UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

☒ **Quarterly Report Pursuant to Section 13 or 15 (d) of the Securities Exchange Act of 1934**

For the quarterly period ended June 30, 2024

or

☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the Transition Period From _____ to _____ .

Commission File Number: 001-33093

LIGAND PHARMACEUTICALS INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware	**77-0160744**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*
555 Heritage Drive, Suite 200 **Jupiter** **Florida**	
(Address of principal executive offices)	**33458** *(Zip Code)*

(858) 550-7500

(Registrant's Telephone Number, Including Area Code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class:	Trading symbol:	Name of each exchange on which registered:
Common Stock, par value $0.001 per share	**LGND**	**The Nasdaq Global Market**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See definitions of “large accelerated filer,” “accelerated filer,” “smaller reporting company,”

and “emerging growth company” in Rule 12b-2 of the Exchange Act. (Check one)

Large Accelerated Filer	☒	Accelerated Filer	☐
Non-Accelerated Filer	☐	Smaller Reporting Company	☐
Emerging Growth Company	☐		

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

As of August 5, 2024, the registrant had 18,268,950 shares of common stock outstanding.

LIGAND PHARMACEUTICALS INCORPORATED
QUARTERLY REPORT

FORM 10-Q

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GLOSSARY OF TERMS AND ABBREVIATIONS

Abbreviation	Definition
2023 Annual Report	Annual Report on Form 10-K for the year ended December 31, 2023, filed with the SEC on February 29, 2024
2023 Notes	$750.0 million aggregate principal amount of convertible senior unsecured notes due 2023
APAC	Avista Public Acquisition Corp. II (prior to its domestication in Delaware and change of name to OmniAb, Inc.)
ASC	Accounting Standards Codification
ASU	Accounting Standards Update
Company	Ligand Pharmaceuticals Incorporated, including subsidiaries
CVR	Contingent value right
CyDex	CyDex Pharmaceuticals, Inc.
Distribution	The separation of OmniAb Business through a spin-off of OmniAb to Ligand's shareholders of record as of October 26, 2022 on a pro rata basis
ESPP	Employee Stock Purchase Plan, as amended and restated
FASB	Financial Accounting Standards Board
FDA	Food and Drug Administration
GAAP	Generally accepted accounting principles in the United States
Ligand	Ligand Pharmaceuticals Incorporated, including subsidiaries
Merger Agreement	Agreement and Plan of Merger, dated as of March 23, 2022, among APAC, Ligand, OmniAb and Merger Sub
Merger Sub	Orwell Merger Sub, Inc., a wholly owned subsidiary of APAC
Metabasis	Metabasis Therapeutics, Inc.
NDA	New Drug Application
New OmniAb	OmniAb, Inc. (formerly known as Avista Public Acquisition Corp. II and after it domestication in Delaware)
OmniAb	OmniAb Operations, Inc. (formerly known as OmniAb, Inc. and prior to being spun off by the Company)
OmniAb Business	Ligand's antibody discovery business (prior to being spun off by the Company)
PDUFA	Prescription Drug User Fee Act
Q2 2023	The Company's fiscal quarter ended June 30, 2023
Q2 2024	The Company's fiscal quarter ended June 30, 2024
SBC	Share-based compensation expense
SEC	Securities and Exchange Commission
Separation Agreement	Separation and Distribution Agreement, dated as of March 23, 2022, among APAC, Ligand and OmniAb
Takeda	Takeda Pharmaceutical Company Limited
Travere	Travere Therapeutics, Inc.
Viking	Viking Therapeutics, Inc.

Cautionary Note Regarding Forward-Looking Statements:

You should read the following report together with the more detailed information regarding our company, our common stock and our financial statements and notes to those statements appearing elsewhere in this document.

This report contains forward-looking statements that involve a number of risks and uncertainties. Although our forward-looking statements reflect the good faith judgment of our management, these statements can only be based on facts and factors currently known by us. Consequently, these forward-looking statements are inherently subject to risks and uncertainties, and actual results and outcomes may differ materially from results and outcomes discussed in the forward-looking statements.

Forward-looking statements can be identified by the use of forward-looking words such as "believes," "expects," "may," "will," "plan," "intends," "estimates," "would," "continue," "seeks," "pro forma," or "anticipates," or other similar words (including their use in the negative), or by discussions of future matters such as those related to our future results of operations and financial position, royalties and milestones under license agreements, Captisol material sales, product development, and product regulatory filings and approvals, and the timing thereof, the anticipated benefits from the Apeiron transaction, Ligand's status as a high-growth company, as well as other statements that are not historical.

The cautionary statements made in this report are intended to be applicable to all related forward-looking statements wherever they may appear in this report. We urge you not to place undue reliance on these forward-looking statements, which speak only as of the date of this report. Except as required by law, we assume no obligation to update our forward-looking statements, even if new information becomes available in the future. This caution is made under the safe harbor provisions of Section 21E of the Securities Exchange Act of 1934, as amended.

PART I - FINANCIAL INFORMATION

n 1. Condensed Consolidated Financial Statements

LIGAND PHARMACEUTICALS INCORPORATED
CONDENSED CONSOLIDATED BALANCE SHEETS

(Unaudited)
(in thousands, except par value)

	June 30, 2024	December 31, 2023
ASSETS		
Current assets:		
Cash and cash equivalents	$ 18,139	$ 22,954
Short-term investments	208,793	147,355
Accounts receivable, net	37,481	32,917
Inventory	18,672	23,969
Income taxes receivable	—	6,395
Prepaid expenses	1,911	1,182
Current derivative assets	20,141	—
Other current assets	7,122	2,657
Total current assets	312,259	237,429
Intangible assets, net	283,162	299,606
Goodwill	105,250	103,370
Long-term portion of financial royalty assets, net	80,481	62,291
Noncurrent derivative assets	34,505	3,531
Property and equipment, net	14,970	15,607
Operating lease right-of-use assets	7,403	6,062
Finance lease right-of-use assets	3,085	3,393
Equity method investment in Primrose Bio	2,437	12,595
Other investments	10,741	36,726
Deferred income taxes, net	190	214
Other assets	11,922	6,392
Total assets	$ 866,405	$ 787,216
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 1,793	$ 2,427
Accrued liabilities	12,171	12,467
Income taxes payable	2,091	—
Deferred revenue	1,196	1,222
Current contingent liabilities	146	256
Current operating lease liabilities	1,156	403
Current finance lease liabilities	12	7
Total current liabilities	18,565	16,782
Long-term deferred revenue	2,696	1,444
Long-term contingent liabilities	4,052	2,942
Long-term operating lease liabilities	6,415	5,755
Deferred income taxes, net	30,128	31,622
Other long-term liabilities	29,351	27,758
Total liabilities	91,207	86,303
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, $0.001 par value; 5,000 shares authorized; zero issued and outstanding at June 30, 2024 and December 31, 2023	—	—
Common stock, $0.001 par value; 60,000 shares authorized; 18,103 and 17,556 shares issued and outstanding at June 30, 2024 and December 31, 2023, respectively	19	18
Additional paid-in capital	238,870	198,696
Accumulated other comprehensive loss	(935)	(817)
Retained earnings	537,244	503,016
Total stockholders' equity	775,198	700,913
Total liabilities and stockholders' equity	$ 866,405	$ 787,216

See accompanying notes to unaudited condensed consolidated financial statements.

LIGAND PHARMACEUTICALS INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(in thousands, except per share amounts)

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Revenues and other income:				
Revenue from intangible royalty assets	$ 22,603	$ 20,430	$ 40,960	$ 37,584
Income from financial royalty assets	559	508	1,297	1,001
Royalties	23,162	20,938	42,257	38,585
Captisol	7,500	5,220	16,712	15,842
Contract revenue and other income	10,869	208	13,540	15,918
Total revenues and other income	41,531	26,366	72,509	70,345
Operating costs and expenses:				
Cost of Captisol	2,906	1,669	5,788	5,386
Amortization of intangibles	8,257	8,539	16,443	17,078
Research and development	5,354	6,854	11,325	13,517
General and administrative	17,623	11,287	28,574	22,142
Financial royalty assets impairment	26,491	—	26,491	—
Total operating costs and expenses	60,631	28,349	88,621	58,123
Operating (loss) income from continuing operations	(19,100)	(1,983)	(16,112)	12,222
Non-operating income and expenses:				
(Loss) gain from short-term investments	(14,256)	3,991	96,516	43,524
Interest income	2,757	2,320	4,777	3,755
Interest expense	(1,268)	(284)	(1,411)	(524)
Other non-operating expense, net	(33,523)	(873)	(35,713)	(270)
Total non-operating (expenses) income, net	(46,290)	5,154	64,169	46,485
(Loss) income before income taxes from continuing operations	(65,390)	3,171	48,057	58,707
Income tax benefit (expense)	13,479	(881)	(13,829)	(12,803)
Net (loss) income from continuing operations	(51,911)	2,290	34,228	45,904
Net loss from discontinued operations	—	—	—	(1,665)
Net (loss) income	$ (51,911)	$ 2,290	$ 34,228	$ 44,239
Basic net (loss) income from continuing operations per share	$ (2.88)	$ 0.13	$ 1.91	$ 2.67
Basic net loss from discontinued operations per share	$ —	$ —	$ —	$ (0.10)
Basic net (loss) income per share	$ (2.88)	$ 0.13	$ 1.91	$ 2.58
Shares used in basic per share calculation	18,028	17,276	17,880	17,170
Diluted net (loss) income from continuing operations per share	$ (2.88)	$ 0.13	$ 1.87	$ 2.57
Diluted net loss from discontinued operations per share	$ —	$ —	—	$ (0.09)
Diluted net (loss) income per share	$ (2.88)	$ 0.13	1.87	$ 2.48
Shares used in diluted per share calculation	18,028	17,730	18,282	17,851

See accompanying notes to unaudited condensed consolidated financial statements.

LIGAND PHARMACEUTICALS INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited)
(in thousands)

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Net (loss) income	$ (51,911)	$ 2,290	$ 34,228	$ 44,239
Unrealized net (loss) gain on available-for-sale securities, net of tax	(25)	(32)	(118)	17
Comprehensive (loss) income	$ (51,936)	$ 2,258	$ 34,110	$ 44,256

See accompanying notes to unaudited condensed consolidated financial statements.

LIGAND PHARMACEUTICALS INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(Unaudited)
(in thousands)

	Common Stock					
	Shares	Amount	Additional paid in capital	Accumulated other comprehensive loss	Retained earnings	Total stockholders' equity
Balance at December 31, 2023	17,556	$ 18	$ 198,696	$ (817)	$ 503,016	$ 700,913
Issuance of common stock under employee stock compensation plans, net of shares withheld for payroll taxes	368	—	12,228	—	—	12,228
Share-based compensation	—	—	7,334	—	—	7,334
Unrealized loss on available-for-sale securities, net of tax	—	—	—	(93)	—	(93)
Net income	—	—	—	—	86,139	86,139
Balance at March 31, 2024	17,924	$ 18	$ 218,258	$ (910)	$ 589,155	$ 806,521
Issuance of common stock under employee stock compensation plans, net of shares withheld for payroll taxes	179	1	9,552	—	—	9,553
Share-based compensation	—	—	11,060	—	—	11,060
Unrealized net loss on available-for-sale securities, net of tax	—	—	—	(25)	—	(25)
Net loss	—	—	—	—	(51,911)	(51,911)
Balance at June 30, 2024	18,103	$ 19	$ 238,870	$ (935)	$ 537,244	$ 775,198

	Common Stock					
	Shares	Amount	Additional paid in capital	Accumulated other comprehensive income (loss)	Retained earnings	Total stockholders' equity
Balance at December 31, 2022	16,951	$ 17	$ 147,590	$ (984)	$ 450,862	$ 597,485
Issuance of common stock under employee stock compensation plans, net of shares withheld for payroll taxes	183	—	(762)	—	—	(762)
Share-based compensation	—	—	5,931	—	—	5,931
Unrealized net gain on available-for-sale securities, net of tax	—	—	—	49	—	49
Final distribution of OmniAb	—	—	1,665	—	—	1,665
Net income	—	—	—	—	41,949	41,949
Balance at March 31, 2023	17,134	$ 17	$ 154,424	$ (935)	$ 492,811	$ 646,317
Issuance of common stock under employee stock compensation plans, net of shares withheld for payroll taxes	218	—	9,110	—	—	9,110
Share-based compensation	—	—	7,207	—	—	7,207
Unrealized net loss on available-for-sale securities, net of tax	—	—	—	(32)	—	(32)
Net income	—	—	—	—	2,290	2,290
Balance at June 30, 2023	17,352	$ 17	$ 170,741	$ (967)	$ 495,101	$ 664,892

See accompanying notes to unaudited condensed consolidated financial statements.

LIGAND PHARMACEUTICALS INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(in thousands)

	Six months ended June 30,	
	2024	**2023**
Cash flows from operating activities:		
Net income	$ 34,228	$ 44,239
Adjustments to reconcile net income to net cash provided by operating activities:		
Change in estimated fair value of contingent liabilities	1,200	108
Depreciation and amortization of intangible assets	17,618	18,994
Amortization of premium on investments, net	(587)	(659)
Amortization of debt discount and issuance fees	180	159
Non-cash income from financial royalty assets	—	(814)
CECL adjustment to financial royalty assets	(4,260)	—
Impairment loss of financial royalty assets	26,491	—
Gain on derivative instruments	(1,696)	—
Losses from equity method investment in Primrose Bio	10,382	—
Fair value adjustment to Primrose Bio securities investments	25,759	—
Share-based compensation	18,394	13,138
Deferred income taxes	(1,120)	(1,246)
Gain from short-term investments	(96,516)	(43,524)
Lease amortization expense	982	897
Other	358	153
Changes in operating assets and liabilities, net of acquisition:		
Accounts receivable	(5,587)	2,476
Inventory	5,121	(10,966)
Accounts payable and accrued liabilities	390	(4,960)
Income tax receivable and payable	8,486	16,001
Deferred revenue	(940)	(5)
Other assets and liabilities	(6,837)	(125)
Net cash provided by operating activities	32,046	33,866
Cash flows from investing activities:		
Purchase of financial royalty assets	(4,174)	—
Proceeds from financial royalty assets	4,207	213
Purchase of short-term investments	(102,075)	(88,989)
Proceeds from sale of short-term investments	98,908	88,832
Proceeds from maturity of short-term investments	23,611	20,666
Cash paid for investment in Primrose Bio	(998)	—
Cash paid for Palvella notes receivable	(2,500)	—
Cash paid for the Agenus transaction	(75,000)	—
Purchase of property and equipment	(513)	(2,617)
Net cash (used in) provided by investing activities	(58,534)	18,105
Cash flows from financing activities:		
Repayment at maturity/repurchase of 2023 Notes	—	(76,854)
Payments under finance lease obligations	(9)	(26)
Net proceeds from stock option exercises and ESPP	24,856	12,535
Taxes paid related to net share settlement of equity awards	(3,076)	(4,187)
Cash paid for debt issuance costs	(98)	—
Net cash provided by (used in) financing activities	21,673	(68,532)
Net increase in cash and cash equivalents	(4,815)	(16,561)
Cash and cash equivalents at beginning of period	22,954	45,006
Cash and cash equivalents at end of period	$ 18,139	$ 28,445

Supplemental disclosure of cash flow information:				
Interest paid	$	112	$	288
Taxes paid	$	5,772	$	—
Supplemental schedule of non-cash activity:				
Addition of right-of-use assets and lease liabilities	$	1,737	$	—
Accrued fixed asset purchases	$	25	$	532
Unrealized (loss) gain on AFS investments, net of tax	$	(118)	$	17

See accompanying notes to unaudited condensed consolidated financial statements.

Unless the context requires otherwise, references in this report to "Ligand," "we," "us," the "Company," and "our" refer to Ligand Pharmaceuticals Incorporated and its consolidated subsidiaries.

1. Basis of Presentation and Summary of Significant Accounting Policies

Business

We are a biopharmaceutical company enabling scientific advancement through supporting the clinical development of high-value medicines. We do this by providing financing, licensing our technologies or both. We operate in one reportable segment: development and licensing of biopharmaceutical assets.

Basis of Presentation

Our unaudited condensed consolidated financial statements include the financial statements of Ligand and its wholly-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated in consolidation. We have included all adjustments, consisting only of normal recurring adjustments, which we considered necessary for a fair presentation of our financial results. These unaudited condensed consolidated financial statements and accompanying notes should be read together with the audited consolidated financial statements included in our 2023 Annual Report. Interim financial results are not necessarily indicative of the results that may be expected for the full year.

Reclassification

Certain reclassifications have been made to the previously issued audited consolidated financial statements to conform with the current period presentation. Specifically, within the consolidated balance sheet as of December 31, 2023, our commercial license and other economic rights line has been reclassified to long-term portion of financial royalty assets, net, and to other assets, and a portion of other investments has been reclassified from other assets. Moreover, long-term derivative assets as of December 31, 2023, have been reclassified from other assets.

In addition, within the unaudited condensed consolidated statement of operations for the three and six months ended June 30, 2023, royalties have been reclassified to revenue from intangible royalty assets, and a portion of the contract revenue has been reclassified to income from financial royalty assets.

Discontinued Operations

The Company determined that the spin-off of the OmniAb Business in November 2022 met the criteria for classification as a discontinued operation in accordance with ASC Subtopic 205-20, *Discontinued Operations* ("ASC 205-20"). Accordingly, the accompanying condensed consolidated financial statements have been updated to present the results of all discontinued operations reported as a separate component of loss in the condensed consolidated statements of operations and comprehensive loss (see *Note 5, Spin-off of OmniAb*). All disclosures have been adjusted to reflect continuing operations.

Significant Accounting Policies

We have described our significant accounting policies in *Note 1, Basis of Presentation and Summary of Significant Accounting Policies* of the Notes to Consolidated Financial Statements in our 2023 Annual Report.

Use of Estimates

The preparation of unaudited condensed consolidated financial statements in conformity with GAAP requires the use of estimates and assumptions that affect the amounts reported in the unaudited condensed consolidated financial statements and the accompanying notes. Actual results may differ from those estimates.

Revenue and Other Income

Our revenue is generated primarily from royalties on sales of products commercialized by our partners, Captisol material sales, and contract revenue for license fees, technical, regulatory and sales-based milestone payments. Other operating income is primarily related to milestone income received for financial royalty assets that have been fully amortized or where there is no underlying asset recognized on the consolidated balance sheets.

We apply the following five-step model in accordance with ASC 606, *Revenue from Contracts with Customers*, in order to determine the revenue: (i) identification of the promised goods or services in the contract; (ii) determination of whether the promised goods or services are performance obligations, including whether they are distinct in the context of the contract; (iii) measurement of the transaction price, including the constraint on variable consideration; (iv) allocation of the transaction price to the performance obligations; and (v) recognition of revenue when (or as) the Company satisfies each performance obligation.

Revenue from Intangible Royalty Assets

We receive royalty revenue from intangible royalty assets on sales by our partners of products covered by patents that we or our partners own under contractual agreements. We do not have future performance obligations under these license arrangements. We generally satisfy our obligation to grant intellectual property rights on the effective date of the contract. However, we apply the royalty recognition constraint required under the guidance for sales-based royalties which requires a royalty to be recorded no sooner than when the underlying sale occurs. Therefore, royalties on sales of products commercialized by our partners are recognized in the quarter the product is sold. Our partners generally report sales information to us on a one quarter lag. Thus, we estimate the expected royalty proceeds based on an analysis of historical experience and interim data provided by our partners including their publicly announced sales. Differences between actual and estimated royalty revenues, which have not been material, are adjusted in the period in which they become known, typically the following quarter.

Income from Financial Royalty Assets

Effective January 1, 2024, we introduced a new line item “income from financial royalty assets”, which was included in “contract revenue” in prior periods. Accordingly, the prior year period amounts have been reclassified to align with the current period presentation.

We recognize income from financial royalty assets when there is a reasonable expectation about the timing and amount of cash flows expected to be collected. Income is calculated by multiplying the carrying value of the financial royalty asset by the periodic effective interest rate.

We account for financial royalty assets related to developmental pipeline or recently commercialized products on a non-accrual basis. Developmental pipeline products are non-commercialized, non-approved products that require FDA or other regulatory approval, and thus have uncertain cash flows. Newly commercialized products typically do not have an established reliable sales pattern, and thus have uncertain cash flows.

Captisol Sales

Revenue from Captisol sales is recognized when control of Captisol material is transferred or intellectual property license rights are granted to our customers in an amount that reflects the consideration we expect to receive from our customers in exchange for those products or rights. A performance obligation is considered distinct from other obligations in a contract when it provides a benefit to the customer either on its own or together with other resources that are readily available to the customer and is separately identified in the contract. For Captisol material or intellectual property license rights, we consider our performance obligation satisfied once we have transferred control of the product or granted the intellectual property rights, meaning the customer has the ability to use and obtain the benefit of the Captisol material or intellectual property license right. We recognize revenue for satisfied performance obligations only when we determine there are no uncertainties regarding payment terms or transfer of control. Sales tax and other taxes we collect concurrent with revenue-producing activities are excluded from revenue. We have elected to recognize the cost of freight and shipping when control over Captisol material has transferred to the customer as an expense in cost of Captisol. We expense incremental costs of obtaining a contract when incurred if the expected amortization period of the asset that we would have recognized is one year or less or the amount is immaterial. We did not incur any incremental costs of obtaining a contract during the periods reported.

Contract Revenue and Other Income

Our contracts with customers often include variable consideration in the form of contingent milestone payments. We include contingent milestone payments in the estimated transaction price when it is probable a significant reversal in the amount of cumulative revenue recognized will not occur. These estimates are based on historical experience, anticipated results and our best judgment at the time. If the contingent milestone payment is based on sales, we apply the royalty recognition constraint and record revenue when the underlying sale has taken place. Significant judgments must be made in determining the transaction price for our sales of intellectual property. Because of the risk that products in development with our partners will not reach development milestones or receive regulatory approval, we generally recognize any contingent payments that would be due to us upon the development milestone or regulatory approval.

Some customer contracts are sublicenses which require that we make payments to an upstream licensor related to license fees, milestones and royalties which we receive from customers. In such cases, we evaluate the determination of gross revenue as a principal versus net revenue as an agent reporting based on each individual agreement.

Other income is primarily related to milestone income received for financial royalty assets that have been fully amortized or where there is no underlying asset recognized on the consolidated balance sheets.

Deferred Revenue

Depending on the terms of the arrangement, we may also defer a portion of the consideration received because we have to satisfy a future obligation. The timing of revenue recognition, billings and cash collections results in billed accounts receivable, unbilled receivables (contract assets), and customer advances and deposits (contract liabilities) on the consolidated balance sheet. Except for royalty revenue and certain service revenue, we generally receive payment at the point we satisfy our

obligation or soon after. Therefore, we do not generally carry any contract asset balance. Any fees billed in advance of being earned are recorded as deferred revenue. During the three months ended June 30, 2024 and 2023, the amount recognized as revenue that was previously deferred was $0.45 million and $0.02 million, respectively. During the six months ended June 30, 2024 and 2023, the amount recognized as revenue that was previously deferred was $1.00 million and $0.12 million, respectively.

Disaggregation of Revenue

The following table represents disaggregation of royalties, Captisol and contract revenue and other income (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Royalties				
Kyprolis	$ 8,998	$ 8,097	$ 15,630	$ 14,325
Evomela	2,733	2,357	4,130	4,907
Teriparatide injection	2,103	3,613	4,144	7,113
Rylaze	3,232	3,028	6,184	5,637
Filspari	2,424	315	4,196	585
Vaxneuvance	1,109	1,039	2,496	1,677
Other	2,004	1,981	4,180	3,340
Revenue from intangible royalty assets	22,603	20,430	40,960	37,584
Income from financial royalty assets	559	508	1,297	1,001
	23,162	20,938	42,257	38,585
Captisol	7,500	5,220	16,712	15,842
Contract revenue and other income				
Milestone and other	10,869	208	11,596	15,918
Other income	—	—	1,944	—
Contract revenue and other income	10,869	208	13,540	15,918
Total	$ 41,531	$ 26,366	$ 72,509	$ 70,345

Short-term Investments

Our short-term investments consist of the following at June 30, 2024 and December 31, 2023 (in thousands):

June 30, 2024	Amortized cost	Gross unrealized gains	Gross unrealized losses	Estimated fair value
Bond fund	$ 93,939	$ —	$ (474)	$ 93,465
Bank deposits	20,427	4	(22)	20,409
Corporate bonds	19,160	8	(53)	19,115
Commercial paper	12,702	1	(16)	12,687
U.S. government securities	9,314	—	(55)	9,259
Corporate equity securities	6,551	—	(5,703)	848
	$ 162,093	$ 13	$ (6,323)	155,783
Viking common stock				53,010
Total short-term investments				$ 208,793
December 31, 2023				
Bond fund	$ 63,763	$ —	$ (537)	$ 63,226
Bank deposits	17,165	12	(1)	17,176
Corporate bonds	14,850	40	(2)	14,888
Commercial paper	11,578	9	(1)	11,586
U.S. government securities	6,736	18	(3)	6,751
Municipal bonds	1,007	—	(4)	1,003
Corporate equity securities	5,775	—	(5,235)	540
	$ 120,874	$ 79	$ (5,783)	115,170
Viking common stock				32,185
Total short-term investments				$ 147,355

During the six months ended June 30, 2024, we sold 0.7 million shares of Viking common stock and recognized a realized gain of $60.0 million in total. We did not sell Viking common stock during the three months ended June 30, 2024.

(Loss) gain from short-term investments in our condensed consolidated statements of operations includes both realized and unrealized (loss) gain from our short-term investments in public equity and warrant securities.

Allowances are recorded for available-for-sale debt securities with unrealized losses. This limits the amount of credit losses that can be recognized for available-for-sale debt securities to the amount by which carrying value exceeds fair value and requires the reversal of previously recognized credit losses if fair value increases. The provisions of the credit losses standard did not have a material impact on our available-for-sale debt securities during the three and six months ended June 30, 2024 and 2023.

The following table summarizes our available-for-sale debt securities by contractual maturity (in thousands):

	June 30, 2024	
	Amortized Cost	Fair Value
Within one year	$ 62,952	$ 62,904
After one year through five years	14,057	14,018
Total	$ 77,009	$ 76,922

Our investment policy is capital preservation and we only invest in U.S.-dollar denominated investments. We held a total of 78 investments which were in an unrealized loss position with a total of $0.1 million unrealized losses as of June 30, 2024. We believe that we will collect the principal and interest due on our debt securities that have an amortized cost in excess of fair value. The unrealized losses are largely due to changes in interest rates and not to unfavorable changes in the credit quality associated with these securities that impacted our assessment on collectability of principal and interest. In July 2024, we sold certain securities before the recovery of the amortized cost basis to fund the Apeiron acquisition. Accordingly, we wrote down the amortized cost of $0.05 million during the three and six months ended June 30, 2024. There were no credit losses recognized for the three and six months ended June 30, 2023.

Accounts Receivable and Allowance for Credit Losses

Our accounts receivable arise primarily from sales on credit to customers. We establish an allowance for credit losses to present the net amount of accounts receivable expected to be collected. The allowance is determined by using the loss-rate method, which requires an estimation of loss rates based upon historical loss experience adjusted for factors that are relevant to determining the expected collectability of accounts receivable. Some of these factors include macroeconomic conditions that correlate with historical loss experience, delinquency trends, aging behavior of receivables and credit and liquidity quality indicators for industry groups, customer classes or individual customers. During the three and six months ended June 30, 2024, we considered the current and expected economic and market conditions and concluded an increase of $0.18 million and a decrease of $0.12 million in the allowance for credit losses, respectively. During the three and six months ended June 30, 2023, we considered the current and expected economic and market conditions and concluded a decrease of $0.09 million and an increase of $0.05 million in the allowance for credit losses, respectively.

Inventory

Inventory, which consists of finished goods (Captisol), is stated at the lower of cost or net realizable value. We determine cost using the specific identification method.

We analyze our inventory levels periodically and write down inventory to net realizable value if it has become obsolete, has a cost basis in excess of its expected net realizable value or is in excess of expected requirements. There was a $0.2 million write-down recorded against inventory for the three and six months ended June 30, 2024. There were no write-down recorded against inventory for the three and six months ended June 30, 2023. In addition to finished goods, as of June 30, 2024 and December 31, 2023, inventory included prepayments of $4.2 million and $4.6 million, respectively, to our supplier for Captisol.

Goodwill and Other Identifiable Intangible Assets

Goodwill and other identifiable intangible assets consist of the following (in thousands):

	June 30, 2024	December 31, 2023
Indefinite-lived intangible assets		
Goodwill	$ 105,250	$ 103,370
Definite lived intangible assets		
Complete technology	39,249	42,911
Less: accumulated amortization	(18,435)	(20,894)
Trade name	2,642	2,642
Less: accumulated amortization	(1,777)	(1,710)
Customer relationships	29,600	29,600
Less: accumulated amortization	(19,907)	(19,161)
Contractual relationships	360,000	360,000
Less: accumulated amortization	(108,210)	(93,782)
Total goodwill and other identifiable intangible assets, net	$ 388,412	$ 402,976

Financial Royalty Assets, net (formerly known as Commercial License Rights)

Financial royalty assets (formerly known as “Commercial License Rights”) represent a portfolio of future milestone and royalty payment rights acquired that are passive in nature (i.e., we do not own the intellectual property or have the right to commercialize the underlying products).

Although a financial royalty asset does not have the contractual terms typical of a loan (such as contractual principal and interest), we account for financial royalty assets under ASC 310, *Receivables*. Our financial royalty assets are classified similar to loans receivable and are measured at amortized cost using the prospective effective interest method described in ASC 835-30 *Imputation of Interest*.

The effective interest rate is calculated by forecasting the expected cash flows to be received over the life of the asset relative to the initial invested amount. The effective interest rate is recalculated in each reporting period as the difference between expected cash flows and actual cash flows are realized and as there are changes to expected future cash flows.

The gross carrying value of a financial royalty asset is made up of the opening balance, or net purchase price for a new financial royalty asset, which is increased by accrued interest income (except for assets under the non-accrual method) and decreased by cash receipts in the period to arrive at the ending balance.

We evaluate financial royalty assets for recoverability on an individual basis by comparing the effective interest rate at each reporting date to that of the prior period. If the effective interest rate is lower for the current period than the prior period, and if the gross cash flows have declined (expected and collected), we record provision expense for the change in expected cash flows. The provision is measured as the difference between the financial royalty asset's amortized cost basis and the net present value of the expected future cash flows, calculated using the prior period's effective interest rate.

In addition to the above allowance, we recognize an allowance for current expected credit losses under ASC 326, *Financial Instruments – Credit Losses* on our financial royalty assets. The credit rating, which is primarily based on publicly available data and updated quarterly, is the primary credit quality indicator used to determine the credit loss provision.

The carrying value of financial royalty assets is presented net of the cumulative allowance for changes in expected future cash flows and expected credit losses. The initial amount and subsequent revisions in allowances for changes in expected future cash flows and expected credit losses are recorded as part of general and administrative expenses on the consolidated statements of operations.

When we are reasonably certain that a part of a financial royalty asset's net carrying value (or all of it) is not recoverable, we recognize a permanent impairment which is recorded as part of financial royalty asset impairment on the consolidated statements of operations. To the extent there was an allowance previously recorded for this asset, the amount of such impairment is written off against the allowance at the time that such a determination is made. Any future recoveries from such impairment are recognized when cash is collected in a respective period earnings.

The current portion of financial royalty assets represents an estimation for current quarter royalty receipts which are collected during the subsequent quarter. This portion is presented in other current assets on our consolidated balance sheets, net of the allowance for expected credit losses.

For additional information, see *Note 6, Financial Royalty Assets, net (formerly known as Commercial License Rights).*

Derivative Assets

Derivative assets include instruments used for risk-management purposes, and other instruments. Derivative assets which are not used for risk management purposes, include: (a) acquired rights in future milestone and royalty payments from Agenus Partnered Programs (as defined below), (b) Agenus Warrant (as defined below), (c) option to invest up to $25 million to milestone and royalty rights which expires on June 30, 2025 ("Upsize Option"), and (d) rights to receive from Primrose Bio 50% of milestones on two contracts previously entered into by Primordial Genetics.

In addition, we have entered into a collar arrangement to hedge against the fluctuation risk in Viking's share price. However, because the Viking stock investment is remeasured at fair value through earnings under ASC 321, the collar agreement is not eligible for hedge accounting, but is considered as an economic hedge. All derivatives are measured at fair value on the consolidated balance sheets.

Derivative assets consist of the following (in thousands):

	June 30, 2024	December 31, 2023
Agenus Upsize Option (expires on 6/30/25)	$ 4,908	$ —
Viking shares collar	15,233	—
Total current derivative assets	$ 20,141	$ —
Primrose mRNA	$ 3,937	$ 3,531
Agenus Partner Programs	21,438	—
Agenus Warrant (5 years contractual term)	9,130	—
Total noncurrent derivative assets	$ 34,505	$ 3,531

An increase in fair value of Viking shares collar amounted to $15.2 million during the three and six months ended June 30, 2024, and is included in (loss) gain from short-term investments within the consolidated statements of operations. A net increase in fair value of other derivatives amounted to $1.5 million and $1.7 million during the three and six months ended June 30, 2024, respectively, and is recognized in other non-operating expense, net within the consolidated statements of operations. The Company did not have any derivative instruments during the six months ended June 30, 2023.

Equity Method Investment

Investments that we do not consolidate but in which we have significant influence over the operating and financial policies of the investee are classified as equity method investments and are accounted for using the equity method of accounting.

In applying the equity method of accounting, investments are initially recorded at cost and are subsequently adjusted based on our proportionate share of net income or loss of the investee, net of any distributions received from the investee and any impairment.

Other Investments

Other investments represent our investments to equity securities of third parties in which we do not have control or significant influence. All our equity securities investments do not have a readily determinable or estimable fair values and are measured using the measurement alternative, which is cost less impairment, if any, and adjustments resulting from observable price changes in orderly transactions for the identical or similar investment of the same issuer.

Other investments consist of the following (in thousands):

	June 30, 2024	December 31, 2023
Equity securities in Primrose Bio	$ 6,741	$ 32,726
Neuritek warrants	3,000	3,000
Palvella Series C preferred stock	1,000	1,000
Total other investments	$ 10,741	$ 36,726

Other Assets and Other Current Assets

Other assets include economic rights related to 2023 expansion of our strategic partnership with Palvella to accelerate Phase 3 development of QTORIN rapamycin for the treatment of Microcystic Lymphatic Malformations (“Microcystic LMs”). According to the terms of the second amendment to the development funding and royalties agreement, Palvella received an upfront payment of $5 million from Ligand. In return for the upfront payment, among other contractual changes, the tiered royalty payable by Palvella to Ligand was increased to between 8.0% and 9.8% based on annual aggregate worldwide net sales of QTORIN rapamycin. We are not obligated to provide additional funding to Palvella for development or commercialization of QTORIN.

We determined the economic rights related to Palvella should be characterized as a funded research and development arrangement, because the contract designated the funds usage for research and development activities, and thus we account for them in accordance with ASC 730-20, *Research and Development Arrangement*. We reduce our asset as the funds are expended by Palvella. As of June 30, 2024, of the $5 million upfront funding related to the second amendment with Palvella, none of the funding to Palvella was expended. Our CEO and director, Todd Davis, is a director of Palvella. Mr. Davis recused himself from all of the board's consideration of the agreement between us and Palvella, including any financial analysis, the terms of the amendment and the vote to approve the purchase agreement and the related transactions.

In June 2024, we funded Palvella $2.5 million in exchange for a convertible note with a maturity of three years.

Other assets also include $3.5 million in deferred transaction costs related to the Apeiron acquisition. See *Note 12, Subsequent Events* for more information on the Apeiron acquisition.

Other current assets primarily include Employee Retention Credit in the amount of $2.3 million, $1.2 million current portion of financial royalty assets which is disclosed in *Note 6, Financial Royalty Assets, net (formerly known as Commercial License Rights)*, and inventory (raw materials and work in process related to the manufacturing of finished goods, including initial project validation batches) related to the preparation of commercial supplies of ZELSUVMI™ by Pelthos Therapeutics, a wholly owned subsidiary of Ligand. For additional information on ZELSUVMI, see *Note 4, Acquisition*. Below is a summary of the inventory included in other current assets (in thousands):

	June 30, 2024	December 31, 2023
Raw materials	$ 1,488	$ 420
Work in process	548	195
Total Pelthos inventory in other current assets	$ 2,036	$ 615

Accrued Liabilities

Accrued liabilities consist of the following (in thousands):

	June 30, 2024	December 31, 2023
Compensation	$ 2,686	$ 4,682
Subcontractor	1,756	1,756
Professional fees	3,425	2,394
Customer deposit	621	621
Supplier	276	303
Royalties owed to third parties	1,707	900
Amounts owed to former licensees	—	45
Other	1,700	1,766
Total accrued liabilities	$ 12,171	$ 12,467

Other Long-Term Liabilities

Other long-term liabilities consist of the following (in thousands):

	June 30, 2024	December 31, 2023
Unrecognized tax benefits	$ 14,482	$ 14,039
Novan (Pelthos) contract liability	14,810	13,700
Other long-term liabilities	59	19
	$ 29,351	$ 27,758

Share-Based Compensation

Share-based compensation expense for awards to employees and non-employee directors is a non-cash expense and is recognized on a straight-line basis over the vesting period. The following table summarizes share-based compensation expense recorded as components of research and development expenses and general and administrative expenses for the periods indicated (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
SBC - Research and development expenses	$ 928	$ 2,016	$ 1,606	$ 3,723
SBC - General and administrative expenses	10,132	5,191	16,788	9,415
	$ 11,060	$ 7,207	$ 18,394	$ 13,138

The fair-value for options that were awarded to employees and directors was estimated at the date of grant using the Black-Scholes option valuation model with the following weighted-average assumptions:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Risk-free interest rate	4.3%	3.9%	4.3%	4.1%
Dividend yield	—	—	—	—
Expected volatility	45.5%	49.4%	44.7%	52.6%
Expected term (years)	4.7	4.8	4.7	5.3

A limited amount of performance-based restricted stock units (“PSUs”) contain a market condition based on our relative total shareholder return ranked on a percentile basis against the Nasdaq Biotechnology Index over a three year performance period, with a range of 0% to 200% of the target amount granted to be issued under the award. Share-based compensation cost for these PSUs is measured using the Monte-Carlo simulation valuation model and is not adjusted for the achievement, or lack thereof, of the performance conditions.

Net Income (Loss) Per Share

Basic net income (loss) per share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding during the period. Diluted net income per share is computed based on the sum of the weighted average number of common shares and potentially dilutive common shares outstanding during the period. Diluted net loss per share is computed based on the sum of the weighted average number of common shares outstanding during the period.

Potentially dilutive common shares consist of shares issuable under the 2023 Notes, stock options and restricted stock. Although we paid off the 2023 Notes in May 2023, it would have a dilutive impact when the average market price of our common stock exceeds the maximum conversion price during the three and six months ended June 30, 2023. It was our intent and policy to settle conversions through combination settlement, which involved payment in cash equal to the principal portion and delivery of shares of common stock for the excess of the conversion value over the principal portion. Potentially dilutive common shares from stock options and restricted stock are determined using the average share price for each period under the treasury stock method. In addition, the following amounts are assumed to be used to repurchase shares: proceeds from exercise of stock options and the average amount of unrecognized compensation expense for the awards. See *Note 10, Stockholders' Equity*.

In accordance with ASC 260, *Earnings per Share*, if a company had a discontinuing operation, the company uses income from continuing operations, adjusted for preferred dividends and similar adjustments, as its control number to determine whether potential common shares are dilutive. The following table presents the calculation of weighted average shares used to calculate basic and diluted earnings per share (in thousands):

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Weighted average shares outstanding:	18,028	17,276	17,880	17,170
Dilutive potential common shares:				
Restricted stock	—	83	124	85
Stock options	—	371	278	356
2023 convertible senior notes	—	—	—	240
Shares used to compute diluted income (loss) per share	18,028	17,730	18,282	17,851
Potentially dilutive shares excluded from calculation due to anti-dilutive effect	2,347	4,862	2,177	4,612

For the three months ended June 30, 2024, due to the net loss for the period, all of the 0.4 million weighted average equity awards were anti-dilutive.

Accounting Standards Not Yet Adopted

In November 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*. The update, among other things, requires disclosure of certain significant segment expenses. We will adopt the updated accounting guidance in our Annual Report on Form 10-K for the year ending December 31, 2024. We do not expect the adoption of the new accounting guidance will have a material impact to our consolidated financial statements.

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*. The update requires a public business entity to disclose, on an annual basis, a tabular rate reconciliation using both percentages and currency amounts, broken out into specified categories with certain reconciling items further broken out by nature and jurisdiction to the extent those items exceed a specified threshold. In addition, all entities are required to disclose income taxes paid, net of refunds received disaggregated by federal, state/local, and foreign and by jurisdiction if the amount is at least 5% of total income tax payments, net of refunds received. Adoption of the ASU allows for either the prospective or retrospective application of the amendment and is effective for annual periods beginning after December 15, 2024, with early adoption permitted. The Company has not yet completed its assessment of the impact of ASU 2023-09 on our consolidated financial statements.

We do not believe that any other recently issued, but not yet effective accounting pronouncements, if adopted, would have a material impact on our consolidated financial statements or disclosures.

2. Agenus Transaction

On May 29, 2024, we closed the transactions pursuant to the $75 million purchase and sale agreement (the “Agenus Agreement”), dated May 6, 2024, among us and Agenus Inc., Agenus Royalty Fund, LLC, and Agenus Holdings 2024, LLC (collectively, “Agenus”). Under the terms of the Agenus Agreement, we received (i) 18.75% of the licensed royalties and 31.875% of the future licensed milestones paid to Agenus on six-partnered oncology programs, including BMS-986442 (Bristol Myers Squibb), AGEN2373 (Gilead Sciences), INCAGN2385 and INCAGN2390 (Incyte), MK-4830 (Merck), and UGN-301 (UroGen Pharma) (collectively referred as "Agenus Partnered Programs"), and (ii) a synthetic 2.625% royalty on future global net sales of Agenus’ novel immuno-oncology botensilimab in combination with balstilimab (“BOT/BAL”) program, collectively subject to certain events which may adjust the royalty and milestone percentages paid to us. In addition, we received the option to commit an additional $25 million in the same assets on a pro rata basis which expires on June 30, 2025 ("Upsize Option"). We have also agreed to allow Agenus to raise up to an additional $100 million bringing the total syndicated purchase price up to an aggregate of $200 million. As part of the Agenus Agreement, Agenus will grant us security over certain assets related to the programs included in the Agenus Agreement, subject to certain customary exceptions.

In connection with entry into the Agenus Agreement, Agenus issued us a 5-year warrant (“Agenus Warrant”) to purchase 867,052 shares of its common stock, at an exercise price equal to $17.30.

We accounted for all Agenus Partnered Programs, Agenus Warrant and Upsize Option as derivative assets. Upsize Option was presented within current derivative assets line (as it expires on June 30, 2025), and the other derivatives were presented in noncurrent derivative assets line in our condensed consolidated balance sheet. Agenus Partnered Programs are recognized as derivative assets under ASC 815, *Derivatives and Hedging*, as they have different underlyings (development milestones, commercial milestones, and royalties). The commercial milestones and royalties are dependent on the development milestones and the commercial milestone and royalties underlyings are not determined to be predominate.

The derivative assets were recorded at fair value as of May 29, 2024, and will be marketed to fair value at each reporting period going forward. The fair value of Agenus Partnered Programs derivative assets was determined as a present value of expected future cash flows adjusted for the level of risk appropriate for a respective program stage. The fair value of Agenus Warrant was determined using a Black-Scholes model using the following assumptions: expected term of 4 years, volatility of 84%, risk-free rate of 4.7%, Agenus Stock price at May 29, 2024 of $15.03. The fair value of the Upsize Option was determined using the binomial option pricing model under which we assessed and considered the possible upwards and downwards scenarios through the expiration date of the Upsize Option.

We accounted for the acquired BOT/BAL rights as a financial royalty asset which is currently put under the non-accrual method as management can not reliably estimate future cash flows from this program. The amount of BOT/BAL financial royalty asset was determined as a residual value from $75 million investment amount, less fair value of all acquired derivative assets as of May 29, 2024.

Uncertainty relating to development-stage product candidates requires management to make estimates and assumptions that affect the reported amounts of assets. There can be no assurance that our assumptions around the likelihood of a development-stage product candidate’s approval or achieving significant sales will prove correct, that regulatory authorities will approve such development-stage product candidates, that such development-stage product candidates will be brought to market timely or at all, or that such products will achieve commercial success or result in royalties consistent with our estimates.

3. Sale of Pelican Business and Investment in Primrose Bio

On September 18, 2023, we entered into a merger agreement, pursuant to which our subsidiary, Pelican Technology Holdings, Inc. (“Pelican”) became a wholly owned subsidiary of Primrose Bio. Primrose Bio is a private company focused on synthetic biology. Pelican has developed technology related to PET (protein expression technology) and PelicCRM197 (vaccine material), and has property and equipment, as well as leased property in San Diego, CA. As part of the transaction, we received 2,146,957 common shares, 4,278,293 preferred shares and 474,746 restricted shares of Primrose Bio. Simultaneous with the merger, we entered into a purchase and sale agreement with Primrose Bio and contributed $15 million in exchange for 50% of potential development milestones and certain commercial milestones from two contracts previously entered into by Primordial Genetics. In addition, starting January 1, 2025, we will receive 25% of sales revenue of PeliCRM197 above $3 million and 35% of all PeliCRM197 licensing revenue in perpetuity.

We retained contractual relationships utilizing the Pelican Expression Technology, including the commercial royalty rights to Jazz’s Rylaze, Merck’s Vaxneuvance and V116 vaccines, Alvogen’s Teriparatide, Serum Institute of India’s vaccine programs, including Pneumosil and MenFive vaccines, among others.

We determined that the sale of Pelican meets the definition of a deconsolidation of a business. Net assets sold together with allocated goodwill and cash consideration paid were as follows (in thousands):

Property and equipment, net	$	8,250
Intangible assets		19,895
Other assets		717
Operating lease right-of-use assets		8,693
Finance lease right-of-use assets		20
Accrued liabilities		(630)
Deferred revenue		(495)
Long-term operating lease liabilities		(8,445)
Other liabilities		(74)
Net assets sold		27,931
Allocated goodwill		4,132
Cash consideration paid		15,000
	$	**47,063**

Fair value of the consideration received includes the following (in thousands):

Equity method investment	$	13,706
Equity securities		32,278
Derivative assets		3,200
	$	**49,184**

Goodwill allocated to the selling business based on the relative fair value of the Pelican business and Ligand that was written off was $4.1 million, resulting in a $2.1 million gain on sale of Pelican recorded to income (loss) from operations for the year ended December 31, 2023.

Transaction costs of $1.2 million were allocated to the equity method investment and equity securities based on the relative fair value.

