllc.net/invitae or by telephone at (866) 967-0263 (toll-free), +1 (310) 751-2663 (International), or (c) by accessing PACER on the Court's website at <https://www.njb.uscourts.gov> for a nominal fee.

7. Not later than seven (7) days after entry of this Order, a copy of the Case Management Procedures shall be served by the Debtors on each of the parties on the Master Service List (as defined in the Case Management Procedures attached as **Exhibit 1** hereto). To

(Page | 5)

Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT, AND ADMINISTRATIVE PROCEDURES

help ensure that all parties who may participate in these chapter 11 cases are aware of the terms of the Case Management Procedures, the Claims and Noticing Agent shall post the Case Management Procedures on the Case Website (as defined in the Case Management Procedures attached as **Exhibit 1** hereto).

8. If the Debtors seek to modify the Case Management Procedures during these chapter 11 cases, the Debtors shall (a) provide five (5) days' notice to the U.S. Trustee, counsels to the Required Holders, and any statutory committee appointed in these chapter 11 cases prior to modifying the Case Management Procedures, and (b) if there are no objections, the Debtors shall (i) make updated versions of the Case Management Procedures available on the Case Website, (ii) file a notice of the updated procedures (along with a copy of the updated procedures) electronically on the docket, and (iii) serve such updated procedures in accordance with the revised Case Management Procedures.

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

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

11. 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.

12. A true copy of this Order shall be served on all required parties pursuant to Local Rule 9013-5(f).

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Debtors: INVITAE CORPORATION, *et al.*

Case No. 24-11362 (MBK)

Caption of Order: ORDER ESTABLISHING CERTAIN NOTICE, CASE MANAGEMENT,
AND ADMINISTRATIVE PROCEDURES

13. Any party may move for modification of this Order in accordance with Local Rule 9013-5(e).

14. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Exhibit 1

Case Management Procedures

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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)

(Joint Administration Requested)

NOTICE, CASE MANAGEMENT, AND ADMINISTRATIVE PROCEDURES

On February 13, 2024 (the “Petition Date”), Invitae Corporation and its debtor affiliates, as debtors and debtors in possession in the above-referenced chapter 11 cases (collectively,

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’ proposed claims and noticing agent at www.kccllc.net/invitae. The Debtors’ service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.

the “Debtors”), commenced the above-captioned bankruptcy cases by filing their voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

On [●], 2024, the Court entered an order (the “Case Management Order”) [Docket No. [●]], pursuant to sections 102(1), 105(a), 107(c) of title 11 of the Bankruptcy Code, rules 1001, 1007, 2002, 9007, 9013, 9014, and 9036 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rules 1007-1, 9013-1, and 9013-5 of the Local Bankruptcy Rules for the District of New Jersey (the “Local Rules”), approving (a) these Notice, Case Management, and Administrative Procedures (collectively, the “Case Management Procedures”), and (b) the form and notice thereof.

Pursuant to the Case Management Order, all notices, motions, applications, briefs, memoranda, declarations, affidavits, objections, responses, replies, supporting documents, and other papers filed in these chapter 11 cases, including with regard to any contested matters and any related adversary proceedings, and orders entered in these chapter 11 cases, including with regard to any contested matters and any related adversary proceedings, are subject to, and will not be deemed properly served unless they are served in accordance with, these Case Management Procedures.

Accordingly, all parties in interest are strongly encouraged to review the below Case Management Procedures in their entirety and consult their own legal counsel with respect to any of the matters discussed herein prior to filing any documents in the chapter 11 cases.

