

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **September 12, 2024**

LIQUIDIA CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation)

001-39724
(Commission
File Number)

85-1710962
(IRS Employer
Identification No.)

419 Davis Drive, Suite 100, Morrisville, North Carolina
(Address of principal executive offices)

27560
(Zip Code)

Registrant's telephone number, including area code: **(919) 328-4400**

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock	LQDA	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

Item 3.02 Unregistered Sale of Equity Securities

As previously reported, on September 10, 2024, Liquidia Corporation, a Delaware corporation (the “Company”), entered into a common stock purchase agreement (the “Purchase Agreement”) with funds managed by Caligan Partners LP (collectively, the “Purchasers”), a fund controlled by David Johnson, a director of the Company in connection with the previously announced private sale of 1,123,595 unregistered shares (the “Private Shares”) of the Company’s common stock, par value \$0.001 per share (“Common Stock”), in a private placement at a purchase price of \$8.90 per share for an aggregate investment amount of approximately \$10.0 million (the “Private Placement”). As previously reported, in connection with the Private Placement, on September 10, 2024, the Company entered into a registration rights agreement (the “Registration Rights Agreement”) with the Purchasers. The Private Placement closed on September 12, 2024.

The issuance of the Private Shares in the Private Placement described above was made in reliance on the exemption from registration afforded under Section 4(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”) and/or Rule 506 of Regulation D under the Securities Act.

Item 8.01 Other Events.

As previously reported, on September 11, 2024, the Company entered into an underwriting agreement (the “Underwriting Agreement”) with BofA Securities, Inc. (“Representative”), as representative of the several underwriters named therein (collectively, the “Underwriters”), in connection with its previously announced sale of 6,460,674 shares (the “Public Shares”) of the Company’s Common Stock, pursuant to a registration statement on Form S-3 (File No. 333-276244), filed with the United States Securities and Exchange Commission (the “SEC”) on December 22, 2023, subsequently amended on December 28, 2023, and declared effective by the SEC on January 3, 2024, and the prospectus contained therein, as supplemented by the prospectus supplement dated September 11, 2024 (the “Prospectus Supplement”), in an underwritten registered public offering at an offering price of \$8.90 per Public Share (the “Public Offering”) for gross proceeds of approximately \$57.5 million (before deducting underwriting discounts, commissions and expenses). The Public Offering closed on September 12, 2024.

As previously reported, on September 11, 2024 (the “Effective Date”), Liquidia Technologies, Inc., a Delaware corporation and a wholly owned subsidiary of the Company, entered into a Fifth Amendment (the “Fifth Amendment”) to that certain Revenue Interest Financing Agreement, dated January 9, 2023, with HealthCare Royalty Partners IV, L.P. (“HCR”) (as amended, the “RIFA”). Pursuant to the terms and conditions of the Fifth Amendment, the additional funding of \$32.5 million under the second tranche of the RIFA would be funded by HCR to the Company not later than two (2) business days after the Company provides reasonable written notice to HCR that the Company has received aggregate gross proceeds of not less than \$50.0 million in connection with the sale of the Company’s Common Stock in one or more transactions consummated on or after the Effective Date, but prior to close of business on September 16, 2024 (the “Funding Condition”). Upon the closing of the Public Offering and the Private Placement on September 12, 2024, the Funding Condition has been satisfied.

Copies of the Underwriting Agreement, the Purchase Agreement, the Registration Rights Agreement and the Fifth Amendment are attached as Exhibits 1.1, 10.1, 10.2 and 10.3 hereto, respectively, and are each incorporated herein by reference. The foregoing descriptions of the Underwriting Agreement, the Purchase Agreement, the Registration Rights Agreement and the Fifth Amendment do not purport to be complete and are qualified in their entirety by reference to such exhibits, respectively. The provisions of the Underwriting Agreement, the Purchase Agreement, the Registration Rights Agreement and the Fifth Amendment, including the representations and warranties contained therein, respectively, are not for the benefit of any party other than the parties to such agreement, respectively, and are not intended as a document for investors and the public to obtain factual information about the current state of affairs of the Company. Rather, investors and the public should look to other disclosures contained in the Company’s filings with the SEC.

A copy of the legal opinion and consent of DLA Piper LLP (US) relating to the Public Offering is attached as Exhibit 5.1 hereto.

Item 9.01 Financial Statements and Exhibits.

(d)

**Exhibit
No.**

Exhibit

1.1	Underwriting Agreement by and between Liquidia Corporation and BofA Securities, Inc., as representative of the underwriters named therein, dated September 11, 2024.
10.1	Common Stock Purchase Agreement by and among Liquidia Corporation and the Purchasers, dated September 10, 2024.
10.2	Registration Rights Agreement by and among Liquidia Corporation and the Purchasers, dated September 10, 2024.
10.3*	Fifth Amendment to Revenue Interest Financing Agreement, dated as of September 11, 2024, by and between Liquidia Technologies, Inc. and Healthcare Royalty Partners IV, L.P.
5.1	Opinion of DLA Piper LLP (US).
23.1	Consent of DLA Piper LLP (US) (included in Exhibit 5.1).
104	Cover Page Interactive Data File (the cover page tags are embedded within the Inline XBRL document).

* Certain terms have been omitted pursuant to Item 601(b)(10)(iv) of Regulation S-K as they are both not material and of the type that the registrant 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 hereunto duly authorized.

September 12, 2024

Liquidia Corporation

By: /s/ Michael Kaseta

Name: Michael Kaseta

Title: Chief Financial Officer

6,460,674 Shares Liquidia Corporation

UNDERWRITING AGREEMENT

September 11, 2024

BofA Securities, Inc.
As Representative of the several Underwriters

c/o BofA Securities, Inc.
One Bryant Park
New York, New York 10036

Ladies and Gentlemen:

Introductory. Liquidia Corporation, a Delaware corporation (the “**Company**”), proposes to issue and sell to the several underwriters named in Schedule A (the “**Underwriters**”) an aggregate of 6,460,674 shares of its common stock, par value \$0.001 per share (the “**Shares**”). The 6,460,674 Shares to be sold by the Company are called the “**Offered Shares**.” BofA Securities, Inc. (“**BofA**”) has agreed to act as representative of the several Underwriters (in such capacity, the “**Representative**”) in connection with the offering and sale of the Offered Shares. To the extent there are no additional underwriters listed on Schedule A, the term “**Representative**” as used herein shall mean you, as Underwriter, and the term “**Underwriters**” shall mean either the singular or the plural, as the context requires.

The Company has prepared and filed with the U.S. Securities and Exchange Commission (the “**Commission**”) a shelf registration statement on Form S-3, File No. 333-276244, including a base prospectus (the “**Base Prospectus**”) to be used in connection with the public offering and sale of the Offered Shares. Such registration statement, as amended, including the financial statements, exhibits and schedules thereto, in the form in which it became effective under the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Securities Act**”), including all documents incorporated or deemed to be incorporated by reference therein and any information deemed to be a part thereof at the time of effectiveness pursuant to Rule 430A or Rule 430B under the Securities Act, is called the “**Registration Statement**.” Any registration statement filed by the Company pursuant to Rule 462(b) under the Securities Act in connection with the offer and sale of the Offered Shares is called the “**Rule 462(b) Registration Statement**,” and from and after the date and time of filing of any such Rule 462(b) Registration Statement the term “**Registration Statement**” shall include the Rule 462(b) Registration Statement. Each preliminary prospectus supplement used in connection with the offering of the Shares, if any, including the Base Prospectus and the documents incorporated or deemed to be incorporated by reference therein, are collectively referred to herein as a “**preliminary prospectus**.” As used herein, the term “**Prospectus**” shall mean the final prospectus supplement to the Base Prospectus that describes the Offered Shares and the offering thereof (the “**Final Prospectus Supplement**”), together with the Base Prospectus in the form first used by the Underwriters to confirm sales of the Offered Shares or in the form first made available to the Underwriters by the Company to meet requests of purchasers pursuant to Rule 173 under the Securities Act. References herein to any preliminary prospectus and the Prospectus shall refer to both the prospectus supplement and the Base Prospectus components of such prospectus. As used herein, the “**Applicable Time**” is 7:45 a.m. (New York City time) on September 11, 2024. As used herein, “**free writing prospectus**” has the meaning set forth in Rule 405 under the Securities Act, and “**Time of Sale Prospectus**” means the Base Prospectus, as amended or supplemented immediately prior to the Applicable Time, together with the free writing prospectuses, if any, identified in Schedule B hereto and the pricing information set forth on Schedule B hereto. As used herein, “**Road Show**” means a “road show” (as defined in Rule 433 under the Securities Act) relating to the offering of the Offered Shares contemplated hereby that is a “written communication” (as defined in Rule 405 under the Securities Act). As used herein, “**Marketing Materials**” means any materials or information provided to investors by, or with the approval of, the Company in connection with the marketing of the offering of the Offered Shares, including any roadshow or investor presentations made to investors by the Company (whether in person or electronically) listed on Schedule C attached hereto.

All references in this Agreement to the Registration Statement, any preliminary prospectus, the Base Prospectus and the Prospectus shall include the documents incorporated or deemed to be incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which are “contained,” “included” or “stated” in, or “part of” the Registration Statement, the Rule 462(b) Registration Statement, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus, and all other references of like import, shall be deemed to mean and include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Registration Statement, the Rule 462(b) Registration Statement, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus, as the case may be.

All references in this Agreement to amendments or supplements to the Registration Statement, any preliminary prospectus, the Base Prospectus, the Time of Sale Prospectus or the Prospectus shall be deemed to mean and include the filing of any document under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (collectively, the “**Exchange Act**”) that is or is deemed to be incorporated by reference in the Registration Statement, any preliminary prospectus, the Base Prospectus, or the Prospectus, as the case may be. All references in this Agreement to (i) the Registration Statement, any preliminary prospectus, the Base Prospectus or the Prospectus, any amendments or supplements to any of the foregoing, or any free writing prospectus, shall include any copy thereof filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval System (“**EDGAR**”) and (ii) the Prospectus shall be deemed to include any “electronic Prospectus” provided for use in connection with the offering of the Offered Shares as contemplated by Section 3(n) of this Agreement.

The Company hereby confirms its agreements with the Underwriters as follows:

Section 1. Representations and Warranties. The Company hereby represents, warrants and covenants to each Underwriter, as of the date of this Agreement and as of the Closing Date (as hereinafter defined) as follows:

(a) **Compliance with Registration Requirements.** Each of the Registration Statement and any post-effective amendment thereto has become effective under the Securities Act. The Company has complied, to the Commission’s satisfaction with all requests of the Commission for additional or supplemental information, if any. No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto is in effect and no proceedings for such purpose or pursuant to Section 8A under the Securities Act have been instituted or are pending or, to the knowledge of the Company, are contemplated or threatened by the Commission. At the time the Company’s Annual Report on Form 10-K for the year ended December 31, 2022 (the “**Annual Report**”) was filed with the Commission, or, if later, at the time the Registration Statement was originally filed with the Commission, the Company met the then-applicable requirements for use of Form S-3 under the Securities Act.

(b) **Disclosure.** Each preliminary prospectus and the Prospectus when filed complied in all material respects with the Securities Act and, if filed by electronic transmission pursuant to EDGAR, was identical (except as may be permitted by Regulation S-T under the Securities Act) to the copy thereof delivered to the Underwriters for use in connection with the offer and sale of the Offered Shares. Each of the Registration Statement and any post-effective amendment thereto, at the time it became or becomes effective, complied and will comply in all material respects with the applicable requirements of the Securities Act and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. As of the Applicable Time, the Time of Sale Prospectus did not, and at the Closing Date (as defined in Section 2 of this Agreement) will not, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Prospectus, as of its date, did not, and at the Closing Date will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The representations and warranties set forth in the three immediately preceding sentences do not apply to statements in or omissions from the Registration Statement or any post-effective amendment thereto, or the Prospectus or the Time of Sale Prospectus, or any amendments or supplements thereto, made in reliance upon and in conformity with written information relating to any Underwriter furnished to the Company in writing by the Representative expressly for use therein, it being understood and agreed that the only such information consists of the information described in Section 9(b) below. The documents incorporated or deemed to be incorporated by reference in the Registration Statement, the Time of Sale Prospectus, each preliminary prospectus and the Prospectus, at the time the Registration Statement became effective or at the time they were or hereafter are filed with the Commission, or became effective under the Exchange Act, as the case may be, complied and will comply in all material respects with the requirements of the Exchange Act and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading. There are no contracts or other documents required to be described in the Time of Sale Prospectus or the Prospectus or to be filed as an exhibit to the Registration Statement which have not been described or filed as required.

(c) **Free Writing Prospectuses; Road Show.** As of the determination date referenced in Rule 164(h) under the Securities Act, the Company was not, is not or will not be (as applicable) an “ineligible issuer” in connection with the offering of the Offered Shares pursuant to Rules 164, 405 and 433 under the Securities Act. Each free writing prospectus that the Company is required to file pursuant to Rule 433(d) under the Securities Act has been, or will be, filed with the Commission in accordance with the requirements of the Securities Act. Each free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) under the Securities Act or that was prepared by or on behalf of or used or referred to by the Company complies or will comply in all material respects with the requirements of Rule 433 under the Securities Act, including timely filing with the Commission or retention where required and legending, and each such free writing prospectus, as of its issue date and at all subsequent times through the completion of the public offer and sale of the Offered Shares did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement, the Prospectus or any preliminary prospectus unless such information has been superseded or modified as of such time. Except for the free writing prospectuses, if any, identified in Schedule B, and electronic road shows, if any, furnished to the Representative before first use, the Company has not prepared, used or referred to, and will not, without the Representative’s prior written consent, prepare, use or refer to, any free writing prospectus. Each Road Show, when considered together with the Time of Sale Prospectus, did not, as of the Applicable Time, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) **Distribution of Offering Material By the Company.** Prior to the completion of the Underwriters’ distribution of the Offered Shares, the Company has not distributed and will not distribute any offering material in connection with the offering and sale of the Offered Shares other than the Registration Statement, the Time of Sale Prospectus, the Prospectus or any free writing prospectus reviewed and consented to by the Representative, the free writing prospectuses, if any, identified on Schedule B hereto and any Marketing Materials identified on Schedule C hereto.

(e) **The Underwriting Agreement.** This Agreement has been duly authorized, executed and delivered by the Company.

(f) **Authorization of the Offered Shares.** The Offered Shares have been duly authorized for issuance and sale pursuant to this Agreement and, when issued and delivered by the Company against payment therefor pursuant to this Agreement, will be validly issued, fully paid and nonassessable, and the issuance and sale of the Offered Shares is not subject to any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase the Offered Shares.

(g) **No Applicable Registration or Other Similar Rights.** There are no persons with registration or other similar rights to have any equity or debt securities registered for sale under the Registration Statement or included in the offering contemplated by this Agreement, except for such rights as have been duly waived.

(h) **No Material Adverse Change.** Except as otherwise disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus, subsequent to the respective dates as of which information is given in the Registration Statement, the Time of Sale Prospectus and the Prospectus: (i) there has been no material adverse change, or any development that would be reasonably expected to result in a material adverse change, in the condition, financial or otherwise, or in the earnings, business, properties, operations, assets, liabilities or prospects, whether or not arising from transactions in the ordinary course of business, of the Company and its subsidiaries, considered as one entity (any such change being referred to herein as a “**Material Adverse Change**”); (ii) the Company and its subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, including without limitation any losses or interference with its business from fire, explosion, flood, earthquakes, accident or other calamity, whether or not covered by insurance, or from any strike, labor dispute or court or governmental action, order or decree, that are material, individually or in the aggregate, to the Company and its subsidiaries, considered as one entity, and have not entered into any transactions (whether or not in the ordinary course of business) that are material to the Company and its subsidiaries, considered as one entity; and (iii) there has not been any material decrease in the capital stock or any material increase in any short-term or long-term indebtedness of the Company or its subsidiaries and there has been no dividend or distribution of any kind declared, paid or made by the Company or, except for dividends paid to the Company or other subsidiaries, by any of the Company’s subsidiaries on any class of capital stock, or any repurchase or redemption by the Company or any of its subsidiaries of any class of capital stock.

(i) **Independent Accountants.** PricewaterhouseCoopers LLP, which has expressed its opinion with respect to the financial statements (which term as used in this Agreement includes the related notes thereto) filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus, is (i) an independent registered public accounting firm as required by the Securities Act and the rules of the Public Company Accounting Oversight Board (“**PCAOB**”), (ii) in compliance with the applicable requirements relating to the qualification of accountants under Rule 2-01 of Regulation S-X under the Securities Act and (iii) a registered public accounting firm as defined by the PCAOB whose registration has not been suspended or revoked and who has not requested such registration to be withdrawn.

(j) **Financial Statements.** The financial statements filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus present fairly in all material respects the consolidated financial position of the Company and its subsidiaries as of the dates indicated and the results of their operations, changes in stockholders' equity and cash flows for the periods specified. Such financial statements have been prepared in conformity with generally accepted accounting principles as applied in the United States applied on a consistent basis throughout the periods involved, except as may be expressly stated in the related notes thereto. No other financial statements or supporting schedules are required to be included in the Registration Statement, the Time of Sale Prospectus or the Prospectus. The financial data set forth in each of the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption "Selected Financial Data" fairly present in all material respects the information set forth therein on a basis consistent with that of the audited financial statements contained in the Registration Statement, the Time of Sale Prospectus and the Prospectus. To the Company's knowledge, no person who has been suspended or barred from being associated with a registered public accounting firm, or who has failed to comply with any sanction pursuant to Rule 5300 promulgated by the PCAOB, has participated in or otherwise aided the preparation of, or audited, the financial statements, supporting schedules or other financial data filed with the Commission as a part of the Registration Statement, the Time of Sale Prospectus and the Prospectus. The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(k) **Company's Accounting System.** The Company and each of its subsidiaries make and keep accurate books and records and maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles as applied in the United States and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Registration Statement, the Time of Sale Prospectus and the Prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(l) **Disclosure Controls and Procedures; Deficiencies in or Changes to Internal Control Over Financial Reporting.** The Company has established and maintains disclosure controls and procedures (as defined in Rules 13a-15 and 15d-15 under the Exchange Act), which (i) are designed to ensure that material information relating to the Company, including its consolidated subsidiaries, is made known to the Company's principal executive officer and its principal financial officer by others within those entities, particularly during the periods in which the periodic reports required under the Exchange Act are being prepared; (ii) have been evaluated by management of the Company for effectiveness as of the end of the Company's most recent fiscal quarter; and (iii) are effective in all material respects to perform the functions for which they were established. Since the end of the Company's most recent audited fiscal year, there have been no significant deficiencies or material weakness in the Company's internal control over financial reporting (whether or not remediated) and no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company is not aware of any change in its internal control over financial reporting that has occurred during its most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

(m) **Incorporation and Good Standing of the Company.** The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of the jurisdiction of its incorporation and has the corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus and to enter into and perform its obligations under this Agreement. The Company is duly qualified as a foreign corporation to transact business and is in good standing in the State of North Carolina and each other jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to be so qualified or in good standing could not reasonably be expected individually or in the aggregate to have a material adverse effect on the condition (financial or other), earnings, business, properties, operations, assets, liabilities or prospects of the Company and its subsidiaries, taken as a whole (a "**Material Adverse Effect**").

(n) **Subsidiaries.** Each of the Company’s “subsidiaries” (for purposes of this Agreement, as defined in Rule 405 under the Securities Act) has been duly incorporated or organized, as the case may be, and is validly existing as a corporation, partnership or limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation or organization and has the power and authority (corporate or other) to own, lease and operate its properties and to conduct its business as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. Each of the Company’s subsidiaries is duly qualified as a foreign corporation, partnership or limited liability company, as applicable, to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to be so qualified or in good standing could not be reasonably expected individually or in the aggregate to have a Material Adverse Effect. All of the issued and outstanding capital stock or other equity or ownership interests of each of the Company’s subsidiaries have been duly authorized and validly issued, are fully paid and nonassessable and are owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance or adverse claim. None of the outstanding capital stock or equity interest in any subsidiary was issued in violation of preemptive or similar rights of any security holder of such subsidiary. The constitutive or organizational documents of each of the subsidiaries comply in all material respects with the requirements of applicable laws of its jurisdiction of incorporation or organization and are in full force and effect. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Exhibit 21.1 to the Annual Report.

(o) **Capitalization and Other Capital Stock Matters.** The authorized, issued and outstanding capital stock of the Company as of June 30, 2024 is as set forth in the Company’s unaudited financial statements contained in the Company’s Quarterly Report on Form 10-Q filed with the Commission on August 7, 2024, which is incorporated by reference in the Registration Statement, the Time of Sale Prospectus and the Prospectus (other than for subsequent issuances, if any, pursuant to employee benefit plans, or upon the exercise of outstanding options or warrants, in each case described in the Registration Statement, the Time of Sale Prospectus and the Prospectus). The Shares (including the Offered Shares, when issued pursuant to the terms of this Agreement) conform in all material respects to the description thereof contained in the Time of Sale Prospectus. All of the issued and outstanding Shares have been duly authorized and validly issued, are fully paid and nonassessable and have been issued in compliance with all federal and state securities laws. None of the outstanding Shares was issued in violation of any preemptive rights, rights of first refusal or other similar rights to subscribe for or purchase securities of the Company. There are no authorized or outstanding options, warrants, preemptive rights, rights of first refusal or other rights to purchase, or equity or debt securities convertible into or exchangeable or exercisable for, any capital stock of the Company or any of its subsidiaries other than those described in the Registration Statement, the Time of Sale Prospectus and the Prospectus. The descriptions of the Company’s stock option, stock bonus and other stock plans or arrangements, and the options or other rights granted thereunder, set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus accurately and fairly presents the information required to be shown with respect to such plans, arrangements, options and rights.

(p) **Stock Exchange Listing.** The Shares are registered pursuant to Section 12(b) of the Exchange Act and are listed on The Nasdaq Capital Market (“**Nasdaq**”), and the Company has taken no action designed to, or likely to have the effect of, terminating the registration of the Shares under the Exchange Act or delisting the Shares from Nasdaq, nor has the Company received any notification that the Commission or Nasdaq is contemplating terminating such registration or listing. To the Company’s knowledge, it is in compliance with all applicable listing requirements of Nasdaq.

(q) **Non-Contravention of Existing Instruments; No Further Authorizations or Approvals Required.** Neither the Company nor any of its subsidiaries is in violation of its charter or by-laws, or similar organizational documents, as applicable, or is in default (or, with the giving of notice or lapse of time, would be in default) (“**Default**”) under any indenture, loan, credit agreement, note, lease, license agreement, contract, franchise or other instrument (including, without limitation, any pledge agreement, security agreement, mortgage or other instrument or agreement evidencing, guaranteeing, securing or relating to indebtedness) to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of their respective properties or assets are subject (each, an “**Existing Instrument**”), except for such Defaults as would reasonably not be expected, individually or in the aggregate, to have a Material Adverse Effect. The Company’s execution, delivery and performance of this Agreement, consummation of the transactions contemplated hereby and by the Registration Statement, the Time of Sale Prospectus and the Prospectus and the issuance and sale of the Offered Shares (including the use of proceeds from the sale of the Offered Shares as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus under the caption “Use of Proceeds”) (i) have been duly authorized by all necessary corporate action and will not result in any violation of the provisions of the charter or by-laws, or similar organizational documents, as applicable, of the Company or any subsidiaries, (ii) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, or require the consent of any other party to, any Existing Instrument, except as could reasonably not be expected, individually or in the aggregate, to have a Material Adverse Effect, and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or any of its subsidiaries. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency, is required for the Company’s execution, delivery and performance of this Agreement and consummation of the transactions contemplated hereby and by the Registration Statement, the Time of Sale Prospectus and the Prospectus, except such as have been obtained or made by the Company and are in full force and effect under the Securities Act and such as may be required under applicable state securities or blue sky laws or the Financial Industry Regulatory Authority, Inc. (“**FINRA**”). As used herein, a “**Debt Repayment Triggering Event**” means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder’s behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of its subsidiaries.

(r) **Compliance with Laws.** The Company and its subsidiaries have been and are in compliance with all applicable laws, rules and regulations, except where failure to be so in compliance would reasonably not be expected, individually or in the aggregate, to have a Material Adverse Effect.

(s) **No Material Actions or Proceedings.** Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, (i) there is no action, suit, proceeding, inquiry or investigation brought by or before any governmental entity now pending or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which would be reasonably expected, individually or in the aggregate, to have a Material Adverse Effect or materially and adversely affect the consummation of the transactions contemplated by this Agreement or the performance by the Company of its obligations hereunder; and (ii) the aggregate of all pending legal or governmental proceedings to which the Company is a party or of which its properties or assets is the subject, including ordinary routine litigation incidental to the business, if determined adversely to the Company or any of its subsidiaries, would not reasonably be expected to have a Material Adverse Effect. No material labor dispute with the employees of the Company, or with the employees of any principal supplier, manufacturer, customer or contractor of the Company, exists or, to the knowledge of the Company, is threatened or imminent.

(t) **Intellectual Property Rights.** Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, the Company and its subsidiaries own, or have obtained valid and enforceable licenses for, the inventions, patent applications, patents, trademarks, trade names, service marks, registered and unregistered copyrights, trade secrets, logos, slogans, trade dress, design rights, Internet domain names, social media accounts, intellectual property rights in technology, software, source code, data and know how (including unpatented and/or unpatentable proprietary or confidential information, systems or procedures), and any applications (including provisional applications), registrations, or renewals for any of the foregoing, together with the goodwill associated with any of the foregoing, and other intellectual property described in the Registration Statement, the Time of Sale Prospectus and the Prospectus as being owned or licensed by them or which are necessary for the conduct of their respective businesses as currently conducted or as currently proposed to be conducted, in each case as described in the Registration Statement, the Time of Sale Prospectus and the Prospectus (collectively, “**Intellectual Property**”), except for such exceptions as could not be expected, individually or in the aggregate, to have a Material Adverse Effect. To the Company’s knowledge: (i) there are no third parties who have rights to any Intellectual Property, except for customary reversionary rights of third-party licensors with respect to Intellectual Property that is disclosed in the Registration Statement, the Time of Sale Prospectus and the Prospectus as licensed to the Company or one or more of its subsidiaries; and (ii) there is no infringement, misappropriation, dilution or other violation by third parties of any Intellectual Property. Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, there is no pending or, to the Company’s knowledge, threatened action, suit, proceeding or claim by others: (A) challenging the Company’s rights in or to any Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; (B) challenging the validity, enforceability or scope of any Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; or (C) asserting that the Company or any of its subsidiaries infringes, misappropriates, dilutes or otherwise violates, or would, upon the commercialization of any product or service described in the Registration Statement, the Time of Sale Prospectus or the Prospectus as under development, infringe, misappropriate, dilute or violate, any patent, trademark, trade name, service name, copyright, trade secret or other intellectual property rights of others, and the Company has not received any notice or is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim. Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, no government funding, facilities or resources of a university, college, other educational institution or research center was used in the development of any Intellectual Property that is owned or purported to be owned by the Company that would confer any governmental agency or body, university, college, other educational institution or research center any claim or right of ownership to any such Intellectual Property. Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, the Company is not obligated to pay a material royalty, grant a license or option, or provide other material consideration to any third party in connection with the Intellectual Property. The Company and its subsidiaries have complied in all material respects with the terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or any subsidiary, and all such agreements are in full force. The Company and its subsidiaries have taken commercially reasonable steps to protect, maintain and safeguard the Intellectual Property. The product candidates described in the Registration Statement, the Time of Sale Prospectus and the Prospectus as under development by the Company or any subsidiary fall within the scope of the claims of one or more patents or patent applications owned by, or exclusively licensed to, the Company or any subsidiary.

(u) **All Necessary Permits, etc.** The Company and its subsidiaries possess such valid and current certificates, clearances, approvals, exemptions, registrations, authorizations and permits required by state, federal or foreign regulatory agencies or bodies to conduct their respective businesses as currently conducted and as described in the Registration Statement, the Time of Sale Prospectus or the Prospectus (“Permits”), except where the failure to possess such Permit as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) all such Permits are in full force and effect; (ii) neither the Company nor any of its subsidiaries is in violation of any term of, or in default under, any of the Permits nor has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such Permit; and (iii) to the Company’s knowledge, no event has occurred which allows, or after notice or lapse of time would allow, revocation or termination thereof or results in any other material impairment of the rights of the holder of any such Permit.

(v) **Title to Properties.** Neither the Company nor its subsidiaries own real property. The Company and its subsidiaries have good and marketable title to all of the personal property and other assets reflected as owned in the financial statements referred to in Section 1(j) above (or elsewhere in the Registration Statement, the Time of Sale Prospectus or the Prospectus), in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, adverse claims and other defects. The real property, improvements, equipment and personal property held under lease by the Company or any of its subsidiaries are held under valid and enforceable leases, with such exceptions as are not material and do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or such subsidiary. The representations and warranties contained in this Section 1(v) do not apply to any matter the subject matter of which is specifically covered by Section 1(t) above.

(w) **Tax Law Compliance.** The Company and its subsidiaries have filed all necessary federal, state and foreign income and franchise Tax returns or have properly requested extensions thereof and have paid all Taxes required to be paid by any of them and, if due and payable, any related or similar assessment, fine or penalty levied against any of them except (i) as may be being contested in good faith and by appropriate proceedings with adequate reserves set aside in accordance with GAAP or (ii) as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. The Company has made adequate charges, accruals and reserves in the applicable financial statements referred to in Section 1(j) above in respect of all federal, state and foreign income, franchise and other Taxes for all periods as to which the Tax liability of the Company or any of its subsidiaries has not been finally determined. For purposes of this Agreement, the term “Tax” and “Taxes” shall mean all U.S. and non-U.S. federal, state, local and franchise taxes, and other assessments of a similar nature (whether imposed directly or through withholding), including any interest, additions to tax or penalties applicable thereto.

(x) **Insurance.** Each of the Company and its subsidiaries are insured by recognized, financially sound and reputable institutions with policies in such amounts and with such deductibles and covering such risks as are generally deemed adequate and customary for their businesses, in the reasonable judgement of the Company’s Board of Directors, for its business including, but not limited to, policies covering real and personal property owned or leased by the Company and its subsidiaries against theft, damage, destruction, acts of vandalism and earthquakes and policies covering the Company and its subsidiaries for product liability claims and clinical trial liability claims. The Company has no reason to believe that it or any of its subsidiaries will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its subsidiaries has been denied any insurance coverage which it has sought or for which it has applied.

(y) **Compliance with Environmental Laws.** Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) neither the Company nor any of its subsidiaries is in violation of any federal, state, local or foreign statute, law, rule, regulation, ordinance, code, policy or rule of common law or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent, decree or judgment, relating to pollution or protection of human health, the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata) or wildlife, including, without limitation, laws and regulations relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products (collectively, “**Hazardous Materials**”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials (collectively, “**Environmental Laws**”); (ii) the Company and its subsidiaries have all permits, authorizations and approvals required under any applicable Environmental Laws and are each in compliance with their requirements; (iii) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, investigation or proceedings relating to any Environmental Law against the Company or any of its subsidiaries; and (iv) to the Company’s knowledge, there are no events or circumstances existing as of the date hereof that might reasonably be expected to form the basis of an order for clean-up or remediation, or an action, suit or proceeding by any private party or governmental body or agency, against or affecting the Company or any of its subsidiaries relating to Hazardous Materials or any Environmental Laws.

(z) **ERISA Compliance.** The Company and its subsidiaries and any “employee benefit plan” (as defined under the Employee Retirement Income Security Act of 1974, as amended, and the regulations and published interpretations thereunder (collectively, “**ERISA**”)) established or maintained by the Company, its subsidiaries or their “ERISA Affiliates” (as defined below) are in compliance in all material respects with ERISA. “**ERISA Affiliate**” means, with respect to the Company or any of its subsidiaries, any member of any group of organizations described in Sections 414(b), (c), (m) or (o) of the Internal Revenue Code of 1986, as amended, and the regulations and published interpretations thereunder (the “**Code**”) of which the Company or such subsidiary is a member. No “reportable event” (as defined under ERISA) has occurred or is reasonably expected to occur with respect to any “employee benefit plan” established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates. No “employee benefit plan” established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates, if such “employee benefit plan” were terminated, would have any “amount of unfunded benefit liabilities” (as defined under ERISA). Neither the Company nor any of its ERISA Affiliates has incurred or reasonably expects to incur any liability under (i) Title IV of ERISA with respect to termination of, or withdrawal from, any “employee benefit plan” or (ii) Sections 412, 4971, 4975 or 4980B of the Code. Each employee benefit plan established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates that is intended to be qualified under Section 401(a) of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would cause the loss of such qualification.

(aa) **Company Not an “Investment Company.”** The Company is not, and will not be, either after receipt of payment for the Offered Shares or after the application of the proceeds therefrom as described under “Use of Proceeds” in the Registration Statement, the Time of Sale Prospectus or the Prospectus, required to register as an “investment company” or an entity “controlled” by an “investment company” under the Investment Company Act of 1940, as amended and the rules and regulations of the Commission thereunder (collectively, the “**Investment Company Act**”).

(bb) **No Price Stabilization or Manipulation; Compliance with Regulation M.** Neither the Company nor any of its subsidiaries has taken, directly or indirectly, any action designed to or that would reasonably be expected to cause or result in stabilization or manipulation of the price of the Shares or of any “reference security” (as defined in Rule 100 of Regulation M under the Exchange Act (“**Regulation M**”)) with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and has taken no action which would directly or indirectly violate Regulation M.