As described above, we will receive 25% of sales revenue of PeliCRM197 above $3 million and 35% of all PeliCRM197 licensing revenue in perpetuity. The considerations are under the loss recovery model and they will be measured based on the gain contingency model under ASC 450, *Contingencies*, and thus, will be recognized as the underlying contingencies are resolved.

In addition, we will receive 50% of potential development milestones and certain commercial milestones from two contracts previously entered into by Primordial Genetics. The considerations were recognized as derivative assets with a fair value of $3.2 million, at the disposition date, which was included in long-term derivative assets in our condensed consolidated balance sheet. They are recognized as derivative assets under ASC 815, *Derivatives and Hedging*, as they have two underlyings (development and commercial milestones) and (i) the commercial milestones are dependent on the development milestones and (ii) the commercial milestone underlying is not determined to be predominate. The derivative assets were recorded at fair value as of September 18, 2023, and will be marketed to fair value at each reporting period going forward. During the three and six months ended June 30, 2024, a gain of $0.2 million and $0.4 million, respectively, was recorded to market the derivative assets to fair value and was included in other non-operating expenses, net in our consolidated statement of operations. For additional information, see *Note 7, Fair Value Measurement*.

Investments in Primrose Bio

We account for our common stock investment in Primrose Bio under the equity method as we have the ability to exercise significant influence over its operating and financial results. In applying the equity method, we record the investment at fair value. Our proportionate share of net loss of Primrose Bio is recorded in our consolidated statements of operations. Our equity method investments are reviewed for indicators of impairment at each reporting period and are written down to fair value if there is evidence of a loss in value that is other-than-temporary. In June 2024, Primrose Bio entered into an equity investment from an equity firm. As a result, we recognized an impairment loss on our equity method investment in the amount of $5.8 million during the three and six months ended June 30, 2024. Our share of the net loss of Primrose Bio for the three and six months ended June 30, 2024 was $2.2 million and $4.6 million, respectively, which reduced Ligand's equity method investment accordingly. Any income or loss from our equity method investments (including the impairment) is presented in other non-operating income (expense) in our consolidated statement of operations.

We determined that the Series A preferred stock and reserve stock investment in Primrose Bio did not have a readily determinable fair value and therefore elected the measurement alternative in ASC 321 to subsequently record the investment at cost, less any impairments, plus or minus changes resulting from observable price changes in orderly transactions for identical or similar investments of the same issuer. When fair value becomes determinable, from observable price changes in orderly transactions, our investment will be marked to fair value. Our investment in Series A preferred stock and reserve stock has been reduced by $25.8 million as of June 30, 2024 in connection with the above mentioned equity funding received by Primrose Bio in June 2024.

During the fourth quarter of 2023, our President and Chief Operating Officer, Matt Korenberg, became a board member of Primrose Bio.

4. Acquisition

Novan

On September 27, 2023, we closed the transaction to acquire certain assets of Novan, Inc. ("Novan") pursuant to the agreement we entered into with Novan on July 17, 2023 for $15.0 million in cash (which agreement contemplated Novan filing for bankruptcy relief) and provide up to $15.0 million in debtor-in-possession ("DIP") financing inclusive of a $3.0 million bridge loan funded on the same day. Novan filed for Chapter 11 reorganization on July 17, 2023. On September 27, 2023, the bankruptcy court approved our $12.2 million bid to purchase from Novan its lead product candidate berdazimer gel, 10.3%, all other assets related to the NITRICIL technology platform and the rights to one commercial stage asset. The remaining commercial assets of Novan will be sold to other parties. The approved $12.2 million bid was credited to the $15.0 million DIP financing, with the balance of $2.8 million and accrued interest repaid to us.

The acquisition was accounted for as business combination. We recorded $3.1 million of acquisition-related costs for legal, due diligence and other costs in connection with the acquisition within operating expenses in our condensed consolidated statement of operations for the year ended December 31, 2023.

We have finalized purchase accounting for Novan acquisition. The following table sets forth an allocation of the purchase price to the identifiable tangible and intangible assets acquired and liabilities assumed, with the excess recorded to goodwill (in thousands):

Restricted cash	$	583
Property and equipment, net		13,054
Operating lease right-of-use asset		3,683
Other assets		137
Deferred tax asset		1,013
Intangible assets acquired		10,700
Goodwill		3,709
Deferred revenue		(4,508)
Operating lease liabilities		(3,683)
Other liabilities		(13,700)
Cash paid for Novan, including restricted cash received		10,988
DIP loan fees and interest		1,162
Total consideration	$	12,150

None of the goodwill is deductible for tax purposes. Acquired intangible assets of $10.7 million related to core technology. The fair value of the core technology was based on the discounted cash flow method that estimated the present value of the potential royalties, milestones, and collaboration revenue streams derived from the licensing of the related technologies. These projected cash flows were discounted to present value using a discount rate of 29%. The fair value of the core technology is being amortized on a straight-line basis over the estimated useful life of 15 years.

Acquired other liabilities of $13.7 million related to a royalty and milestone payments purchase agreement, entered by Novan in 2019 and assumed as part of the acquisition, which previously provided Novan $25.0 million of funding used primarily in the clinical development of berdazimer gel, 10.3%. Pursuant to the purchase agreement, Novan will pay ongoing quarterly payments, calculated based on an applicable percentage per product of any upfront fees, milestone payments, royalty payments or equivalent payments received by Novan pursuant to any out-license agreement, net of any upfront fees, milestone payments, royalty payments or equivalent payments paid by Novan to third parties pursuant to any agreements under which Novan has in-licensed intellectual property with respect to such products. If Novan decides to commercialize any product on its own following regulatory approval, as opposed to commercializing through an out-license agreement or other third-party arrangement, Novan will be obligated to pay a low single digits royalty on net sales of such products. This contract liability was fair valued based on the discounted cash flow method that estimated the present value of the potential royalties, milestones, and collaboration revenue streams derived from the related programs mentioned above, by applying a discount rate of 14.0% (revenue risk-adjusted discount rate).

On April 3, 2024, we announced the creation of Pelthos Therapeutics to focus on the commercialization of innovative, safe, and efficacious therapeutic products for patients suffering from conditions with limited treatment options. ZELSUVMI (berdazimer topical gel, 10.3%), its first product, is the FDA-approved prescription medicine for the treatment of the highly transmissible molluscum contagiosum (molluscum) viral skin infection in adults and pediatric patients one year of age and older. ZELSUVMI received a Novel Drug designation from the FDA in January 2024 to treat molluscum viral skin infection. ZELSUVMI was developed using Pelthos' proprietary nitric oxide-based NITRICIL™ technology platform. The rights to ZELSUVMI and all assets related to the NITRICIL technology platform were acquired from Novan, Inc. in September 2023.

5. Spin-off of OmniAb

On March 23, 2022, we entered into the Separation Agreement to separate our OmniAb Business and the Merger Agreement, pursuant to which APAC would combine with OmniAb, and acquire Ligand's OmniAb Business, in a Reverse Morris Trust transaction (collectively, the “Transactions”).

After the closing date of the Transactions on November 1, 2022, the historical financial results of OmniAb have been reflected in our consolidated financial statements as discontinued operations under GAAP for all periods presented through the date of the Distribution. Pursuant to the Transaction Agreements, Ligand contributed to OmniAb cash and certain specific assets and liabilities constituting the OmniAb Business. Pursuant to the Distribution, Ligand distributed on a pro rata basis to its shareholders as of October 26, 2022 shares of the common stock of OmniAb representing 100% of Ligand’s interest in OmniAb. Immediately following the Distribution, Merger Sub merged with and into OmniAb, with OmniAb continuing as the surviving company in the merger and as a wholly owned subsidiary of New OmniAb. The entire transaction was completed on November 1, 2022, and following the merger, New OmniAb is an independent, publicly traded company whose common stock trades on Nasdaq under the symbol “OABI.” After the Distribution, we do not beneficially own any shares of common stock in OmniAb and no longer consolidate OmniAb into our financial results for periods ending after November 1, 2022.

Discontinued operations

In connection with the merger, the Company determined its antibody discovery business qualified for discontinued operations accounting treatment in accordance with ASC 205-20. We recognized a $1.7 million tax provision adjustment related to deferred taxes, during the six months ended June 30, 2023, that was attributable to the discontinued operations.

6. *Financial Royalty Assets, net (formerly known as Commercial License Rights)*

Financial royalty assets consist of the following (in thousands):

	June 30, 2024			December 31, 2023		
	Gross carrying value[2]	Allowance [1]	Net carrying value [2]	Gross carrying value	Allowance [1]	Net carrying value
Agenus (Bot/Bal)	$ 40,815	$ (408)	$ 40,407	$ —	$ —	$ —
Elutia (CorMatrix)	10,615	(2,915)	7,700	13,304	(7,490)	5,814
Selexis	290	(58)	232	940	(179)	761
Ovid (Soticlestat)	4,122	(41)	4,081	30,310	(303)	30,007
Tolerance Therapeutics (TZIELD)	25,755	(101)	25,654	25,810	(101)	25,709
Ensifentrine inventors	3,685	(111)	3,574	—	—	—
Total financial royalty assets, net	$ 85,282	$ (3,634)	$ 81,648	$ 70,364	$ (8,073)	$ 62,291

(1) The amounts of allowance include cumulated allowance for changes in expected cash flows and cumulated allowance for current expected credit losses.

(2) The amounts include $1.2 million current portion of financial royalty assets which represents an estimation for current quarter royalty receipts that are collected during the subsequent quarter. This portion is presented in other current assets on our condensed consolidated balance sheet as of June 30, 2024.

Financial royalty assets represent a portfolio of future milestone and royalty payment rights acquired from Selexis, S.A. (“Selexis”) in April 2013 and April 2015, CorMatrix Cardiovascular, Inc. (“CorMatrix”) in May 2016, which was later acquired by Aziyo (Aziyo changed its corporate name to Elutia Inc. (“Elutia”) in September 2023) in 2017, Ovid Therapeutics Inc. (“Ovid”) in October 2023, Tolerance Therapeutics, Inc. (“Tolerance Therapeutics”) in November 2023, and from certain ensifentrine inventors in March 2024.

During three and six months ended June 30, 2024, we recorded a $26.2 million impairment loss for Ovid (Soticlestat) financial royalty asset and a $0.3 million impairment loss for Selexis financial royalty asset. There was no impairment loss for the three and six months ended June 30, 2023.

Elutia Agreement

In 2016, Ligand entered into a purchase agreement to acquire certain financial royalty assets from CorMatrix. In 2017, CorMatrix sold its marketed products to Elutia where Elutia assumed the Ligand royalty obligation. In 2017, we amended the terms of the royalty agreement with Elutia where we received $10 million to buydown the royalty rates on the products CorMatrix sold to Elutia (the “CorMatrix Asset Sale”). Per the amended agreement with Elutia, we will receive a 5% royalty, with certain annual minimum payments, on the products Elutia acquired in the CorMatrix Asset Sale and up to $10 million of milestones tied to cumulative net sales of these products. The royalty agreement will terminate on May 31, 2027.

During 2023, due to Elutia's nonpayment of the minimum payments over several quarters, we placed the Elutia asset on the non-accrual method. In January 2024, the Company executed an amendment to our agreement with Elutia which allowed us to reliably estimate future cash flows. As such, the Elutia asset was switched from the non-accrual method to the effective interest method during the first quarter of 2024. We further considered the current and expected future economic and market conditions, current company performance and recent payments received from Elutia. During the three and six months ended June 30, 2024 we recorded a reduction of $1.5 million and $4.6 million, respectively, to Elutia allowance of expected credit loss. The credit loss adjustments were recorded as a gain in general and administrative expense in our consolidated statement of operations for the three and six months ended June 30, 2024.

Soticlestat Agreement

In October 2023, we made an investment of $30 million to acquire a 13% portion of the royalties and milestones owed to Ovid Therapeutics related to the potential approval and commercialization of soticlestat.

In June 2024, Takeda announced topline results of the phase 3 clinical trial of soticlestat, missing its primary endpoint to reduce convulsive seizure frequency compared to placebo in patients with Dravet syndrome, and missing its primary endpoint to reduce major Motor Drop seizure frequency compared to a placebo in patients with Lennox-Gastaut syndrome. As a result, in the three and six months ended June 30, 2024, we recognized an impairment over the soticlestat financial royalty asset of $26.2 million. The fair value of the soticlestat financial royalty asset was determined using a discounted cash flow approach, utilizing the mostly-likely cash flows which considered the probability of success for the underlying clinical program and discount rate of 17% which contemplates the underlying credit and business risk of the partnered program. As of June 30, 2024, management continues to account for the soticlestat financial royalty asset using the non-accrual method until we are able to reliably estimate future cash flows.

TZIELD Agreement

In November 2023, we acquired Tolerance Therapeutics for $20 million in cash. Tolerance Therapeutics is a holding company, owned by the inventors of TZIELD (teplizumab), and is owed a royalty of less than 1% on worldwide net sales. TZIELD is marketed by Sanofi, starting in 2023. For tax purposes this transaction was treated as a stock deal, so there is no step-up in basis and tax attributes. Therefore, a deferred tax liability (DTL) of $5.5 million was recognized on the book basis and tax basis difference and recorded to the book value of the Tolerance financial royalty asset.

Due to the early stages of TZIELD's commercialization, management has placed the investment on the non-accrual method until we are able to reliably estimate future cash flows.

Ensifentrine Inventors Agreements

In March 2024, we acquired future milestone and royalty rights related to ensifentrine from certain ensifentrine inventors for a total of $3.8 million. On June 26, 2024, Verona Pharma plc (Nasdaq: VRNA) received FDA approval for ensifentrine for the maintenance treatment of patients with chronic obstructive pulmonary disease ("COPD"). Verona is planning a commercial launch, marketed as Ohtuvayre™, in the U.S. in the second half of 2024. As commercialization is not yet launched, management has placed the investment on the non-accrual method until we are able to reliably estimate future cash flows.

7. Fair Value Measurements

Assets and Liabilities Measured on a Recurring Basis

The following table presents the hierarchy for our assets and liabilities measured at fair value (in thousands):

	June 30, 2024				December 31, 2023			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Assets:								
Short-term investments, excluding Viking[1]	$ 10,107	$ 145,676	$ —	$ 155,783	$ 7,291	$ 107,879	$ —	$ 115,170
Investment in Viking common stock	53,010	—	—	53,010	32,185	—	—	32,185
Derivative assets[2]	—	—	54,646	54,646	—	—	3,531	3,531
Total assets	$ 63,117	$ 145,676	$ 54,646	$ 263,439	$ 39,476	$ 107,879	$ 3,531	$ 150,886
Liabilities:								
Contingent liabilities - CyDex	$ —	$ —	$ 264	$ 264	$ —	$ —	$ 320	$ 320
Contingent liabilities - Metabasis[3]	—	3,934	—	3,934	—	2,878	—	2,878
Total liabilities	$ —	$ 3,934	$ 264	$ 4,198	$ —	$ 2,878	$ 320	$ 3,198

(1) Excluding our investment in Viking, corporate equity securities, and US government securities, our short-term investments in marketable debt and equity securities are classified as available-for-sale securities based on management's intentions and are at level 2 of the fair value hierarchy, as these investment securities are valued based upon quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market. Short-term investments in bond funds are valued at their net asset value (NAV) on the last day of the period. We have classified marketable securities with original maturities of greater than one year as short-term investments based upon our ability and intent to use any and all of those marketable securities to satisfy the liquidity needs of our current operations. In addition, we had investment in warrants resulting from Seelos Therapeutics Inc. milestone payments that were settled in shares during the first quarter of 2019 and were at level 3 of the fair value hierarchy, based on Black-Scholes value estimated by management on the last day of the period. This investment in warrants expired in January 2024.

(2) Derivative assets include instruments used for risk-management purposes, and other instruments. Derivative assets which are not used for risk management purposes include: (a) acquired rights in future milestone and royalty payments from Agenus Partnered Programs, (b) Agenus Warrant, (c) Upsize Option, and (d) rights to receive from Primrose Bio 50% of milestones on two contracts previously entered into by Primordial Genetics. The considerations were recognized as derivative assets included under Current derivative assets and Long-term derivative assets in our condensed consolidated balance sheet. They are recognized as derivative assets under ASC 815, Derivatives and Hedging. The fair value of the Agenus Partnered Programs and the Primrose Bio derivative assets was determined using a discounted cash flow approach, utilizing the mostly-likely cash flows which considered the probability of success for the underlying clinical programs and discount rates ranging between 13% and 25%, which contemplates the underlying credit and business risk of the partnered programs. The fair value of the Agenus Warrant was determined using a Black-Scholes-Merton model. The fair value of the Upsize Option was determined using a binomial option pricing model.

(3) In connection with our acquisition of Metabasis in January 2010, we issued Metabasis stockholders four tradable CVRs, one CVR from each of four respective series of CVR, for each Metabasis share. The CVRs entitle Metabasis stockholders to cash payments as frequently as every six months as cash is received by us from proceeds from the sale or partnering of any of the Metabasis drug development programs, among other triggering events. The liability for the CVRs is determined using quoted prices in a market that is not active for the underlying CVR. The carrying amount of the liability may fluctuate significantly based upon quoted market prices and actual amounts paid under the agreements may be materially different than the carrying amount of the liability. Several of the Metabasis drug development programs have been outlicensed to Viking, including VK2809. VK2809 is a novel selective TR-β agonist with potential in multiple indications, including hypercholesterolemia, dyslipidemia, NASH, and X-ALD. Under the terms of the agreement with Viking, we may be entitled to up to $375 million of development, regulatory and commercial milestones and tiered royalties on potential future sales including a $10 million payment upon initiation of a Phase 3 clinical trial. During the three and six months ended June 30, 2024, we adjusted the balance of the Metabasis CVR liability by increasing $1.1 million and $1.1 million, respectively, to mark to market.

A reconciliation of the level 3 financial instruments as of June 30, 2024 is as follows (in thousands):

Assets		
Fair value of level 3 financial instruments as of December 31, 2023	$	3,531
Additions to derivative assets		34,185
Fair value adjustments to derivative assets		16,930
Fair value of level 3 financial instruments as of June 30, 2024	$	54,646
Liabilities		
Fair value of level 3 financial instruments as of December 31, 2023	$	320
Payments to CVR holders and other contingent payments		(200)
Fair value adjustments to contingent liabilities		144
Fair value of level 3 financial instruments as of June 30, 2024	$	264

Assets Measured on a Non-Recurring Basis

We apply fair value techniques on a non-recurring basis associated with valuing potential impairment losses related to our goodwill, intangible assets with estimated useful lives and long-lived assets.

We evaluate goodwill annually for impairment and whenever circumstances occur indicating that goodwill might be impaired. We determine the fair value of our reporting unit based on a combination of inputs, including the market capitalization of Ligand, as well as Level 3 inputs such as discounted cash flows, which are not observable from the market, directly or indirectly.

We evaluate intangible assets with estimated useful lives whenever circumstances occur indicating that intangible assets may not be recoverable An impairment evaluation is based on an undiscounted cash flow analysis at the lowest level at which cash flows of the long-lived assets are largely independent of other groups of assets and liabilities.

There was no impairment of our goodwill, intangible assets, or long-lived assets recorded during the three and six months ended June 30, 2024 and 2023.

Fair Value of Financial Instruments

Our cash and cash equivalents, accounts receivable, other current assets, financial royalty assets, accounts payable, accrued liabilities, deferred revenue, current operating lease liabilities, current finance lease liabilities and Novan (Pelthos) other long-term liabilities are financial instruments and are recorded at cost in the consolidated balance sheets. The estimated fair value of these financial instruments approximates their carrying value due to their short-term nature.

8. Debt

Revolving Credit Facility

On October 12, 2023, we entered into a $75 million revolving credit facility (the “Revolving Credit Facility”) with Citibank, N.A. as the Administrative Agent (as defined in the Credit Agreement). We, our material domestic subsidiaries, as Guarantors (as defined in the Credit Agreement), and the Lenders (as defined in the Credit Agreement) entered into a credit agreement (the “Credit Agreement”) with the Administrative Agent, under which the Lenders, the Swingline Lender and the L/C Issuer (each as defined in the Credit Agreement) agreed to make loans and other financial accommodations to us in an aggregate amount of up to $75 million. Borrowings under the Revolving Credit Facility accrue interest at a rate equal to either Term Secured Overnight Financing Rate (“Term SOFR”) or a specified base rate plus an applicable margin linked to our leverage ratio, ranging from 1.75% to 2.50% per annum for Term SOFR loans and 0.75% to 1.50% per annum for base rate loans. The Revolving Credit Facility is subject to a commitment fee payable on the unused Revolving Credit Facility commitments ranging from 0.30% to 0.45%, depending on our leverage ratio. During the term of the Revolving Credit Facility, we may borrow, repay and re-borrow amounts available under the Revolving Credit Facility, subject to voluntary reductions of the swing line, letter of credit and revolving credit commitments.

Borrowings under the Credit Agreement are secured by certain of our collateral and that of the Guarantors. In specified circumstances, additional guarantors are required to be added. The Credit Agreement contains customary affirmative and negative covenants, including certain financial maintenance covenants, and events of default applicable to us. In the event of violation of the representations, warranties and covenants made in the Credit Agreement, we may not be able to utilize the Revolving Credit Facility or repayment of amounts owed thereunder could be accelerated.

As of June 30, 2024, we had $74.4 million in available borrowing under the Revolving Credit Facility, after utilizing $0.6 million for letter of credit. The maturity date of the Revolving Credit Facility is October 12, 2026.

As of June 30, 2024, there were no events of default or violation of any covenants under our financing obligations.

Amendment to Revolving Credit Facility

On July 8, 2024, we entered into the first amendment (the "Amendment") to the Revolving Credit Facility, which amends the Credit Agreement to, among other things, increase the aggregate revolving credit facility amount from $75 million to $125 million.

9. Income Tax

Our effective tax rate may vary from the U.S. federal statutory tax rate due to the change in the mix of earnings in various foreign and state jurisdictions with different statutory rates, the use of previously unbenefited tax loss carryforwards to reduce foreign taxes, benefits related to tax credits, and the tax impact of non-deductible expenses, stock award activities and other permanent differences between income before income taxes and taxable income. The effective tax rate for the three months ended June 30, 2024 and 2023 was 20.6% and 27.8%, respectively, and the six months ended June 30, 2024 and 2023 was 28.8% and 21.8%, respectively. The variance from the U.S. federal statutory tax rate of 21% for the three and six months ended June 30, 2024 was primarily due to Internal Revenue Code Section 162(m) limitation on deduction for officer compensation, other non-deductible items, and change in reserve, which were partially offset by the foreign derived intangible income tax benefit. The variance from the U.S. federal statutory tax rate of 21% for the three and six months ended June 30, 2023 was primarily due to the tax deductions related to the foreign derived intangible income tax benefit as well as the research and development tax credits, which were partially offset by the Section 162(m) limitation during the period.

10. Stockholders' Equity

We grant options and awards to employees and non-employee directors pursuant to a stockholder approved stock incentive plan, which is described in further detail in *Note 10, Stockholders' Equity*, of the Notes to Consolidated Financial Statements in our 2023 Annual Report.

In June 2024, our stockholders approved the amendment and restatement of the Ligand Pharmaceuticals Incorporated 2002 Stock Incentive Plan, which increased the shares available for issuance by 1.3 million.

The following is a summary of our stock option and restricted stock activity and related information:

	Stock Options		Restricted Stock Awards	
	Shares	Weighted-Average Exercise Price	Shares	Weighted-Average Grant Date Fair Value
Balance as of December 31, 2023	2,640,458	$ 65.70	350,905	$ 81.22
Granted	701,063	$ 85.64	318,588	$ 85.23
Options exercised/RSUs vested	(462,667)	$ 53.23	(121,868)	$ 86.21
Forfeited	(41,827)	$ 67.74	(35,264)	$ 65.94
Balance as of June 30, 2024	2,837,027	$ 72.63	512,361	$ 83.58

As of June 30, 2024, outstanding options to purchase 1.5 million shares were exercisable with a weighted average exercise price per share of $68.83.

Employee Stock Purchase Plan

The price at which common stock is purchased under the Amended Employee Stock Purchase Plan, or ESPP, is equal to 85% of the fair market value of the common stock on the first or last day of the offering period, whichever is lower. As of June 30, 2024, 26,244 shares were available for future purchases under the ESPP.

At-the Market Equity Offering Program

On September 30, 2022, we filed a registration statement on Form S-3 (the "Shelf Registration Statement"), which became automatically effective upon filing, covering the offering of common stock, preferred stock, debt securities, warrants and units.

On September 30, 2022, we also entered into an At-The-Market Equity Offering Sales Agreement (the "Sales Agreement") with Stifel, Nicolaus & Company, Incorporated (the "Agent"), under which we may, from time to time, sell shares of our common stock having an aggregate offering price of up to $100 million in "at the market" offerings through the Agent (the "ATM Offering"). The Shelf Registration Statement included a prospectus covering the offering, issuance and sale of up to $100 million of our common stock from time to time through the ATM Offering. The shares to be sold under the Sales

Agreement may be issued and sold pursuant to the Shelf Registration Statement. As of June 30, 2024, we have not issued any shares of common stock in the ATM Offering.

Share Repurchases

Our Board of Directors (the "Board") has approved a stock repurchase program authorizing, but not requiring, the repurchase of up to $50 million of our common stock from time to time through April 2026. We expect to acquire shares, if at all, primarily through open-market transactions in accordance with all applicable requirements of Rule 10b-18 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The timing and amount of repurchase transactions will be determined by management based on our evaluation of market conditions, share price, legal requirements and other factors. Authorization to repurchase $50 million of our common stock remained available as of June 30, 2024.

11. Commitment and Contingencies

Legal Proceedings

We record an estimate of a loss when the loss is considered probable and estimable. Where a liability is probable and there is a range of estimated loss and no amount in the range is more likely than any other number in the range, we record the minimum estimated liability related to the claim in accordance with ASC 450, *Contingencies*. As additional information becomes available, we assess the potential liability related to our pending litigation and revises our estimates. Revisions in our estimates of potential liability could materially impact our results of operations.

On October 31, 2019, we received three civil complaints filed in the U.S. District Court for the Northern District of Ohio on behalf of several Indian tribes. The Northern District of Ohio is the Court that the Judicial Panel on Multi-District Litigation ("JPML") has assigned more than one thousand civil cases which have been designated as a Multi-District Litigation ("MDL") and captioned In Re: National Prescription Opiate Litigation. The allegations in these complaints focus on the activities of defendants other than the Company and no individualized factual allegations have been advanced against us in any of the 3 complaints. We reject all claims raised in the complaints and intend to vigorously defend these matters.

From time to time, we may also become subject to other legal proceedings or claims arising in the ordinary course of our business. We currently believe that none of the claims or actions pending against us is likely to have, individually or in aggregate, a material adverse effect on our business, financial condition or results of operations. Given the unpredictability inherent in litigation, however, we cannot predict the outcome of these matters.

Operating Leases

During the three and six months ended June 30, 2024, we entered into a lease agreement for our office located in Boston, Massachusetts, which resulted in a $1.6 million increase in both operating lease assets and operating lease liabilities at lease commencement.

12. Subsequent Events

APEIRON Acquisition

On July 8, 2024, we entered into a definitive agreement (the "Agreement") to acquire APEIRON Biologics AG ("APEIRON"), including the royalty rights to QARZIBA® (dinutuximab beta) for the treatment of high-risk neuroblastoma (the "APEIRON Acquisition"). Under the terms of the Agreement, we would acquire all the outstanding shares of APEIRON for $100 million in cash at closing. We would also pay APEIRON shareholders additional consideration based on future commercial and regulatory events, including up to $28 million if QARZIBA royalties exceed certain predetermined thresholds by either 2030 or 2034, respectively, for a total transaction value of up to $128 million and pay additional earn-outs on specific future events. Concurrently, we also entered into a stock purchase agreement whereby we have committed to investing up to $4 million in invIOs Holding AG, a privately held spin-off of APEIRON. The proceeds would help finance the research and development of three innovative early-stage immuno-oncology assets. APEIRON is entitled to royalties and milestone payments on these assets which will further expand our development stage portfolio.

On July 15, 2024, we completed the acquisition of APEIRON pursuant to the terms of the Agreement for an aggregate amount of $100 million. We funded the APEIRON Acquisition from our available cash on hand. The closing was subject to a 30-day shareholder objection period and other customary closing conditions.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Caution: This discussion and analysis may contain predictions, estimates and other forward-looking statements that involve a number of risks and uncertainties, including those discussed in Part II, Item 1A. Risk Factors. This outlook represents our current judgment on the future direction of our business. These statements include those related to our future results of operations and financial position, Captisol-related revenues and Kyprolis and other product royalty revenues and milestones under license agreements, product development, and product regulatory filings and approvals, and the timing thereof. Actual events or results may differ materially from our expectations. For example, there can be no assurance that our revenues or expenses will meet any expectations or follow any trend(s), that we will be able to retain our key employees or that we will be able to enter into any strategic partnerships or other transactions. We cannot assure you that we will receive expected Kyprolis, Captisol and other product revenues to support our ongoing business or that our internal or partnered pipeline products will progress in their development, gain marketing approval or achieve success in the market. In addition, ongoing or future arbitration, litigation or disputes with third parties may have a material adverse effect on us. Such risks and uncertainties, and others, could cause actual results to differ materially from any future performance suggested. We undertake no obligation to make any revisions to these forward-looking statements to reflect events or circumstances arising after the date of this quarterly report. This caution is made under the safe harbor provisions of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

We use our trademarks, trade names and services marks in this report as well as trademarks, trade names and service marks that are the property of other organizations. Solely for convenience, trademarks and trade names referred to in this report appear without the ® and ™ symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trade marks and trade names.

References to "Ligand Pharmaceuticals Incorporated," "Ligand," the "Company," "we" or "our" include Ligand Pharmaceuticals Incorporated and our wholly-owned subsidiaries.

Overview

We are a biopharmaceutical company enabling scientific advancement through supporting the clinical development of high-value medicines. We do this by providing financing, licensing our technologies or both. Our business model seeks to generate value for stockholders by creating a diversified portfolio of biopharmaceutical product revenue streams that are supported by an efficient and low corporate cost structure. Our goal is to offer investors an opportunity to participate in the promise of the biotech industry in a profitable and diversified manner. Our business model focuses on funding programs in mid- to late-stage drug development in return for economic rights, purchasing royalty rights in development stage or commercial biopharmaceutical products and licensing our technology to help partners discover and develop medicines. We partner with other pharmaceutical companies to leverage what they do best (late-stage development, regulatory management and commercialization) in order to generate our revenue. Our Captisol platform technology is a chemically modified cyclodextrin with a structure designed to optimize the solubility and stability of drugs. We have established multiple alliances, licenses and other business relationships with the world's leading biopharmaceutical companies including Amgen, Merck, Pfizer, Jazz, Takeda, Gilead Sciences, Baxter International and Agenus.

Our revenue is generated primarily from royalties on sales of products commercialized by our partners, Captisol material sales, and contract revenue for license fees, regulatory and sales based milestone payments. Other operating income is primarily related to milestone income received for financial royalty assets that have been fully amortized or where there is no underlying asset recognized on the consolidated balance sheets. Also, we selectively pursue acquisitions and drug development funding opportunities that address high unmet clinical needs to bring in new assets, pipelines, and technologies to aid in generating additional potential new incremental revenue streams.

Business Updates

On July 8, 2024, we announced the $100 million acquisition of APEIRON Biologics, a private biotech company based in Vienna, Austria. Apeiron holds the royalty rights to QARZIBA (dinutuximab beta) for the treatment of high-risk neuroblastoma. QARZIBA was approved by the European Medicines Agency in 2017 and is commercially available today in more than 35 countries. QARZIBA is marketed outside of mainland China by the global pharmaceutical company Recordati S.p.A., which acquired EUSA Pharma (UK) Limited in 2022.

On July 8, 2024, we also amended our revolving credit facility with Citibank. The Credit Agreement was amended to, among other things, increase the aggregate revolving credit facility amount from $75 million to $125 million.

On July 24, 2024, Palvella Therapeutics, Inc. (private) announced a merger agreement with Pieris Pharmaceuticals, Inc. (Nasdaq: PIRS) in which Palvella anticipates becoming a publicly traded rare disease company upon the close of the merger. In connection with the proposed merger, Palvella secured commitments from a syndicate of leading specialist biotech investors in an oversubscribed $78.9 million concurrent private financing.

The transaction will help advance several clinical milestones for Palvella:

- A Phase 3 pivotal study of QTORIN 3.9% rapamycin anhydrous gel for the treatment of microcystic lymphatic malformations, a serious, rare genetic and lifelong disease for which there are no FDA-approved therapies. The disease impacts more than 30,000 diagnosed patients in the U.S. QTORIN rapamycin has been granted FDA's Breakthrough Therapy, Fast Track, and Orphan Designations for the treatment of microcystic lymphatic malformations.
- A Phase 2 study of QTORIN rapamycin for the treatment of cutaneous venous malformations. Cutaneous venous malformations are a serious, rare genetic disease which can cause functional impairment, significantly impact quality of life, and are associated with severe long-term complications. QTORIN rapamycin has been granted FDA's Fast Track Designation for the treatment of venous malformations.

Notably, if approved, QTORIN™ rapamycin has the potential to be the first approved therapy and standard of care in the U.S. for microcystic lymphatic malformations and cutaneous venous malformations.

As background, Palvella was originally sourced through our proactive deal origination efforts. Since our first transaction with Palvella, the company has secured significant subsequent equity funding from leading biotech investors, including BVF Partners, Petrichor, Samsara BioCapital, and others. We are entitled to a royalty of 8-9.8% on worldwide commercial sales of QTORIN rapamycin. In addition to our royalty, we anticipate owning approximately 2% of the combined company following the close of the reverse merger and concurrent financing.

Portfolio Updates

On July 18, 2024, Agenus Inc. (Nasdaq: AGEN), announced the results of its end-of-Phase 2 meeting with the FDA, for the advancement of its immunotherapy combination, botensilimab (BOT) and balstilimab (BAL), for the treatment of adult patients with relapsed/refractory microsatellite stable colorectal cancer (r/r MSS CRC) with no active liver metastases (NLM). Agenus received clarity from the FDA on their Phase III dosing regimen, which is an important achievement. The company also announced topline interim data from its Phase 2 trial, which are showing trends consistent with the Phase 1 study, including an ORR of 19.4% and 6-month survival rate of 90% for the BOT 75mg/BAL combination. The safety profile was manageable and no new signals were observed. Agenus plans to continue future discussions with the FDA as the Phase 2 data mature and will present these data in totality at an upcoming medical conference.

On June 26, 2024, Verona Pharma plc (Nasdaq: VRNA) announced FDA approval of Ohtuvayre (ensifentrine), the first inhaled product with a novel mechanism of action available for the maintenance treatment of chronic obstructive pulmonary disease in adult patients in more than 20 years. Ohtuvayre is a first-in-class selective dual inhibitor of the enzymes phosphodiesterase 3 phosphodiesterase 4 ("PDE3 and PDE4") that combines bronchodilator and non-steroidal anti-inflammatory effects in one molecule. Ligand earned a $5.8 million milestone payment upon FDA approval of Ohtuvayre and will earn an additional $13.8 million upon its commercial launch which is expected to occur during the third quarter of 2024. Ligand is entitled to a royalty of approximately 3% on future worldwide net sales of Ohtuvayre.

On June 17, 2024, Merck announced approval from the FDA for CAPVAXIVE, previously known as V116, a 21 valent pneumococcal vaccine for the prevention of Streptococcus pneumoniae infection. Risk of infection is higher among patients that are immunocompromised, suffering chronic health conditions, and adults aged 50 years or older. As the first pneumococcal conjugate vaccine specifically designed for adults, it covers 21 serotypes that account for approximately 85% of cases of invasive pneumococcal disease among individuals 65 and over, including 8 serotypes not covered by any licensed vaccines. Specific serotypes pose potentially greater risk for invasive pneumococcal disease, including pneumococcal bacteremia and meningitis. Following the FDA approval, Merck announced on June 27, that the U.S. Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices unanimously voted to recommend CAPVAXIVE as an option for all adults age 65 and older, for adults 19 to 64 with certain risk factors, and for those over 65 previously vaccinated with other pneumococcal vaccines. The FDA approval of CAPVAXIVE triggered a $2 million milestone payment to Ligand, and Ligand is entitled to a royalty on future worldwide net sales.

On June 17, 2024, Ovid Therapeutics (Nasdaq: OVID) announced Takeda's SKYLINE study of soticlestat in Dravet syndrome narrowly missed its primary endpoint of reduction in convulsive seizure frequency and showed clinically meaningful and nominal significant effects in multiple key secondary efficacy endpoints. Additionally, Takeda's SKYWAY study in Lennox-Gastaut syndrome missed its primary endpoint of reduction in major motor drop seizures. Soticlestat had a consistent and favorable safety and tolerability profile in both studies. Takeda indicated that it plans to discuss the totality of the data with regulatory authorities.

On June 17, 2024, Marinus Pharmaceuticals (Nasdaq: MRNS) announced topline results from Phase 3 RAISE trial of IV ganaxolone in refractory status epilepticus (RSE). The study met its first co-primary endpoint demonstrating rapid cessation of status epilepticus in a highly refractory patient population but failed to achieve statistical significance on the second co-primary endpoint of the proportion of patients not progressing to IV anesthesia. Marinus said they will continue to analyze the full RAISE dataset and plans to engage with the FDA to discuss a potential path forward for IV ganaxolone in RSE.

On June 4, 2024, Viking Therapeutics announced positive, 52-week histologic data from its Phase 2b VOYAGE study of VK2809 in patients with biopsy-confirmed, non-alcoholic steatohepatitis (NASH). The study had successfully achieved its primary endpoint with patients receiving VK2809 experiencing statistically significant declines in liver fat from baseline compared to placebo at 12 weeks. The study also showed an encouraging tolerability and safety profile for VK2809. If development of VK2809 is successful, the program will address a multi-billion dollar market opportunity where Ligand will receive a 3.5%-7.5% royalty on future net sales of VK2809, as well as significant clinical, regulatory, and commercial milestones. Viking plans to schedule an end of Phase 2 meeting with the FDA in the fourth quarter of 2024.

Results of Operations

Revenue and Other Income

(Dollars in thousands)	Q2 2024	Q2 2023	Change	% Change	YTD 2024	YTD 2023	Change	% Change
Revenue from intangible royalty assets	$ 22,603	$ 20,430	$ 2,173	11 %	$ 40,960	$ 37,584	$ 3,376	9 %
Income from financial royalty assets	559	508	51	10 %	1,297	1,001	296	30 %
Royalties	23,162	20,938	2,224	11 %	42,257	38,585	3,672	10 %
Captisol	7,500	5,220	2,280	44 %	16,712	15,842	870	5 %
Contract revenue and other income	10,869	208	10,661	5,125 %	13,540	15,918	(2,378)	(15)%
Total revenue and other income	$ 41,531	$ 26,366	$ 15,165	58 %	$ 72,509	$ 70,345	$ 2,164	3 %

Q2 2024 vs. Q2 2023

Total revenue and other income increased by $15.2 million, or 58%, to $41.5 million in Q2 2024 compared to $26.4 million in Q2 2023. Revenue from intangible royalty assets increased by $2.2 million, or 11%, to $22.6 million in Q2 2024 compared to $20.4 million in Q2 2023 primarily due to increases of FILSPARI sales. Income from financial royalty assets increased by $0.05 million, or 10%, to $0.6 million in Q2 2024 compared to $0.5 million in Q2 2023. Captisol sales increased by $2.3 million, or 44%, to $7.5 million in Q2 2024 compared to $5.2 million in Q2 2023, primarily due to the timing of customer orders. Contract revenue and other income increased by $10.7 million, or 5,125%, to $10.9 million in Q2 2024 compared to $0.2 million in Q2 2023, primarily due to the milestone tied to FDA approval of Verona's Ohtuvayre in Q2 2024, the milestone tied to EMA approval of Travere's FILSPARI in Q2 2024, and the milestone tied to FDA approval of Merck's V116 in Q2 2024.

YTD 2024 vs. YTD 2023

Total revenue and other income increased by $2.2 million, or 3%, to $72.5 million in YTD 2024 compared to $70.3 million in YTD 2023. Revenue from intangible royalty assets increased by $3.4 million, or 9%, to $41.0 million in YTD 2024 compared to $37.6 million in YTD 2023 primarily due to increases of FILSPARI sales. Income from financial royalty assets increased by $0.3 million, or 30%, to $1.3 million in YTD 2024 compared to $1.0 million in YTD 2023. Captisol sales increased by $0.9 million, or 5%, to $16.7 million in YTD 2024 compared to $15.8 million in YTD 2023, primarily due to the timing of customer orders. Contract revenue and other income decreased by $2.4 million, or 15%, to $13.5 million in YTD 2024 compared to $15.9 million in YTD 2023, primarily due to the milestone tied to FDA approval of Travere’s FILSPARI during the first quarter of 2023.

Revenue from intangible royalty assets is a function of our partners’ product sales and the applicable royalty rate. Kyprolis royalty rates are under a tiered royalty rate structure with the highest tier being 3%. Evomela has a fixed royalty rate of 20%. Teriparatide injection has a tiered royalty between 25% and 40% on sales that have been adjusted for certain deductible items as defined in the respective license agreement. The Rylaze and Vaxneuvance royalty rates are in the low single digits. Filspari has a fixed royalty rate of 9%.

The following table represents revenue from intangible royalty assets by program (in millions):

(in millions)	Q2 2024 Estimated Partner Product Sales	Effective Royalty Rate	Q2 2024 Royalty Revenue	Q2 2023 Estimated Partner Product Sales	Effective Royalty Rate	Q2 2023 Royalty Revenue
Kyprolis	**$ 400.0**	**2.3 %**	**$ 9.0**	$ 372.4	2.2 %	$ 8.1
Evomela	**13.5**	**20.0 %**	**2.7**	12.0	20.0 %	2.4
Teriparatide injection[(a)]	**7.8**	**26.9 %**	**2.1**	11.5	31.3 %	3.6
Rylaze	**107.8**	**3.0 %**	**3.2**	98.0	3.1 %	3.0
Filspari	**26.7**	**9.0 %**	**2.4**	3.3	9.0 %	0.3
Vaxneuvance	**189.0**	**0.6 %**	**1.1**	168.0	0.6 %	1.0
Other	**103.8**	**2.0 %**	**2.1**	85.4	2.3 %	2.0
Total	**$ 848.6**		**$ 22.6**	$ 750.6		$ 20.4

(in millions)	YTD 2024 Estimated Partner Product Sales	Effective Royalty Rate	YTD 2024 Royalty Revenue	YTD 2023 Estimated Partner Product Sales	Effective Royalty Rate	YTD 2023 Royalty Revenue
Kyprolis	**$ 802.4**	**1.9 %**	**$ 15.6**	$ 749.4	1.9 %	$ 14.3
Evomela	**20.5**	**20.0 %**	**4.1**	24.5	20.0 %	4.9
Teriparatide injection[(a)]	**15.6**	**26.3 %**	**4.1**	23.2	30.6 %	7.1
Rylaze	**210.5**	**2.9 %**	**6.2**	181.0	3.1 %	5.6
Filspari	**46.7**	**9.0 %**	**4.2**	6.7	9.0 %	0.6
Vaxneuvance	**402.4**	**0.6 %**	**2.5**	272.3	0.6 %	1.7
Other	**195.2**	**2.2 %**	**4.3**	134.9	2.5 %	3.4
Total	**$ 1,693.3**		**$ 41.0**	$ 1,392.0		$ 37.6

(a) We receive tiered profit sharing of 25% on quarterly profits less than $3.75 million, 35% on quarterly profits greater than $3.75 million but less than $7.5 million and 40% on quarterly profits greater than $7.5 million.

Contract revenue includes service revenue, license fees and development, regulatory and sales based milestone payments.

Operating Costs and Expenses

(Dollars in thousands)	Q2 2024	% of Revenue	Q2 2023	% of Revenue	YTD 2024	% of Revenue	YTD 2023	% of Revenue
Cost of Captisol	**$ 2,906**		$ 1,669		**$ 5,788**		$ 5,386	
Amortization of intangibles	**8,257**		8,539		**16,443**		17,078	
Research and development	**5,354**		6,854		**11,325**		13,517	
General and administrative	**17,623**		11,287		**28,574**		22,142	
Financial royalty assets impairment	**26,491**		$ —		**26,491**		—	
Total operating costs and expenses	**$ 60,631**	**146%**	$ 28,349	108%	**$ 88,621**	**122%**	$ 58,123	83%

Q2 2024 vs. Q2 2023

Total operating costs and expenses increased by $32.3 million, or 114%, to $60.6 million in Q2 2024 compared to $28.3 million in Q2 2023, primarily due to the $26.5 million financial royalty asset impairment.

Cost of Captisol increased by $1.2 million, or 74%, to $2.9 million in Q2 2024 compared to $1.7 million in Q2 2023, with the increase primarily due to the higher Captisol sales this quarter.

Amortization of intangibles decreased by $0.3 million, or 3%, to $8.3 million in Q2 2024 compared to $8.5 million in Q2 2023 with the decrease primarily due to the cessation of amortization of certain Pelican intangibles resulting from the sale of the Pelican business.

At any one time, we are working on multiple R&D programs. As such, we generally do not track our R&D expenses on a specific program basis. Research and development expense was $5.4 million for Q2 2024, compared with $6.9 million for Q2 2023, with the decrease primarily due to sale of the Pelican business in September 2023, offset by the increase in R&D expenses related to the acquisition of Novan (Pelthos)in September 2023.

General and administrative expense was $17.6 million for Q2 2024, compared to $11.3 million for Q2 2023, with the increase primarily due to the increase in stock compensation for new hires in 2024 and a Q2 2024 stock compensation award modification.

Financial royalty asset impairment was $26.5 million for Q2 2024, compared to zero for Q2 2023, with the increase due to the Takeda's Soticlestat missing its phase 3 clinical trial primarily endpoint of reducing the frequency of convulsive seizures for patients with Dravet Syndrome.

YTD 2024 vs. YTD 2023

Total operating costs and expenses increased by $30.5 million, or 52%, to $88.6 million in YTD 2024 compared to $58.1 million in YTD 2023, primarily due to the $26.5 million financial royalty asset impairment.

Cost of Captisol increased by $0.4 million, or 7%, to $5.8 million in YTD 2024 compared to $5.4 million in YTD 2023, with the increase primarily due to the higher Captisol sales in YTD 2024.

Amortization of intangibles decreased by $0.6 million, or 4%, to $16.4 million in YTD 2024 compared to $17.1 million in YTD 2023 with the decrease primarily due to the cessation of amortization of certain Pelican intangibles resulting from the sale of the Pelican business.

At any one time, we are working on multiple R&D programs. As such, we generally do not track our R&D expenses on a specific program basis. Research and development expense was $11.3 million for YTD 2024, compared with $13.5 million for YTD 2023, with the decrease primarily due to sale of the Pelican business in September 2023, offset by the increase in R&D expenses related to the acquisition of Novan (Pelthos) in September 2023.