Case Management Procedures

A. Omnibus Hearings

1. All Matters to Be Heard at Omnibus Hearings. All matters requiring a hearing in these chapter 11 cases, including with regard to any contested matters and any related adversary proceedings, shall be heard at periodic omnibus hearings (each, an “Omnibus Hearing”), in accordance with these Case Management Procedures, unless otherwise ordered by the Court for good cause shown. The Debtors shall be authorized to schedule, in cooperation with the Court, Omnibus Hearings to consider (a) all motions, applications, and other requests for relief, along with any notices, briefs, memoranda, declarations, affidavits, replies, and other documents filed in support of such papers seeking relief (collectively, the “Requests for Relief”); and (b) all objections and responses to such Requests for Relief and documents filed in support of such objections and responses (collectively, the “Objections” and, together with the Requests for Relief and all other filed documents, the “Court Filings”) pursuant to the following procedures:

(a) Initial Omnibus Hearings. The next three (3) Omnibus Hearings shall be held on the following dates and times:

- (i) __: __ .m., prevailing Eastern Time, on __, 2024;
- (ii) __: __ .m., prevailing Eastern Time, on __, 2024; and
- (iii) __: __, .m., prevailing Eastern Time, on __, 2024.

(b) Subsequent Omnibus Hearings. The Debtors shall be authorized to schedule, in coordination with the Court, additional Omnibus Hearings. The Debtors shall file notices of additional Omnibus Hearing dates with the Court on a periodic basis. The Debtors’ claims and noticing agent (the “Claims and Noticing Agent”) shall post the dates of the Omnibus Hearings on a website established for this case at <https://www.kccllc.net/invitae> (the “Case Website”). Entities may contact the Claims and Noticing Agent for information concerning all scheduled Omnibus Hearings.

(c) Proposed Notice of Agenda. Before noon (prevailing Eastern Time) on the day that is two (2) business days before each Omnibus Hearing, the Debtors’ counsel will file a proposed Notice of Agenda with regard to the matters that are

scheduled to be heard at such Omnibus Hearing (the “Notice of Agenda”). The Notice of Agenda may include notice of matters that have been consensually adjourned to a later Omnibus Hearing in lieu of parties filing a separate notice of such adjournment.

(d) Content of Notice of Agenda. The proposed Notice of Agenda shall list: (i) the docket number (in docketing order) and title of each matter scheduled for hearing at such Omnibus Hearing, including the initial filing and any filed responses, replies, or documents related thereto; (ii) the relevant objection deadlines and whether the matters are contested or uncontested; (iii) whether the matters have settled or are proposed to be continued; and (iv) other comments that will assist the Court. The matters listed on the proposed Notice of Agenda shall be limited to matters of substance and shall not include administrative filings, such as notices of appearance and affidavits of service. Resolved or continued matters shall be listed ahead of unresolved matters on the Notice of Agenda. Contested matters shall be listed in the order of docketing with the corresponding docket number.

All amended Notices shall list matters as listed in the original Notice of Agenda with all edits and additional information being listed in boldface type.

Copies of the Notice of Agenda shall be served upon all counsel who have entered an appearance in the case, as well as all other counsel with a direct interest in any matter on the Notice of Agenda and the Office of the United States Trustee for Region 3 (the “U.S. Trustee”) simultaneously with the filing of the Notice of Agenda with the Court.

If and when an adversary proceeding is scheduled, the Notice of Agenda shall indicate the adversary proceeding number and the corresponding docket number for pleadings filed in the adversary proceeding on the Notice of Agenda, in addition to the information regularly required in a Notice of Agenda.

(e) Adjournment of Omnibus Hearings. Unless the Court orders otherwise, the Debtors’ counsel may, without further leave of the Court, (i) adjourn any hearing on a Request for Relief filed by the Debtors to a subsequent Omnibus Hearing either (A) if no Objection contesting the relief has been filed, or (B) with the consent of any party that has filed such an Objection; and (ii) adjourn any hearing on a Request for Relief filed by a non-Debtor party to a subsequent Omnibus Hearing provided that the filing party consents and either (A) no Objection contesting the relief has been filed, or (B) any party that has filed such an Objection consents. Notice of such adjournments may be filed separately on the docket or noted in the Proposed Hearing Agenda.

(f) Cancellation of Omnibus Hearings. If no matters are scheduled for hearing at an Omnibus Hearing, the Debtors may cancel the Omnibus Hearing, with the consent of the Court, by filing a notice of cancellation on the docket for these chapter 11 cases.

