
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

SCHEDULE TO

**Tender Offer Statement under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934
(Amendment No. 1)**

89bio, Inc.

(Name of Subject Company (Issuer))

Bluefin Merger Subsidiary, Inc.

(Name of Filing Person (Offeror))

A wholly owned subsidiary of

Roche Holdings, Inc.

(Name of Filing Person (Parent of Offeror))

Common Stock, par value \$0.001 per share
(Title of Class of Securities)

282559103

(CUSIP Number of Class of Securities)

Roger Brown

Roche Holdings, Inc.

1 DNA Way

South San Francisco, California 94080

Telephone: (650) 225-1000

(Name, Address, and Telephone Numbers of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:

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Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13e-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer).
 - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer).
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This Amendment No. 1 (“**Amendment No. 1**”) to the Tender Offer Statement on Schedule TO (together with the exhibits thereto, the “**Schedule TO**”) amends and supplements the statement originally filed on October 1, 2025 by Roche Holdings, Inc., a Delaware corporation (“**Parent**”), and Bluefin Merger Subsidiary, Inc., a Delaware corporation and wholly owned subsidiary of Parent (“**Offeror**”). This Amendment No. 1 and the Schedule TO relate to the offer by Offeror to purchase all of the outstanding shares of common stock, par value \$0.001 per share (the “**Shares**”), of 89bio, Inc., a Delaware corporation, for (i) \$14.50 per Share, in cash, without interest less any required withholding taxes, plus (ii) one non-tradeable contingent value right per Share (each, a “**CVR**”), representing the right to receive certain contingent payments of up to an aggregate amount of \$6.00 per Share, in cash, without interest less any required withholding taxes, upon the achievement of specified milestones on or prior to the applicable milestone outside dates in accordance with the terms and conditions set forth in the contingent value rights agreement to be entered into with Equiniti Trust Company, LLC, a New York limited liability trust company, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 1, 2025 (together with any amendments or supplements thereto, the “**Offer to Purchase**”), and in the related Letter of Transmittal (together with any amendments or supplements thereto, the “**Letter of Transmittal**”), copies of which are filed with the Schedule TO as Exhibits (a)(1)(A) and (a)(1)(B), respectively (the Offer to Purchase and the Letter of Transmittal, collectively, the “**Offer**”).

Capitalized terms used, but not otherwise defined, in this Amendment No. 1 shall have the meanings ascribed to them in the Offer to Purchase. Except as set forth below, the information set forth in the Schedule TO remains unchanged and is incorporated herein by reference as relevant to the items in this Amendment No. 1.

Items 1 through 9, and Item 11.

The Offer to Purchase and Items 1 through 9 and 11 of the Schedule TO, to the extent such Items incorporate by reference the information contained in the Offer to Purchase, are hereby amended and supplemented as follows:

- (a) Schedule I is deleted in its entirety and replaced with the following Schedule I:

**DIRECTORS, EXECUTIVE OFFICERS AND CONTROLLING
SHAREHOLDERS OF ROCHE HOLDING LTD**

The name, age, country of citizenship, current principal occupation or employment and material occupations, positions, offices or employment for the past five years of each director and executive officer of Roche Holding Ltd, of which Parent is a subsidiary, are set forth below. Unless otherwise indicated, each occupation set forth opposite an individual’s name refers to a position with Roche Holding Ltd. The business address of each director, executive officer and controlling shareholder is Grenzacherstrasse 124, CH-4070, Basel, Switzerland. Directors are identified by an asterisk and controlling shareholders are identified with a cross.