General and administrative expense was $28.6 million for YTD 2024, compared to $22.1 million for YTD 2023, with the increase primarily due to the increase in stock compensation for new hires in 2024 and a Q2 2024 stock compensation award modification.

Financial royalty asset impairment was $26.5 million for YTD 2024, compared to zero for YTD 2023, with the increase due to the Takeda's Soticlestat missing its phase 3 clinical trial primarily endpoint of reducing the frequency of convulsive seizures for patients with Dravet Syndrome.

Non-operating Income and Expenses

(Dollars in thousands)	Q2 2024	Q2 2023	Change	YTD 2024	YTD 2023	Change
(Loss) gain from short-term investments	**$ (14,256)**	$ 3,991	$ (18,247)	**$ 96,516**	$ 43,524	$ 52,992
Interest income	**2,757**	2,320	437	**4,777**	3,755	1,022
Interest expense	**(1,268)**	(284)	(984)	**(1,411)**	(524)	(887)
Other non-operating expense, net	**(33,523)**	(873)	(32,650)	**(35,713)**	(270)	(35,443)
Total non-operating income and expenses, net	**$ (46,290)**	$ 5,154	$ (51,444)	**$ 64,169**	$ 46,485	$ 17,684

Q2 2024 vs. Q2 2023

The fluctuation in the (loss) gain from short-term investments is primarily driven by the changes in the fair value of our ownership in Viking common stock, a collar arrangement we have executed in Q2 2024 to hedge against the fluctuation in Viking's share price, and other equity security investments. The loss from short-term investments was $14.3 million in Q2 2024 as compared to the gain from short-term investments of $4.0 million in Q2 2023. In Q2 2024, we recorded an unrealized loss on Viking shares of $29.0 million compared to a $13.5 million unrealized loss in Q2 2023. In Q2 2024, the fair value adjustment to the collar agreement executed in Q2 2024 was a gain of $15.2 million. We did not have a comparable collar agreement in Q2 2023. In Q2 2023, we sold 1.3 million shares of Viking common stock and recognized a total realized gain of $16.6 million. We sold no shares of Viking common stock in Q2 2024.

Interest income consists primarily of interest earned on our short-term investments. The increase over the prior year was due to the increase in average investment balances in Q2 2024 compared to Q2 2023.

In Q2 2024, interest expense consists primarily of a royalty and milestone payments purchase agreement, entered by Novan (Pelthos) in 2019, and assumed as part of the acquisition in September 2023. In Q2 2023, interest expense consists primarily of the 0.75% coupon cash interest expense and the non-cash accretion of discount (including the amortization of debt issuance cost) on our 2023 Notes. In May 2023, the 2023 Notes matured, and we paid the remaining $76.9 million principal amount and $0.3 million accrued interest in cash. The increase in interest expense in Q2 2024 was primarily driven by a $1.1 million interest expense related to the Novan (Pelthos) royalty and milestone payments purchase agreement.

Other non-operating expense, net, primarily consists of fair value adjustments to Primrose Bio investments, equity method loss related to Primrose Bio, and mark-to-market adjustments on derivatives (other than Collar arrangement) and CVRs. Other non-operating expense, net, in Q2 2024 increased by $32.7 million as compared to Q2 2023, primarily due to the revaluation of Primrose investments and the equity method loss related to Primrose Bio in Q2 2024.

YTD 2024 vs. YTD 2023

The fluctuation in the (loss) gain from short-term investments is primarily driven by the changes in the fair value of our ownership in Viking common stock, a collar arrangement we executed in Q2 2024 to hedge against the fluctuation in Viking's share price, and other equity security investments. The gain from short-term investments was $96.5 million in YTD 2024 as compared to $43.5 million in YTD 2023. In YTD 2024, we recorded an unrealized gain on Viking shares of $21.8 million compared to a $5.1 million unrealized gain in YTD 2023. In YTD 2024, the fair value adjustment to the collar agreement executed in Q2 2024 was a gain of $15.2 million. We did not have a comparable collar agreement in YTD 2023.

Interest income consists primarily of interest earned on our short-term investments. The increase over the prior year was due to the increase in average investment balances in YTD 2024 compared to YTD 2023.

Interest expense consists primarily of the 0.75% coupon cash interest expense and the non-cash accretion of discount (including the amortization of debt issuance cost) on our 2023 Notes along with a royalty and milestone payments purchase agreement, entered by Novan (Pelthos) in 2019, and assumed as part of the acquisition in September 2023. In May 2023, the 2023 Notes matured. The increase in interest expense in YTD 2024 was primarily driven by a $1.1 million interest expense related to the Novan (Pelthos) royalty and milestone payments purchase agreement.

Gain on derivative instruments consists of change in fair value of Primrose mRnA derivative and Agenus derivatives. We did not have the comparable derivatives in YTD 2023.

Other non-operating expense, net, primarily consists of change in fair value adjustments to Primrose Bio investments, equity method loss related to Primrose Bio, and mark-to-market adjustments on CVRs. Other non-operating expense, net, in YTD 2024 increased by $35.4 million as compared to YTD 2023, primarily due to the revaluation of Primrose investments and the equity method loss related to Primrose Bio in YTD 2024.

Income Tax Expense

(Dollars in thousands)	Q2 2024	Q2 2023	Change	YTD 2024	YTD 2023	Change
Loss (income) before income taxes	**$ (65,390)**	$ 3,171	$ (68,561)	**$ 48,057**	$ 58,707	$ (10,650)
Income tax benefit (expense)	**13,479**	(881)	14,360	**(13,829)**	(12,803)	(1,026)
Loss (income) from operations	**$ (51,911)**	$ 2,290	$ (54,201)	**$ 34,228**	$ 45,904	$ (11,676)
Effective tax rate	**20.6 %**	27.8 %		**28.8 %**	21.8 %	

We compute our income tax provision by applying the estimated annual effective tax rate to income from operations and adding the effects of any discrete income tax items specific to the period. The effective tax rate for the three months ended June 30, 2024 and 2023 was 20.6% and 27.8%, respectively. The effective tax rate for the six months ended June 30, 2024 and 2023 was 28.8% and 21.8%, respectively. The variance from the U.S. federal statutory tax rate of 21% for the three and six months ended June 30, 2024 was primarily due to Internal Revenue Code Section 162(m) limitation on deduction for officer compensation, other non-deductible items, and change in reserve, which were partially offset by the foreign derived intangible income tax benefit. The variance from the U.S. federal tax rate of 21% for the three and six months ended June 30, 2023 was primarily due to the tax deductions related to foreign derived intangible income tax benefit as well as the research and development tax credits, which were partially offset by the Section 162(m) limitation during the period.

Net Loss from Discontinued Operations

Net loss from discontinued operations for Q2 2024 and Q2 2023 was zero. Net loss from discontinued operations for YTD 2024 and YTD 2023 was zero and $1.7 million, respectively .See additional information in "*Item 1. Condensed Consolidated Financial Statements —Notes to Condensed Consolidated Financial Statements—Note 5, Spin-off of OmniAb*."

Liquidity and Capital Resources

As of June 30, 2024, our cash, cash equivalents, and short-term investments totaled $226.9 million, which increased by $56.6 million from the end of last year due to factors described in the *Cash Flow Summary* below. Our primary source of liquidity, other than our holdings of cash, cash equivalents, and short-term investments, has been cash flows from operations. Our ability to generate cash from operations provides us with the financial flexibility we need to meet operating, investing, and financing needs.

Historically, we have liquidated our short-term investments and/or issued debt and equity securities to finance our business needs as a supplement to cash provided by operating activities. Our short-term investments include U.S. government debt securities, investment-grade corporate debt securities, bond funds and certificates of deposit. We have established guidelines relative to diversification and maturities of our investments in order to provide both safety and liquidity. These guidelines are periodically reviewed and modified to take advantage of trends in yields and interest rates. Additionally, we own certain securities which are classified as short-term investments that we received as a result of a milestone and an upfront license payment as well as 1.0 million shares of common stock in Viking.

On September 30, 2022, we entered into an At-The-Market Equity Offering Sales Agreement (the "Sales Agreement") with Stifel, Nicolaus & Company, Incorporated (the "Agent"), under which we may, from time to time, sell shares of our common stock having an aggregate offering price of up to $100 million in "at the market" offerings through the Agent. Sales of the shares of common stock, if any, will be made at prevailing market prices at the time of sale, or as otherwise agreed with the Agent. The Agent will receive a commission from the Company of up to 3% of the gross proceeds of any shares of common stock sold under the Sales Agreement. Shares of our common stock may be issued and sold pursuant to the Sales Agreement under the registration statement on Form S-3 we filed on September 30, 2022. As of June 30, 2024, we have not sold any shares of common stock under the Sales Agreement.

Our Board of Directors has approved a stock repurchase program authorizing, but not requiring, the repurchase of up to $50 million of our common stock from time to time through April 2026. We expect to acquire shares, if at all, primarily through open-market transactions in accordance with all applicable requirements of Rule 10b-18 of the Exchange Act. The timing and amount of repurchase transactions will be determined by management based on our evaluation of market conditions, share price, legal requirements and other factors. Authorization to repurchase $50 million of our common stock remained available as of June 30, 2024.

On October 12, 2023, we entered into the $75 million Revolving Credit Facility, under which the Lenders, the Swingline Lender and the L/C Issuer (each as defined in the Credit Agreement) agreed to make loans and other financial accommodations to us in an aggregate amount of up to $75 million. Borrowings under the Revolving Credit Facility accrue interest at a rate equal to either Term SOFR Rate or a specified base rate plus an applicable margin linked to our leverage ratio, ranging from 1.75% to 2.50% per annum for Term SOFR Rate loans and 0.75% to 1.50% per annum for base rate loans. The Revolving Credit Facility is subject to a commitment fee payable on the unused Revolving Credit Facility commitments ranging from 0.30% to 0.45%, depending on our leverage ratio. During the term of the Revolving Credit Facility, we may borrow, repay and re-borrow amounts available under the Revolving Credit Facility, subject to voluntary reductions of the swing line, letter of credit and revolving credit commitments.

On July 8, 2024, we entered into the first Amendment to the Revolving Credit Facility which amends the Credit Agreement to, among other things, increase the aggregate revolving credit facility amount from $75 million to $125 million.

Borrowings under the Credit Agreement are secured by certain of our collateral and that of the Guarantors. In specified circumstances, additional guarantors are required to be added. The Credit Agreement contains customary affirmative and negative covenants, including certain financial maintenance covenants, and events of default applicable to us. In the event of violation of the representations, warranties and covenants made in the Credit Agreement, we may not be able to utilize the Revolving Credit Facility or repayment of amounts owed thereunder could be accelerated.

As of June 30, 2024, we had $74.4 million in available borrowing under the Revolving Credit Facility, after utilizing $0.6 million for letter of credit. The maturity date of the Revolving Credit Facility is October 12, 2026.

We believe that our existing funds, cash generated from operations and existing sources of and access to financing are adequate to fund our need for working capital, capital expenditures, debt service requirements, continued advancement of research and development efforts, potential stock repurchases and other business initiatives we plan to strategically pursue, including acquisitions and strategic investments.

As of June 30, 2024, we had $4.2 million in fair value of contingent consideration liabilities associated with prior acquisitions to be settled in future periods.

Cash Flow Summary

(Dollars in thousands)	YTD 2024	YTD 2023
Net cash provided by (used in):		
Operating activities	$ 32,046	$ 33,866
Investing activities	$ (58,534)	$ 18,105
Financing activities	$ 21,673	$ (68,532)

During the six months ended June 30, 2024, we generated cash from operations primarily due to net income. During the six months ended June 30, 2024, we used cash in investing activities primarily for purchases of short-term investments, Agenus derivative assets, financial royalty assets and Palvella notes receivable, partially offset by cash from sale and maturity of short-term investments, including Viking shares, and cash proceeds from financial royalty assets. During the six months ended June 30, 2024, we generated cash from financing activities primarily due to net proceeds from stock options exercises and ESPP.

During the six months ended June 30, 2023, we generated cash from operations primarily due to net income. We generated cash from investing activities primarily from sale and maturity of short-term investments including Viking shares. During the six months ended June 30, 2023, we repaid the remaining $76.9 million principal amount upon maturity of the 2023 Notes and $0.3 million accrued interest in cash.

Critical Accounting Policies and Estimates

Certain of our policies require the application of management judgment in making estimates and assumptions that affect the amounts reported in our consolidated financial statements and the disclosures made in the accompanying notes. Those estimates and assumptions are based on historical experience and various other factors deemed applicable and reasonable under the circumstances. The use of judgment in determining such estimates and assumptions is by nature, subject to a degree of uncertainty. Accordingly, actual results could differ materially from the estimates made. There have been no material changes in our critical accounting policies and estimates as compared to the critical accounting policies and estimates described in our 2023 Annual Report.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

There were no material changes to our market risks in the six months ended June 30, 2024, when compared to the disclosures in Item 7A of our 2023 Annual Report.

Item 4. Controls and Procedures

We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures as of June 30, 2024 were effective to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

There were no changes in our internal control over financial reporting that occurred during the quarter ended June 30, 2024 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

For information that updates the disclosures set forth under Part I. Item 3. Legal Proceedings in our 2023 Annual Report, refer to *Note 11, Commitment and Contingencies: Legal Proceedings*, to the Condensed Consolidated Financial Statements contained in Part I. Item 1. of this report.

Item 1A. Risk Factors

We do not believe that there have been any material changes to the risk factors disclosed in Part I, Item 1A of our 2023 Annual Report. The risk factors described in our 2023 Annual Report are not the only risks we face. Factors we currently do not know, factors that we currently consider immaterial or factors that are not specific to us, such as general economic and political conditions, may also materially adversely affect our business or our consolidated operating results, financial condition or cash flows.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

Item 3. Defaults Upon Senior Securities

None.

m 4. Mine Safety Disclosures

Not applicable.

tem 5. Other Information

Rule 10b5-1 Trading Arrangements

From time to time, our officers (as defined in Rule 16a–1(f) of the Exchange Act) and directors may enter into Rule 10b5-1 or non-Rule 10b5-1 trading arrangements (as each such term is defined in Item 408 of Regulation S-K). During the three months ended June 30, 2024, none of our officers or directors adopted, modified or terminated any such trading arrangements.

Item 6. Exhibits

Exhibit Number	Description of Exhibit	Incorporated by Reference				Filed Herewith
		Form	File Number	Date of Filing	Exhibit Number	
2.1†	Agreement on the Acquisition of Stocks in Apeiron Biologics AG entered on July 8, 2024, between Ligand Pharmaceuticals Incorporated and the sellers.					X
3.1	Fifth Amended and Restated Bylaws of the Company	8-K	001-33093	4/19/2024	3.1	
10.1	First Amendment to Credit Agreement, dated as of July 8, 2024, among Ligand Pharmaceuticals Incorporated, certain of its subsidiaries, as Guarantors, the Lenders, and Citibank, N.A., as Administrative Agent, Swingline Lender and L/C Issuer.					X
10.2†	Purchase and Sale Agreement, dated May 6, 2024, by and among Ligand Pharmaceuticals Incorporated, Agenus Inc., Agenus Royalty Fund, LLC, and Agenus Holdings 2024, LLC.					X
31.1	Certification by Principal Executive Officer, Pursuant to Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification by Principal Financial Officer, Pursuant to Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1*	Certifications by Principal Executive Officer and Principal Financial Officer, Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101	The following financial information from our Quarterly Report on Form 10-Q for the quarter ended June 30, 2024, formatted in iXBRL (inline eXtensible Business Reporting Language): (i) Consolidated Condensed Balance Sheets, (ii) Consolidated Condensed Statements of Operations, (iii) Consolidated Condensed Statement of Comprehensive Income, (iv) Consolidated Condensed Statements of Stockholders' Equity, (v) Consolidated Condensed Statements of Cash Flows, and (vi) the Notes to Consolidated Condensed Financial Statements.					X
104	The cover page from the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2024, formatted in Inline XBRL and contained in Exhibit 101.					X

* These certifications are deemed not filed for purposes of Section 18 of the Exchange Act or otherwise subject to the liability of that section, nor shall they be deemed incorporated by reference into any filing under the Securities Act of 1933, as amended, or the Exchange Act.

† Certain portions of this exhibit (indicated by asterisks) have been omitted because they are both not material and are the type that Ligand treats as private or confidential.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: August 7, 2024

By: /s/ Octavio Espinoza
Octavio Espinoza
Chief Financial Officer
Duly Authorized Officer and Principal Financial Officer

CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT LIGAND PHARMACEUTICALS INCORPORATED TREATS AS PRIVATE OR CONFIDENTIAL.

Agreement on the Acquisition of Stocks

in

Apeiron Biologics AG

McDermott Will & Emery

This agreement on the acquisition of stocks in Apeiron Biologics AG ("**Agreement**") is entered on 15 June 2024 by and between

1. Ligand Pharmaceuticals Incorporated

3911 Sorrento Valley Boulevard, Suite 110, San Diego, CA, United States of America

– "**Purchaser**" –,

and

2. the **Persons** listed in **Exhibit (A)**

– each of the Persons listed in Exhibit (A) a "**Seller**" and collectively the "**Sellers**" –

– the Purchaser and the Sellers each also a "**Party**" and collectively the "**Parties**" –

Table of Contents
(for convenience purposes only)

Definitions
(for convenience purposes only)

Each of the following terms shall have the meaning as ascribed to it on the respective page of this Agreement (including its Preamble) containing the respective definition.

List of Exhibits
(for convenience purposes only)

Exhibit	Description
Exhibit (A)	List of Sellers
Exhibit (C)	Shareholders Register
Exhibit (F)	Minutes General Meeting
Exhibit 4.1	Table of ESOP Payments
Exhibit 5.1.1	Equity Bridge
Exhibit 5.4.1	Escrow Agreement
Exhibit 5.6	Earn-out
Exhibit 6.2.4	Permitted Leakage
Exhibit 7.1.2	Co-Sale Demand
Exhibit 7.1.3	Spouses' Consents
Exhibit 7.1.5(a)	Form of Exit Notice
Exhibit 7.1.5(b)	Option holders
Exhibit 7.1.5(c)	Form of ESOP Waiver Letter
Exhibit 7.1.6	Management Termination Agreement
Exhibit 7.1.7	Resignation Letter [***]
Exhibit 7.1.8(a)	Confirmation Letter Special Agents
Exhibit 7.1.8(b)	Confirmation Letter invIOs GmbH regarding Special Agents
Exhibit 7.1.12	Waiver Letter Erste Bank
Exhibit 7.1.13	Amendment Service Level Agreements
Exhibit 7.1.14	Resignation Letters Supervisory Board
Exhibit 7.1.17	Confirmation invIOs AG regarding Carve-Out
Exhibit 7.1.18	Bring-Down Certificate
Exhibit 7.1.19	[***]

Exhibit 8.2.1(d)	Initial Release Notice
Exhibit 8.2.1(f)	Supervisory Board Resolution new Management Board Member
Exhibit 8.3.1	Closing Confirmation
Exhibit 9	Sellers' Warranties
Exhibit 12.1.5(c)	Disclosures
Exhibit 17.2	DD Findings List
Exhibit 23.8	Interpretation Rules

PREAMBLE

(A) The Purchaser is a stock corporation incorporated under the laws of the state of Delaware, United States of America, with business address at 3911 Sorrento Valley Boulevard, Suite 110, San Diego, CA, Unites States of America.

(B) Apeiron Biologics AG is a stock corporation (*Aktiengesellschaft*) incorporated under the laws of the Republic of Austria with its business address at Campus-Vienna-Biocenter 5, 1030 Vienna, Austria, registered with the Austrian Company Register (*Firmenbuch*) maintained by the Vienna Commercial Court under FN 242223k ("**Company**").

(C) The registered stock capital (*Grundkapital*) of the Company amounts to EUR [***] and is divided into [***] bearer stocks without par value (*nennbetragslose Stückaktien, die auf den Inhaber lauten*) with a nominal participation in the registered stock capital of the Company of EUR 1.00 each (together the "**Company Stocks**"). The Company Stocks are currently treated pursuant to Sec. 10 para 3 AktG as registered stocks but are neither represented by a single note (*Einzelurkunde*) nor a global note (*Sammelurkunde*), but all shareholders of the Company and the number of Company Stocks owned by them are registered in the Company's shareholder register (the "**Shareholder Register**"). An up-to date abstract from the Shareholder Register as of Signing Date is attached hereto as **Exhibit (C)**. Company's general meeting has resolved that additional [***] bearer stocks without par value (together the "**Conditional Stocks**") may be issued in accordance with employee stock option programs implemented for members of the supervisory board, members of the management board and employees of the Company (together the "**ESOP**").

(D) The Company held

- [***]
- 105.651 stocks (corresponding to approximately 3.146% of the stocks) in **invIOs Holding AG**, a stock corporation incorporated under the laws of the Republic of Austria with its business address at Campus-Vienna Biocenter 5, 1030 Vienna, Austria, registered with the Austrian Company Register (*Firmenbuch*) maintained by the Vienna Commercial Court under FN 582783i ("**invIOs AG**")

([***] and invIOs AG together the "**Participations**" and each a "**Participation**").

(E) The Sellers intend to sell and transfer any and all Company Stocks held by them at Signing Date, as applicable, and any further Company Stocks (if any) acquired by the Sellers until Closing, namely the Sold Stocks to the Purchaser and the Purchaser intends to purchase and acquire from the Sellers such Sold Stocks ("**Transaction**").

(F) On 6 June 2024, the shareholders of the Company held an ordinary general meeting of the Company ("**AGM**"), in which Sellers representing [***] of the total share capital of the Company, voted in favor of exercising their drag-along right in accordance with Section 7 of the Articles of Association. The minutes of such extraordinary general meeting are attached hereto as **Exhibit (F)**.

NOW, THEREFORE, the Parties agree as follows:

1. Transaction Dates

1.1 "**Agreed Closing Date**" shall mean the Signing Date or any other date to be mutually agreed between the Sellers and the Purchaser to be the Agreed Closing Date.

1.2 "**Closing**" shall mean the closing (*Vollzug*) of the transaction contemplated by this Agreement by way of satisfaction, or due waiver by the relevant Party/Parties, as the case may be, of the Closing Actions.

1.3 "**Closing Date**" shall mean the date and time of the occurrence of the Closing.

1.4 "**Effective Date**" shall mean 31 December 2023, 24:00 hours CET.

1.5 "**Final and Binding**" shall mean with respect to any decision, guidance, recommendation or other issuance from any court, tribunal, public authority or other Governmental Entity that the respective decision, guidance, recommendation or other issuance is Non-Appealable, its legal force may only be suspended (*Durchbrechung der Rechtskraft*) in accordance with section 68 paragraph 2, 3 or 4 of the Austrian General Administrative Procedure Act 1991 (*Allgemeines Verwaltungsverfahrensgesetz 1991*) or sections 293 to 310 of the Austrian Federal Fiscal Code (*Bundesabgabenordnung*), as the case may be, but for no other reason, and, where applicable, that the rights of all parties, which should have been involved in the administrative proceedings leading to the respective decision, guidance, recommendation or other issuance according to the applicable administrative provisions, have not been ignored (*Nichtvorliegen übergangener Parteien*).

1.6 "**Signing Date**" shall mean the date on which the last Party has signed this Agreement.

2. Certain Defined Terms

2.1 "**ABGB**" shall mean the Austrian Civil Code (*Allgemein Bürgerliches Gesetzbuch*).

2.2 "**Affiliate/-s**" shall mean any individual persons (*natürliche Personen*) or Legal Entities who or which are affiliated enterprises (*verbundene Unternehmen*) within the meaning of Sec. 15 AktG, whereby with respect to each Seller, the term "Affiliate/-s" shall not include the Company and the Participations.

2.3 "**AktG**" shall mean the Austrian Stock Corporation Act (*Aktiengesetz*).

2.4 "**Appraiser**" shall mean Deloitte Audit Wirtschaftsprüfungs GmbH ("**Chosen Accounting Firm**"). In case the Chosen Accounting Firm is conflicted under the applicable professional rules or unable or unwilling to act, the Appraiser shall be any other independent firm of chartered accountants of international standing as agreed by the Sellers' Representative and the Purchaser. Failing such agreement within 2 (two) weeks from the Chosen Accounting Firm declining its engagement, the President of the Austrian Chamber of Tax Advisers and Chartered Accountants (*Kammer der Steuerberater:innen und Wirtschaftsprüfer:innen*) shall determine from the remaining big four audit-firms an Appraiser upon a respective application of either the Sellers' Representative or the Purchaser.

2.5 "**Articles of Association**" shall mean the articles of association of the Company.

2.6 "**BAO**" shall mean the Austrian Fiscal Code (*Bundesabgabenordnung*).

2.7 "**Business Days**" shall mean any days (other than Saturdays, Sundays and public holidays in Vienna, Austria, and California, United States of America), when banks are open for general customer business in Vienna, Austria, and California, United States of America.

2.8 "**Financial Statements**" shall mean the audited annual financial statements of the Company for the business year ending on 31 December 2023.

2.9 "**GmbHG**" shall mean the Austrian Act on Limited Liability Companies (*Gesetz betreffend Gesellschaften mit beschränkter Haftung*).

2.10 "**Governmental Entity**" shall mean (i) any international, supra-national, national, state, municipal, local or other organisation or governmental body (including any ministry, department, subdivision, agency, court, administrative agency or commission or other authority thereof), including the European Union and its institutions, and (ii) any quasi-governmental or private body exercising any regulatory, taxing, importing or other governmental or quasi-governmental authority.

2.11 "**invIOs GmbH**" shall mean invIOs GmbH, a company with limited liability (*Gesellschaft mit beschränkter Haftung*) incorporated under the laws of the Republic of Austria with its business address at Campus-Vienna-Biocenter 5, 1030 Vienna, Austria, registered with the Austrian Company Register (*Firmenbuch*) maintained by the Vienna Commercial Court under FN 521324 d.

2.12 "**Legal Entity**" shall mean any corporation, company, partnership, association, trust or other legal entity, whether having separate legal personality or not, established pursuant to the laws of any jurisdiction.

2.13 "**Non-Appealable**" shall mean with respect to any decision, guidance, recommendation or other issuance from any court, tribunal, public authority or other Governmental Entity, that the respective decision, guidance, recommendation or other issuance is non-appealable and legally enforceable since it is no longer subject to any ordinary or extraordinary legal remedy.

2.14 "**Prohibited Recipients**" shall mean any Seller, any Affiliate of any Seller and any Related Party to a Seller.

2.15 "**Purchaser Claim**" shall mean an individual claim that the Purchaser has against the Sellers under Sections 9, 10 and 11 of this Agreement;

2.16 "**Related Party**" shall mean any Person related to a Seller within the meaning of Section 32 of the Austrian Insolvency Code (*Insolvenzordnung – IO*) and any Person

2.16.1 indirectly or directly holding at least one quarter of the share capital, membership rights, participation rights, voting rights or assets in a Seller or in relation to which a Seller indirectly or directly holds at least one quarter of the share capital, membership rights, participation rights, voting rights or assets; or

2.16.2 is entitled to at least one quarter of the profit or liquidation proceeds in a Seller or in relation to which a Seller is entitled to at least one quarter of the profit or liquidation proceeds; or

2.16.3 which indirectly or directly controls in the meaning of Section 244 paragraph 2 UGB a Seller or is indirectly or directly controlled by a Seller,

provided that, with respect to each Seller, the term Related Party shall not include the Company or a Participation.

2.17 "**UGB**" shall mean the Austrian Business Code (*Unternehmensgesetzbuch*).

2.18 "**VAT**" shall mean value added tax in accordance with the Austrian Value Added Tax Act 1994 (*Umsatzsteuergesetz 1994*).

3. Sale and Transfer of the Sold Stocks

3.1 Sales and Transfers of the Sold Stocks

3.1.1 Each of the Sellers hereby sells (*verkauft*) the Company Stocks held by such Seller at the Signing Date on the terms of this Agreement to the Purchaser and the Purchaser hereby purchases on the terms of this Agreement such Company Stocks from the Sellers. All Company Stocks sold to the Purchaser under this Section 3.1.1 are also referred to as the "**Sold Stocks**".

3.1.2 Each of the Sellers hereby transfers (*abtreten*) his/her/its Sold Stocks to the Purchaser, subject only to the conditions precedent (*aufschiebende Bedingungen*) that the Closing Actions set forth in Sections 8.2.1(a) through (and including) 8.2.1(d) have been fulfilled or duly waived and the Purchaser hereby accepts such transfers.

3.1.3 The transfer (*Abtretung*) of the Sold Stocks with legal effect in rem (*dingliche Wirkung*) shall occur at Closing concurrently (*Zug-um-Zug*) with the Closing Action set forth in Section 8.2.1(d) (namely, the hand-over of a written instruction in the form as attached hereto as Exhibit 8.2.1(d) to the Escrow Agent) having been duly fulfilled or duly waived in accordance with the terms of this Agreement.

3.1.4 The transfer (*Abtretung*) of the Sold Stocks shall, subject to Section 3.1.5, occur with economic effect (*wirtschaftliche Wirkung*) as of the beginning of the day following the Effective Date, i.e. 1 January 2024, 00:00 hrs CET.

3.1.5 The sales and transfers of the Sold Stocks include all rights, benefits and obligations pertaining to the Sold Stocks, including the rights to any profits or dividends of the Company for the current year and, to the extent not distributed prior to the Closing, for previous years.

3.1.6 The Sellers herewith mutually and irrevocably consent to the sale and transfer of the Sold Stocks to the Purchaser pursuant to Sections 3.1.1 and 3.1.2. With respect to the sale and transfer of the Sold Stocks, each Seller herewith irrevocably waives his/her/its (i) pre-emptive right pursuant to Section 5 of the Articles of Association, (ii) tag-along right pursuant to Section 6 of the Articles of Association and (iii) any other

rights with regard to, or in connection with, the sale and transfer of the Sold Stocks other than the drag-along right pursuant to Section 7 of the Articles of Association.

4. ESOP

4.1 The "Cash Compensation" (as defined in the ESOP) to be paid to the beneficiaries under the ESOP (together the "**ESOP Beneficiaries**" and such cash compensation the "**ESOP Cash Amount**") as well as any Taxes incurred in connection with the settlement of the ESOP ("**ESOP Tax Amount**" and together with the ESOP Cash Amount the "**ESOP Amount**") shall be paid in accordance with the Escrow Agreement from the Escrow Account. The ESOP Cash Amount will be paid from the Escrow Account in the name and on behalf of the Company, of invIOs AG and of invIOs GmbH to the ESOP Beneficiaries in accordance with a respective release notice as determined in the Escrow Agreement. The ESOP Tax Amount will be paid from the Escrow Account to the Company, invIOs AG and invIOs GmbH in accordance with a respective release notice as determined in the Escrow Agreement and subsequently the Company, invIOs AG and invIOs GmbH will comply with their duty to withhold the respective portion of the ESOP Tax Amount and will pay the appropriate portion of the ESOP Tax Amount to the competent Tax Authority. The Parties agree that the ESOP Amount shall not be treated as a financial debt item in the equity bridge and that the Sellers shall indemnify and hold harmless the Company and the Purchaser in accordance with this Section 4. Sellers herewith waive any and all claims they have or might have against the Company and/or invIOs AG and invIOs GmbH and/or the Purchaser in connection with, or relating to, the payment of the ESOP Amount to the ESOP Beneficiaries and the Company and invIOs AG and invIOs GmbH, to the extent exceeding any amount as set out in the Table of ESOP Payments as attached hereto as **Exhibit 4.1**.

4.2 Subject to occurrence of Closing, the Sellers undertake to indemnify and hold harmless the Company and, to the extent an ESOP Beneficiary asserts shares in the Company instead of a "Cash Compensation" (as defined in the ESOP) or otherwise asserts claims against the Purchaser in connection with the ESOP, the Purchaser from

4.2.1 any and all claims of the ESOP Beneficiaries, which they assert against the Company and/or the Purchaser in connection with the ESOP exceeding the respective ESOP Cash Amount paid in the name and on behalf of the Company in accordance with the Escrow Agreement,

4.2.2 Taxes incurred on the level of the Company in connection with the settlement of the ESOP exceeding the respective ESOP Tax Amount paid to the Company in accordance with the Escrow Agreement,

4.2.3 all costs and expenses incurred on the level of the Company in connection with the payment of the ESOP Amount in connection with Sections 4.2.1 and/or 4.2.2, as well as

4.2.4 all costs and expenses incurred on the level of the Purchaser in connection with Section 4.2.1 in case an ESOP Beneficiary has asserted shares in the Company instead of a "Cash Compensation" (as defined in the ESOP) or has otherwise asserted claims against the Purchaser in connection with the ESOP.

4.3 The Sellers shall not be liable under this Section 4, if and to the extent that

4.3.1 the Company has been indemnified by the Sellers by way of actual payment of the ESOP Amount from the Escrow Account to the Company; or

4.3.2 the respective claim for indemnification in accordance with Section 4.2 is caused by acts or declarations or omissions initiated or executed by the Company and/or the Purchaser after the Closing Date.

4.4 Limitations, Miscellaneous

4.4.1 Claims in accordance with Section 4.2.1 shall become time barred [***] after the relevant ESOP Beneficiary has asserted the respective claim against the Company and/or the Purchaser.

4.4.2 Claims in accordance with Section 4.2.2 shall become time barred [***] after the relevant Tax assessment has become Final and Binding.

4.4.3 Claims in accordance with Section 4.2.3 and Section 4.2.4 shall be become time barred [***] after the respective costs and/or expenses have been incurred.

4.4.4 Payments by the Parties pursuant to Section 4.2 shall to the extent legally permissible be treated as an adjustment of the Purchase Price.

4.4.5 Except for Section 12.1.2, 12.1.3 and 12.6 and 18, the limitations set forth in Section 12 shall not apply to any claims of the Purchaser under Section 4.2.

5. Purchase Price and Payments

5.1 Company Equity Value, Equity Value per Stock

5.1.1 For purposes of the sales and transfers of the Sold Stocks, the Parties agree that as per the Effective Date, the total equity value of the Company amounts to the result of USD 100,000,000.00 (in words: one hundred million US-Dollar) (such amount the "**Company Enterprise Value**") less the amount of financial debt as at the Effective Date and plus the amount of cash as at the Effective Date (such equity value the "**Company Equity Value**"), each as further defined and detailed in the enterprise to equity value bridge attached hereto as **Exhibit 5.1.1**.

5.1.2 "**Equity Value per Stock**" shall be calculated as follows:

	Company Equity Value
multiplied by	number of Sold Stocks
divided by	the result of the number of the shares of the Company minus the number of the own shares held by the Company
minus	Sellers' Transaction Costs
minus	ESOP Amount
	Aggregate Equity Value of the Sold Stock
divided by	number of Sold Stocks
	Equity Value per Stock

The Equity Value per Stock in the Company amounts to [***].

5.2 Purchase Price

The aggregate purchase price for the sale of the Sold Stocks ("**Purchase Price**") shall amount to the product (*Produkt*) of the number of Sold Stocks and the Equity Value per Stock.

5.3 Payment of the Purchase Price

The Purchase Price plus the Sellers' Transaction Costs plus the ESOP Amount (jointly the "**Escrow Amount**") shall be paid on the Agreed Closing Date in accordance with Section 8.2.1(b) to the Escrow Account (as defined below), provided that, however, the Purchaser may elect to pay the Escrow Amount to the Escrow Account prior to the Agreed Closing Date, and that such payment shall be deemed fulfilment of the Closing Action set forth in Section 8.2.1(b).

5.4 Escrow Account, Escrow Agreement

5.4.1 The Sellers, the Purchaser and Mr. Thorsten Antenreiter, notary public, Do-naustadtstraße 1/3, 1220 Vienna, as escrow agent ("**Escrow Agent**") have entered into the escrow agreement attached hereto as **Exhibit 5.4.1** ("**Escrow Agreement**") with respect to the escrow account maintained by the Escrow Agent for purposes of the Transaction ("**Escrow Account**").

5.4.2 A partial amount of the Purchase Price in the amount of [***] (ESOP Amount) and in the amount of [***] (Retention Amount) shall serve as security for the payment of any cash compensation (i) pursuant to Section 4.2, (ii) pursuant to Section 6.3 and/or (iii) pursuant to Section 17.2 ("**Retention Amount**"). Subject to the terms of the Escrow Agreement, the Retention Amount shall be kept in the Escrow Account until the respective release date agreed in the Escrow Agreement (the "**Release Date**"). In accordance with the terms of the Escrow Agreement, the Retention Amount or parts thereof shall be released to the Sellers on the respective Release Date, except for the Blocked Amounts (as defined in the Escrow Agreement) which Blocked Amounts shall then be released in accordance with Escrow Agreement.

5.4.3 Immediately following Closing, a partial amount of the Escrow Amount in the amount of the aggregate costs in the meaning of Section 7.8 of the Articles of Association in the amount of [***] ("**Sellers' Transaction Costs**") shall be paid out to the persons entitled to these costs in accordance with the terms of the Escrow Agreement. The Sellers' Transaction Costs shall be borne by each Seller in the percentage of the Sold Stocks owned by the Seller with respect to all Sold Shares.

5.4.4 The Escrow Amount less the Retention Amount less the Sellers' Transaction Costs less the ESOP Amount (the "**Closing Tranche Purchase Price**") shall, subject to the terms of the Escrow Agreement, be released to the Sellers without undue delay following the instruction of the Purchaser to the Escrow Agent in accordance with Section 8.2.1(d).

5.4.5 Pursuant to the Escrow Agreement, the Escrow Agent will confirm to the Sellers and the Purchaser the receipt of the Escrow Amount in the Escrow Account without undue delay.

5.5 VAT

The Parties have the common understanding that the sale and the transfer of the Sold Stocks contemplated under this Agreement are not subject to or are exempt from VAT or any similar tax under non-Austrian law. The Parties will file their Tax Returns in accordance with this assumption. The Sellers shall not waive any exemption from or opt for VAT or a respective tax provision under non-Austrian law.

5.6 Earn-out

In addition to the Purchase Price, the Sellers shall be entitled to an earn-out up to the amounts of, and subject to the provisions set forth in, **Exhibit 5.6** ("**Earn-out**").

5.7 Treatment of Payments

The Parties agree that any indemnity, compensation, damage or similar payment made under this Agreement (other than the payment of the Purchase Price or Earn-out), shall be treated by the Parties as an adjustment of the Purchase Price, *i.e.*, an increase or a reduction of the Purchase Price, respectively, and, to the extent permitted by applicable law, shall be treated by the Parties as such also for Tax purposes. For the avoidance of doubt: The foregoing does not affect the content of the definition Company Equity Value.

6. No Leakage

6.1 "**Leakage**" shall mean, in each case of Section 6.1.1 through Section 6.1.13, if and to the extent effected between the Effective Date and the Closing or, if effected after the Closing, based on commitments by the Company, incurred prior to the Closing,

6.1.1 any payment or declaration of dividends or similar distribution by the Company to or for the benefit of any Prohibited Recipient;

6.1.2 any return of capital (whether by reduction of capital or redemption or purchase of shares or otherwise) or any other payments by the Company with respect to Company Stocks to, or for the benefit of, any Prohibited Recipient;

6.1.3 any performance of any obligation or granting of any other monetary (*geldwerter*) benefit by the Company to, or for the benefit of, any Prohibited Recipient;

6.1.4 granting any loans by the Company to, or for the benefit of, any Prohibited Recipient;

6.1.5 any sale or transfer of assets, by the Company to, or for the benefit of, any Prohibited Recipient;

6.1.6 any acquisition of assets or rights by the Company from a Prohibited Recipient;

6.1.7 any assumption of liability or indemnity incurred by the Company from, or for the benefit of, a Prohibited Recipient;

6.1.8 any issuance of guarantees or provision of other form of collateral by the Company for any financial debt owed by any Prohibited Recipient;

6.1.9 any waiver or release of any claims by the Company against, or for the benefit of, Prohibited Recipients;

6.1.10 any payment by the Company of fees or commissions to any advisor, broker, finder or other third party, or any transaction or exit bonuses, compensation, severance payment or other special incentive in connection with the Transaction, other than payments to employees reflected in the List of Transaction Costs Beneficiaries (Annex 5.1 (a)(ii) to the Escrow Agreement);

6.1.11 any agreement or transaction between the Company and, or for the benefit of, any Prohibited Recipient;

6.1.12 any Taxes triggered by one of the items under Sections 6.1.1 to 6.1.11; and

6.1.13 any commitments to undertake any of the above measures,

in each case, which does not constitute Permitted Leakage.

6.2 Permitted Leakage

"**Permitted Leakage**" shall mean:

6.2.1 any matter/transaction explicitly provided for under this Agreement and/or undertaken at the request of, or with the prior written consent of, the Purchaser;

6.2.2 payment of dividends by the Company in the form of an in-kind distribution of the shares held by the Company in invIOs AG on the basis of the Financial Statements corresponding to an amount of [***];

6.2.3 payment of dividends by the Company in the form of a cash distribution on the basis of the Financial Statements corresponding to an amount of [***];

6.2.4 any matter, transaction and payments listed with respective relevant amounts in **Exhibit 6.2.4**; and

6.2.5 unless stipulated otherwise in this Agreement, any Taxes triggered by one of the items under Sections 6.2.1 and 6.2.3.

6.3 Remedies

If any Leakage has occurred or occurs and has not been remedied prior to the Closing Date, then, in accordance with the terms of this Agreement, the Seller (i) who received Leakage and/or (ii) who is a Related Party to the Prohibited Recipient which received Leakage shall compensate, on a Euro for Euro basis but in US-Dollars in accordance with Section 19.4, the Company or, at the Purchaser's discretion and provided that mandatory law does not require compensation of the Company, the Purchaser for the respective amount paid to the respective Seller or the respective Prohibited Recipient in violation of Section 6.1. For the avoidance of doubt the Retention Amount may only be used for the compensation in the meaning of the previous sentence in the portion which would have to be released to such Seller if there would not be such Leakage incident; this shall, however, not limit the Purchaser's right to claim from such Seller pursuant to the first sentence of this Section 6.3 the full amount constituting Leakage.

6.4 Procedure

6.4.1 The Purchaser shall notify the Sellers' Representative within [***] months following the Closing Date of any Leakage identified by the Purchaser ("**Leakage Notice**") and shall specify the amount(s) of Leakage and the recipient of Leakage in such Leakage Notice (the sum of such amounts also referred to as "**Purchaser Proposed Leakage Amount**"). Failing receipt of the Leakage Notice by Sellers' Representative within the aforementioned period of [***] months following the Closing Date no further claim of Purchaser for Leakage shall be available. Sellers' Representative shall be entitled to give written notice to the Purchaser within 20 (twenty) Business Days following receipt of the Leakage Notice that the Sellers' Representative disagrees in the name of the alleged recipient with the Purchaser Proposed Leakage Amount ("**Objection Notice**") stating in reasonable detail the reasons of Sellers' Representative's objection and the amount(s) of Leakage proposed by the Sellers' Representative (if any) (the sum of such amount(s) also referred to as "**Sellers' Representative's Proposed Leakage Amount**"). Failing receipt of the Objection Notice by Purchaser within the aforementioned period of 20 (twenty) Business Days following receipt of the Leakage Notice, the Purchaser Proposed Leakage Amount shall become final and binding on all Parties involved.

6.4.2 Upon receipt of an Objection Notice by Purchaser, the Purchaser and Sellers' Representative shall endeavour in good faith to resolve any objection of Sellers' Representative within 15 (fifteen) Business Days after the Purchaser's receipt of the Sellers' Representative's Objection Notice. If the Purchaser and Sellers' Representative are unable to do so, and

(a) provided that the disagreement of the Sellers' Representative with the Purchaser Proposed Leakage Amount is only with respect to the amount of the Leakage proposed in the Purchaser Proposed Leakage Amount (and not as to whether the matter or transaction in question qualifies as Leakage), the matter shall be referred to the Appraiser. The Appraiser is obliged to establish independently the amount of Leakage (but not whether the matter

or transaction in question qualifies as Leakage). In so doing, the Appraiser shall act as an expert (*Schiedsgutachter*) and not act as an arbitrator (*Schiedsrichter*). The Parties hereby expressly exclude the applicability of § 1056 second sentence Austrian Civil Code with respect to the Appraiser.

(b) provided and to the extent that the disagreement of the Sellers' Representative with the Purchaser Proposed Leakage Amount is not with respect to the amount of the Leakage proposed in the Purchaser Proposed Leakage Amount but as to whether the matter or transaction in question qualifies as Leakage, Section 23.5 shall apply.

6.4.3 The Appraiser shall determine its own procedure, whether the Purchaser Proposed Leakage Amount is correct as specified by the Purchaser's Leakage Notice and, if not, what alterations should be made in order to correct the relevant inaccuracy of the Purchaser Proposed Leakage Amount (the "**Appraiser Proposed Leakage Amount**"). The Appraiser Proposed Leakage Amount must be an amount between, or equal to one or the other of the Purchaser Proposed Leakage Amount and the Sellers' Representative's Proposed Leakage Amount. The Appraiser shall deliver its determination of the Appraiser Proposed Leakage Amount together with relevant supporting documents to the Purchaser and the Sellers' Representative. To the extent legally permissible, the Purchaser shall provide the Sellers' Representative and the Appraiser promptly with all information, access to books and records of account, documents, files, papers and information stored electronically which they reasonably request. Prior to taking a decision the Appraiser shall give each of the Purchaser and the Sellers' Representative an opportunity to be heard and explain their considerations with respect to amount of Leakage.

6.4.4 The Appraiser's determination of any subject matter falling within the scope of its mandate shall be final and binding on the Parties unless the Appraiser Proposed Leakage Amount is obviously incorrect (*offensichtlich unrichtig*), e.g. in case of manifest calculation errors (*Rechenfehler*), which is claimed by either the Sellers' Representative in the name of the relevant Seller or the Purchaser to the respective other Party in writing within 20 (twenty) Business Days after the receipt of the Appraiser Proposed Leakage Amount. The fees, costs and expenses of the Appraiser shall be borne by the Purchaser, on the one hand, and the Sellers, on the other hand, in proportion to the respective difference of the Purchaser Proposed Leakage Amount and the Sellers' Proposed Leakage Amount, respectively, to the Appraiser Proposed Leakage Amount.

7. Pre-Conditions to Signing

7.1 Sellers' Pre-Conditions

The Sellers herewith confirm that the following pre-conditions (*Voraussetzungen*) set forth in Sections 7.1.1 through 7.1.19 have been fulfilled:

7.1.1 The shareholders of the Company held an extraordinary general meeting of the Company, in which Sellers representing at least 80 % of the total share capital of the Company, voted in favor of exercising their drag-along right in accordance with Section 7 of the Articles of Association;

7.1.2 The Sellers' Representative has provided the Purchaser with scan copies, copies of which are attached hereto as **Exhibit 7.1.2**, (i) of the written request in accordance with Section 7.3 of the Articles of Association (*Mitverkaufsverlangen*) duly signed by Liberalis Management GmbH as proxyholder of Sellers representing at least 80% of the total share capital of the Company, by way of which such Sellers demand from the remaining shareholders of the Company to co-sell their Company Stocks to Purchaser and (ii) of the written declarations of each such Seller affirming to the remaining shareholders under oath (*an Eidesstatt*) in accordance with Section 7 of the Articles of Association that the Purchaser is an 'Unaffiliated Person' and 'Third Party' within the meaning of the Articles of Association.