(cc) **Related-Party Transactions.** There are no business relationships or related-party transactions involving the Company or any of its subsidiaries or any other person required to be described in the Registration Statement, the Time of Sale Prospectus or the Prospectus that have not been described as required.

(dd) **FINRA Matters.** All of the information provided to the Underwriters or to counsel for the Underwriters by the Company, its counsel, its officers and directors and the holders of any securities (debt or equity) or options to acquire any securities of the Company in connection with the offering of the Offered Shares is true, complete, correct and compliant with FINRA’s rules and any letters, filings or other supplemental information provided to FINRA pursuant to FINRA Rules is true, complete and correct.

(ee) **Parties to Lock-Up Agreements.** The Company has furnished to the Underwriters a letter agreement substantially in the form attached hereto as Exhibit A (the “**Lock-up Agreement**”) from each of the persons listed on Exhibit B. Such Exhibit B lists under an appropriate caption the directors and officers of the Company. If any additional persons shall become directors or officers (as defined in Rule 16a-1(f) under the Exchange Act) of the Company prior to the end of the Lock-up Period (as defined below), the Company shall cause each such person, prior to or contemporaneously with their appointment or election as a director or officer of the Company, to execute and deliver to the Representative a Lock-up Agreement.

(ff) **Statistical and Market-Related Data.** All statistical, demographic and market-related data included in the Registration Statement, the Time of Sale Prospectus or the Prospectus are based on or derived from sources that the Company believes, after reasonable inquiry, to be reliable and accurate. To the extent required, the Company has obtained the written consent to the use of such data from such sources.

(gg) **No Unlawful Contributions or Other Payments.** Neither the Company nor any of its subsidiaries nor, to the best of the Company’s knowledge, any director, officer or employee or agent of the Company or any subsidiary, has made any contribution or other payment to any official of, or candidate for, any federal, state or foreign office in violation of any law or of the character required to be disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus.

(hh) **Foreign Corrupt Practices Act.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee, affiliate or other person acting on behalf of the Company or any of its subsidiaries has, in the course of its actions for, or on behalf of, the Company or any of its subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any domestic government official, “foreign official” (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (collectively, the “**FCPA**”) or employee from corporate funds; (iii) violated or is in violation of any provision of the FCPA or any applicable non-U.S. anti-bribery statute or regulation; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any domestic government official, such foreign official or employee; and the Company and its subsidiaries and, to the knowledge of the Company, the Company’s affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(ii) **Money Laundering Laws.** The operations of the Company and its subsidiaries are, and have been conducted at all times, in compliance with applicable financial recordkeeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar applicable rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the “**Money Laundering Laws**”) and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(jj) **Sanctions.** Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, after due inquiry, any director, officer, agent, employee, affiliate or person acting on behalf of the Company or any of its subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”) or the U.S. Department of State, which includes, without limitation, the designation as a “specially designated national” or “blocked person,” the United Nations Security Council, the European Union, His Majesty’s Treasury of the United Kingdom or other relevant sanctions authority (collectively, “**Sanctions**”); nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject or the target of Sanctions, including, without limitation, the Crimea Region of Ukraine, the so-called Donetsk People’s Republic, the so-called Luhansk People’s Republic, Cuba, Iran, North Korea and Syria, (each, a “**Sanctioned Country**”); and the Company will not directly or indirectly use the proceeds of this offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, or any joint venture partner or other person or entity, for the purpose of financing the activities of or business with any person, or in any country or territory that, at the time of such financing, is the subject or the target of Sanctions or in any other manner that will result in a violation by any person (including any person participating in the transaction whether as underwriter, advisor, investor or otherwise) of applicable Sanctions. For the past ten years, the Company and its subsidiaries have not knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(kk) **Brokers.** Except pursuant to this Agreement, there is no broker, finder or other party that is entitled to receive from the Company any brokerage or finder’s fee or other fee or commission as a result of any transactions contemplated by this Agreement.

(ll) **Forward-Looking Statements.** Each financial or operational projection or other “forward-looking statement” (as defined by Section 27A of the Securities Act or Section 21E of the Exchange Act) contained in the Registration Statement, the Time of Sale Prospectus or the Prospectus (i) was so included by the Company in good faith and with reasonable basis after due consideration by the Company of the underlying assumptions, estimates and other applicable facts and circumstances and (ii) is accompanied by meaningful cautionary statements identifying those factors that could cause actual results to differ materially from those in such forward-looking statement. No such statement was made with the knowledge of an executive officer or director of the Company that it was false or misleading.

(mm) *[Reserved].*

(nn) *[Reserved].*

(oo) **Clinical Data and Regulatory Compliance.** The preclinical tests and clinical trials, and other studies (collectively, “**Studies**”) that are described in, or the results of which are referred to in, the Registration Statement, the Time of Sale Prospectus or the Prospectus were and, if still pending, are being conducted in all material respects in accordance with all applicable Health Care Laws; each description of the results of such Studies is accurate and complete in all material respects and fairly presents the data derived from such Studies, and the Company has no knowledge of any other Studies the results of which are materially inconsistent with, or otherwise call into question, the results described or referred to in the Registration Statement, the Time of Sale Prospectuses or the Prospectus; the Company and its subsidiaries have made all such filings and obtained all such approvals or exemptions or other Permits as may be required by the U.S. Food and Drug Administration (the “**FDA**”) or any committee thereof or from any other U.S. or foreign government or drug or medical device regulatory agency, or health care facility Institutional Review Board (collectively, the “**Regulatory Agencies**”) for the conduct of any such Studies; neither the Company nor any of its subsidiaries has received any notice of, or correspondence from, any Regulatory Agency requiring the termination, suspension or modification of any Studies that are described or referred to in the Registration Statement, the Time of Sale Prospectus or the Prospectus; and the Company and its subsidiaries have each operated and currently are in compliance in all material respects with all applicable rules, regulations and policies of the Regulatory Agencies.

(pp) **Compliance with Health Care Laws.** The Company and its subsidiaries are, and at all times have been, in material compliance with all applicable Health Care Laws. For purposes of this Agreement, “**Health Care Laws**” means: (i) the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder; (ii) all applicable federal, state, local and foreign health care laws, including, without limitation, the U.S. Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)), the Civil Monetary Penalties Law (42 U.S.C. Section 1320a-7a), the U.S. Civil False Claims Act (31 U.S.C. Section 3729 et seq.), all applicable federal, state, local and all foreign criminal laws relating to health care fraud and abuse, including but not limited to the U.S. False Statements Law (42 U.S.C. Section 1320a-7b(a)), 18 U.S.C. Sections 286, 287, 1035, 1347, 1349 and the health care fraud criminal provisions under the U.S. Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) (42 U.S.C. Section 1320d et seq.), the exclusion laws (42 U.S.C. Section 1320a-7), the Physician Payments Sunshine Act (42 U.S.C. § 1320a-7h), the statutes, regulations and directives of applicable government funded or sponsored healthcare programs, including the collection and reporting requirements, and the processing of any applicable rebate, chargeback or adjustment, under applicable rules and regulations relating to the Medicaid Drug Rebate Program (42 U.S.C. § 1396r-8) and any state supplemental rebate program, Medicare average sales price reporting (42 U.S.C. § 1395w-3a), the Public Health Service Act (42 U.S.C. § 256b), the VA Federal Supply Schedule (38 U.S.C. § 8126) or under any state pharmaceutical assistance program or U.S. Department of Veterans Affairs agreement, and any successor government programs, and the regulations promulgated pursuant to such statutes; (iii) to the extent applicable, the Standards for Privacy of Individually Identifiable Health Information, the Security Standards, and the Standards for Electronic Transactions and Code Sets promulgated under HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. Section 17921 et seq.), and the regulations promulgated thereunder and any state or non-U.S. counterpart thereof or other law or regulation the purpose of which is to protect the privacy of individuals or prescribers; (iv) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, the regulations promulgated thereunder; (v) the U.S. Controlled Substances Act (21 U.S.C. Section 801 et seq.); (vi) licensure, quality, safety and accreditation requirements under applicable federal, state, local or foreign laws or regulatory bodies; and (vii) all other local, state, federal, national, supranational and foreign laws, relating to the regulation of the Company or its subsidiaries. Neither the Company nor any of its subsidiaries has received any FDA Form 483, written notice of adverse finding, warning letter, untitled letter or other correspondence or written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other material action from any court or arbitrator or governmental or regulatory authority or third party alleging that any product, operation, or activity is in violation of any Health Care Laws nor is any such claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action threatened. The Company and its subsidiaries have filed, obtained, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Health Care Laws, and all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were in all material respects timely, complete, accurate and not misleading on the date filed (or were corrected or supplemented by a subsequent submission). Neither the Company nor any of its subsidiaries is a party to any corporate integrity agreements, deferred or non-prosecution agreements, monitoring agreements, consent decrees, settlement orders, or similar agreements with or imposed by any governmental or regulatory authority. Additionally, neither the Company, any of its subsidiaries nor any of their respective employees, officers, directors or, to the Company’s knowledge, agents, has been excluded, suspended or debarred from participation in any U.S. federal health care program (as defined in 42 USC § 1320a-7b(f)) or human clinical research or is subject to a governmental inquiry, investigation, proceeding, or other similar action that could reasonably be expected to result in debarment, suspension, or exclusion.

(qq) **Safety Notices.** There have been no recalls, field notifications, field corrections, market withdrawals or replacements, warnings, safety alerts or other notice of action relating to an alleged lack of safety, efficacy or regulatory compliance of the products manufactured, distributed, or to the Company's knowledge, promoted by the Company (collectively, "**Safety Notices**"). To the Company's knowledge, there are no material complaints with respect to the products manufactured, distributed or promoted by the Company that are currently unresolved. To the Company's knowledge, there are no facts that would be reasonably likely to result in (A) a material Safety Notice with respect to the products manufactured, distributed or promoted by the Company; (B) a material change in labeling of any of the products manufactured, distributed or promoted by the Company; or (C) a termination or suspension of marketing, distribution or testing of any of the products manufactured, distributed or promoted by the Company.

(rr) **No Rights to Purchase Preferred Stock.** The issuance and sale of the Shares as contemplated hereby will not cause any holder of any shares of capital stock, securities convertible into or exchangeable or exercisable for capital stock or options, warrants or other rights to purchase capital stock or any other securities of the Company to have any right to acquire any shares of preferred stock of the Company.

(ss) **No Contract Terminations.** Except as disclosed in the Registration Statement, the Time of Sale Prospectus or the Prospectus, (i) neither the Company nor any of its subsidiaries has sent or received any communication regarding termination of, or intent not to renew, any of the contracts or agreements referred to or described in any preliminary prospectus, the Prospectus or any free writing prospectus, or referred to or described in, or filed as an exhibit to, the Registration Statement, and (ii) no such termination or non-renewal has been threatened by the Company or any of its subsidiaries or, to the Company's knowledge, any other party to any such contract or agreement, which threat of termination or non-renewal has not been rescinded as of the date hereof.

(tt) **Cybersecurity.** The Company and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, data and databases (collectively, "**IT Systems and Data**") are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its subsidiaries as currently conducted, and to the Company's knowledge, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. The Company and its subsidiaries have implemented and maintained appropriate physical, technical and administrative controls, policies, procedures, and safeguards to maintain and protect the integrity, continuous operation, redundancy and security of the IT Systems and Data, reasonably consistent with industry standards and practices, or as required by applicable regulatory standards. There have been no breaches, violations, outages or unauthorized uses of or accesses to the IT Systems and Data, and neither the Company nor its subsidiaries have been notified of any event or condition that could result in, or has resulted in same, except for those that have been remedied without material cost or liability or the duty to notify any other person, nor any incidents under internal review or investigations relating to the same. The Company and its subsidiaries have implemented and maintained backup and disaster recovery technology consistent with industry standards and practices.

(uu) **Compliance with Data Privacy Laws.** The Company and its subsidiaries are, and at all prior times have been, in material compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, policies, applicable industry standards, and contractual obligations relating to the privacy and security of IT Systems and Data, including the collection, storage, transfer (including, without limitation, any transfer across national borders), processing and/or use of data and, and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification (collectively, the “**Data Protection Requirements**”). To ensure compliance with the Data Protection Requirements, the Company and its subsidiaries have in place, comply with, and take appropriate steps reasonably designed to ensure compliance in all material respects with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling, and analysis of data (the “**Policies**”). The Company and its subsidiaries have at all times made all disclosures to users or customers required by applicable Data Protection Requirements, and none of such disclosures made or contained in any Policy have, to the knowledge of the Company, been inaccurate or in violation of any applicable laws and regulatory rules or requirements in any material respect. Neither the Company nor any subsidiary: (i) has received notice of any actual or potential liability under or relating to, or actual or potential violation of, any of the Data Protection Requirements, or has knowledge of any event or condition that would reasonably be expected to result in any such notice; (ii) is currently conducting or paying for, in whole or in part, any investigation, remediation, or other corrective action pursuant to any Data Protection Requirement; or (iii) is a party to any order, decree, or agreement that imposes any obligation or liability under any Data Protection Requirement. The execution, delivery and performance of this Agreement or any other agreement referred to in this Agreement will not result in a breach of any Data Protection Requirements.

(vv) **Sarbanes-Oxley Act.** Each of the Company and the Company’s directors and officers, in their capacities as such, is in compliance, in all material respects, with all applicable provisions of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated thereunder.

Any certificate signed by any officer of the Company and delivered to any Underwriter or to counsel for the Underwriters in connection with the offering, or the purchase and sale, of the Offered Shares shall be deemed a representation and warranty by the Company to each Underwriter as to the matters covered thereby.

The Company has a reasonable basis for making each of the representations set forth in this Section 1. The Company acknowledges that the Underwriters and, for purposes of the opinions to be delivered pursuant to Section 6 hereof, counsel to the Company and counsel to the Underwriters, will rely upon the accuracy and truthfulness of the foregoing representations and hereby consents to such reliance.

Section 2. Purchase, Sale and Delivery of the Offered Shares.

(a) **The Offered Shares.** Upon the terms herein set forth, the Company agrees to issue and sell to the several Underwriters an aggregate of 6,460,674 Offered Shares. On the basis of the representations, warranties and agreements herein contained, and upon the terms but subject to the conditions herein set forth, the Underwriters agree, severally and not jointly, to purchase from the Company the respective number of Offered Shares set forth opposite their names on Schedule A. The purchase price per Offered Share to be paid by the several Underwriters to the Company shall be \$8.366 per share.

(b) **The Closing Date.** Delivery of the book-entry positions for the Offered Shares to be purchased by the Underwriters and payment therefor shall be made at the offices of Latham & Watkins LLP (or such other place as may be agreed to by the Company and the Representative) at 9:00 a.m. New York City time, on September 12, 2024, or such other time and date not later than 1:30 p.m. New York City time, on September 12, 2024 as the Representative shall designate by notice to the Company (the time and date of such closing are called the “**Closing Date**”). The Company hereby acknowledges that circumstances under which the Representative may provide notice to postpone the Closing Date as originally scheduled include, but are not limited to, any determination by the Company or the Representative to recirculate to the public copies of an amended or supplemented Prospectus or a delay as contemplated by the provisions of Section 11 of this Agreement.

(c) **Reserved**

(d) **Public Offering of the Offered Shares.** The Representative hereby advises the Company that the Underwriters intend to offer for sale to the public, initially on the terms set forth in the Registration Statement, the Time of Sale Prospectus and the Prospectus, their respective portions of the Offered Shares as soon after this Agreement has been executed and the Registration Statement has been declared effective as the Representative, in its sole judgment, have determined is advisable and practicable.

(e) **Payment for the Offered Shares.** Payment for the Offered Shares shall be made at the Closing Date by wire transfer of immediately available funds to the order of the Company.

It is understood that the Representative has been authorized, for their own account and the accounts of the several Underwriters, to accept delivery of and receipt for, and make payment of the purchase price for, the Offered Shares the Underwriters have agreed to purchase. BofA, individually and not as the Representative of the Underwriters, may (but shall not be obligated to) make payment for any Offered Shares to be purchased by any Underwriter whose funds shall not have been received by the Representative by the Closing Date for the account of such Underwriter, but any such payment shall not relieve such Underwriter from any of its obligations under this Agreement.

(f) **Delivery of the Offered Shares.** The Company shall deliver, or cause to be delivered to the Representative for the accounts of the several Underwriters the book-entry positions for the Offered Shares at the Closing Date, against release of a wire transfer of immediately available funds for the amount of the purchase price therefor. The book-entry positions for the Offered Shares shall be registered in such names and denominations as the Representative shall have requested at least two full business days prior to the Closing Date and shall be made available for inspection on the business day preceding the Closing Date at a location in New York City as the Representative may designate. Time shall be of the essence, and delivery at the time and place specified in this Agreement is a further condition to the obligations of the Underwriters.

Section 3. Additional Covenants.

(a) **Delivery of Registration Statement, Time of Sale Prospectus and Prospectus.** The Company shall furnish to you in New York City, without charge, prior to 10:00 a.m. New York City time on the business day next succeeding the date of this Agreement and during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares, as many copies of the Time of Sale Prospectus, the Prospectus and any supplements and amendments thereto or to the Registration Statement as you may reasonably request.

(b) **Representative's Review of Proposed Amendments and Supplements.** During the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), the Company (i) will furnish to the Representative for review, a reasonable period of time prior to the proposed time of filing of any proposed amendment or supplement to the Registration Statement, a copy of each such amendment or supplement and (ii) will not amend or supplement the Registration Statement (including any amendment or supplement through incorporation of any report filed under the Exchange Act) without the Representative's prior written consent. Prior to amending or supplementing any preliminary prospectus, the Time of Sale Prospectus or the Prospectus (including any amendment or supplement through incorporation of any report filed under the Exchange Act), the Company shall furnish to the Representative for review, a reasonable amount of time prior to the time of filing or use of the proposed amendment or supplement, a copy of each such proposed amendment or supplement. The Company shall not file or use any such proposed amendment or supplement without the Representative's prior written consent. The Company shall file with the Commission within the applicable period specified in Rule 424(b) under the Securities Act any prospectus required to be filed pursuant to such Rule.

(c) **Free Writing Prospectuses.** The Company shall furnish to the Representative for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of each proposed free writing prospectus or any amendment or supplement thereto prepared by or on behalf of, used by, or referred to by the Company, and the Company shall not file, use or refer to any proposed free writing prospectus or any amendment or supplement thereto without the Representative's prior written consent. The Company shall furnish to each Underwriter, without charge, as many copies of any free writing prospectus prepared by or on behalf of, used by or referred to by the Company as such Underwriter may reasonably request. If at any time when a prospectus is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) in connection with sales of the Offered Shares (but in any event if at any time through and including the Closing Date) there occurred or occurs an event or development as a result of which any free writing prospectus prepared by or on behalf of, used by, or referred to by the Company conflicted or would conflict with the information contained in the Registration Statement or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, the Company shall promptly amend or supplement such free writing prospectus to eliminate or correct such conflict so that the statements in such free writing prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at such time, not misleading, as the case may be; *provided, however*, that prior to amending or supplementing any such free writing prospectus, the Company shall furnish to the Representative for review, a reasonable amount of time prior to the proposed time of filing or use thereof, a copy of such proposed amended or supplemented free writing prospectus, and the Company shall not file, use or refer to any such amended or supplemented free writing prospectus without the Representative's prior written consent.

(d) **Filing of Underwriter Free Writing Prospectuses.** The Company shall not take any action that would result in an Underwriter or the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that such Underwriter otherwise would not have been required to file thereunder.

(e) ***Amendments and Supplements to Time of Sale Prospectus.*** If the Time of Sale Prospectus is being used to solicit offers to buy the Offered Shares at a time when the Prospectus is not yet available to prospective purchasers, and any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Time of Sale Prospectus so that the Time of Sale Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading, or if any event shall occur or condition exist as a result of which the Time of Sale Prospectus conflicts with the information contained in the Registration Statement, or if, in the opinion of counsel for the Underwriters, it is necessary to amend or supplement the Time of Sale Prospectus to comply with applicable law, the Company shall (subject to Section 3(b) and Section 3(c) hereof) promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, either amendments or supplements to the Time of Sale Prospectus so that the statements in the Time of Sale Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when delivered to a prospective purchaser, not misleading or so that the Time of Sale Prospectus, as amended or supplemented, will no longer conflict with the information contained in the Registration Statement, or so that the Time of Sale Prospectus, as amended or supplemented, will comply with applicable law.

(f) ***Certain Notifications and Required Actions.*** After the date of this Agreement, the Company shall promptly advise the Representative in writing of: (i) the receipt of any comments of, or requests for additional or supplemental information from, the Commission; (ii) the time and date of any filing of any post-effective amendment to the Registration Statement or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus; (iii) the time and date that any post-effective amendment to the Registration Statement becomes effective; (iv) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto or any amendment or supplement to any preliminary prospectus, the Time of Sale Prospectus or the Prospectus or of any order preventing or suspending the use of any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus or the Prospectus or the initiation or, to the Company's knowledge, threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; and (v) of any proceedings to remove, suspend or terminate from listing or quotation the Shares from any securities exchange upon which they are listed for trading or included or designated for quotation, or of the threatening or initiation of any proceedings for any of such purposes. If the Commission shall enter any such stop order at any time, the Company will use its reasonable efforts to obtain the lifting of such order at the earliest possible moment. Additionally, the Company agrees that it shall comply with all applicable provisions of Rule 424(b), Rule 433 and Rule 430B under the Securities Act and will use its reasonable efforts to confirm that any filings made by the Company under Rule 424(b) or Rule 433 were received in a timely manner by the Commission.

(g) ***Amendments and Supplements to the Prospectus and Other Securities Act Matters.*** If any event shall occur or condition exist as a result of which it is necessary to amend or supplement the Prospectus so that the Prospectus does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading, or if in the opinion of the Representative or counsel for the Underwriters it is otherwise necessary to amend or supplement the Prospectus to comply with applicable law, the Company agrees (subject to Section 3(b) and Section 3(c) hereof) to promptly prepare, file with the Commission and furnish, at its own expense, to the Underwriters and to any dealer upon request, amendments or supplements to the Prospectus so that the statements in the Prospectus as so amended or supplemented will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances when the Prospectus is delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule) to a purchaser, not misleading or so that the Prospectus, as amended or supplemented, will comply with applicable law. Neither the Representative's consent to, nor delivery of, any such amendment or supplement shall constitute a waiver of any of the Company's obligations under Section 3(b) or Section 3(c) of this Agreement.

(h) **Blue Sky Compliance.** The Company shall cooperate with the Representative and counsel for the Underwriters to qualify or register the Offered Shares for sale under (or obtain exemptions from the application of) the state securities or blue sky laws or Canadian provincial securities laws of those jurisdictions designated by the Representative, shall comply with such laws and shall continue such qualifications, registrations and exemptions in effect so long as required for the distribution of the Offered Shares. Notwithstanding the foregoing, the Company shall not be required to qualify as a foreign corporation or to take any action that would subject it to general service of process in any such jurisdiction where it is not presently qualified. The Company will advise the Representative promptly of the suspension of the qualification or registration of (or any such exemption relating to) the Offered Shares for offering, sale or trading in any jurisdiction or any initiation or threat of any proceeding for any such purpose, and in the event of the issuance of any order suspending such qualification, registration or exemption, the Company shall use its reasonable efforts to obtain the withdrawal thereof at the earliest possible moment.

(i) **Use of Proceeds.** The Company shall apply the net proceeds from the sale of the Offered Shares sold by it in the manner described under the caption "Use of Proceeds" in the Registration Statement, the Time of Sale Prospectus and the Prospectus.

(j) **Transfer Agent.** The Company shall engage and maintain, at its expense, a registrar and transfer agent for the Shares.

(k) **Earnings Statement.** The Company will make generally available to its security holders and to the Representative as soon as practicable an earnings statement (which need not be audited) covering a period of at least twelve months beginning with the first fiscal quarter of the Company commencing after the date of this Agreement that will satisfy the provisions of Section 11(a) of the Securities Act and the rules and regulations of the Commission thereunder.

(l) **Continued Compliance with Securities Laws.** The Company will comply with the Securities Act and the Exchange Act so as to permit the completion of the distribution of the Offered Shares as contemplated by this Agreement, the Registration Statement, the Time of Sale Prospectus and the Prospectus. Without limiting the generality of the foregoing, the Company will, during the period when a prospectus relating to the Offered Shares is required by the Securities Act to be delivered (whether physically or through compliance with Rule 172 under the Securities Act or any similar rule), file on a timely basis with the Commission and Nasdaq all reports and documents required to be filed under the Exchange Act.

(m) **Listing.** The Company will use its best efforts to list, subject to notice of issuance, the Offered Shares on Nasdaq.

(n) **Company to Provide Copy of the Prospectus in Form That Maybe Downloaded from the Internet.** If requested by the Representative, the Company shall cause to be prepared and delivered, at its expense, within one business day from the effective date of this Agreement, to the Representative an "**electronic Prospectus**" to be used by the Underwriters in connection with the offering and sale of the Offered Shares. As used herein, the term "**electronic Prospectus**" means a form of Time of Sale Prospectus, and any amendment or supplement thereto, that meets each of the following conditions:

(i) it shall be encoded in an electronic format, satisfactory to the Representative, that may be transmitted electronically by the Representative and the other Underwriters to offerees and purchasers of the Offered Shares; (ii) it shall disclose the same information as the paper Time of Sale Prospectus, except to the extent that graphic and image material cannot be disseminated electronically, in which case such graphic and image material shall be replaced in the electronic Prospectus with a fair and accurate narrative description or tabular representation of such material, as appropriate; and (iii) it shall be in or convertible into a paper format or an electronic format, satisfactory to the Representative, that will allow investors to store and have continuously ready access to the Time of Sale Prospectus at any future time, without charge to investors (other than any fee charged for subscription to the Internet as a whole and for on-line time). The Company hereby confirms that it has included or will include in the Prospectus filed pursuant to EDGAR or otherwise with the Commission and in the Registration Statement at the time it was declared effective an undertaking that, upon receipt of a request by an investor or his or her representative, the Company shall transmit or cause to be transmitted promptly, without charge, a paper copy of the Time of Sale Prospectus.

(o) **Agreement Not to Offer or Sell Additional Shares.** During the period commencing on and including the date hereof and continuing through and including the 90th day following the date of the Prospectus (such period, as extended as described below, being referred to herein as the “**Lock-up Period**”), the Company will not, without the prior written consent of the Representative (which consent may be withheld in their sole discretion), directly or indirectly: (i) sell, offer to sell, contract to sell or lend any Shares or Related Securities (as defined below); (ii) effect any short sale, or establish or increase any “put equivalent position” (as defined in Rule 16a-1(h) under the Exchange Act) or liquidate or decrease any “call equivalent position” (as defined in Rule 16a-1(b) under the Exchange Act) of any Shares or Related Securities; (iii) pledge, lend, hypothecate or grant any security interest in any Shares or Related Securities; (iv) in any other way transfer or dispose of any Shares or Related Securities; (v) enter into any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of any Shares or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise; (vi) announce the offering of any Shares or Related Securities; (vii) file any registration statement under the Securities Act in respect of any Shares or Related Securities (other than as contemplated by this Agreement with respect to the Offered Shares); or (viii) publicly announce the intention to do any of the foregoing; *provided, however*, that the Company may (A) effect the transactions contemplated hereby, (B) issue Shares or options to purchase Shares, or issue Shares upon exercise of options, pursuant to any stock option, stock bonus or other stock plan or arrangement described in the Registration Statement, the Time of Sale Prospectus and the Prospectus, (C) issue Shares upon the exercise of outstanding warrants described in the Registration Statement, the Time of Sale Prospectus and the Prospectus and (D) enter into a sales agreement to establish a new “at-the-market” program (the “**ATM Program**”), provided that the Company does not directly or indirectly issue and sell Shares pursuant to the ATM Program during the Lock-Up Period. For purposes of the foregoing, “**Related Securities**” shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for, or convertible into, Shares.

(p) **Future Reports to the Representative.** During the period of five years hereafter, the Company will furnish to the Representative, c/o BofA Securities, Inc., One Bryant Park, New York, New York 10036, Attention: Syndicate Department (email: dg.ecm_execution_services@bofa.com), with a copy to ECM Legal (email: dg.ecm_legal@bofa.com): (i) as soon as practicable after the end of each fiscal year, copies of the Annual Report of the Company containing the balance sheet of the Company as of the close of such fiscal year and statements of income, stockholders’ equity and cash flows for the year then ended and the opinion thereon of the Company’s independent public or certified public accountants; (ii) as soon as practicable after the filing or furnishing thereof, copies of each proxy statement, Annual Report on Form 10-K, Quarterly Report on Form 10-Q, Current Report on Form 8-K or other report filed or furnished by the Company with the Commission or any securities exchange; and (iii) as soon as available, copies of any report or communication of the Company furnished or made available generally to holders of its capital stock; *provided, however*, that the requirements of this Section 3(p) shall be satisfied to the extent that such reports, statement, communications, financial statements or other documents are available on EDGAR.

(q) **Investment Limitation.** The Company shall not invest or otherwise use the proceeds received by the Company from its sale of the Offered Shares in such a manner as would require the Company or any of its subsidiaries to register as an investment company under the Investment Company Act.

(r) **No Stabilization or Manipulation; Compliance with Regulation M.** The Company will not take, and will ensure that no affiliate of the Company will take, directly or indirectly, any action designed to or that might cause or result in stabilization or manipulation of the price of the Shares or any reference security with respect to the Shares, whether to facilitate the sale or resale of the Offered Shares or otherwise, and the Company will, and shall cause each of its affiliates to, comply with all applicable provisions of Regulation M.

(s) **Enforce Lock-Up Agreements.** During the Lock-up Period, the Company will enforce all agreements between the Company and any of its security holders that restrict or prohibit, expressly or in operation, the offer, sale or transfer of Shares or Related Securities or any of the other actions restricted or prohibited under the terms of the form of Lock-up Agreement.

(t) **Company to Provide Interim Financial Statements.** Prior to the Closing Date, the Company will furnish the Underwriters, as soon as they have been prepared by or are available to the Company, a copy of any unaudited interim financial statements of the Company for any period subsequent to the period covered by the most recent financial statements appearing in the Registration Statement and the Prospectus.

(u) **[Reserved].**

(v) **[Reserved].**

The Representative, on behalf of the several Underwriters, may, in its sole discretion, waive in writing the performance by the Company of any one or more of the foregoing covenants or extend the time for their performance.

(w) **Shelf Renewal.** If immediately prior to the third anniversary (the “**Renewal Deadline**”) of the initial effective date of the Registration Statement, any of the Shares remain unsold by the Underwriters, the Company will, prior to the Renewal Deadline, file, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Shares, in a form satisfactory to the Representative. If the Company is not eligible to file an automatic shelf registration statement, the Company will, prior to the Renewal Deadline, if it has not already done so, file a new shelf registration statement relating to the Shares, in a form satisfactory to the Representative, and will use its best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the issuance and sale of the Shares to continue as contemplated in the expired registration statement relating to the Shares. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be.

Section 4. Payment of Expenses. The Company agrees to pay all costs, fees and expenses incurred in connection with the performance of its obligations hereunder and in connection with the transactions contemplated hereby, including without limitation (i) all expenses incident to the issuance and delivery of the Offered Shares (including all printing and engraving costs), (ii) all fees and expenses of the registrar and transfer agent of the Shares, (iii) all stamp or other issuance or transfer taxes or duties, other similar fees or charges which may be imposed by any governmental or regulatory authority in connection with the execution and delivery of this Agreement or the issuance and sale of the Offered Shares to the Underwriters, (iv) all fees and expenses of the Company's counsel, independent public or certified public accountants and other advisors, (v) all costs and expenses incurred in connection with the preparation, printing, filing, shipping and distribution of the Registration Statement (including financial statements, exhibits, schedules, consents and certificates of experts), the Time of Sale Prospectus, the Prospectus, each free writing prospectus prepared by or on behalf of, used by, or referred to by the Company, and each preliminary prospectus, any Marketing Materials, and all amendments and supplements thereto, and this Agreement, (vi) all filing fees, attorneys' fees and expenses incurred by the Company or the Underwriters in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the Offered Shares for offer and sale under the state securities or blue sky laws or the provincial securities laws of Canada, and, if requested by the Representative, preparing and printing a "Blue Sky Survey" or memorandum and a "Canadian wrapper", and any supplements thereto, advising the Underwriters of such qualifications, registrations and exemptions, (vii) the costs, fees and expenses incurred by the Underwriters in connection with determining their compliance with the rules and regulations of FINRA related to the Underwriters' participation in the offering and distribution of the Offered Shares, including any related filing fees and the legal fees of, and disbursements by, counsel to the Underwriters, (viii) the costs and expenses of the Company relating to investor presentations on any "road show" undertaken in connection with the offering of the Offered Shares, including, without limitation, expenses associated with the preparation or dissemination of any electronic road show, expenses associated with the production of road show slides and graphics, fees and expenses of any consultants engaged in connection with the road show presentations with the prior approval of the Company, travel and lodging expenses of the Representative, employees and officers of the Company and any such consultants, and one half of the cost of any aircraft chartered in connection with the road show, with the other half being paid by the Underwriters, (ix) the fees and expenses associated with listing the Offered Shares on Nasdaq and (x) all other fees, costs and expenses of the nature referred to in Item 14 of Part II of the Registration Statement, *provided, however*, that the Company shall not be responsible for any costs, fees and expenses of the Underwriters related to clauses (vi) or (vii) in excess of \$25,000 in the aggregate. Except as provided in this Section 4 or in Section 7, Section 9 or Section 10 hereof, the Underwriters shall pay their own expenses, including the fees and disbursements of their counsel.