B. Filing Procedures; General Motion Practice; Deadlines for Filing of Responsive Pleadings

2. Procedures Established for Court Filings. Registered users of the Court's Electronic Case Filing System (the "ECF System") shall file all Court Filings electronically. Any Court Filing that refers specifically to a pleading that has already been filed in the chapter 11 cases shall make specific reference to the docket number assigned by the Court to such pleading by use of the designation "Docket No. ___" or similar designation.

3. General Motion Practice. The following procedures shall be followed for Requests for Relief generally, except as otherwise provided by these Case Management Procedures or an order of the Court:

(a) Requests for Relief. Any Request for Relief, including briefs, must be filed at least twenty-one (21) calendar days prior to the hearing thereon. A Request for Relief may be scheduled by the filing party to be heard at any Omnibus Hearing at least twenty-one (21) calendar days after the filing of such Request for Relief.

(b) Inconsistent Filings. If a party other than the Debtors files a Court Filing and purports to set a hearing date inconsistent with these Case Management Procedures (an "Inconsistent Filing"), the hearing shall be scheduled, without the necessity of Court order, for the first Omnibus Hearing date after the twenty-one (21) day notice period has expired, and the Debtors shall provide such party with notice of these Case Management Procedures within three (3) business days of receipt of the Inconsistent Filing. If such filing is filed at least twenty-one (21) days from the next Omnibus Hearing Date, then the hearing with respect to such filing shall be deemed to be on such omnibus hearing date. If such filing is less than twenty-one (21) days prior to the next omnibus hearing date, then the hearing with respect to such filing shall be the next omnibus hearing date after the required twenty-one (21) days have passed. The movant must provide notice of the corrected hearing date to all affected parties and thereafter file a certificate of service regarding the notice.

(c) Service of Requests for Relief. All Requests for Relief shall be served in accordance with the provisions of the Bankruptcy Rules, the Local Rules, and any applicable Court order on: (i) the master service list (the "Master Service List") that the Claims and Noticing Agent shall maintain pursuant to Bankruptcy Rule 2002; (ii) the list of entities (the "2002 List" and, together with the Master Service List, the "Core Service List") that have filed a written request for service of filings in these chapter 11 cases pursuant to Bankruptcy Rule 2002 (a "2002 Notice Request"), which the Claims and Noticing Agent also shall

maintain pursuant to Bankruptcy Rule 2002; and (iii) each entity with a particularized interest in the subject matter of the specific Court Filing (each, an “Affected Entity”).

(d) Notices of Requests for Relief. Parties should consult the Local Rules regarding the form and content of notices with respect to Requests for Relief and visit the Court’s website at <https://njb.uscourts.gov> for more information.

(e) Requests for Shortened Time or Limited Notice. Nothing contained herein shall prejudice the rights of any party in interest to move the Court to further limit or expand notice of matters and proceedings upon a showing of good cause, including, but not limited to, the right to (i) file a Request for Relief upon shortened notice; or (ii) seek an enlargement or reduction of time pursuant to Bankruptcy Rule 9006.

(f) Expedited Hearings. If a party in interest has an emergency or other situation that it believes requires consideration on less than the twenty-one (21) day notice as required by Local Rule 9013-2(c), the moving party should file and serve, a separate written application requesting shortened time and expedited hearing in respect of the underlying motion in the form provided at Local Rule 9013-2(c).

If the Court grants the motion for expedited hearing, the underlying motion will be set at the next available omnibus hearing date or at some other appropriate shortened date approved by the Court.

Requests for expedited hearings will only be granted under emergency or exigent circumstances.

(g) Negative Noticing Procedures. Subject to the Court’s discretion, the Court may approve notice procedures which provide that if no objections are timely filed and served by a deadline set in accordance with the Bankruptcy Rules and/or the Case Management Order and/or the Local Rules, the Court may enter an order granting the relief requested without further notice or a hearing (“Negative Notice”). The notice of motion accompanying such motion must specifically advise parties of the objection deadline and must also inform the recipient that if no objections are filed and served, the Court may enter an order granting the motion without further notice or hearing.