7.1.3 The spouses of those Sellers (i) who are natural persons, (ii) who are married and (iii) who require due to matrimonial arrangement or applicable matrimonial law the consent of the spouse, have consented to this Transaction by way of consent declarations, copies of which are attached hereto as **Exhibit 7.1.3**;

7.1.4 The Sellers hold at least [***] Company Stocks (representing at least 90 % of the registered stock capital (*Grundkapital*) of the Company) which are sold and transferred to the Purchaser pursuant to the terms and conditions of this Agreement;

7.1.5 The members of the management board of the Company have opted for the "Cash Compensation" (as defined in the ESOP) and have communicated this decision to the option holders under the ESOP with an exit notice substantially in the form of **Exhibit 7.1.5(a)** and the option holders under the ESOP listed in **Exhibit 7.1.5(b)** have signed a waiver letter substantially in the form of **Exhibit 7.1.5(c)** ("**ESOP Waiver Letter**");

7.1.6 A management termination agreement, a copy of which is attached hereto as **Exhibit 7.1.6** ("**Management Termination Agreement**"), has been executed between the Company, represented by the chairman of the supervisory board, and [***] to mutually terminate the management agreement of such current managing director with effect as per the Closing Date;

7.1.7 [***] has provided the Company with her resignation letter attached as **Exhibit 7.1.7** which termination shall be effective as of the end of Closing;

7.1.8 The two special agents (*Prokuristen*) of the Company, [***], have provided the Company with statements in writing, (i) confirming that, except for the claims explicitly set forth in **Exhibit 7.1.8(a)**, any and all claims they might have against invIOs GmbH in connection with their employment with invIOs GmbH due until the Signing Date have been fully satisfied and (ii) providing for a waiver of any and all claims they may have against the Company, except for the claims explicitly set forth in **Exhibit 7.1.8(a)**, copies of which are attached hereto as **Exhibit 7.1.8(a)**. invIOs GmbH has confirmed in writing that any and all Taxes with regard to the employment relationships mentioned in the previous sentence which became due until the Signing Date have been paid when due; a copy of such confirmation is attached hereto as **Exhibit 7.1.8(b)**;

7.1.9 The shares held by the Company in invIOs AG have been distributed and transferred to the shareholders of the Company by way of an in-kind dividend (except for the hand-over of the share certificates to a maximum of five shareholders, which is still pending on Signing Date);

7.1.10 [***];

7.1.11 All valid (i) finders' fee agreements and consulting agreements and (ii) memberships (other than the membership with [***]), have been terminated, at total cost for the Company, which in aggregate do not exceed the [***];

7.1.12 The outstanding credit amount that has been provided to the Company under the facility agreement by Erste Bank dated 27 April 2020 has been fully repaid and Erste Bank has provided the Company with a corresponding waiver letter, a copy of which is attached hereto as **Exhibit 7.1.12**;

7.1.13 [***];

7.1.14 Each member of the supervisory board has provided the Company with their respective resignation letter attached as **Exhibit 7.1.14** which termination shall be effective as of the end of the next general meeting of the Company following Closing;

7.1.15 The management board of the Company has revoked the two persons holding special authority (*Prokura*) with effect as of the end of Closing;

7.1.16 The Company (i) has distributed its profit in the form of a cash distribution on the basis of the Financial Statements corresponding to an amount of [***] and (ii) has confirmed in writing that apart from such cash distribution and the distribution in kind of the shares held in invIOs AG in accordance with Section 7.1.9 no Leakage has occurred between the Effective Date and the Signing Date;

7.1.17 The Sellers have provided the Company with a written statement by invIOs AG, confirming that, except for the claims explicitly set forth in **Exhibit 7.1.17** all employees who have been transferred to invIOs GmbH pursuant to the purchase agreement dated 16 December 2021 have received all payments due two Business Days prior the Date hereof and any and all taxes related to those employees for due payments have been paid when due; a copy of such statement is attached hereto as **Exhibit 7.1.17**;

7.1.18 The management board of the Company has provided the Purchaser with a duly signed bring-down certificate as of today's date, substantially in form and substance as attached hereto as **Exhibit 7.1.18**;

7.1.19 [***].

7.2 Purchaser's Condition

The Purchaser herewith confirms that the Austrian Federal Minister of Labour and Economic Affairs has taken an approval decision pursuant to Section 7(2)(1)(b) of the Austrian Investment Control Act ("**Austrian FDI Approval**").

7.3 Seller's Waiver to Challenge AGM Resolutions

The Sellers hereby irrevocably waive the right to challenge the resolutions adopted at the AGM and to bring an action against the validity of these resolutions.

8. Closing

8.1 Closing

On the Agreed Closing Date, at 10:00 a.m. (local time), the Parties shall meet at the offices of E+H Rechtsanwälte GmbH in Vienna, or the Parties shall meet at such date, time, and/or place as the Sellers and Purchaser may otherwise mutually agree upon in writing (including by email), and shall thereupon promptly take the Closing Actions as provided for hereinafter. The Parties may also agree in writing (including by email) to perform the Closing in a virtual meeting via telephone or video conference.

8.2 Closing Actions

8.2.1 On the Agreed Closing Date, the Sellers and the Purchaser shall simultaneously (*Zug um Zug*) take the following actions ("**Closing Actions**") in the sequence as set out below:

(a) The Sellers' Representative provides the Purchaser with copies of the consent of the Company's management board members and the chairman of the supervisory board to the Transaction and to the sales and transfers of the Sold Stocks hereunder pursuant to Section 4 of the Articles of Association.

(b) The Purchaser pays the Escrow Amount to the Escrow Account in accordance with Section 19, provided that, however, the Purchaser may elect to pay the Escrow Amount prior to the Agreed Closing Date and that such payment shall be deemed fulfilment of the Closing Action set forth in this Section 8.2.1(b).

(c) The Escrow Agent confirms the receipt of the Escrow Amount on the Escrow Account vis-à-vis the Purchaser and the Sellers.

(d) The Purchaser hands over to the Escrow Agent a written instruction in the form as attached hereto as **Exhibit 8.2.1(d)** to release the Escrow Amount including the Closing Tranche Purchase Price in accordance with the Escrow Agreement ("**Initial Release Notice**").

(e) The Purchaser and the Sellers' Representative instruct the Company's management board members to enter the Purchaser as new owner of the Sold Stocks in the Shareholder Register.

(f) The supervisory board of the Company adopts a resolution as attached hereto as **Exhibit 8.2.1(f)** regarding the appointment of another management board member.

8.2.2 The Purchaser may waive the performance of the Closing Actions set forth in Sections 8.2.1(a), 8.2.1(e) and 8.2.1(f) in whole or in part by written declaration. The Sellers may waive the performance of the Closing Actions set forth in

Sections 8.2.1(b) and 8.2.1(d) in whole or in part by written declaration. The Parties may jointly waive the performance of the Closing Actions set forth in Section 8.2.1(c) in whole or in part by written declaration. The effect of a waiver shall be limited to eliminating the need of the respective Closing Action to be performed at Closing and shall not prejudice any claims the Parties may have on the basis of circumstances relating to the non-performance of such Closing Action.

8.3 Closing Confirmation

8.3.1 Immediately after all Closing Actions have been fulfilled or duly waived, the Sellers and the Purchaser shall declare in a written confirmation that all Closing Actions have been fulfilled or duly waived and that the Closing has occurred, in the form attached hereto as **Exhibit 8.3.1** (the "**Closing Confirmation**").

8.3.2 For the avoidance of doubt, the legal effect of the Closing Confirmation shall be limited to serving as evidence that all Closing Actions have been fulfilled or duly waived and that the Closing has occurred, but the execution of the Closing Confirmation shall not limit or prejudice the rights of the Parties arising from this Agreement or under applicable law.

8.4 Withdrawal (*Rücktritt*)

8.4.1 Notwithstanding Section 23.10 the Sellers, acting jointly, may withdraw (*zurücktreten*) from this Agreement by written notice to the Purchaser, if the Purchaser fails to execute the Closing Actions set forth in Sections 8.2.1(b) and 8.2.1(d) when due within 10 (ten) Business Days following the Agreed Closing Date.

8.4.2 The Purchaser may withdraw (*zurücktreten*) from this Agreement by written notice to the Sellers, if the Sellers fail to execute the Closing Actions set forth in Sections 8.2.1(a) and 8.2.1(e) when due within 10 (ten) Business Days following the Agreed Closing Date.

8.4.3 In case the Sellers or the Purchaser withdraw from this Agreement, all rights, claims and obligations under this Agreement shall terminate except for the provisions set forth in this Section 8.4 (Withdrawal (*Rücktritt*)), Section 17 (Confidentiality), Section 21 (Notices), Section 22 (Relation of the Sellers) and Section 23 (Miscellaneous), which shall continue to apply in full force and effect.

8.4.4 In any event, the termination or withdrawal shall not affect any rights or claims of a Party that have come into existence (*entstanden*) before the termination has become effective.

8.5 Any Party is obligated to use its best endeavours to procure that all shareholders of the Company comply with the obligations according to section 7.3 of the articles of association of the Company (Drag-Along Right). As of the Closing, the obligation of the Sellers in accordance with the preceding sentence is limited to actions which do not incur any costs which have to be or might have to be borne by any Seller, unless the Purchaser undertakes to indemnify the respective Sellers from such costs.

9. Sellers' Warranties

9.1 The Sellers hereby warrant to the Purchaser, subject to any limitations contained in this Agreement, in particular subject to and within the scope of the requirements and limitations provided in Sections 10 and 12, in particular the W&I Liability Cap, by way of the contractual warranty agreement pursuant to Section 859 Austrian Civil Code as set out in this Agreement that the statements set forth in **Exhibit 9** are true, correct and complete (each a "**Sellers' Warranty**" and collectively, the "**Sellers' Warranties**") as at the Signing Date and as at any date explicitly referred to in Exhibit 9.

9.2 Each of the Sellers' Warranties shall be construed as a separate and independent Sellers' Warranty and shall not be limited or restricted by reference to or inference from the terms of any other Sellers' Warranty or any other term of this Agreement.

9.3 All Schedules referred to in Exhibit 9 are herein collectively referred to as the "**Disclosure Schedules**". The Parties agree that if any disclosure of events or documents made in the Disclosure Schedules is below any materiality threshold provided for such disclosure requirement or contains additional information, such disclosure shall not be used to construe or expand the scope of the required disclosure (including any standard of materiality) of such Sellers' Warranty.

9.4 [***].

9.5 For the purpose of this Agreement, "**Individual Knowledge of Seller**" (or any similar term) means the knowledge of the respective Seller and, in case a Seller is a Legal Entity, of each member of its management boards (*Mitglieder seiner Geschäftsführungsorgane*) they have.

9.6 Sellers do not give or assume any guarantees other than those set forth in Exhibit 9 and none of the Sellers' Warranties shall be construed as a guarantee or representation entitling to remedies beyond Section 10 below, in particular not as a warranty or guarantee or representation of any profitability of the business or of the Company or as a warranty, guarantee or representation for the correctness of the equity value bridge or of any item relevant for the equity value bridge.

10. Remedies

10.1 Compensation for a Breach

If (i) any of the Sellers' Warranties was untrue, incorrect or incomplete in whole or in part or (ii) there is a Tax Indemnification Claim (each a "**Breach**"), the Sellers shall irrespective of the existence of fault on the Sellers' side (*verschuldensunabhängiger Anspruch*) and regardless of the actual knowledge of the incorrectness of the Sellers' Warranty or a Tax Indemnification Claim by any of the Sellers (*wissensunabhängig*), subject to the provisions, limitations and exclusions as set forth in this Agreement, following receipt of a Claim Notice from the Purchaser, either:

10.1.1 put the Purchaser or, at the election of the Purchaser, the Company or the respective Participation, in the same position it would have been in, if the Breach had not occurred (*Naturalrestitution*) within a reasonable period but no later than one (1) month following receipt of a Claim Notice; or

10.1.2 if and to the extent that such remediation in kind (*Naturalrestitution*) (i) has not been effected by the relevant Seller or Sellers within a period of one (1) month following the receipt of a Claim Notice, (ii) is impossible by the nature of the Breach, (iii) is finally refused (*ernsthaft und endgültig verweigert*) by the Sellers or (iv) is not sufficient to put the Purchaser or, at the election of the Purchaser, the Company or the respective Participation in the same position it would have been in if the Breach had not occurred, pay Damages (as defined below), *i.e.* compensation in money (*Schadenersatz in Geld*), to the Purchaser or, at the election of the Purchaser, the Company.

10.2 Damages

Purchaser shall be entitled to claim the positive damage (*positiver Schaden*) (including, for the avoidance of doubt, in particular royalty payments, license fees and other revenue/income to which the Company would have been entitled if the respective Sellers' Warranty would not have been breached), reasonably foreseeable loss of profits, and any reasonably foreseeable consequential damages of the Company or of the Purchaser, as the case may be, resulting from a Breach, on a Euro-for-Euro basis and, in particular, without taking into account any multipliers or ratios, excluding (i) any damages for lost profits (*entgangener Gewinn*), (ii) lost opportunities (*entgangene Geschäftschancen*), (iii) frustrated expenses (*vergebliche Aufwendungen*), (iv) incidental or internal costs and expenses incurred by the Purchaser, Purchaser's Affiliates or the Company, (v) loss of goodwill or reputational damages, (vi) potential or actual value reductions due to loss of earnings or reduced dividend flows, (vii) losses based on a pricing multiple or other valuation method, (viii) any other potential or actual reduction in value (*Minderung*) of the Company beyond the actual damage incurred to the extent legally possible. Any losses which are recoverable in accordance with this Section 10.2 are herein collectively referred to as "**Damages**".

10.3 Notification of Purchaser Claims

If the Purchaser becomes aware of any matter or circumstance that is reasonably likely to give rise to a Purchaser Claim, Purchaser shall give notice in writing to Sellers and shall provide to the extent available, (i) information on the facts and the object of the Breach in reasonable detail and (ii) the estimated amount of (potential) Damages ("**Claim Notice**"). Section 924 ABGB second sentence shall not apply.

10.4 Third Party Claims

10.4.1 If (i) an order of any governmental authority (including a Tax Authority) is issued, announced to be issued or threatened to be issued against Purchaser or the Company, or (ii) Purchaser or the Company is sued or threatened to be sued by a third party, including any governmental entity or authority, in each case in a manner which may give rise to a Purchaser Claim ("**Third Party Claim**"), Purchaser shall give Sellers' Representative notice of such Third Party Claim without undue delay (*unverzüglich*) but in any case within ten (10) Business Days after Purchaser has learned of such Third Party Claim.

10.4.2 The Purchaser shall use reasonable endeavours that Sellers' Representative is provided with all materials and information reasonably required to assess the Third Party Claim and is given reasonable opportunity to comment or discuss with the

Purchaser any measures which Sellers' Representative proposes to take or to omit in connection with such Third Party Claim. In particular, Sellers' Representative shall be given an opportunity to comment on, participate in, and review any reports, audits or other measures and shall receive copies of all relevant orders (*Bescheide*) of any governmental authority without undue delay (*unverzüglich*).

10.4.3 Sellers and Sellers' Representative agree that all information obtained under this Section 10.4 shall be treated as Confidential Information.

10.4.4 To the extent that Sellers are in breach of a Sellers' Warranty, all costs and expenses reasonably incurred and evidenced by Purchaser or the Company in connection with the defence of an alleged Third Party Claim shall be borne by the Sellers.

11. Tax

11.1 Definitions

"**Pre-Effective Date Tax**" shall mean, irrespective of its due date and the assessment date, any Taxes of the Company attributable to a Pre-Effective Date Tax Period.

"**Pre-Effective Date Tax Period**" shall mean any day or time period up to and including the Effective Date, it being understood that with regard to Tax assessment periods (*steuerliche Veranlagungszeiträume*) beginning before and ending after the Effective Date, the portion of Taxes attributable to the Pre-Effective Date Tax Period shall be determined as if the Effective Date were the end of a business year and the end of a Tax assessment period.

"**Pre-Effective Date Tax Refund**" shall mean (i) irrespective of its due date and the assessment date, any Tax refund of the Company attributable to any Pre-Effective Date Tax Period irrespective of whether the Tax refund occurs by way of an actual payment or setting-off against Taxes assessed for taxation periods ending after the Effective Date and (ii) the amount equal to any Tax liability or Tax provision included – also as part of other liabilities, accruals and provisions – in the Financial Statements to the extent that it exceeds the actual Pre-Effective Date Tax charge.

"**Relevant Tax Matter**" shall mean any filing of a Tax Return, receipt of a Tax assessment or announcement of a Tax audit or any other interaction in writing with a Tax Authority or fiscal courts that could potentially lead to a claim or an obligation of any Party pursuant to this Section 11.

"**Tax Reduction**" shall mean any kind of cash-effective benefit by way of a lower Tax assessment, Tax refund, Tax credit, Tax saving, set-off, increase of losses carried forward or other kind of advantage, including interest thereon (reduced by taxes on such interest) and net of any corresponding Tax increase.

"**Tax**" or "**Taxes**" shall mean any taxes, charges, imposts, levies, fees, duties, contributions (including social security contributions), withholdings, customs, compensation payments or indemnification payments in respect of any such items, and any other payment obligations charged by any federal, state, municipal, foreign or domestic authority, or payable to third parties in respect of such items, on any transaction, income, activity or product, whether directly or indirectly, to be withheld, to be assessed, or to be self-assessed, including the

liability for such taxes of other parties, together with any associated interest, penalties, surcharges or fines. This includes in particular corporate income tax (*Körperschaftsteuer*), interest and dividend withholding tax (*Kapitalertragsteuer*), payroll tax (*Lohnsteuer*), social security contributions of the employer as well as of the employee (*Arbeitgeber- und Arbeitnehmerbeiträge zur gesetzlichen Sozialversicherung)*, contributions to the statutory employees' pension fund (*Beiträge zur betrieblichen Vorsorgekasse*), municipality tax (*Kommunalsteuer*), contributions to the family burden fund (*Beiträge zum Familienlastenausgleichsfonds*), value added tax (*Umsatzsteuer*), levies for chambers of commerce (*Kammerumlagen*), stamp duties (*Rechtsgeschäftsgebühren*), real estate transfer tax (*Grunderwerbsteuer*), any other impositions within the meaning of Austrian Federal Fiscal Code (*Bundesabgabenordnung*), but excluding any reduction of tax losses carried forward.

"**Tax Authority**" shall mean (i) any governmental entity, including the government of any state or province (or political subdivision thereof) as well as municipality or local authorities, (ii) any public insurance institution, including social security agencies, (iii) any body or (iv) any other authority, which is competent to assess, impose, collect or administrate any Tax, whether in Austria or elsewhere.

"**Tax Return**" shall mean any return, declaration, report or information return, statement, claim for refund and other document of, relating to, or required to be filed in respect of, any and all Taxes, including any schedule or attachment thereto, and any amendment thereto.

11.2 Indemnity

Subject to occurrence of Closing, the Sellers undertake to indemnify and hold harmless the Purchaser or – at free discretion of the Purchaser – the Company, as the case may be, from any Pre-Effective Date Tax ("**Tax Indemnification**" and a claim hereunder "**Tax Indemnification Claim**"). The Sellers shall not be liable under this Section, if and to the extent that

11.2.1 the respective Pre-Effective Date Tax has been paid on or before the Effective Date;

11.2.2 a provision (*Rückstellung*), allowance or reserve in relation to the relevant Tax is reflected in the Financial Statements;

11.2.3 the Company or the Purchaser have actually received repayment or indemnification from a third party (including under an insurance policy) with respect to the respective Pre-Effective Date Tax;

11.2.4 the respective Pre-Effective Date Tax is caused by acts or declarations or omissions initiated or executed by the Purchaser or – after the Closing Date – by the Company other than measures required under mandatory law;

11.2.5 the respective Pre-Effective Date Tax is caused by any change in the accounting or taxation policies, and/or practices (including the exercise of election rights) of the Company other than changes required under mandatory law;

11.2.6 the respective Pre-Effective Date Tax is caused by a change of Tax law or Tax court decision after the Effective Date;

11.2.7 the respective Pre-Effective Date Tax is caused by circumstances which give rise to Tax Reductions in taxation periods ending after the Effective Date with respect to the Company and/or the Purchaser, e.g. resulting from the lengthening of depreciation periods or higher depreciation allowances (*i.e.*, reversal effects); in such case, the Tax Reduction realized up to the date the Tax Indemnification Claims is raised shall be fully offset, and future Tax Reductions shall be determined with the Tax rates applicable as on the Effective Date (assuming that the Company is and remains profitable) and discounted at a rate of 5 % p.a.; such discounted value of the future Tax reduction shall be deducted from the respective Pre-Effective Tax.

11.2.8 the Purchaser, or – after the Closing Date – the Company has failed to comply with the obligations and procedures set forth in Sections 11.4 and/or 11.5 and such failure has prejudiced (*beeinträchtigt*) the Taxes becoming payable.

11.3 Due Date of Tax Indemnification Claim

Any Tax Indemnification Claim pursuant to Section 11.2 shall be due twenty (20) Business Days after the Sellers have been notified in writing by the Purchaser of the payment obligation and the corresponding payment date and have received a copy of the underlying Tax assessment, but in no event earlier than five (5) Business Days before the respective Tax is due and payable to the Tax Authority.

11.4 Tax Refund Claim

11.4.1 The Sellers shall be entitled to any Pre-Effective Date Tax Refund, unless such Pre-Effective Date Tax Refund (i) has been settled prior to/on Effective Date or (ii) has already reduced a Tax Indemnification Claim of the Purchaser.

11.4.2 The Purchaser shall, upon receipt of a Pre-Effective Date Tax Refund, pay to the Sellers an amount equal to the Pre-Effective Date Tax Refund less any applicable withholding tax not later than twenty (20) Business Days after the receipt.

11.4.3 The exclusions set forth in Section 11.2 shall apply *mutatis mutandis* to any claim of the Sellers under this Section.

11.5 Tax Communication

After the Closing Date, the Purchaser shall (and shall procure that the Company does) (i) file all Tax Returns and submit all other Tax related written communication with the Tax Authorities relating to the Relevant Tax Matters in connection with, for the avoidance of doubt, the Pre-Effective Date Tax Period, when due and in accordance with past practice and applicable laws (together, the "**Tax Communication**") only subject to the Seller's prior written approval, which shall not be unreasonably withheld or delayed, (ii) forward all Tax Communication at least ten (10) Business Days before the filing due date to the Sellers for review and comments, except for self-assessment notices with respect to wage tax, VAT and other self-assessed taxes *(Lohnsteueranmeldungen, Umsatzsteueranmeldung, sonstige Anmeldungssteuern*), and (iii) comply with all instructions issued by the Sellers with respect to Tax Communication. The consent of Sellers shall be deemed to be granted if the Sellers fail to deliver written notice of their consent or instructions within five (5) Business Days after the date of the receipt of the respective drafts of the Tax Returns.

11.6 Limitations, Miscellaneous

11.6.1 Claims under this Section 11 shall become time barred [***] after the relevant Tax assessment has become Final and Binding.

11.6.2 Payments by the Parties pursuant to Section 11 shall to the extent legally permissible be treated as an adjustment of the Purchase Price.

11.6.3 Except for Section 12.3 (W&I Cap), 12.6 (Exclusive Remedy) and 12.7 (Credit of Benefit) the limitations set forth in Section 12 shall not apply to any claims of the Purchaser under Section 11.2.

12. Limitations and Exclusion of Purchaser Claims

12.1 The Sellers shall not be liable for a Purchaser Claim if and to the extent that:

12.1.1 the matter to which the Purchaser Claim relates (i) has been specifically taken into account in the Financial Statements by way of a specific provision (*Einzelrückstellung*), liability (*Verbindlichkeit*), exceptional market values (*Abschreibung auf den niedrigeren beizulegenden Wert*), in each case reasonably associated with the matter in question and taken into account when determining the Company Enterprise Value, or (ii) deducted as financial debt in the equity value bridge attached as Exhibit 5.1.1;

12.1.2 the Damage asserted under the Purchaser Claim is actually recovered from third parties by the Purchaser or the Company under any insurance policy of the Company, excluding any W&I Insurance;

12.1.3 Purchaser or any Affiliate of Purchaser controlled by the Purchaser in the meaning of Section 244 paragraph 2 UGB has intentionally contributed to (*mitverursacht*) such Breach within the meaning of Section 1301 ff Austrian Civil Code (*ABGB*) and/or has failed to comply with its duty to mitigate damages (*Schadensminderungsobliegenheit*);

12.1.4 the Purchaser Claim does result from, or is increased by, the passing of, or any change in any law after the Closing Date;

12.1.5 the Purchaser had positive knowledge of the underlying facts or circumstances constituting a Breach; without limitation of the foregoing, the following facts and circumstances are irrevocably deemed to be positively known by the Purchaser:

(a) facts and circumstances Fairly Disclosed in this Agreement, its Exhibits or Schedules (including the Disclosure Schedules); or

(b) [***]; or

(c) facts and circumstances Fairly Disclosed in the documents set out in **Exhibit 12.1.5(c)**.

Facts and circumstances are "**Fairly Disclosed**" (i) if they have been disclosed in this Agreement, its Exhibits or Schedules (including the Disclosure Schedules) or (ii) if they have been disclosed in the Data Room, provided such information is contained

in a folder to which it topic-wise relates and in a manner that an experienced purchaser, equipped with the necessary expertise, applying the duty of care of a prudent businessman, could reasonably understand the relevance and significance of the matter in connection with the Sellers' Warranties and/or a Tax Indemnification Claim.

12.2 De Minimis and Threshold, Excluded Claims

12.2.1 The Sellers shall only be liable pursuant to or in connection with those Purchaser Claims for a Breach that are not Excluded Claims:

(a) if such individual Purchaser Claim exceeds [***] (*de minimis*) (each such claim above the de minimis threshold a "**Material Claim**"), whereby a series of individual claims on similar set of facts shall be regarded as an individual Purchaser Claim; and

(b) if the sum of all Material Claims exceeds an aggregate amount of [***] (*Freigrenze*) (the "**Threshold**").

12.2.2 If and to the extent that the aggregate amount of all Material Claims exceeds the Threshold, the Purchaser shall be entitled to claim the full aggregate amount of such Material Claims and not only the amount exceeding the Threshold.

12.2.3 Sections 12.1.5, 12.2.1 and 12.2.2 shall not apply to Excluded Claims. "**Excluded Claims**" means:

(a) Purchaser Claims for Breaches of Sellers' Warranties pursuant to Sections 1, through 3 of Exhibit 9 (the "**Fundamental Warranties**"); and

(b) Tax Indemnification Claims.

12.3 Cap

The aggregate liability of the Sellers for any claims for a Breach including – for the avoidance of doubt – a Breach of a Fundamental Warranty or Tax Indemnification Claim (herein collectively "**Insured Claims**"), shall not exceed [***] ("**W&I Liability Cap**"). The Purchaser expressly acknowledges, and the Parties agree, that any liability of the Sellers for an Insured Claim in excess of the W&I Liability Cap shall be excluded. Consequently, the Purchaser's sole recourse with respect to Insured Claims in excess of the W&I Liability Cap shall be against the entity or entities, as the case may be, underwriting the Insured Claims. Purchaser expressly acknowledges and the Parties agree that the validity and collectability risks in respect of the insurance, if any, which has been or will be taken out by the Purchaser in relation to the Insured Claims shall solely and irrevocably rest with the Purchaser.

12.4 W&I Insurance

12.4.1 The Purchaser has taken out a warranty & indemnity insurance policy ("**W&I Insurance Policy**") with [***] ("**W&I Insurer**"). The costs of the W&I Insurance Policy shall be shared between the Purchaser and the Sellers at equal parts, except for the costs for a “knowledge scrape” offered by the W&I which costs shall solely borne by the Sellers.

12.4.2 The Parties acknowledge that a Seller is liable in accordance with applicable statutory law in case such Seller or one of the persons attributable to the Seller pursuant to Section 9.4 and 9.5 commits in relation to the Purchaser wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or intentional harm (*vorsätzliche Schädigung*).

12.4.3 The Purchaser has provided the Sellers with a letter from the W&I Insurer on the Signing Date in which the W&I Insurer assures the Sellers that it will not assert any recourse against the Sellers pursuant to any applicable laws, in particular pursuant to any applicable insurance contract act, in the event of an insurance claim by the Purchaser against the W&I Insurer, unless in case of wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or intentional behaviour (*Vorsatz*) by a Seller or one of the persons attributable to the Seller pursuant to Section 9.4 and 9.5.

12.5 Limitation Periods

12.5.1 Any and all claims of the Purchaser under or in connection with a Breach shall be time-barred (*verjähren*) [***] following the Closing Date, except for a Purchaser Claim for Breaches of (i) Fundamental Warranties, which shall each be time-barred (*verjähren*) [***] after the Closing Date, and (ii) tax warranties provided for in Section 20 of Exhibit 9, which shall become time-barred (*verjähren*) [***] after the relevant Tax assessment becomes Final and Binding. Each period mentioned in this Section 12.5 is referred to as a "**Warranty Period** ".

12.5.2 The Warranty Period of any claim of the Purchaser under or in connection with a Breach is deemed to be complied with if the Purchaser has asserted the respective claim by written Notice to the Sellers' Representative within the respective Warranty Period.

12.5.3 For a Breach resulting from an intentional concealment of the truth by any Seller or resulting from particular gross negligence or intentional fault of any Seller, neither time limitations or monetary limitations, nor any other limitations of liability of any Seller apply.

12.6 Exclusive Remedy

The Parties agree that the remedies the Purchaser may have against the Sellers for any Breach are solely governed by Sections 10 through 12, which shall be the exclusive remedies available to the Purchaser for a Breach instead and to the exclusion of any and all remedies that would otherwise be available to the Purchaser under applicable law. Accordingly the remedies provided in Sections 10 through 12 shall be in lieu of any other remedy (*Rechtsbehelf*) (including, but not limited to), (i) any assertion remedy pursuant to Sections 918 f ABGB, (ii) any other warranty remedy pursuant to Sections 922 ff Austrian Civil Code (*ABGB*) (*Gewährleistungsbehelf*), (iii) any damage claim pursuant to Sections 1397 ff Austrian Civil Code (*ABGB*) (*Schadenersatzanspruch*), if and to the extent such remedies can be contracted out, (iv) any other liability claim (*Haftungsanspruch*), (v) any challenge or adaption remedy due to error pursuant to Sections 871 f Austrian Civil Code (*ABGB*) (*Irrtumsanfechtung*) or (vi) any annulment remedy due to significant inequality of values pursuant to Section 934 Austrian Civil Code (*ABGB*) (*Verkürzung über die Hälfte*) or (vii) or any other challenge-, adaption- or annulment-remedy (*Gestaltungsrechte*), to the extent

such remedies can be contracted out) the Purchaser may have by law or otherwise in connection with any Breach set forth under or in connection with this Agreement.

12.7 Credit of Benefits

To the extent that any circumstances forming the basis of a Purchaser Claim give rise to a monetary Tax benefit or other monetary benefit (including a reduction in taxable income) of the Company or the Purchaser, such benefit shall be credited against such claim of the Purchaser (*Vorteilsausgleich*).

12.8 No Limitation of Liability

For the avoidance of doubt, any limitations of liability of the Sellers under this Agreement shall not apply with respect to intentional actions (*vorsätzliche Handlungen*), fraud (*Betrug*) or wilful deceit (*arglistige Täuschung*) of the Sellers or the Relevant Persons.

13. [*Intentionally left blank*]

14. [*Intentionally left blank*]

15. Purchaser's Guarantee

Purchaser hereby guarantees that the statements set forth in Sections 15.1.1 through 15.1.5 below (herein collectively "**Purchaser's Guarantees**" and each a "**Purchaser's Guarantee**") are true and correct on the Signing Date and on the Closing Date:

15.1.1 Enforceability, Capacity: Purchaser is a stock corporation duly organized and validly existing under the laws of the state of Delaware having its registered address at 3911 Sorrento Valley Boulevard, Suite 110, San Diego, CA, United States of America. This Agreement constitutes the legal, valid and binding obligation of Purchaser, enforceable against Purchaser in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights of creditors generally. Purchaser has the absolute and unrestricted right, power, authority and capacity to execute this Agreement and to perform its obligations under this Agreement, which actions have been duly authorized and approved by all necessary corporate actions of Purchaser. Except for the FDI Approval and capital market rules applying to Purchaser, Purchaser is not required to give any notice to any person or obtain any consent or governmental authorisation or approval in connection with the execution and performance of this Agreement. Neither the execution of this Agreement nor the consummation of any of the transactions contemplated under this Agreement will directly or indirectly violate the certificate of incorporation, articles of association or by-laws of Purchaser.

15.1.2 Bankruptcy or Judicial Composition Proceedings: No bankruptcy or judicial composition proceedings concerning Purchaser have been applied for (i) by the management of Purchaser, or (ii), to the knowledge of Purchaser, any third party, and, to the knowledge of Purchaser, no circumstances exist which would require the application for any bankruptcy or judicial composition proceedings concerning Purchaser or justify any action of voidance of this Agreement.

15.1.3 Acquisition for Own Account: Purchaser is acquiring the Sold Stocks as an investment for its own account.

15.1.4 Financial Capability: Purchaser has sufficient immediately available funds to pay the Purchase Price, as well as any fees, costs and expenses incurred or to be made in connection with the transactions contemplated under this Agreement.

15.1.5 No Violation of Laws: To the knowledge of Purchaser the execution and performance by Purchaser of its obligations under this Agreement as well as all other agreements, instruments and documents to be executed or delivered under or in connection with this Agreement, do not violate, conflict or result in any contravention of any applicable law or any regulation or judgment of any governmental authority applicable to Purchaser.

15.1.6 Finders' Fees: Purchaser does not have any obligation or liability to pay any fees or commissions to any broker, finder, agent (*Erfüllungsgehilfe*) or other third party with respect to the transactions contemplated under this Agreement for which a Seller could become wholly or partly liable.

15.2 In case of any breach or non-fulfilment by Purchaser of any of the Purchaser's Guarantees, Purchaser shall be liable for putting each Seller into the same position that it would have been in if the respective Purchaser's Guarantee had been correct (*Naturalrestitution*) or, at the election of a Seller, for paying Damages (*Geldersatz*) to such Seller.

16. Purchaser's Indemnity

16.1 Purchaser shall indemnify and hold harmless each Seller and each of Sellers' Affiliates and any of their respective successors and any of the current or former members of the management board of the Company (herein each a "**Sellers' Beneficiary**") from and against any and all losses, liabilities (whether present or future, actual or contingent), damages and reasonable costs and expenses (including Taxes, reasonable legal fees, expenses and disbursements) (herein collectively "**Seller's Indemnification Claims**" and each a "**Seller's Indemnification Claim**") arising out of or in connection with claims of the Company:

16.1.1 resulting from an alleged infringement of applicable capital maintenance rules; or

16.1.2 resulting from the breach of the duties of a member of the management board, whereas such indemnification shall not apply if such liability is based on wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or intentional behaviour (*Vorsatz*) by a Seller or the relevant Sellers' Beneficiary,

in each case unless and except to the extent Purchaser has an enforceable right to claim damages or indemnification from a Seller in respect of such losses, liabilities or damages under the terms of this Agreement. Each Seller's Indemnification Claim is capped at such amount that the Company has asserted against such Sellers' Beneficiary and has actually received from the Sellers' Beneficiary upon assertion of the claim forming the basis for the respective Seller's Indemnification Claim. Purchaser's obligations under this Section 16 shall terminate at the earlier of (i) the expiry of the limitation period of the claim forming the basis for the respective Seller's Indemnification Claim, (ii) the Purchaser ceases to be a shareholder of the Company, provided the Purchaser has transferred its obligation under

this Section 16 validly to the acquiror of the Company Stocks or (iii) the Company becomes insolvent in the meaning of the Austrian IO.

16.2 A Seller's Indemnification Claim shall be time-barred (*verjährt*) [***] after a Seller or Sellers' Beneficiary has been notified in writing of the respective claim or liability giving rise to a Sellers' Indemnification Claim, stating the amount of liability and the underlying facts (in reasonably sufficient detail). The expiry of the limitation period is interrupted by filing an action with the competent court/arbitration tribunal or by an agreement by the Seller or Sellers' Beneficiary entitled under the Sellers' Indemnification Claim and the Purchaser.

16.3 For avoidance of doubt, the Parties have explicitly agreed that nothing in this Section 16 shall limit the Company's rights to collect any damages under directors & officers insurance policies.

17. Sellers' Waiver of Claims and Sellers' Indemnities

17.1 Subject to Closing, each Seller hereby irrevocably waives, and ensures that all of his/her/its Affiliates and Related Persons will waive, any and all claims against the Company, past and future claims, unconditional and conditional claims, known or unknown claims, regardless of their nature and for what legal reason, arising from and in connection with their position as a shareholder, officer, director, board member, employee, advisor, service provider or agent for the Company.

17.2 Sellers shall indemnify and hold harmless the Purchaser and/or the Company from and against any and all losses, liabilities (whether present or future, actual or contingent), damages and reasonable costs and expenses (including Taxes, reasonable legal fees, expenses and disbursements) (herein collectively "**Purchaser's Indemnification Claims**" and each a "**Purchaser's Indemnification Claim**") arising out of or in connection with the circumstances and facts disclosed in **Exhibit 17.2** ("**DD Findings List**"). The Purchaser's Indemnification Claims are secured by the Retention Amount and shall be time barred and limited in amount as set out in Exhibit 17.2. The aggregate liability for any and all Purchaser's Indemnification Claims shall be limited to and in no case exceed an amount of [***]. The limitation period of any Purchaser's Indemnification Claim is deemed to be complied with if the Purchaser has (i) asserted the respective claim by written Notice to the Sellers' Representative within the respective limitation period and (ii) commenced legal action before the competent tribunal within six (6) months after the lapse of the respective limitation period.

17.3 Notwithstanding Section 17.2, the aggregate liability of the Sellers for any claims under or in connection with this Agreement, except for claims of the Purchaser arising as a result of wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or intentional behaviour (*Vorsatz*) by any of the Sellers or the Relevant Persons, shall in no case exceed an amount corresponding to the Escrow Amount plus, to the extent earned, the Earn-out.

17.4 If the Purchaser becomes aware of any matter or circumstance that is reasonably likely to give rise to a Purchaser's Indemnification Claim, Purchaser shall give notice in writing to Sellers' Representative and shall provide to the extent available and legally permissible, (i) information on the facts and the object of the Purchaser's Indemnification Claim in reasonable detail and (ii) the estimated amount of the (potential) amount of Purchaser's Indemnification Claim ("**Indemnification Claim Notice**"). Without prejudice to the validity of

the (alleged) Purchaser's Indemnification Claim in question, Purchaser shall allow the Sellers' Representative and its accountants and professional advisors to inspect the books and records of the Company to the extent required to investigate the matter or circumstances in question. The Sellers agree that all information obtained under this Section 17.4 shall be treated as Confidential Information. This Section 17.4 shall also apply in case of court or arbitration proceedings pending between the Parties in connection with the transactions contemplated under this Agreement.

17.5 Section 10.4 (Third Party Claims) shall apply also in connection with Purchaser's Indemnification Claims. Further, provided that the remaining Retention Amount at that time is expected to be sufficient to cover the respective potential Purchaser's Indemnification Claim and that Sellers' Representative acknowledges the respective Purchaser's Indemnification Claim in case the Company would ultimately lose the litigation about the Third Party Claim, Sellers' Representative shall be entitled, at its own discretion, to take such action (or cause Purchaser or the Company to take such action) as Seller deems reasonably necessary to avoid, dispute, deny, defend, appeal, resist, compromise or contest such claim (including making counter-claims or other claims against third parties) in the name and on behalf of the Company, provided that such claim shall not be compromised, disposed or settled without the prior written consent of Purchaser, such consent not to be unreasonably withheld. Purchaser shall give, and procure (*steht dafür ein*) that the Company gives, subject to them being reimbursed all reasonable and evidenced costs and out of pocket expenses, all such information and assistance as described above, including (i) reasonable access to premises and personnel during normal business hours and without causing substantial disruption of the business operations and (ii) the right to examine and copy or photograph any assets, accounts, documents and records for the purpose of avoiding, disputing, denying, defending, resisting, appealing, compromising or contesting any such claim or liability as Sellers' Representative or its professional advisors may reasonably request.

17.6 Since each Seller shall only be liable as single debtor (*Einzelschulder*), the liability of each Seller shall be limited to the Seller's Percentage of (i) the Escrow Amount and (ii) the Earn-out. "**Seller's Percentage**" shall mean the number of the Sold Stocks of such Seller divided by the number of all Sold Stocks.

18. No Double Dip

The Parties agree that where one and the same set of facts (*Sachverhalt*) qualifies under more than one provision entitling the Purchaser to a claim under this Agreement, there shall be only one claim or remedy. In particular, the foregoing shall apply if one and the same set of facts qualifies as a breach or non-fulfilment of more than one of the Sellers' Warranties.

19. Payment Terms

19.1 Any payments under this Agreement shall be effected at the latest on the relevant due date for such payment, by irrevocable wire transfer free and clear of costs and charges (other than any costs and charges levied by the recipient's bank) and any withholdings, in immediately (on the same day) available US-Dollar-denominated funds with value on the relevant due date. Any accrued interest shall be due and payable together with the relevant principal amount to which it relates.

19.2 Any payments to be made under this Agreement to the Escrow Account shall, except as otherwise expressly provided in this Agreement or agreed in writing by the Parties, be made, and shall have discharging effect only if made, into the following bank account:

Account holder: Dr. Thorsten Antenreiter, LL.M.

Bank: NOTARTREUHANDBANK AG

[***]

19.3 Any payment owed by the Sellers to the Purchaser under this Agreement, except as otherwise expressly provided in this Agreement, shall be made, and shall have discharging effect only if made, into the following bank account or into such other bank account as notified by the Purchaser to the Sellers at least five (5) Business Days prior to the date on which such relevant payment falls due:

Account holder: Ligand Pharmaceuticals Inc.

[***]

19.4 Unless expressly otherwise provided in this Agreement, any payments to be made by any of the Parties pursuant to this Agreement shall be made in US-Dollar currency. In the event that conversion rates have to be applied to determine an amount payable or to set-off claims (to the extent permitted) in differing currencies against each other pursuant to this Agreement, the conversion rates to be applied shall be the conversion rates for value at the relevant reference date as published on the website

http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html
(or any replacement thereof)

at noon on such reference date. In the event that a conversion rate for estimations referring to a specific reference date has to be determined, the relevant reference date for the estima-tion shall be the date on which such estimation is made.

19.5 Except as otherwise provided herein, each Party shall pay interest on any amount becoming due (*fällig*) and payable (*zahlbar*) to any other Party under this Agreement as from (and including) the respective due date until (but excluding) the day of actual payment at the statutory rate.

20. Confidentiality

20.1 The Parties mutually agree to treat as strictly confidential, and to prevent the disclosure to any third parties of, the contents of this Agreement, the circumstances concerning its negotiation, its execution and its consummation as well as any and all information which they have obtained and which relates to the other Parties. The foregoing duties shall not apply to any facts which are in the public domain, which have entered the public domain without a violation of this obligation or the disclosure of which is required by law or by any regulation, rule or any court or governmental (regulatory) authority or any stock exchange regulations. In that case, however, each Party will be obligated to inform the respective other Party about such disclosure and to limit the disclosure to the minimum required under law or by the applicable capital markets rules.

20.2 Each Party may disclose any information protected in accordance with Section 20.1 to third parties, if and to the extent that such disclosure is required in order to perform this Agreement and the Transactions stipulated herein, to any Affiliate, direct or indirect shareholder, financing partner, the broker and insurer, provided that each of them has entered into a customary confidentiality agreement in connection with the Transaction and/or to consultants or advisors obliged by profession to secrecy. The Purchaser may further disclose any information protected in accordance with Section 20.2 to its shareholders provided that each of them has entered into a customary confidentiality agreement in connection with the Transaction.

20.3 Prior to issuing any press release or making any similar voluntary announcements with respect to this Agreement, its formation and its performance, the Parties shall agree on the form and content of such press release or similar announcement.

21. Notices

21.1 Any statement of legal significance, notice, communication or other declaration under or in connection with this Agreement ("**Notice(s)**") shall be made in writing (*Schriftform*) unless a notarization or any other stricter form is required by mandatory law or in this Agreement. The written form shall include email if signed copies are attached as pdf to an email (with explicit confirmation of receipt), but no other transmission by way of telecommunication or electronic form. All Notices to be given by the Parties shall be addressed to the addresses set forth below:

21.1.1 Notifications to the Purchaser

Ligand Pharmaceuticals Incorporated
3911 Sorrento Valley Boulevard, Suite 110
San Diego, CA
United States of America
Attention: Paul Hadden and Andrew Reardon
E-mail: phadden@ligand.com; areardon@ligand.com

with a copy to:

McDermott Will & Emery Rechtsanwälte Steuerberater LLP
Stadttor 1
40219 Düsseldorf

Attention: Dr. Uwe Goetker
E-Mail: ugoetker@mwe.com

21.1.2 Notifications to the Sellers

[***]

with a copy to:

Baker McKenzie Rechtsanwälte LLP & Co KG
Attention: Dr. Gerhard Hermann
Schottenring 25
1010 Vienna
E-mail: gerhard.hermann@bakermckenzie.com

21.2 Each Party is to communicate any change of its respective addresses set forth above as soon as possible in writing to the respective other Parties. Until receipt of such communication, the address as hitherto shall be relevant.

21.3 The receipt of copies of Notices by the legal advisers to any of the Parties shall not constitute or substitute the receipt of such Notices by the Parties themselves, regardless of whether the delivery of such copy was mandated by this Agreement.

21.4 All notices delivered in person shall be deemed to have been delivered to, and received by, the addressee and shall be effective on the date of personal delivery; notices delivered by registered mail, courier or e-mail shall be deemed delivered and effected on the date they are received (*Zugang*).

22. Relation of the Sellers

22.1 Sellers' Representative

22.1.1 Each of the Sellers hereby appoint the Seller set forth in Section 21.1.2, who hereby accepts such appointment, as representative ("**Sellers' Representative**") to act on Sellers' behalf for the following purposes under this Agreement:

(a) making and accepting any declarations, statements or notices under this Agreement on behalf of the Sellers;

(b) granting any consent or approval on behalf of Sellers set forth in this Agreement; and

(c) taking any and all other actions provided for in, or contemplated by, this Agreement to be performed by Sellers.

22.1.2 Any Notice, consent or approval given to Sellers' Representative by Purchaser shall be deemed to have been given to each Seller.

22.1.3 Notices, consents or approvals by the Sellers vis-à-vis the Purchaser shall only be effective when issued by the Sellers' Representative.