Section 5. Covenant of the Underwriters. Each Underwriter severally and not jointly covenants with the Company not to take any action that would result in the Company being required to file with the Commission pursuant to Rule 433(d) under the Securities Act a free writing prospectus prepared by or on behalf of such Underwriter that otherwise would not, but for such actions, be required to be filed by the Company under Rule 433(d).

Section 6. Conditions of the Obligations of the Underwriters. The respective obligations of the several Underwriters hereunder to purchase and pay for the Offered Shares as provided herein on the Closing Date shall be subject to the accuracy of the representations and warranties on the part of the Company set forth in Section 1 hereof as of the date hereof and as of the Closing Date as though then made to the timely performance by the Company of its covenants and other obligations hereunder, and to each of the following additional conditions:

(a) **Comfort Letter.** On the date hereof, the Representative shall have received from PricewaterhouseCoopers LLP, independent registered public accountants for the Company, a letter dated the date hereof addressed to the Underwriters, in form and substance satisfactory to the Representative, containing statements and information of the type ordinarily included in accountant's "comfort letters" to underwriters, delivered according to Statement of Auditing Standards No. 72 (or any successor bulletin), with respect to the audited and unaudited financial statements and certain financial information contained in the Registration Statement, the Time of Sale Prospectus, and each free writing prospectus, if any.

(b) ***Compliance with Registration Requirements; No Stop Order; No Objection from FINRA.***

(i) The Company shall have filed the Prospectus with the Commission (including the information previously omitted from the Registration Statement pursuant to Rule 430B under the Securities Act) in the manner and within the time period required by Rule 424(b) under the Securities Act; or the Company shall have filed a post-effective amendment to the Registration Statement containing the information previously omitted from the Registration Statement pursuant to Rule 430B, and such post-effective amendment shall have become effective.

(ii) No stop order suspending the effectiveness of the Registration Statement or any post-effective amendment to the Registration Statement shall be in effect, and no proceedings for such purpose or pursuant to Section 8A of the Securities Act shall have been instituted or threatened by the Commission.

(iii) FINRA shall have raised no objection to the fairness and reasonableness of the underwriting terms and arrangements.

(c) ***No Material Adverse Change or Ratings Agency Change.*** For the period from and after the date of this Agreement and through and including the Closing Date:

(i) in the judgment of the Representative there shall not have occurred any Material Adverse Change; and

(ii) there shall not have occurred any downgrading, nor shall any notice have been given of any intended or potential downgrading or of any review for a possible change that does not indicate the direction of the possible change, in the rating accorded any securities of the Company by any “nationally recognized statistical rating organization” as that term is used in Rule 15c3-1(c)(2)(vi)(F) under the Exchange Act.

(d) ***Opinion of Counsel for the Company.*** On the Closing Date, the Representative shall have received the opinion of DLA Piper LLP (US), counsel for the Company, in form and substance satisfactory to the Underwriters, dated as of such date.

(e) ***Opinion of Morgan, Lewis & Bockius LLP.*** On the Closing Date, the Representative shall have received the opinion of Morgan, Lewis & Bockius LLP, counsel for the Company with respect to intellectual property matters, in form and substance satisfactory to the Underwriters, dated as of such date.

(f) ***Opinion of Counsel for the Underwriters.*** On the Closing Date, the Representative shall have received the opinion of Latham & Watkins LLP, counsel for the Underwriters in connection with the offer and sale of the Offered Shares, in form and substance satisfactory to the Underwriters, dated as of such date.

(g) ***Officers' Certificate.*** On the Closing Date, the Representative shall have received a certificate executed by the Chief Executive Officer or President of the Company and the Chief Financial Officer of the Company, dated as of such date, to the effect set forth in Section 6(b)(ii) hereof and further to the effect that:

(i) for the period from and including the date of this Agreement through and including such date, there has not occurred any Material Adverse Change;

(ii) the representations, warranties and covenants of the Company set forth in Section 1 of this Agreement are true and correct with the same force and effect as though expressly made on and as of such date; and

(iii) the Company has complied with all the agreements hereunder and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to such date.

(h) **Bring-down Comfort Letter.** On the Closing Date, the Representative shall have received from PricewaterhouseCoopers LLP, independent registered public accountants for the Company, a letter dated such date, in form and substance satisfactory to the Representative, which letter shall: (i) reaffirm the statements made in the letter furnished by them pursuant to Section 6(a) of this Agreement, except that the specified date referred to therein for the carrying out of procedures shall be no more than three business days prior to the Closing Date; and (ii) cover certain financial information contained in the Prospectus.

(i) **Lock-Up Agreements.** On or prior to the date hereof, the Company shall have furnished to the Representative an agreement substantially in the form of Exhibit A hereto from each of the persons listed on Exhibit B hereto, and each such agreement shall be in full force and effect on the Closing Date.

(j) **CFO Certificate.** On the date hereof and the Closing Date, the Representative shall have received a certificate executed by the Chief Financial Officer of the Company, on behalf of the Company and not in his individual capacity dated as of such date, in form and substance satisfactory to the Underwriters.

(k) **Rule 462(b) Registration Statement.** In the event that a Rule 462(b) Registration Statement is filed in connection with the offering contemplated by this Agreement, such Rule 462(b) Registration Statement shall have been filed with the Commission on the date of this Agreement and shall have become effective automatically upon such filing.

(l) **Approval of Listing.** At the Closing Date, the Offered Shares shall have been approved for listing on Nasdaq, subject only to official notice of issuance.

(m) **Additional Documents.** On or before the Closing Date, the Representative and counsel for the Underwriters shall have received such information, documents and opinions as they may reasonably request for the purposes of enabling them to pass upon the issuance and sale of the Offered Shares as contemplated herein, or in order to evidence the accuracy of any of the representations and warranties, or the satisfaction of any of the conditions or agreements, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Offered Shares as contemplated herein and in connection with the other transactions contemplated by this Agreement shall be satisfactory in form and substance to the Representative and counsel for the Underwriters.

If any condition specified in this Section 6 is not satisfied when and as required to be satisfied (unless waived by the Representative), this Agreement may be terminated by the Representative by notice from the Representative to the Company at any time on or prior to the Closing Date, which termination shall be without liability on the part of any party to any other party, except that Section 4, Section 7, Section 9 and Section 10 of this Agreement shall at all times be effective and shall survive such termination.

Section 7. Reimbursement of Underwriters' Expenses. If this Agreement is terminated by the Representative pursuant to Section 6, Section 11 or Section 12 of this Agreement, or if the sale to the Underwriters of the Offered Shares on the Closing Date is not consummated because of any refusal, inability or failure on the part of the Company to perform any agreement herein or to comply with any provision hereof, the Company agrees to reimburse the Representative and the other Underwriters, severally, upon demand for all accountable and documented out-of-pocket expenses that shall have been actually incurred by the Representative and the Underwriters in connection with the proposed purchase and the offering and sale of the Offered Shares, including, but not limited to, fees and disbursements of counsel, printing expenses, travel expenses, postage, facsimile and telephone charges.

Section 8. Effectiveness of this Agreement. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

Section 9. Indemnification.

(a) **Indemnification of the Underwriters.** The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors, officers, employees and agents, and each person, if any, who controls any Underwriter within the meaning of the Securities Act or the Exchange Act against any loss, claim, damage, liability or expense, as incurred, to which such Underwriter or such affiliate, director, officer, employee, agent or controlling person may become subject, under the Securities Act, the Exchange Act, other federal or state statutory law or regulation, or the laws or regulations of foreign jurisdictions where Offered Shares have been offered or sold or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of the Company or is effected pursuant to Section 9(d) below) insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading; or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433(d) of the Securities Act, any Marketing Material or the Prospectus (or any amendment or supplement to the foregoing), or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading; or (iii) any act or failure to act or any alleged act or failure to act by any Underwriter in connection with, or relating in any manner to, the Shares or the offering contemplated hereby, and which is included as part of or referred to in any loss, claim, damage, liability or action arising out of or based upon any matter covered by clause (i) or (ii) above; and to reimburse each Underwriter and each such affiliate, director, officer, employee, agent and controlling person for any and all reasonable expenses (including the reasonable fees and disbursements of counsel) as such expenses are incurred by such Underwriter or such affiliate, director, officer, employee, agent or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action; *provided, however*, that the foregoing indemnity agreement shall not apply to any loss, claim, damage, liability or expense to the extent, but only to the extent, arising out of or based upon any untrue statement or alleged untrue statement or omission or alleged omission made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company by the Representative in writing expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any such free writing prospectus, any Marketing Material or the Prospectus (or any amendment or supplement thereto), it being understood and agreed that the only such information consists of the information described in Section 9(b) below. The indemnity agreement set forth in this Section 9(a) shall be in addition to any liabilities that the Company may otherwise have.

(b) **Indemnification of the Company, its Directors and Officers.** Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, each of its directors, each of its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act, against any loss, claim, damage, liability or expense, as incurred, to which the Company, or any such director, officer or controlling person may become subject, under the Securities Act, the Exchange Act, or other federal or state statutory law or regulation, or at common law or otherwise (including in settlement of any litigation, if such settlement is effected with the written consent of such Underwriter or is effected pursuant to Section 9(d) below), insofar as such loss, claim, damage, liability or expense (or actions in respect thereof as contemplated below) arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, or any amendment thereto, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus, that the Company has used, referred to or filed, or is required to file, pursuant to Rule 433 of the Securities Act, any Marketing Material or the Prospectus (or any such amendment or supplement) or the omission or alleged omission to state therein a material fact necessary in order to make the statements, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, such preliminary prospectus, the Time of Sale Prospectus, such free writing prospectus, such Marketing Material or the Prospectus (or any such amendment or supplement), in reliance upon and in conformity with information relating to such Underwriter furnished to the Company by the Representative in writing expressly for use therein; and to reimburse the Company, or any such director, officer or controlling person for any and all reasonable expenses (including the reasonable fees and disbursements of counsel) as such expenses are incurred by the Company, or any such director, officer or controlling person in connection with investigating, defending, settling, compromising or paying any such loss, claim, damage, liability, expense or action. The Company hereby acknowledges that the only information that the Representative has furnished to the Company expressly for use in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, any free writing prospectus that the Company has filed, or is required to file, pursuant to Rule 433(d) of the Securities Act, any Marketing Material or the Prospectus (or any amendment or supplement to the foregoing) are the statements set forth in the first paragraph under the heading “Underwriting—Commissions and Discounts,” the statements set forth in the second, third and fourth paragraphs under the heading “Underwriting—Price Stabilization, Short Positions” and the statements set forth under the heading “Underwriting—Electronic Distribution,” under the caption “Underwriting” in any preliminary prospectus supplement and the Final Prospectus Supplement. The indemnity agreement set forth in this Section 9(b) shall be in addition to any liabilities that each Underwriter may otherwise have.

(c) **Notifications and Other Indemnification Procedures.** Promptly after receipt by an indemnified party under this Section 9 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under this Section 9, notify the indemnifying party in writing of the commencement thereof, but the omission so to notify the indemnifying party will not relieve the indemnifying party from any liability which it may have to any indemnified party to the extent the indemnifying party is not materially prejudiced as a proximate result of such failure and shall not in any event relieve the indemnifying party from any liability that it may have otherwise than on account of this indemnity agreement. In case any such action is brought against any indemnified party and such indemnified party seeks or intends to seek indemnity from an indemnifying party, the indemnifying party will be entitled to participate in, and, to the extent that it shall elect, jointly with all other indemnifying parties similarly notified, by written notice delivered to the indemnified party promptly after receiving the aforesaid notice from such indemnified party, to assume the defense thereof with counsel reasonably satisfactory to such indemnified party; *provided, however*, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that a conflict may arise between the positions of the indemnifying party and the indemnified party in conducting the defense of any such action or that there may be legal defenses available to it and/or other indemnified parties which are different from or additional to those available to the indemnifying party, the indemnified party or parties shall have the right to select separate counsel to assume such legal defenses and to otherwise participate in the defense of such action on behalf of such indemnified party or parties. Upon receipt of notice from the indemnifying party to such indemnified party of such indemnifying party's election so to assume the defense of such action and approval by the indemnified party of counsel, the indemnifying party will not be liable to such indemnified party under this Section 9 for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof unless (i) the indemnified party shall have employed separate counsel in accordance with the proviso to the preceding sentence (it being understood, however, that the indemnifying party shall not be liable for the fees and expenses of more than one separate counsel (together with local counsel), representing the indemnified parties who are parties to such action), which counsel (together with any local counsel) for the indemnified parties shall be selected by the Representative (in the case of counsel for the indemnified parties referred to in Section 9(a) above) or by the Company (in the case of counsel for the indemnified parties referred to in Section 9(b) above) or (ii) the indemnifying party shall not have employed counsel reasonably satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of commencement of the action or (iii) the indemnifying party has authorized in writing the employment of counsel for the indemnified party at the expense of the indemnifying party, in each of which cases the fees and expenses of counsel shall be at the expense of the indemnifying party and shall be paid as they are incurred.

(d) **Settlements.** The indemnifying party under this Section 9 shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party against any loss, claim, damage, liability or expense by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested an indemnifying party to reimburse the indemnified party for fees and expenses of counsel as contemplated by Section 9(c) hereof, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party shall not have reimbursed the indemnified party in accordance with such request prior to the date of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement, compromise or consent to the entry of judgment in any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity was or could have been sought hereunder by such indemnified party, unless such settlement, compromise or consent includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding and does not include an admission of fault or culpability or a failure to act by or on behalf of such indemnified party.

Section 10. Contribution. If the indemnification provided for in Section 9 of this Agreement is for any reason held to be unavailable to or otherwise insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities or expenses referred to therein, then each indemnifying party shall contribute to the aggregate amount paid or payable by such indemnified party, as incurred, as a result of any losses, claims, damages, liabilities or expenses referred to therein (i) in such proportion as is appropriate to reflect the relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, from the offering of the Offered Shares pursuant to this Agreement or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company, on the one hand, and the Underwriters, on the other hand, in connection with the statements or omissions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefits received by the Company, on the one hand, and the Underwriters, on the other hand, in connection with the offering of the Offered Shares pursuant to this Agreement shall be deemed to be in the same respective proportions as the total proceeds from the offering of the Offered Shares pursuant to this Agreement (before deducting expenses) received by the Company, and the total underwriting discounts and commissions received by the Underwriters, in each case as set forth on the front cover page of the Prospectus, bear to the aggregate initial public offering price of the Offered Shares as set forth on such cover. The relative fault of the Company, on the one hand, and the Underwriters, on the other hand, shall be determined by reference to, among other things, whether any such untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company, on the one hand, or the Underwriters, on the other hand, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include, subject to the limitations set forth in Section 9(c) of this Agreement, any legal or other fees or expenses reasonably incurred by such party in connection with investigating or defending any action or claim. The provisions set forth in Section 9(c) of this Agreement with respect to notice of commencement of any action shall apply if a claim for contribution is to be made under this Section 10; *provided, however*, that no additional notice shall be required with respect to any action for which notice has been given under Section 9(c) of this Agreement for purposes of indemnification.

The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 10 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 10.

Notwithstanding the provisions of this Section 10, no Underwriter shall be required to contribute any amount in excess of the underwriting discounts and commissions received by such Underwriter in connection with the Offered Shares underwritten by it and distributed to the public. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 10 are several, and not joint, in proportion to their respective underwriting commitments as set forth opposite their respective names on Schedule A. For purposes of this Section 10, each affiliate, director, officer, employee and agent of an Underwriter and each person, if any, who controls an Underwriter within the meaning of the Securities Act or the Exchange Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of the Securities Act and the Exchange Act shall have the same rights to contribution as the Company.

Section 11. Default of One or More of the Several Underwriters. If, on the Closing Date any one or more of the several Underwriters shall fail or refuse to purchase Offered Shares that it or they have agreed to purchase hereunder on such date, and the aggregate number of Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase does not exceed 10% of the aggregate number of the Offered Shares to be purchased on such date, the Representative may make arrangements satisfactory to the Company for the purchase of such Offered Shares by other persons, including any of the Underwriters, but if no such arrangements are made by such date, the other Underwriters shall be obligated, severally and not jointly, in the proportions that the number of Offered Shares set forth opposite their respective names on Schedule A bears to the aggregate number of Offered Shares set forth opposite the names of all such non-defaulting Underwriters, or in such other proportions as may be specified by the Representative with the consent of the non-defaulting Underwriters, to purchase the Offered Shares which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date. If, on the Closing Date any one or more of the Underwriters shall fail or refuse to purchase Offered Shares and the aggregate number of Offered Shares with respect to which such default occurs exceeds 10% of the aggregate number of Offered Shares to be purchased on such date, and arrangements satisfactory to the Representative and the Company for the purchase of such Offered Shares are not made within 48 hours after such default, this Agreement shall terminate without liability of any party to any other party except that the provisions of Section 4, Section 7, Section 9 and Section 10 of this Agreement shall at all times be effective and shall survive such termination. In any such case either the Representative or the Company shall have the right to postpone the Closing Date, but in no event for longer than seven days in order that the required changes, if any, to the Registration Statement and the Prospectus or any other documents or arrangements may be effected.

As used in this Agreement, the term “**Underwriter**” shall be deemed to include any person substituted for a defaulting Underwriter under this Section 11. Any action taken under this Section 11 shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

Section 12. Termination of this Agreement. Prior to the purchase of the Offered Shares by the Underwriters on the Closing Date, this Agreement may be terminated by the Representative by notice given to the Company if at any time: (i) trading or quotation in any of the Company’s securities shall have been suspended or limited by the Commission or by Nasdaq, or trading in securities generally on either Nasdaq or the New York Stock Exchange shall have been suspended or limited, or minimum or maximum prices shall have been generally established on any of such stock exchanges; (ii) a general banking moratorium shall have been declared by any of federal or New York authorities; (iii) there shall have occurred any outbreak or escalation of national or international hostilities or any crisis or calamity, or any change in the United States or international financial markets, or any substantial change or development involving a prospective substantial change in United States’ or international political, financial or economic conditions, as in the judgment of the Representative is material and adverse and makes it impracticable to market the Offered Shares in the manner and on the terms described in the Time of Sale Prospectus or the Prospectus or to enforce contracts for the sale of securities; (iv) in the judgment of the Representative there shall have occurred any Material Adverse Change; or (v) the Company shall have sustained a loss by strike, fire, flood, earthquake, accident or other calamity of such character as in the judgment of the Representative may interfere materially with the conduct of the business and operations of the Company regardless of whether or not such loss shall have been insured. Any termination pursuant to this Section 12 shall be without liability on the part of (a) the Company to any Underwriter, except that the Company shall be obligated to reimburse the expenses of the Representative and the Underwriters pursuant to Section 4 or Section 7 hereof or (b) any Underwriter to the Company; *provided, however*, that the provisions of Section 9 and Section 10 hereof shall at all times be effective and shall survive such termination.

Section 13. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that (a) the purchase and sale of the Offered Shares pursuant to this Agreement, including the determination of the public offering price of the Offered Shares and any related discounts and commissions, is an arm’s-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand, (b) in connection with the offering contemplated hereby and the process leading to such transaction, each Underwriter is and has been acting solely as a principal and is not the agent or fiduciary of the Company, or its stockholders, creditors, employees or any other party, (c) no Underwriter has assumed or will assume an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) and no Underwriter has any obligation to the Company with respect to the offering contemplated hereby except the obligations expressly set forth in this Agreement, (d) the Underwriters and their respective affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, and (e) the Underwriters have not provided any legal, accounting, regulatory or tax advice with respect to the offering contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate.

Section 14. Representations and Indemnities to Survive Delivery. The respective indemnities, agreements, representations, warranties and other statements of the Company, of its officers and of the several Underwriters set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of any Underwriter or the Company or any of its or their partners, officers or directors or any controlling person, as the case may be, and, anything herein to the contrary notwithstanding, will survive delivery of and payment for the Offered Shares sold hereunder and any termination of this Agreement.

Section 15. Notices. All communications hereunder shall be in writing and shall be mailed, hand delivered or telecopied and confirmed to the parties hereto as follows:

If to the Representative:

BofA Securities, Inc.
One Bryant Park
New York, New York 10036
Attention: Syndicate Department
with a copy to:
Attention: ECM Legal

with a copy to: (which shall not constitute notice)

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Facsimile: (212) 751-4864
Attention: Nathan Ajiashvili and Alison Haggerty

If to the Company:

Liquidia Corporation
419 Davis Drive, Suite 100
Morrisville, North Carolina 27560

Attention: Roger Jeffs

with a copy to: (which shall not constitute notice)

DLA Piper LLP (US)
51 John F. Kennedy Parkway, Suite 120
Short Hills, NJ 07078
Facsimile: (973) 520-2573
Attention: Andrew P. Gilbert and Emilio Ragosa

Any party hereto may change the address for receipt of communications by giving written notice to the others.

Section 16. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto, including any substitute Underwriters pursuant to Section 11 hereof, and to the benefit of the affiliates, directors, officers, employees, agents and controlling persons referred to in Section 9 and Section 10 hereof, and in each case their respective successors, and no other person will have any right or obligation hereunder. The term “**successors**” shall not include any purchaser of the Offered Shares as such from any of the Underwriters merely by reason of such purchase.

Section 17. Partial Unenforceability. The invalidity or unenforceability of any section, paragraph or provision of this Agreement shall not affect the validity or enforceability of any other section, paragraph or provision hereof. If any section, paragraph or provision of this Agreement is for any reason determined to be invalid or unenforceable, there shall be deemed to be made such minor changes (and only such minor changes) as are necessary to make it valid and enforceable.

Section 18. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity (as defined below) becomes subject to a proceeding under a U.S. Special Resolution Regime (as defined below), the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate (as defined below) of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights (as defined below) under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States. For purposes of this Agreement, (A) “**BHC Act Affiliate**” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); (B) “**Covered Entity**” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b); (C) “**Default Right**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable; and (D) “**U.S. Special Resolution Regime**” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

Section 19. Governing Law Provisions. This Agreement and any claim, controversy or dispute arising hereunder or related hereto shall be governed by and construed in accordance with the internal laws of the State of New York applicable to agreements made and to be performed in such state. Any legal suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby (“**Related Proceedings**”) may be instituted in the federal courts of the United States of America located in the Borough of Manhattan in the City of New York or the courts of the State of New York in each case located in the Borough of Manhattan in the City of New York (collectively, the “**Specified Courts**”), and each party irrevocably submits to the exclusive jurisdiction (except for proceedings instituted in regard to the enforcement of a judgment of any such court (a “**Related Judgment**”), as to which such jurisdiction is non-exclusive) of such courts in any such suit, action or proceeding. Service of any process, summons, notice or document by mail to such party’s address set forth above shall be effective service of process for any suit, action or other proceeding brought in any such court. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such suit, action or other proceeding brought in any such court has been brought in an inconvenient forum.

Section 20. Waiver of Jury Trial. Each of the parties hereto hereby waives any right to trial by jury in any suit or proceeding arising out of or relating to this Agreement.

Section 21. Compliance with USA Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

Section 22. General Provisions. This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. This Agreement may be executed in two or more counterparts, each one of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement may not be amended or modified unless in writing by all of the parties hereto, and no condition herein (express or implied) may be waived unless waived in writing by each party whom the condition is meant to benefit. The section headings herein are for the convenience of the parties only and shall not affect the construction or interpretation of this Agreement.

Electronic signatures complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law will be deemed original signatures for purposes of this Agreement. Transmission by telecopy, electronic mail or other transmission method of an executed counterpart of this Agreement will constitute due and sufficient delivery of such counterpart.

Each of the parties hereto acknowledges that it is a sophisticated business person who was adequately represented by counsel during negotiations regarding the provisions hereof, including, without limitation, the indemnification provisions of Section 9 and the contribution provisions of Section 10 hereof, and is fully informed regarding said provisions. Each of the parties hereto further acknowledges that the provisions of Section 9 and Section 10 hereof fairly allocate the risks in light of the ability of the parties to investigate the Company, its affairs and its business in order to assure that adequate disclosure has been made in the Registration Statement, any preliminary prospectus, the Time of Sale Prospectus, each free writing prospectus and the Prospectus (and any amendments and supplements to the foregoing), as contemplated by the Securities Act and the Exchange Act.

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to the Company the enclosed copies hereof, whereupon this instrument, along with all counterparts hereof, shall become a binding agreement in accordance with its terms.

Very truly yours,

LIQUIDIA CORPORATION

By: /s/ Roger Jeffs

Name: Roger Jeffs

Title: Chief Executive Officer

Signature Page to Underwriting Agreement

The foregoing Underwriting Agreement is hereby confirmed and accepted by the Representative in New York, New York as of the date first above written.

BOFA SECURITIES, INC.

Acting individually and as the Representative of the several Underwriters named in the attached Schedule A.

BOFA SECURITIES, INC.

By: /s/John Bishai

Name: John Bishai

Title: Managing Director

Signature Page to Underwriting Agreement

Underwriters	Number of Offered Shares to be Purchased
BofA Securities, Inc.	4,199,439
LifeSci Capital LLC	1,292,134
Needham & Company, LLC	969,101
Total	<u>6,460,674</u>

Free Writing Prospectuses Included in the Time of Sale Prospectus

None.

Pricing Information Included in the Time of Sale Prospectus

Price per Share to the public:	\$	8.90
Number of Shares being sold to the public by the Company:		6,460,674

Private placement On September 10, 2024, Liquidia entered into a common stock purchase agreement with funds managed by Caligan Partners LP for the sale of 1,123,595 Shares of common stock at a purchase price of \$8.90 per Share in a private placement exempt from the registration requirements of the Securities Act. The closing of the private placement is expected to occur concurrently with the closing of the offering for the Offered Shares on the Closing Date.

Marketing Materials

None

Form of Lock-Up Agreement

BofA Securities, Inc.
As Representative of the several Underwriters

c/o BofA Securities, Inc.
One Bryant Park
New York, New York 10036

RE: Liquidia Corporation (the "Company")

Ladies & Gentlemen:

The undersigned is an owner of shares of common stock, par value \$0.001 per share, of the Company ("**Shares**") or of securities exchangeable or exercisable for Shares. The Company proposes to conduct a public offering of Shares (the "**Offering**") for which BofA Securities, Inc. (the "**Representative**") will act as the representative of the underwriters (the "**Underwriters**") listed in Schedule A to the Underwriting Agreement referred to below. The undersigned recognizes that the Offering will benefit each of the Company and the undersigned. The undersigned acknowledges that the Underwriters are relying on the representations and agreements of the undersigned contained in this letter agreement in conducting the Offering and, at a subsequent date, in entering into an underwriting agreement (the "**Underwriting Agreement**") and other underwriting arrangements with the Company with respect to the Offering.

Annex A sets forth definitions for capitalized terms used in this letter agreement that are not defined in the body of this letter agreement. Those definitions are a part of this letter agreement.

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned hereby agrees that, during the Lock-up Period, the undersigned will not (and will cause any Family Member not to), without the prior written consent of the Representative, who may withhold their consent in their sole discretion:

- Sell or Offer to Sell any Shares or Related Securities currently or hereafter owned either of record or beneficially (as defined in Rule 13d-3 under the Exchange Act) by the undersigned or such Family Member,
 - enter into any Swap,
 - make any demand for, or exercise any right with respect to, the registration under the Securities Act of the offer and sale of any Shares or Related Securities, or cause to be filed a registration statement, prospectus or prospectus supplement (or an amendment or supplement thereto) with respect to any such registration, or
 - publicly announce any intention to do any of the foregoing.
-

The foregoing will not apply to the registration of the offer and sale of the Shares, and the sale of the Shares to the Underwriters, in each case as contemplated by the Underwriting Agreement. In addition, the foregoing restrictions shall not apply to (i) (A) the establishment or amendment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act for the transfer of Shares or Related Securities, *provided* that (x) no public announcement or filing under the Exchange Act shall be voluntarily made in connection with such trading plan and, to the extent any public announcement or filing under the Exchange Act is required by or on behalf of the undersigned or the Company regarding the establishment or amendment of such trading plan, such announcement or filing shall include a statement to the effect that no transfer of Shares may be made under such trading plan during the Lock-up Period, and (y) such trading plan shall not provide for or permit any transfers, sales or other dispositions during the Lock-up Period, or (B) sales effected pursuant to a trading plan pursuant to Rule 10b5-1 under the Exchange Act that was in effect on the date hereof, *provided* that any filing required or voluntarily made under the Exchange Act during the Lock-up Period shall note that such transaction was conducted pursuant to such preestablished Rule 10b5-1 trading plan; (ii) the transfer of Shares or Related Securities by gift, or by will or intestate succession to a Family Member or to a trust whose beneficiaries consist exclusively of one or more of the undersigned and/or a Family Member, or to a charitable organization, *provided* that any filing required to be made under the Exchange Act discloses therein that such transfer is a disposition by bona fide gift or otherwise a transfer for no value (and if the transferee is a person, trust or entity that would report a corresponding acquisition of such securities on the undersigned's Form 4, and such acquisition is entitled to be reported on a Form 5, such acquisition may be voluntarily reported on such Form 4), (iii) transfers by operation of law, including pursuant to a court or regulatory agency order, a qualified domestic relations order or in connection with a divorce settlement, (iv) transfers as a distribution to limited partners, limited liability company members or stockholders of the undersigned, (v) transfers to a corporation, partnership, limited liability company, investment fund or other entity that controls or is controlled by, or is under common control with, the undersigned, or is wholly-owned by the undersigned, or, in the case of an investment fund, that is managed by, or is under common management with, the undersigned (including, for the avoidance of doubt, a fund managed by the same manager or managing member or general partner or management company or by an entity controlling, controlled by, or under common control with such manager or managing member or general partner or management company as the undersigned or who shares a common investment advisor with the undersigned), and (vi) transfers of Shares or Related Securities pursuant to a bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Shares or Related Securities involving a Change of Control of the Company, *provided* that in the event that the tender offer, merger, consolidation or other such transaction is not completed, the Shares or Related Securities owned by the undersigned shall remain subject to the restrictions contained in this letter agreement ; *provided, however*, that in any such case (except with respect to clauses (i) and (vi) and as otherwise indicated above), it shall be a condition to such transfer that:

- each transferee executes and delivers to the Representative an agreement in form and substance satisfactory to the Representative stating that such transferee is receiving and holding such Shares and/or Related Securities subject to the provisions of this letter agreement and agrees not to Sell or Offer to Sell such Shares and/or Related Securities, engage in any Swap or engage in any other activities restricted under this letter agreement except in accordance with this letter agreement (as if such transferee had been an original signatory hereto),
- prior to the expiration of the Lock-up Period, no public disclosure or filing under the Exchange Act by any party to the transfer (donor, donee, transferor or transferee) shall be required, or made voluntarily, reporting a reduction in beneficial ownership of Shares in connection with such transfer, and
- any such transfers shall not involve a disposition for value.

“**Change of Control**” shall mean the transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons (other than an Underwriter pursuant to the Offering), of the Company's voting securities if, after such transfer, such person or group of affiliated persons would hold more than 50% of the outstanding voting securities of the Company (or the surviving entity).

With respect to the Offering only, the undersigned waives any registration rights relating to registration under the Securities Act of the offer and sale of any Shares and/or any Related Securities owned either of record or beneficially by the undersigned, including any rights to receive notice of the Offering.

The undersigned confirms that the undersigned has not, and has no knowledge that any Family Member has, directly or indirectly, taken any action designed to or that might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale of the Shares. The undersigned will not, and will cause any Family Member not to take, directly or indirectly, any such action.

Whether or not the Offering occurs as currently contemplated or at all depends on market conditions and other factors. The Offering will only be made pursuant to the Underwriting Agreement, the terms of which are subject to negotiation between the Company and the Underwriters.

The undersigned acknowledges and agrees that the Underwriters have not provided any recommendation or investment advice nor have the Underwriters solicited any action from the undersigned with respect to the Offering and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate. The undersigned further acknowledges and agrees that, although the Representative may be required or choose to provide certain Regulation Best Interest and Form CRS disclosures to you in connection with the Public Offering, the Representative and the other Underwriters are not making a recommendation to you to enter into this letter agreement, and nothing set forth in such disclosures is intended to suggest that the Representative or any Underwriter is making such a recommendation.

The undersigned understands that if, (i) the Company notifies the Representative in writing that it does not intend to proceed with the Offering, (ii) the purchase of the Offered Shares (as defined in the Underwriting Agreement) does not occur by September 30, 2024, or (iii) the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Common Stock to be sold thereunder, then the undersigned shall be released from all obligations under this letter agreement.

The undersigned hereby represents and warrants that the undersigned has full power, capacity and authority to enter into this letter agreement. This letter agreement is irrevocable and will be binding on the undersigned and the successors, heirs, personal representatives and assigns of the undersigned.

This letter agreement and any claim, controversy or dispute arising hereunder or related hereto shall be governed by, and construed in accordance with, the laws of the State of New York.