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Dr. Severin Schwan*	58	Dr. Schwan has been a director since 2013 and Chairman of the Board since 2023. From 2008 to 2023, Dr. Schwan served as Chief Executive Officer.	Austria, Germany, Switzerland
André Hoffmann*†	67	Mr. Hoffmann has been a director since 1996 and a Non-Executive Vice-Chairman since 2006. Mr. Hoffmann has served as Non-Executive Vice-President of Givaudan Ltd. since March 2000. He has been President of Massellaz SA since November 1999.	Switzerland
Dr. Jörg Duschmalé*†	41	Dr. Duschmalé has been a director since 2020.	Switzerland

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Dr. Patrick Frost*	57	Dr. Frost has been a director since 2020. He served as the Group Chief Executive Officer of Swiss Life, Zurich, from 2014 to 2024.	Switzerland
Anita Hauser*	56	Ms. Hauser has been a director since 2017. Since 2007 she has been a Member of the Board of Bucher Industries, Zürich, and has served as Vice Chairwoman since 2011.	Switzerland
Prof. Dr. Akiko Iwasaki*	55	Dr. Iwasaki has been a director since 2023. Dr. Iwasaki has served as a professor at the Yale University School of Medicine since 2016.	USA
Prof. Dr. Richard P. Lifton*	72	Prof. Dr. Lifton has been a director since 2015. Since 2016, he has served as Adjunct Professor of Genetics and Internal Medicine at Yale University School of Medicine. Prof Dr. Lifton has also served as the President of The Rockefeller University since 2016.	USA
Dr. Jemilah Mahmood*	66	Dr. Mahmood has been a director since 2022. From 2020 to 2021, Dr. Mahmood has served as Prime Minister of Malaysia, Special Advisor on Public Health. Since 2021, she has been an Executive Director for the Sunway Centre for Planetary Health.	Malaysia
Dr. Mark Schneider*	60	Dr. Schneider has been a director since 2023. From 2017 to 2024, he was CEO and a member of the Board of Directors of Nestlé S.A., Vevey.	Germany, USA
Dr. Claudia Suessmuth Dyckerhoff*	58	Dr. Dyckerhoff has been a director since 2016. Dr. Dyckerhoff has been a Senior External Advisor to McKinsey & Company since 2016.	Germany, Switzerland
Dr. Thomas Schinecker	50	Dr. Schinecker has served as the Chief Executive Officer of Roche since 2023. He also served as Chief Executive Officer of Roche Diagnostics from 2019 to 2022 and as a member of the Corporate Executive Committee since 2019.	Austria, Germany
Teresa Graham	52	Ms. Graham has served at Roche Pharmaceuticals as CEO since 2023 and as Head of Global Product Strategy from 2019 to 2023. She has been a member of the Corporate Executive Committee since 2023.	USA

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Matt Sause	48	Mr. Sause has served at Roche Diagnostics Basel as CEO since 2023. From 2019 to 2022, he served as President and CEO of Roche Diagnostics Corporation North America. He has been a member of the Corporate Executive Committee since 2023.	USA
Dr. Alan Hippe	58	Dr. Hippe has served as Chief Financial Officer and Chief Information Officer since April 2011 and has been a member of the Corporate Executive Committee since 2011.	Germany, Switzerland
Cristina A. Wilbur	58	Ms. Wilbur has served as Chief People Officer and has been a member of the Corporate Executive Committee since 2016.	USA
Claudia Böckstiegel	61	Ms. Böckstiegel has served as General Counsel and as a member of the Roche Enlarged Corporate Executive Committee since April 2020. From 2016 to 2020, Ms. Böckstiegel served as Head of Legal Diagnostics at Roche Basel.	Germany, Switzerland
Dr. Levi Garraway	57	Dr. Garraway has served as Executive Vice-President, Head of Global Product Development and Chief Medical Officer since 2019. He also serves as a member of the Roche Enlarged Corporate Executive Committee since 2023.	USA
Silke Hörnstein	50	Ms. Hörnstein has served at Roche Basel since 2023 as Head of Corporate Strategy and Sustainability and served from 2021 to 2023 as Global Head Strategy and Transformation (Diagnostics) and 2018 to 2020 as Head of Digital Transformation and Diagnostics Program. She has also served as a member of the Roche Enlarged Corporate Executive Committee since 2023.	Germany
Wafaa Mamilli	58	Ms. Mamilli has served at Roche Basel as Chief Digital and Technology Officer and as a member of the Roche Enlarged Corporate Executive Committee since 2025. From 2020 to 2022 she served as Global Chief Information and Digital Officer of Zoetis Inc. and from 2022 until 2025 as Chief Digital and Technology Officer & Group President China, Brazil and Precision Animal Health for Zoetis Inc.	France, Morocco, USA