22.1.4 The Sellers are entitled to replace the Sellers' Representative by written declaration to the Purchaser and with ten (10) Business Days prior written notice and the delivery address of any Sellers' Representative shall be in Germany or Austria.

22.2 Liability of Sellers

22.2.1 Each of the Sellers shall be liable under this Agreement, in particular for any infringement of this Agreement, as single debtors (*Einzelschuldner*).

22.2.2 The liability of a Seller pursuant to Section 6.3 (*Leakage*) is not limited by a cap or maximum amount. The last sentence of Section 6.3 shall remain unaffected.

22.2.3 Other than the liability of a Seller pursuant to Section 6.3 (*Leakage*), the liability of each Seller, if not limited by a cap, shall, in any event be limited by the portion of the Escrow Amount plus, to the extent actually received by such Seller, the portion of the

Earn-out attributable to such Seller. In case of wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or intentional behaviour (*Vorsatz*) by a Seller or by a person attributable to a Seller pursuant to Section 9.4 or 9.5 such Seller remains to be liable as single debtor (*Einzelschuldner*).

22.2.4 In case (i) more Sellers or all Sellers are liable for any infringement of this Agreement (as single debtors) and (ii) the portion of the liability between the Sellers cannot be derived from the infringed provision of the Agreement or from the infringed law, each of the (liable) Sellers is only liable to the portion corresponding to such Sellers portion in the Sold Stocks compared with the Sold Stocks of the Sellers liable for such infringement of this Agreement.

23. Miscellaneous

23.1 All registration or similar fees as well as the costs of the Escrow Agent incurred in connection with this Agreement, other than costs of the Escrow Agent resulting from additional insurance coverage with respect to the services of the Escrow Agent, and the costs or fees of Austrian FDI Approval proceedings or other governmental approvals or filings connected with the execution and implementation of this Agreement shall be borne by the Purchaser. Save as aforesaid, each Party shall bear its own costs and taxes and the costs of its professional advisers in connection with the Transaction.

23.2 Except for acknowledged (*anerkannt*) or finally adjudicated (*rechtskräftig festgestellt*) claims, each Party's right of set-off (*aufrechnen*), retention (*zurückbehalten*) or other refusal of performance shall be excluded.

23.3 Assignment

23.3.1 None of the Parties may assign or otherwise transfer, in whole or in part, any rights or claims (including future or contingent claims) pursuant to or in connection with this Agreement to a third party without the prior written consent of the other Parties.

23.3.2 Notwithstanding the foregoing, the Purchaser is entitled to assign the rights under this Agreement to a transferee of shares in the Company, provided that Purchaser remains exclusively responsible for and entitled to the enforcement of the relevant rights or claims.

23.4 Governing Law and Jurisdiction

To extent legally permissible, this Agreement shall be governed by and construed in accordance with the laws of the Republic of Austria without regard to the principles of conflicts of laws and without regard to the UN Convention on the Sale of Goods.

23.5 All disputes, controversies and/or claims arising out of or in connection with this Agreement (or any ancillary agreement), , including a dispute as to the conclusion, termination, validity or existence thereof, are (i) finally and (ii) to the extent legally permissible also exclusively resolved and settled by the competent court for the first city district of Vienna, Austria.

23.6 The Exhibits (and the Schedules, if any, to Exhibits) comprise all exhibits (and schedules, if any) to this Agreement and form an integral and binding part of this Agreement. Unless the context requires otherwise, any reference in this Agreement to an Exhibit shall be deemed to include all Schedules, if any, to that Exhibit. This Agreement, including its Exhibits, contains the entire agreement of the Parties with respect to the subject matter hereof and supersedes any previous agreements. Unless the context indicates otherwise, any reference to this Agreement shall be deemed to include a reference to its Exhibits and Schedules.

23.7 Any amendments or supplements to this Agreement, as well as any waiver of any rights under this Agreement, shall be valid only if made in written form unless a stricter form is required by law. This shall also apply to any amendments to or cancellation of this Section 23.7.

23.8 Wherever in this Agreement, German terms are inserted in brackets and/or italics after English terms, the respective German terms alone and not the English terms shall be authoritative for the interpretation of the respective English term in such provision or elsewhere in this Agreement. **Exhibit 23.8** contains further general rules applicable with respect to definitions contained herein and with respect to the interpretation and construction of this Agreement.

23.9 Each provision of this Agreement is severable. If any such provision is held to be or becomes illegal, invalid or unenforceable in any respect under Applicable Laws of any jurisdiction, then, to the extent that it is illegal, invalid or unenforceable,

23.9.1 it is given no effect and it is deemed not to be included in this Agreement, but it shall not affect or impair the legality, validity or enforceability in that jurisdiction of any other provisions of this Agreement (or of the provisions of this Agreement in any other jurisdiction); and

23.9.2 it shall automatically be deemed replaced by such legal, valid and enforceable substitute provision or provisions the effect of which is as close as possible to the intended effect of the illegal, invalid or unenforceable provision.

The same shall apply to any unintended gaps (*unbeabsichtigte Vertragslücken*) in this Agreement.

23.10 Except for the express rights of termination contained in this Agreement and except in case of wilful deceit (*arglistige Täuschung*), fraud (*Betrug*) or wilful misconduct (*Vorsatz*), no Party has any right to terminate this Agreement and the Parties waive their rights (if any) to annul, rescind, dissolve, withdraw from, cancel, terminate or modify this Agreement under any circumstances. In particular (and except as otherwise agreed in this Agreement) and to the greatest extent legally possible, the Parties expressly waive their right (i) to challenge (*anfechten*), (ii) to rescind (*kündigen*), (iii) to withdraw from (*zurücktreten*) or (iv) to assert, including by way of defence (*einredeweise geltend machen*), any price reduction (*Preisminderung*), adjustment (Anpassung) or annulment (*Aufhebung*) of this Agreement based on error (*Irrtum*) or due to significant inequality of values pursuant to Section 934 *ABGB* (*Verkürzung über die Hälfte*), or on absence of purpose (*Fehlen der Geschäftsgrundlage*), disturbance of purpose (*Störung der Geschäftsgrundlage*) or frustration of purpose (*Wegfall der Geschäftsgrundlage*). Furthermore, the Parties agree that

section 928, first sentence of the ABGB and the legal concept expressed therein shall not apply to this Agreement.

***

/s/ Todd Davis_____
Todd Davis
acting as CEO of
Ligand Pharmaceuticals Incorporated

/s/ [***]_____

[***]

which is in turn acting as authorized representative (*Bevollmächtiger*) of all Selling Shareholders **Exhibit (A)** other than those who do execute this Agreement on the following pages

/s/ [***]_____
[***]

_____

Name: _____

Exhibit (A)

List of Sellers

[***]

Exhibit (C)

Shareholders Register

[***]

Exhibit (F)

Minutes General Meeting

[***]

Exhibit 4.1

Table of ESOP Payments

[***]

Exhibit 5.1.1

Equity Bridge

[***]

Exhibit 5.4.1

Escrow Agreement

[***]

Exhibit 5.6

Earn-out

[***]

Exhibit 6.2.4

Permitted Leakage

[***]

Exhibit 7.1.2

Co-Sale Demand

[***]

Exhibit 7.1.3

Spouses' Consents

[***]

Exhibit 7.1.5(a)

Form of Exit Notice

[***]

Exhibit 7.1.5(b)

Option holders

[***]

Exhibit 7.1.5(c)

Form of ESOP Waiver Letter

[***]

Exhibit 7.1.6

Management Termination Agreement

[***]

Exhibit 7.1.7

Resignation Letter [***]

[***]

Exhibit 7.1.8(a)

Confirmation Letter Special Agents

[***]

Exhibit 7.1.8(b)

Confirmation Letter invIOs GmbH regarding Special Agents

[***]

Exhibit 7.1.12

Waiver Letter Erste Bank

[***]

Exhibit 7.1.13

Amendment Service Level Agreements

[***]

Exhibit 7.1.14

Resignation Letters Supervisory Board

[***]

Exhibit 7.1.17

Confirmation invIOs AG regarding Carve-Out

[***]

Exhibit 7.1.18

Bring-Down Certificate

[***]

Exhibit 7.1.19

[***]

[***]

Exhibit 8.2.1(d)

Initial Release Notice

[***]

Exhibit 8.2.1(f)

Supervisory Board Resolution new Management Board Member

[***]

Exhibit 8.3.1

Closing Confirmation

[***]

Exhibit 9

Sellers' Warranties

[***]

Exhibit 12.1.5(c)

Disclosures

[***]

Exhibit 17.2

DD Findings List

[***]

Exhibit 23.8

Interpretation Rules

[***]

FIRST AMENDMENT TO CREDIT AGREEMENT

This **FIRST AMENDMENT TO CREDIT AGREEMENT** (this "**Amendment**"), is made and entered into as of July 8, 2024, by and among **LIGAND PHARMACEUTICALS INCORPORATED**, a Delaware corporation (the "**Borrower**"), the other Loan Parties party hereto, the Lenders party hereto (the "**Lenders**"), and **CITIBANK, N.A.**, as administrative agent for the Lenders (in such capacity, the "**Administrative Agent**").

W I T N E S S E T H:

WHEREAS, the Borrower, the other Loan Parties, the Lenders and the Administrative Agent are parties to that certain Credit Agreement dated as of October 12, 2023 (as amended, restated, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), pursuant to which the Lenders committed to make certain loans and other financial accommodations to the Borrower upon the terms and conditions set forth therein;

WHEREAS, the Borrower has requested (a) an Incremental Facility in an aggregate principal amount equal to $50,000,000 pursuant to Section 2.16 of the Credit Agreement (the "**Revolver Increase**"), and (b) certain amendments to the Credit Agreement as set forth herein.

WHEREAS, (a) the Administrative Agent and the Lenders party hereto are willing to amend the Credit Agreement and (b) each Lender (each an "**Increasing Revolving Lender**") providing any portion of the commitments for the Revolver Increase (the "**Specified Revolving Loan Commitments**") is willing to provide its portion of the Specified Revolving Loan Commitments, in each case, on the terms and conditions contained in this Amendment;

NOW, THEREFORE, in consideration of the premises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Loan Party, the Lenders and the Administrative Agent do hereby agree that the Preamble and Recitals are incorporated into this Amendment in their entirety, and that capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Credit Agreement and further agree as follows:

1. Acknowledgment of Obligations. The Borrower and each other Loan Party hereby acknowledge, confirm and agree that all credit extensions made under the Credit Agreement and the other Loan Documents prior to the date hereof, together with interest accrued and accruing thereon, and fees, costs, expenses and other charges owing by the Loan Parties to the Administrative Agent and Lenders under the Credit Agreement and the other Loan Documents, are unconditionally owing by the Loan Parties to the Administrative Agent and Lenders, without offset, defense or counterclaim of any kind, nature or description whatsoever except as such enforceability may be limited by bankruptcy, insolvency, and other similar laws affecting the rights of creditors generally or by general principles of equity (whether enforcement is sought by proceedings in equity or at law).

2. Amendments to Credit Agreement. Subject to the terms and conditions of this Amendment, including without limitation the fulfillment of the conditions to effectiveness specified in Section 4 below, the Credit Agreement is hereby amended as follows:

(a) Section 1.01 of the Credit Agreement, Defined Terms, is hereby amended by adding the following new definition in proper alphabetical order:

"First Amendment Effective Date" means July 8, 2024.

(b) Section 1.01 of the Credit Agreement, Defined Terms, is hereby amended by amending and restating the definition of "Fee Letter" in its entirety to read as follows:

"*Fee Letter*" means, together, (i) that certain letter agreement, dated as of June 7, 2023, among the Borrower, the Administrative Agent and the Arranger, and (ii) that certain letter agreement, dated July 8, 2024, among the Borrower, the Administrative Agent and the Arranger.

(c) The first sentence of Section 2.16(a) of the Credit Agreement, Request for Increase, is hereby amended and restated in its entirety to read as follows:

Provided there exists no Default, upon notice to the Administrative Agent (which shall promptly notify the Revolving Lenders), the Borrower may from time to time after the First Amendment Effective Date, request an increase in the Revolving Facility by an aggregate amount (for all such requests) not exceeding $75,000,000 (an *"Incremental Facility"*); provided that (i) any such request for an Incremental Facility shall be in a minimum amount of $10,000,000 (or such lesser amount representing all remaining capacity of the Incremental Facility) and (ii) after the First Amendment Effective Date, the Borrower may make a maximum of four (4) such requests.

(d) Schedule 1.01(b), Initial Commitments and Applicable Percentages, of the Credit Agreement is hereby amended and restated in its entirety as set forth in Schedule 1.01(b) attached hereto, and the reference to such schedule in the Table of Contents of the Credit Agreement is hereby revised to read *"Commitments and Applicable Percentages"*.

3. Specified Revolving Loan Commitments.

(a) Subject to the terms and conditions of this Amendment, including without limitation the satisfaction of the conditions to effectiveness specified in Section 4 below (i) the Specified Revolving Loan Commitments shall be provided by the Increasing Revolving Lenders in the amounts set forth on Annex I to this Amendment, (ii) the Revolving Commitment and the Applicable Percentage of each Revolving Lender is hereby updated on the Amendment Effective Date to reflect the Specified Revolving Loan Commitments, and the Revolving Commitments and Applicable Percentages of all Revolving Lenders (after giving effect to the Specified Revolving Loan Commitments) is hereby set forth on Schedule 1.01(b) attached hereto and (iii) the Credit Agreement is hereby amended pursuant hereto to effectuate the foregoing clauses (i) and (ii) in accordance with Section 2.16(f) of the Credit Agreement.

(b) In connection with the Specified Revolving Loan Commitments, the Administrative Agent may make such adjustments between and among the applicable Revolving Lenders and the Borrower as are reasonably necessary to effectuate the Specified Revolving Loan Commitments (including deemed assignments, reallocations and/or deemed repayments and reborrowings of outstanding Revolving Loans) so that after giving effect thereto the Revolving Loans and other outstandings under the Revolving Facility (including L/C Obligations) shall be held pro rata among the Revolving Lenders in accordance with their revised Revolving Commitments and revised Applicable Percentages as set forth in

Schedule 1.01(b) attached hereto. Each of the Revolving Lenders (after giving effect to the Specified Revolving Loan Commitments) shall make cash settlements, through the Administrative Agent or directly among such Revolving Lenders, to effectuate such reallocations and assignments as the Administrative Agent shall direct.

(c) Each party hereto agrees that the Specified Revolving Loan Commitments constitute an incurrence of an Incremental Facility under Section 2.16 of the Credit Agreement with the same pricing and maturity of (as well as all other terms and conditions applicable to) the Revolving Facility immediately prior to giving effect to the Specified Revolving Loan Commitments and this Amendment.

4. Amendment Effectiveness; Conditions Precedent. The effectiveness of this Amendment (including, without limitation, the amendments in Section 2 above and providing the Specified Revolving Loan Commitments in Section 3 above), is subject to the satisfaction of the following conditions precedent (the date of such satisfaction, the "**Amendment Effective Date**"):

(a) receipt by the Administrative Agent of each of the following:

(i) counterparts of this Amendment executed by a Responsible Officer of each Loan Party and a duly authorized officer of each Lender and the Administrative Agent;

(ii) duly executed copies of any other Loan Documents to be entered into as of the Amendment Effective Date;

(iii) secretary's certificate dated the Amendment Effective Date, certifying as to the Organization Documents of each Loan Party (which, to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority) or a certification of no change since such Organization Documents were most recently delivered to the Administrative Agent, the resolutions of the governing body of each Loan Party with respect to this Amendment and the Revolver Increase, the good standing, existence or its equivalent of each Loan Party and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party;

(iv) opinion of counsel for the Loan Parties, dated the Amendment Effective Date and addressed to the Administrative Agent and the Lenders, in form and substance reasonably acceptable to the Administrative Agent;

(v) a certificate executed by a Responsible Officer of the Loan Parties as of the Amendment Effective Date certifying (x) as to the representations and warranties set forth in Section 5(a) and (y) that on a Pro Forma Basis (assuming that the Specified Revolving Loan Commitments are fully drawn and without netting of any cash proceeds thereof in computing Consolidated Senior Secured Net Leverage Ratio), the Borrower is in Pro Forma Compliance with each of the covenants set forth in Section 7.11 of the Credit Agreement (and attaching a proforma Compliance Certificate evidencing the calculations thereof); and

(vi) searches of UCC filings in the jurisdiction of incorporation or formation, as applicable, of each Loan Party and each jurisdiction where any material portion of the Collateral is located or where a filing would need to be made in order to perfect the Administrative Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens.

(b) (i) the Borrower shall have provided to each Lender, and such Lender shall be satisfied with, the documentation and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act and (ii) any Loan Party that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall have delivered to each Lender a Beneficial Ownership Certification in relation to such Loan Party.

(c) The Administrative Agent, the Arranger and the Lenders shall have received all fees owing in connection with this Amendment and the Revolver Increase.

(d) The Borrower shall have paid all reasonable and documented out-of-pocket fees, charges and disbursements of external counsel to the Administrative Agent and the Arranger as required pursuant to Section 11.04(a) of the Credit Agreement (directly to such counsel if requested by the Administrative Agent) to the extent invoiced at least two (2) Business Days prior to the Amendment Effective Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).

Without limiting the generality of the provisions of Section 9.03(c) of the Credit Agreement, for purposes of determining compliance with the conditions specified in this Section 4, each Lender that has signed this Amendment shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Amendment Effective Date specifying its objection thereto.

5. Representations and Warranties. The Borrower and each other Loan Party hereby represents and warrants with and to the Administrative Agent and the Lenders as follows:

(a) Representations and Warranties. Before and after giving effect to this Amendment (including the Specified Revolving Loan Commitments), (i) the representations and warranties of the Borrower and each other Loan Party contained in Article II or Article V of the Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects (except, if a qualifier relating to materiality, Material Adverse Effect or a similar concept applies, such representation or warranty is true and correct in all respects), except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (except, if a qualifier relating to materiality, Material Adverse Effect or a similar concept applies, such representation or warranty is true and correct in all respects) as of such earlier date, and except that for purposes hereof, the representations and warranties contained in Sections 5.05(a) and (c), and Section 5.05(b) of the Credit Agreement shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and Section 6.01(b) of the Credit Agreement, respectively, and (ii) no Default or Event of Default has occurred and is continuing.

(b) Authorization; No Contravention. The execution and delivery of this Amendment (and any other Loan Documents executed and delivered in connection herewith) and performance by each Loan Party of this Amendment, the Credit Agreement (as amended hereby) and each other Loan Document executed and delivered in connection herewith to which such Person is a party have been duly authorized by all necessary corporate or other organizational action, and do not and will not

(i) contravene the terms of any of such Person's Organization Documents; (ii) conflict with or result in any breach or contravention of in any material respect, or the creation of (or the requirement to create) any Lien under, or require any payment to be made under (x) any material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (y) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (iii) violate any Applicable Law in any material respect.

(c) Binding Effect. This Amendment has been, and each other Loan Document executed and delivered in connection herewith, when delivered, will have been, duly executed and delivered by each Loan Party that is party thereto. This Amendment and the Credit Agreement (as amended by hereby) constitutes, and each other Loan Document executed and delivered in connection herewith when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principals of equity..

6. Reserved.

7. Provisions of General Application.

(a) Effect of this Amendment. Except as expressly set forth herein, no other changes or modifications to the Credit Agreement or other Loan Documents, waivers by the Administrative Agent or Lenders of any Default or Event of Default or consent of the Administrative Agent or Lenders to any other transaction are intended or implied hereby, and in all other respects the Loan Documents are hereby specifically ratified, restated and confirmed by the Borrower and the other Loan Parties as of the effective date hereof. No novation shall result from this Amendment. To the extent of conflict between the terms of this Amendment and the other Loan Documents, the terms of this Amendment shall control.

(b) Compliance. The Administrative Agent and the Lenders hereby notify the Loan Parties that, effective from and after the date of this Amendment, the Administrative Agent and the Lenders intend to enforce all of the provisions of the Loan Documents and that the Administrative Agent and the Lenders expect that the Loan Parties will comply in all respects with the terms of the Loan Documents from and after this date.

(c) Costs and Expenses. The Loan Parties shall pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including, but not limited to, the reasonable and documented fees, charges and disbursements of outside counsel for the Administrative Agent and its Affiliates) in connection with the preparation, negotiation, execution, delivery and administration of this Amendment (whether or not the transactions contemplated hereby shall be consummated) and any agreements delivered in connection with the transactions contemplated hereby, all in accordance with the terms and conditions set forth in Section 11.04 of the Credit Agreement.

(d) Binding Effect. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successor and assigns to the extent such assignees are permitted assignees as provided in Section 11.06 of the Credit Agreement.

(e) Survival of Representations and Warranties. All representations and warranties made hereunder and in any other document delivered pursuant hereto or in connection herewith shall

survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf.

(f) Severability. If any provision of this Amendment is held to be illegal, invalid or unenforceable, (i) the legality, validity and enforceability of the remaining provisions of this Amendment shall not be affected or impaired thereby and (ii) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

(g) Reviewed by Attorneys. The Borrower and each other Loan Party represents and warrants to the Administrative Agent and the Lenders that it (i) understands fully the terms of this Amendment and the consequences of the execution and delivery of this Amendment, (ii) has been afforded an opportunity to have this Amendment reviewed by, and to discuss this Amendment and document executed in connection herewith with, such attorneys and other persons as such Loan Party may wish, and (iii) has entered into this Amendment and executed and delivered all documents in connection herewith of its own free will and accord and without threat, duress or other coercion of any kind by any Person. The parties hereto acknowledge and agree that neither this Amendment nor the other documents executed pursuant hereto shall be construed more favorably in favor of one than the other based upon which party drafted the same, it being acknowledged that all parties hereto contributed substantially to the negotiation and preparation of this Amendment and the other documents executed pursuant hereto or in connection herewith.

(h) Governing Law; Submission to Jurisdiction; Waiver of Venue; Service of Process; Waiver of Jury Trial. Sections 11.14 and 11.15 of the Credit Agreement are hereby incorporated by reference as if fully set forth herein.

(i) Counterparts. This Amendment may be executed in any number of counterparts with the same effect as if all signatories had signed the same document. All counterparts must be construed together to constitute one and the same instrument. This Amendment may be signed and transmitted by facsimile, portable document format (PDF), or other electronic means, and shall have the same effect as manually-signed originals and shall be binding on the Loan Parties, the Administrative Agent and the Lenders. Notwithstanding the foregoing, Administrative Agent may, in its sole and exclusive discretion, also require delivery of this Amendment, and any amendments or waivers hereto, with an original signature for its records. Without limiting the foregoing provisions of this Section 7(i), the provisions of Section 11.18 of the Credit Agreement shall be applicable to this Amendment.

(j) Entire Agreement. This Amendment, together with all the Loan Documents executed and delivered in connection herewith (collectively, the "**Relevant Documents**"), sets forth the entire understanding and agreement of the parties hereto in relation to the subject matter hereof and supersedes any prior negotiations and agreements among the parties relating to such subject matter. No promise, condition, representation or warranty, express or implied, not set forth in the Relevant Documents shall bind any party hereto, and no such party has relied on any such promise, condition, representation or warranty. Each of the parties hereto acknowledges that, except as otherwise expressly stated in the Relevant Documents, no representations, warranties or commitments, express or implied, have been made by any party to the other with respect to the subject matter hereof. None of the terms or

conditions of this Amendment may be changed, modified, waived or canceled orally or otherwise, except in writing and in accordance with Section 11.01 of the Credit Agreement.

[Remainder of page intentionally blank; next page is signature page]

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed by their respective officers thereunto duly authorized, as of the date first above written.

LIGAND PHARMACEUTICALS INCORPORATED,
as the Borrower

By: /s/ Octavio Espinoza
Name: Octavio Espinoza
Title: Chief Financial Officer

CYDEX PHARMACEUTICALS, INC.,
as a Guarantor

By: /s/ Octavio Espinoza
Name: Octavio Espinoza
Title: Chief Financial Officer

METABASIS THERAPEUTICS, INC.,
as a Guarantor

By: /s/ Octavio Espinoza
Name: Octavio Espinoza
Title: Chief Financial Officer

PFENEX INC.,
as a Guarantor

By: /s/ Octavio Espinoza
Name: Octavio Espinoza
Title: Chief Financial Officer

CITIBANK, N.A., individually as a Lender, an Increasing Revolving Lender and as Administrative Agent

By: /s/ Hiro Ebihara

Name: Hiro Ebihara
Title: Director

BANK OF AMERICA, N.A.,
as a Lender and an Increasing Revolving Lender

By: /s/ Kenneth Wong
Name: Kenneth Wong
Title: Senior Vice President

ANNEX I

Specified Revolving Loan Commitments

Increasing Revolving Lender	Specified Revolving Loan Commitment	Applicable Percentage
Citibank, N.A.	$26,666,666.67	53.3333333333%
Bank of America, N.A.	$23,333,333.33	46.6666666667%
Total:	**$50,000,000.00**	**100.000000000%**

SCHEDULE 1.01(b)

COMMITMENTS AND APPLICABLE PERCENTAGES

Lender	Revolving Commitment	Applicable Percentage
Citibank, N.A.	$66,666,666.67	53.3333333333%
Bank of America, N.A.	$58,333,333.33	46.6666666667%
Total:	**$125,000,000.00**	**100.000000000%**

Exhibit 10.2

CERTAIN CONFIDENTIAL INFORMATION CONTAINED IN THIS DOCUMENT, MARKED BY [***], HAS BEEN OMITTED BECAUSE IT IS BOTH (I) NOT MATERIAL AND (II) IS THE TYPE THAT LIGAND PHARMACEUTICALS INCORPORATED TREATS AS PRIVATE OR CONFIDENTIAL.

PURCHASE AND SALE AGREEMENT

dated as of May 6, 2024

by and among

AGENUS INC., AGENUS ROYALTY FUND, LLC, AGENUS HOLDINGS 2024, LLC

and

LIGAND PHARMACEUTICALS INCORPORATED

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Exhibits

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of May 6, 2024, is by and between AGENUS, INC., a Delaware corporation (the "Company"), AGENUS ROYALTY FUND, LLC, a Delaware limited liability company ("Royalty Fund" and together with the Company, each a "Seller" and collectively, the "Sellers"), AGENUS HOLDINGS 2024, LLC, a Delaware limited liability company ("Product Sub", and together with the Sellers, the "Seller Parties"), and LIGAND PHARMACEUTICALS INCORPORATED, a Delaware corporation (the "Purchaser").

W I T N E S S E T H :

WHEREAS, the Company holds, directly and indirectly through Royalty Fund, certain assets and rights relating to the Licensed Products;

WHEREAS, the Company is developing and intends to commercialize the Company Products; and

WHEREAS, the Sellers desires to sell, contribute, assign, transfer, convey and grant to the Purchaser, and the Purchaser desires to purchase, acquire and accept from the Sellers, the Purchased Receivables described herein, upon and subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements, representations and warranties set forth herein and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties covenant and agree as follows:

ARTICLE I
DEFINED TERMS AND RULES OF CONSTRUCTION

Section I.1 Defined Terms. The following terms, as used herein, shall have the following respective meanings:

"Account Bank" means [***], or such other bank or financial institution approved by each of the Purchaser and the Sellers.

"Account Control Agreement" means any agreement entered into by the Account Bank, the Company and the Purchaser in form and substance reasonably satisfactory to the Purchaser, pursuant to which, among other things, the Purchaser shall have control over the Lockbox Accounts and the Collection Account within the meaning of Section 9-104 of the UCC.

"Additional Co-Investor" has the meaning set forth in Section 5.21(a).

"Agreement" has the meaning set forth in the preamble.

"Affiliate" means, with respect to any designated Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such designated Person. For purposes of this definition, "control" of a Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of Equity Interests, by contract or otherwise, and the terms "controlled" and "controlling" have meanings correlative to the foregoing.

"Applicable Law" means, with respect to any Person, all laws, rules, regulations and orders of Governmental Authorities applicable to such Person, the conduct of its business, or any of its properties, products or assets.

"Applicable Percentage" means, for each product specified below,

prior to the occurrence of the Step-Down Event, the factor set forth below:

Product	Receivable	Applicable Percentage
Licensed Products	Covered License Milestones	31.875%
	Covered License Royalties	18.75%
Company Products	Net Sales up to $[***]	2.625% ("Base Rate")
	Net Sales between $[***] and $[***]	25% of the Base Rate
	Net Sales in excess of $[***]	0%

and from and after the occurrence of the Step-Down Event, the factor set forth below:

Product	Receivable	Applicable Percentage
Licensed Products	Covered License Milestones	15.9375%
	Covered License Royalties	9.375%
Company Products	Net Sales up to $[***]	1.3125% ("Step-Down Base Rate")
	Net Sales between $[***] and $[***]	25% of the Step-Down Base Rate
	Net Sales in excess of $[***]	0%

provided, however, that

(x) if the First Commercial Sale of the Company Product has not occurred by [***], the Base Rate and Step-Down Base Rate with respect to Net Sales in the United States shall increase to [***]% and [***]%, respectively;

(y) if the Company has not entered into an [***] in accordance with Section 5.16 for [***] or consummated or effected a Change of Control permitted by Section 5.14 by [***], the Applicable

Percentage with respect to Net Sales between $[***] and $[***] shall, subject to clause (z) below, equal the Base Rate or Step-Down Base Rate, as applicable, and

(z) if by [***] two distinct Licensed Products have received Regulatory Approval from the FDA, the Applicable Percentage with respect to annual Net Sales between $[***] and $[***] shall revert to [***]% of the Base Rate or the Step-Down Base Rate, as applicable. For the avoidance of doubt, the two distinct Licensed Products referenced in the preceding sentence must be [***].

"balstilimab" means the Company's antibody targeting programmed death receptor 1 identified by Chemical Abstract Service Registry Number 2148321-77-9 and internally referenced by Agenus as "AGEN2034."

"Bankruptcy Event" means the occurrence of any of the following in respect of any Person: (a) an admission in writing by such Person of its inability to pay its debts as they become due or a general assignment by such Person for the benefit of creditors; (b) the filing of any petition or answer by such Person seeking to adjudicate itself as bankrupt or insolvent, or seeking for itself any liquidation, winding-up, reorganization, arrangement, adjustment, protection, relief or composition of such Person or its debts under any law relating to bankruptcy, insolvency, receivership, winding-up, liquidation, reorganization, examination, relief of debtors or other similar law now or hereafter in effect, or seeking, consenting to or acquiescing in the entry of an order for relief in any case under any such law, or the appointment of or taking possession by a receiver, trustee, custodian, liquidator, examiner, assignee, sequestrator or other similar official for such Person or for any substantial part of its property; (c) corporate or other entity action taken by such Person to authorize any of the actions set forth in clause (a) or (b) of this definition; or (d) without the consent or acquiescence of such Person, the entering of an order for relief or approving a petition for relief or reorganization or any other petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or other similar relief under any present or future bankruptcy, insolvency or similar statute, law or regulation, or the filing of any such petition against such Person, or, without the consent or acquiescence of such Person, the entering of an order appointing a trustee, custodian, receiver or liquidator of such Person or of all or any substantial part of the property of such Person, in each case where such petition or order shall remain unstayed or shall not have been stayed or dismissed within [***] from entry thereof.

"Betta Agreement" means that certain License and Collaboration Agreement, dated as of June 20, 2020, between the Company and Betta Pharmaceuticals Co., Ltd.

"Betta Territory" has the meaning given to the term "Territory" in the Betta Agreement.

"BMS" means Bristol-Myers Squibb Company, a Delaware corporation, its Affiliates and any successors in interest and assigns under the BMS Agreement.

"BMS Agreement" means that certain License, Development and Commercialization Agreement, dated as of May 17, 2021, by and between the Company and BMS, as amended from time to time (but subject to the terms of this Agreement with respect to the amendment thereof).

"BOT/BAL Security Agreement" shall mean the Security Agreement by between and Product Sub and the Purchaser, substantially in the form of Exhibit G-1.

"botensilimab" means the Company's multifunctional immune cell activator and human Fc-enhanced cytotoxic T-lymphocyte antigen 4 (CTLA-4) blocking antibody identified by Chemical Abstract Service Registry Number 2408310-37-0 or internally referenced by Agenus as AGEN1811.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by Applicable Law to remain closed.

"Change of Control" means any (w) reorganization, recapitalization, consolidation or merger (or similar transaction or series of related transactions) of the Company or issuance, sale or exchange of shares (or similar transaction or series of related transactions) of the Company in which the holders of the Company's outstanding shares immediately before consummation of such transaction or series of related transactions do not, immediately after consummation of such transaction or series of related transactions, retain shares representing more than 50.0% of the voting power of the surviving entity of such transaction or series of related transactions (or the parent of such surviving entity if such surviving entity is wholly owned by such parent), in each case without regard to whether the Company is the surviving entity, (x) Disposition of all or substantially all of the properties or assets of the Company or (y) Disposition of all or substantially all of the Product Rights.

"Closing" has the meaning set forth in Section 6.1.

"Closing Date" has the meaning set forth in Section 6.1.

"Closing Date Bills of Sale - Purchaser" means those certain bills of sale, dated as of the Closing Date, executed by the Purchaser and each of the Company and Royalty Fund, substantially in the form of Exhibit A-1.

"Closing Date Bill of Sale – Product Sub" means that certain bill of sale, dated as of the Closing Date, executed by Product Sub and the Company pursuant to the Contribution Agreement with respect to the Transferred Assets, substantially in the form of Exhibit A-2.

"Closing Date Bills of Sale" means, collectively, the Closing Date Bills of Sale – Purchaser and the Closing Date Bill of Sale – Product Sub.

"Closing Payment" has the meaning set forth in Section 2.2.

"Code" means the U.S. Internal Revenue Code of 1986, as amended, and the regulations thereunder.

"Collection Account" means a segregated deposit account of the Company established and maintained at an Account Bank pursuant to an Account Control Agreement for the purpose of receiving remittances from the Company Product Lockbox Account.

"Combination Product" means a product that consists of a Company Product and other active compounds or active ingredients sold as a single formulation or any combination of a Company Product sold together with an Other Product.

"Commercially Reasonable Efforts" or "Commercially Reasonable Actions" means,

(a) with respect to any Intellectual Property Rights in any country, efforts or actions that would be commercially reasonable for an owner and licensor of such Intellectual Property Rights in such country, which owner and licensor is entitled to the full economic benefit of such Intellectual Property Rights without regard to the transactions contemplated by this Agreement or any other business of, or assets owned by, such owner and licensor;

(b) for purposes of Section 5.7(a) and Section 5.15(b), with respect to the efforts to be expended, or considerations to be undertaken, by the Company or its Affiliate with respect to any objective, activity or decision to be undertaken hereunder, reasonable, good faith efforts to accomplish such objective, activity or decision as a single product pharmaceutical company (where single product is a non-fixed dose combination regimen with two novel proprietary agents or a product covered by a Covered License Agreement) would normally use to accomplish a similar objective, activity or decision under similar circumstances;

(c) for purposes of Section 5.9, with respect to the efforts to be expended, or considerations to be undertaken, by the Company or its Affiliate with respect to any objective, activity or decision to be undertaken hereunder, reasonable, good faith efforts to accomplish such objective, activity or decision as a similarly situated pharmaceutical company (including with respect to size, scale and resources) would normally use to accomplish a similar objective, activity or decision under similar circumstances, it being understood and agreed that with respect to the research, study, development, formulation, processing, engineering, manufacture, testing, seeking and obtaining regulatory approval, or commercialization of the Company Products, the Company may take into account: (a) issues of efficacy, safety, and expected and actual approved labeling, (b) the expected and actual competitiveness of alternative products sold by third parties in the marketplace, (c) the expected and actual product profile of the Company Product, (d) the expected and actual patent and other proprietary position of the Company Products, (e) the likelihood of regulatory approval and/or pricing approval or pricing restrictions given the regulatory structure involved, including regulatory or data exclusivity, and (f) the expected and actual profitability and return on investment of the Company Products, taking into consideration amounts owed hereunder.

"Company" has the meaning set forth in the preamble.

"Company Product" means any product, including investigational product, that constitutes, incorporates, comprises or contains botensilimab, balstilimab, or a combination of botensilimab and balstilimab (alone together or with other active ingredients) for use in the Territory in the Field in all forms, presentations, formulations and dosage forms.

"Company Product Lockbox Account" means a segregated deposit account of the Company established and maintained at an Account Bank pursuant to an Account Control Agreement for the purpose of receiving payments owed to the Company in respect of the Company Product.

"Company Product Revenue Payment" means, for each calendar quarter from and after April 1, 2024, the Applicable Percentage of all aggregate Net Sales in the Territory during such calendar quarter.

"Company Royalty Report" has the meaning set forth in Section 5.1(b).

"Confidential Information" has the meaning set forth in Section 8.1.

"Contribution Agreement" means the Contribution and Servicing Agreement, dated as of the Closing Date, between the Company and Product Sub, substantially in the form of Exhibit B attached hereto.

"Counterparty" means, as the context requires, BMS, Gilead, Incyte, Merck, or UroGen.

"Covered License Agreements" means, collectively, the BMS Agreement, the Gilead Agreement, the Incyte Agreement, the Merck Agreement and the UroGen Agreement. In accordance with Section 5.16, any Out-License for a Company Product entered into following the date hereof shall be deemed to

be a Covered License Agreement. In accordance with Section 5.7, any New Arrangement entered into following the date hereof shall be deemed to be a Covered License Agreement.

"Covered License Milestones" means, collectively, the Covered Company License Milestones and the Covered Royalty Fund License Milestones.

"Covered Company License Milestones" shall mean (A) the Gilead Option Fee Portion and (B) one hundred percent (100%) of all future milestone payments that become owed, accrued or otherwise payable to Company after the Closing pursuant to Sections 9.6 and 9.7 of the Gilead Agreement, Section 9.2 of the UroGen Agreement, and Sections 8.2 and 8.3 of the BMS Agreement including, without limitation, all clinical, regulatory, commercial and sales milestones pursuant to such sections (collectively, the "Company Milestone Payments"), and any future sums accrued, paid or due, other than Company Milestone Payments, that are (i) in lieu of the Company Milestone Payments (which shall not consist of securities without Purchaser's prior written consent); (ii) in satisfaction of the obligation to pay the Company Milestone Payments; or (iii) indemnity payments, recoveries, damages, settlement or other amounts to which Sellers are or may become entitled to pursuant to or in connection with the Gilead Agreement, the UroGen Agreement or the BMS Agreement, as applicable, or any Licensed Patent thereunder, whether based on actual or alleged infringement, breach, or other circumstance, in each case described in this clause (iii) to the extent such infringement, breach, default or other circumstance has resulted or would result in a reduction in, or such payment is made in lieu of, the Company Milestone Payments; and (iv) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment or settlement) paid, owed, accrued or otherwise payable with respect to any of the foregoing of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (other than amounts awarded or recovered in connection with any judgment or settlement for reimbursement of the costs and expenses (including attorneys' fees) of the party bringing such suit or proceeding or taking such other legal action). For the avoidance of doubt, Covered Company License Milestones shall include all upfront, milestone and similar payments due, payable or paid to the Company or its Affiliates by one or more licensees or sublicensees pursuant to any New Arrangement with respect to a Licensed Product.

"Covered Royalty Fund License Milestones" shall mean one hundred percent (100%) of all future milestone payments that become owed, accrued or otherwise payable to Royalty Fund after the Closing pursuant to Section 5.4 of the Merck Agreement and Section 7.5 of the Incyte Agreement including, without limitation, all clinical, regulatory, commercial and sales milestones pursuant to such sections (collectively, the "Royalty Fund Milestone Payments"), and any future sums accrued, paid or due, other than Royalty Fund Milestone Payments, that are (i) in lieu of the Royalty Fund Milestone Payments (which shall not consist of securities without Purchaser's prior written consent); (ii) in satisfaction of the obligation to pay the Royalty Fund Milestone Payments; or (iii) indemnity payments, recoveries, damages, settlement or other amounts to which Sellers are or may become entitled to pursuant to or in connection with the Incyte Agreement or the Merck Agreement, as applicable, or any Licensed Patent thereunder, whether based on actual or alleged infringement, breach, or other circumstance, in each case described in this clause (iii) to the extent such infringement, breach, default or other circumstance has resulted or would result in a reduction in, or such payment is made in lieu of, Royalty Fund Milestone Payments; and (iv) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment or settlement) paid, owed, accrued or otherwise payable with respect to any of the foregoing of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (other than amounts awarded or recovered in connection with any judgment or settlement for reimbursement of the costs and expenses (including attorneys' fees) of the party bringing such suit or proceeding or taking such other legal action). [***].

"Covered License Royalties" means, collectively, the Covered Company License Royalties and the Covered Royalty Fund License Royalties.

"Covered Company License Royalties" shall mean without duplication, (a) one hundred percent (100%) of all royalties paid, owed, accrued or otherwise payable to the Company after the Closing by Gilead pursuant to Section 9.8 of the Gilead Agreement with respect to Net Sales of any applicable Licensed Product thereunder, (b) all royalties paid, owed, accrued or otherwise payable after the Closing by BMS pursuant to Section 8.5 of the BMS Agreement with respect to Net Sales of any applicable Licensed Product thereunder, (c) all royalties paid, owed, accrued or otherwise payable after the Closing by UroGen pursuant to Section 9.3 and Section 9.5 of the UroGen Agreement with respect to Net Sales of any applicable Licensed Product thereunder, (collectively (a), (b) and (c) are hereinafter referred to as "Company Royalty Payments"), (d) any sums accrued, paid or due, other than Company Royalty Payments, that are (i) in lieu of the Company Royalty Payments (which shall not consist of securities without Purchaser's prior written consent); (ii) in satisfaction of the obligation to pay the Company Royalty Payments; or (iii) indemnity payments, recoveries, damages, settlement or other amounts to which Sellers are or may become entitled to pursuant to or in connection with the BMS Agreement, Gilead Agreement or UroGen Agreement, as applicable, or any Licensed Patent thereunder, whether based on actual or alleged infringement, breach, default or other circumstance, in each case described in this clause (iii) to the extent such infringement, breach, or other circumstance has resulted or would result in a reduction in, or such payment is made in lieu of, Company Royalty Payments; and (e) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment or settlement) paid, owed, accrued or otherwise payable with respect to any of the foregoing of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (other than amounts awarded or recovered in connection with any judgment or settlement for reimbursement of the costs and expenses (including attorneys' fees) of the party bringing such suit or proceeding or taking such other legal action). For the avoidance of doubt, Covered Company License Royalties shall include all royalty payments due, payable or paid to the Company or its Affiliates by one or more licensees or sublicensees pursuant to any New Arrangement with respect to a Licensed Product.

"Covered Royalty Fund License Royalties" shall mean without duplication, (a) one hundred percent (100%) of all royalties paid, owed, accrued or otherwise payable after the Closing by Incyte pursuant to Section 7.6 of the Incyte Agreement with respect to Net Sales of any applicable Licensed Product thereunder, (b) all royalties paid, owed, accrued or otherwise payable after the Closing by Merck pursuant to Section 5.5 of the Merck Agreement with respect to Net Sales of any applicable Licensed Product thereunder (collectively (a) and (b) are hereinafter referred to as "Royalty Fund Royalty Payments"), (c) any sums accrued, paid or due, other than Royalty Fund Royalty Payments, that are (i) in lieu of the Royalty Fund Royalty Payments (which shall not consist of securities without Purchaser's prior written consent); (ii) in satisfaction of the obligation to pay the Royalty Fund Royalty Payments; or (iii) indemnity payments, recoveries, damages, settlement or other amounts to which Sellers are or may become entitled to pursuant to or in connection with the Incyte Agreement or the Merck Agreement, as applicable, or any Licensed Patent thereunder, whether based on actual or alleged infringement, breach, default or other circumstance, in each case described in this clause (iii) to the extent such infringement, breach, or other circumstance has resulted or would result in a reduction in, or such payment is made in lieu of, Royalty Fund Royalty Payments; and (d) all proceeds (including any damages, monetary awards or other amounts recovered, whether by judgment or settlement) paid, owed, accrued or otherwise payable with respect to any of the foregoing of any suit, proceeding or other legal action taken to enforce the right to receive any of the foregoing (other than amounts awarded or recovered in connection with any judgment or settlement for reimbursement of the costs and expenses (including attorneys' fees) of the party bringing such suit or proceeding or taking such other legal action). [***].

"Covered Products" means the Company Products and the Licensed Products.

"Co-Investment Vehicle" has the meaning set forth in Section 5.21(b).

"Defaulting Party" has the meaning set forth in Section 5.5(d).

"Disclosing Party" has the meaning set forth in Section 8.1.

"Disclosure Schedule" means the Disclosure Schedule, dated as of the date hereof and attached hereto as Exhibit C.

"Disposition" or "Dispose" means, with respect to any Person, directly or indirectly, the sale, assignment, conveyance, transfer, license, sublicense or other disposition (whether in a single transaction or a series of related transactions) (including by way of a sale and leaseback transaction) of property or assets by any Person.

"Disputes" has the meaning set forth in Section 3.11(h).

"Dollar" or the sign "$" means United States dollars.

"Equity Interests" means, with respect to any Person, all of the (i) shares of capital stock of (or other ownership or profit interests in) such Person, (ii) warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, (iii) securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and (iv) other ownership or profit interests in such Person (including partnership, member, membership or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"Excluded Liabilities and Obligations" has the meaning set forth in Section 2.5.

"Existing Confidentiality Agreement" means that certain letter agreement, dated May 24, 2023, by and between the Company and Purchaser.

"Exploit" and "Exploitation" shall mean, with respect to a product such as a Licensed Product or the Company Product, the research, study, development, formulation, processing, engineering, manufacture, testing, use, sale, offer for sale (including marketing and promotion), sale and distribution (including importing, exporting, transporting, customs clearance, warehousing, invoicing, handling and delivering) or other commercialization of such product.

"FDA" means the U.S. Food and Drug Administration and any successor agency thereto.

"Field" means all uses, including the prevention, treatment or control of any disease, disorder or condition.

"First Commercial Sale" means, with respect to the Company Product, the first sale for end use or commercial consumption of the Company Product. For the avoidance of doubt, disposal of any Company Product for, or use of any Company Product in, clinical trials, as free samples, or under compassionate use, patient assistance, named patient or test marketing programs or non-registrational studies or other

similar programs or studies where Company Product is supplied or delivered without charge, shall not constitute a First Commercial Sale, nor shall any Company Product donated to non-profit institutions or government agencies for a non-commercial purpose shall constitute a First Commercial Sale. Similarly, no free Company Product that is supplied to a Third Party in conjunction with the offer for sale, or sale of any Company Product (such free Company Product being in an amount customary in the industry) will result in a First Commercial Sale, nor will the use of any Company Product by Company or one of its Affiliates or sublicensees for research and development purposes constitute a First Commercial Sale.

"Funding Commitment" has the meaning set forth in Section 5.21(a).

"Gilead" means Gilead Sciences, Inc., a Delaware corporation, its Affiliates and any successors in interest and assigns under the Gilead Agreement.