[Signature page follows]

Signature

Printed Name of Person Signing

Title

(Indicate capacity of person signing if signing as custodian or trustee, or on behalf of an entity)

Certain Defined Terms Used in Lock-up Agreement

For purposes of the letter agreement to which this Annex A is attached and of which it is made a part:

- “**Call Equivalent Position**” shall have the meaning set forth in Rule 16a-1(b) under the Exchange Act.
- “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended.
- “**Family Member**” shall mean the spouse of the undersigned, an immediate family member of the undersigned or an immediate family member of the undersigned’s spouse, in each case living in the undersigned’s household or whose principal residence is the undersigned’s household (regardless of whether such spouse or family member may at the time be living elsewhere due to educational activities, health care treatment, military service, temporary internship or employment or otherwise). “**Immediate family member**” as used above shall have the meaning set forth in Rule 16a-1(e) under the Exchange Act.
- “**Lock-up Period**” shall mean the period beginning on the date hereof and continuing through the close of trading on the date that is 90 days after the date of the Prospectus (as defined in the Underwriting Agreement).
- “**Put Equivalent Position**” shall have the meaning set forth in Rule 16a-1(h) under the Exchange Act.
- “**Related Securities**” shall mean any options or warrants or other rights to acquire Shares or any securities exchangeable or exercisable for or convertible into Shares, or to acquire other securities or rights ultimately exchangeable or exercisable for or convertible into Shares.
- “**Securities Act**” shall mean the Securities Act of 1933, as amended.
- “**Sell or Offer to Sell**” shall mean to:
 - sell, offer to sell, contract to sell or lend,
 - effect any short sale or establish or increase a Put Equivalent Position or liquidate or decrease any Call Equivalent Position
 - pledge, hypothecate or grant any security interest in, or
 - in any other way transfer or dispose of,

in each case whether effected directly or indirectly.

- “**Swap**” shall mean any swap, hedge or similar arrangement or agreement that transfers, in whole or in part, the economic risk of ownership of Shares or Related Securities, regardless of whether any such transaction is to be settled in securities, in cash or otherwise.

Capitalized terms not defined in this Annex A shall have the meanings given to them in the body of this lock-up agreement.

Lock-Up Parties

Officers

Roger Jeffs
Michael Kaseta
Rajeev Saggar
Russell Schundler
Jason Adair
Scott Moomaw

Directors

Stephen M. Bloch
Damian deGoa
Joanna Horobin
David Johnson
Arthur Kirsch
Paul Manning
Katie Rielly-Gauvin
Raman Singh

Stockholders

Caligan Partners LP
Canaan VIII L.P

DLA
Piper LLP (US)
51 John F. Kennedy
Parkway, Suite 120
Short Hills,
New Jersey 07078
www.dlapiper.com
T: 973-520-2550
F: 973-520-2551

Attorneys Responsible for Short Hills Office:
Emilio Ragosa

September 12, 2024
Liquidia Corporation
419 Davis Drive, Suite 100
Morrisville, North Carolina 27560

Re: Liquidia Corporation, Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as counsel to Liquidia Corporation, a Delaware corporation (the “Company”), in connection with the sale by the Company of 6,460,674 shares (“Shares”) of the Company’s common stock, par value \$0.001 per share (the “Common Stock”), pursuant to a registration statement on Form S-3 (File No. 333-276244) (the “Registration Statement”), initially filed with the United States Securities and Exchange Commission (the “SEC”) on December 22, 2023, subsequently amended on December 28, 2023, and declared effective by the SEC on January 3, 2024, and the prospectus contained therein, as supplemented by the prospectus supplement dated September 11, 2024 (the “Prospectus Supplement”).

In connection with this opinion letter, we have examined the Registration Statement, the Prospectus Supplement and originals, or copies certified or otherwise identified to our satisfaction, of the Certificate of Incorporation, as amended, and the Bylaws of the Company, and the minutes of meetings of the stockholders and the Board of Directors, as provided to us by the Company, and such other documents, records and other instruments as we have deemed appropriate for purposes of the opinion set forth herein.

We have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of the documents submitted to us as originals, the conformity with the originals of all documents submitted to us as certified, facsimile or photostatic copies and the authenticity of the originals of all documents submitted to us as copies.

Based upon the foregoing, we are of the opinion that the Shares have been duly authorized and are validly issued, fully paid and nonassessable.

The opinion expressed herein is limited to the Delaware General Corporation Law.

We hereby consent to the use of this opinion as Exhibit 5.1 to the Company’s Current Report on Form 8-K filed with the SEC on September 12, 2024 and its incorporation by reference into the Registration Statement and to the reference to us under the caption “Legal Matters” in each of the base prospectus included in the Registration Statement and the Prospectus Supplement. In giving such consent, we do not hereby admit that we are acting within the category of persons whose consent is required under Section 7 of the Securities Act or the rules or regulations of the U.S. Securities and Exchange Commission thereunder.

Very truly yours,

/s/ **DLA Piper LLP (US)**

COMMON STOCK PURCHASE AGREEMENT

COMMON STOCK PURCHASE AGREEMENT (this “**Agreement**”), dated as of September 10, 2024, by and among Liquidia Corporation, a Delaware corporation, with headquarters located at 419 Davis Drive, Suite 100, Morrisville, NC 27560 (the “**Company**”) and each of the investors listed on the Schedule of Buyers attached hereto (individually, a “**Buyer**” and collectively, the “**Buyers**”).

A. **WHEREAS**, each Buyer wishes to purchase from the Company at the Closing (as defined below), and the Company wishes to sell, upon the terms and conditions stated in this Agreement, that aggregate number of shares of the Company’s common stock, par value \$0.001 per share (the “**Company Common Stock**”), obtained by dividing (i) the aggregate purchase price as set forth opposite such Buyer’s name in column (3) on the Schedule of Buyers attached hereto (each, a “**Purchase Price**”), by (ii) the Per Share Purchase Price (as defined in Section 1(a) below), rounded to the nearest whole number (collectively, the “**Common Shares**”) (provided that in no event shall the number of Common Shares issued and sold at the Closing exceed 19.99% of the outstanding shares of Company Common Stock immediately prior to the date of this Agreement), and the Company desires to sell the Common Shares to the Buyers, all on the terms and conditions set forth in this Agreement;

B. **WHEREAS**, in reliance upon the representations made by each of the Buyers and the Company in this Agreement, the transactions contemplated by this Agreement are such that the offer and sale of securities by the Company under this Agreement will be exempt from registration under applicable United States securities laws as a result of the transaction being contemplated hereby being undertaken pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended (the “**1933 Act**”) and Rule 506 of Regulation D (“**Regulation D**”) as promulgated by the U.S. Securities and Exchange Commission (the “**SEC**”) under the 1933 Act;

C. **WHEREAS**, contemporaneously with the execution and delivery of this Agreement, the parties hereto are executing and delivering a Registration Rights Agreement, in the form attached hereto as Exhibit A (as may be amended, amended and restated, or supplemented from time to time, the “**Registration Rights Agreement**”), pursuant to which the Company has agreed to provide certain registration rights with respect to the Registrable Securities (as defined in the Registration Rights Agreement) under the 1933 Act and the rules and regulations promulgated thereunder, and applicable state securities laws; and

D. **WHEREAS**, concurrently with the transaction contemplated hereby, the Company is contemplating an underwritten registered public offering of its Common Shares (the “**Public Offering**”), and the Buyers contemplated in this Agreement are not being solicited in the Public Offering.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Company and each Buyer hereby agree as follows:

1. PURCHASE AND SALE OF COMMON SHARES.

(a) Purchase of Common Shares. Subject to the satisfaction (or waiver) of all of the conditions set forth in Section 5 and Section 6 below, the Company, at the Closing, shall issue and sell to each Buyer, and each Buyer severally, but not jointly, agrees to purchase from the Company on the Closing Date (as defined below), the number of Common Shares obtained by dividing (i) the Purchase Price as set forth opposite such Buyer’s name in column (3) on the Schedule of Buyers attached hereto, by (ii) a purchase price equal to the purchase price per share of Company Common Stock sold in the Public Offering per Common Share (as adjusted for stock splits, stock dividends, recapitalizations, reorganizations, reclassifications, combinations, reverse stock splits or other similar events occurring with respect to the Company Common Stock after the date hereof) (the “**Per Share Purchase Price**”), rounded to the nearest whole number.

(b) Closing. On the Closing Date (as defined below), upon the terms and subject to the conditions set forth herein, the Company agrees to sell, and each Buyer agrees to purchase, such number of Common Shares calculated as set forth in Section 1(a) at the Purchase Price (the “**Closing**”), provided, that in no event shall the number of Common Shares issued and sold at the Closing exceed 19.99% of the outstanding shares of Company Common Stock immediately prior to the date of this Agreement. The Closing shall occur on September 12, 2024, subject to the consummation of the Public Offering and the satisfaction or waiver of the other conditions set forth in Section 5 and Section 6 in accordance with this Agreement (the “**Closing Date**”), at the offices of DLA Piper LLP (US), 51 John F. Kennedy Parkway, Suite 120, Short Hills, NJ 07078, or at such later date, time or other location as the parties may mutually agree in writing. At or prior to the Closing, each of the Company and the Buyers shall execute any related agreements or other documents required to be executed as of the Closing as provided in Section 5 and Section 6 below, each dated the Closing Date. The Common Shares shall be delivered via a book-entry record through the Company’s transfer agent. Unless the Company and a Buyer otherwise mutually agree in writing with respect to such Buyer’s Common Shares, at the Closing settlement shall occur on a “delivery versus payment” basis.

(c) Purchase Price. The aggregate purchase price for the Common Shares to be purchased by each Buyer at the Closing pursuant to this Agreement shall be as set forth opposite such Buyer's name in column (3) on the Schedule of Buyers attached hereto. Notwithstanding anything to the contrary in this Agreement, the Schedule of Buyers may be amended up to one (1) Business Day prior to the Closing (i) by the Company, without the consent of the other parties hereto, to reflect a lower Purchase Price to be paid by each Buyer at the Closing; provided, that the Company shall not lower the aggregate Purchase Price below \$10 million and the Lead Investor (as defined below) shall be allowed to determine the allocation between each Buyer and (ii) by the Lead Investor, without the consent of the other parties hereto, to reflect a different allocation between each Buyer of the total Purchase Price reflected on the Schedule of Buyers (without changing the total Purchase Price reflected on the Schedule of Buyers) and, in each case, such amending party shall provide to the other parties such updated Schedule of Buyers.

(d) Section 4(a)(2) and Regulation D. Assuming the accuracy of the representations and warranties of each Buyer and the Company set forth in Section 2 and Section 3, respectively, the parties acknowledge and agree that the purpose of such representations and warranties is, among other things, to ensure that the transaction contemplated hereby qualify as a sale of securities under Section 4(a)(2) of the 1933 Act and Rule 506 of Regulation D as promulgated by the SEC under the 1933 Act.

(e) Allocation of Purchase Price. The Company and each Buyer, as a result of arm's length bargaining, agree that (I) none of the Buyers nor any of their affiliates (as defined in Rule 144) (an "**Affiliate**") have rendered services to the Company in connection with this Agreement, and (II) except as otherwise required by a final "determination" within the meaning of Section 1313(a)(1) of the U.S. Internal Revenue Code of 1986, as amended, all tax returns and other information returns of each party relative to this Agreement, and the Common Shares issued pursuant hereto shall consistently reflect the matters agreed to in clause (I) of this Section 1(e).

2. BUYER'S REPRESENTATIONS AND WARRANTIES. Each Buyer, severally and not jointly, represents and warrants with respect to only itself to the Company that, as of the date hereof and as of the Closing Date:

(a) Organization and Existence. Such Buyer is a duly incorporated or organized and validly existing corporation, limited partnership, limited liability company or other legal entity, has all requisite corporate, partnership or limited liability company power and authority to enter into and consummate the transactions contemplated by the Transaction Documents (as defined below) and to carry out its obligations hereunder and thereunder, and to invest in the Common Shares pursuant to this Agreement, and is in good standing under the laws of the jurisdiction of its incorporation or organization.

(b) No Public Sale or Distribution. Such Buyer is acquiring the Common Shares for its own account, not as nominee or agent, for the purpose of investment and not with a view towards, or for resale in connection with, the public sale or distribution thereof, except pursuant to sales registered or exempted under the 1933 Act; provided, however, that by making the representations herein, such Buyer does not agree to hold any of the Common Shares for any minimum or other specific term and reserves the right to dispose of the Common Shares at any time in accordance with or pursuant to a registration statement or an exemption under the 1933 Act. Such Buyer is acquiring the Common Shares hereunder in the ordinary course of its business. Such Buyer does not presently have any agreement or understanding, directly or indirectly, with any Person to distribute any of the Common Shares. For purposes of this Agreement, "**Person**" means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

(c) Accredited Investor Status; No Disqualification Events. Such Buyer is (i) an "accredited investor" as that term is defined in Rule 501(a) of Regulation D and (ii) an "Institutional Account" as defined in FINRA Rule 4512(c). Such Buyer is a sophisticated institutional investor with sufficient knowledge and experience in investing in private equity transactions to properly evaluate the risks and merits of its purchase of the Common Shares. None of the "bad actor" disqualifications described in Rule 506(d)(1)(i) through (viii) under the 1933 Act ("**Disqualification Events**") are applicable to such Buyer or any of its Rule 506(d) Related Parties (as defined below), except, if applicable, for a Disqualification Event as to which Rule 506(d)(2)(ii) or (iii) or (d)(3) is applicable. Such Buyer hereby agrees that it shall notify the Company promptly in writing in the event a Disqualification Event becomes applicable to such Buyer or any of its Rule 506(d) Related Parties, except, if applicable, for a Disqualification Event as to which Rule 506(d)(2)(ii) or (iii) or (d)(3) is applicable. For purposes of this Section 2(c), "**Rule 506(d) Related Party**" shall mean a Person that is a beneficial owner of such Buyer's securities for purposes of Rule 506(d) of the 1933 Act.

(d) No General Solicitation. Such Buyer did not learn of the investment in the Common Shares as a result of any general or public advertising or, to such Buyer's knowledge, general solicitation, or publicly disseminated advertisements or sales literature, including (a) any advertisement, article, notice or other communication published in any newspaper, magazine, website, or similar media, or broadcast over television or radio, or (b) any seminar or meeting to which such Buyer was invited by any of the foregoing means of communications.

(e) Brokers and Finders. No Person will have, as a result of the transactions contemplated by the Transaction Documents, any valid right, interest or claim against or upon the Company or a Buyer for any commission, fee or other compensation pursuant to any agreement, arrangement or understanding entered into by, on behalf of such Buyer.

(f) Short Sales and Confidentiality Prior to the Date Hereof. Other than consummating the transactions contemplated hereunder, such Buyer has not, nor has any Person acting on behalf of such Buyer or pursuant to any understanding with such Buyer, directly or indirectly executed any purchases or sales, including "short sales" (as defined in Rule 200 of Regulation SHO under the Securities Exchange Act of 1934, as amended (the "1934 Act")), of the securities of the Company, including any derivatives, during the period commencing as of the time that such Buyer was first contacted by the Company or any other Person regarding the transactions contemplated hereby and ending immediately prior to the date hereof. Notwithstanding the foregoing, in the case of a Buyer that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Buyer's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Buyer's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Common Shares covered by this Agreement. Other than to other Persons party to this Agreement and other than to such Person's outside attorney, accountant, auditor or investment advisor only to the extent necessary to permit evaluation of the investment, and the performance of the necessary or required tax, accounting, financial, legal, or administrative tasks and services and other than as may be required by law, as of the date of this Agreement such Buyer has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect "short sales" or similar transactions in the future.

(g) Reliance on Exemptions. Such Buyer understands that the Common Shares are being offered and sold to it in reliance on specific exemptions from the registration requirements of U.S. federal and state securities laws and that the Company is relying in part upon the truth and accuracy of, and such Buyer's compliance with, the representations, warranties, agreements, acknowledgments and understandings of such Buyer set forth herein in order to determine the availability of such exemptions and the eligibility of such Buyer to acquire the Common Shares.

(h) Information. Such Buyer has been furnished with all materials relating to the business, finances and operations of the Company and materials relating to the transactions contemplated hereunder that have been requested by such Buyer. Such Buyer has been afforded the opportunity to ask questions of the Company. Neither such inquiries nor any other due diligence investigations conducted by such Buyer or its representatives shall modify, amend or affect such Buyer's right to rely on the Company's representations and warranties contained herein. Such Buyer acknowledges that all of the documents filed by the Company with the SEC under Sections 13(a), 14(a) or 15(d) of the 1934 Act that have been posted on the SEC's EDGAR site are available to such Buyer, and such Buyer has not relied on any statement of the Company not contained in such documents or in this Agreement (including all schedules attached hereto) in connection with such Buyer's decision to enter into this Agreement and the transactions contemplated hereby. Such Buyer has not relied on any information or advice furnished by or on behalf of any other Buyer in connection with the transaction contemplated hereby.

(i) Risk. Such Buyer understands that its investment in the Common Shares involves a high degree of risk. Such Buyer is able to bear the risk of an investment in the Common Shares, including, without limitation, the risk of total loss of its investment. Such Buyer has sought such accounting, legal and tax advice as it has considered necessary to make an informed investment decision with respect to the transactions contemplated hereby. Such Buyer understands that there is no assurance that the Common Shares will continue to be quoted, traded or listed for trading or quotation on the Nasdaq Capital Market ("Nasdaq") or on any other organized market or quotation system.

(j) No Governmental Review. Such Buyer understands that no U.S. federal or state agency or any other government or governmental agency has passed on or made any recommendation or endorsement of the Common Shares or the fairness or suitability of the investment in the Common Shares nor have such authorities passed upon or endorsed the merits of the offering of the Common Shares.

(k) Residency. Such Buyer's office in which its investment decision with respect to the Common Shares was made is located at the address immediately below such Buyer's name on its signature page hereto.

(l) Transfer or Resale. Such Buyer acknowledges and agrees that the Common Shares are "restricted securities" as defined in Rule 144 promulgated under the 1933 Act as in effect from time to time (or a successor rule thereto) ("**Rule 144**") and must be held indefinitely unless they are subsequently registered under the 1933 Act or an exemption from such registration is available. Such Buyer has been advised or is aware of the provisions of Rule 144, which permits limited resale of shares purchased in a private placement subject to the satisfaction of certain conditions, including, among other things: the availability of certain current public information about the Company during a certain period of time, if any, the resale occurring following the required holding period under Rule 144 and under certain circumstances the number of shares being sold during any three-month period not exceeding specified limitations.

(m) Authorization; Validity; Enforcement. Such Buyer has all requisite power and authority to enter into this Agreement and the other Transaction Documents to which such Buyer is a party, to carry out its obligations hereunder and to consummate the transactions contemplated hereby. This Agreement and the other Transaction Documents to which such Buyer is a party have been duly and validly authorized, executed and delivered by such Buyer and shall constitute the legal, valid and binding obligations of such Buyer enforceable against such Buyer in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation and other similar laws relating to, or affecting generally, the enforcement of applicable creditors' rights and remedies.

(n) Legends. Such Buyer understands that the certificates or other instruments representing the Common Shares, until such time as the exchange or resale of the Common Shares have been registered under the 1933 Act, may bear a restrictive legend in the following form (and a stop-transfer order may be placed against transfer of such Common Shares):

THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), OR UNDER THE SECURITIES LAWS OF ANY STATE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE ACT AND APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME. THE ISSUER OF THESE SECURITIES MAY REQUIRE AN OPINION OF COUNSEL IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO THE ISSUER TO THE EFFECT THAT ANY PROPOSED TRANSFER OR RESALE IS IN COMPLIANCE WITH THE ACT.

In addition, if any Buyer is an affiliate of the Company, the Common Shares issued to such Buyer may bear the following "affiliates" legend:

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE HELD BY AN AFFILIATE OF THE ISSUER AS DEFINED IN RULE 144 PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**ACT**"), AND MAY ONLY BE SOLD OR OTHERWISE TRANSFERRED IN COMPLIANCE WITH THE REQUIREMENTS OF RULE 144 OR PURSUANT TO A REGISTRATION STATEMENT UNDER SAID ACT OR AN EXEMPTION FROM SUCH REGISTRATION.

(o) No Conflicts. The execution, delivery and performance by such Buyer of this Agreement and the other Transaction Documents to which such Buyer is a party and the consummation by such Buyer of the transactions contemplated hereby and thereby will not (i) result in a violation of the organizational documents of such Buyer or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which such Buyer is a party, or (iii) result in a violation of any law, rule, regulation, order, judgment or decree (including federal and state securities laws) applicable to such Buyer, except in the case of clauses (ii) and (iii) above, for such conflicts, defaults, rights or violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Buyer to perform its obligations hereunder.

(p) Current Ownership. As of the date hereof, each Buyer's (and its Affiliates) ownership of Company securities (including any derivatives), if any, is set forth in such Buyer's or its Affiliate's filings filed with the SEC pursuant to Section 13 and Section 16 of the 1934 Act

(q) Forward Looking Statements. In connection with the due diligence investigation of the Company by each Buyer, such Buyer has received and may continue to receive after the date hereof from the Company certain estimates, projections, forecasts, regulatory approval expectations and other forward-looking information, as well as certain business plan information, regarding the Company and its affiliates and subsidiaries and their respective businesses and operations. Such Buyer hereby acknowledges and agrees (a) that there are uncertainties inherent in attempting to make such estimates, projections, forecasts, regulatory approval expectations and other forward-looking statements, as well as business plans, (b) to take full responsibility for making its own evaluation of the adequacy and accuracy of all such estimates, projections, forecasts, regulatory approval expectations and other forward-looking statements, as well as such business plans, so furnished to it (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, forward-looking statements or business plans), and (c) that the Company has not made and is not making any express or implied representation or warranty with respect to such estimates, projections, forecasts, regulatory approval expectations, forward-looking statements or business plans (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, regulatory approval expectations, forward-looking statements or business plans).

3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY.

The Company represents and warrants to each of the Buyers that, as of the date hereof and as of the Closing Date, except as set forth in the SEC Reports (as defined below), which SEC Reports shall be deemed a part hereof:

(a) Organization and Qualification. The Company and each of its subsidiaries is an entity duly organized and validly existing and in good standing under the laws of its jurisdiction of formation, and has the requisite corporate (or other) power and authorization to own its properties and to carry on its business as now being conducted and as presently proposed to be conducted. The Company and each of its subsidiaries is duly qualified as a foreign corporation to do business and is in good standing in every jurisdiction in which its ownership of property or the nature of the business conducted by it makes such qualification necessary, except to the extent that the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect. As used in this Agreement, "**Material Adverse Effect**" means any material adverse effect on (i) the business, properties, assets, liabilities, operations, results of operations or condition (financial or otherwise) of the Company or any of its subsidiaries, individually or taken as a whole, or (ii) on the transactions contemplated hereby and the other Transaction Documents or (iii) on the other Transaction Documents or by the agreements and instruments to be entered into in connection herewith or therewith, or (iv) on the authority or ability of the Company to perform any of its obligations under any of the Transaction Documents or (v) on the legality, validity, binding effect or enforceability of any of the Transaction Documents, except that any of the following, either alone or in combination, shall not be deemed a Material Adverse Effect: (a) effects caused by changes or circumstances affecting general market or other conditions in the U.S. economy or which are generally applicable to the industry in which the Company operates, provided that such effects are not borne to a materially disproportionate degree by the Company compared to other companies operating in the same industry as the Company, (b) effects resulting from or relating to the announcement or disclosure of the sale of the Common Shares or other transactions contemplated by this Agreement, (c) effects caused by any event, occurrence or condition resulting from or relating to the taking of any action in accordance with this Agreement or the Transaction Documents, or (d) effects resulting from Hatch-Waxman based litigation relating to the Company's LIQ861 product candidate or from any litigation set forth in the SEC Reports. Except as set forth in the SEC Reports, the Company does not, directly or indirectly, own any of the capital stock or hold an equity or similar interest in any entity.

(b) Authorization; Enforcement; Validity. The Company has the requisite corporate power and authority to enter into and perform its obligations under this Agreement, the Registration Rights Agreement and each of the other agreements entered into by the Company in connection with the transactions contemplated by this Agreement (collectively, the “**Transaction Documents**”) and to issue the Common Shares in accordance with the terms hereof and thereof. The execution and delivery of this Agreement and the other Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby, including, without limitation, the issuance of the Common Shares, have been duly authorized by the Company’s Board of Directors, including pursuant to Rule 16b-3 promulgated under the 1934 Act, and (other than the filing of a Form D with the SEC and any other filings as may be required by any state securities agencies), no further filing, consent or authorization is required by the Company, its Boards of Directors or its stockholders. This Agreement and the other Transaction Documents have been duly executed and delivered by the Company, and constitute the legal, valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms, except as such enforceability may be limited by general principles of equity or applicable bankruptcy, insolvency, reorganization, moratorium, liquidation or similar laws relating to, or affecting generally, the enforcement of applicable creditors’ rights and remedies.

(c) Issuance of Common Shares. The issuance of the Common Shares at the Closing is duly authorized and, upon issuance in accordance with the terms of the Transaction Documents, the Common Shares shall be validly issued and free from all preemptive or similar rights (except for those which have been validly waived prior to the date hereof), taxes, liens and charges and other encumbrances with respect to the issue thereof and the Common Shares shall be fully paid and nonassessable with the holders being entitled to all rights accorded to a holder of Company Common Stock. Assuming the accuracy of each of the representations and warranties set forth in Section 2 of this Agreement, the offer and issuance by the Company of the Common Shares is exempt from registration under the 1933 Act. The offer and issuance of the Common Shares hereunder will not obligate the Company to issue shares of Company Common Stock or other securities to any other Person (other than the Buyers) and will not result in the adjustment of the exercise, conversion, exchange or reset price of any outstanding security.

(d) No Conflicts. The execution, delivery and performance of the Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby (including, without limitation, the issuance of the Common Shares) will not (i) result in a violation of the Company’s certificate of incorporation, as amended and restated and as in effect on the date hereof or on the Closing, as applicable (the “**Certificate of Incorporation**”), or the Company’s bylaws, as amended and restated and as in effect on the date hereof or on the Closing, as applicable (the “**Bylaws**”), or (ii) conflict with, or constitute a default (or an event which with notice or lapse of time or both would become a default) in any respect under, or give to others any rights of termination, amendment, acceleration or cancellation of, any agreement, indenture or instrument to which the Company is a party, or (iii) result in a violation of any applicable law, rule, regulation, order, judgment or decree (including foreign, federal and state securities laws and regulations and the rules and regulations of Nasdaq) applicable to the Company or by which any property or asset of the Company is bound or affected, except, in the case of clauses (ii) and (iii) above, as would not have or reasonably be expected to result in a Material Adverse Effect.

(e) Consents. The Company is not required to obtain any consent from, authorization or order of, or make any filing or registration with (other than the filing of a Form D with the SEC and any other filings as may be required by any state securities agencies), any court, governmental agency or any regulatory or self-regulatory agency or any other Person in order for it to execute, deliver or perform any of its obligations under or contemplated by the Transaction Documents, in each case, in accordance with the terms hereof or thereof. All consents, authorizations, orders, filings and registrations which the Company is required to obtain pursuant to the preceding sentence have been obtained or effected on or prior to the Closing Date.

(f) Acknowledgment Regarding Buyer’s Purchase of Common Shares. The Company acknowledges and agrees that each Buyer is acting solely in the capacity of an arm’s length purchaser with respect to the Transaction Documents and the transactions contemplated hereby and thereby and that, except as set forth in the SEC Reports, no Buyer is (i) an officer or director of the Company, (ii) an “affiliate” of the Company (as defined in Rule 144) or (iii) to the knowledge of the Company, a “beneficial owner” (as defined for purposes of Rule 13d-3 of the 1934 Act) of more than 10% of the Company Common Stock. The Company further acknowledges that no Buyer is acting as a financial advisor or fiduciary of the Company or any other Buyer (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated hereby and thereby, and any advice given by a Buyer or any of its representatives or agents in connection with the Transaction Documents and the transactions contemplated hereby and thereby is merely incidental to such Buyer’s purchase of the Common Shares. The Company further represents to each Buyer that the Company’s decision to enter into the Transaction Documents has been based solely on the independent evaluation by the Company and its representatives.

(g) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company, if any, under the 1933 Act and the 1934 Act, including pursuant to Section 13(a) or 15(d) of the 1934 Act, for the twelve (12) months preceding the date of this Agreement (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, being collectively referred to herein as the “**SEC Reports**”) on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the 1933 Act and the 1934 Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the SEC with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with generally accepted accounting principles in the United States (“**GAAP**”) applied on a consistent basis during the periods involved, except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by GAAP applied on a consistent basis during the periods involved, and fairly present in all material respects the financial position of the Company as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments. As of the date of this Agreement and as of the Closing Date, there are no outstanding or unresolved comments received from the staff of the SEC with respect to the SEC Reports, and to the Company’s knowledge, none of the SEC Reports is the subject of any ongoing SEC review or investigation. No other information provided by or on behalf of the Company to any of the Buyers which is not included in the SEC Reports, including, without limitation, information referred to in Section 2(g) of this Agreement contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstance under which they are or were made, not misleading.

(h) Subsidiaries. Except as set forth in the SEC Reports, the Company does not have any subsidiaries.

(i) No General Solicitation; Placement Agent’s Fees. Neither the Company nor its affiliates, nor any Person acting on their behalf, has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with the offer or sale of the Common Shares. There are no placement agent fees, financial advisory fees, or brokers’ commissions (other than for Persons engaged by or on behalf of any Buyer or its investment advisor) relating to or arising out of the transactions contemplated hereby in connection with the sale of the Common Shares. The Company shall pay, and hold each Buyer harmless against, any liability, loss or expense (including, without limitation, attorney’s fees and out-of-pocket expenses) arising in connection with any such claim. The Company has not engaged any placement agent or other agent in connection with the offer or sale of the Common Shares.

(j) No Integrated Offering. Neither the Company nor any of its affiliates, nor any Person acting on their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would require registration of the issuance of any of the Common Shares under the 1933 Act, whether through integration with prior offerings or otherwise, or cause this offering of the Common Shares to require approval of shareholders of the Company for purposes of the 1933 Act or any applicable shareholder approval provisions, including, without limitation, under the rules and regulations of any exchange or automated quotation system on which any of the securities of the Company are listed or designated for quotation.

(k) Application of Takeover Protections; Rights Agreement. The Company and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any control share acquisition, interested stockholder, business combination, poison pill (including, without limitation, any distribution under a rights agreement) or other similar anti-takeover provision under the Certificate of Incorporation, Bylaws or other organizational documents or the laws of the jurisdiction of its formation which is or could become applicable to any Buyer as a result of the transactions contemplated by this Agreement, including, without limitation, the issuance of the Common Shares and any Buyer’s ownership of the Common Shares. The Company and its Board of Directors have taken all necessary action, if any, in order to render inapplicable any stockholder rights plan or similar arrangement relating to accumulations of beneficial ownership of Company Common Stock or a change in control of the Company.

(l) Absence of Certain Changes. Except as disclosed in the SEC Reports, since December 31, 2023, there has been no material adverse change and no material adverse development in the business, assets, liabilities, properties, operations, condition (financial or otherwise), results of operations or prospects of the Company. Except as disclosed in the SEC Reports, since December 31, 2023, the Company has not (i) declared or paid any dividends or (ii) sold any assets, individually or in the aggregate, in excess of \$100,000 outside of the ordinary course of business. The Company has not taken any steps to seek protection pursuant to any law or statute relating to bankruptcy, insolvency, reorganization, receivership, liquidation or winding up, nor does the Company have any knowledge or reason to believe that any of its creditors intend to initiate involuntary bankruptcy proceedings or any actual knowledge of any fact which would reasonably lead a creditor to do so. The Company is not as of the date hereof and, after giving effect to the transactions contemplated hereby to occur at the Closing, will not be Insolvent (as defined below). For purposes of this Agreement, “**Insolvent**” means, with respect to any Person, (i) the present fair saleable value of such Person’s assets is less than the amount required to pay such Person’s total Indebtedness (as defined below), (ii) such Person is unable to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured, (iii) such Person intends to incur or believes that it will incur debts that would be beyond its ability to pay as such debts mature or (iv) such Person has unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted.

(m) No Undisclosed Events, Liabilities, Developments or Circumstances. No event, liability, development or circumstance has occurred or exists, or is contemplated to occur with respect to the Company or its business, properties, prospects, operations or financial condition, that would be required to be disclosed by the Company under applicable securities laws on a registration statement on Form S-1 filed with the SEC relating to an issuance and sale by the Company of Company Common Stock and which has not been publicly disclosed other than set forth herein.

(n) Conduct of Business; Regulatory Permits. The Company is not in violation of any term of or in default under the Certificate of Incorporation or the Bylaws. The Company is not in violation of any judgment, decree or order or any statute, ordinance, rule or regulation applicable to the Company, and the Company will not conduct its business in violation of any of the foregoing, except in all cases for possible violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. From November 18, 2020 to the date hereof, the Company Common Stock has been designated for quotation on Nasdaq. From November 18, 2020 to the date hereof, (i) trading in the Company Common Stock has not been suspended by the SEC or Nasdaq and (ii) the Company has received no communication, written or oral, from the SEC or Nasdaq regarding the suspension or delisting of the Company Common Stock from Nasdaq. The Company and each of its subsidiaries possesses all certificates, authorizations and permits issued by the appropriate foreign, federal or state regulatory authorities necessary to conduct its business, except where the failure to possess such certificates, authorizations or permits would not have, individually or in the aggregate, a Material Adverse Effect, and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit. Without limiting the generality of the foregoing, the Company has no knowledge of any facts or circumstances that would reasonably lead to delisting or suspension of Company Common Stock by Nasdaq in the foreseeable future. The Company is in compliance with applicable Nasdaq continued listing requirements. The issuance and sale of the Common Shares does not contravene the rules and regulations of Nasdaq and shall not have the effect of delisting or suspending of the Company Common Stock from Nasdaq.