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Dr. Aviv Regev	54	Dr. Regev has served as Head of Genentech Research and Early Development (gRED) since 2020. She also serves as a member of the Roche Enlarged Corporate Executive Committee since 2020. From 2015 to 2020, Dr. Regev served as Investigator at the Howard Hughes Medical Institute.	Israel, USA
Barbara Schädler	63	Ms. Schädler has served as Head of Group Communications and as a member of the Roche Enlarged Corporate Executive Committee since October 2019.	Germany
Boris L. Zaïtra	53	Mr. Zaïtra serves as Head of Corporate Business Development at Roche Basel and previously served at Roche Basel as Head of Group Business Development / M&A from 2012 to 2024. He also serves as a member of the Roche Enlarged Corporate Executive Committee since 2024.	France
Dr. Andreas Oeri†	76	Dr. Oeri is an orthopedic surgeon.	Switzerland
Vera Michalski-Hoffmann†	71	Ms. Michalski-Hoffmann has served as Head of Libella SA, a publishing group since 2000.	Switzerland
Marie-Anne (Maja) Hoffmann†	69	Ms. Hoffmann is President of the Board of Foundation, LUMA Foundation.	Switzerland
Sabine Duschmalé-Oeri†	75	Ms. Duschmalé-Oeri engages in volunteer work and is involved in a number of cultural and social foundations.	Switzerland
Catherine Oeri Kessler†	74	Ms. Oeri is a therapist. She is also Chairman of Foundation Board of Stiftung Wolf. She is also a Member of the Board of the Basel Zoo.	Switzerland
Lukas Duschmalé†	40	Mr. Duschmalé is an entrepreneur.	Switzerland
Alexandre Hoffmann †	35	Mr. Hoffmann is an investor and previously was a researcher.	Switzerland, UK
Frederic Hoffmann†	33	Mr. Hoffmann is an investor and the Chair of Beech SA. He also holds Board Memberships in Racine Production SA as well as Planet Horizon Technologies.	Switzerland, UK
Isabel Hoffmann†	31	Ms. Hoffmann's current principal occupation is Director in the sustainability and climate space, a field she has worked in for the past five years. She is on the boards of rePLANET and reNEW.	Switzerland, UK

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Lucas Hoffmann†	29	Mr. Hoffmann is an entrepreneur.	Switzerland
Marina Hoffmann†	27	Ms. Hoffmann has graduated from New York University and does not currently hold any principal occupation.	Switzerland
Kasia Larrieu-Barbotin†	37	Ms. Barbotin-Larrieu is an entrepreneur and holds Board Memberships in the Emanuel Hoffmann-Stiftung and in the Fondation Jan Michalski.	Switzerland
Tatjana Fabre†	39	Ms. Fabre is an entrepreneur and holds Board Memberships in the Fondation Jan Michalski, Flamingo AG and Regenerative Foundation.	Switzerland

DIRECTORS AND EXECUTIVE OFFICERS OF PARENT

The name, current principal occupation or employment and material occupations, positions, offices or employment for the past five years of each director and executive officer of Parent are set forth below. Unless otherwise indicated, each occupation set forth opposite an individual's name refers to a position with Parent. Unless otherwise indicated, the business address of each director and executive officer of Parent is Tax Department, 1 DNA Way—MS24, South San Francisco, California 94080. Directors are identified by an asterisk.