"Gilead Agreement" means that certain Option and License Agreement (AGEN2373), dated as of December 20, 2018, by and between the Company and Gilead, as amended from time to time (but subject to the terms of this Agreement with respect to the amendment thereof).

"Gilead Option Fee Portion" means $[***], to the extent that Gilead exercises its option under Section 9.2 of the Gilead Agreement.

"GAAP" means generally accepted accounting principles in effect in the United States from time to time.

"Governmental Authority" means the government of the United States, any other nation or any political subdivision thereof, whether state or local, and any agency, authority (including supranational authority), commission, instrumentality, regulatory body, court, central bank or other Person exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including each Patent Office, the FDA and any other government authority in any country.

"Indebtedness" of any Person means (a) any obligation of such Person for borrowed money, (b) any obligation of such Person evidenced by a bond, debenture, note or other similar instrument, (c) any obligation of such Person to pay the deferred purchase price of property or services [***], (d) any obligation of such Person as lessee under a capital lease (under GAAP as in effect on the date hereof), (e) any obligation of such Person to purchase securities or other property that arises out of or in connection with the sale of the same or substantially similar securities or property, (f) any non-contingent obligation of such Person to reimburse any other Person in respect of amounts paid under a letter of credit or other guaranty issued by such other Person, (g) any Indebtedness of others secured by a Lien on any asset of such Person, and (h) any Indebtedness of others guaranteed by such Person; provided that intercompany loans among the Company and its Affiliates shall not constitute Indebtedness.

"Incyte" means Incyte Europe Sarl, a Swiss limited liability company, its Affiliates and any successors-in-interest and assigns under the Incyte Agreement.

"Incyte Agreement" means that certain License, Development and Commercialization Agreement dated as of January 9, 2015, by and between Incyte and Company, as amended effective February 14, 2017, as further amended effective October 25, 2019, and as may be further amended from time to time (but subject to the terms of this Agreement with respect to the amendment thereof), together with the following letter agreements: letter dated November 6, 2015, Side Letter No. 1 dated February 2, 2016, Side Letter No. 2 dated April 20, 2016 and Side Letter No. 3 dated December 21, 2017.

"In-License" means each license, settlement agreement or other agreement or arrangement between the Company or any of its Affiliates and any Third Party pursuant to which the Company or any of its Affiliates obtains a license or sublicense or a covenant not to sue or similar grant of rights to any patents or other intellectual property rights of such Third Party that is necessary for the Exploitation of a Covered Product.

"Intellectual Property Rights" means any and all of the following: (a) the Patents, (b) all Know-How and all registered and unregistered trademarks, trademark applications, service marks, trade names, logos, packaging design, slogans and internet domain names, in each case, used in, relating to or necessary for the Exploitation of the Covered Products that is owned or controlled by the Sellers, and including, for the avoidance of doubt, all intellectual property licensed to the applicable Counterparty under the Covered License Agreements to the extent used in or necessary for the Exploitation of the Licensed Products.

"Intercompany License Agreement" means the Intercompany License Agreement, by and between the Company and Product Sub, substantially in the form of Exhibit E attached hereto.

"Knowledge" means, with respect to the Sellers, the actual knowledge, as of the date of this Agreement, of any of the persons identified on Section 1 of the Disclosure Schedule, after due inquiry by each such person of each of his or her direct reports.

"Know-How" means, any and all technical, scientific, regulatory, and other information, results, knowledge, techniques and data, in whatever form and whether or not confidential, patented or patentable, including Inventions, invention disclosures, discoveries, plans, processes, practices, methods, knowledge, trade secrets, know-how, instructions, skill, experience, ideas, concepts, data (including biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical, safety, quality control, and pre-clinical and clinical data), formulae, formulations, compositions, specifications, marketing, pricing, distribution, cost, sales and manufacturing data or descriptions, and all chemical or biological materials and other tangible materials. Know-How does not include any Patent claiming any of the foregoing.

"Licensed Products" means, collectively, (i) "Royalty Bearing Products" as defined in the Incyte Agreement, (ii) "Products" as defined in the Merck Agreement, (iii) "Licensed Products" as defined in the Gilead Agreement, (iv) "Licensed Products" as defined in the UroGen Agreement and (v) "Licensed Products" as defined in the BMS Agreement, in each case, excluding any product for which a notice of termination has been delivered to the Seller on or prior to the date hereof.

"Licensed Product Lockbox Account" means a segregated deposit account of the Company established and maintained at an Account Bank pursuant to an Account Control Agreement for the purpose of receiving proceeds from the sale of Licensed Products.

"LICR" shall mean the Ludwig Institute for Cancer Research Ltd., a non-profit corporation organized under the laws of Switzerland, its Affiliates and any successors-in-interest and assigns under the LICR Agreement.

"LICR 2014 Agreement" shall mean that certain License Agreement dated as of December 5, 2014, by and between LICR and Company, and as may be further amended from time to time in the future.

"LICR 2016 Agreement" shall mean that certain License Agreement dated as of December 5, 2014, by and between LICR and Company, and as may be further amended from time to time in the future.

"LICR Agreements" means, collectively, the LICR 2014 Agreement and the LICR 2016 Agreement.

"Lien" means any security interest, mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or otherwise), charge against or interest in property or other priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale or any sale with recourse, or any other restriction on transfer.

"Loss" means any loss, liability, cost, expense (including reasonable costs of investigation and defense and reasonable attorneys' fees and expenses), charge, fine, penalty, obligation, judgment, award, assessment, claim or cause of action.

"Major Market" means [***].

"Material Adverse Effect" means a material adverse effect on (a) the legality, validity or enforceability of any of the Transaction Documents, [***] or the Covered License Agreements, (b) the ability of the Seller Parties to perform their obligations under any of the Transaction Documents, [***] or the Covered License Agreements, (c) the rights or remedies of the Purchaser under any of the Transaction Documents or the Covered License Agreements, (d) the right of the Purchaser to receive the Purchased Receivables, the timing, amount or duration of the Purchased Receivables, or the right to receive royalty reports and other information (including audit information) on the terms set forth in the Covered License Agreements and this Agreement, or (e) the business of the Seller Parties and their Subsidiaries, taken as a whole.

"Merck" means Merck Sharp & Dohme Corp., a New Jersey corporation, its Affiliates and any successors-in-interest and assigns under the Merck Agreement.

"Merck Agreement" means that certain License and Research Collaboration Agreement dated as of April 25, 2013, by and between Merck and Company, as amended effective April 25, 2015, and February 6, 2017, and as may be further amended from time to time (but subject to the terms of this Agreement with respect to the amendment thereof).

"Net Sales" means, [***].

"New Arrangement" has the meaning set forth in Section 5.7(a).

"Other Product" means any product that is not a Company Product, but excluding drug delivery vehicles, cytotoxic compounds or other therapeutically active ingredients conjugated, engineered or otherwise linked to a Company Product, adjuvant, excipient or diagnostic compound.

"Out-License" means each license, settlement agreement or other agreement or arrangement between the Company or any of its Affiliates and any Third Party pursuant to which the Company or any of its Affiliates grants a license, sublicense or similar grant of any Intellectual Property Right that is necessary for the Exploitation of a Covered Product.

"Outside Date" has the meaning set forth in Section 9.1(a)(ii).

"Party" shall mean the Seller Parties or the Purchaser, as the context requires, and "Parties" shall mean, together, the Seller Parties and the Purchaser.

"Patent Office" means the applicable patent office, including the United States Patent and Trademark Office and any comparable foreign patent office, for any Intellectual Property Rights that are Patents.

"Patents" means any and all issued patents and pending patent applications, including without limitation, all provisional applications, substitutions, continuations, continuations-in part, divisions, and renewals, all letters patent granted thereon, and all patents-of-addition, reissues, reexaminations and extensions or restorations by existing or future extension or restoration mechanisms (including regulatory extensions), and all supplementary protection certificates, together with any foreign counterparts thereof anywhere, claiming or covering the Covered Products, or composition of matter, formulation, or methods of manufacture or use thereof, that are issued or filed on or after the date of this Agreement, in each such case, which are owned or controlled by, issued or licensed to, licensed by, or hereafter acquired or licensed by, the Sellers or any of their Affiliates, and including, for the avoidance of doubt, the Patents listed on Section 3.11(a) of the Disclosure Schedule.

"Payment Direction Letter" means, with respect to each Counterparty, a payment direction letter in form and substance reasonably satisfactory to the Purchaser.

"Payment Direction Letters" means, collectively, the Payment Direction Letters required to be delivered pursuant to this Agreement.

"Permitted Convertible Notes" means unsecured Indebtedness of the Company to be issued in the form of notes that are convertible into a number (subject to customary anti-dilution adjustments, "make whole" increases and other customary changes thereto) of shares of common stock of the Company (or other securities or property following a merger event or other change of the common stock of the Company), cash or any combination thereof (with the amount of such cash or such combination determined by reference to the market price of such common stock or other securities); provided that: [***].

"Permitted Debt" means any of the following Indebtedness of the Company and its Subsidiaries (which, for purposes of determining whether such Indebtedness exceeds any maximum amount provided in the applicable clause below, shall be calculated on a consolidated basis with respect to the Company and its Subsidiaries):

(a) the Indebtedness of the Company and its Subsidiaries existing as of the date hereof and set forth on Schedule 1.2.

(b) Indebtedness under the Transaction Documents;

(c) Indebtedness of the Company and its Subsidiaries in respect of any Permitted Debt Facility;

(d) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;

(e) unsecured intercompany debt between two or more of the Company and its subsidiaries;

(f) guarantees of the Company and its Subsidiaries in respect of Indebtedness and other obligations of the Company and any Subsidiary otherwise expressly permitted hereunder;

(g) Indebtedness incurred by the Company or its Subsidiaries consisting of (i) the financing of the payment of insurance premiums (ii) take or pay obligations contained in supply agreements, in each case, in the ordinary course of business or consistent with past practice, (iii) deferred compensation or equity based compensation to current or former officers, directors, consultants, advisors or employees thereof, in each case in the ordinary course of business and (iv) customer deposits and advance payments received in the ordinary course of business or consistent with past practice from customers for goods or services purchased in the ordinary course of business or consistent with past practice;

(h) Indebtedness owed to any Person providing worker's compensation, health, disability or other employee benefits or property, casualty or liability insurance to the Company or any Subsidiary incurred in connection with such Person providing such benefits or insurance pursuant to customary reimbursement or indemnification obligations to such Person;

(i) Indebtedness in respect of performance, indemnity, bid, stay, customs, appeal, replevin and surety bonds, performance and completion guarantees and other similar bonds or guarantees, trade contracts, government contracts and leases, in each case, incurred in the ordinary course of business but excluding guaranties with respect to any obligations for borrowed money;

(j) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft, or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business provided that such Indebtedness is extinguished within [***] of notification to the Company of its incurrence;

(k) letters of credit, bankers' acceptances, guarantees or other similar instruments or obligations issued or relating to liabilities or obligations incurred in the ordinary course of business; provided, [***];

(l) judgments, decrees, attachments or awards (to the extent that they would be deemed Indebtedness) that do not constitute an Event of Default;

(m) Indebtedness in the form of (i) guarantees of loans and advances to officers, directors, consultants, managers and employees, in an aggregate amount not to exceed $[***], and (ii) reimbursements owed to officers, directors, managers, consultants and employees of the Company or any Subsidiary for business expenses of the Company or any Subsidiary;

(n) Indebtedness consisting of capitalized lease obligations and purchase money Indebtedness, in each case incurred to finance the acquisition, repair, improvement or construction of fixed or capital assets of such person, provided that the principal amount of such Indebtedness does not exceed the lower of the cost or fair market value of the property so acquired or built or of such repairs or improvements financed with such Indebtedness (each measured at the time of such acquisition, repair, improvement or construction is made); provided, [***];

(o) Indebtedness in respect of hedging agreements; provided, that, [***];

(p) other unsecured Indebtedness not otherwise permitted hereunder, provided that under no circumstances shall the aggregate outstanding principal amount of such Indebtedness permitted shall not exceed $[***]; and

(q) [***].

"Permitted Debt Facility" means an unsecured credit facility provided under the Permitted Convertible Notes.

"Permitted Tax Withholding" means (a) in the case of the Incyte Agreement, any Tax withholding expressly permitted under Section 9.10.2(b) of the Incyte Agreement, (b) in the case of the Merck Agreement, any Tax withholding expressly permitted under Section 5.9.1 of the Merck Agreement, (c) in the case of the Gilead Agreement, any Tax withholding expressly permitted under Section 9.10.2(b) of the Gilead Agreement, (d) in the case of the UroGen Agreement, any Tax withholding expressly permitted under Section 9.8 of the UroGen Agreement, and (e) in the case of the BMS Agreement, any Tax withholding expressly permitted under Section 8.12.2 of the BMS Agreement.

"Person" means any natural person, firm, corporation, limited liability company, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, Governmental Authority or any other legal entity, including public bodies, whether acting in an individual, fiduciary or other capacity.

"Pledge and Security Agreement" means the Pledge and Security Agreement, substantially in the form of Exhibit D attached hereto.

"Product Application" means an application for Regulatory Approval to research, study, develop, formulate, process, engineer, manufacture, test, use, market, sell, offer for sale and distribute a product or drug in a country or region, including (a) a Biologics License Application, (b) a New Drug Application, (c) an Investigational New Drug Application, (d) any corresponding foreign application in any country or jurisdiction in the world, and (e) all supplements, amendments, variations, extensions and renewals thereof that may be filed with respect to the foregoing.

"Product Rights" means any and all of the following, as they exist throughout the Territory: (a) Intellectual Property Rights, (b) regulatory filings, submissions and approvals, with or from any Regulatory Agencies with respect to any of the Covered Products, including all Product Applications, (c) In-Licenses and (d) Out-Licenses.

"Product Sub" has the meaning set forth in the preamble.

"Purchase Price" means $75,000,000.

"Purchased Company Receivables" means, (a) the Gilead Option Fee Portion and the Applicable Percentage of the Covered Company License Milestones, (b) the Applicable Percentage of the Covered Company License Agreement Royalties, (c) the Company Product Revenue Payments, and (d) in the case of each of (a), (b) and (c), all "accounts" (as such term is defined in the UCC) of Company with respect to the Covered Company License Milestones, the Covered Company License Royalties and the Company Product Revenue Payments. For the avoidance of doubt, Purchased Company Receivables shall be calculated without giving effect to any outbound amounts paid, owed, accrued or otherwise payable by Company or its Affiliates under the LICR Agreements or the Selexis Agreements.

"Purchased Receivables" means, collectively, the Purchased Royalty Fund Receivables and the Purchased Company Receivables.

"Purchased Royalty Fund Receivables" means, (a) the Applicable Percentage of the Covered Royalty Fund License Milestones (without giving effect to any outbound royalties paid, owed, accrued or otherwise payable by Royalty Fund, the Company or their Affiliates to LICR under the LICR 2014 Agreement), (b) the Applicable Percentage of the Covered Royalty Fund License Royalties and (c) in the case of each of (a) and (b), all "accounts" (as such term is defined in the UCC) of Royalty Fund with respect to the Covered Royalty Fund License Milestones and the Covered Royalty Fund License Royalties. For the avoidance of doubt, Purchased Royalty Fund Receivables shall be calculated without giving effect to any outbound amounts paid, owed, accrued or otherwise payable by Royalty Fund, the Company or its Affiliates under the LICR Agreements or the Selexis Agreements.

"Purchaser" has the meaning set forth in the preamble.

"Purchaser Account" has the meaning set forth in Section 5.4(b).

"Purchaser Connection Tax" means any Tax to the extent that it would not be imposed but for (i) Purchaser being organized in or having a permanent establishment (or otherwise actively conducting a business in) in (other than in connection arising from this Agreement and/or any transactions contemplated hereby) the jurisdiction of the applicable taxing authority or (ii) any failure of the Purchaser to provide any applicable documentation that is reasonably requested by the applicable withholding agent and that the Purchaser is legally eligible to provide.

"Purchaser Expenses" means all documented third-party expenses incurred by the Purchaser in connection with the transactions contemplated by this Agreement on or prior to the Closing.

"Purchaser Indemnified Party" has the meaning set forth in Section 7.1.

"Purchaser Indemnified Tax" means any withholding Tax (other than a Purchaser Connection Tax and, except as provided below, a Permitted Tax Withholding) withheld by any licensee, sublicensee, the Sellers, or any other applicable withholding agent in respect of any payment made to the Purchaser pursuant to this Agreement or to Sellers (or their Affiliates) that are attributable to the Purchased Company Receivables; provided that notwithstanding the foregoing, Purchaser Indemnified Tax shall include any tax resulting from or attributable any action taken or caused to be taken by Sellers or their Affiliates or any failure of such Persons to provide any information that is necessary to establish an exemption or reduction from such Permitted Tax Withholding that such Person is legally eligible to deliver, after the effective date hereof, that results in any additional withholding or deduction, which would not have resulted absent Seller or any of its Affiliates taking, causing to be taken, or failing to take such action.

"Qualified Party" means: (i) a pharmaceutical or biotech company with (a) annual revenue for its most recently completed fiscal year of at least $[***] and (b) a market capitalization or enterprise value (as determined in good faith by the Company) in excess of $[***] at the time of determination; or (ii) any other Person designated as such in writing by the Purchaser.

"Receiving Party" has the meaning set forth in Section 8.1.

"Regulatory Agency" means a Governmental Authority with responsibility for the approval, permission or allowance of the research, study, development, formulation, processing, engineering,

manufacturing, testing, use, marketing and sale or offering for sale of pharmaceuticals or other regulation of pharmaceuticals in any country.

"Regulatory Approval" means, collectively, all regulatory approvals, licenses, permissions, allowances, registrations, certificates, authorizations, permits and supplements thereto, as well as associated materials (including the product dossier) pursuant to which the Covered Products may be researched, studied, developed, formulated, processed, engineered, manufactured, tested, used, marketed, sold, offered for sale and distributed by Counterparties or the Company, as the case may be, in a jurisdiction, issued by the appropriate Regulatory Agency, including, to the extent required by Applicable Law for the sale of the Covered Product, all pricing approvals and pricing restrictions, and governmental reimbursement approvals and restrictions.

"Royalty Payment Date" has the meaning set forth in Section 2.3(a).

"Royalty Reduction" has the meaning set forth in Section 3.14(f).

"Royalty Reports" means, collectively, means (a) in the case of the Incyte Agreement, the reports required under Section 7.7 of the Incyte Agreement, (b) in the case of the Merck Agreement, the reports required under Section 5.6 of the Merck Agreement, (c) in the case of the BMS Agreement, the reports required under Section 8.10 of the BMS Agreement, (d) in the case of the Gilead Agreement, the reports required under Section 9.9 of the Gilead Agreement and (e) in the case of the UroGen Agreement, the reports required under Section 9.6 of the UroGen Agreement.

"Royalty Fund" has the meaning set forth in the preamble.

"SEC" means the U.S. Securities and Exchange Commission.

"Security Agreement" shall mean the Security Agreement by and among the Company, Royalty Fund and the Purchaser, substantially in the form of Exhibit G.

"Security Agreements" means the Security Agreement and the BOT/BAL Security Agreement.

"Security Release Event" shall mean that the Company has achieved a [***].

"Selexis Agreements" means, [***].

"Seller" and "Sellers" have the meaning set forth in the preamble.

"Sellers Account" has the meaning set forth in Section 5.4(d).

"Seller Indemnified Party" has the meaning set forth in Section 7.2.

"Set-off" means any set-off or off-set.

[***].

"Step-Down Event" [***].

"Subsidiary" means, with respect to any Person, any other Person of which more than 50% of the outstanding Equity Interests of such other Person (irrespective of whether at the time Equity Interests of

any other class or classes of such other Person shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned or controlled by such Person, by such Person and one or more other Subsidiaries of such Person or by one or more other Subsidiaries of such Person. For purposes of this Agreement, all representations and warranties in Article III related to MiNK are given to the best of Sellers' Knowledge, and all covenants herein that are applicable to MiNK shall only apply to this Agreement to the extent that any such action or inaction required under a covenant contemplated is within the control of the Company.

"Syndication Period" has the meaning set forth in Section 5.21(a).

"Tax" or "Taxes" means any U.S. federal, state, local or non-U.S. income, gross receipts, license, payroll, employment, excise, severance, occupation, premium, windfall profits, environmental, customs duties, capital stock, franchise, profits, withholding, social security, unemployment, disability, real property, personal property, escheat or unclaimed property, sales, use, value added, alternative or add-on minimum, estimated or other tax of any kind whatsoever, including, in each case, (a) any interest, penalty or addition thereto and (b) whether disputed or not.

"Territory" means worldwide.

"Third Party" means any Person that is not a Party.

"Third Party Claim" means any claim, action, suit or proceeding by a Third Party, including any investigation by any Governmental Authority.

"Transaction Documents" means this Agreement, the Account Control Agreements, the Security Agreements, the Contribution Agreement, the Pledge and Security Agreement, the XOMA Consent, the Closing Date Bills of Sale, and the Payment Direction Letters.

"Transferred Assets" has the meaning set forth in the Contribution Agreement.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of Delaware; provided, that if, with respect to any financing statement or by reason of any provisions of law, the perfection or the effect of perfection or non-perfection of the back-up security interest or any portion thereof granted pursuant to Section 2.1(d) is governed by the Uniform Commercial Code as in effect in a jurisdiction of the United States other than the State of Delaware, then "UCC" means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions of this Agreement and any financing statement relating to such perfection or effect of perfection or non-perfection.

"UroGen" means UroGen Pharma Ltd., a company organized under the laws of the State of Israel, its Affiliates and any successors in interest and assigns under the UroGen Agreement.

"UroGen License Agreement" means that certain License Agreement (AGEN1884), dated as of November 8, 2019, by and between the Company and UroGen, as amended from time to time (but subject to the terms of this Agreement with respect to the amendment thereof).

"U.S." or "United States" means the United States of America, its 50 states, each territory thereof and the District of Columbia.

"XOMA" means XOMA (US) LLC, a Delaware limited liability company.

"XOMA Agreement" means that certain Royalty Purchase Agreement, dated as of September 20, 2018 by and among Company, Royalty Fund and XOMA.

"XOMA Consent" means the consent from XOMA with respect to the transactions contemplated by this Agreement, attached hereto at Exhibit L.

"XOMA Escrow Agreement" means that certain Escrow Agreement, among XOMA, Royalty Fund and The Bank of New York Mellon, dated as of December 5, 2019.

Section I.2 Rules of Construction.

(a) Unless the context otherwise requires, in this Agreement:

(i) a term has the meaning assigned to it and an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(ii) unless otherwise defined, all terms that are defined in the UCC shall have the meanings stated in the UCC;

(iii) words of the masculine, feminine or neuter gender shall mean and include the correlative words of other genders;

(iv) the terms "include," "including" and similar terms shall be construed as if followed by the phrase "without limitation";

(v) unless otherwise specified, references to a contract or agreement include references to such contract or agreement as from time to time amended, restated, reformed, supplemented or otherwise modified in accordance with its terms (subject to any restrictions on such amendments, restatements, reformations, supplements or modifications set forth herein), and include any annexes, exhibits and schedules hereto or thereto, as the case may be;

(vi) any reference to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignment, transfer or delegation set forth herein or in any of the other Transaction Document) and any reference to a Person in a particular capacity excludes such Person in other capacities;

(vii) references to any Applicable Law shall include such Applicable Law as from time to time in effect, including any amendment, modification, codification, replacement, or reenactment thereof or any substitution therefor;

(viii) the word "will" shall be construed to have the same meaning and effect as the word "shall";

(ix) the words "hereof," "herein," "hereunder" and similar terms shall refer to this Agreement as a whole and not to any particular provision hereof, and Article, Section and Exhibit references herein are references to Articles and Sections of, and Exhibits to, this Agreement unless otherwise specified;

(x) the definitions of terms shall apply equally to the singular and plural forms of the terms defined;

(xi) in the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding"; and

(xii) where any payment is to be made, any funds are to be applied or any calculation is to be made under this Agreement on a day that is not a Business Day, unless this Agreement otherwise provides, such payment shall be made, such funds shall be applied and such calculation shall be made on the succeeding Business Day, and payments shall be adjusted accordingly.

(b) The provisions of this Agreement shall be construed according to their fair meaning and neither for nor against any Party irrespective of which Party caused such provisions to be drafted. Each Party acknowledges that it has been represented by an attorney in connection with the preparation and execution of this Agreement and the other Transaction Documents.

ARTICLE II
PURCHASE AND SALE OF THE PURCHASED RECEIVABLES

Section II.1 Purchase and Sale.

(a) Subject to the terms and conditions of this Agreement, on the Closing Date, (i) Company hereby sells, contributes, assigns, transfers, conveys and grants to the Purchaser, and the Purchaser hereby purchases, acquires and accepts from Company, all of Company's rights, title and interest in and to the Purchased Company Receivables, free and clear of any and all Liens, other than those Liens created under the Transaction Documents, and (ii) Royalty Fund hereby sells, contributes, assigns, transfers, conveys and grants to the Purchaser, and the Purchaser hereby purchases, acquires and accepts from Royalty Fund, all of Royalty Fund's rights, title and interest in and to the Purchased Royalty Fund Receivables, free and clear of any and all Liens, other than those Liens created under the Transaction Documents.

(b) The Sellers and the Purchaser intend and agree that the sale, contribution, assignment, transfer, conveyance and granting of the Purchased Receivables under this Agreement shall be, and are, a true, complete, absolute and irrevocable assignment and sale by the Sellers to the Purchaser of the Purchased Receivables (including for U.S. federal income tax purposes) and that such assignment and sale shall provide the Purchaser with the full benefits of ownership of the Purchased Receivables. Neither the Sellers nor the Purchaser intends the transactions contemplated hereby to be, or for any purpose (including U.S. federal income tax purposes) characterized as, a loan from the Purchaser to the Sellers or a pledge or assignment or a security agreement. The Sellers waive any right to contest or otherwise assert that this Agreement does not constitute a true, complete, absolute and irrevocable sale and assignment by the Sellers to the Purchaser of the Purchased Receivables under Applicable Law, which waiver shall be enforceable against the Sellers in any Bankruptcy Event in respect of the Sellers. The sale, assignment, transfer, conveyance and granting of the Purchased Receivables shall be reflected on the Company's financial statements and other records as a sale of assets to the Purchaser (except to the extent GAAP or the rules of the SEC require otherwise with respect to the Sellers' consolidated financial statements).

(c) The Sellers hereby authorize the Purchaser and its agents and representatives to execute, record and file, and consents to the Purchaser and its agents and representatives executing, recording and filing, at the Purchaser's sole cost and expense, financing statements in the appropriate filing offices under the UCC (and continuation statements with respect to such financing statements when applicable), and amendments thereto, in such manner and in such jurisdictions as are necessary or appropriate to evidence or perfect the sale, assignment, transfer, conveyance and grant by the Sellers to the Purchaser,

and the Purchaser's first priority security interest in and to all of the Sellers' right, title and interest in, to and under the Purchased Receivables.

(d) Notwithstanding that the Sellers and the Purchaser expressly intend for the sale, assignment, transfer, conveyance and granting of the Purchased Receivables to be a true, complete, absolute and irrevocable sale and assignment, the Sellers hereby assigns, conveys, grants and pledges to the Purchaser, as security for their obligations created hereunder in the event that the transfer of the Purchased Receivables contemplated by this Agreement is held not to be a sale, a first priority security interest in and to all of the Sellers' right, title and interest in, to and under the Purchased Receivables and, in such event, this Agreement shall constitute a security agreement.

Section II.2 Payment of the Purchase Price. In full consideration for the sale, transfer, conveyance and granting of the Purchased Receivables, and subject to the terms and conditions set forth herein, at the Closing, Purchaser shall pay to the Sellers an amount equal to Purchase Price minus the Purchaser Expenses, in immediately available funds by wire transfer to the Sellers Account (the "Closing Payment"). Sellers and Purchaser agree to work together to develop within two (2) days prior to Closing a mutually agreeable funds flow that reflects the Closing Payment (i.e., the Purchase Price), the Purchase Expenses and any other payments to be made directly out of the Closing Payment.

Purchaser shall have the right at any time on or prior to [***] to increase the amount of its investment by up to $25 million (the "Purchaser Upsize Option") by delivering notice of such investment to the Company 10 days prior to Purchaser's desired funding date. If the Purchaser Upside Option is exercised, the Sellers and Purchaser agree to amend this Agreement, substantially concurrently with the closing of such additional investment, to (a) increase the Purchase Price by the amount of such additional funding, (b) proportionately increase the Applicable Percentages based on the amount of such additional funding, (c) proportionately increase the amount of the Gilead Option Fee Portion and (d) such other changes as are necessary to account for the additional investment amount.

Section II.3 Payment of Purchased Receivables to Purchaser.

(a) In consideration of the Purchaser paying the Purchase Price hereunder from time to time pursuant to this Agreement, the Company shall pay to the Purchaser, by wire transfer of immediately available funds in U.S. dollars to the Purchaser Account, without any setoff or offset (subject, in each case, to Section 5.10), the Company Product Revenue Payments for each calendar quarter (commencing with the calendar quarter beginning April 1, 2024) promptly, but in any event no later than [***] (each such date, a "Royalty Payment Date").

(b) A late fee of [***] (calculated on a per annum basis) will accrue on all unpaid amounts with respect to any Company Product Revenue Payment from the applicable Royalty Payment Date. The imposition and payment of a late fee shall not constitute a waiver of the Purchaser's rights with respect to such payment default. Such accrued late fee will be compounded annually. Payment of such accrued late fee shall accompany payment of the outstanding Royalty Payment.

(c) On or prior to each Royalty Payment Date, the Company shall provide to the Purchaser a written report pursuant to Section 5.1(c).

Section II.4 Payment Direction Letters.

(a) At the Closing, the Company shall deliver to each Counterparty (other than Merck and Incyte) a duly executed Payment Direction Letter in accordance with the notice provisions of the applicable Covered License Agreement and also by e-mail (with the Payment Direction Letter attached thereto as a PDF attachment), and such e-mail shall include a request that each such Counterparty confirm receipt thereof by e-mail reply. The Sellers shall not amend any Payment Direction Letter or deliver any subsequent payment direction or instruction letter to a Counterparty without the prior written consent of the Purchaser (not to be unreasonably withheld, conditioned or delayed).

(b) As promptly as practicable following the Closing, the Sellers shall use their reasonable best efforts to cause that certain Escrow Agreement, among XOMA, Royalty Fund and The Bank of New York Mellon, dated as of December 5, 2019 (the "XOMA Escrow Agreement") to be amended to, among other things, (x) add the Purchaser, as a party, (y) provide for Purchaser to receive Purchased Royalty Fund Receivables directly from the escrow account and (z) such other changes as are mutually agreed by Agenus and Purchaser. If, notwithstanding the foregoing, the Sellers are unable to cause such an amendment to the XOMA Escrow Agreement prior to October 1, 2024, the Sellers and the Purchaser shall work in good faith to secure alternative direct payment mechanics to the Purchaser of the Purchased Royalty Fund Receivables. Prior to any such amendment or alternative payment mechanics, all amounts received by Sellers out of the XOMA Escrow Account shall flow into the Lockbox Account, once established pursuant to Section 6.4. The Sellers shall indemnify the Purchaser for any delays in receipt of any Purchased Royalty Fund Receivables as a result of amounts held up in the escrow account established by the XOMA Escrow Agreement to the extent any such delayed disbursements are a result of any disputes or disagreements between the Sellers and XOMA or other reasons unrelated to the Purchaser.

Section II.5 No Assumed Obligations. Notwithstanding any provision in this Agreement or any other writing to the contrary, the Purchaser is purchasing, acquiring and accepting only the Purchased Receivables and is not assuming any liability or obligation of the Sellers or any of the Sellers' Affiliates of whatever nature, whether presently in existence or arising or asserted hereafter, including any liability or obligation of the Sellers under the Covered License Agreements. All such liabilities and obligations shall be retained by, and remain liabilities and obligations of, the Sellers or the Sellers' Affiliates, as the case may be (the "Excluded Liabilities and Obligations").

Section II.6 Excluded Assets. The Purchaser does not, by purchase, acquisition or acceptance of the right, title or interest granted hereunder or otherwise pursuant to any of the Transaction Documents, purchase, acquire or accept any assets or contract rights of the Sellers under any of the Covered License Agreements, other than the Purchased Receivables, or any other assets of the Sellers.

ARTICLE III
REPRESENTATIONS AND WARRANTIES OF THE SELLER PARTIES

Except as set forth on the Disclosure Schedule, the Seller Parties, jointly and severally, hereby make each of the following representations and warranties to the Purchaser as of the date hereof and as of the Closing Date:

Section III.1 Organization.

(a) The Company is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware and has all corporate power and authority, and all licenses, permits, registrations, franchises, authorizations, consents and approvals of all Governmental Authorities, required to own its property and conduct its business, as now conducted, and to exercise its rights and to

perform its obligations under the Covered License Agreements, the LICR Agreements, the Selexis Agrements and the XOMA Agreement. The Company is duly qualified to transact business and is in good standing in every jurisdiction in which such qualification or good standing is required by Applicable Law (except where the failure to be so qualified or in good standing would not have a Material Adverse Effect).

(b) Royalty Fund is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all limited liability company power and authority, and all licenses, permits, franchises, authorizations, consents and approvals of all Governmental Authorities, required to own its property and conduct its business, as now conducted, and to exercise its rights and to perform its obligations under the Merck Agreement, the Incyte Agreement and the XOMA Agreement.

(c) Product Sub is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all limited liability company power and authority, and all licenses, permits, franchises, authorizations, consents and approvals of all Governmental Authorities, required to own its property and conduct its business, as now conducted, and to exercise its rights and to perform its obligations under the LICR Agreements.

(d) The Seller Parties are duly qualified to transact business and is in good standing in every jurisdiction in which such qualification or good standing is required by Applicable Law (except where the failure to be so qualified or in good standing would not have a Material Adverse Effect).

(e) Neither MiNK Therapeutics, Inc., SaponiQx, Inc. or any of their respective subsidiaries has any ownership interest in, or assets relating to, the Covered Products.

Section III.2 No Conflicts.

(a) Except as set forth on Section 3.2(a) of the Disclosure schedules, the execution and delivery by the Seller Parties of any of the Transaction Documents, the performance by the Seller Parties of their obligations hereunder or thereunder or the consummation by the Seller Parties of the transactions contemplated hereby or thereby will not (i) contravene, conflict with or violate any term or provision of any of the organizational documents of the Seller Parties or any of their Subsidiaries, (ii) contravene, conflict with or violate, or give any Governmental Authority or other Person the right to exercise any remedy or obtain any relief under, any Applicable Law or any judgment, order, writ, decree, permit or license of any Governmental Authority to which the Seller Parties or any of their Subsidiaries or any of their respective assets or properties may be subject or bound, except as would not have a Material Adverse Effect, (iii) result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or give any Person the right to exercise any remedy or obtain any additional rights under, or accelerate the maturity or performance of, or payment under, or cancel or terminate, (A) except as would not be reasonably expected to result in a Material Adverse Effect, to any contract, agreement, indenture, lease, license, deed, commitment, obligation or instrument to which the Seller Parties or any of their Subsidiaries is a party or by which the Seller Parties or any of their Subsidiaries or any of their respective assets or properties is bound or committed (other than any Covered License Agreement, the LICR Agreements, the Selexis Agrements and the XOMA Agreement) or (B) any Covered License Agreement, the XOMA Agreement, the Selexis Agreement or the LICR Agreements and (iv) except as provided in any of the Transaction Documents, result in or require the creation or imposition of any Lien

on the Intellectual Property Rights, the Covered Products, the Covered License Agreements or the Purchased Receivables.

(b) Except for Liens created under the XOMA Agreement or as set forth on Section 3.2(b) of the Disclosure Schedules, the Seller Parties have not granted, nor does there exist, any Lien on or relating to the Covered License Agreements, the Intellectual Property Rights, or the Covered Products. Except for Liens created under the Transaction Documents and the XOMA Agreement, Seller Parties have neither granted, nor does there exist, any Lien on or relating to the Purchased Receivables. Except for the licenses granted by the Seller Parties to each Counterparty under the Covered License Agreements (and the sublicenses granted thereunder and set forth on Section 3.13(k) of the Disclosure Schedule), there are no licenses, sublicenses or other rights under the Intellectual Property Rights that have been granted by the Seller Parties to any Third Party with respect to the Exploitation of the Licensed Products in the Territory.

Section III.3 Authorization. The Company has all necessary corporate power and authority to execute and deliver the Transaction Documents, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of the Transaction Documents and the performance by the Company of its obligations hereunder and thereunder have been duly authorized by all necessary corporate action on the part of the Company. Royalty Fund has all necessary limited liability company power and authority to execute and deliver the Transaction Documents, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of the Transaction Documents and the performance by Royalty Fund of its obligations hereunder and thereunder have been duly authorized by all necessary limited liability company action on the part of Royalty Fund. Product Sub has all necessary limited liability company power and authority to execute and deliver the Transaction Documents, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of the Transaction Documents and the performance by Product Sub of its obligations hereunder and thereunder have been duly authorized by all necessary limited liability company action on the part of Product Sub. This Agreement has been, and on or prior to Closing each of the Transaction Documents will be, duly executed and delivered by an authorized officer of the Seller Parties. This Agreement constitutes, and as of the Closing each of the Transaction Documents will constitute, the legal, valid and binding obligation of the Seller Parties, enforceable against the Seller Parties in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, general equitable principles and principles of public policy.

Section III.4 Ownership. Except as set forth on Section 3.4 of the Disclosure Schedules, the Seller Parties are collectively the exclusive owner, or exclusive licensee, of the entire right, title (legal and equitable) and interest in, to and under the Purchased Receivables and, solely with respect to the Exploitation of the Company Products, the Intellectual Property Rights. The Purchased Receivables sold, assigned, transferred, conveyed and granted to the Purchaser have not been pledged, sold, assigned, transferred, conveyed or granted by the Sellers to any other Person. The Sellers have full right to sell, assign, transfer, convey and grant the Purchased Receivables to the Purchaser. Upon the sale, assignment, transfer, conveyance and granting by the Sellers of the Purchased Receivables to the Purchaser, the Purchaser shall acquire good and marketable title to the Purchased Receivables free and clear of all Liens, other than those Liens created under the Transaction Documents, and shall be the exclusive owner of the Purchased Receivables.

Section III.5 Governmental and Third-Party Authorizations. The execution and delivery by the Seller Parties of the Transaction Documents, the performance by the Seller Parties of their respective obligations hereunder and thereunder and the consummation by the Seller Parties of the transactions contemplated hereby and thereby do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by, or filing with, any Governmental Authority or any other Person, except for (i) the filing of a Current Report on Form 8-K with the SEC, (ii) the filing of UCC financing statements, (iii) the XOMA Consent, and (iv) the delivery of the Payment Direction Letters to the Counterparties.

Section III.6 No Litigation.

(a) There is no action, suit, arbitration proceeding, claim, demand, citation, summons, subpoena or other proceeding (whether civil, criminal, administrative, regulatory or informal) (i) pending or, to the Knowledge of the Sellers, threatened by or against the Seller Parties or any of their Subsidiaries or (ii) to the Knowledge of the Sellers, pending or threatened by or against any Counterparty, their Affiliates, or any of their sublicensees, in each case, in respect of the Covered License Agreements, the Intellectual Property Rights, the Covered Products or the Purchased Receivables, at law or in equity, that (i) would reasonably be expected to result in a liability to the Seller Parties in excess of $1,000,000 or (ii) challenges or seeks to prevent or delay the consummation of any of the transactions contemplated by any of the Transaction Documents to which the Seller Parties are party.

(b) There is no inquiry or investigation (whether civil, criminal, administrative, regulatory, investigative or informal) by or before a Governmental Authority (i) pending or, to the Knowledge of the Sellers, threatened against the Seller Parties or any of their Subsidiaries or (ii) to the Knowledge of the Sellers, pending or threatened by or against any Counterparty, in each case in respect of the Covered License Agreements, the Intellectual Property Rights, the Covered Products or the Purchased Receivables that (i) would reasonably be expected to result in a liability to the Seller Parties in excess of $1,000,000 or (ii) challenges or seeks to prevent or delay the consummation of any of the transactions contemplated by any of the Transaction Documents to which the Sellers are party.

(c) To the Knowledge of the Sellers, no event has occurred or circumstance exists that would reasonably be expected to give rise to or serve as a basis for the commencement of any such action, suit, arbitration proceeding, claim, investigation, proceeding, inquiry or investigation referred to in Section 3.6(a) or 3.6(b).

Section III.7 Indebtedness; Solvency.

(a) Schedule 3.7(a) sets forth a complete list of all outstanding Indebtedness of the Company and its Subsidiaries (other than MiNK and SaponiQx) in excess of $100,000.

(b) No Bankruptcy Event has occurred with respect to the Company and its Subsidiaries.

(c) Immediately after giving effect to the consummation of the transactions contemplated by the Transaction Documents and the application of the proceeds therefrom, (i) the fair value of the Seller Parties' assets will be greater than the sum of its debts, liabilities and other obligations, including contingent liabilities, (ii) the present fair saleable value of the Seller Parties' assets, including, for the avoidance of doubt, the Intellectual Property Rights, will be greater than the amount that would be required to pay its probable liabilities on its existing debts, liabilities and other obligations, including contingent liabilities, as they become absolute and matured in the normal course of business, (iii) the Seller Parties will be able to realize upon its assets and pay its debts, liabilities and other obligations,

including contingent obligations, as they mature, (iv) the Seller Parties will have free cash on hand with which to engage in its business as now conducted, (v) the Seller Parties do not have any present plans or intentions to incur debts or other obligations or liabilities beyond its ability to pay such debts or other obligations or liabilities as they become absolute and matured, (vi) the Seller Parties will not have become subject to any Bankruptcy Event and (vii) the Seller Parties will not have been rendered insolvent within the meaning of Section 101(32) of Title 11 of the United States Code. For purposes of this Section 3.7(b), the amount of all contingent obligations at any time shall be computed as the amount that, in light of all facts and circumstances existing at such time, can reasonably be expected to become an actual or matured liability.

Section III.8 Tax Matters.

(a) No deduction or withholding for or on account of any Tax has been made from any payment to the Seller Parties or any of their Affiliates under any Covered License Agreement. No applicable withholding agent under any Covered License Agreement or any taxing authority has ever notified the Seller Parties that any such withholding was required or would have been required absent the Sellers' qualification for benefits under an applicable income Tax treaty. Seller Parties have filed (or caused to be filed) all material tax returns and material tax reports required to be filed under Applicable Law and have paid all material taxes required to be paid by them (including, in each case, in its capacity as a withholding agent), except for any such taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with the generally accepted accounting principles applicable to Seller Parties, as in effect from time to time.

(b) There are no existing Liens for Taxes on the Purchased Receivables (or any portion thereof).

(c) Since its formation, each of Royalty Fund and Product Sub has been and will continue to be treated as an entity that is disregarded from the Company for U.S. federal income tax purposes.

Section III.9 No Brokers' Fees. The Seller Parties have not taken any action that would entitle any person or entity to any commission or broker's fee in connection with the transactions contemplated by this Agreement.

Section III.10 Compliance with Laws. None of the Seller Parties nor any of their Subsidiaries (a) has violated or is in violation of, has been given notice of any violation of, or, to the Knowledge of the Sellers, is under investigation with respect to or has been threatened to be charged with, any material violation of, any Applicable Law or any judgment, order, writ, decree, injunction, stipulation, consent order, permit, registration or license granted, issued or entered by any Governmental Authority or (b) is subject to any judgment, order, writ, decree, injunction, stipulation or consent order issued or entered by any Governmental Authority, in each case, in a manner that would be reasonably expected to materially affect the Covered Products.

Section III.11 Intellectual Property Matters.

(a) Section 3.11(a) of the Disclosure Schedule sets forth an accurate and complete list of all issued Patents and pending Patent applications. For each Patent listed on Section 3.11(a) of the Disclosure Schedule the Seller Parties have indicated (i) the countries in which such Patent is pending, allowed, granted or issued, (ii) including a notation of any term extensions, the patent number and/or patent application serial number, (iii) the scheduled expiration date of each such issued Patent, (iv) the

expected scheduled expiration date of each Patent issuing from such pending Patent application once issued and (v) the registered owner thereof.

(b) Except as otherwise set forth on Schedule 3.11(a) of the Disclosure Schedule, the Company is the sole and exclusive owner of each of the Patents listed on Section 3.11(a) of the Disclosure Schedule and each of the inventions claimed in such Patents.

(c) To the Knowledge of the Sellers, in each Patent listed on Section 3.11(a) of the Disclosure Schedule, there is at least one valid claim (treating pending claim as if issued) that would be infringed by the Exploitation of the Covered Products, as applicable.

(d) There are no unpaid maintenance or renewal fees payable by the Seller Parties to any Third Party that currently are overdue for any of the Patents. No Patents listed on Section 3.11(a) of the Disclosure Schedule have lapsed or been abandoned, cancelled or expired.

(e) To the Knowledge of the Sellers, each Person who has or has had any rights in or to the Patents, including each inventor named on the Patents, has executed a contract assigning his, her or its entire right, title and interest in and to such Patents and the inventions embodied, described and or claimed therein, to the owner thereof, and each such contract has been duly recorded in each Patent Office wherein it would be necessary or advisable, as determined by the Seller Parties in their commercially reasonable judgement, to document such assignment.

(f) To the Knowledge of the Sellers, each individual associated with the filing and prosecution of the Patents, including the named inventors of the Patents, has complied in all material respects with all applicable duties of candor and good faith in dealing with any Patent Office, including any duty to disclose to any Patent Office all information known by such inventors to be material to the patentability of the Patents (including any relevant prior art), in each case, in those jurisdictions where such duties exist.

(g) Subsequent to the issuance of each Patent, neither the Seller Parties nor, to the Knowledge of the Sellers, any Counterparty, has filed any disclaimer or made or permitted any other voluntary reduction in the scope of such Patent.

(h) There is no pending or, to the Knowledge of the Sellers, threatened opposition, interference, reexamination, injunction, claim, suit, action, citation, summon, subpoena, hearing, inquiry, investigation (by the International Trade Commission or otherwise), complaint, arbitration, mediation, demand, decree or other dispute, disagreement, proceeding or claim (collectively, "Disputes") challenging the legality, validity, scope, enforceability or ownership of any of the Intellectual Property Rights or that would give rise to any Royalty Reduction against the payments due to the Sellers under the Covered License Agreements. To the Knowledge of the Sellers, there are no pending or threatened Disputes by any Counterparty, or their Affiliates or sublicensees, challenging the legality, validity, scope, enforceability or ownership of any of the Intellectual Property Rights or that would give rise to any Royalty Reduction against the payments due to the Sellers under the Covered License Agreements. There are no Disputes by or with any Third Party against the Seller Parties involving any of the Covered Products or, to the Knowledge of the Sellers, any Counterparty or any of its sublicensees involving any of the Licensed Products. The Intellectual Property Rights are not subject to any outstanding injunction, judgment, order, decree, ruling, change, settlement or other disposition of a Dispute. There are no proceedings, other than proceedings in the ordinary course of patent prosecution with respect to the Patents listed on Section 3.11(a) of the Disclosure Schedule.