(o) Foreign Corrupt Practices. Neither the Company nor any director, officer, agent, employee or other Person acting on behalf of the Company has, in the course of its actions for, or on behalf of, the Company (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expenses relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended; or (iv) made any unlawful bribe, rebate, payoff, influence payment, kickback or other unlawful payment to any foreign or domestic government official or employee.

(p) Transactions with Affiliates. Except as set forth in the SEC Reports, none of the officers, directors or employees of the Company is presently a party to any transaction with the Company (other than for ordinary course services as employees, officers or directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, or otherwise requiring payments to or from any such officer, director or employee or, to the knowledge of the Company, any corporation, partnership, trust or other Person in which any such officer, director, or employee has a substantial interest or is an employee, officer, director, trustee or partner.

(q) Equity Capitalization. As of December 31, 2023, the authorized capital stock of the Company consists of (i) 100,000,000 shares of Company Common Stock, of which as of June 30, 2024, 76,414,548 were issued and outstanding, 9,463,272 shares were issuable under outstanding options to purchase Company Common Stock at a weighted average exercise price of \$4.80 per share, 3,072,986 shares were issuable upon the vesting of restricted stock units and 450,000 shares were issuable under outstanding warrants to purchase Company Common Stock, and (ii) 10,000,000 shares of preferred stock of Company, none of which are issued or outstanding. Except as disclosed in the SEC Reports (i) none of the Company's capital stock is subject to preemptive rights or any other similar rights or any liens or encumbrances suffered or permitted by the Company; (ii) there are no outstanding options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any capital stock of the Company, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional capital stock of the Company or options, warrants, scrip, rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities or rights convertible into, or exercisable or exchangeable for, any capital stock of the Company; (iii) there are no outstanding debt securities, notes, credit agreements, credit facilities or other agreements, documents or instruments evidencing Indebtedness of the Company or by which the Company is or may become bound (other than in connection with that certain anticipated Fifth Amendment to the Revenue Interest Financing Agreement, to be executed prior to the Closing (the "**Fifth Amendment**")); (iv) there are no financing statements securing obligations in any amounts filed in connection with the Company; (v) there are no outstanding securities or instruments of the Company which contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company is or may become bound to redeem a security of the Company; (vi) the Company has no stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement; and (vii) the Company has no liabilities or obligations required to be disclosed in the SEC Reports which are not so disclosed in the SEC Reports, other than those incurred in the ordinary course of the Company's business and which, individually or in the aggregate, do not or could not have a Material Adverse Effect. All of the issued and outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid and nonassessable; none of such shares were issued in violation of any preemptive rights; and such shares were issued in compliance with applicable state and federal securities law and any rights of third parties. Except as disclosed in the SEC Reports, there are no other outstanding warrants, options, convertible securities or other rights, agreements or arrangements of any character under which the Company is or may be obligated to issue any equity securities of any kind, except as contemplated by this Agreement. There are no voting agreements, buy-sell agreements, option or right of first purchase agreements or other agreements of any kind between the Company and any of its securityholders relating to Company securities held by them. Except as provided in that certain: (i) Common Stock Purchase Agreement, dated as of December 12, 2023, by and among Liquidia Corporation and certain purchasers signatory thereto, (ii) Registration Rights Agreement, dated as of April 12, 2021, by and among Liquidia Corporation and certain purchasers signatory thereto and (iii) Registration Rights Agreement, dated as of December 23, 2019, by and among Liquidia Technologies, Inc. and certain Company stockholders signatory thereto, no Person has the right to require the Company to register any Company securities under the 1933 Act, whether on a demand basis or in connection with the registration of Company securities for its own account or for the account of any other Person.

(r) Indebtedness and Other Contracts. Except (i) as disclosed in the SEC Reports and (ii) in connection with the Fifth Amendment, neither the Company nor any of its subsidiaries (i) has any outstanding Indebtedness, (ii) is a party to any contract, agreement or instrument, the violation of which, or default under which, by the other party(ies) to such contract, agreement or instrument would reasonably be expected to result in a Material Adverse Effect, (iii) is in violation of any term of, or in default under, any contract, agreement or instrument relating to any Indebtedness, except where such violations and defaults would not result, individually or in the aggregate, in a Material Adverse Effect, or (iv) is a party to any contract, agreement or instrument relating to any Indebtedness, the performance of which, in the judgment of the Company's officers, has or is expected to have a Material Adverse Effect. For purposes of this Agreement: (x) "**Indebtedness**" of any Person means, without duplication (A) all indebtedness for borrowed money, (B) all obligations issued, undertaken or assumed as the deferred purchase price of property or services (including, without limitation, "finance leases" in accordance with GAAP applied on a consistent basis during the periods involved) (other than trade payables entered into in the ordinary course of business consistent with past practice), (C) all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments, (D) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of property, assets or businesses, (E) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to any property or assets acquired with the proceeds of such indebtedness (even though the rights and remedies of the seller or bank under such agreement in the event of default are limited to repossession or sale of such property), (F) all monetary obligations under any leasing or similar arrangement which, in connection with GAAP applied on a consistent basis during the periods involved is classified as a finance lease, (G) all indebtedness referred to in clauses (A) through (F) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any mortgage, claim, lien, tax, right of first refusal, pledge, charge, security interest or other encumbrance upon or in any property or assets (including accounts and contract rights) owned by any Person, even though the Person which owns such assets or property has not assumed or become liable for the payment of such indebtedness, and (H) all Contingent Obligations in respect of indebtedness or obligations of others of the kinds referred to in clauses (A) through (G) above; and (y) "**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to any indebtedness, finance lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto.

(s) Absence of Litigation. Except as set forth in the SEC Reports, there is no action, suit, proceeding, inquiry or investigation before or by Nasdaq, any court, public board, government agency, self-regulatory organization or body pending or, to the knowledge of the Company, threatened against or affecting the Company, any of its subsidiaries, Company Common Stock or any of Company's or any of its subsidiaries' officers or directors, whether of a civil or criminal nature or otherwise, in their capacities as such.

(t) Employee Relations. The Company is not a party to any collective bargaining agreement, nor does it employ any member of a union. The Company believes that its relations with its employees are good. No executive officer (as defined in Rule 501(f) promulgated under the 1933 Act) or other key employee of the Company has notified the Company that such officer intends to leave the Company or otherwise terminate such officer's employment with the Company. No executive officer or other key employee of the Company is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement, non-competition agreement, or any other contract or agreement or any restrictive covenant, and the continued employment of each such executive officer or other key employee (as the case may be) does not subject the Company to any liability with respect to any of the foregoing matters. The Company is in compliance with all federal, state, local and foreign laws and regulations respecting labor, employment and employment practices and benefits, terms and conditions of employment and wages and hours, except where failure to be in compliance would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(u) Title. The Company has good and marketable title in fee simple to all real property and good and marketable title to all personal property owned by it which is material to the business of the Company, in each case free and clear of all liens, encumbrances and defects except such as do not materially affect the value of such property and do not interfere with the use made and proposed to be made of such property by the Company. Any real property and facilities held under lease by the Company is held by it under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company.

(v) Intellectual Property Rights. The Company and each of its subsidiaries owns, free and clear of all liens, encumbrances and defects, or has obtained valid and enforceable licenses for, all Intellectual Property (as defined below) (i) described in the SEC Reports as being owned or licensed by it or (ii) which are necessary for the conduct of their respective businesses as currently conducted or as currently proposed to be conducted, in each case as such business is described in the SEC Reports (collectively, with respect to the Company and/or any of its subsidiaries, the "**Company Intellectual Property**"). To the Company's knowledge: (i) there are no third parties (including any present or former employees or contractors of the Company or any of its subsidiaries) who have rights to any Company Intellectual Property, except for customary reversionary rights of third-party licensors, and the conduct of the Company's or any of its subsidiaries' businesses as currently conducted or as currently proposed to be conducted (as such business is described in the SEC Reports) does not infringe, misappropriate or otherwise violate the Intellectual Property of any third party; and (ii) there is no infringement, misappropriation or other violation by third parties of any Company Intellectual Property. Except as set forth in the SEC Reports, there is no pending or, to the Company's knowledge, threatened action, suit, proceeding or claim by others: (A) challenging the Company's or any of its subsidiaries' rights in or to any Company Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; (B) challenging the validity, enforceability or scope of any Company Intellectual Property, and the Company is unaware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim; or (C) asserting that the Company or any of its subsidiaries infringes, misappropriates or otherwise violates, or would, upon the commercialization of any product or service described in the SEC Reports as under development, infringe, misappropriate or otherwise violate, any Intellectual Property rights of others, and the Company is not aware of any facts which would form a reasonable basis for any such action, suit, proceeding or claim. The Company has complied in all material respects with the terms of each agreement pursuant to which Intellectual Property has been licensed to the Company or any of its subsidiaries, and all such agreements are in full force and effect. The products or product candidates described in the SEC Reports (each a "**Company Product**") as under development by the Company or any of its subsidiaries fall within the scope of the claims of one or more patents or patent applications owned by, or exclusively licensed to, the Company or any of its subsidiaries, the rights of the Company or any of its subsidiaries under which entitle (or in the case of patent applications, once issued, would entitle) the Company or any of its subsidiaries to claim in good faith that a third party should cease the manufacture, use, sale or importation of such Company Product. The Company has taken commercially reasonable efforts to protect, enforce and maintain the material Company Intellectual Property. All present or former employees, consultants or independent contractors involved the development of any material Company Intellectual Property have executed written agreements under which he, she or it assigns all rights to such Intellectual Property to the Company or any of its subsidiaries and agrees to protect Company's and its subsidiaries' trade secrets and other confidential information. The term "**Intellectual Property**" means all intellectual property rights, including inventions, patents, trademarks, trade names, service names, Internet domain names, copyrights, copyrightable works, and trade secrets and other confidential or proprietary information, and all registration or applications (including, as applicable, any renewals, reissues, reexaminations, continuations, continuations-in-part, or divisionals thereof) for any of the foregoing.

(w) Environmental Laws. The Company and each of its subsidiaries (A) is in compliance with all Environmental Laws (as defined below), (B) has received all permits, licenses or other approvals required of it under applicable Environmental Laws to conduct its business and (C) is in compliance with all terms and conditions of any such permit, license or approval where, in each of the foregoing clauses (A), (B) and (C), the failure to so comply could be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect. The term “**Environmental Laws**” means all federal, state, local or foreign laws relating to pollution or protection of human health or the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), including, without limitation, laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, “**Hazardous Materials**”) into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations issued, entered, promulgated or approved thereunder.

(x) Tax Status. The Company and each of its subsidiaries (i) has timely and properly filed all foreign, federal and state income and all other tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has timely paid all taxes and other governmental assessments and charges that are material in amount, whether or not shown or determined to be due on such returns, reports and declarations, except those being contested in good faith, and (iii) has set aside on its books provision reasonably adequate for the payment of all taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company know of no basis for any such claim.

(y) Investment Company Status. Neither the Company nor any of its subsidiaries is, or upon consummation of the sale of the Common Shares, and for so long as any Buyer holds any Common Shares, will be, an “investment company,” an affiliate of an “investment company,” a company controlled by an “investment company” or an “affiliated person” of, or “promoter” or “principal underwriter” for, an “investment company” as such terms are defined in the Investment Company Act of 1940, as amended.

(z) U.S. Real Property Holding Corporation. The Company is not, has never been, and, so long as any Common Shares are held by any of the Buyers, shall not become, a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon any Buyer’s request.

(aa) Shell Company Status. The Company is not, and has never been, an issuer identified in, or subject to, Rule 144(i)(1) of the 1933 Act.

(bb) Compliance with Anti-Money Laundering Laws. The Company and its affiliates are and have been at all times in compliance with applicable financial recordkeeping and reporting requirements and all other applicable U.S. and non-U.S. anti-money laundering and anti-terrorism laws, rules and regulations, including, but not limited to, those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the United States Bank Secrecy Act, as amended by the USA PATRIOT Act of 2001, and the United States Money Laundering Control Act of 1986 (18 U.S.C. §§1956 and 1957), as amended, as well as the implementing rules and regulations promulgated thereunder, and the applicable money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency or self-regulatory body (collectively, the “**Anti-Money Laundering Laws**”), and no action, suit or proceeding by or before any court or governmental agency, authority or body, self-regulatory body, or any arbitrator involving the Company with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(cc) Compliance with Sanctions Laws. Neither the Company nor any of its directors, officers, employees, representatives, agents, affiliates or other Persons acting on behalf of the Company or any of its affiliates is, or is directly or indirectly owned or controlled by, a Person that is currently the subject or the target of any economic or financial sanctions or trade embargoes imposed, administered or enforced by the U.S. government (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury (“**OFAC**”) or the U.S. Departments of State or Commerce and including, without limitation, the designation as a “**Specially Designated National**” or on the “**Sectoral Sanctions Identifications List**”, collectively “**Blocked Persons**”), the United Nations Security Council, the European Union, His Majesty’s Treasury or any other relevant sanctions authority (collectively, “**Sanctions Laws**”); neither the Company nor any of its directors, officers, employees, representatives, agents, affiliates or other Persons acting on behalf of the Company or its affiliates, is located, organized or resident in a country or territory that is the subject or target of a comprehensive embargo or Sanctions Laws prohibiting trade with the country or territory, including, without limitation, the so-called Donetsk People’s Republic, the so-called Luhansk People’s Republic, the Crimea Region and the non-government controlled areas of the Zaporizhzhia and Kherson Regions of Ukraine, Cuba, Iran, North Korea, Sudan and Syria (each, a “**Sanctioned Country**”); neither the Company nor any of its directors, officers, employees, representatives, agents, affiliates or other Persons acting on behalf of the Company or its affiliates, has violated or is in violation of any applicable Sanctions Laws, including but not limited to the Sanctions Laws of the United States; the Company maintains in effect and enforces policies and procedures reasonably designed to ensure compliance by the Company and its affiliates with applicable Sanctions Laws; neither the Company nor any of its directors, officers, employees, representatives, agents, affiliates or other Persons acting on behalf of the Company or its affiliates, acting in any capacity in connection with the operations of the Company, conducts any business with or for the benefit of any Blocked Person or engages in making or receiving any contribution of funds, goods or services to, from or for the benefit of any Blocked Person, or deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked or subject to blocking or rejection pursuant to any applicable Sanctions Laws; neither the Company nor its affiliates derives revenues from investments in, or transactions with, Blocked Persons or Sanctioned Countries in violation of Sanctions Laws; no action of the Company in connection with (i) the execution, delivery and performance of this Agreement and the other Transaction Documents, (ii) the issuance and sale of the Common Shares, or (iii) the direct or indirect use of proceeds from the Common Shares or the consummation of any other transaction contemplated hereby or by the other Transaction Documents or the fulfillment of the terms hereof or thereof, will result in the proceeds of the transactions contemplated hereby and by the other Transaction Documents being used, or loaned, contributed or otherwise made available, directly or indirectly, to any joint venture partner or other Person or entity, for the purpose of (i) unlawfully funding or facilitating any activities of or business with any Person that, at the time of such funding or facilitation, is the subject or target of Sanctions Laws, (ii) unlawfully funding or facilitating any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any Person (including any Person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions Laws. From its inception, the Company has not knowingly engaged in and is not now knowingly engaged in any dealings or transactions in violation of any Sanctions Laws or with any Person that at the time of the dealing or transaction is or was the subject or the target of Sanctions Laws or with any Sanctioned Country.

(dd) Compliance with Anti-Bribery Laws. The Company has not made any contribution or other payment, or offered to make such contribution or payment, to any official of, or candidate for, any federal, state or foreign office in violation of any law. Neither the Company nor any of its affiliates, nor any directors, officers, agents, employees or other Persons acting on behalf of the Company or any of its affiliates, has (i) used any funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee, to any employee or agent of a private entity with which the Company or any of its affiliates does or seeks to do business or to foreign or domestic political parties or campaigns, (iii) violated or is in violation of any provision of any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or any applicable provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act 2010, or any other similar applicable law of any other jurisdiction, including laws of any jurisdiction in which the Company or its affiliates operate their business, including, in each case, the rules and regulations thereunder (the “**Anti-Bribery Laws**”), (iv) taken, is currently taking or will take any action in furtherance of an offer, payment, gift or anything else of value, directly or indirectly, to any Person while knowing that all or some portion of the money or value will be offered, given or promised to anyone to improperly influence official action, to obtain or retain business or otherwise to secure any improper advantage or (v) otherwise made any offer, bribe, rebate, payoff, influence payment, unlawful kickback or other unlawful payment; the Company and its affiliates have instituted and have maintained, and will continue to maintain, as applicable, policies and procedures reasonably designed to promote and achieve compliance with the laws referred to in (iii) above and with this representation and warranty; neither the Company nor any of its affiliates will directly or indirectly use the proceeds of the Common Shares or lend, contribute or otherwise make available such proceeds to any subsidiary, affiliate, joint venture partner or other Person for the purpose of financing or facilitating any activity that would violate the laws and regulations referred to in (iii) above; there are, and have been, no allegations, investigations or inquiries with regard to a potential violation of any Anti-Bribery Laws by the Company or its affiliates, or any of their respective current or former directors, officers, employees, stockholders, representatives or agents, or other Persons acting or purporting to act on their behalf.

(ee) No Disqualification Events. Neither the Company nor any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company’s outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the 1933 Act) connected with the Company in any capacity at the time of sale (each, an “**Issuer Covered Person**” and, together, “**Issuer Covered Persons**”) is subject to any Disqualification Event, except, if applicable, for a Disqualification Event as to which Rule 506(d)(2)(ii) or (iii) or (d)(3) is applicable. The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Buyers a copy of any disclosures provided thereunder.

(ff) Disclosure. The Company confirms that neither it nor any other Person acting on its behalf has provided any of the Buyers or their agents or counsel with any information that constitutes or could reasonably be expected to constitute material, non-public information concerning the Company, other than the existence of, and information related to, the transactions contemplated by this Agreement and the other Transaction Documents. The Company understands and confirms that each of the Buyers will rely on the foregoing representations in effecting transactions in securities of the Company. All disclosure provided to the Buyers regarding the Company, each of its subsidiaries, their respective businesses and the transactions contemplated hereby, including any schedule to this Agreement, furnished by or on behalf of the Company is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. All of the written information furnished after the date hereof by or on behalf of the Company to the Buyers pursuant to or in connection with this Agreement and the other Transaction Documents, taken as a whole, will be true and correct in all material respects as of the date on which such information is so provided and will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they are made, not misleading. Each press release issued by the Company and filed as an exhibit to an SEC Report during the twelve (12) months preceding the date of this Agreement did not at the time of release contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. No event or circumstance has occurred or information exists with respect to the Company or its business, properties, liabilities, prospects, operations (including results thereof) or conditions (financial or otherwise), which, under applicable law, rule or regulation, requires public disclosure at or before the date hereof or announcement by the Company but which has not been so publicly disclosed. The Company acknowledges and agrees that no Buyer makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 2.

(gg) Disclosure Controls. The Company maintains systems of internal accounting controls designed to provide reasonable assurance that (a) transactions are executed in accordance with management's general or specific authorizations; (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP applied on a consistent basis during the periods involved and to maintain asset accountability; (c) access to assets is permitted only in accordance with management's general or specific authorization; and (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Other than as set forth in the SEC Reports, the Company is not aware of any material weaknesses or significant deficiencies in its internal control over financial reporting. To the knowledge of the Company, since the date of the latest audited financial statements of the Company included within the SEC Reports, there has been no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. The Company has established disclosure controls and procedures (as defined in 1934 Act Rules 13a-15 and 15d-15) for the Company and designed such disclosure controls and procedures to ensure that material information relating to the Company is made known to the certifying officers by others within the Company, particularly during the period in which the Company's Annual Report on Form 10-K or Quarterly Report on Form 10-Q, as the case may be, is being prepared. The Company's certifying officers evaluated the effectiveness of the Company's controls and procedures as of a date within 90 days prior to the filing date of the Annual Report on Form 10-K for the fiscal year most recently ended (such date, the "**Evaluation Date**"). The Company presented in its Annual Report on Form 10-K for the fiscal year most recently ended the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no significant changes in the Company's internal controls (as such term is defined in Item 307(b) of Regulation S-K under the 1933 Act) or, to the Company's knowledge, in other factors that would significantly adversely affect the Company's internal controls. To the knowledge of the Company, the Company's "internal control over financial reporting" and "disclosure controls and procedures" (as such terms are defined under the 1934 Act) are effective at a reasonable assurance level.

(hh) Clinical Data and Regulatory Compliance. The preclinical tests and clinical trials, and other studies (collectively, "**studies**") that are described in, or the results of which are referred to in, the SEC Reports were and, if still pending, are being conducted in all material respects in accordance with the protocols, procedures and controls designed and approved for such studies and with standard medical and scientific research procedures; each description of the results of such studies is accurate and complete in all material respects and fairly presents the data derived from such studies, and the Company does not have any knowledge of any other studies the results of which are materially inconsistent with, or otherwise call into question, the results described or referred to in the SEC Reports. Each of the Company and its subsidiaries has made all such filings and obtained all such approvals as may be required by the Food and Drug Administration of the U.S. Department of Health and Human Services or any committee thereof or from any other U.S. or foreign government or drug or medical device regulatory agency, or health care facility Institutional Review Board (collectively, the "**Regulatory Agencies**") based on the location and nature of the relevant study; the Company has not received any notice of, or correspondence from, any Regulatory Agency requiring the termination, suspension or modification of any clinical trials that are described or referred to in the SEC Reports; and each of the Company and its subsidiaries has operated and currently is in compliance in all material respects with all applicable rules, regulations and policies of the Regulatory Agencies.

(ii) Compliance with Health Care and Privacy Laws. Each of the Company and its subsidiaries is, and at all times has been, in material compliance with all applicable Health Care and Privacy Laws. For purposes of this Agreement, “**Health Care and Privacy Laws**” means: (i) the Federal Food, Drug, and Cosmetic Act and the regulations promulgated thereunder; (ii) all applicable federal, state, local and foreign health care laws, including, without limitation, the U.S. Anti-Kickback Statute (42 U.S.C. Section 1320a-7b(b)), the Civil Monetary Penalties Law (42 U.S.C. Section 1320a-7a), the U.S. Civil False Claims Act (31 U.S.C. Section 3729 et seq.), all applicable federal, state, local and all foreign criminal laws relating to health care fraud and abuse, including but not limited to the U.S. False Statements Law (42 U.S.C. Section 1320a-7b(a)), 18 U.S.C. Sections 286 and 287, and the health care fraud criminal provisions under the U.S. Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”) (42 U.S.C. Section 1320d et seq.), the exclusion laws (42 U.S.C. Section 1320a-7), the statutes, regulations and directives of applicable government funded or sponsored healthcare programs, and the regulations promulgated pursuant to such statutes; (iii) to the extent applicable, the Standards for Privacy of Individually Identifiable Health Information (the “**Privacy Rule**”), the Security Standards, and the Standards for Electronic Transactions and Code Sets promulgated under HIPAA, the Health Information Technology for Economic and Clinical Health Act (42 U.S.C. Section 17921 et seq.), and the regulations promulgated thereunder and any state or non-U.S. counterpart thereof or other law or regulation the purpose of which is to protect the privacy of individuals or prescribers; (iv) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010, the regulations promulgated thereunder; (v) the U.S. Controlled Substances Act (21 U.S.C. Section 801 et seq.); (vi) licensure, quality, safety and accreditation requirements under applicable federal, state, local or foreign laws or regulatory bodies; and (vii) all other local, state, federal, national, supranational and foreign laws, relating to the regulation of the Company, including any of the foregoing concerning data security or privacy (including the collection, use, storage, processing or disposal of any information that identifies or could reasonably be used to identify any natural Person). Neither the Company nor any of its subsidiaries has received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other material action from any court or arbitrator or governmental or regulatory authority or third party alleging that any product, operation or activity is in violation of any Health Care and Privacy Laws nor is any such claim, action, suit, proceeding, hearing, enforcement, investigation, arbitration or other action threatened. Each of the Company and each of its subsidiaries has filed, obtained, maintained or submitted all material reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments as required by any Health Care and Privacy Laws, and all such reports, documents, forms, notices, applications, records, claims, submissions and supplements or amendments were in all material respects timely, complete, accurate and not misleading on the date filed (or were corrected or supplemented by a subsequent submission). Neither the Company or any of its subsidiaries has received written notice of any claim, action, suit, proceeding, hearing, enforcement, investigation is a party to any corporate integrity agreements, monitoring agreements, consent decrees, settlement orders, or similar agreements with or imposed by any governmental or regulatory authority. Additionally, neither the Company, any of its subsidiaries nor any of their respective employees, officers or directors has been excluded, suspended or debarred from participation in any U.S. federal health care program or human clinical research or is subject to a governmental inquiry, investigation, proceeding, or other similar action that could reasonably be expected to result in debarment, suspension, or exclusion.

(jj) Intentionally Omitted.

(kk) Manipulation of Price. Neither the Company nor, to the knowledge of the Company, any Person acting on its behalf, directly or indirectly, (i) has taken any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Common Shares, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Common Shares, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company.

(ll) Eligibility for Registration. As of the Closing, the Company is eligible to register the Common Shares for resale by the Buyers using Form S-3 promulgated under the 1933 Act.

(mm) Transfer Taxes. On the Closing Date, all stock transfer or other taxes (other than income or similar taxes) which are required to be paid in connection with the issuance, sale and transfer of the Common Shares to be sold to each Buyer hereunder will be, or will have been, fully paid or provided for by the Company, and all laws imposing such taxes will be or will have been complied with.

(nn) Bank Holding Company Act. Neither the Company nor any of its subsidiaries or affiliates is subject to the Bank Holding Company Act of 1956, as amended (the “**BHCA**”) and to regulation by the Board of Governors of the Federal Reserve System (the “**Federal Reserve**”). Neither the Company nor any of its subsidiaries or affiliates owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent (25%) or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its subsidiaries or affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(oo) Insurance. As applicable, each of the Company and its subsidiaries is insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as management of the Company believes to be prudent and customary in the businesses in which the Company and its subsidiaries are engaged. Neither the Company nor any of its subsidiaries have been refused any insurance coverage sought or applied for and neither the Company nor any of its subsidiaries has any reason to believe that it will be unable to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect.

(pp) Sarbanes-Oxley Act. The Company is in compliance with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended, that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the SEC thereunder that are effective as of the date hereof, except where the failure to be in such compliance would not have, individually or in the aggregate, a Material Adverse Effect.

(qq) Off Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company or any of its subsidiaries and an unconsolidated or other off balance sheet entity that is required to be disclosed by the Company in its 1934 Act filings and is not so disclosed or that otherwise would be reasonably likely to have a Material Adverse Effect.

4. COVENANTS.

(a) Commercially Reasonable Efforts. Each party shall use its commercially reasonable efforts timely to satisfy each of the covenants and the conditions to be satisfied by it as provided in Section 5 and Section 6 of this Agreement.

(b) No Conflicting Agreements. The Company will not take any action, enter into any agreement or make any commitment that would conflict or interfere in any respect with the Company's obligations to the Buyers under the Transaction Documents.

(c) Nasdaq Listing. Until the date the Buyers have sold all of the Common Shares (the "**Reporting Period**"), the Company will use commercially reasonable efforts to continue the listing and trading of Company Common Stock on Nasdaq, and, in accordance therewith, will use commercially reasonable efforts to comply with the Company's reporting, filing and other obligations under the bylaws or rules of such market or exchange, as applicable. The Company acknowledges and agrees that since the Buyers may be affiliated with directors of the Company, the Buyers will purchase the Common Shares at the Per Share Purchase Price and the Per Share Purchase Price shall either (i) equal or exceed the minimum price as defined under the applicable Nasdaq rules or, (ii) if the Per Share Purchase Price reflects a discount to such minimum price, then any such discount shall not be considered compensation for purposes of ASC 718.

(d) Reporting Status. During the Reporting Period, the Company shall timely file all reports required to be filed with the SEC pursuant to the 1934 Act, and the Company shall not terminate its status as an issuer required to file reports under the 1934 Act even if the 1934 Act or the rules and regulations thereunder would otherwise permit such termination and the Company shall take all actions necessary to maintain its eligibility to register the Common Shares for resale by the Buyers on Form S-3.

(e) Transfer or Resale. Notwithstanding any other provision of the Transaction Documents, each Buyer covenants that the Common Shares may be disposed of only pursuant to an effective registration statement under, and in compliance with the requirements of, the 1933 Act, or pursuant to an available exemption from, or in a transaction not subject to, the registration requirements of the 1933 Act, and in compliance with any applicable state and federal securities laws. In connection with any transfer of the Common Shares other than (i) pursuant to an effective registration statement, (ii) pursuant to Rule 144 at a time when the transferor is not at the time of the sale, or during the ninety (90) days immediately preceding such sale, an affiliate of the Company, or (iii) to the Company, the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company, provided that Schulte Roth & Zabel LLP shall be deemed reasonably acceptable to the Company, the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Common Shares under the 1933 Act. Notwithstanding the foregoing, provided that no affiliate of such Buyer serves on the Board of Directors of the Company, the Common Shares may be pledged in connection with a bona fide margin account or other loan or financing arrangement secured by the Common Shares and such pledge of Common Shares shall not be deemed to be a transfer, sale or assignment of the Common Shares hereunder, and no such Buyer effecting a pledge of Common Shares shall be required to provide the Company with any notice thereof or otherwise make any delivery to the Company pursuant to this Agreement or any other Transaction Document, including, without limitation, this Section 4(e).

(f) Removal of Legends. Subject to the Company's right to request an opinion of counsel as set forth in Section 4(e), the legend set forth in Section 2(n) shall be removed and the Company shall issue or cause to be issued a certificate or book-entry evidence of ownership without such legend or any other legend (except for any "affiliates" legend as set forth in Section 2(n) to the extent applicable) to the holder of the applicable Common Shares upon which it is stamped, if (i) such Common Shares are registered for resale pursuant to an effective registration statement under the 1933 Act, (ii) such Common Shares are eligible to be sold pursuant to Rule 144 at a time the transferor is not, and has not been for ninety (90) days prior to such time, an affiliate of the Company or (iii) such Common Shares are sold or transferred in compliance with Rule 144, including without limitation in compliance with the current public information requirements of Rule 144 if applicable to the Company at the time of such sale or transfer, and, in the cases of clauses (ii) and (iii), the holder and its broker have delivered customary documents reasonably requested by counsel to the Company in connection with such sale or transfer, provided that such documents shall not include a legal opinion if the Common Shares are proposed to be as described in clauses (i), (ii) or (iii) set forth in Section 4(e). Any fees (with respect to the counsel to the Company or otherwise) associated with the removal of such legend shall be borne by the Company.

(g) Use of Proceeds. The Company shall use the proceeds from the sale of the Common Shares in a manner consistent with the Company's public statements and filings and for general corporate purposes, but not for the redemption or repurchase of any equity securities (other than in connection with net issuances pursuant to the Company's equity plans existing on the date hereof).

(h) Fees. The Company and the Buyers shall each pay the fees and expenses of their respective advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party in connection with the negotiation, preparation, execution, delivery and performance of this Agreement.

(i) Short Sales and Confidentiality After the Date Hereof. Each Buyer covenants that neither it nor any Affiliates acting on its behalf or pursuant to any understanding with it will execute any "short sales" during the period from the date hereof until the earlier of such time as (i) the transactions contemplated by this Agreement are first publicly announced or (ii) this Agreement is terminated in full. Each Buyer covenants that until such time as the transactions contemplated by this Agreement are publicly disclosed by the Company, such Buyer will maintain the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction), other than to such Person's outside attorney, accountant, auditor or investment advisor only to the extent necessary to permit evaluation of the investment, and the performance of the necessary or required tax, accounting, financial, legal, or administrative tasks and services and other than as may be required by law. Notwithstanding the foregoing, for avoidance of doubt, nothing contained herein shall preclude any actions with respect to the identification of the availability of, or securing of, available shares to borrow in order to effect "short sales" or similar transactions in the future. Each Buyer understands and acknowledges that the SEC currently takes the position that coverage of "short sales" of shares of the Common Stock "against the box" prior to effectiveness of a resale registration statement with securities included in such registration statement would be a violation of Section 5 of the 1933 Act, as set forth in Item 239.10 of the Securities Act Rules Compliance and Disclosure Interpretations compiled by the Office of Chief Counsel, Division of Corporation Finance.

(j) Notice of Disqualification Events. The Company will notify the Buyers in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person, in each case of which it is aware.

(k) Form D and Blue Sky. The Company agrees to file a Form D with respect to the Common Shares as required under Regulation D and to provide a copy thereof to each Buyer promptly after such filing. The Company shall, on or before the Closing Date, take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for or to qualify the Common Shares for sale to the Buyers at the Closing pursuant to this Agreement under applicable securities or "Blue Sky" laws of the states of the United States (or to obtain an exemption from such qualification), and shall provide evidence of any such action so taken to the Buyers on or prior to the Closing Date. The Company shall make all filings and reports relating to the offer and sale of the Common Shares required under applicable securities or "Blue Sky" laws of the states of the United States following the Closing Date.

(l) No Integrated Offering. None of the Company, its affiliates nor any Person acting on their behalf will take any action or steps that would require registration of the issuance of any of the Common Shares under the 1933 Act or cause the offering of any of the Common Shares to be integrated with other offerings for purposes of any such applicable shareholder approval provisions.