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Dr. Thomas Schinecker*	50	Dr. Schinecker has served as director since 2023 and President and Chairman of the Board since 2023. Dr. Schinecker has served as the Chief Executive Officer of Roche Holding Ltd since 2023. He also served as Chief Executive Officer of Roche Diagnostics from 2019 to 2022 and as a member of the Corporate Executive Committee of Roche Holding Ltd since 2019.	Austria, Germany
Dr. Alan Hippe*	58	Dr. Hippe has served as director and Vice President since 2011. Dr. Hippe has also served as Chief Financial Officer and Chief Information Officer of Roche Holding Ltd since 2011, and is a member of its Corporate Executive Committee.	Germany, Switzerland
Roger Brown*	64	Mr. Brown has served as director since 2011 and serves as Vice President, Tax and Assistant Secretary. He has also served as Executive Director of Tax for Genentech, Inc. since 2020 and, prior to that, as Senior Director of Tax for Genentech, Inc. since 2011. Mr. Brown has served as a director and as Vice President, Treasurer and Assistant Secretary of Offeror since 2024.	USA
Dara Pincas*	55	Ms. Pincas has served as director, Vice President, Secretary and General Counsel since 2025. From July 2023 to September 2025, Ms. Pincas served at Roche Basel as Head of Legal, Roche Pharmaceuticals and now serves as Head of Global Legal Pharma, Senior Vice President, General Counsel, Chief Compliance Officer and Corporate Secretary of Genentech, Inc.	USA, Israel
Scott Wilson*	55	Scott Wilson has served as a director and as Vice President, Treasurer and Assistant Secretary since 2023.	USA
Gillian Chambers-Harris*	50	Gillian Chambers-Harris has served as a director since 2023.	USA
Anjna Mehta	44	Ms. Mehta has served as a director since 2025.	USA

DIRECTORS AND EXECUTIVE OFFICERS OF OFFEROR

The name, current principal occupation or employment and material occupations, positions, offices or employment for the past five years of each director and executive officer of Offeror are set forth below. Unless otherwise indicated, each occupation set forth opposite an individual's name refers to a position with us. The business address of each director and executive officer of Offeror is Tax Department, 1 DNA Way—MS24, South San Francisco, California 94080. Directors are identified by an asterisk.

<u>Name</u>	<u>Age</u>	<u>Current Principal Occupation or Employment and Five-Year Employment History</u>	<u>Country of Citizenship</u>
Dara Pincas*	55	Ms. Pincas has served as director, President and Secretary since 2025. From July 2023 to September 2025, Ms. Pincas served at Roche Basel as Head of Legal, Roche Pharmaceuticals and now serves as Head of Global Legal Pharma, Senior Vice President, General Counsel, Chief Compliance Officer and Corporate Secretary of Genentech, Inc.	USA, Israel
Roger Brown*	64	Mr. Brown has served as director and Vice President, Treasurer and Assistant Secretary since 2025. Mr. Brown has also served as director of Parent since 2011 and serves as Vice President, Tax and Assistant Secretary of Parent. He has also served as Executive Director of Tax for Genentech, Inc. since 2020 and, prior to that, as Senior Director of Tax for Genentech, Inc. since 2011.	USA

Item 12.

Item 12 of the Schedule TO is hereby amended and supplemented by adding the following exhibit:

<u>Index No.</u>	<u>Description</u>
(d)(5)	Amended Form of CVR Agreement between Roche Holdings, Inc. and Equiniti Trust Company, LLC.

<u>Exhibit No.</u>	<u>Description</u>
(a)(1)(A)*	Offer to Purchase, dated as of October 1, 2025.
(a)(1)(B)*	Form of Letter of Transmittal (including IRS Form W-9).
(a)(1)(C)*	Form of Notice of Guaranteed Delivery.
(a)(1)(D)*	Form of Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(E)*	Form of Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
(a)(1)(F)*	Summary Advertisement, as published in the New York Times on October 1, 2025.
(a)(5)(A)*	Media Release issued by Roche Holdings, Inc. on September 18, 2025 (incorporated by reference to Exhibit 99.1 of the Roche Holdings, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on September 18, 2025).