Negative Notice may be used in connection with motions including, but not limited to, matters requesting the following relief: (a) rejection of a non-residential real property lease or executory contract pursuant to 11 U.S.C. § 365; (b) extension of deadline to seek removal action pursuant to Bankruptcy Rule 9027; (c) sales of assets outside the ordinary course of business pursuant to 11 U.S.C. § 363 with a purchase price set on a case-by-case basis; (d) approval of settlements and compromises pursuant to Bankruptcy Rule 9019 of claims where the settled amount of the claim does not exceed an amount set on a case-by-case basis; and (e) nothing contained herein shall be construed to limit a party in interest’s ability to request

that the Court approve the use of Negative Notice procedures in connection with motions not specifically identified above.

If an objection is timely filed and served, a hearing will be scheduled for the next Omnibus Hearing date unless otherwise ordered by the Court.

(h) Evidentiary Hearings. Nothing herein shall prejudice the rights of any party to seek appropriate discovery with respect to any Court Filings, and all parties' rights to request an evidentiary hearing or establish a discovery schedule are preserved. Parties who intend to offer evidence at any hearing must file a witness and exhibit list at least forty-eight (48) hours before the scheduled hearing unless otherwise ordered by the Court or agreement by the parties.

(i) Certificate of No Objection. After the Objection date has passed with no Objection having been filed or served, counsel for the movant may file a Certification of No Objection substantially in the form as it appears in the General Order Governing Procedures for Complex Chapter 11 Cases on the annexed Schedule "1" stating that no Objection has been filed or served on the movant.

By filing such certifications, counsel for the movant is representing to the Court that the movant is unaware of any objection to the motion or application and that counsel has reviewed the Court's docket and no Objection appears thereon.

Upon receipt of the Certification of No Objection, the Court may enter the order accompanying the motion or application without further pleading or hearing and, once the order is entered, the hearing scheduled on the motion or application shall be cancelled without further notice.

4. Filing and Service of Objections, Replies, and Other Responsive Pleadings.

The following procedures shall be followed, except as otherwise provided by these Case Management Procedures or an order of the Court:

(a) Objections and Replies. Any Objection, including related briefs, must be filed on or before the date that is seven (7) days prior to the hearing set on the motion unless otherwise provided by the Court (the "Objection Deadline"). If an objection is filed, the movant or another interested party may file a reply and any documents in support of the reply, including briefs (collectively, a "Reply"), with the Court on or before four (4) days before the applicable hearing date unless otherwise provided by the Court (the "Reply Deadline").

(b) Extension of Objection Deadline. The Objection Deadline may be extended upon the consent of the entity filing the Request for Relief without further order of the Court, provided that the Objection Deadline shall not be less than seven (7) days before the hearing on such matter without approval of the Court. The Reply Deadline may be extended with the approval of the Court. Unless otherwise agreed

by the entity filing the Request for Relief, adjournment of the hearing on the Request for Relief shall not extend the Objection Deadline.

(c) Service of Objections. All Objections shall be filed with the Court and served by the applicable Objection Deadline upon (i) the entity filing the Request for Relief, (ii) the Debtor, (iii) those entities on the Core Service List, and (iv) each Affected Entity.

(d) Service of Replies to Objections. Any Reply shall be filed and served by the applicable Reply Deadline upon (i) the entity filing the Request for Relief, (ii) the Debtors, (iii) each party that filed an Objection, (iv) each party on the Core Service List, and (v) each Affected Entity.

5. Granting the Request for Relief Without a Hearing. A Request for Relief may be granted without a hearing to the extent allowed under the Bankruptcy Rules or the Local Rules, except as otherwise provided herein. If the Court decides not to grant the Request for Relief without a hearing, (a) the Request for Relief shall be heard at the next scheduled Omnibus Hearing, and (b) the decision not to grant the Request for Relief shall not constitute an extension of the Objection Deadline related thereto with respect to any party, unless otherwise agreed between the party seeking relief and the party seeking to object.