5. CONDITIONS TO THE COMPANY'S OBLIGATION TO ISSUE AND SELL.

The obligation of the Company hereunder to issue and sell the Common Shares at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for the Company's sole benefit and may be waived by the Company at any time in its sole discretion by providing each Buyer with prior written notice thereof:

(i) Such Buyer shall have executed each of the Investor Questionnaire and the Transaction Documents to which it is a party and delivered the same to the Company.

(ii) The Purchase Price for the Common Shares with respect to each Buyer shall have been received by the Company.

(iii) The representations and warranties made by such Buyer in this Agreement shall be true and correct as of the date hereof and on and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date which shall be true and correct as of such specified date); and such Buyer shall have performed, satisfied and complied in all respects with the covenants, agreements and conditions required by this Agreement to be performed, satisfied or complied with by such Buyer at or prior to the Closing Date.

(iv) All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Common Shares pursuant to this Agreement shall be obtained and effective as of the Closing.

(v) The Public Offering shall be consummated concurrently with the Closing.

6. CONDITIONS TO EACH BUYER'S OBLIGATION TO PURCHASE.

The obligation of each Buyer hereunder to purchase the Common Shares at the Closing is subject to the satisfaction, at or before the Closing Date, of each of the following conditions, provided that these conditions are for each Buyer's sole benefit and may be waived by such Buyer at any time in its sole discretion by providing the Company with prior written notice thereof:

(i) The Company shall have duly executed and delivered to such Buyer (A) each of the Transaction Documents and (B) the Common Shares (allocated in such amounts as such Buyer shall request), being purchased by such Buyer at the Closing pursuant to this Agreement as is set forth opposite such Buyer's name in column (3) on the Schedule of Buyers.

(ii) In connection with the Closing, the Company shall have filed with Nasdaq a Notification Form: Listing of Additional Shares for the listing of the Common Shares to be purchased at the Closing, and Nasdaq shall have raised no objection to the consummation of the transactions contemplated by the Transaction Documents.

(iii) No judgment, writ, order, injunction, award or decree of or by any court, or judge, justice or magistrate, including any bankruptcy court or judge, or any order of or by any governmental authority, shall have been issued, and no action or proceeding shall have been instituted by any governmental authority, enjoining or preventing the consummation of the transactions contemplated hereby or in the other Transaction Documents.

(iv) The Company shall have delivered to such Buyer a certificate, executed by the Company's Secretary and dated as of the Closing Date, as to (i) the resolutions consistent with Section 3(b) as adopted by the Company's Board of Directors, (ii) the Certificate of Incorporation in effect at the Closing and (iii) the Bylaws in effect at the Closing, in the form attached hereto as Exhibit B.

(v) The representations and warranties made by the Company in this Agreement shall be true and correct as of the date hereof and on and as of the Closing Date as though made at that time (except for representations and warranties that speak as of a specific date which shall be true and correct as of such specified date); and the Company shall have performed, satisfied and complied in all respects with the covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by it at or prior to the Closing Date. Such Buyer shall have received a certificate, executed by the Chief Executive Officer of the Company, dated as of the Closing Date, to the foregoing effect and as to such other matters as may be reasonably requested by such Buyer in the form attached hereto as Exhibit C.

(vi) The Company shall have delivered to such Buyer a legal opinion in a form reasonably acceptable to the Buyers, dated the Closing Date, from DLA Piper LLP (US), counsel for the Company, with respect to the Transaction Documents and the Common Shares.

(vii) There shall have been no Material Adverse Effect.

(viii) No stop order or suspension of trading shall have been imposed by Nasdaq, the SEC or any other governmental or regulatory body with respect to public trading in the Company Common Stock.

(ix) All authorizations, approvals or permits, if any, of any governmental authority or regulatory body of the United States or of any state that are required in connection with the lawful issuance and sale of the Common Shares pursuant to this Agreement, including, without limitation of Nasdaq, shall be obtained and effective as of the Closing.

(x) The Company Common Stock (I) shall be designated for quotation or listed on Nasdaq and (II) shall not have been suspended, as of the Closing Date, by the SEC or Nasdaq from trading on Nasdaq nor shall suspension by the SEC or Nasdaq have been threatened, as of the Closing Date, either (A) in writing by the SEC or Nasdaq or (B) by falling below the minimum listing maintenance requirements of Nasdaq.

(xi) The Company shall have provided to such Buyer the Company's wire instructions, on letterhead of the Company and executed by the Chief Executive Officer of the Company.

(xii) The Company shall have delivered to such Buyer a certificate evidencing the formation and good standing of the Company and each of its subsidiaries in such entity's jurisdiction of formation issued by the Secretary of State (or comparable office) of such jurisdiction of formation, as of a date within ten (10) days prior to the Closing Date.

(xiii) The Public Offering shall be consummated concurrently with the Closing.

7. TERMINATION OF OBLIGATIONS TO EFFECT CLOSING; EFFECTS.

The obligations of the Company, on the one hand, and the Buyers, on the other hand, to effect the Closing shall terminate as follows:

(i) Upon the mutual written consent of the Company and Buyers that agreed to purchase a majority of the Common Shares to be issued and sold pursuant to this Agreement;

(ii) By the Company if any of the conditions set forth in Section 5 shall have become incapable of fulfillment, and shall not have been waived by the Company;

(iii) By a Buyer (with respect to itself only) if any of the conditions set forth in Section 6 shall have become incapable of fulfillment, and shall not have been waived in writing by such Buyer; or

(iv) Notwithstanding anything contained herein to the contrary, automatically with no further action required by the parties hereto if an underwriting agreement pursuant to the Public Offering is not executed and delivered by the parties thereto within three (3) Business Days of the date hereof.

provided, however, that, except in the case of clause (i) above, the party seeking to terminate its obligation to effect the Closing shall not then be in breach of any of its representations, warranties, covenants or agreements contained in this Agreement or the other Transaction Documents if such breach has resulted in the circumstances giving rise to such party's seeking to terminate its obligation to effect the Closing.

In the event of termination by the Company or any Buyer of its obligations to effect a Closing pursuant to this Section 7, written notice thereof shall be given to the other Buyers by the Company and any Buyer shall have the right to terminate its obligations to effect the Closing upon written notice to the Company. Nothing in this Section 7 shall be deemed to release any party from any liability for any breach by such party of the terms and provisions of this Agreement or the other Transaction Documents or to impair the right of any party to compel specific performance by any other party of its obligations under this Agreement or the other Transaction Documents.

8. INDEMNIFICATION.

(a) Indemnification. The Company agrees to indemnify and hold harmless each Buyer and its Affiliates, and their respective directors, officers, trustees, members, managers, employees, investment advisers and agents (collectively, the “**Indemnitees**”), from and against any and all losses, claims, damages, liabilities and expenses (including without limitation reasonable and documented attorney fees and disbursements and other documented out-of-pocket expenses reasonably incurred in connection with investigating, preparing or defending any action, claim or proceeding, pending or threatened and the costs of enforcement thereof) to which such Person may become subject as a result of any breach of representation, warranty, covenant or agreement made by or to be performed on the part of the Company under the Transaction Documents, and will reimburse any such Person for all such amounts as they are incurred by such Person solely to the extent such amounts have been judicially determined not to have resulted from such Person’s fraud, bad faith or willful misconduct. To the extent that the foregoing undertaking by the Company may be unenforceable for any reason, the Company shall make the maximum contribution to the payment and satisfaction of each of the Indemnified Liabilities that is permissible under applicable law.

(b) Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; provided that any Person entitled to indemnification hereunder shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such Person unless (a) the indemnifying party has agreed in writing to pay such fees or expenses, (b) the indemnifying party shall have failed to assume the defense of such claim and employ counsel reasonably satisfactory to such Person or (c) in the reasonable judgment of any such Person, based upon written advice of its counsel, a conflict of interest exists between such Person and the indemnifying party with respect to such claims (in which case, if the person notifies the indemnifying party in writing that such Person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such Person); and provided, further, that the failure of any indemnified party to give written notice as provided herein shall not relieve the indemnifying party of its obligations hereunder, except to the extent that such failure to give notice shall materially adversely affect the indemnifying party in the defense of any such claim or litigation. It is understood that the indemnifying party shall not, in connection with any proceeding in the same jurisdiction, be liable for fees or expenses of more than one separate firm of attorneys at any time for all such indemnified parties. No indemnifying party will, except with the prior written consent of the indemnified party, consent to entry of any judgment or enter into any settlement that does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect of such claim or litigation. No indemnified party will, except with the consent of the indemnifying party, consent to entry of any judgment or enter into any settlement.

9. MISCELLANEOUS.

(a) Governing Law; Jurisdiction; Jury Trial. This Agreement and any related dispute shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that State, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each of the parties hereto hereby (a) irrevocably submits to the personal jurisdiction of the Supreme Court of the State of New York and any state appellate court therefrom within the State of New York (or, if the Supreme Court of the State of New York declines to accept jurisdiction over a particular matter, any state or federal court within the State of New York) in the event that any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction or venue by motion or other request for leave from any such court and (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the Supreme Court of the State of New York and any state appellate court therefrom within the State of New York (or, if the Supreme Court of the State of New York declines to accept jurisdiction over a particular matter, any state or federal court within the State of New York). **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENTS, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

(b) Counterparts. This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile, .pdf or any other electronic signature complying with the U.S. federal E-SIGN Act of 2000 (e.g., www.docusign.com) shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original, not a facsimile, .pdf or other electronic signature.

(c) Headings. The headings of this Agreement are for convenience of reference and shall not form part of, or affect the interpretation of, this Agreement.

(d) Severability. If any provision of this Agreement is prohibited by law or otherwise determined to be invalid or unenforceable by a court of competent jurisdiction, the provision that would otherwise be prohibited, invalid or unenforceable shall be deemed amended to apply to the broadest extent that it would be valid and enforceable, and the invalidity or unenforceability of such provision shall not affect the validity of the remaining provisions of this Agreement so long as this Agreement as so modified continues to express, without material change, the original intentions of the parties as to the subject matter hereof and the prohibited nature, invalidity or unenforceability of the provision(s) in question does not substantially impair the respective expectations or reciprocal obligations of the parties or the practical realization of the benefits that would otherwise be conferred upon the parties. The parties will endeavor in good faith negotiations to replace the prohibited, invalid or unenforceable provision(s) with a valid provision(s), the effect of which comes as close as possible to that of the prohibited, invalid or unenforceable provision(s).

(e) Entire Agreement; Amendments. This Agreement and the other Transaction Documents supersede all other prior oral or written agreements between the Company, its affiliates and Persons acting on their behalf, on the one hand, and the Buyers, their affiliates and Persons acting on their behalf, on the other hand, with respect to the matters discussed herein, and this Agreement, the other Transaction Documents and the instruments referenced herein and therein contain the entire understanding of the parties with respect to the matters covered herein and therein and, except as specifically set forth herein or therein, neither the Company nor any Buyer makes any representation, warranty, covenant or undertaking with respect to such matters. No provision of this Agreement may be amended other than by an instrument in writing signed by the Company and the Required Holders, and any amendment to this Agreement made in conformity with the provisions of this Section 9(e) shall be binding on all Buyers and permitted assignees Common Shares and the Company; provided, that any such amendment or waiver that complies with the foregoing but that disproportionately, materially and adversely affects the rights and obligations of any Buyer relative to the comparable rights and obligations of the other Buyers shall require the prior written consent of such adversely affected Buyer (for the avoidance of doubt, participation by any Buyer in an unrelated financing by the Company shall not be deemed to disproportionately affect the Buyers who do not participate in such financing). No provisions hereto may be waived other than by an instrument in writing signed by the party against whom enforcement is sought. No such amendment shall be effective to the extent that it applies to less than all of the Buyers or holders of the applicable Common Shares then outstanding. No consideration shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of any of the Transaction Documents unless the same consideration (other than the reimbursement of legal fees) also is offered to all of the parties to the Transaction Documents and holders of Common Shares, as the case may be. As used in this Agreement. “**Required Holders**” means Buyers or permitted assignees of at least a majority of the aggregate amount of Common Shares issued and/or issuable hereunder and shall include Caligan Partners LP (the “**Lead Investor**”) so long as the Lead Investor or any of its Affiliates holds any Common Shares.

(f) Notices. Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement or any of the other Transaction Documents must be in writing and will be deemed to have been delivered: (i) upon receipt, when delivered personally; (ii) upon delivery, when sent by electronic mail (provided, that the sending party does not receive an automated rejection notice); or (iii) one (1) Business Day (as defined below) after deposit with an overnight courier service, in each case properly addressed to the party to receive the same. As used in this Agreement, “**Business Day**” means any day, excluding Saturday, Sunday and any day which is a legal holiday in the City of New York or is a day on which banking institutions located in the City of New York are authorized or required by law or other governmental action to close. The addresses and e-mail addresses for such communications shall be:

If to the Company:

Liquidia Corporation
419 Davis Drive, Suite 100
Morrisville, NC 27560
Telephone: (919) 328-4400
Attention: General Counsel

With a copy (for informational purposes only) to:

DLA Piper LLP (US)
51 John F. Kennedy Parkway, Suite 120
Short Hills, NJ 07078
Telephone: (973) 520-2553
Facsimile: (973) 520-2573
Attention: Andrew P. Gilbert, Esq.

If to a Buyer, to its address and e-mail address set forth on the Schedule of Buyers attached hereto, with copies to such Buyer’s representatives as set forth on the Schedule of Buyers attached hereto, or to such other address and/or e-mail address and/or to the attention of such other Person as the recipient party has specified by written notice given to each other party five (5) calendar days prior to the effectiveness of such change. Written confirmation of receipt (A) given by the recipient of such notice, consent, waiver or other communication, (B) mechanically or electronically generated by the sender’s e-mail containing the time and date or (C) provided by an overnight courier service shall be rebuttable evidence of personal service, receipt by facsimile or receipt from an overnight courier service in accordance with clause (i), (ii) or (iii) above, respectively.

(g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns, including any purchasers of the Common Shares. The Company shall not assign this Agreement or any rights or obligations hereunder without the prior written consent of the Buyers. No Buyer may assign this Agreement or any rights or obligations hereunder without the prior written consent of the Company except to such Buyer’s affiliates.

(h) Third Party Beneficiaries. This Agreement is intended for the benefit of the parties hereto and their respective permitted successors and assigns, and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except that each Indemnitee shall have the right to enforce the obligations of the Company with respect to Section 8.

(i) Survival. The representations and warranties of the Buyers and the Company contained in Section 2 and Section 3, respectively, and the agreements and covenants set forth in Section 4, Section 8 and this Section 9 shall survive the Closing. The Company and each Buyer shall be responsible only for its own representations, warranties, agreements and covenants hereunder.

(j) Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

(k) No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent, and no rules of strict construction will be applied against any party.

(l) Remedies. Each Buyer and each holder of the Common Shares shall have all rights and remedies set forth in the Transaction Documents and all rights and remedies which such holders have been granted at any time under any other agreement or contract and all of the rights which such holders have under any law. The parties agree that irreparable damage may occur in the event that any of the provisions of the Transaction Documents were not performed in accordance with their specific terms or were otherwise breached and that monetary damages may not be adequate compensation for any loss incurred by the Buyers or the Company by reason of any breach of any such provisions. As such, the non-breaching party shall be entitled to seek equitable relief, including an injunction and specific performance, as a remedy for any such breach.

(m) Independent Nature of Buyers' Obligations and Rights. The obligations of each Buyer under any Transaction Document are several and not joint with the obligations of any other Buyer, and no Buyer shall be responsible in any way for the performance of the obligations of any other Buyer under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Buyer pursuant hereto or thereto, shall be deemed to constitute the Buyers as, and the Company acknowledges that the Buyers do not so constitute, a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Buyers are in any way acting in concert or as a group, and the Company shall not assert any such claim with respect to such obligations or the transactions contemplated by the Transaction Documents and the Company acknowledges that the Buyers are not acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. The Company acknowledges and each Buyer confirms that it has independently participated in the negotiation of the transaction contemplated hereby with the advice of its own counsel and advisors. Each Buyer shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of any other Transaction Documents, and it shall not be necessary for any other Buyer to be joined as an additional party in any proceeding for such purpose.

(n) Waiver of Conflicts. Each Buyer acknowledges that: (a) it has read this Agreement; (b) it has been represented in the preparation, negotiation and execution of this Agreement by legal counsel of its own choice or has voluntarily declined to seek such counsel; and (c) it understands the terms and consequences of this Agreement and is fully aware of the legal and binding effect of this Agreement. Each Buyer understands that the Company has been represented in the preparation, negotiation and execution of this Agreement by DLA Piper LLP (US) and that DLA Piper LLP (US) now or may in the future represent one or more Buyers or their affiliates in matters unrelated to the transactions contemplated by this Agreement, including the representation of such Buyers or their affiliates in matters of a nature similar to those contemplated by this Agreement. The Company and each Buyer hereby acknowledge that they have had an opportunity to ask for and have obtained information relevant to such representation, including disclosure of the reasonably foreseeable adverse consequences of such representation, and hereby waives any conflict arising out of such representation solely with respect to the matters contemplated by this Agreement.

(o) Publicity. Except as set forth below, no public release or announcement concerning the transactions contemplated hereby shall be issued by the Buyers without the prior consent of the Company, except as such release or announcement may be required by law or the applicable rules or regulations of any securities exchange or securities market, in which case the Buyers shall allow the Company reasonable time to comment on such release or announcement in advance of such issuance. Notwithstanding the foregoing, each Buyer may identify the Company, the transactions contemplated by the Transaction Documents and the value of such Buyer's security holdings in the Company in accordance with applicable investment reporting and disclosure regulations or internal policies without prior notice to or consent or comment from the Company (including, for the avoidance of doubt, filings pursuant to Sections 13 and 16 of the 1934 Act). The Company shall not include the name of any Buyer or any affiliate or investment adviser of such Buyer in any press release or public announcement (which, for the avoidance of doubt, shall not include any SEC filing to the extent such disclosure is required by SEC rules and regulations) without the prior written consent of such Buyer. By the Business Day immediately following the date this Agreement is executed, the Company shall issue a press release disclosing all material terms of the transactions contemplated by this Agreement and any other material nonpublic information that the Company may have provided any Buyer at any time prior to the filing of such press release (the "**Press Release**"). From and after the issuance of the Press Release, no Buyer shall be in possession of any material nonpublic information received from the Company, any of its subsidiaries or any of their respective officers, directors, employees or agents. No later than 5:30 p.m. (New York City time) on the first Business Day following the date this Agreement is executed, the Company will file a Current Report on Form 8-K attaching the press release described in the foregoing sentence as well as copies of the Transaction Documents. In addition, the Company will make such other filings and notices in the manner and time required by the SEC or Nasdaq. The Company shall not, and shall cause each of its officers, directors, employees and agents not to, provide any Buyer with any such material nonpublic information regarding the Company from and after the filing of the Press Release without the express prior written consent of such Buyer.

[Signature Page Follows]

IN WITNESS WHEREOF, each Buyer and the Company have caused their respective signature pages to this Common Stock Purchase Agreement to be duly executed as of the date first written above.

LIQUIDIA CORPORATION

By: /s/ Michael Kaseta

Name: Michael Kaseta

Title: Chief Financial Officer

IN WITNESS WHEREOF, each Buyer and the Company have caused their respective signature pages to this Common Stock Purchase Agreement to be duly executed as of the date first written above.

BUYERS:

CALIGAN PARTNERS CV IV LP

By: /s/ David Johnson

Name: David Johnson

Title: Managing Member of General Partner

CALIGAN PARTNERS MASTER FUND LP

By: Caligan Partners LP, its investment manager

By: /s/ David Johnson

Name: David Johnson

Title: Managing Member

SCHEDULE OF BUYERS

(1) Buyer	(2) Address	(3) Purchase Price
Caligan Partners CV IV LP	c/o Caligan Partners LP 780 Third Avenue, 30th Floor New York, NY 10017 With a copy (for informational purposes only) to: Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 Telephone: (212) 756-2000 Facsimile: (212) 593-5955 Attention: Eleazer N. Klein, Esq.	\$4,100,000
Caligan Partners Master Fund LP	c/o Caligan Partners LP 780 Third Avenue, 30th Floor New York, NY 10017 With a copy (for informational purposes only) to: Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 Telephone: (212) 756-2000 Facsimile: (212) 593-5955 Attention: Eleazer N. Klein, Esq.	\$5,900,000
TOTAL		\$10,000,000

EXHIBITS

Exhibit A	Form of Registration Rights Agreement
Exhibit B	Form of Secretary's Certificate
Exhibit C	Form of Officer's Certificate

EXHIBIT A

Form of Registration Rights Agreement

(See attached)

EXHIBIT B

Form of Secretary's Certificate

(See attached)

SECRETARY'S CERTIFICATE

The undersigned hereby certifies that he is the duly elected, qualified and acting Secretary of Liquidia Corporation, a Delaware corporation (the "**Company**"), and that as such he is authorized to execute and deliver this certificate in the name and on behalf of the Company and in connection with the Common Stock Purchase Agreement, dated as of September 10, 2024, by and among the Company and the investors listed on the Schedule of Buyers attached thereto (as may be amended or restated from time to time, the "**Purchase Agreement**"), and further certifies in his official capacity, in the name and on behalf of the Company, the items set forth below. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Purchase Agreement.

1. Attached hereto as Exhibit A are true, correct and complete copy of the resolutions of the Board of Directors of the Company, dated September [●], 2024, approving the transactions contemplated by the Purchase Agreement, the Transaction Documents and the issuance of the Common Shares. The resolutions contained in Exhibit A have not in any way been amended, modified, revoked or rescinded, have been in full force and effect since their adoption to and including the date hereof and are now in full force and effect.
2. Attached hereto as Exhibit B is a true, correct and complete copy of the Certificate of Incorporation, together with any and all amendments thereto, and no action has been taken to further amend, modify or repeal such Certificate of Incorporation, the same being in full force and effect in the attached form as of the date hereof.
3. Attached hereto as Exhibit C is a true, correct and complete copy of the Bylaws and any and all amendments thereto, and no action has been taken to further amend, modify or repeal such Bylaws, the same being in full force and effect in the attached form as of the date hereof.
4. Each person listed below has been duly elected or appointed to the position(s) indicated opposite his name and is duly authorized to sign the Purchase Agreement and each of the Transaction Documents on behalf of the Company, and the signature appearing opposite such person's name below is such person's genuine signature.

<u>Name</u>	<u>Position</u>	<u>Signature</u>
Roger Jeffs	Chief Executive Officer	_____
Michael Kaseta	Chief Financial Officer	_____

IN WITNESS WHEREOF, the undersigned has hereunto set his hand as of this _____ day of September, 2024.

Secretary

I, Roger Jeffs, Chief Executive Officer of the Company, hereby certify that Russell T. Schundler is the duly elected, qualified and acting Secretary of the Company and that the signature set forth above is his true signature.

Roger Jeffs
Chief Executive Officer

Exhibit A

Board Resolutions

(See attached)

Exhibit B

Amended and Restated Certificate of Incorporation, as amended

(See attached)

Exhibit C

Amended and Restated Bylaws

(See attached)

EXHIBIT C

Form of Officer's Certificate

(See attached)

LIQUIDIA CORPORATION
LIQUIDIA TECHNOLOGIES, INC.
OFFICER'S CERTIFICATE

The undersigned Chief Executive Officer of Liquidia Corporation, a Delaware corporation (the "**Company**"), hereby represents, warrants and certifies to the Buyers (as defined below), pursuant to Section 6(v) of the Purchase Agreement (as defined below), as follows:

1. The representations and warranties of the Company in the Common Stock Purchase Agreement, dated as of September 10, 2024 (as may be amended or restated from time to time, the "**Purchase Agreement**"), by and among the Company and the investors identified on the Schedule of Buyers attached to the Purchase Agreement (the "**Buyers**"), are true and correct in all respects as of the date when made and as of the date hereof (except for representations and warranties that speak as of a specific date, which are true and correct as of such specified date).
2. The Company has performed, satisfied and complied in all respects with the covenants, agreements and conditions required by the Transaction Documents to be performed, satisfied or complied with by the Company as of the date hereof.

Capitalized terms used but not otherwise defined herein shall have the meaning set forth in the Purchase Agreement.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the undersigned has executed this certificate this _____ day of September, 2024.

By: _____
Name: Roger Jeffs
Title: Chief Executive Officer

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (this “*Agreement*”) is made as of September 10, 2024, by and among Liquidia Corporation, a Delaware corporation (the “*Company*”) and the purchasers identified on Schedule A hereto (each, a “*Purchaser*” and collectively, the “*Purchasers*”) and such other Persons, if any, from time to time, that become a party hereto as holders of Registrable Securities (as defined below).

RECITALS

WHEREAS, pursuant to the Purchase Agreement (as defined below), on the Closing Date (as defined in the Purchase Agreement), the Company will issue to each Purchaser shares of the Company’s Common Stock (as defined below) as is set forth in the Purchase Agreement (each, a “*Share*” and collectively, the “*Shares*”);

WHEREAS, in connection with the execution and delivery of the Purchase Agreement and the consummation of the transactions contemplated thereby, the Company has agreed to grant the Holders (as defined below) certain registration rights as set forth below.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and other consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

Definitions

1.1 Definitions. Unless otherwise defined herein, capitalized terms used in this Agreement have the meanings ascribed to them in the Purchase Agreement. As used in this Agreement, the following terms shall have the meanings set forth below:

(a) “*Additional Effectiveness Deadline*” has the meaning set forth in Section 2.1(h).

(b) “*Additional Filing Deadline*” has the meaning set forth in Section 2.1(h).

(c) “*Additional Shares*” means any restricted shares acquired by any Purchaser and any shares acquired by any Purchaser that are “control shares” in the hands of such Purchaser, in each case, from time to time, including, without limitation, after the date hereof and acquired prior to the date hereof, and any shares of Common Stock issued to the Purchasers pursuant to a stock split, stock dividend or other distribution with respect to, or in exchange or in replacement of, such restricted shares or the Shares, or in connection with a combination of shares, distribution, recapitalization, merger, consolidation, other reorganization or other similar event, whether or not such acquisition has actually been effected.

(d) “*Affiliate*” means with respect to any specified Person, any other Person who or which, directly or indirectly, controls, is controlled by, or is under common control with such specified Person, including, without limitation, any general partner, limited partner, member, officer, director or manager of such Person and any venture capital or private equity fund now or hereafter existing that is controlled by one or more general partners or managing members of, or shares the same management company with, such Person. For purposes of this definition, the terms “*controls*,” “*controlled by*,” or “*under common control with*” means the possession, direct or indirect, of power to direct or cause the direction of management or policies (whether through ownership of voting securities, by contract or otherwise).

(e) “*Agreement*” has the meaning set forth in the Preamble.

(f) “*Business Day*” means any day, excluding Saturday, Sunday and any day which is a legal holiday in the City of New York or is a day on which banking institutions located in the City of New York are authorized or required by law or other governmental action to close.

(g) “*Common Stock*” means shares of the common stock of the Company, par value \$0.001 per share.

(h) “*Company*” has the meaning set forth in the Preamble.

(i) “*Company Filing Deadline*” has the meaning set forth in Section 2.1(a)(i).

(j) “*Company Indemnified Party*” has the meaning set forth in Section 2.5(b).

- (k) “**Controlling Person**” has the meaning set forth in Section 2.5(a).
 - (l) “**Demand Notice**” has the meaning set forth in Section 2.1(i).
 - (m) “**Demand Registration**” has the meaning set forth in Section 2.1(i).
 - (n) “**Disclosure Package**” has the meaning set forth in Section 2.5(a).
 - (o) “**Effectiveness Deadline**” means the Initial Effectiveness Deadline, the Additional Effectiveness Deadline(s) and/or the Form S-1 Effectiveness Deadline(s), as applicable.
 - (p) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.
 - (q) “**Form S-1 Effectiveness Deadline**” has the meaning set forth in Section 2.1(i).
 - (r) “**Form S-1 Filing Deadline**” has the meaning set forth in Section 2.1(i).
 - (s) “**Form S-1 Registration Statement**” has the meaning set forth in Section 2.1(i).
 - (t) “**Governmental Authority**” means any domestic or foreign multinational, federal, state, provincial, municipal or local government (or any political subdivision thereof) or any domestic or foreign governmental, regulatory or administrative authority or any department, commission, board, agency, court, tribunal, judicial body or instrumentality thereof, or any other body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature (including any arbitral body).
 - (u) “**Holder**” (collectively, “**Holders**”) means any Purchaser and any transferee thereof, in each case, to the extent holding or beneficially owning Registrable Securities.
 - (v) “**Holder Indemnified Parties**” has the meaning set forth in Section 2.5(a).
 - (w) “**Indemnified Party**” has the meaning set forth in Section 2.5(c).
 - (x) “**Initial Effectiveness Deadline**” has the meaning set forth in Section 2.1(b).
 - (y) “**Initiating Holders**” means, collectively, Holders who initiate a Form S-1 Registration Statement in accordance with Section 2.1(i).
 - (z) “**Minimum Amount**” has the meaning set forth in Section 2.1(e).
 - (aa) “**Person**” means an individual, a limited liability company, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.
 - (bb) “**Prospectus**” means the prospectus or prospectuses (whether preliminary or final) included in any Registration Statement and relating to Registrable Securities, as amended or supplemented and including all material incorporated by reference in such prospectus or prospectuses.
 - (cc) “**Purchase Agreement**” means that certain Common Stock Purchase Agreement (as may be amended, amended and restated, or supplemented from time to time), dated as of the date hereof, by and among the Company and the Purchasers.
 - (dd) “**Purchaser**” has the meaning set forth in the Preamble.
 - (ee) “**register**,” “**registered**” and “**registration**” refer to a registration effected by filing with the SEC a registration statement in compliance with the Securities Act, and the declaration or ordering by the SEC of the effectiveness of such registration statement.
 - (ff) “**Registrable Securities**” means (i) the Shares and (ii) any Additional Shares; *provided, however*, that Shares or Additional Shares shall cease to be treated as Registrable Securities on the earliest to occur of, (A) the date such security has been disposed of pursuant to an effective registration statement, (B) the date on which such security is sold pursuant to Rule 144, (C) the date on which such security ceases to be outstanding, or (D) the date on which the Holder thereof, together with its Affiliates, is able to dispose of all of its Registrable Securities without restriction or limitation pursuant to Rule 144 and without the requirement for the Company to be in compliance with Rule 144 (or any successor rule).
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(gg) “**Registration Expenses**” means any and all expenses incident to the Company’s performance of or compliance with this Agreement, including: (i) all SEC, FINRA and other registration and filing fees, (ii) all fees and expenses associated with filings to be made with, or the listing of any Registrable Securities on, any securities exchange or over-the-counter trading market on which the Registrable Securities are to be listed or quoted, (iii) all fees and expenses with respect to filings required to be made with an exchange or any securities industry self-regulatory body, (iv) all fees and expenses of compliance with securities or “blue sky” laws (including fees and disbursements of counsel for the Company in connection therewith and reasonable fees and disbursements of counsel for the underwriters or holders of securities in connection with blue sky qualifications of the securities and determination of their eligibility for investment under the laws of such jurisdictions), (v) printing, messenger, telephone and delivery expenses of the Company (including the cost of distributing Prospectuses in preliminary and final form as well as any supplements thereto), (vi) all fees and disbursements of counsel for the Company and customary fees and expenses for independent certified public accountants retained by the Company (including the expenses of any special audits or comfort letters, or costs associated with the delivery by independent certified public accountants of a comfort letter or comfort letters), (vii) securities acts liability insurance, if the Company so desires, (viii) all internal expenses of the Company (including, all salaries and expenses of its officers and employees performing legal or accounting duties), (ix) the expense of any annual audit; (x) the fees and expenses of any Person, including special experts, retained by the Company; (xi) the expenses incurred in connection with making road show presentations and holding meetings with potential investors to facilitate the distribution and sale of Registrable Securities (including the reasonable out-of-pocket expenses of the Holders), (xii) any fees and disbursements of underwriters customarily paid by issuers or sellers of securities and (xiii) all legal fees and expenses of one (1) legal counsel to the Holders, such fees and expenses not to exceed \$25,000 per registration; *provided, however* that “**Registration Expenses**” shall not include fees and expenses in connection with underwriting discounts, selling commissions and stock transfer taxes attributable to the sale of the Registrable Securities or (except as otherwise set forth in this Agreement) any legal fees and expenses of counsel to the Holders above \$25,000 per registration and all such excluded expenses in this proviso relating to the offer and sale of Registrable Securities registered under the Securities Act pursuant to this Agreement shall be borne and paid by the holders of such Registrable Securities, in proportion to the number of Registrable Securities included in such registration for each such holder, except that fees and expenses in connection with underwriting discounts, selling commissions and stock transfer taxes attributable to the sale of the Registrable Securities shall be borne by the Holder that incurred such fees and expenses.

(hh) “**Registration Statement**” means any registration statement of the Company under the Securities Act which covers any of the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, all amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all documents incorporated by reference in such Registration Statement. For the avoidance of doubt, “Registration Statement” shall include all Shelf Registration Statements and Form S-1 Registration Statements required to be filed pursuant to this Agreement.

(ii) “**Rule 144**” means Rule 144 under the Securities Act or any successor rule thereto.

(jj) “**Rule 415**” means Rule 415 under the Securities Act or any successor rule thereto.