<u>Exhibit No.</u>	<u>Description</u>
(a)(5)(B)*	<u>Q&A Acquisition of 89bio, Inc. dated September 18, 2025 (incorporated by reference to Exhibit 99.2 of the Roche Holdings, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on September 18, 2025).</u>
(a)(5)(C)*	<u>Social media content by Roche Holdings, Inc. on www.x.com (incorporated by reference to Exhibit 99.1 of the Roche Holdings, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on September 18, 2025).</u>
(a)(5)(D)*	<u>Social media content by Roche Holdings, Inc. on www.linkedin.com (incorporated by reference to Exhibit 99.2 of the Roche Holdings, Inc. Pre-Commencement Communication on Schedule TO filed with the Securities and Exchange Commission on September 18, 2025).</u>
(b)	Not applicable.
(d)(1)*	<u>Agreement and Plan of Merger, dated as of September 17, 2025, among Roche Holdings, Inc., Bluefin Merger Subsidiary, Inc. and 89bio, Inc. (incorporated by reference to Exhibit 2.1 of the 89bio, Inc. Current Report on Form 8-K (File No. 001-39122) filed with the Securities and Exchange Commission on September 18, 2025).</u>
(d)(2)*	<u>Tender and Support Agreement, dated as of September 17, 2025, among Roche Holdings, Inc., Bluefin Merger Subsidiary, Inc., RA Capital Healthcare Fund, L.P. and RA Capital Nexus Fund, L.P. (incorporated by reference to Exhibit 10.1 of the 89bio, Inc. Current Report on Form 8-K (File No. 001-39122) filed with the Securities and Exchange Commission on September 18, 2025).</u>
(d)(3)*	<u>Non-Disclosure Agreement, dated as of March 28, 2023, between Genentech, Inc. and 89bio, Inc.</u>
(d)(4)*	<u>First Amendment to Non-Disclosure Agreement, dated as of March 10, 2025, between Genentech, Inc. and 89bio, Inc.</u>
(d)(5)**	<u>Amended Form of CVR Agreement between Roche Holdings, Inc. and Equiniti Trust Company, LLC.</u>
(g)	Not applicable.
(h)	Not applicable.
107*	<u>Filing Fee Table.</u>

* Previously filed.

** Filed herewith.

SIGNATURES

After due inquiry and to the best knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: October 23, 2025

BLUEFIN MERGER SUBSIDIARY, INC.

By: /s/ Roger Brown

Name: Roger Brown

Title: Vice President, Treasurer and Assistant
Secretary

ROCHE HOLDINGS, INC.

By: /s/ Roger Brown

Name: Roger Brown

Title: Vice President

FORM OF CONTINGENT VALUE RIGHTS AGREEMENT

This Contingent Value Rights Agreement (this “Agreement”) dated as of [•], between Roche Holdings, Inc., a Delaware corporation (“Parent”), and Equiniti Trust Company, LLC, a New York limited liability trust company, as Rights Agent (the “Rights Agent”).

INTRODUCTION

WHEREAS, Parent, Bluefin Merger Subsidiary, Inc., a Delaware corporation and a wholly owned subsidiary of Parent (“Merger Sub”), and 89bio, Inc., a Delaware corporation (the “Company”), have entered into an Agreement and Plan of Merger dated as of September 17, 2025 (as it may be amended or supplemented from time to time pursuant to the terms thereof, the “Merger Agreement”), pursuant to which (a) Merger Sub has made a tender offer (as it may be extended and amended from time to time as permitted under the Merger Agreement, the “Offer”) to acquire all of the issued and outstanding shares of common stock, par value \$0.001 per share, of the Company (such shares, collectively, the “Shares”) and (b) following the consummation of the Offer, Merger Sub will be merged with and into the Company (the “Merger”), with the Company surviving the Merger as a wholly owned subsidiary of Parent, in accordance with Section 251(h) of the DGCL and on the terms and subject to the conditions set forth in the Merger Agreement;