C. Service and Notice Procedures

6. Procedures Established for Notices. All Court Filings shall be filed with the Court and served in accordance with the notice procedures set forth herein (the “Notice Procedures”).

7. Entities Entitled to Service. All Court Filings shall be served on the Core Service List and any other Affected Entities according to the Notice Procedures, except as otherwise provided by these Case Management Procedures or an order of the Court. In accordance with Bankruptcy Rule 2002, the Claims and Noticing Agent shall maintain the Core Service List, which shall be updated in accordance with paragraph eight (8) below. An updated Core Service List can be obtained by (a) accessing the Case Website, (b) contacting the Claims and Noticing Agent directly, or (c) contacting Debtors’ counsel directly.

8. Maintenance of the Core Service List. At least every fourteen (14) days during the first sixty (60) days of these chapter 11 cases, and thereafter at least once every thirty (30) days, the Claims and Noticing Agent shall maintain and update the Core Service List by (a) making any necessary additions and deletions, and (b) posting an updated version of the Core Service List on the Case Website. The Debtors' counsel must file a Core Service List with the Court every time it is updated.

9. Parties on the Core Service List. The Core Service List shall include the following parties:

- (a) the Debtor(s);
- (b) the Debtors' counsel;
- (c) the Newark, NJ office of the U.S. Trustee;
- (d) the chairperson(s) of any official committee(s) established pursuant to section 1102 of the Bankruptcy Code;
- (e) counsel retained by any official committees established pursuant to section 1102 of the Bankruptcy Code, or counsel retained by the thirty (30) largest creditors if an official committee has not been appointed;
- (f) counsel to the Required Holders: Sullivan & Cromwell LLP, Attn: Ari Blaut and Ben Beller;
- (g) counsel to the 2028 Convertible Noteholders: (i) White & Case LLP, Attn: Harrison Denman, Chris Shore, and Tom Lauria and (ii) Morrison & Foerster LLP, Attn: James Newton;
- (h) the agent to the 2028 Senior Secured Notes and counsel thereto;
- (i) the indenture trustees to the 2028 Convertible Notes and the 2024 Convertible Notes and counsel thereto;
- (j) the U.S. Securities and Exchange Commission;
- (k) the U.S. Attorney's Office for the District of New Jersey;
- (l) the attorneys general in the states where the Debtors conduct their business operations;

- (m) the Internal Revenue Service; and
- (n) any other person or entity as authorized by the Court.

10. Master Service List. Debtors' counsel or counsel to the trustee shall also maintain and update the Master Service List which shall be comprised of the Core Service List and the 2002 List. Service on the persons/entities listed on the Master Service List shall be made only with respect to those matters enumerated in the Case Management Order. Debtors' counsel must update the Master Service List at least every fourteen (14) days during the first sixty (60) days of these chapter 11 cases and at least once every thirty (30) days thereafter. Further, the Debtors' counsel must file a Master Service List with the Court each time it is updated. The Claims and Noticing Agent shall post an updated version of the Master Service List on the Case Website.

11. Requests for Documents. Any creditor or party in interest may enter an appearance and request receipt of all Court Filings pursuant to Bankruptcy Rule 2002 by filing a 2002 Notice Request with the Court and providing a copy of the 2002 Notice Request to (a) the Debtors and their counsel, and (b) the Claims and Noticing Agent. Except as set forth in paragraph thirteen (13) below, a 2002 Notice Request filed with the Court shall be deemed proper if and only if it includes the following information with respect to the party filing such request: (a) the name, organization (if any), full street address (no P.O. boxes), phone number, fax number (if any), and email address (if any) of the party requesting service; (b) if made by an attorney, the party or parties that such attorney represents; and (c) a certification that a copy of the 2002 Notice Request has been provided to the Debtors and their counsel and the Claims and Noticing Agent.