(i) There is no pending action, suit, proceeding, investigation or claim related to the Covered Products. To the Knowledge of the Sellers, there is no pending action, suit, proceeding, investigation, or claim, related to the Licensed Products. To the Knowledge of the Sellers, there is no threatened action, suit, proceeding, investigation or claim, and, to the Knowledge of the Sellers, no event has occurred or circumstance exists that (with or without notice or lapse of time, or both) would reasonably be expected to give rise to or serve as a basis for any action, suit, proceeding, investigation or claim by any Person that claims that the manufacture, use, marketing, sale, offer for sale, importation or distribution of any Covered Product does or could infringe on any patent or other intellectual property rights of any Third Party or constitute misappropriation of any other Person's trade secrets or other intellectual property rights.

(j) To the Knowledge of the Sellers, there are no patents issued, and no pending patent applications with claims reasonably likely to issue, owned by any Third Party, that (i) the Counterparties, as applicable, do not have a right to use (A) that would be infringed by Counterparty's Exploitation of a Licensed Product, as applicable, but for Counterparty's rights in such patents and patent applications, or (B) that would give rise to any Royalty Reduction against the payments due to the Sellers under the Covered License Agreements or (ii) the Company does not have a right to use that would be infringed by the Company's Exploitation of a Company Product but for Company's rights in such patents and patent applications.

(k) To the Knowledge of the Sellers, there is no Person infringing any of the Intellectual Property Rights, and neither of the Sellers has received any notice under any of the Covered License Agreements or put any Person on notice, of actual or alleged infringement of any of the Intellectual Property Rights.

(l) Each of the Sellers and, to the Knowledge of the Sellers, each Counterparty has taken all reasonable precautions to protect the secrecy, confidentiality and/or value of the applicable Know-How.

(m) The Intellectual Property Rights constitute all of the intellectual property owned or licensed by the Seller Parties or any of their Affiliates that is, to the Sellers' Knowledge, necessary or useful for the manufacture, use or sale of the Covered Products.

(n) No legal opinion concerning or with respect to any Third Party intellectual property rights relating to the Covered Products, including any freedom-to-operate, product clearance, patentability, validity or right-to-use opinion, has been delivered to the Seller Parties.

(o) To the Knowledge of the Sellers, there is no Person who is or claims to be an inventor under any Patent who is not a named inventor thereof and the list of inventors named in each issued and unexpired Patent listed on Section 3.11(a) of the Disclosure Schedule is current and complete.

(p) [***].

Section III.12 Regulatory Approval and Marketing.

(a) To the Knowledge of the Sellers, each Counterparty is in compliance with its material obligations to seek, obtain and maintain Regulatory Approval for the Licensed Products to the extent required by the applicable Covered License Agreement.

(b) The Company and its Subsidiaries are in compliance with their material obligations to seek, obtain and maintain Regulatory Approval for the Company Products.

(c) The Company and its Subsidiaries possess all material permits, licenses, registrations and permissions, including Regulatory Approvals from the FDA and other Governmental Authorities required for the conduct of their business as currently conducted and for the development and Exploitation of the Covered Products, and all such permits, licenses, registrations, authorizations and permissions are in full force and effect;

(d) The Company and its Subsidiaries have not received any written communication from any Governmental Authority alleging any failure of the Company or its Subsidiaries to materially comply with any Applicable Laws, including any terms or requirements of any Regulatory Approval and, to the Knowledge of the Sellers, there are no facts or circumstances that are reasonably likely to give rise to any revocation, withdrawal, suspension, hold or clinical hold, cancellation, material limitation, material termination or adverse modification of any Regulatory Approval;

(e) To the Knowledge of the Sellers, none of the officers, directors, employees or, or to the Knowledge of the Sellers, Affiliates of the Company or any Subsidiary involved in any Product Application, has been:

(i) convicted of any crime or engaged in any conduct for which debarment or suspension is authorized by 21 U.S.C. § 335a nor, to the Knowledge of the Sellers, are any debarment proceedings or investigations pending or threatened against the Company or any Subsidiary or any of their respective officers, employees or agents;

(ii) charged, named in a complaint, convicted, or otherwise found liable in any Proceeding that falls within the ambit of 21 U.S.C. § 331, 21 U.S.C. § 333, 21 U.S.C. § 334, 21 U.S.C. § 335a, 21 U.S.C. § 335b, 42 U.S.C. § 1320a - 7, 31 U.S.C. §§ 3729 – 3733, 42 U.S.C. § 1320a-7a, or any other Applicable Law; or

(iii) disqualified or deemed ineligible pursuant to 21 C.F.R. §312.70 or otherwise restricted, in whole or in part, or subject to an assurance.

(f) To the Knowledge of the Sellers, none of the officers, directors, employees or Affiliates of the Company or any Subsidiary or any of their agents or consultants has (A) made an untrue statement of material fact or fraudulent statement to any Regulatory Agency or failed to disclose a material fact required to be disclosed to a Regulatory Agency; or (B) committed an act, made a statement, or failed to make a statement that would reasonably be expected to provide a basis for the FDA to invoke its policy respecting "Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities," set forth in 56 Fed. Regulation 46191 (September 10, 1991);

(g) All applications, notifications, submissions, information, claims, reports and statistics and other data and conclusions derived therefrom, utilized as the basis for or submitted in connection with any and all requests for Regulatory Approval from the FDA or other Governmental Authority for Company Products, when submitted to the FDA or other Governmental Authority were true, complete and correct in all material respects as of the date of submission or any necessary or required updates, changes, corrections or modifications to such applications, submissions, information and data have been submitted to the FDA or other Governmental Authority;

(h) All preclinical and clinical trials conducted by or on behalf of the Company and its Subsidiaries the results of which have been submitted to any Governmental Authority, including the FDA and its counterparts worldwide, in connection with any request for a Regulatory Approval, are being or have been conducted in compliance in all material respects with all Applicable Laws;

(i) All Company Products and, to the Knowledge of Sellers, all Licensed Products, have since January 1, 2021 been, manufactured, transported and held, in all material respects in accordance with all permits, and Applicable Laws;

(j) Neither the Company nor any Subsidiary has received any written notice from a Governmental Authority that such Governmental Authority, including without limitation the FDA, the Office of the Inspector General of the United States Department of Health and Human Services or the United States Department of Justice has commenced or threatened to initiate any action against the Company or a Subsidiary, any action to enjoin the Company or a Subsidiary, its officers, directors, employees, agents and Affiliates from conducting its business at any facility owned or used by it, or any action for any material civil penalty, injunction, seizure or criminal action; and

(k) Neither the Company nor any Subsidiary has received from the FDA at any time since January 1, 2021, a Warning Letter, Form FDA-483, "Untitled Letter," notice of an investigation, request for corrective or remedial action, notice of other adverse finding or similar written correspondence or notice alleging violations of Applicable Laws enforced by the FDA or any comparable written correspondence from any other Governmental Authority, in each case, with regard to any Company Product or the research, study, development, formulation, processing, engineering, manufacture, testing, packaging, labeling, storage, handling, holding, transport, distribution, use, sale, offer for sale or promotion thereof.

Section III.13 In-Licenses.

(a) Except for the LICR Agreements and the Selexis Agreements, (i) there are no In-Licenses and (ii) there are no other contracts, agreements or other arrangements (whether written or oral) to which the Sellers or any of their Subsidiaries is a party or by which any of their respective assets or properties is bound or committed pursuant to which the Sellers or any of their Subsidiaries has rights under any patent or intellectual property rights of any Third Party that are material to the Exploitation of the Covered Products. Attached as Exhibit H-1 are true, correct and complete copies of the LICR Agreements. Attached as Exhibit H-2 are true, correct and complete copies of the Selexis Agreements.

(b) Each of the LICR Agreements is in full force and effect and is the legal, valid and binding obligation of the Sellers and, to the Knowledge of the Sellers, LICR, enforceable against the Sellers and, to the Knowledge of the Sellers, LICR in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to or affecting creditors' rights generally, general equitable principles and principles of public policy. The Sellers are not in breach or violation of or in default under any of the LICR Agreements. There is no event or circumstance that, upon notice or the passage of time, or both, would constitute or give rise to any breach or default in the performance of any of the LICR Agreements by the Sellers or, to the Knowledge of the Sellers, LICR.

(c) The Sellers have not waived any rights or defaults under the LICR Agreements or released LICR, in whole or in part, from any of its obligations under any of the LICR Agreements. There are no oral waivers or modifications (or pending requests therefor) in respect of any of the LICR Agreements. Neither the Sellers nor LICR has agreed to amend or waive any provision of the LICR Agreements, and the Sellers have not received or submitted any proposal to do so.

(d) No event has occurred that would give the Sellers or, to the Knowledge of the Sellers, LICR, the right to terminate any of the LICR Agreements. The Sellers have not received any notice of an

intention by LICR to terminate or breach any of the LICR Agreements, in whole or in part, or challenging the validity or enforceability of any of the LICR Agreements, or alleging that the Sellers or LICR is currently in default of its obligations under any of the LICR Agreements. To the Knowledge of the Sellers, there is and has been no default, violation or breach of LICR under any of the LICR Agreements.

(e) Each of the Selexis Agreements is in full force and effect and is the legal, valid and binding obligation of the Sellers and, to the Knowledge of the Sellers, Selexis, enforceable against the Sellers and, to the Knowledge of the Sellers, Selexis in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to or affecting creditors' rights generally, general equitable principles and principles of public policy. The Sellers are not in breach or violation of or in default under any of the Selexis Agreements. There is no event or circumstance that, upon notice or the passage of time, or both, would constitute or give rise to any breach or default in the performance of any of the Selexis Agreements by the Sellers or, to the Knowledge of the Sellers, Selexis.

(f) The Sellers have not waived any rights or defaults under the Selexis Agreements or released Selexis, in whole or in part, from any of its obligations under any of the Selexis Agreements. There are no oral waivers or modifications (or pending requests therefor) in respect of any of the Selexis Agreements. Neither the Sellers nor Selexis has agreed to amend or waive any provision of the Selexis Agreements, and the Sellers have not received or submitted any proposal to do so.

(g) No event has occurred that would give the Sellers or, to the Knowledge of the Sellers, Selexis, the right to terminate any of the Selexis Agreements. The Sellers have not received any notice of an intention by Selexis to terminate or breach any of the Selexis Agreements, in whole or in part, or challenging the validity or enforceability of any of the Selexis Agreements, or alleging that the Sellers or Selexis is currently in default of its obligations under any of the Selexis Agreements. To the Knowledge of the Sellers, there is and has been no default, violation or breach of Selexis under any of the Selexis Agreements.

Section III.14 Counterparty Agreements.

(a) Except as set forth on the Disclosure Schedule, other than the Transaction Documents, the XOMA Agreement and the Covered License Agreements, (i) there are no Out-Licenses, and (ii) there are no other contract, agreement or other arrangement (whether written or oral) to which the Sellers or any of their Subsidiaries is a party or to the Knowledge of the Sellers by which any of their respective assets or properties is bound or committed that affects or otherwise relates to the Purchased Receivables, the Covered License Agreements or the Intellectual Property Rights with respect to the Exploitation of the Covered Products and that are material to the interest of the Purchaser.

(b) Attached as Exhibits I-1, I-2, I-3, I-4 and I-5 are true, correct and complete copies of the Covered License Agreements. The Sellers have provided to the Purchaser true, correct and complete copies of (i) all Counterparty Royalty Reports and (ii) all material notices and correspondence delivered to the Sellers by the Counterparties or by the Sellers to the Counterparties pursuant to, or relating to, the Covered License Agreements, to the extent permitted by their terms.

(c) Each of the Covered License Agreements is in full force and effect and is the legal, valid and binding obligation of the Sellers and, to the Knowledge of the Sellers, each Counterparty, enforceable against the Sellers and, to the Knowledge of the Sellers, each Counterparty in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, reorganization, moratorium or similar laws now

or hereafter in effect relating to or affecting creditors' rights generally, general equitable principles and principles of public policy. The Sellers are not in breach or violation of or in default under any of the Covered License Agreements. There is no event or circumstance that, upon notice or the passage of time, or both, would constitute or give rise to any breach or default in the performance of any of the Covered License Agreements by the Sellers or, to the Knowledge of the Sellers, any Counterparty.

(d) The Sellers have not waived any rights or defaults under the Covered License Agreements or released any Counterparty, in whole or in part, from any of its obligations under any of the Covered License Agreements. There are no oral waivers or modifications by any Seller (or pending requests therefor) in respect of any of the Covered License Agreements.

(e) No event has occurred that would give the Sellers or, to the Knowledge of the Sellers, any Counterparty, the right to terminate any of the Covered License Agreements or cease paying Purchased Receivables under any of the Covered License Agreements. The Sellers have not received any notice of an intention by any Counterparty to terminate or breach any of the Covered License Agreements, in whole or in part, or challenging the validity or enforceability of any of the Covered License Agreements or the obligation to pay the Purchased Receivables under any of the Covered License Agreements, or alleging that the Sellers or any Counterparty is currently in default of its obligations under any of the Covered License Agreements. To the Knowledge of the Sellers, there is and has been no default, violation or breach of any Counterparty under any of the Covered License Agreements. The Sellers have no intention of terminating any of the Covered License Agreements and has not given any Counterparty any notice of termination of any of the Covered License Agreements, in whole or in part.

(f) Except as provided in the Covered License Agreements, the Sellers are not a party to any agreement providing for any sharing of, or providing for or permitting any right of counterclaim, credit, reduction or deduction by contract or otherwise (a "Royalty Reduction") or permitting any Set-off against, the Purchased Receivables.

(g) The Sellers have not consented to an assignment by any Counterparty of any of such Counterparty's rights or obligations under any Covered License Agreement, and the Sellers do not have Knowledge of any such assignment by any Counterparty. Except as contemplated by Section 2.1(a) and Section 2.1(d), the Sellers have not assigned, in whole or in part, nor granted, incurred or suffered to exist any Lien on, the Covered License Agreements or any of the Sellers' rights, title or interest in or to the Intellectual Property Rights or the Licensed Products in the Territory.

(h) Neither the Sellers nor any Counterparty have made any claim of indemnification under any of the Covered License Agreements.

(i) The Sellers have not exercised their rights to conduct an audit under any of the Covered License Agreements.

(j) To the Knowledge of the Sellers, the Sellers have received all amounts owed to them under the Covered License Agreements.

(k) To the Knowledge of the Sellers, except as set forth in Section 3.13(k) of the Disclosure Schedule, no Counterparty to any Covered License Agreement has granted (and the Sellers have not received any written notice that any such Counterparty has granted) a sublicense to any other Person.

Section III.15 UCC Matters. The Company's exact legal name is, and since 2011 has been, "Agenus Inc.". The Company's principal place of business is located in the State of Massachusetts. The

Company's jurisdiction of formation is, and since formation has been, the State of Delaware. Royalty Fund's exact legal name is, and since formation has been, "Agenus Royalty Fund, LLC". Royalty Fund's principal place of business is, and since formation has been, located in the State of Massachusetts. Royalty Fund's jurisdiction of formation is, and since formation has been, the State of Delaware. Product Sub's exact legal name is, and since formation has been, "Agenus Holdings 2024, LLC". Product Sub's principal place of business is, and since formation has been, located in the State of Massachusetts.

Section III.16 Set-off and Other Sources of Royalty Reduction. No Counterparty has exercised, and, to the Knowledge of the Sellers, no Counterparty has had the right to exercise, and no event or condition exists that, upon notice or passage of time, or both, would permit any Counterparty to exercise, any Royalty Reduction or Set-off against the Purchased Receivables or any other amounts payable to the Sellers under any of the Covered License Agreements. To the Knowledge of the Sellers, there are no Third Party patents that would provide a basis for a Royalty Reduction. There are no compulsory licenses granted or, to the Knowledge of the Sellers, threatened to be granted with respect to the Intellectual Property Rights with respect to the Exploitation of the Licensed Products in the Territory.

Section III.17 Margin Stock. The Sellers are not engaged in the business of extending credit for the purpose of buying or carrying margin stock, and no portion of the Purchase Price shall be used by the Sellers for a purpose that violates Regulation T, U or X promulgated by the Board of Governors of the Federal Reserve System from time to time.

ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Seller Parties as follows:

Section IV.1 Organization. The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of Delaware.

Section IV.2 No Conflicts. The execution and delivery by the Purchaser of any of the Transaction Documents to which the Purchaser is a party, the performance by the Purchaser of its obligations hereunder or thereunder or the consummation by the Purchaser of the transactions contemplated hereby or thereby will not (i) contravene, conflict with or violate any term or provision of any of the organizational documents of the Purchaser, (ii) contravene, conflict with or violate, or give any Governmental Authority or other Person the right to exercise any remedy or obtain any relief under, in any material respect, any Applicable Law or any judgment, order, writ, decree, permit or license of any Governmental Authority to which the Purchaser or any of its assets or properties may be subject or bound or (iii) result in a breach or violation of, constitute a default (with or without notice or lapse of time, or both) under, or give any Person any right to exercise any remedy, or accelerate the maturity or performance of, in any material respect, any contract, agreement, indenture, lease, license, deed, commitment, obligation or instrument to which the Purchaser is a party or by which the Purchaser or any of its assets or properties is bound or committed.

Section IV.3 Authorization. The Purchaser has all necessary corporate power and authority to execute and deliver the Transaction Documents to which the Purchaser is a party, to perform its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery of each of the Transaction Documents to which the Purchaser is a party and the performance by the Purchaser of its obligations hereunder and thereunder have been duly authorized by the Purchaser. Each of the Transaction Documents to which the Purchaser is a party has

been duly executed and delivered by the Purchaser. Each of the Transaction Documents to which the Purchaser is a party constitutes the legal, valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, and general equitable principles.

Section IV.4 Governmental and Third Party Authorizations. The execution and delivery by the Purchaser of the Transaction Documents to which the Purchaser is a party, the performance by the Purchaser of its obligations hereunder and thereunder and the consummation of the transactions contemplated hereby and thereby do not require any consent, approval, license, order, authorization or declaration from, notice to, action or registration by, or filing with, any Governmental Authority or any other Person, except for (i) the filing of UCC financing statements, (ii) the XOMA Consent, and (iii) the delivery of the Payment Direction Letters to the Counterparties.

Section IV.5 No Litigation. There is no (a) action, suit, arbitration proceeding, claim, demand, citation, summons, subpoena, investigation or other proceeding (whether civil, criminal, administrative, regulatory, investigative or informal) pending or, to the knowledge of the Purchaser, threatened by or against the Purchaser, at law or in equity, or (b) inquiry or investigation (whether civil, criminal, administrative, regulatory, investigative or informal) by or before a Governmental Authority pending or, to the knowledge of the Purchaser, threatened against the Purchaser, that, in any case challenges or seeks to prevent or delay the consummation of any of the transactions contemplated by any of the Transaction Documents.

Section IV.6 Access to Information. The Purchaser acknowledges that it has (a) reviewed such documents and information relating to the Intellectual Property Rights and the Covered Products and (b) had the opportunity to ask questions of, and to receive answers from, representatives of the Sellers concerning the Intellectual Property Rights and the Covered Products, in each case, as it deemed necessary to make an informed decision to purchase, acquire and accept the Purchased Receivables in accordance with the terms of this Agreement. The Purchaser has knowledge, sophistication and experience in financial and business matters that it is capable of evaluating the risks and merits of purchasing, acquiring and accepting the Purchased Receivables in accordance with the terms of this Agreement.

Section IV.7 Funds Available. As of the date hereof, the Purchaser has sufficient funds on hand to satisfy its obligations to pay the Closing Payment due and payable within the time period specified in Section 2.2. The Purchaser acknowledges and agrees that its obligations under this Agreement are not contingent on obtaining financing.

ARTICLE V
COVENANTS

The Parties covenant and agree as follows:

Section V.1 Books and Records; Notices.

(a) The Sellers shall keep and maintain, or cause to be kept and maintained, at all times, full and accurate books and records adequate to reflect accurately (i) all financial information received and all amounts paid or received under the Covered License Agreements in respect of the Purchased Receivables

and (ii) all material information (financial and otherwise) in respect of the Exploitation of the Company Products and the Company Product Revenue Payments.

(b) On or prior to each Royalty Payment Date, the Company shall prepare and deliver a report to the Company (the "Company Royalty Report") setting forth in reasonable detail (and in the case of the Covered License Agreements in respect of the Purchased Receivables, solely to the extent the Company receives such information):

(i) the calculation of Net Sales for the applicable calendar quarter and calendar year to date, on a country-by-country basis within the Territory;

(ii) the calculation of Purchased Company Receivables and Purchased Royalty Fund Receivables for the applicable calendar quarter and calendar year to date, on a country-by-country and Counterparty-by-Counterparty basis within the Territory (including a detailed breakdown of Covered License Milestones and Covered License Royalties);

(iii) for the applicable calendar quarter and calendar year to date, on a Product-by-Product and country-by-country basis within the Territory, of each Covered Product sold by the Company, its Affiliates and, to the extent received from the Counterparty, each Counterparty; and

(iv) for the applicable calendar quarter and calendar year to date, the calculation of the Company Product Revenue Payment payable to the Purchaser; and

(v) with respect to the Company Products, on a Product-by-Product and country-by-country basis within the Territory, the foreign currency exchange rate used to calculate the Company Product Revenue Payment (which shall be the rate of exchange determined in a manner consistent with the Company's method for calculating rates of exchange in preparation of the Company's annual financial statements in accordance with GAAP).

Each Company Royalty Report shall be accompanied by the Royalty Reports delivered to the Sellers by the applicable Counterparties, to the extent permitted by the applicable Covered License Agreement.

(c) In addition to the quarterly Company Royalty Reports to be delivered to the Purchaser pursuant to Section 5.1(b), the Company shall, on a semi-annual basis, provide a written update to the Purchaser regarding the Exploitation of the Covered Products, which shall include without limitation (i) all material information and reports received by Sellers from the Counterparties relating to the Exploitation of the Licensed Products to the extent permitted by the applicable Covered License Agreement and (ii) all information relating to the Company's Exploitation of the Company Products as the Purchase shall reasonably request from time to time. Upon the delivery of such semi-annual update by the Company to the Purchaser, either the Company or the Purchaser may reasonably request to hold one videoconference for the purpose of discussing such semi-annual update. In addition to the foregoing, the Purchaser shall have the right, no more than once per calendar year, to request an in-person meeting at the Company's office. Any such videoconference or meeting shall be at a mutually agreeable reasonable date and time and shall include an executive officer of each of the Company, the Royalty Fund and the Purchaser. Each of the Company, the Royalty Fund and the Purchaser shall be solely responsible for their own costs and expenses associated with such videoconferences and meetings, including all travel and accommodations.

(d) [***] after receipt by the Seller Parties of (i) (x) notice of the commencement by any Third Party of, or (y) written notice from any Third Party threatening to commence, in either case any action, suit, arbitration proceeding, claim, demand, investigation or other proceeding relating to this Agreement, any of the other Transaction Documents, any Covered License Agreement, the LICR Agreements, the Selexis Agreements, any transaction contemplated hereby or thereby or the Purchased Receivables (in any case other than any notice contemplated in Section 5.1(e)), or (ii) any other correspondence relating to the foregoing, the Seller Parties shall (A) notify the Purchaser in writing of the receipt of such notice or correspondence and (B) provide the Purchaser with a written summary of all material details thereof or, to the extent not prohibited by obligations of confidentiality contained in the Covered License Agreements, the LICR Agreements or the Selexis Agreements, respectively, if such notice is in writing, furnish the Purchaser with a copy thereof and any materials reasonably related thereto.

(e) Subject to Sections 5.5(a) and 5.5(b), within [***] after receipt by the Seller Parties of any material written notice, certificate, offer, proposal, correspondence, report or other communication from the applicable Counterparty relating to any Covered License Agreement, the Intellectual Property Rights, the Purchased Receivables, any Licensed Product in the Territory, the LICR Agreements or the Selexis Agreements (in any case, other than any notice contemplated by Section 5.1(b) or 5.1(e)), the Seller Parties shall (i) notify the Purchaser in writing of the receipt thereof and provide the Purchaser with a written summary of all material details thereof and (ii) to the extent not prohibited by obligations of confidentiality contained in the Covered License Agreements, the LICR Agreements or the Selexis Agreements, respectively, furnish the Purchaser with a copy thereof.

(f) The Seller Parties shall provide the Purchaser with written notice within [***] after obtaining Knowledge of any of the following:

(i) the occurrence of any Bankruptcy Event in respect of the Seller Parties;

(ii) any material breach or default by the Seller Parties of or under any material covenant, agreement or other provision of any Transaction Document;

(iii) the Seller Parties, any Counterparty or any other Third Party receiving any notice of audit or regulatory action by Regulatory Agency in the Territory impacting in any material respect any of the Licensed Products or the timing, amount or duration of the Purchased Receivables;

(iv) any representation or warranty made by the Seller Parties in this Agreement or any of the other Transaction Documents (or in any certificate delivered by the Seller Parties to the Purchaser pursuant to this Agreement) shall prove to be untrue, inaccurate or incomplete in any material respect on the date as of which made; or

(v) the occurrence or existence of any change, effect, event, occurrence, state of facts, development or condition that has had, or would reasonably be expected to have, a Material Adverse Effect.

(g) The Seller Parties shall notify the Purchaser in writing not less than [***] prior to any change in, or amendment or alteration of, the Seller Parties' (i) legal name, (ii) form or type of organizational structure or (iii) jurisdiction of organization.

(h) The Seller Parties shall notify the Purchaser in writing not more than [***] after becoming aware that any Tax may be required to withheld with respect to any payment under any Covered License Agreement or otherwise to the Purchaser pursuant to the Agreement.

Section V.2 Public Announcement. No Party shall, and each Party shall cause its Affiliates not to, without the prior written consent of the other Parties (which consent shall not be unreasonably withheld or delayed), issue any press release or make any other public disclosure with respect to this Agreement or any of the other Transaction Documents or any of the transactions contemplated hereby or thereby, except if and to the extent that any such release or disclosure is required by Applicable Law, by the rules and regulations of any securities exchange or market on which any security of such Party may be listed or traded or by any Governmental Authority of competent jurisdiction, in which case, the Party proposing to issue such press release or make such public disclosure shall, to the extent reasonably practicable, (a) provide to the other Parties a copy of such proposed release or disclosure and (b) consider in good faith any comments or changes that the other Party may propose or suggest; provided that a Party may freely make any public disclosure identical to a disclosure previously reviewed by the other Party in accordance with the foregoing clauses (a) and (b). Notwithstanding the foregoing, the Purchaser understands and agrees that the Company intends to file with the SEC a Current Report on Form 8-K describing the material terms of the transactions contemplated by this Agreement and the other Transaction Documents and some or all of the Transaction Documents as exhibits thereto or to another filing with the SEC, provided, that the Sellers shall (a) provide to the Purchaser a draft of such filings with the SEC and (b) consider in good faith any comments or changes that the Purchaser may propose or suggest. The Seller Parties and the Purchaser shall jointly prepare a press release for dissemination promptly following the Closing, such press release to be agreed upon by the Purchaser and the Sellers.

Section V.3 Further Assurances.

(a) Subject to the terms and conditions of this Agreement, each Party shall use commercially reasonable efforts to execute and deliver such other documents, certificates, instruments, agreements and other writings, take such other actions and perform such additional acts under Applicable Law as may be reasonably requested by the other Party and necessary to implement expeditiously the transactions contemplated by, and to carry out the purposes and intent of the provisions of, this Agreement and the other Transaction Documents, including to (i) perfect the sale, contribution, assignment, transfer, conveyance and granting of the Purchased Receivables to the Purchaser pursuant to this Agreement, (ii) perfect, protect, more fully evidence, vest and maintain in the Purchaser good, valid and marketable rights and interests in and to the Purchased Receivables free and clear of all Liens (other than Liens under the Transaction Documents), (iii) create, evidence and perfect the Purchaser's back-up security interest granted pursuant to Section 2.1(d), and (iv) enable the Purchaser to exercise or enforce any of the Purchaser's rights under any Transaction Document to which the Purchaser is a party.

(b) The Sellers and the Purchaser shall cooperate and provide assistance as reasonably requested by any other Party, at the expense of such other Party (except as otherwise set forth herein), in connection with any litigation, arbitration, investigation or other proceeding (whether threatened, existing, initiated or contemplated prior to, on or after the Closing Date) to which the other Party, any of its Affiliates or controlling persons or any of their respective officers, directors, managers, employees or controlling persons is or may become a party or is or may become otherwise directly or indirectly affected or as to which any such Persons have a direct or indirect interest, in each case relating to any Transaction Document, the transactions contemplated hereby or thereby or the Purchased Receivables, but in all cases excluding any litigation brought by the Sellers (for themselves or on behalf of any Seller Indemnified

Party) against the Purchaser or brought by the Purchaser (in each case, for itself or on behalf of any Purchaser Indemnified Party) against the Sellers.

(c) Each Seller Party shall use its commercially reasonable efforts to comply in all material respects with all Applicable Laws with respect to the Transaction Documents, the Covered License Agreements and the Purchased Receivables, except where compliance therewith is being contested by such Seller in good faith by appropriate proceedings.

(d) The Seller Parties shall not enter into any contract, agreement or other legally binding arrangement (whether written or oral), or grant any right to any other Person, in any case that would reasonably be expected to conflict with the Transaction Documents or serve or operate to limit, circumscribe or alter any of the Purchaser's rights under the Transaction Documents (or the Purchaser's ability to exercise any such rights).

Section V.4 Payments on Account of the Covered License Milestones and Covered License Royalties.

(a) If, notwithstanding the terms of the Payment Direction Letters and the Account Control Agreements, any Counterparty, any of its Affiliates, any of its sublicensees, or any other Person makes any future payment of the Purchased Receivables to the Sellers or any of their Subsidiaries, then (i) such amount shall be held by the Sellers (or such Subsidiaries) in trust for the benefit of the Purchaser, (ii) the Sellers (or such Subsidiaries) shall have no right, title or interest whatsoever in such portion of such payment and shall not create or suffer to exist any Lien thereon and (iii) the Sellers (or such Subsidiaries) [***], shall remit such portion of such payment to the Purchaser Account pursuant to Section 5.4(b) in the exact form received with all necessary endorsements.

(b) All payments required to be made to the Purchaser pursuant to this Agreement shall be made by wire transfer of immediately available funds, without Set-off or deduction, to the account provided by the Purchaser in writing (or to such other account as the Purchaser shall notify the Sellers in writing from time to time) (the "Purchaser Account").

(c) If, notwithstanding the terms of the Payment Direction Letters and the Account Control Agreements, any Counterparty, any of its Affiliates, any of its sublicensees or any other Person makes any payment to the Purchaser that does not consist entirely of Purchased Receivables, then (i) the portion of such payment that does not constitute Purchased Receivables shall be held by the Purchaser in trust for the benefit of the Sellers, (ii) the Purchaser shall have no right, title or interest whatsoever in such payment and shall not create or suffer to exist any Lien thereon and (iii) the Purchaser promptly, [***], shall remit such payment to the Sellers Account pursuant to Section 5.4(d) in the exact form received with all necessary endorsements.

(d) The Purchaser shall make all payments required to be made by it to the Sellers pursuant to this Agreement by wire transfer of immediately available funds, without Set-off or deduction to the account set forth on Exhibit G (or to such other account as the Sellers shall notify the Purchaser in writing from time to time) (the "Sellers Account").

(e) If any Counterparty takes any Set-off against the Purchased Receivables (other than for any prior overpayment of Purchased Receivables actually made to the Purchaser) for any liability, debt or other obligation that the Sellers owe or allegedly owe to such Counterparty then the Sellers shall cause the amount of such Set-off to be paid promptly (but in no event later than [***]) following such Set-off to the Purchaser Account. If such Counterparty subsequently makes a payment to the Purchaser in respect of a

Set-off previously taken against the Purchased Receivables and the Sellers previously made a payment to the Purchaser in the amount of such Set-off pursuant to the foregoing sentence, then the Purchaser shall promptly (but in no event later than [***]) after the Purchaser receives such payment by such Counterparty, pay to the Sellers the amount of such payment.

Section V.5 Covered License Agreements.

(a) Each Seller, as applicable, (i) shall perform and comply with in all material respects its obligations under the Covered License Agreements, (ii) shall not, except with the Purchaser's consent, (A) forgive, release or compromise any Purchased Receivables payable by the applicable Counterparty under any Covered License Agreement, or (B) amend, modify, supplement, restate, waive, cancel or terminate (or consent to any cancellation or termination of), in whole or in part, any provision of or right under any Covered License Agreement in a manner that would adversely affect the Purchaser's right under this Agreement (including the timing, amount or duration of the Purchased Receivables), (iii) except as otherwise permitted pursuant to this Agreement, enter into any new contract, agreement or legally binding arrangement in respect of the Covered License Milestones, Covered License Royalties, the Intellectual Property Rights with respect to the Exploitation of the Licensed Products, or the Licensed Products and (iv) shall not agree to do any of the foregoing. The Sellers shall promptly (and in any case within [***] after the occurrence of the applicable event) deliver to the Purchaser copies of all fully-executed or definitive writings related to the matters set forth in clauses (ii), (iii) and (iv) of the immediately preceding sentence.

(b) Except as otherwise expressly set forth in this ARTICLE V and except as otherwise consented to by the Purchaser, the Sellers shall not grant or withhold any consent, exercise or waive any right or option, fail to exercise any right or option or deliver to any Counterparty any notice under any Covered License Agreement. The Sellers shall promptly (and in any case within [***]) deliver to the Purchaser copies of all fully-executed or definitive writings related to the matters set forth in the immediately preceding sentence.

(c) Promptly (and in any case within [***]) after (i) receiving (x) notice from any Counterparty, including any notice terminating any Covered License Agreement (in whole or in part), alleging any breach of or default under any Covered License Agreement by the Sellers related to the Purchased Receivables, or any other material breach or default, or asserting the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, would reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under any Covered License Agreement by the Sellers related to the Purchased Receivables, or any other material breach or default, or the right to terminate any Covered License Agreement (in whole or in part) by such Counterparty, or (y) any other correspondence relating to the foregoing; or (ii) the Sellers otherwise has Knowledge of any fact, circumstance or event that, alone or together with other facts, circumstances or events, would reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to a breach of or default under any Covered License Agreement by the Sellers related to the Purchased Receivables, or any other material breach or default, or the right to terminate any Covered License Agreement (in whole or in part) by any Counterparty, in each case the Sellers shall (A) (x) give written notice thereof to the Purchaser and provide the Purchaser with a written summary of all material details thereof, (y) to the extent not prohibited by obligations of confidentiality contained in the Covered License Agreements, include a copy of any written notice received from such Counterparty, and (z) in the case of any such breach or default or alleged breach or default by the Sellers, describe in reasonable detail any corrective action the Sellers propose to take in respect of such breach or default; and (B) in the case of any such breach or default or

alleged breach or default by the Sellers, use commercially reasonable efforts to cure such breach or default and give written notice to the Purchaser upon curing such breach or default.

(d) Promptly after the Sellers obtain Knowledge of any actual or alleged breach of or default that relates to the Purchased Receivables or any other actual or alleged material breach of or default under any Covered License Agreement by the applicable Counterparty (each, a "Defaulting Party") or of the existence of any facts, circumstances or events that, alone or together with other facts, circumstances or events, would reasonably be expected (with or without the giving of notice or passage of time, or both) to give rise to any such breach of or default or the right to terminate any Covered License Agreement (in whole or in part) by the Sellers, in each case the Sellers shall promptly (but in any event within [***]) give written notice thereof to the Purchaser and provide the Purchaser with a written summary of all material details thereof and act as mutually agreed to take such permissible actions (including commencing legal action against the Defaulting Party and the selection of legal counsel reasonably satisfactory to the Purchaser) to enforce compliance by the Defaulting Party with the relevant provisions of the applicable Covered License Agreement and to exercise any or all of the Sellers' rights and remedies, whether under such Covered License Agreement or by operation of law, with respect thereto. If the Sellers are required to act as directed by the Purchaser pursuant to this Section 5.5(d), then the Purchaser shall reimburse the Sellers, promptly on demand, for all out-of-pocket costs and expenses (including the reasonable fees and expenses of the Sellers' counsel) incurred by the Sellers in connection with the Sellers' actions and exercise of rights and remedies pursuant to clause (ii) of the immediately preceding sentence; provided, however, that such out-of-pocket costs and expenses (including the reasonable fees and expenses of the Sellers' counsel) shall be borne by the Sellers if (x) such breach, default or termination event or alleged breach, default or termination event results from a breach of or default under any Covered License Agreement by the Sellers or (y) the Sellers act without or contrary to the Purchaser's direction. The Purchaser shall, except to the extent prohibited by the obligations of confidentiality contained in the Covered License Agreements, have the right, at its sole cost and expense, to attend (or, if the Sellers are required to act as directed by the Purchaser pursuant to this Section 5.5(d), participate in) any meeting, discussion, action, suit or other proceeding relating to any such breach, default or termination event or alleged breach, default or termination event, including any counterclaim, settlement discussions or meetings; provided, however, that the Purchaser shall have no such right to attend or participate, as applicable, if the exercise thereof would adversely affect the maintenance by the Sellers of any applicable attorney-client privilege (and, in such event, the Parties agree to use commercially reasonable efforts to effect such other arrangements to preserve such privilege, including negotiating to enter into a mutually acceptable joint defense agreement). Notwithstanding anything to the contrary contained in this ARTICLE V, nothing herein shall prevent, restrict or limit the Purchaser from directly enforcing, at the Purchaser's sole cost and expense, a Defaulting Party's payment obligations in respect of the Purchased Receivables with counsel selected by the Purchaser in its sole discretion; provided, however, that the Sellers shall, except to the extent prohibited by obligations of confidentiality contained in the Covered License Agreements, make available its relevant records and personnel to the Purchaser in connection with any such enforcement and provide reasonable assistance and authority to file and bring any legal action in connection therewith, including, if required, being joined as a party plaintiff, and the Purchaser shall reimburse the Sellers, promptly on demand, for all out-of-pocket costs and expenses incurred by the Sellers in connection therewith, (x) unless the Defaulting Party's breach, default or termination event or alleged breach, default or termination event results from a breach of or default under any Covered License Agreement by the Sellers or (y) the Sellers act without or contrary to the Purchaser's direction in respect of any such breach or default or alleged breach or default (if the Sellers are required to act as directed by the Purchaser pursuant to this Section 5.5(d)).

Section V.6 Patent Prosecution, Enforcement and Defense.

(a) With respect to the Intellectual Property Rights relating to the Licensed Products,

(i) to the extent required by the applicable Covered License Agreements, the Sellers shall, at the Sellers' expense, take any and all actions, and prepare, execute, deliver and file any and all agreements, documents and instruments, that are reasonably necessary or desirable to diligently preserve and maintain the applicable Intellectual Property Rights, including payment of maintenance fees or annuities. In connection with any actions or decisions by the Sellers not to act in respect of matters contemplated by the foregoing sentence, to the extent such action or decision would reasonably be expected to have a Material Adverse Effect, the Sellers shall provide advance written notice of all such actions or decisions not to act in order to consult with the Purchaser, and the Sellers shall, in good faith, give due consideration to any reasonable suggestions of, the Purchaser.

(ii) to the extent required by the applicable Covered License Agreements, the Sellers shall, at the Sellers' expense, (A) diligently defend and enforce the applicable Intellectual Property Rights against infringement or interference by any other Person, and against any claims of invalidity or unenforceability, in any jurisdiction (including by bringing any legal action for infringement or defending any counterclaim of invalidity or action of any other Person for declaratory judgment of non-infringement or non-interference) and (B) when available in respect of any applicable Licensed Product, obtain patents and any corrections, substitutions, reissues and reexaminations thereof and obtain patent term extensions and any other forms of patent term restoration in any country. In connection with the Sellers' actions or decisions not to act in respect of matters contemplated by the foregoing sentence, the Sellers shall provide advance written notice of all such actions or decisions not to act in order to consult with the Purchaser, if applicable, and, if applicable, allow the Purchaser sufficient time to issue instructions. The Sellers shall promptly (but in any event within [***]) provide to the Purchaser a copy of any written notice or other documentation received in connection with any such legal action, suit or other proceeding.

(iii) the Sellers shall, except to the extent prohibited by obligations of confidentiality contained in the Covered License Agreements, promptly (but in any event within [***]) after receipt thereof, provide to the Purchaser a copy of all substantive written notices or other documentation relating to the patentability, enforceability, validity, scope or term of the Patents, and shall provide the Purchaser with a copy of drafts of any written material proposed to be filed in response thereto.

(b) With respect to the Intellectual Property Rights relating to the Company Products,

(i) Product Sub shall, at Product Sub's expense, take any and all actions, and prepare, execute, deliver and file any and all agreements, documents and instruments, that are reasonably necessary to diligently preserve and maintain the applicable Intellectual Property Rights, including payment of maintenance fees or annuities. In connection with any actions or decisions by Product Sub not to act in respect of matters contemplated by the foregoing sentence, to the extent such action or decision would reasonably be expected to have a Material Adverse Effect, Product Sub shall provide advance written notice of all such actions or decisions not to act in order to consult with the Purchaser, and Product Sub shall, in good faith, give due consideration to any reasonable suggestions of, the Purchaser.

(ii) Product Sub shall, at Product Sub's expense, (A) diligently defend and enforce the applicable Intellectual Property Rights against infringement or interference by any other Person, and against any claims of invalidity or unenforceability, in any jurisdiction (including by bringing any legal action for infringement or defending any counterclaim of invalidity or action of any other Person for declaratory judgment of non-infringement or non-interference) and (B) when available and material in respect of any applicable Company Product, obtain patents and any corrections, substitutions, reissues and reexaminations thereof and obtain patent term extensions and any other forms of patent term restoration. In connection with Product Sub's actions or decisions not to act in respect of matters contemplated by the foregoing sentence, Product Sub shall provide advance written notice of all such actions or decisions not to act in order to consult with the Purchaser, if applicable, and, if applicable, allow the Purchaser sufficient time to issue instructions. Product Sub shall promptly (but in any event within [***]) provide to the Purchaser a copy of any written notice or other documentation received in connection with any such legal action, suit or other proceeding.

(iii) the Company shall promptly (but in any event within [***]) after receipt thereof, provide to the Purchaser a copy of all substantive written notices or other documentation relating to the patentability, enforceability, validity, scope or term of the Patents, and shall provide the Purchaser with a copy of drafts of any written material proposed to be filed in response thereto.

(c) The Seller Parties shall not disclaim or abandon, or fail to take any Commercially Reasonable Action necessary or desirable to prevent the disclaimer or abandonment of, any material Intellectual Property Rights.

(d) The Parties shall bear their own costs and expenses in connection with the actions pursuant to this Section 5.6.

Section V.7 Termination of the Covered License Agreements.

(a) Without limiting the provisions of Section 5.5 or any other rights or remedies the Purchaser may have under this Agreement, if a Counterparty terminates or provides written notice of termination of a Covered License Agreement or a Covered License Agreement otherwise terminates (whether in whole or in part), in any case during the term of such Covered License Agreement, then the Sellers shall, at the Purchaser's request and direction, use Commercially Reasonable Efforts [***].

(b) Should the Sellers or Purchaser identify any New Arrangement pursuant to Section 5.7(a), the Sellers agree to exercise commercially reasonable efforts to promptly duly execute and deliver a new license agreement effecting such New Arrangement that satisfies the foregoing requirements.

(c) Each of the Sellers and the Purchaser shall bear its own costs and expenses in connection with any New Arrangement.

(d) Any New Arrangement entered into by the Sellers in accordance with this Section 5.7 shall be deemed to be a "Covered License Agreement" for all purposes under this Agreement.

Section V.8 Audits.

(a) The Sellers shall, with notice to the Purchaser, be entitled to cause an inspection or audit of any Counterparty's books and records to be conducted pursuant to and in accordance with the terms of any Covered License Agreement. From time to time, but not more frequently than once per calendar

year, the Purchaser may request the Sellers to, and the Sellers shall, subject to and in accordance with the terms of any Covered License Agreement, cause an inspection or audit of any Counterparty's books and records in respect of the Purchased Receivables to be conducted pursuant to and in accordance with the terms of any Covered License Agreement. For the purposes of exercising the Purchaser's rights pursuant to this Section 5.8(a) in respect of the Covered License Agreements, the Sellers shall appoint such public accounting firm of nationally recognized standing as the Purchaser shall select for such purpose (it being understood and agreed that any such public accounting firm shall, pursuant to the Covered License Agreements, be reasonably acceptable to the applicable Counterparty). The Sellers and the Purchaser agree that all of the expenses of, and amounts payable to the applicable Counterparty as a result of any inspection or audit carried out at the request of the Purchaser pursuant to this Section 5.8(a) that would otherwise be borne by the Seller pursuant to the applicable Covered License Agreement shall instead be borne by the Purchaser and reimbursed to the Sellers promptly on demand, including such reasonable fees and expenses of such public accounting firm as are to be borne by the Sellers pursuant to the terms of the applicable Covered License Agreement together with the Sellers' out-of-pocket costs and expenses incurred in connection with such inspection or audit; provided that the Purchas-er shall be reimbursed by the Sellers for any such fees and expenses to the extent the Sellers are entitled to receive reimbursement from the applicable Counterparty; provided, further, that for the avoidance of doubt, any audit caused by the Sellers pursuant to the first sentence of this Section 5.8(a) shall not be deemed to be carried out at the request of the Purchaser and the Purchaser shall have no obligation to reimburse the Sellers, pursuant to this sentence, for any fees, costs or expenses incurred by the Seller in connection therewith. The Seller shall, to the extent not prohibited by obligations of confidentiality contained in the Covered License Agreement pursuant to which an inspection or audit in respect of the Covered License Milestones or the Covered License Royalties is conducted, promptly (but in no event later than [***]) furnish to the Purchaser any inspection or audit report prepared in connection with such inspection or audit.

(b) In the event that any inspection or audit conducted pursuant to Section 5.8(a) uncovers that the amounts actually paid to the Purchaser for any period in respect of the Purchased Receivables were greater than the amounts that should have been paid to the Purchaser for such period in respect of the Purchased Receivables, the Purchaser shall cause the amount of such overpayment to be paid to the applicable Counterparty promptly (but in no event later than [***]) after delivery to the Purchaser, pursuant to Section 5.8(a), of the applicable inspection or audit report or certificate, as the case may be, showing such overpayment. In the event that any inspection or audit conducted pursuant to Section 5.8(a) uncovers that the amounts actually paid to the Purchaser for any period in respect of the Purchased Receivables were less than the amounts that should have been paid to the Purchaser for such period in respect of the Purchased Receivables, the Sellers shall cooperate and provide assistance as reasonably requested by the Purchaser to cause the amount of such underpayment to be paid to the Purchaser by the applicable Counterparty in accordance with the timeframe set forth in the applicable License Agreement promptly after delivery to the Purchaser, pursuant to Section 5.8(a), of the applicable inspection or audit report or certificate, as the case may be, showing such underpayment.