(kk) “**SEC**” means the U.S. Securities and Exchange Commission.

(ll) “**SEC Guidance**” means (i) any publicly-available written or oral guidance of the SEC staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

(mm) “**Securities Act**” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

(nn) “**Shares**” has the meaning set forth in the Recitals.

(oo) “**Shelf Registration**” has the meaning set forth in Section 2.1(a)(i).

(pp) “**Shelf Registration Statement**” has the meaning set forth in Section 2.1(a)(i).

(qq) “**Shelf Takedown**” has the meaning set forth in Section 2.1(d).

(rr) “**Underwritten Block Trade**” has the meaning set forth in Section 2.1(f).

(ss) “**Underwritten Offering**” has the meaning set forth in Section 2.1(e).

(tt) “*Underwritten Offering Notice*” has the meaning set forth in Section 2.1(e).

(uu) “*Updated Disclosure Package*” has the meaning set forth in Section 2.5(a).

ARTICLE II

Registration Rights

2.1 Provisions Relating to Company Registration.

(a) Filing.

(i) On or prior to the date that is one hundred eighty (180) days following the date hereof (the “*Company Filing Deadline*”), the Company shall file with the SEC a Registration Statement on Form S-3 (or, subject to Section 2.1(a)(ii), such other appropriate form) for an offering to be made on a delayed or continuous basis pursuant to Rule 415 (a “*Shelf Registration Statement*”) pursuant to which all of the Registrable Securities shall be registered for resale by such Holders (a “*Shelf Registration*”).

(ii) If Form S-3 is not available for the Shelf Registration Statement for the resale of Registrable Securities, the Company shall (i) register the resale of the Registrable Securities on another appropriate form and (ii) undertake to register the Registrable Securities on Form S-3 as soon as such form is available, provided that the Company shall maintain the effectiveness of such Shelf Registration Statement then in effect until such time as a Shelf Registration Statement on Form S-3 covering the Registrable Securities has been declared effective by the SEC.

(b) Effectiveness. The Company shall use its best efforts to cause the Shelf Registration Statement(s) filed pursuant to Section 2.1(a) to be declared effective by the SEC or otherwise become effective under the Securities Act as soon as practicable after the filing thereof, but in no event later than the date that is the earlier of (i) in the event that such Shelf Registration Statement (x) is not subject to a review by the SEC, sixty (60) calendar days after the earlier of (A) the Company Filing Deadline and (B) the date such Shelf Registration Statement was filed with the SEC and (y) is subject to a review by the SEC, ninety (90) calendar days after the earlier of (A) the Company Filing Deadline and (B) the date such Shelf Registration Statement was filed with the SEC and (ii) five (5) Business Days after the date the Company receives written notification from the SEC that such Shelf Registration(s) will not be reviewed (the “*Initial Effectiveness Deadline*”). The Company shall use its best efforts to maintain the effectiveness of such Shelf Registration Statement(s), including by filing any necessary post-effective amendments and Prospectus supplements and by filing one or more replacement or renewal Shelf Registration Statements upon the expiration of such Shelf Registration Statement(s), continuously until such time as there are no Registrable Securities remaining. By 9:30 a.m. New York time on the Business Day following the date such Shelf Registration Statement is declared effective by the SEC, the Company shall file with the SEC in accordance with Rule 424 under the Securities Act the final Prospectus to be used in connection with sales pursuant to such Shelf Registration Statement.

(c) Additional Registrable Securities; Additional Selling Stockholders. At any time and from time to time that a Shelf Registration Statement is effective, if a Holder of Registrable Securities requests (i) the registration under the Securities Act of additional Registrable Securities pursuant to such Shelf Registration Statement or (ii) that such Holder be added as a selling stockholder in such Shelf Registration Statement, the Company shall as promptly as practicable amend or supplement the Shelf Registration Statement to cover such additional Registrable Securities and/or Holder.

(d) Right to Effect Shelf Takedowns. Each Holder shall be entitled, at any time and from time to time when a Shelf Registration Statement is effective, to sell any or all of the Registrable Securities covered by such Shelf Registration Statement (a “*Shelf Takedown*”).

(e) Underwritten Offering. Any Holder or Holders intending to effect a Shelf Takedown or Demand Registration shall be entitled to request, by written notice to the Company (an “*Underwritten Offering Notice*”), that such Shelf Takedown or Demand Registration be an underwritten offering (an “*Underwritten Offering*”). The Underwritten Offering Notice shall specify the number of Registrable Securities intended to be offered and sold by such Holder(s) pursuant to the Underwritten Offering. The Company shall not be required to effect more than two (2) Underwritten Offerings during the term of this Agreement and shall not be required to facilitate an Underwritten Offering unless (i) in the case of the first Underwritten Offering, such offering is for the lesser of (a) expected aggregate gross proceeds of at least \$5 million or (b) all of the remaining Registrable Securities of all Holders participating in such offer and (ii) in the case of the second Underwritten Offering, the Holder(s) participating in such Underwritten Offering request the inclusion in such Underwritten Offering of all of its or their remaining Registrable Securities (such amount, as applicable, the “*Minimum Amount*”). The Company will, as expeditiously as possible (and in any event within fourteen (14) days after the receipt of an Underwritten Offering Notice), use its reasonable best efforts to consummate such Underwritten Offering.

(f) Underwritten Block Trade. If a Holder or Holders desire to engage in an underwritten block trade or bought deal pursuant to a Shelf Registration Statement (each, an “**Underwritten Block Trade**”), then notwithstanding the time periods set forth in Section 2.1(e), such Holder(s) may notify the Company of the Underwritten Block Trade not less than two (2) Business Days prior to the day such offering is first anticipated to commence, and the Company will as expeditiously as possible use its reasonable best efforts to facilitate such Underwritten Block Trade (which may close as early as two (2) Business Days after the date it commences). For the avoidance of doubt, an Underwritten Block Trade shall be considered an Underwritten Offering for the purposes of Section 2.1(e).

(g) Selection of Underwriters. The Holder(s) requesting an Underwritten Offering shall have the right to select the investment banking firm(s) and manager(s) to administer such Underwritten Offering, subject to the approval of the Company (which approval shall not be unreasonably withheld, conditioned or delayed).

(h) Rule 415 Cutbacks. Notwithstanding any other provision of this Agreement, if the staff of the SEC or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Shelf Registration Statement as a secondary offering (and notwithstanding that the Company used diligent efforts to advocate with the staff of the SEC for the registration of all or a greater portion of Registrable Securities), the Company shall reduce the number of Registrable Securities on a pro rata basis based on the total number of unregistered Registrable Securities held by such Holders. In the event of a cutback hereunder, the Company shall give each Holder at least five (5) Trading Days prior written notice along with the calculations as to such Holder’s allotment. In the event the Company amends a Shelf Registration Statement in accordance with the foregoing, the Company will use its reasonable best efforts to file with the SEC, on the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Shelf Registration Statement related to the Registrable Securities (the “**Additional Filing Deadline**”), one or more Registration Statement(s) on Form S-3 (or such other form available as provided in Section 2.1(a)(ii)) to register for resale those Registrable Securities that were not registered for resale on the initial Shelf Registration Statement and cause such Shelf Registration Statement(s) to be declared effective on or prior to the earlier of (i) in the event that such additional Shelf Registration Statement (x) is not subject to a review by the SEC, sixty (60) calendar days after the earlier of (A) the applicable Additional Filing Deadline and (B) the date such additional Shelf Registration Statement was filed with the SEC and (y) is subject to a review by the SEC, ninety (90) calendar days after the earlier of (A) the applicable Additional Filing Deadline and (B) the date such additional Shelf Registration Statement was filed with the SEC and (ii) five (5) Business Days after the date the Company receives written notification from the SEC that such additional Shelf Registration(s) will not be reviewed (the “**Additional Effectiveness Deadline**”). By 9:30 a.m. New York time on the Business Day following the date any such additional Shelf Registration Statement is declared effective by the SEC, the Company shall file with the SEC in accordance with Rule 424 under the Securities Act the final prospectus to be used in connection with sales pursuant to such additional Shelf Registration Statement.

(i) S-1 Demand Registrations. If the Company is not eligible to use a Form S-3 for the Shelf Registration, then, upon request from Holders of fifty percent (50%) of the Registrable Securities then outstanding that the Company file a registration statement on Form S-1 (a “**Form S-1 Registration Statement**”) with respect to at least the Minimum Amount then the Company shall (x) within ten (10) days after the date such request is given, give written notice thereof (the “**Demand Notice**”) to all Holders other than the Initiating Holders; and (y) as soon as practicable, and in any event within sixty (60) days after the date such request is delivered to the Company by the Initiating Holders, file a Form S-1 Registration Statement under the Securities Act covering all Registrable Securities that the Initiating Holders requested to be registered and any additional Registrable Securities requested to be included in such registration by any other Holders, as specified by notice given by each such Holder to the Company within twenty (20) days of the date the Demand Notice is delivered to such Holder (a “**Form S-1 Filing Deadline**”) and use its best efforts to cause such Form S-1 Registration Statement to be declared effective by the SEC or otherwise become effective under the Securities Act as soon as practicable after the filing thereof, but in no event later than the date that is the earlier of (i) in the event that such Form S-1 Registration Statement (x) is not subject to a review by the SEC, sixty (60) calendar days after the earlier of (A) the applicable Form S-1 Filing Deadline and (B) the date such Form S-1 Registration Statement was filed with the SEC and (y) is subject to a review by the SEC, ninety (90) calendar days after the earlier of (A) the applicable Form S-1 Filings Deadline and (B) the date such Form S-1 Registration Statement was filed with the SEC and (ii) five (5) Business Days after the date the Company receives written notification from the SEC that such Form S-1 Registration(s) will not be reviewed (a “**Form S-1 Effectiveness Deadline**”), and in each case, subject to the limitations of Section 2.1(e) (a “**Demand Registration**”). The Company shall not be obligated to effect, or to take any action to effect, any registration pursuant to this Section 2.1(i) during the period that is sixty (60) days before the Company’s good faith estimate of the date of filing of, and ending on a date that is ninety (90) days after the effective date of, a Company-initiated registration. All provisions set forth in this Agreement with respect to Shelf Registration Statements shall apply, *mutatis, mutandis*, to the Form S-1 Registration Statements required to be filed hereunder (except to the extent expressly set forth in this Section 2.1(i)).

2.2 Provisions Relating to Registration.

(a) If and whenever the Company is required to effect the registration of any Registrable Securities pursuant to this Agreement, the Company shall use reasonable best efforts to effect and facilitate the registration, offering and sale of such Registrable Securities in accordance with the intended method of disposition thereof, and, pursuant thereto, the Company shall, as applicable:

(i) prepare and file with the SEC a Registration Statement with respect to such Registrable Securities, make all required filings required in connection therewith and use reasonable best efforts to cause such Registration Statement to become effective as soon as reasonably practicable but in any event prior to the applicable Effectiveness Deadline;

(ii) furnish to each Holder participating in the registration, without charge, such number of copies of the Prospectus included in such Registration Statement (including each preliminary Prospectus) and any supplement thereto (in each case including all exhibits thereto and all documents incorporated by reference therein) and such other documents as such Holder may reasonably request, including in order to facilitate the disposition of the Registrable Securities owned by such Holder;

(iii) use reasonable best efforts to register or qualify such Registrable Securities under such other securities or blue sky laws in all applicable U.S. jurisdiction(s) and do any and all other acts and things that may be necessary or reasonably advisable to enable such Holder and each underwriter, if any, to consummate the disposition of such Holder's Registrable Securities in such jurisdiction(s); *provided*, that the Company shall not be required to qualify generally to do business, subject itself to taxation or consent to general service of process in any jurisdiction where it would not otherwise be required to do so but for its obligations pursuant to this Section 2.2(a)(iii);

(iv) use reasonable best efforts to cause all Registrable Securities covered by any Registration Statement to be registered with or approved by such other Governmental Authorities or self-regulatory bodies as may be necessary or reasonably advisable in light of the business and operations of the Company to enable each Holder participating in the registration to consummate the disposition of such Registrable Securities in accordance with the intended method or methods of disposition thereof;

(v) notwithstanding any other provisions of this Agreement to the contrary, cause (A) any Registration Statement (as of the effective date of the Registration Statement), any amendment thereof (as of the effective date thereof) or supplement thereto (as of its date), (1) to comply in all material respects with the applicable requirements of the Securities Act and the rules and regulations of the SEC and (2) not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading and (B) any related Prospectus, preliminary Prospectus and any amendment thereof or supplement thereto (as of its date), (1) to comply in all material respects with the applicable requirements of the Securities Act and the rules and regulations of the SEC, and (2) not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; *provided, however*, that the Company shall have no such obligations or liabilities with respect to any written information pertaining to a Holder and furnished to the Company by or on behalf of such Holder specifically for inclusion therein; *provided further*, that each Holder of Registrable Securities, upon receipt of any notice from the Company of any event of the kind described in this Section 2.2(a)(v), shall forthwith discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until such holder is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus as contemplated by this Section 2.2(a)(v) (provided that the Company may not so suspend dispositions for more than thirty (30) days at a time or more than twice in any 12-month period and that the first day of any such suspension period must be at least five (5) trading days after the last day of any prior suspension period) and if so directed by the Company, such Holder shall deliver to the Company all copies, other than permanent file copies then in such holder's possession, of the Prospectus covering such Registrable Securities at the time of receipt of such notice;

(vi) notify the Holders and the managing underwriters of any underwritten offering in writing: (A) when the Registration Statement, any pre-effective amendment thereto, the Prospectus or any Prospectus supplement or any post-effective amendment thereto has been filed with the SEC and when the Registration Statement or any post-effective amendment thereto has become effective, (B) of any oral or written comments by the SEC or of any request by the SEC for amendments or supplements to the Registration Statement or the Prospectus included therein or for any additional information regarding such Holder, (C) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceedings for that purpose and of any other action, event or failure to act that would cause the Registration Statement not to remain effective and (D) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any Registrable Securities for sale under the applicable securities or blue sky laws of any jurisdiction or the initiation of any proceeding for such purpose;

(vii) in the event of the issuance of any stop order suspending the effectiveness of a Registration Statement, any order suspending or preventing the use of any related Prospectus or any suspension of the qualification or exemption from qualification of any Registrable Securities for sale in any jurisdiction, use reasonable best efforts to obtain the withdrawal or lifting of any such order or suspension;

(viii) not file or make any amendment to any Registration Statement with respect to any Registrable Securities, or any amendment of or supplement to the Prospectus used in connection therewith, that refers to any Holder covered thereby by name or otherwise identifies such Holder as the holder of any securities of the Company without the prior written consent of such Holder (which consent shall not be unreasonably withheld, conditioned or delayed), unless and to the extent such disclosure is required by law; *provided*, that (A) each Holder shall furnish to the Company in writing such information regarding itself and the distribution proposed by it as the Company may reasonably request for use in connection with a Registration Statement or Prospectus and (B) each Holder agrees to notify the Company as promptly as practicable of any inaccuracy or change in information previously furnished to the Company by such Holder or of the occurrence of any event that would cause the Prospectus included in such Registration Statement to contain an untrue statement of a material fact regarding such Holder or the distribution of such Registrable Securities or to omit to state any material fact regarding such Holder or the distribution of such Registrable Securities required to be stated therein or necessary to make the statements made therein not misleading in light of the circumstances under which they were made and to furnish to the Company, as promptly as practicable, any additional information required to correct and update the information previously furnished by such Holder such that such Prospectus shall not contain any untrue statement of a material fact regarding such Holder or the distribution of such Registrable Securities or omit to state a material fact regarding such Holder or the distribution of such Registrable Securities necessary to make the statements therein not misleading in light of the circumstances under which they were made; *provided further*, that each Holder of Registrable Securities, upon receipt of any notice from the Company of any event of the kind described in this Section 2.2(a)(viii) shall forthwith discontinue disposition of Registrable Securities pursuant to the Registration Statement covering such Registrable Securities until such Holder is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus as contemplated by this Section 2.2(a)(viii), and if so directed by the Company, such Holder shall deliver to the Company all copies, other than permanent file copies then in such holder's possession, of the Prospectus covering such Registrable Securities at the time of receipt of such notice;

(ix) cause such Registrable Securities to be listed on each securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on any securities exchange, use reasonable best efforts to cause such Registrable Securities to be listed on a national securities exchange selected by the Company;

(x) provide a transfer agent and registrar (which may be the same Person) for all such Registrable Securities not later than the effective date of such Registration Statement;

(xi) at the reasonable request of a Holder or any underwriter participating in any underwritten offering pursuant to such Registration Statement, furnish to such Holder or underwriter, on the date of the effectiveness of any Registration Statement and thereafter from time to time on such dates as such Holder or underwriter may reasonably request (i) a letter, dated such date, from the Company's independent certified public accountants in form and substance as is customarily given by independent certified public accountants to underwriters in an underwritten public offering, addressed to such Holder or underwriter, and (ii) an opinion, dated as of such date, of counsel representing the Company for purposes of such Registration Statement, in form, scope and substance as is customarily given in an underwritten public offering, addressed to such Holder or underwriter;

(xii) make available upon reasonable notice and during normal business hours for inspection by any Holder participating in the registration, any underwriter participating in any underwritten offering pursuant to such Registration Statement and any attorney, accountant or other agent retained by any such Holder or underwriter, all pertinent corporate documents, financial and other records relating to the Company and its business reasonably requested by such Holder or underwriter as shall be reasonably necessary to enable them to exercise their due diligence responsibility, cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by any such Holder, underwriter, attorney, accountant or agent in connection with such registration or offering and make senior management of the Company and the Company's independent accountants reasonably available for customary due diligence and drafting sessions; *provided*, that, unless the disclosure of such information is necessary to avoid or correct a misstatement or omission in the Registration Statement or the release of such information is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Company shall not be required to provide any information under this Section 2.2(a)(xii) if (i) the Company believes, after consultation with counsel for the Company, that to do so would cause the Company to forfeit an attorney-client privilege that was applicable to such information or (ii) either (A) the Company has sought, or been granted from the SEC, confidential treatment of such information contained in any filing with the SEC or documents provided supplementally or otherwise or (B) the Company reasonably determines in good faith that such information is confidential and so notifies the Holder or underwriter their representatives, as applicable, in writing, unless prior to furnishing any such information with respect to clause (ii) such Holder of Registrable Securities requesting such information agrees to enter into a confidentiality agreement in customary form and subject to customary exceptions; *provided further*, that any Person gaining access to information or personnel of the Company pursuant to this Section 2.2(a)(xii) shall (A) reasonably cooperate with the Company to limit any resulting disruption to the Company's business and (B) protect the confidentiality of any information regarding the Company which the Company determines in good faith to be confidential and of which determination such Person is notified, unless such information (1) is or becomes known to the public without a breach of this Agreement, (2) is or becomes available to such Person on a non-confidential basis from a source other than the Company, (3) is independently developed by such Person without reference to such information, (4) is requested or required by a deposition, interrogatory, request for information or documents by a Governmental Authority, subpoena or similar process or (5) is otherwise required to be disclosed by law;

(xiii) otherwise use reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to its stockholders, as soon as reasonably practicable, an earnings statement (in a form that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 under the Securities Act or any successor rule thereto) covering the period of at least 12 months beginning with the first day of the Company's first full fiscal quarter after the effective date of the applicable Registration Statement, which requirement shall be deemed satisfied if the Company timely files complete and accurate information on Forms 10-K, 10-Q and 8-K under the Exchange Act and otherwise complies with Rule 158 under the Securities Act or any successor rule thereto;

(xiv) in the case of an underwritten offering of Registrable Securities, incorporate in a supplement to the Prospectus or a post-effective amendment to the Registration Statement such information as is reasonably requested by the managing underwriter(s) or any Holder participating in such underwritten offering to be included therein, the purchase price for the securities to be paid by the underwriters and any other applicable terms of such underwritten offering, and make all required filings of such supplement or post-effective amendment;

(xv) in the case of an underwritten offering of Registrable Securities, enter into such customary agreements (including underwriting and lock-up agreements in customary form) and take all such other customary actions as any Holder participating in such offering or the managing underwriter(s) of such offering reasonably requests in order to expedite or facilitate the disposition of such Registrable Securities;

(xvi) in the case of an underwritten offering of Registrable Securities, make senior management of the Company available, to the extent reasonably requested by the managing underwriter(s), to assist in the marketing of the Registrable Securities to be sold in such underwritten offering, including the participation of such members of senior management of the Company in “road show” presentations and other customary marketing activities, including “one-on-one” meetings with prospective purchasers of the Registrable Securities to be sold in such underwritten offering, and otherwise reasonably facilitate, cooperate with, and participate in such underwritten offering and customary selling efforts related thereto, in each case to the same extent as if the Company were engaged in a primary underwritten registered offering of its Common Stock; *provided*, that the Company’s obligation to make senior management available for participation in “road show” presentations shall be limited to no more than one underwritten offering during any 12-month period;

(xvii) cooperate with the Holders of the Registrable Securities to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be sold pursuant to such Registration Statement free of any restrictive legends and representing such number of shares of Common Stock and registered in such names as the Holders of the Registrable Securities may reasonably request a reasonable period of time prior to sales of Registrable Securities pursuant to such Registration Statement if such Holder delivers a legal opinion and representation letter in form reasonably satisfactory to the Company or its counsel stating that such sale is permitted to the extent such legal opinion or representation letter is required pursuant to the Purchase Agreement; *provided*, that the Company may satisfy its obligations hereunder without issuing physical stock certificates through the use of The Depository Trust Company’s Direct Registration System;

(xviii) not later than the effective date of such Registration Statement, provide a CUSIP number for all Registrable Securities covered thereby and provide the applicable transfer agent with printed certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company; *provided*, that the Company may satisfy its obligations hereunder without issuing physical stock certificates through the use of The Depository Trust Company’s Direct Registration System;

(xix) shall (A) permit one legal counsel to the Holders to review and comment upon statements regarding the Holders, their holdings, their intended methods of disposition and the description of the transactions contemplated by the Transaction Documents (as defined in the Purchase Agreement) set forth in (i) a Registration Statement at least five (5) Business Days prior to its filing with the SEC and (ii) all amendments and supplements to all Registration Statements (except for Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any similar or successor reports) within a reasonable number of days prior to their filing with the SEC, (B) not file any Registration Statement or amendment or supplement thereto in a form to which such legal counsel reasonably objects, (C) not submit a request for acceleration of the effectiveness of a Registration Statement or any amendment or supplement thereto without the prior approval of such legal counsel, which consent shall not be unreasonably withheld, delayed or conditioned, (D) furnish to such legal counsel, without charge, (i) copies of any correspondence from the SEC or the staff of the SEC to the Company or its representatives relating to any Registration Statement, (ii) promptly after the same is prepared and filed with the SEC, one copy of any Registration Statement and any amendment(s) thereto, including financial statements and schedules, all documents incorporated therein by reference, if requested by a Holder, and all exhibits and (iii) upon the effectiveness of any Registration Statement, one copy of the prospectus included in such Registration Statement and all amendments and supplements thereto and (E) shall reasonably cooperate with such legal counsel in performing the Company’s obligations pursuant to this Agreement; and

(xx) otherwise use reasonable best efforts to take or cause to be taken all other actions necessary or reasonably advisable to effect the registration, marketing and sale of such Registrable Securities contemplated by this Agreement.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Company shall not be required to include Registrable Securities in any Registration Statement unless the Holder owning the Registrable Securities to be registered on the Registration Statement, following reasonable advance written request by the Company, furnishes to the Company, no later than seven (7) Business Days after the date on which the Company has given notice of the Company’s proposed filing of the Registration Statement, an executed stockholder questionnaire in the form attached hereto as **Exhibit A**.

(c) Notwithstanding anything to the contrary, the Company shall cause its transfer agent to deliver unlegended shares of Common Stock to a transferee of a Holder in connection with any sale of Registrable Securities with respect to which a Holder has entered into a contract for sale, prior to the Holder’s receipt of a notice by the Company suspending dispositions pursuant to the applicable Registration Statement and for which a Holder has not yet settled.

(d) Neither the Company nor any subsidiary or Affiliate thereof shall identify any Holder as an underwriter in any public disclosure or filing with the SEC or any trading market and any Holder being deemed an underwriter by the SEC shall not relieve the Company of any obligations it has under this Agreement; provided, however, that the foregoing shall not prohibit the Company from including the disclosure found in the “Plan of Distribution” section attached hereto as Annex A to Exhibit A in the Registration Statement.

2.3 Participation in Underwritten Offerings. No Person may participate in any underwritten offering pursuant to this Agreement unless such Person (a) agrees to sell such Person’s securities on the basis provided in any underwriting arrangements in customary form approved by the Persons entitled under this Agreement to approve such arrangements and (b) completes and executes all customary questionnaires, powers of attorney, indemnities, underwriting agreements and other documents reasonably required under the terms of such underwriting arrangements.

2.4 Registration Expenses

(a) The Company shall bear all Registration Expenses.

(b) The obligation of the Company to bear and pay the Registration Expenses shall apply irrespective of whether a registration, once properly demanded or requested, becomes effective or is withdrawn or suspended, including one (1) request by one or more Holder(s) to withdraw any Registration Statement; provided, that, after such first request by one or more Holder(s), the Registration Expenses for any Registration Statement withdrawn at the request of one or more Holder(s) shall be borne by such Holder(s).

2.5 Indemnification

(a) The Company shall, to the fullest extent permitted by law, indemnify and hold harmless each Holder, any Person who is or might be deemed to be a “controlling person” of the Holder or any of its subsidiaries within the meaning of the Securities Act or the Exchange Act (each such Person, a “**Controlling Person**”) and their respective direct and indirect general and limited partners, advisory board members, directors, officers, trustees, managers, members, employees, agents, Affiliates and shareholders, and each other Person, if any, who acts on behalf or controls any such Holder or Controlling Person (collectively, the “**Holder Indemnified Parties**”) from and against any losses, claims, damages, liabilities or expenses, joint or several, or any actions in respect thereof to which each Holder Indemnified Party may become subject under the Securities Act, Exchange Act, any state blue sky securities laws, any equivalent non-U.S. securities laws or otherwise, insofar as such losses, claims, damages, liabilities, expenses or actions arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in or incorporated by reference in any Registration Statement or in any amendment thereof, in each case at the time such became effective under the Securities Act, or in the preliminary Prospectus, free writing prospectus (as defined in Rule 405 under the Securities Act or any successor rule thereto) or other information that is deemed, under Rule 159 promulgated under the Securities Act to have been conveyed to purchasers of securities at the time of sale of such securities (“**Disclosure Package**”), in the Prospectus or in any amendment thereof or supplement thereto, (ii) the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Disclosure Package or any Prospectus, in the light of the circumstances under which they were made) not misleading, and the Company shall reimburse, as incurred, the Holder Indemnified Parties for any legal or other expenses reasonably incurred by them in connection with investigating, defending or settling any such loss, claim, damage, liability, expense or action in respect thereof, (iii) any violation or alleged violation by the Company of the Securities Act, the Exchange Act, any other law, including, without limitation, any state securities law, or any rule or regulation thereunder relating to the offer or sale of the Registrable Securities pursuant to a Registration Statement or (iv) any violation by the Company of this Agreement; provided, however, that the Company shall not be liable in any such case to the extent that such loss, claim, damage, liability, expense or action arises out of or is based upon any untrue statement or omission made or incorporated by reference in any such Registration Statement, the Disclosure Package, any Prospectus or in any amendment thereof or supplement thereto in reliance upon and in conformity with written information pertaining to a Holder and furnished to the Company by or on behalf of such Holder Indemnified Party specifically for inclusion therein; and provided further, however, that the Company shall not be liable in any such case to the extent that such loss, claim, damage, liability, expense or action arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in the Disclosure Package, where (A) such statement or omission had been eliminated or remedied in any subsequently filed amended prospectus or prospectus supplement (the Disclosure Package, together with such updated documents, the “**Updated Disclosure Package**”), the filing of which such Holder had been timely notified in writing in accordance with the terms of this Agreement, (B) such Updated Disclosure Package was available at the time such Holder sold Registrable Securities under the Registration Statement, (C) such Updated Disclosure Package was not furnished by such Holder to the Person asserting the loss, liability, claim, damage, liability, expense or action, or an underwriter involved in the distribution of such Registrable Securities, at or prior to the time such furnishing is required by the Securities Act, (D) the Updated Disclosure Package would have cured the defect giving rise to such loss, liability, claim, damage, liability, expense or action, and (E) the Updated Disclosure Package was provided to the Holder and the Holder failed to use such Updated Disclosure Package and such failure led to the loss, liability, claim, damage, liability, expense or action. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of any Holder Indemnified Parties and shall survive the transfer of the Registrable Securities by any Holder and the Company shall reimburse such Holder, and each such director, officer, employees, Affiliates and agents for any legal or other expenses reasonably incurred by them in connection with investigating, defending, or settling and such loss, claim, damage, liability, action, or proceeding. Such indemnity shall remain in full force and effect, regardless of any investigation made by or on behalf of the Company or any such director, officer, employees, Affiliates and agents and shall survive the transfer by a Holder of such Registrable Securities.

(b) In connection with any registration in which a Holder of Registrable Securities is participating, each such Holder shall furnish to the Company in writing such information as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus and shall to the fullest extent permitted by law, indemnify and hold harmless the Company, its directors and officers, employees, agents and any Person who is or might be deemed to be a Controlling Person (a “**Company Indemnified Party**”) from and against any losses, claims, damages, liabilities or expenses or any actions in respect thereof, to which a Company Indemnified Party may become subject under the Securities Act, the Exchange Act, any state blue sky securities laws, any equivalent non-U.S. securities laws or otherwise, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or in any amendment thereof, in each case at the time such became effective under the Securities Act, or in any Disclosure Package, Prospectus or in any amendment thereof or supplement thereto, or in any filing made in connection with the qualification of the offering under the securities or other “blue sky” laws of any jurisdiction in which Registrable Securities are offered, or (ii) the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of the Disclosure Package or any Prospectus, in the light of the circumstances under which they were made) not misleading, but in each of clauses (i) and (ii), only to the extent that the untrue statement or omission or alleged untrue statement or omission was made in reliance upon and in conformity with written information pertaining to such Holder and furnished to the Company by or on behalf of such Holder specifically for inclusion therein, and, subject to the limitation immediately preceding this clause, shall reimburse, as incurred, Company Indemnified Parties for any legal or other expenses reasonably incurred by them in connection with investigating, defending or settling any such loss, claim, damage, liability, expense or action in respect thereof. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder, or any such director, officer, employees, Affiliates and agents and shall survive the transfer of such Registrable Securities by such Holder. Such indemnity shall remain in full force and effect, regardless of any investigation made by or on behalf of the Company or any such director, officer, employees, Affiliates and agents and shall survive the transfer by a Holder of such Registrable Securities, and such Holder shall reimburse the Company, and each such director, officer, employees, Affiliates and agents for any legal or other expenses reasonably incurred by them in connection with investigating, defending, or settling and such loss, claim, damage, liability, action, or proceeding.

(c) Promptly after receipt by a Holder Indemnified Party or a Company Indemnified Party (each, an “**Indemnified Party**”) of notice of the commencement of any action or proceeding (including a governmental investigation), such Indemnified Party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 2.5, notify the indemnifying party in writing of the commencement thereof; *provided*, that the omission to so notify the indemnifying party will not relieve the indemnifying party from liability under Sections 2.5(a) or 2.5(b), unless and to the extent it did not otherwise learn of such action and the indemnifying party has been materially prejudiced by such failure. In case any such action is brought against any Indemnified Party, and it notifies the indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate therein and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof at the indemnifying party’s expense, with counsel reasonably satisfactory to such Indemnified Party (who shall not, except with the prior written consent of the Indemnified Party, be counsel to the indemnifying party); *provided*, that any Indemnified Party shall continue to be entitled to participate in the defense of such claim or action, with counsel of its own choice, but the indemnifying party shall not be obligated to reimburse such Indemnified Party for any fees, costs and expenses subsequently incurred by the Indemnified Party in connection with such defense unless (i) the indemnifying party has agreed in writing to pay such fees, costs and expenses, (ii) the indemnifying party has failed to assume the defense of such claim or action within a reasonable time after receipt of notice of such claim or action, (iii) having assumed the defense of such claim or action, the indemnifying party fails to employ counsel reasonably acceptable to the Indemnified Party or to pursue the defense of such claim or action in a reasonably vigorous manner, (iv) the use of counsel chosen by the indemnifying party to represent the Indemnified Party would present such counsel with a conflict of interest or (v) the Indemnified Party has reasonably concluded that there may be one or more legal or equitable defenses available to it and/or other any other Indemnified Party which are different from or additional to those available to the indemnifying party. In no event shall the indemnifying party be liable for the fees and expenses of more than one counsel (together with appropriate local counsel) at any time for any Indemnified Party in connection with any one action or separate but substantially similar or related actions arising in the same jurisdiction out of the same general allegations or circumstances. An indemnifying party shall not be liable for any settlement of any action or claim referred to in this Section 2.5 effected without its prior written consent, *provided, however*, that the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Indemnified Party consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect to such claim or litigation and such settlement shall not include any admission as to fault on the part of the Indemnified Party. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Indemnified Party with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made.