12. Certification Opting Out of Email Service. Any individual or entity filing a 2002 Notice Request who does not maintain (and cannot practicably obtain) an email address, and therefore cannot receive service by email, must include in the 2002 Notice Request a certification to that effect (the "Certification"). The Certification shall include a statement certifying that the

individual or entity (a) does not maintain an email address, and (b) cannot practicably obtain an email address at which the individual or entity could receive service by email. Such individual or entity will thereafter receive paper service as provided in these Case Management Procedures.

13. No Email or Certification Provided. If a 2002 Notice Request fails to include an email address or a Certification, the Debtors shall forward a copy of these Case Management Procedures to such party within five (5) business days of receipt of service of the 2002 Notice Request and specifically request an email address and/or Certification. ***Until (a) an email address, or (b) a Certification is provided in response to the Debtors' request, such party shall not be added to the 2002 List and shall not be served with copies of Court Filings filed in these chapter 11 cases unless such Court Filings directly affect such party.***

14. Service of Motions Required to Be Served on All Creditors and Parties in Interest. With respect to Requests for Relief for which particular notices are required to be served on all creditors and parties in interest—including pursuant to Bankruptcy Rules 2002(a)(2), 2002(a)(3), 4001, 6004, 6007 and/or 9019—and subject to paragraph sixteen (16) below, parties shall serve all such filings by electronic mail (where available), except as otherwise provided in paragraphs seven (7) through nine (9) hereof, on the Core Service List and any Affected Entity.

15. All notices required by subdivisions Bankruptcy Rules 2002(a)(2), 2002(a)(3), 2002(a)(6), and 4001 shall be served upon:

- (a) each entity designated on the Core Service List;
- (b) when the notice is of a proposed use, sale, lease, or abandonment of property or of a hearing thereon, each entity designated on the most recent Master Service List and each entity having an interest in the property;
- (c) when the notice relates to relief from the stay in order to take action against property of the Debtors' Estates, each entity having a lien, encumbrance or interest in the subject property;

- (d) when the notice relates to use of cash collateral or obtaining credit, each entity who has an interest in the cash collateral or each entity who has a lien or other interest in property on which a lien is proposed to be granted;
- (e) when the notice is of a proposed compromise or settlement or of a hearing thereon, each entity designated on the most recent Master Service List and each entity who is a party to the compromise or settlement; and
- (f) when the notice is of an application for compensation or reimbursement of expenses or of a hearing thereon, each entity designated on the most recent Master Service List and each professional person who is seeking compensation or reimbursement whose retention in these chapter 11 cases is authorized by the Court.

16. Service by Email. All Court Filings shall be electronically filed using the ECF System and served via email (where available) as provided in these Case Management Procedures, which shall be deemed to constitute proper service for all parties who are sent such email service, provided, however, that notwithstanding the foregoing and paragraph thirteen (13) herein, (a) a summons and complaint in an adversary proceeding shall not be served by email and (b) documents filed under seal shall not be served subject to any protective orders entered in these chapter 11 cases and section 107(c)(3) of the Bankruptcy Code. In accordance with Bankruptcy Rule 9036, the “Notice of Electronic Filing” that is automatically generated and sent via email by the ECF System shall constitute proper, sufficient, and effective service by email for those parties who are, or whose agents are, registered attorney users of the ECF System (collectively, the “ECF System Users”). Therefore, a party filing a Court Filing that is served on the ECF System Users via the ECF System has no further obligation to serve such Court Filing on the ECF System Users, provided that service to an ECF System User shall not be effective if the filing party receives notice that service of the Court Filing did not reach the ECF System User.

- (a) Consent to Electronic Service. Each creditor or party in interest that files a 2002 Notice Request shall be deemed to have consented to service of all Court Filings solely by electronic transmission, unless such creditor or party in interest has included a Certification opting out of such service.