Section V.9 Diligence. The Company shall use Commercially Reasonable Efforts to prepare, execute, deliver and file any and all agreements, documents or instruments that are necessary or desirable to secure and maintain Regulatory Approval for the Company Products in the Territory (other than the Betta Territory for so long as the Betta Agreement is in effect). The Company shall use Commercially Reasonable Efforts not to withdraw or abandon, or fail to take any action necessary to prevent the withdrawal or abandonment of, any Regulatory Approval once obtained. Following receipt of Regulatory Approval in any country, the Company shall use Commercially Reasonable Efforts to Exploit the

Company Products in each such country. The Company shall maintain, and cause its Subsidiaries to maintain, compliance in all material respects with all Applicable Laws and Regulatory Approvals.

Section V.10 Tax Matters.

(a) Purchaser and Sellers acknowledge and agree that, under Applicable Law as of the date of this Agreement, no taxes are expected to be deducted or withheld from payments under this Agreement. All payments to the Purchaser under this Agreement shall be made without any deduction or withholding for or on account of any Tax unless required by Applicable Law; provided that if any deduction or withholding for or on account of any Purchaser Indemnified Tax is required by Applicable Law to be made, and is made, by any applicable withholding agent in respect of any payment to the Purchaser under this Agreement or to Sellers (or their Affiliates) that are attributable to the Purchased Company Receivables, then the Sellers shall, within [***]after such deduction or withholding is made, make a payment to the Purchaser so that, after all such required deductions and withholdings are made by any applicable withholding agent (including any deductions and withholdings required with respect to any additional payments under this Section 5.10(a)), the Purchaser receives an amount equal to the amount that it would have received had no withholding of such Purchaser Indemnified Taxes been made.

(b) The Sellers shall notify the Purchaser in writing promptly (but in no event later than [***]) following the receipt of any written notification by any Counterparty or by an Affiliate of such Counterparty that such Counterparty intends to make any Permitted Tax Withholding. The Parties shall cooperate reasonably and in good faith to reduce or eliminate any such Permitted Tax Withholding, including by providing to the applicable withholding agent certificates and such other information that is necessary to establish an exemption or reduction from such Permitted Tax Withholding that the payee is legally eligible to deliver. In addition, the Sellers shall, upon the reasonable request of the Purchaser and at the Purchaser's expense, reasonably cooperate with the Purchaser and use its commercially reasonable efforts to make such filings and take such other actions as may be reasonably necessary and specified by the Purchaser in order to allow an exemption from or reduction of any Permitted Tax Withholding.

(c) The Parties agree not to take any position that is inconsistent with the provisions of Section 2.1(b) on any Tax return or in any Tax audit or other administrative or judicial proceeding unless required by Applicable Law or final determination within the meaning of Section 1313 of the Code. If there is an inquiry by any Governmental Authority of the Sellers or the Purchaser related to the treatment described in Section 2.1(b), the Parties shall cooperate with each other in responding to such inquiry in a commercially reasonable manner that is consistent with Section 2.1(b).

Section V.11 Existence. Each Seller Party shall (a) preserve and maintain its existence (provided, however, that nothing in this Section 5.11 shall prohibit the Seller Parties from entering into any merger or consolidation that is otherwise permitted by this Agreement, or, subject to obtaining Purchaser's prior written consent, which shall not be unreasonably withheld, conditioned or delayed (it being understood that it shall be deemed unreasonable for Purchaser to withhold consent with respect to any such change that does not adversely impact Purchaser's Liens, the intent of the structure of the transactions contemplated by the Transaction Documents, or Purchaser's economic rights under the Transaction Documents) any change in corporate form or reincorporation in any jurisdiction for the purpose of optimizing Seller Parties' structure for tax or transfer pricing purposes), (b) preserve and maintain its rights, franchises and privileges unless failure to do any of the foregoing would not reasonably be expected to have a Material Adverse Effect, (c) qualify and remain qualified in good standing in each jurisdiction where the failure to preserve and maintain such qualifications would reasonably be expected to have a Material Adverse Effect, including appointing and employing such

agents or attorneys in each jurisdiction where it shall be necessary to take action under this Agreement, and (d) comply with its organizational documents, except, in the case of this clause (d), for any non-compliance that would not reasonably be expected to have a Material Adverse Effect. The Purchaser acknowledges and agrees (to the maximum extent permitted under Applicable Law), that it shall not, and shall not cause any other Person to, petition for the bankruptcy of the Seller Parties.

Section V.12 Additional Covenants relating to Royalty Fund and Product Sub.

Each of Royalty Fund and Product Sub shall:

(a) only enter into contracts in its own name as a legal entity separate from the owners of its Equity Interests and from any other Person;

(b) not commingle its assets with assets of any other Person, except in connection with, and for the limited purposes of, the Lockbox Accounts, and, with respect to Royalty Fund, in connection with the XOMA Agreement;

(c) conduct its business only in its own name and comply with all organizational formalities necessary to maintain its separate existence;

(d) maintain separate books and records, showing its assets and liabilities separate and apart from those of any other person and not have its assets listed on any financial statement of any other person; provided, however, that Royalty Fund's assets and Product Sub's assets may be included in consolidated financial statements of the Company in conformity with the applicable provisions of GAAP (provided that such assets are also listed on Royalty Fund's own separate balance sheet and Product Sub's own separate balance sheet, respectively);

(e) pay its own liabilities and expenses only out of its own funds; provided that the foregoing shall not prohibit the payment of liabilities and expenses by the Company on behalf of Royalty Fund or Product Sub so long as such payments are subject to reimbursement or are otherwise recorded as capital contributions or intercompany loans;

(f) maintain adequate (as determined in good faith by Royalty Fund or Product Sub, as applicable) capital in light of its contemplated business purpose, transactions and liabilities; and

(g) cause the representatives of Royalty Fund and Product Sub to act at all times with respect to the Sellers consistently and not in a manner opposed to the foregoing.

Section V.13 Additional Sales; Liens.

(a) The Seller Parties shall not create, incur, sell, issue, assume, enforce or suffer to exist any additional revenue interests (or similar economic equivalents) with respect to the Covered License Milestones, the Covered License Royalties or Net Sales of the Company Products unless such additional revenue interests (or such economic equivalents) are subordinated to the Purchased Receivables as to payment, security and enforcement. For the avoidance of doubt, subject to compliance with this Section 5.13(a), the Seller Parties may create, incur, sell, issue, assume, enforce or suffer to exist any additional revenue interests (or similar economic equivalents) with respect to the Covered License Milestones, the Covered License Royalties or Net Sales of the Company Products without the consent of Purchaser.

(b) Except as permitted pursuant to Section 5.7(a) (Termination of the Covered License Agreements), Section 5.15 (Change of Control), Section 5.17 (Out-Licenses for Company Products), the Seller Parties shall not dispose of, assign or otherwise transfer, in whole or in part, any Covered License Agreement, the Purchased Receivables or any of the Seller Parties' right, title or interest in or to the Regulatory Approvals or In-Licenses. Except as permitted pursuant to Section 5.7(a) (Termination of the Covered License Agreements) and Section 5.16 (Out-Licenses for Company Products), and except for Liens granted pursuant to the Betta Agreement, the Seller Parties shall not transfer, encumber or grant any Lien on the Intellectual Property Rights in the Territory or the Covered License Agreements.

(c) [***].

(d) Upon the occurrence of the Security Release Event, the Purchaser agrees that Liens granted to Purchaser pursuant to the Pledge and Security Agreement and the BOT/BAL Security Agreement shall be automatically terminated and hereby authorizes the Seller Parties to file termination statements as are necessary to remove such liens of record (including without limitation UCC-3 termination statements and filings with the Patent Office).

Section V.14 Change of Control. The Company shall not, directly or indirectly, effectuate or consummate a Change of Control; provided, however, that the Company may, directly or indirectly, effectuate or consummate if (i) the acquiring Person in such Change of Control (if other than the Company) is a Qualified Party and (ii) to the extent that the Company is party to such Change of Control and is not the surviving Person, such surviving Person expressly assumes all the obligations of the Company under the Transaction Documents to which the Company is party, in which case such surviving Person shall succeed to, and be substituted for, the Company under the Transaction Documents to which the Company is party and the Company shall automatically be released and discharged from its obligations under the Transaction Documents to which the Company is party.

Section V.15 In-Licenses.

(a) The Company shall promptly (and in any event within [***] following execution thereof) provide the Purchaser with (i) executed copies of any In-License entered into by the Company or its Affiliates, and (ii) executed copies of each amendment, supplement, modification or written waiver of any provision of any In-License.

(b) The Company shall comply in all material respects with its obligations under the LICR Agreements, the Selexis Agreements, and any In-Licenses it enters into and shall not take any action or forego any action that would reasonably be expected to result in a material breach thereof. Promptly, and in any event within [***], after receipt of any written or oral notice by the Company or any of its Affiliates with respect to an alleged material breach under any In-License, the Company shall provide the Purchaser a copy (or, in the case of oral notices, a written summary) thereof. The Company shall use its Commercially Reasonable Efforts to cure any material breaches by it under any In-License and shall give written notice to the Purchaser upon curing any such breach. The Company shall provide the Purchaser with written notice following (and in any event within [***] of) becoming aware of a counterparty's material breach of its obligations under any In-License. The Company shall not terminate (i) any In-License without providing the Purchaser prior written notice, (ii) the LICR Agreements or (iii) the Selexis Agreements. The Company shall not make or enter into any amendment, supplement or modification to, or grant any waiver under any provision of, the LICR Agreements or the Selexis Agreements without the Purchaser's prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed) to the extent that such amendment, supplement, modification or grant would reasonably be

expected to have a material adverse effect on the timing, amount or duration of the Royalty Payments. Promptly, and in any event within [***] following the Company's notice to a counterparty to any In-License of an alleged breach by such counterparty under any such In-License, the Company shall provide the Purchaser a copy thereof.

Section V.16 Out-Licenses for Company Products.

(a) Subject to compliance with this Section 5.16 and, with respect to Licensed Products, Section 5.7, the Company may enter into Out-Licenses with one or more Qualified Parties without the Purchaser's prior written consent. Except as set forth in the proviso, the Seller Parties and their Affiliates may not enter into any other Out-Licenses without the Purchaser's prior written consent; *provided* that the Seller Parties and their Affiliates may, without Purchaser's consent, enter into non-exclusive Out-Licenses in any country that is not a Major Market in connection with the establishment of strategic co-marketing, co-promotion and distribution agreements whether or not such counterparty is a Qualified Party [***]. In addition, Purchaser hereby agrees to release or modify any liens to the extent reasonably necessary in connection with an Out-License with a Qualified Party.

(b) The Company shall promptly (and in any event within [***] following execution thereof) provide the Purchaser with (i) executed copies of each Out-License, and (ii) executed copies of each amendment, supplement, modification or written waiver of any material provision of an Out-License.

(c) The Company shall include in all Out-Licenses (i) provisions permitting the Company to audit such Licensee and to share royalty reports with the Purchaser (it being understood that Purchaser need not be named by name) (ii) provisions directing that amounts owed to the Company be paid to the Company Product Lockbox Account.

(d) The Company shall provide the Purchaser prompt (and in any event within [***]) written notice of a Licensee's material breach of its obligations under any Out-License of which any of the individuals named in the definition of "Knowledge" (or the successors of such Person at the Company) becomes aware.

(e) The Company shall provide the Purchaser with written notice promptly (and in any event within [***]) following the termination of any Out-License.

(f) Any Out-License entered into by the Sellers in accordance with this Section 5.16 shall be deemed to be a Covered License Agreement for all purposes hereunder, and Purchaser shall have a first lien security interest in such Out-License and the receivables thereunder pursuant to the Security Agreement.

Section V.17 Amendment to Disclosure Schedule. At least five (5) Business Days prior to the anticipated Closing Date, the Seller Parties shall deliver to the Purchaser amendments to the Disclosure Schedule with respect to any event or matter which occurs after the Closing Date, if any, or confirm in writing that the Seller Parties make no amendments to the Disclosure Schedule. With respect to any amendment of the Disclosure Schedule (and the underlying events with respect to such disclosure), if such disclosure and underlying event would constitute or reasonably be expected to result in a Material Adverse Effect, the Purchaser shall have the right to terminate this Agreement. If the Purchaser does not exercise its right to terminate this Agreement within the five Business Day period preceding the anticipated Closing Date, the Purchaser shall be deemed to have waived such right with respect to such event or matter and the applicable representations shall be deemed to have been qualified as set forth in

the amended Disclosure Schedule for purposes of satisfying the conditions to the Closing set forth in Section 6.2.

Section V.18 Product Sub Organizational Documents. Prior to the Closing, the Company and Product Sub shall amend and restate the limited liability company operating agreement of Product Sub in substantially the form attached hereto as Exhibit J.

Section V.19 Counterparty Consent. Company shall use its reasonable best efforts (without the obligation to incur any expense) to obtain the consent of Gilead to the transactions contemplated by this Agreement on or prior to the Closing Date, provided, however, Gilead's consent shall not be condition to Closing, and provided, further, that if such consent has not been obtained as of the Closing, the Company shall continue to use its reasonable best efforts (without the obligation to incur any expense) to obtain such consent. [***].

Section V.20 Other Matters. [***].

Section V.21 Syndication.

(a) The Company shall have the right at any time between the date of this Agreement and [***] (the "Syndication Period") to obtain a written commitment for additional funding (a "Funding Commitment") from one or more Third Parties (each an "Additional Co-Investor") in an aggregate amount up to $125,000,000. Notwithstanding the foregoing, in no event shall any Additional Co-Investor (together with any of such Additional Co-Investor's Affiliates) be permitted to invest more than [***]. Any such written commitment shall be subject to the terms and conditions of this Agreement, including this Section 5.21. The Company is entitled to accept or reject any proposed additional investment for any reason in its sole discretion. The Company may request Purchaser's consent to an extension of the Syndication Period for any prospective Additional Co-Investor who is actively evaluating a Funding Commitment as of the last day of the Syndication Period, which consent may be granted or withheld in Purchaser's sole discretion.

(b) Any such additional investment will be made through a co-investment special purpose entity (a "Co-Investment Vehicle") established and controlled at all times by the Purchaser for the purpose of facilitating additional funding by an Additional Co-Investor(s). For each additional investment, this Agreement would, substantially concurrently with the closing of each additional investment, be amended to (a) increase the Purchase Price by the amount of such additional funding, (b) proportionately increase the Applicable Percentages based on the amount of such additional funding, (c) proportionately increase the amount of the Gilead Option Payment and (d) such other changes as are mutually agreed as are necessary to account for the additional funding amount. If an additional investment is made pursuant to this Section 5.21, Purchaser shall, if required, assign this Agreement to the Co-Investment Vehicle.

(c) The purpose of this agreed structure is to insure that the Purchaser maintains control over decisions relating to the taking or not taking actions under this Agreement and the other Transaction Documents, with any such Additional Co-Investors being passive investors with the right to receive the same economics as the Purchaser. If the structure of such additional funding contemplated by this Section 5.21 is not feasible for tax, regulatory or other legal reasons, then the Parties shall cooperate to effect such additional funding in a manner that achieves the intentions set forth herein. Any such alternative structure shall be subject to the consent of the Company and the Purchaser, not to be unreasonably withheld, conditioned or delayed.

(d) In the event that during the Syndication Period, multiple Additional Co-Investors provide Funding Commitments, the Parties will cooperate to schedule a single additional closing to effect such additional fundings on a mutually agreeable date.

ARTICLE VI
THE CLOSING

Section VI.1 Closing. The closing of the transactions contemplated hereby (the "Closing") shall take place at 9:00 a.m., Eastern Standard Time, five (5) Business Days following the date the conditions set forth in Sections 6.2 and 6.3 are satisfied (the "Closing Date") by electronic exchange of signatures, or on such other date, at such other time or at such other place, in each case as the Parties mutually agree.

Section VI.2 Closing Deliverables of the Sellers. At the Closing, the Seller Parties shall deliver or cause to be delivered to the Purchaser the following:

(a) a counterpart signature page to the Closing Date Bills of Sale, each duly executed by the Company and the Royalty Fund, as applicable;

(b) a counterpart signature page to each of the Gilead Payment Direction Letter, the UroGen Payment Direction Letter and the BMS Payment Direction Letter, each duly executed by the Company;

(c) an opinion of Meister Seelig & Fein, counsel to the Sellers, in form and substance reasonably satisfactory to the Purchaser;

(d) a duly executed certificate of an executive officer of the Seller Parties dated as of the Closing Date and (i) attaching copies, certified by such officer as true and complete, of (x) the organizational documents of the Seller Parties and (y) resolutions of the governing body of the Sellers authorizing and approving the execution, delivery and performance by the Seller Parties of the Transaction Documents and the transactions contemplated hereby and thereby, (ii) setting forth the incumbency of the officer or officers of the Seller Parties who have executed and delivered the Transaction Documents, including therein a signature specimen of each such officer or officers and (iii) attaching a copy, certified by such officer as true and complete, of a good standing certificate of the appropriate Governmental Authority of the Seller Parties' jurisdictions of organization, stating that the Seller Parties are in good standing under the laws of such jurisdictions;

(e) a duly executed certificate of an executive officer of the Company certifying that (i) no Material Adverse Effect shall have occurred and (ii) the representations and warranties of the Seller Parties in Sections 3.1, 3.2, 3.3, 3.4, 3.6, 3.7(b), 3.10, 3.13 and 3.14, as amended pursuant to Section 5.17, if applicable, shall be true, correct and complete in all respects and (iii) the representations and warranties of the Seller Parties in ARTICLE III (other than those specified in Section 6.2(e)(ii)), shall be true, correct and complete in all respects except where the failure to be true, correct or complete would not reasonably be expected to have a Material Adverse Effect;

(f) a counterpart signature page to the Security Agreements duly executed by each of the Company, the Royalty Fund and Product Sub;

(g) a counterparty signature page to the Pledge and Security Agreement duly executed by the Company;

(h) fully executed copies of the Contribution Agreement and the Intercompany License Agreement;

(i) UCC-1 financing statements to evidence and perfect the sale, assignment, transfer, conveyance and grant of the Purchased Receivables pursuant to Section 2.1 and the back-up security interest granted pursuant to Section 2.1(d); and

(j) duly executed IRS Form W-9s from each of the Company and Royalty Fund certifying that such Party is a United States person as defined in Section 7701(a)(30) of the Code and exempt from U.S. federal backup withholding.

Section VI.3 Closing Deliverables of the Purchaser. At the Closing, the Purchaser shall deliver or cause to be delivered to the Seller Parties the following:

(a) a counterpart signature page to the Closing Date Bill of Sale – Purchaser, duly executed by the Purchaser;

(b) a counterpart signature page to the Security Agreements, duly executed by the Purchaser;

(c) a counterpart signature page to the Pledge and Security Agreement, duly executed by the Purchaser;

(d) the Closing Payment in accordance with Section 2.2;

(e) a duly executed IRS Form W-9 from the Purchaser certifying it is a United States person as defined in Section 7701(a)(30) of the Code and exempt from U.S. federal backup withholding; and

(f) a duly executed certificate of an executive officer of the Purchaser dated as of the Closing Date and setting forth the incumbency of the officer or officers of the Purchaser who have executed and delivered the Transaction Documents to which the Purchaser is a party, including therein a signature specimen of each such officer or officers.

Section VI.4 Lockbox Accounts; Collection Account; Account Control Agreements.

(a) The Company will establish the Licensed Product Lockbox Account within [***] of the Closing Date or as soon as is reasonably practicable thereafter for the purpose of depositing all payments to be made by any Counterparty pursuant to each Covered License Agreement for Licensed Products, which payments shall include all Purchased Receivables (including distributions from the XOMA Escrow Agreement but excluding Company Product Revenue Payments) payable to the Purchaser pursuant to this Agreement.

(b) The Company shall pay all fees, expenses and charges of the Account Bank pursuant to the terms of the Account Control Agreement by depositing sufficient funds into the Licensed Product Lockbox Account when such fees, charges and expenses are due. The Sellers agree that all Purchased Receivables deposited into the Licensed Product Lockbox Account are to be held in trust for the benefit of the Purchaser, and that the Sellers disclaim and waive any claim or interest in such Purchased Receivables, so that the Purchaser may be assured of receiving the Purchased Receivables owned by the Purchaser.

(c) The Company will establish the Company Product Lockbox Account within [***] for the purpose of depositing all payments to be made by any licensees and account debtors with respect to proceeds arising from sales of Company Products or any other payments relating to Company Products. The Company will instruct all such licensees and account debtors (including any parties to an Out-License entered into pursuant to Section 5.16) to remit any amounts owed to the Company in respect of the Company Products to the Company Product Lockbox Account. To the extent any proceeds arising from sales of Company Products or any other payments related to Company Products are paid directly to the Company, the Company shall remit to the Company Product Lockbox Account all such amounts no less than quarterly.

(d) The Company will establish the Company Product Collection Account at least [***] and cause all funds on deposit in the Company Product Lockbox Account to be swept daily to the Company Product Collection Account. With respect to any amounts that are deposited in the Collection Account, so long as all payment obligations of any Seller Party to Purchaser under this Agreement have been made, (i) [***] and (ii) any remaining amounts may be disbursed to another account of the Company from time to time at the direction of the Company. On each Royalty Payment Date, the Company shall instruct the Account Bank to disburse to the Purchaser an amount equal to the lesser of (x) the funds on deposit in the Collateral Account and (y) the Company Product Revenue Payment for such Royalty Payment Date. If the amount to be disbursed to the Purchaser on any Royalty Payment Date pursuant to the preceding sentence is less than the Company Product Revenue Payment to which the Purchaser is entitled, the Company shall pay the amount of such shortfall to the Purchaser on such Royalty Payment Date.

(e) [***].

(f) The Company shall pay all fees, expenses and charges of the Account Bank pursuant to the terms of the Account Control Agreement by depositing sufficient funds into the Company Product Lockbox Account when such fees, charges and expenses are due. The Company agrees that all Purchased Receivables deposited into the Product Sub Lockbox Account are to be held in trust for the benefit of the Purchaser, and that the Company disclaims and waives any claim or interest in such Purchased Receivables, so that the Purchaser may be assured of receiving the Purchased Receivables owned by the Purchaser.

(g) The Sellers shall have no right to terminate the Lockbox Accounts or the Company Product Collection Account without the Purchaser's prior written consent.

(h) The Company undertakes to account for ex-U.S. sales of the Company Product in a manner consistent with the spirit of the provisions of this Section 6.4, which may include, [***].

ARTICLE VII
INDEMNIFICATION

Section VII.1 Indemnification by the Sellers. The Sellers jointly and severally agree to indemnify, defend and hold harmless the Purchaser and its Affiliates and any or all of their respective partners, directors, trustees, officers, managers, employees, members, agents and controlling persons (each, a "Purchaser Indemnified Party") harmless from and against, and will pay to each Purchaser Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by such Purchaser Indemnified Party, whether or not involving a Third Party Claim, arising out of or resulting from (a) any breach of any representation or warranty made by the Sellers in any of the Transaction Documents or in any certificate delivered by the Sellers to the Purchaser in writing pursuant to this

Agreement, (b) any breach of or default under any covenant or agreement of the Sellers in any of the Transaction Documents or License Agreements, (c) any Excluded Liabilities and Obligations, (d) any product liability claims relating to a Covered Product, (e) any claims of infringement or misappropriation of any Intellectual Property Rights by any Third Parties against the Purchaser or any of its Affiliates or LICR or (f) any brokerage or finder's fees or commissions or similar amounts incurred or owed by the Sellers or any of their Affiliates to any brokers, financial advisors or comparable other Persons retained or employed by any of them in connection with the transactions contemplated by this Agreement. Any amounts due to any Purchaser Indemnified Party hereunder shall be payable by the Sellers to such Purchaser Indemnified Party upon demand.

Section VII.2 Indemnification by the Purchaser. The Purchaser agrees to indemnify and hold each of the Sellers and their Affiliates and any or all of their respective partners, directors, officers, managers, members, employees, agents and controlling Persons (each, a "Seller Indemnified Party") harmless from and against, and will pay to each Seller Indemnified Party the amount of, any and all Losses awarded against or incurred or suffered by such Seller Indemnified Party, whether or not involving a Third Party Claim, arising out of (a) any breach of any representation or warranty made by the Purchaser in any of the Transaction Documents or any certificate delivered by the Purchaser to the Sellers in writing pursuant to this Agreement, (b) any breach of or default under any covenant or agreement of the Purchaser in any Transaction Document to which the Purchaser is a party or (c) any brokerage or finder's fees or commissions or similar amounts incurred or owed by the Purchaser to any brokers, financial advisors or comparable other Persons retained or employed by it in connection with the transactions contemplated by this Agreement. Any amounts due to any Seller Indemnified Party hereunder shall be payable by the Purchaser to such Seller Indemnified Party upon demand.

Section VII.3 Claims. A claim by an indemnified party under this ARTICLE VII for any matter in respect of which such indemnified party would be entitled to indemnification hereunder may be made by delivering, in good faith, a written notice of demand to the indemnifying party, which notice shall contain (a) a description and the amount of any Losses incurred or suffered or reasonably expected to be incurred or suffered by the indemnified party, (b) a statement that the indemnified party is entitled to indemnification under this ARTICLE VII for such Losses and a reasonable explanation of the basis therefor, and (c) a demand for payment in the amount of such Losses. For all purposes of this Section 7.3, the Sellers shall be entitled to deliver such notice of demand to the Purchaser on behalf of the Seller Indemnified Parties, and the Purchaser shall be entitled to deliver such notice of demand to the Sellers on behalf of the Purchaser Indemnified Parties.

Section VII.4 Survival. All representations, warranties and covenants made in this Agreement, in any other Transaction Document or in any certificate delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement and the Closing. The rights hereunder to indemnification, payment of Losses or other remedies based on any such representation, warranty or covenant shall not be affected by any investigation conducted with respect to, or any knowledge acquired (or capable of being acquired) at any time (whether before or after the execution and delivery of this Agreement or the Closing) in respect of the accuracy or inaccuracy of or compliance with, any such representation, warranty or covenant.

Section VII.5 Remedies. Except in the case of actual fraud, intentional misrepresentation, intentional wrongful acts, intentional breach, bad faith or willful misconduct and except as set forth in Section 10.1 or in the other Transaction Documents, (a) the indemnification afforded by this ARTICLE VII shall be the sole and exclusive remedy for any and all Losses awarded against or incurred or suffered by a Party in connection with any breach of any representation or warranty made by a Party in any of the

Transaction Documents or any certificate delivered by a Party to the other Party in writing pursuant to this Agreement or any breach of or default under any covenant or agreement by a Party pursuant to any Transaction Document and (b) the Purchaser acknowledges and agrees that the Purchaser, together with its Affiliates and representatives, has made its own investigation of the Purchased Receivables and the transactions contemplated by the Transaction Documents and is not relying on, and shall have no remedies in respect of, any implied warranties or upon any representation or warranty whatsoever as to the future amount or potential amount of the Purchased Receivables, or as to the creditworthiness of any Counterparty (or any of their respective Affiliates).

Section VII.6 Limitations. Neither any Seller Indemnified Party nor the Purchaser Indemnified Party shall have any liability for, or Losses be deemed to include, any special, punitive or exemplary damages, or any lost profits, whether in contract or tort, regardless of whether the other Party shall be advised, shall have reason to know, or in fact shall know of the possibility of such damages suffered or incurred by any such Seller Indemnified Party or the Purchaser Indemnified Party in connection with this Agreement any of the other Transaction Documents or any of the transactions contemplated hereby or thereby, except to the extent any such damages are actually paid to a Third Party in accordance with Section 7.3. Notwithstanding the foregoing, the limitations set forth in this Section 7.6 shall not apply to any claim for indemnification hereunder in the case of actual fraud, intentional misrepresentation, intentional wrongful acts, intentional breach, bad faith or willful misconduct. The aggregate amount of Losses for which the Purchaser Indemnified Parties shall be entitled to indemnification pursuant to this Article VII will not exceed [***]. The Parties acknowledge and agree that (a) the Purchaser's Losses, if any, for any indemnifiable events under this Agreement will typically include Losses for Purchased Receivables that the Purchaser was entitled to receive in respect of its ownership of the Purchased Receivables but did not receive timely or at all due to such indemnifiable event and (b) subject to this Section 7.6, the Purchaser shall be entitled to make indemnification claims for all such missing or delayed Purchased Receivables that the Purchaser was entitled to receive in respect of its ownership of the Purchased Receivables as Losses hereunder (which claims shall be reviewed and assessed by the Parties in accordance with the procedures set forth in this ARTICLE VII), and such missing or delayed Purchased Receivables shall not be deemed special, punitive or exemplary damages, or lost profits for any purpose of this Agreement.

Section VII.7 Tax Treatment of Indemnification Payments. For all purposes hereunder, any indemnification payments made pursuant to this ARTICLE VII will be treated as an adjustment to the Purchase Price for all Tax purposes to the fullest extent permitted by Applicable Law.

ARTICLE VIII
CONFIDENTIALITY

Section VIII.1 Confidentiality. Except as provided in this ARTICLE VIII or otherwise agreed in writing by the Parties, the Parties agree that, during the term of this Agreement and until the tenth (10^{th}) anniversary of the date of termination of this Agreement, each Party (the "Receiving Party") shall keep confidential, and shall not publish or otherwise disclose and shall not use for any purpose other than as provided for in this Agreement (which includes the exercise of any rights or the performance of any obligations hereunder), any information (whether written or oral, or in electronic or other form) furnished to it by or on behalf of the other Party (the "Disclosing Party") pursuant to the Existing Confidentiality Agreement or this Agreement, including the terms of this Agreement (such information, "Confidential Information" of the Disclosing Party), except for that portion of such information that:

(a) was already in the Receiving Party's possession on a non-confidential basis prior to its disclosure to it by the Disclosing Party, or becomes known to the Receiving Party from a source other than the Disclosing Party and its representatives without any breach of this Agreement, in each case as evidenced by written records (provided that if such information was disclosed to the Receiving Party on a non-confidential basis by a source that is not the Disclosing Party, such source to the knowledge of the Receiving Party had the right to disclose such information to the Receiving Party without any legal, contractual or fiduciary obligation to, any person with respect to such information);

(b) is or becomes generally available to the public other than as a result of an act or omission by the Receiving Party or its Affiliates in breach of this Agreement; or

(c) was independently developed by the Receiving Party, as evidenced by written records, without use of or reference to the Confidential Information or in violation of the terms of this Agreement.

Section VIII.2 Termination of Confidentiality Agreement. Effective upon the date hereof, the Existing Confidentiality Agreement shall terminate and be of no further force or effect, and shall be superseded by the provisions of this Article VIII.

Section VIII.3 Permitted Disclosure. In the event that the Receiving Party or its Affiliates or any of its or its Affiliates' representatives are requested by a governmental or regulatory authority or required by Applicable Law, regulation or legal process (including the regulations of a stock exchange or governmental or regulatory authority or the order or ruling of a court, administrative agency or other government or regulatory body of competent jurisdiction) to disclose any Confidential Information, the Receiving Party shall promptly, to the extent permitted by Applicable Law, notify the Disclosing Party in writing of such request or requirement so that the Disclosing Party may seek an appropriate protective order or other appropriate remedy (and if the Disclosing Party seeks such an order or other remedy, the Receiving Party will provide such cooperation, at the Receiving Party's sole expense, as the Disclosing Party shall reasonably request). If no such protective order or other remedy is obtained and the Receiving Party or its Affiliates or its or its Affiliates' representatives are, in the view of their respective counsel (which may include their respective internal counsel), legally required to disclose Confidential Information, the Receiving Party or its Affiliates or its or its Affiliates' representatives, as the case may be, shall only disclose that portion of the Confidential Information that their respective counsel advises that the Receiving Party or its Affiliates or its or its Affiliates' representatives, as the case may be, are required to disclose and will exercise commercially reasonable efforts, at the Disclosing Party's sole expense, to obtain reliable assurance that confidential treatment will be accorded to that portion of the Confidential Information that is being disclosed. In any event, the Receiving Party will not oppose action by the Disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. Notwithstanding the foregoing, notice to the Disclosing Party shall not be required where disclosure is made (i) in response to a request by a governmental or regulatory authority having competent jurisdiction over the Receiving Party, its Affiliates or its or its Affiliates' representatives, as the case may be, or (ii) in connection with a routine examination by a regulatory examiner, where in each case such request or examination does not expressly reference the Disclosing Party, its Affiliates, the Purchased Receivables or this Agreement. The Receiving Party may disclose Confidential Information to its Affiliates, its and their employees, directors, officers, contractors, agents, and representatives, and to potential or actual acquirers, merger partners, permitted assignees, investment bankers, investors, limited partners, partners, lenders, or other financing sources (including, in the case of the Sellers, any party evaluating the acquisition of any portion of the Purchased Receivables that are not included in the Purchased Receivables), and their respective directors, employees, contractors and agents; provided that such person or entity agrees to confidentiality and non-

use obligations with respect thereto at least as stringent as those specified for in this Article VIII. Further, notwithstanding anything contained in this Article VIII to the contrary, the Sellers may disclose Confidential Information to the extent such disclosure is reasonably necessary to comply with the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, or with any rule, regulation or legal process promulgated by the SEC or a stock exchange, subject to the Sellers' obligations set forth in Section 5.2.

Section VIII.4 Other Relevant Obligations. In addition to, and without limiting, the Purchaser's obligations under this Article VIII, the Purchaser shall fully comply with any confidentiality obligations of the Sellers or any of their Affiliates under the Covered License Agreements that are applicable to the Confidential Information.

ARTICLE IX
TERMINATION

Section IX.1 Pre-Closing Termination.

(a) This Agreement may be terminated and the transactions contemplated hereunder abandoned at any time prior to the Closing:

(i) by mutual written consent of the Purchaser and the Company;

(ii) by the Purchaser or the Company if the Closing does not occur on or before July 31, 2024 (the "Outside Date"); provided that the right to terminate this Agreement under this Section 9.1(a)(ii) shall not be available to any Party whose breach of a representation, warranty, covenant or agreement set forth in this Agreement has been the cause of or resulted in the failure of the Closing to occur on or before such date;

(iii) by the Purchaser, upon a breach of or failure to perform any covenant or agreement on the part of the Sellers set forth in this Agreement, or if any representation or warranty contained in ARTICLE III shall have become untrue, in either case, such that any of the conditions set forth in Section 6.2 would not be satisfied; provided, however, Purchaser may not terminate this Agreement pursuant to and in accordance with this Section 9.1(a)(iii) if such breach is curable and is cured by the earlier of the Outside Date and the date that is [***] after Purchaser notifies the Company in writing of such breach, failure to perform or inaccuracy;

(iv) by the Company, upon a breach of or failure to perform any covenant or agreement on the part of Purchaser set forth in this Agreement, or if any representation or warranty contained in ARTICLE IV shall have become untrue, in either case, such that any of the conditions set forth in Section 6.3 would not be satisfied; provided, however, the Company may not terminate this Agreement pursuant to and in accordance with this Section 9.1(a)(iv) if such breach is curable and is cured by the earlier of the Outside Date and the date that is [***] after the Company notifies Purchaser in writing of such breach, failure to perform or inaccuracy;

(b) Effect of Termination. In the event of a termination of this Agreement pursuant to and in accordance with Section 9.1, this Agreement shall immediately become void and of no further force and effect (other than Section 5.2, ARTICLE VII, ARTICLE VIII, this ARTICLE IX and ARTICLE X, which shall survive the termination of this Agreement) without any liability or obligation on the part of any Party, (i) other than liabilities and obligations under the Confidentiality Agreement and (ii) except that no such termination shall relieve any Party of any liability for Losses resulting from any actual fraud,

intentional misrepresentation, intentional wrongful acts, intentional breach, bad faith or willful misconduct by such Party of this Agreement.

Section IX.2 Termination of Agreement Following the Closing.

(a) This Agreement shall terminate six (6) months following receipt by Purchaser of all payments of the Purchased Receivables to which it is entitled hereunder.

(b) Effect of Termination. Upon the termination of this Agreement pursuant to Section 9.2(a), this Agreement shall become void and of no further force and effect; provided, however, that (a) the provisions of Section 5.2, ARTICLE VII, ARTICLE VIII, this ARTICLE IX and ARTICLE X shall survive such termination and shall remain in full force and effect, and (b) nothing contained in this Section 9.2 shall relieve any Party from liability for any breach of this Agreement that occurs prior to such termination.

ARTICLE X
MISCELLANEOUS

Section X.1 Specific Performance. Each Party acknowledges and agrees that, if it fails to perform any of its obligations under any of the Transaction Documents, the other Parties will have no adequate remedy at law. In such event, each Party agrees that the other Parties shall have the right, in addition to any other rights it may have (whether at law or in equity), to specific performance of this Agreement.

Section X.2 Notices. All notices, consents, waivers and other communications hereunder shall be in writing and shall be effective (a) upon receipt when sent by registered or certified mail, return receipt requested, postage prepaid, with such receipt to be effective the date of delivery indicated on the return receipt, (b) upon receipt when sent by an overnight courier (costs prepaid and receipt requested), (c) on the date personally delivered to an authorized officer of the Party to which sent or (d) on the date transmitted by e-mail with a confirmation of receipt, addressed to the recipient as follows:

if to the Sellers, to:

Agenus Inc.
3 Forbes Road
Lexington, Massachusetts 02421-7305, USA
Attention: Chief Executive Officer
with copies to (which shall not constitute notice):

Agenus Inc.
3 Forbes Road
Lexington, Massachusetts 02421-7305, USA
Attention: General Counsel
E-mail: [***]

and

Meister Seelig & Fein PLLC
125 Park Avenue, 7th Floor

New York, NY 10017
Attention: Mark J. Seelig and Denis A. Dufresne
Email: [***]

if to the Purchaser, to:

Ligand Pharmaceuticals Incorporated
555 Heritage Drive, Suite 200
Jupiter, FL 92121
Attention: Chief Executive Officer
Email: [***]

with copy to (which shall not constitute notice):

Ligand Pharmaceuticals Incorporated
101 Huntington, Suite 250
Boston, MA 02199
Attention: Senior Vice President, Investments and Business Development
Email: [***]

Ligand Pharmaceuticals Incorporated
3911 Sorrento Valley Boulevard, Suite 110
San Diego, CA 92121
Attention: General Counsel
Email: [***]

and

Morgan, Lewis & Bockius LLP
2222 Market Street
Philadelphia, PA 19103
Attention: Conor F. Larkin; Andrew R. Mariniello
Email: [***]

Each Party may, by notice given in accordance herewith to the other Party, designate any further or different address to which subsequent notices, consents, waivers and other communications shall be sent.

Section X.3 Successors and Assigns. The Sellers shall not be entitled to assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the Purchaser, subject to the proviso in clause (a) of Section 5.7. The Purchaser may, without the consent of the Sellers, assign any of its rights and delegate any of its obligations under this Agreement without restriction to any entity or entities; provided that in connection with any such assignment the Sellers shall be provided with an IRS Form W-9 or applicable IRS Form W-8, as appropriate, with respect to such assignee. Each Party shall give written notice to the other Parties of any assignment permitted by this Section 10.3 promptly (but in any event within [***]) after the occurrence thereof. The Sellers shall be under no obligation to reaffirm any representations, warranties or covenants made in this Agreement or any of the other Transaction Documents or take any other action in connection with any such assignment by the Purchaser. Any purported assignment of rights or delegation of obligations in violation of this

Section 10.3 will be void. Subject to the foregoing, this Agreement will apply to, be binding upon, and inure to the benefit of, the successors and permitted assigns of the Parties.

Section X.4 Independent Nature of Relationship. The relationship between the Sellers and the Purchaser is solely that of seller and purchaser, and neither the Sellers nor the Purchaser has any fiduciary or other special relationship with the other Party or any of its Affiliates. This Agreement is not a partnership or similar agreement, and nothing contained herein or in any other Transaction Document shall be deemed to constitute the Sellers and the Purchaser as a partnership, an association, a joint venture or any other kind of entity or legal form for any purposes, including any Tax purposes. The Parties agree that they shall not take any inconsistent position with respect to such treatment in a filing with any Governmental Authority.

Section X.5 Entire Agreement. This Agreement, together with the Exhibits and Schedules hereto and the other Transaction Documents, constitute a complete and exclusive statement of the terms of agreement between the Parties, and supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties, with respect to the subject matter of this Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in the Exhibits or Schedules hereto or the other Transaction Documents) has been made or relied upon by any Party.

Section X.6 Governing Law.

(a) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL SUBSTANTIVE LAWS OF THE STATE OF NEW YORK WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW OTHER THAN SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

(b) Each Party irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of (i) the United States District Court for the Southern District of New York and (ii) the Supreme Court of the State of New York, Borough of Manhattan, for purposes of any claim, action, suit or proceeding arising out of this Agreement, any of the other Transaction Documents or any of the transactions contemplated hereby or thereby, and agrees that all claims in respect thereof shall be heard and determined only in such courts. Each Party agrees to commence any such claim, action, suit or proceeding only in the United States District Court for the Southern District of New York or, if such claim, action, suit or proceeding cannot be brought in such court for jurisdictional reasons, in the Supreme Court of the State of New York, Borough of Manhattan, and agrees not to bring any such claim, action, suit or proceeding in any other court. Each Party hereby waives, and agrees not to assert in any such claim, action, suit or proceeding, to the fullest extent permitted by Applicable Law, any claim that (i) such Party is not personally subject to the jurisdiction of such courts, (ii) such Party and such Party's property is immune from any legal process issued by such courts or (iii) any claim, action, suit or proceeding commenced in such courts is brought in an inconvenient forum. Each Party agrees that a final judgment in any such claim, action, suit or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law. Each Party acknowledges and agrees that this Section 10.6(b) constitutes a voluntary and bargained-for agreement between the Parties.

(c) The Parties agree that service of process in any claim, action, suit or proceeding referred to in Section 10.6(b) may be served on any Party anywhere in the world, including by sending or delivering a copy of such process to such Party in any manner provided for the giving of notices in Section 10.2. Nothing in this Agreement will affect the right of any Party to serve process in any other manner permitted by Applicable Law. Each Party waives personal service of any summons, complaint or other process, which may be made by any other means permitted by New York law.

Section X.7 Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE OTHER PARTY HERETO WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.7.

Section X.8 Severability. If one or more provisions of this Agreement are held to be invalid or unenforceable by a court of competent jurisdiction, such provision shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provision were so excluded and shall remain in full force and effect and be enforceable in accordance with its terms. Any provision of this Agreement held invalid or unenforceable only in part or degree by a court of competent jurisdiction shall remain in full force and effect to the extent not held invalid or unenforceable.

Section X.9 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement shall become effective when each Party shall have received a counterpart hereof signed by the other Party. Any counterpart may be executed by facsimile or other similar means of electronic transmission, including "PDF", and such facsimile or other electronic transmission shall be deemed an original.

Section X.10 Amendments; No Waivers. Neither this Agreement nor any term or provision hereof may be amended, supplemented, restated, waived, changed or modified except with the written consent of the Parties. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No notice to or demand on any Party in any case shall entitle it to any notice or demand in similar or other circumstances. No waiver or approval hereunder shall, except as may otherwise be stated in such waiver or approval, be applicable to subsequent transactions. No waiver or approval hereunder shall require any similar or dissimilar waiver or approval thereafter to be granted hereunder. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section X.11 No Third Party Rights. Other than the Parties, no Person will have any legal or equitable right, remedy or claim under or with respect to this Agreement or any of the other Transaction Documents. This Agreement may be amended or terminated, and any provision of this Agreement may be waived, without the consent of any Person who is not a Party. The Sellers shall enforce any legal or equitable right, remedy or claim under or with respect to this Agreement for the benefit of the Seller

Indemnified Parties and the Purchaser shall enforce any legal or equitable right, remedy or claim under or with respect to this Agreement for the benefit of the Purchaser Indemnified Parties.

Section X.12 Table of Contents and Headings. The Table of Contents and headings of the Articles and Sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

{SIGNATURE PAGE FOLLOWS}

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

SELLER PARTIES:

AGENUS, INC., a Delaware Corporation

By: /s/ Garo H. Armen
Name: Garo H. Armen, PhD
Title: Chairman and Chief Executive Officer

AGENUS ROYALTY FUND, LLC, a Delaware limited liability company

By: /s/ Garo H. Armen
Name: Garo H. Armen, PhD
Title: President

AGENUS HOLDINGS 2024, LLC, a Delaware limited liability company

By: /s/ Garo H. Armen
Name: Garo H. Armen, PhD
Title: President

PURCHASER:

LIGAND PHARMACEUTICALS INCORPORATED

By: /s/ Todd Davis_____
Name: Todd Davis
Title: Chief Executive Officer

Exhibit A-1

Form of Closing Date Bill of Sale – Company

[***]

Exhibit A-2

Form of Closing Date Bill of Sale – Royalty Fund

[***]

Exhibit B

Form of Contribution Agreement

[***]

Exhibit C

Disclosure Schedules

[***]

Exhibit D

Form of Pledge and Security Agreement

[***]

Exhibit E

Form of Intercompany License Agreement

[***]

Exhibit F

[RESERVED]

Exhibit G-1

Form of BOT/BAL Security Agreement

[***]

Exhibit G-2

Form of Security Agreement

[***]

Exhibit H-1

LICR Agreements

[***]

Exhibit H-2

Selexis Agreements

[***]

Exhibit I-1

BMS Agreement

[***]

Exhibit I-2

Gilead Agreement

[***]

Exhibit I-3

Incyte Agreement

[***]

Exhibit I-4

Merck Agreement

[***]

Exhibit I-5

UroGen Agreement

[***]

Exhibit J

Sellers Account

[***]

Exhibit K

Form of Product Sub Operating Agreement

[***]

Exhibit L

XOMA Consent

[***]

Schedule 1.1

[***]

Schedule 1.2

[***]

Schedule 1.3

[***]

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Todd C. Davis, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ligand Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2024

/s/ Todd C. Davis

Todd C. Davis
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO EXCHANGE ACT RULE 13a-14(a)/15d-14(a)
AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Octavio Espinoza, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ligand Pharmaceuticals Incorporated;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 7, 2024

/s/ Octavio Espinoza

Octavio Espinoza
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

In connection with the Quarterly Report of Ligand Pharmaceuticals Incorporated (the "Company") on Form 10-Q for the quarter ended June 30, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Todd C. Davis, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 7, 2024

/s/ Todd C. Davis

Todd C. Davis
Chief Executive Officer
(Principal Executive Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. Section 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

In connection with the Quarterly Report of Ligand Pharmaceuticals Incorporated (the "Company") on Form 10-Q for the quarter ended June 30, 2024, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Octavio Espinoza, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that to my knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 7, 2024

/s/ Octavio Espinoza

Octavio Espinoza
Chief Financial Officer
(Principal Financial Officer)

The foregoing certification is being furnished solely to accompany the Report pursuant to 18 U.S.C. Section 1350, and is not being filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and is not to be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing. A signed original of this written statement required

by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.