(d) If the indemnification provided for in this Section 2.5 is unavailable or insufficient to hold harmless an Indemnified Party under Sections 2.5(a) or 2.5(b), then each indemnifying party shall contribute to the amount paid or payable by such Indemnified Party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to in Sections 2.5(a) or 2.5(b) in such proportion as is appropriate to reflect the relative fault of the indemnifying party or parties on the one hand and the Indemnified Party on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities (or actions in respect thereof) as well as any other relevant equitable considerations. The relative fault of the parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or a Holder or Holder Indemnified Party, as the case may be, on the other, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid by an Indemnified Party as a result of the losses, claims, damages or liabilities referred to in the first sentence of this Section 2.5 shall be deemed to include any legal or other expenses reasonably incurred by such Indemnified Party in connection with investigating or defending any action or claim that is the subject of this Section 2.5(d). The parties agree that it would not be just and equitable if contributions were determined by *pro rata* allocation (even if a Holder was treated as one Person for such purpose) or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding anything else in this Agreement, in no event will a Holder be required to pay via indemnification or contribution an amount in excess of its net proceeds of sales of Registrable Securities under the Registration Statement. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

ARTICLE III

Transfer Restrictions

3.1 Rule 144 Compliance. With a view to making available to the Holders of Registrable Securities the benefits of Rule 144 and any other rule or regulation of the SEC that may at any time permit a Holder to sell securities of the Company to the public without registration, until the date on which the Holder no longer hold any Registrable Securities, the Company shall:

- (a) make and keep public information available, as those terms are understood and defined in Rule 144;
-

(b) use commercially reasonable efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act; and

(c) furnish to any Holder of Registrable Securities, upon request, a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act and the Exchange Act.

ARTICLE IV

Miscellaneous

4.1 Remedies; Specific Performance. In the event of a breach or a threatened breach by any party to this Agreement of its obligations under this Agreement, any party injured or to be injured by such breach shall be entitled to specific performance of its rights under this Agreement or to injunctive relief, in addition to being entitled to exercise all rights provided in this Agreement and granted by law, it being agreed by the parties that the remedy at law, including monetary damages, for breach of any such provision will be inadequate compensation for any loss and that any defense or objection in any action for specific performance or injunctive relief for which a remedy at law would be adequate is hereby waived.

4.2 No Waivers. 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.

4.3 Further Assurances. Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as any other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby.

4.4 Notices. All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or e-mail as follows:

If to the Company:

Liquidia Corporation
419 Davis Drive, Suite 100
Morrisville, NC 27560
Attn: General Counsel

With a copy (which shall not constitute notice) to:

DLA Piper LLP (US)
51 John F. Kennedy Parkway, Suite 120
Short Hills, NJ 07078
Attn: Andrew P. Gilbert, Esq.

If to a Purchaser: To the address set forth opposite such Purchaser's name on **Schedule A** hereto, or to such other address and/or e-mail address and/or to the attention of such other person as the recipient party has specified by written notice given to each other party at least five (5) days prior to the effectiveness of such change.

Notices or communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, notices or communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient) and notices or communications sent by e-mail shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement) (except that, if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient).

4.5 Headings. Section headings herein are included for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

4.6 Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile, .pdf or any other electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com) shall be effective as delivery of a manually executed counterpart of this Agreement.

4.7 Governing Law; Disputes. This Agreement and any related dispute shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that State, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each of the parties hereto hereby (a) irrevocably submits to the personal jurisdiction of the Supreme Court of the State of New York and any state appellate court therefrom within the State of New York (or, if the Supreme Court of the State of New York declines to accept jurisdiction over a particular matter, any state or federal court within the State of New York) in the event that any dispute arises out of this Agreement or any of the transactions contemplated by this Agreement, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction or venue by motion or other request for leave from any such court and (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the Supreme Court of the State of New York and any state appellate court therefrom within the State of New York (or, if the Supreme Court of the State of New York declines to accept jurisdiction over a particular matter, any state or federal court within the State of New York). **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LEGAL REQUIREMENTS, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

4.8 Successors and Assigns. This Agreement and the rights and obligations evidenced hereby shall be binding upon and inure to the benefit of the parties hereto and their respective the successors and permitted assigns. Neither this Agreement nor any right, benefit, remedy, obligation or liability arising hereunder may be assigned by any party without the prior written consent of the other parties, and any attempted assignment without such consent shall be null and void and of no effect; *provided*, that notwithstanding the foregoing, the Company may assign this Agreement at any time in connection with a sale or acquisition of the Company, whether by merger, consolidation, sale of all or substantially all of the Company's assets, or similar transaction, without the consent of the Purchasers; *provided further*, that the successor or acquiring Person agrees in writing to assume all of the Company's rights and obligations under this Agreement; *provided further*, that a Holder may assign this Agreement to (i) an Affiliate of such Holder or (ii) a Person that is not an Affiliate of such Holder if the Shares or Additional Shares are sold or transferred by such Holder not pursuant to Rule 144 or a registered offering.

4.9 Amendments. No provision of this Agreement may be amended, waived or modified other than by an instrument in writing signed by the Company and each Holder affected thereby.

4.10 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

4.11 Termination. This Agreement shall terminate with respect to any Holder upon such time as such Holder ceases to hold or beneficially own any remaining Registrable Securities or upon the dissolution, liquidation or winding up of the Company and there is no successor or assign of the Company as provided in Section 4.8; *provided*, that Section 2.5 of this Agreement and this Article IV shall survive such termination.

4.12 No Third Party Beneficiaries. This Agreement is intended for the sole benefit of the parties hereto and their respective permitted successors and assigns and transferees, and is not for the benefit of, nor may any provision hereof be enforced by, any other person; *provided, however*, that the parties hereto hereby acknowledge that the Persons set forth in Section 2.5 shall be express third-party beneficiaries of the obligations of the parties hereto set forth in Section 2.5.

4.13 Language; Currency. This Agreement has been prepared in the English language and the English language shall control its interpretation. In addition, all notices required or permitted to be given hereunder, and all written, electronic, oral or other communications between the parties regarding this Agreement, shall be in the English language. All references to "\$" contained in this Agreement shall refer to United States Dollars unless otherwise stated.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have duly executed this Registration Rights Agreement as of the date first written above.

THE COMPANY:

LIQUIDIA CORPORATION

a Delaware Corporation

By: /s/ Michael Kaseta

Name: Michael Kaseta

Title: Chief Financial Officer

[Signature Page to Registration Rights Agreement]

IN WITNESS WHEREOF, the parties hereto have duly executed this Registration Rights Agreement as of the date first written above.

PURCHASERS:

CALIGAN PARTNERS CV IV LP

By: /s/ David Johnson

Name: David Johnson

Title: Managing Member of General Partner

CALIGAN PARTNERS MASTER FUND LP

By: Caligan Partners LP, its investment manager

By: /s/ David Johnson

Name: David Johnson

Title: Managing Member

[Signature Page to Registration Rights Agreement]

Schedule A

Purchasers

Purchaser	Contact Information for Notices
Caligan Partners CV IV LP	780 Third Avenue, 30th Floor New York, NY 10017 With a copy (for informational purposes only) to: Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 Telephone: (212) 756-2000 Facsimile: (212) 593-5955 Attention: Eleazer N. Klein, Esq.
Caligan Partners Master Fund LP	c/o Caligan Partners LP 780 Third Avenue, 30th Floor New York, NY 10017 With a copy (for informational purposes only) to: Schulte Roth & Zabel LLP 919 Third Avenue New York, NY 10022 Telephone: (212) 756-2000 Facsimile: (212) 593-5955 Attention: Eleazer N. Klein, Esq.

Exhibit A

Form of Selling Stockholder Questionnaire

LIQUIDIA CORPORATION

SELLING STOCKHOLDER NOTICE AND QUESTIONNAIRE

Notice Address: Liquidia Corporation
419 Davis Drive, Suite 100
Morrisville, NC 27560

The undersigned holder of shares of common stock of Liquidia Corporation (the “*Company*”) understands that the Company intends to file with the Securities and Exchange Commission a registration statement on Form S-3 (the “*Registration Statement*”) for the registration and the resale under Rule 415 of the Securities Act of 1933, as amended (the “*Securities Act*”), of the Registrable Securities in accordance with the terms of the Common Stock Purchase Agreement, dated September 10, 2024, by and among the Company and the several signatories thereto (the “*Purchase Agreement*”). All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Purchase Agreement.

In order to sell or otherwise dispose of any Registrable Securities pursuant to the Registration Statement, a holder of Registrable Securities generally will be required to be named as a selling stockholder in the related prospectus or a supplement thereto (as so supplemented, the “*Prospectus*”) and deliver the Prospectus to purchasers of Registrable Securities (including pursuant to Rule 172 under the Securities Act). Holders must complete and deliver this notice and questionnaire (“*Notice and Questionnaire*”) in order to be named as selling stockholders in the Prospectus. Certain legal consequences arise from being named as a selling stockholder in the Registration Statement and the Prospectus. Holders of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not named as a selling stockholder in the Registration Statement and the Prospectus.

NOTICE

The undersigned holder (the “*Selling Stockholder*”) of Registrable Securities hereby gives notice to the Company of its intention to sell or otherwise dispose of Registrable Securities owned by it and listed below in Item 3(b) pursuant to the Registration Statement. The undersigned, by signing and returning this Notice and Questionnaire, understands and agrees that it will be bound by the terms and conditions of this Notice and Questionnaire.

The undersigned hereby provides the following information to the Company and represents and warrants that such information is materially accurate and complete:

QUESTIONNAIRE

1. **Name:**

- (a) Full legal name of the Selling Stockholder: _____
- (b) Full legal name of the registered holder (if not the same as Item 1(a) above) through which the Registrable Securities listed in Item (3) below are held: _____
- (c) Full legal name of any natural control person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the Registrable Securities listed in Item (3) below): _____

2. **Notices to Selling Stockholder:**

- (a) Address: _____
 - (b) Telephone: _____
 - (c) Fax: _____
 - (d) Contact person: _____
-

(e) E-mail address of contact person:

3. **Beneficial Ownership of Registrable Securities:**

(a) Type and number of Registrable Securities beneficially owned:

(b) Number of shares of Common Stock to be registered for resale pursuant to this Notice and Questionnaire:

4. **Broker-Dealer Status:**

(a) Are you a broker-dealer?

Yes No

(b) If you answered "yes" to Item 4(a) above, did you receive your Registrable Securities as compensation for investment banking services provided to the Company?

Yes No

Note: If you answered "no", the SEC's staff has indicated that you should be identified as an underwriter in the Registration Statement.

(c) Are you an affiliate of a broker-dealer?

Yes No

If you answered "yes", provide a narrative explanation below:

(d) If you are an affiliate of a broker-dealer, do you certify that you bought the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes No

Note: If you answered "no", the SEC's staff has indicated that you should be identified as an underwriter in the Registration Statement.

5. **Beneficial Ownership of Other Securities of the Company Owned by the Selling Stockholder:**

Except as set forth below in this Item 5, the undersigned is not the beneficial or registered owner of any securities of the Company, other than the Registrable Securities listed above in Item 3.

Type and amount of other securities beneficially owned:

6. **Relationships with the Company:**

(a) Have you or any of your affiliates, officers, directors or principal equity holders (owners of 5% or more of the equity securities of the undersigned) held any position or office or have you had any other material relationship with the Company (or its predecessors or affiliates) within the past three years?

Yes No

(b) If your response to Item 6(a) above is "yes", please state the nature and duration of your relationship with the Company:

7. **Plan of Distribution:**

The undersigned has reviewed the form of Plan of Distribution attached as Annex A hereto, and hereby confirms that, except as set forth below, the information contained therein regarding the undersigned and its plan of distribution is correct and complete.

State any exceptions here:

The undersigned agrees to promptly notify the Company of any inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof and prior to the effective date of any applicable Registration Statement. In the absence of any such notification, the Company shall be entitled to continue to rely on the accuracy of the information in this Notice and Questionnaire.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 7 above and the inclusion of such information in the Registration Statement and the Prospectus. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of any such Registration Statement and Prospectus.

By signing below, the undersigned acknowledges that it understands its obligation to comply, and agrees that it will comply, with the provisions of the Exchange Act and the rules and regulations thereunder, particularly Regulation M in connection with any offering of Registrable Securities pursuant to the Registration Statement. The undersigned also acknowledges that it understands that the answers to this Notice and Questionnaire are furnished for use in connection with registration statements filed pursuant to the Purchase Agreement and any amendments or supplements thereto filed with the SEC pursuant to the Securities Act.

The undersigned confirms that, to the best of his/her knowledge and belief, the foregoing answers to this Notice and Questionnaire are correct.

IN WITNESS WHEREOF, the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly authorized agent.

Dated: _____

Beneficial Owner:

Name of Entity
By: _____
Name: _____
Title: _____

Annex A

PLAN OF DISTRIBUTION

We are registering the shares of common stock previously issued, to permit the resale of these shares of common stock by the holders of the common stock from time to time after the date of this prospectus. We will not receive any of the proceeds from the sale by the selling stockholders of the shares of common stock. We will bear all fees and expenses incident to our obligation to register the shares of common stock.

The selling stockholders may sell all or a portion of the shares of common stock beneficially owned by them and offered hereby from time to time directly or through one or more underwriters, broker-dealers or agents. If the shares of common stock are sold through underwriters or broker-dealers, the selling stockholders will be responsible for underwriting discounts or commissions or agent’s commissions. The shares of common stock may be sold in one or more transactions at fixed prices, at prevailing market prices at the time of the sale, at varying prices determined at the time of sale, or at negotiated prices. These sales may be effected in transactions, which may involve crosses or block transactions,

- on any national securities exchange or quotation service on which the securities may be listed or quoted at the time of sale;
- in the over-the-counter market;
- in transactions otherwise than on these exchanges or systems or in the over-the-counter market;
- through the writing of options, whether such options are listed on an options exchange or otherwise;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;

- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- short sales;
- sales pursuant to Rule 144;
- broker-dealers may agree with the selling securityholders to sell a specified number of such shares at a stipulated price per share;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

If the selling stockholders effect such transactions by selling shares of common stock to or through underwriters, broker-dealers or agents, such underwriters, broker-dealers or agents may receive commissions in the form of discounts, concessions or commissions from the selling stockholders or commissions from purchasers of the shares of common stock for whom they may act as agent or to whom they may sell as principal (which discounts, concessions or commissions as to particular underwriters, broker-dealers or agents may be in excess of those customary in the types of transactions involved). In connection with sales of the shares of common stock or otherwise, the selling stockholders may enter into hedging transactions with broker-dealers, which may in turn engage in short sales of the shares of common stock in the course of hedging in positions they assume. The selling stockholders may also sell shares of common stock short and deliver shares of common stock covered by this prospectus to close out short positions and to return borrowed shares in connection with such short sales. The selling stockholders may also loan or pledge shares of common stock to broker-dealers that in turn may sell such shares.

The selling stockholders may pledge or grant a security interest in some or all of the shares of common stock owned by them and, if they default in the performance of their secured obligations, the pledgees or secured parties may offer and sell the shares of common stock from time to time pursuant to this prospectus or any amendment to this prospectus under Rule 424(b)(3) or other applicable provision of the Securities Act of 1933, as amended, amending, if necessary, the list of selling stockholders to include the pledgee, transferee or other successors in interest as selling stockholders under this prospectus. The selling stockholders also may transfer and donate the shares of common stock in other circumstances in which case the transferees, donees, pledgees or other successors in interest will be the selling beneficial owners for purposes of this prospectus.

In addition, a selling stockholder that is an entity may elect to make an in-kind distribution of securities to its members, partners or stockholders pursuant to the registration statement of which this prospectus is a part by delivering a prospectus with a plan of distribution. Such members, partners or stockholders would thereby receive freely tradeable securities pursuant to the distribution through a registration statement. To the extent a distributee is an affiliate of ours (or to the extent otherwise required by law), we may file a prospectus supplement in order to permit the distributees to use the prospectus to resell the securities acquired in the distribution.

The selling stockholders and any broker-dealer participating in the distribution of the shares of common stock may be deemed to be “underwriters” within the meaning of the Securities Act, and any commission paid, or any discounts or concessions allowed to, any such broker-dealer may be deemed to be underwriting commissions or discounts under the Securities Act. At the time a particular offering of the shares of common stock is made, a prospectus supplement, if required, will be distributed which will set forth the aggregate amount of shares of common stock being offered and the terms of the offering, including the name or names of any broker-dealers or agents, any discounts, commissions and other terms constituting compensation from the selling stockholders and any discounts, commissions or concessions allowed or reallocated or paid to broker-dealers.

Under the securities laws of some states, the shares of common stock may be sold in such states only through registered or licensed brokers or dealers. In addition, in some states the shares of common stock may not be sold unless such shares have been registered or qualified for sale in such state or an exemption from registration or qualification is available and is complied with.

There can be no assurance that any selling stockholder will sell any or all of the shares of common stock registered pursuant to the registration statement, of which this prospectus forms a part.

The selling stockholders and any other person participating in such distribution will be subject to applicable provisions of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder, including, without limitation, Regulation M of the Exchange Act, which may limit the timing of purchases and sales of any of the shares of common stock by the selling stockholders and any other participating person. Regulation M may also restrict the ability of any person engaged in the distribution of the shares of common stock to engage in market-making activities with respect to the shares of common stock. All of the foregoing may affect the marketability of the shares of common stock and the ability of any person or entity to engage in market-making activities with respect to the shares of common stock.

We will pay all expenses of the registration of the shares of common stock pursuant to the registration rights agreement, estimated to be \$[] in total, including, without limitation, Securities and Exchange Commission filing fees and expenses of compliance with state securities or "blue sky" laws; provided, however, that a selling stockholder will pay all underwriting discounts and selling commissions, if any. We will indemnify the selling stockholders against liabilities, including some liabilities under the Securities Act, in accordance with the registration rights agreements, or the selling stockholders will be entitled to contribution. We may be indemnified by the selling stockholders against civil liabilities, including liabilities under the Securities Act, that may arise from any written information furnished to us by the selling stockholder specifically for use in this prospectus, in accordance with the related registration rights agreement, or we may be entitled to contribution.

Once sold under the registration statement, of which this prospectus forms a part, the shares of common stock will be freely tradable in the hands of persons other than our affiliates.

CERTAIN IDENTIFIED INFORMATION HAS BEEN EXCLUDED FROM THIS EXHIBIT BECAUSE IT IS NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM TO THE REGISTRANT IF PUBLICLY DISCLOSED. [*] INDICATES THAT INFORMATION HAS BEEN REDACTED.**

FIFTH AMENDMENT TO THE REVENUE INTEREST FINANCING AGREEMENT

This **FIFTH AMENDMENT TO THE REVENUE INTEREST FINANCING AGREEMENT** (this "Amendment"), dated as of September 11, 2024 (the "Fifth Amendment Effective Date"), is entered into by and between Liquidia Technologies, Inc., a Delaware corporation (the "Company"), and Healthcare Royalty Partners IV, L.P., a Delaware limited liability partnership, as the sole Investor and Investor Representative under the Agreement (as defined below) (the "Investor Representative"), solely with respect to certain enumerated provisions in the Agreement described herein. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

WHEREAS, the Parties entered into that certain Revenue Interest Financing Agreement, dated as of January 9, 2023 (as amended by the First Amendment to the Revenue Interest Financing Agreement dated as of April 17, 2023, as amended by the Second Amendment to the Revenue Interest Finance Agreement dated as of June 28, 2023, as amended by the Third Amendment to the Revenue Interest Finance Agreement dated as of July 27, 2023, and as amended by the Fourth Amendment to the Revenue Interest Finance Agreement dated as of January 3, 2024, the "Agreement");

WHEREAS, pursuant to the Agreement, the Investor has funded the Initial Investment Amount in the amount of \$32,500,000 and the Second Investment Amount has been funded by the Investor in the aggregate amount of \$35,000,000 (funded in two separate Second Closings for \$10,000,000 and \$25,000,000, respectively); and

WHEREAS, the Company has requested that the Agreement be modified to provide (i) that the Second Investment Amount be increased to \$67,500,000, (ii) that each of the Third Investment Amount and the Fourth Investment Amount be set to \$0 (with the effects that (A) there cannot and will not be a Third Closing or a Fourth Closing and (B) no payments shall be required from the Company in respect of the Included Product Payment Amount) and (iii) for changes to the regular and one-time fixed payments due from the Company and to the definition of the IRR True-Up Payment Amount, and, subject to the terms and conditions herein, the Investor is amenable to such modifications; and

WHEREAS, the Parties desire to effect the agreements, acknowledgments and amendments to the Agreement contemplated by this Amendment;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Agreement to Pay Second Investment Amount.** The Investor Representative and the Company hereby agree that by execution hereof, the Investor Representative hereby waives the requirements of Section 8.3(b) of the Agreement. Based on the foregoing, the Investor Representative and the Company agree that, subject to the Investor Representative's receipt of an Omnibus Responsible Officer's Certificate in a form agreed to by the Investor Representative and signed by a Responsible Officer of each Company Party pursuant to Section 8.6(c) of the Agreement, as of the Fifth Amendment Effective Date, the Company has satisfied the conditions set forth in Section 8.6(c) of the Agreement and has elected to receive, and the Investor has elected to make a payment of, an additional Thirty-Two Million Five Hundred Thousand Dollars (\$32,500,000) (for an aggregate Second Investment Amount of Sixty-Seven Million Five Hundred Thousand Dollars (\$67,500,000)) of the Second Investment Amount to the Company on the Second Investment Triggering Date. The Parties acknowledge and agree that the Investor has, prior to the Fifth Amendment Effective Date, funded \$35,000,000 of the Second Investment Amount (in two separate Second Closings for Second Investment Amounts of \$10,000,000 and \$25,000,000, respectively). The "Second Investment Triggering Date" means the date which is not later than two (2) Business Days after the Company provides reasonable written notice to the Investor Representative that the Parent Company has received not less than Fifty Million Dollars (\$50,000,000) in aggregate gross proceeds from the sale of the Parent Company's common stock, par value \$0.001 per share, in one or more transactions occurring on and after the Fifth Amendment Effective Date, but prior to close of business on September 16, 2024.

2. **Amendments to Section 1.1.**

(a) Section 1.1 of the Agreement is hereby amended by adding the following defined term after the defined term “Foreign Subsidiary”:

“Fifth Amendment Effective Date” means September 11, 2024.”

(b) Section 1.1 of the Agreement is hereby amended by amending and restating the following defined term in its entirety:

“IRR True-Up Payment Amount” means, as of any time of determination, (i) the amount that the Investor would need to receive to yield an internal rate of return on the Investment Amount tendered prior to Fifth Amendment Effective Date (consisting of the Initial Investment Amount of \$32,500,000 and the Second Investment Amounts of \$10,000,000 and \$25,000,000, respectively funded on July 27, 2023 and January 4, 2024) equal to eighteen percent (18%), calculated using the “XIRR function” in Microsoft® Excel® and determined after taking into account the Total Fixed Payments, the Total Included Product Payments, the Under Performance Payments, the Generic Product Payment and any payments under the Insurance Policy received by the Investor Representative and/or the Investor, if any, and (ii) the amount that the Investor would need to receive to yield an internal rate of return on the Second Investment Amount of \$32,500,000 tendered on or after the Fifth Amendment Effective Date equal to sixteen percent (16%), calculated using the “XIRR function” in Microsoft® Excel® and determined after taking into account the Total Fixed Payments, the Total Included Product Payments, the Under Performance Payments, the Generic Product Payment and any payments under the Insurance Policy received by the Investor Representative and/or the Investor, if any. For purposes of calculating the IRR True-Up Payment Amount, any voluntary prepayments made by the Company to the Investor Representative shall be applied first to the amounts owed by the Company to the Investor Representative and/or the Investor with respect to the Initial Investment Amount, followed by the amounts owed by the Company to the Investor Representative and/or the Investor with respect to each funded tranche of the Second Investment Amount in the order such tranches were funded, beginning with the portion of the Second Investment Amount funded on the first Second Closing Date. For reference, information on the XIRR function in Microsoft® Excel® is available at <https://support.microsoft.com/en-us/office/xirr-function-de1242ec-6477-445b-b11b-a303ad9adc9d>. An illustrative example of the calculation of the IRR True-Up Payment Amount is attached as Exhibit E hereto.”

(c) Section 1.1 of the Agreement is hereby amended by amending and restating the following defined term in its entirety:

“Quarterly Fixed Payments” means, with respect to any Calendar Quarter for which a payment is due under Section 3.1(a)(i), the amount set forth in Exhibit C. For clarity, the Quarterly Fixed Payments do not include the One-Time Fixed Payment.”

3. **Amendments to Section 2.1(b).** Section 2.1(b) of the Agreement is hereby amended and restated in its entirety as follows:

“(b) an aggregate sum equal to Sixty Seven Million Five Hundred Thousand Dollars (\$67,500,000) (the “Second Investment Amount”) at not more than three separate Second Closing Dates, subject to the satisfaction of the conditions set forth in Section 8.3 and the performance of the obligations set forth in Section 8.6(c), in immediately available funds, by wire transfer to an account designated in writing by the Company to the Investor Representative prior to the applicable Second Closing Date;”

4. **Amendment to Section 2.1(c).** Section 2.1(c) of the Agreement is hereby amended and restated in its entirety as follows:

“(c) the sum of Zero Dollars (\$0) (the “Third Investment Amount”) on the Third Closing Date, subject to the satisfaction of the conditions set forth in Section 8.4 and the performance of the obligations set forth in Section 8.6(d), in immediately available funds, by wire transfer to an account designated in writing by the Company to the Investor Representative prior to the Third Closing Date. Notwithstanding anything in this Agreement to the contrary, each Company Party, the Investor and the Investor Representative acknowledge and agree that (i) the Third Investment Amount shall not be, or deemed to be, funded and, (ii) as a consequence of Third Investment Amount being reduced to \$0 as of the Fifth Amendment Effective Date, the Third Closing Date cannot and will not occur and, consequently, no payments shall be required from the Company in respect of the Included Product Payment Amount; and”

5. **Amendment to Section 2.1(d).** Section 2.1(d) of the Agreement is hereby amended and restated in its entirety as follows:

“(d) the sum of Zero Dollars (\$0) (the “Fourth Investment Amount”) on the Fourth Closing Date, subject to the satisfaction of the conditions set forth in Section 8.5 and the performance of the obligations set forth in Section 8.6(e), in immediately available funds by wire transfer to an account designated in writing by the Company to the Investor Representative prior to the Fourth Closing Date. Notwithstanding anything in this Agreement to the contrary, each Company Party, the Investor and the Investor Representative acknowledge and agree that (i) the Fourth Investment Amount shall not be, or deemed to be, funded and (ii) as a consequence of Fourth Investment Amount being reduced to \$0 as of the Fifth Amendment Effective Date, the Fourth Closing Date cannot and will not occur.”

6. **Amendment to Section 3.1(a).** Section 3.1(a)(i) of the Agreement is hereby amended and restated in its entirety as follows:

“(i) (A) On each Quarterly Payment Date, until the date on which the Investor Representative has received payments (including, without limitation, the One-Time Fixed Payment) equal to the Hard Cap, the Company shall pay the Quarterly Fixed Payments to the Investor Representative. (B) In addition to, and not in substitution for, its obligation to make Quarterly Fixed Payments under clause (A) above, the Company shall make an aggregate payment of [***] (\$[***]) to Investor Representative in two equal installments of \$[***] to occur no later than January 31, 2026 and July 31, 2026, respectively (collectively, the “One-Time Fixed Payment”).”

7. **Amendment to Exhibit C.** Exhibit C of the Agreement is hereby amended and restated in its entirety as set forth on Exhibit A to this Amendment.
8. **Amendment to Exhibit E.** Exhibit E of the Agreement is hereby amended and restated in its entirety as set forth on Exhibit B to this Amendment.
9. **Reimbursement of Attorneys' Fees.** The Company agrees to reimburse the Investor Representative for all reasonable and documented fees, charges and disbursements of Jeffrey A. Jung, Esq., counsel to the Investor Representative, required in connection with this Amendment and incurred as of the Fifth Amendment Effective Date, provided such reimbursement shall not to exceed [***] (\$[***]).
10. **Representations and Warranties.** To induce the Investor Representative to enter into this Amendment, each of the Company and each other member of the Company Group represents and warrants to the Investor Representative that, as of the date of this Amendment, (a) the execution, delivery and performance by each Company Party of this Amendment are within each such Company Party's power and authority, and the execution, delivery and performance of this Amendment by each Company Party have been duly authorized by each Company Party, (b) the execution and delivery of this Amendment by each Company Party will not (i) contravene, conflict with, result in a breach, violation, cancellation or termination of, constitute a default (with or without notice or lapse of time, or both) under, require prepayment under, give any Person the right to exercise any remedy (including termination, cancellation or acceleration) or obtain any additional rights under, or accelerate the maturity or performance of or payment under, in any respect, (A) any Applicable Law or any judgment, order, writ, decree, Permit or license of any Governmental Authority to which any member of the Company Group or any of their respective assets or properties may be subject or bound, (B) any term or provision of any contract, agreement, indenture, lease, license, deed, commitment, obligation or instrument to which any member of the Company Group is a party or by which any member of the Company Group or any of their respective assets or properties is bound or committed (other than a Material Contract), (C) any Material Contract or (D) any term or provision of any of the Organization Documents of any member of the Company Group, except in the case of clause (A) or (B) where any such event would not reasonably be expected to result in a Material Adverse Effect or (ii) except as provided in any of the Transaction Documents to which it is party, result in or require the creation or imposition of any Lien on the Collateral (in each case other than Permitted Liens), (c) this Amendment has been duly executed and delivered by each Company Party and constitutes the legal, valid and binding obligation of each such Company Party, enforceable against each such Company Party in accordance with its respective terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or similar Applicable Laws affecting creditors' rights generally, general equitable principles and principles of public policy, (d) no Bankruptcy Event with respect to any member of the Company Group or any Special Termination Event, Change of Control, Default or Event of Default has occurred and is continuing.
11. **Effect on Agreement.** Upon the execution and delivery of this Amendment by the Parties, the Agreement shall be amended and/or restated as hereinabove set forth as fully and with the same effect as if the amendments made hereby were originally set forth in the Agreement, and this Amendment and the Agreement shall henceforth respectively be read, taken and construed as one and the same instrument, but such amendments shall not operate so as to render invalid or improper any action heretofore taken under the Agreement. No representation, inducement, promise, understanding, condition or warranty not set forth herein (or in Exhibits hereto or the other Transaction Documents) has been made or relied upon by either Party hereto.
12. **Agreement in Effect.** Except as specifically provided for in this Amendment, the Agreement shall remain unmodified and in full force and effect.

13. **Headings.** The headings of the Articles and Sections of this Amendment 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.
14. **Other Miscellaneous Terms.** The provisions of Article XII of the Agreement (other than Section 12.6, Section 12.10 and Section 12.13 of the Agreement) shall apply *mutatis mutandis* to this Amendment, and to the Agreement as modified by this Amendment, taken together as a single agreement, reflecting the terms therein as modified hereby.
15. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. This Amendment and any amendments hereto, to the extent signed and delivered by means of digital imaging and electronic mail, shall be treated in all manner and respects as an original contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person.
16. **Entire Agreement; Conflicts.** This Amendment, the Agreement and the other documents and instruments referred to herein and therein constitute the entire agreement among the Parties and supersede any prior understandings, agreements or representations by or among the Parties, written or oral, that may have related in any way to the subject matter hereof. In the event of any conflict between the terms and provisions of this Amendment and any Transaction Document, the terms and provisions of this Amendment shall control.
17. **Reaffirmation by the Company Parties.** Each Company Party that is a party hereto hereby consents to the amendments of the Agreement effected hereby and confirms and agrees that, notwithstanding the effectiveness of this Amendment, each Transaction Document to which such Company Party is a party is, and the obligations of such Company Party contained in the Agreement, this Amendment or in any other Transaction Document to which it is a party are, and shall continue to be, in full force and effect and are hereby ratified and confirmed in all respects, in each case, as amended by this Amendment. For greater certainty and without limiting the foregoing, each Company Party hereby confirms that the security interests granted by such Company Party in favor of the Investor Representative and the Investor pursuant to the Transaction Documents in the Collateral described therein remain in full force and effect, are not released or reduced and shall continue to secure the Obligations and the Secured Obligations (as defined in the Security Agreement).

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties have duly executed this Amendment as of the Fifth Amendment Effective Date.

THE COMPANY:

LIQUIDIA TECHNOLOGIES, INC.

By: /s/ Michael Kaseta

Name: Mike Kaseta

Title: Chief Financial Officer

[Signature Page to Fifth Amendment to the Revenue Interest Financing Agreement]

INVESTOR REPRESENTATIVE:

HEALTHCARE ROYALTY PARTNERS IV, L.P.

By: HealthCare Royalty GP IV, LLC, its general partner

By: /s/ Clarke Futch

Name: Clarke B. Futch

Title: Managing Partner

[Signature Page to Fifth Amendment to the Revenue Interest Financing Agreement]

Acknowledged and Agreed,

LIQUIDIA CORPORATION

By: /s/ Michael Kaseta

Name: Mike Kaseta

Title: Chief Financial Officer

LIQUIDIA PAH, LLC

By: /s/ Michael Kaseta

Name: Mike Kaseta

Title: Chief Financial Officer

[Signature Page to Fifth Amendment to the Revenue Interest Financing Agreement]

EXHIBIT A

EXHIBIT C

EXAMPLE OF CALCULATION OF INCLUDED PRODUCT PAYMENT AMOUNT

[***]

EXAMPLE TOTAL FIXED PAYMENTS PAYMENT SCHEDULE

[***]

EXHIBIT B

EXHIBITE

ILLUSTRATIVE EXAMPLE OF IRR TRUE-UP PAYMENT

[***]