- (b) Email Subject Line. With respect to the service of any Court Filing, the subject line of the email shall include: (i) the Debtors' case name and case number (*In re Invitae Corporation*, Case No. 24-11362 (MBK)); (ii) the name of the party serving such Court Filing and (iii) the title of the Court Filing being served. If the title of the Court Filing is too long to fit reasonably within the subject line of the email, the subject line shall contain a shortened version of such title and the text of the email shall contain the full name of such Court Filing.
- (c) Email Attachments. All Court Filings served by email shall include access to a computer file containing the entire document (including any proposed form of order and exhibits, attachments or other materials) in PDF format, readable by Adobe Acrobat or other equivalent document reader programs commonly available without cost. The relevant Court Filing shall either be attached to the email in a format specified above or the email shall contain a link to such filing in such format.
- (d) Effective Date of Service. Service by email on a party shall be effective as of the earlier of: (i) the date the Court Filing (or a notice stating that the Court Filing cannot be attached but is available on the ECF System or the Case Website) is transmitted by email to the address provided by such party; or (ii) the date the Court Filing is posted on the ECF System where service on such ECF System User via the ECF System is proper under these Case Management Procedures.

17. Certificates of Service. The certificate of service for each filing must be filed with the Court together with the complete Service List that was utilized and served for a particular filing but said certificate of service is not to be served via hard copy on the recipients of the filing.

18. Service in Adversary Proceedings. All filings in adversary proceedings shall be served, pursuant to Bankruptcy Rule 7005, upon all parties to the adversary proceeding, all parties known to have a particularized interest in the subject of such adversary proceeding, and the parties listed on the Core Service List. Any summons, complaint, or motion initiating an adversary proceeding shall be served in hard copy format, pursuant to Bankruptcy Rule 7004, upon the party or parties against whom relief is sought, all parties known to have a particularized interest in the subject of such proceeding, and the parties listed on the Core Service List. Absent leave of the

Court, responsive pleadings shall be filed only by defendants in adversary proceedings and/or by parties in interest who seek to be joined or to dismiss for failure to join a necessary party.

19. Service of Orders. All parties submitting orders shall serve a confirmed copy of any entered order on the parties that were entitled to service of the underlying Request for Relief in accordance with these Case Management Procedures, except as otherwise provided by an order of the Court. The Claims and Noticing Agent shall post all entered orders on the Case Website.

20. Service Upon U.S. Trustee. Pursuant to the General Order, the U.S. Trustee—New Jersey Office requires service upon it of all pleadings and papers, including but not limited to, petitions, schedules, statements of financial affairs, plan, disclosure statement, and monthly operating reports, in hard copy format regardless of whether the U.S. Trustee receives same electronically.

21. Right to Request Special Notice Procedures. Nothing herein shall prejudice the rights of any party in interest to seek an amendment or waiver of the provisions of the Case Management Procedures upon a showing of good cause, including, without limitation, the right to file a motion seeking emergency *ex parte* relief or relief upon shortened notice.

D. Additional Case Management Procedures

22. Adequate Notice. Notice and service accomplished in accordance with the provisions set forth in these Case Management Procedures shall be deemed adequate in all respects pursuant to the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules.

23. Computation of Time. Unless otherwise specified, all time periods referenced in these Case Management Procedures shall be calculated in accordance with Bankruptcy Rule 9006(a).

24. Extensions of Time. If a Motion to extend the time for a party to take any action is filed consistent with these Case Management Procedures before the expiration of the period

prescribed by the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or the provisions of any order entered by this Court, the time shall automatically be extended until the Court acts on the Motion, without the necessity for the entry of a bridge order. For the avoidance of doubt, an automatic extension under these Case Management Procedures does not require the issuance or entry of an order extending time. If the Court denies such Motion to extend, then the applicable action must be completed no later than 5:00 p.m., prevailing Eastern Time, on the first business day after the Court enters such order.

25. Effect of the Case Management Procedures. The Bankruptcy Rules and the Local Rules shall continue to apply to all proceedings in these chapter 11 cases, except to the extent that any provision of these Case Management Procedures by its terms supersedes or is inconsistent with such rules.

26. Modification of Order. Any party may at any time apply for reconsideration or modification of the Order approving these Case Management Procedures. Service of said motion shall be made to all persons/entities on the Master Service List. The Court may amend Case Management Procedures from time to time as is necessary.