WHEREAS, pursuant to the terms of the Merger Agreement, and in accordance with the terms and conditions thereof, as a result of the consummation of the Offer or the Merger, Parent has agreed to provide the holders of Shares outstanding immediately prior to the Effective Time (other than Shares to be cancelled in accordance with Section 3.1(d) or Section 3.1(e) of the Merger Agreement and other than Dissenting Shares) (the “Company Shares”) and Equity Award Holders and Warranholders the right to receive up to three contingent cash payments upon the terms and subject to the conditions of this Agreement and the Merger Agreement without interest and subject to reduction for any applicable withholding Taxes as set forth herein; and

WHEREAS, pursuant to this Agreement, the maximum amount payable per CVR (as defined below) is up to \$6.00 in cash, without interest and subject to reduction for any applicable withholding Taxes as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the consummation of the transactions referred to above, Parent and Rights Agent agree, for the equal and proportionate benefit of all Holders (as defined below), as follows:

ARTICLE 1.
DEFINITIONS; CERTAIN RULES OF CONSTRUCTION

Section 1.1. Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Merger Agreement. As used in this Agreement, the following terms shall have the following meanings:

“Acting Holders” means, at the time of determination, Holders of at least 40% of the outstanding CVRs as set forth in the CVR Register.

“Affiliate” means, with respect to any Person, any other Person, directly or indirectly, controlling, controlled by, or under common control with such Person. As used in this definition of Affiliate, the term “control” shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise. In the case of Parent and Merger Sub, for purposes of this Agreement, the term “Affiliate” shall not include Chugai Pharmaceutical Co., Ltd., 1-9, Kyobashi 2-chome, Chuo-ku, Tokyo, 104-8301, Japan (“Chugai”) unless and until Parent provides written notice to the Rights Agent specifying Chugai as an Affiliate of Parent or Merger Sub.

“Assignee” has the meaning set forth in Section 6.3.

“BIO89-100 Compound” means pegozafermin according to the World Health Organization, Proposed International Nonproprietary Name resource, the glycoPEGylated analog of fibroblast growth factor 21, known by the Company as “BIO89-100” as described and claimed in the CVR Patents.

“Business Day” means any day, other than a Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York, State of California or Basel, Switzerland or is a day on which banking institutions located in the State of New York, State of California or Basel, Switzerland are authorized or required by Law or other governmental action to close.

“Code” means the Internal Revenue Code of 1986.

“Commercially Reasonable Efforts” means such level of efforts consistent with the efforts that Genentech, Inc. and F. Hoffmann-La Roche Ltd devote to their own internally developed products in a similar area, at the similar stage of development or commercialization, as applicable, with similar market potential, with the right for Parent to take into account any of the following: the existence of other competitive products in the market place or under development; issues of efficacy and safety; the probability of technical success and risk profile; the expected and actual patent and other proprietary position of the product; the legal and regulatory environment and Regulatory Approvals involved (including the cost and likelihood of obtaining any such Regulatory Approval); the anticipated profitability of the product; any governmental charges or levies imposed upon or measured by the import, export, use, manufacture, processing or sale of the product, including customs duties/tariffs; whether the product is subject to a clinical hold, recall or market withdrawal; the benefit of continuing development relative to the benefit of other products being developed by Parent; and other relevant factors, in all instances, without taking into account the obligation to make any Milestone Payments under this Agreement. It is understood that product potential (which includes the foregoing factors) may change from time to time based upon changing scientific, legal and regulatory, business and marketing and/or return on investment considerations.

“Cover” or “Covered” means, with respect to a Valid Product Claim in a country and in reference to the BIO89-100 Compound or a particular CVR Product (whether alone or in combination with one or more other ingredients) that the use, manufacture, sale, offer for sale or import, as applicable, of the BIO89-100 Compound or such CVR Product in such country would, but for ownership thereof or a license granted to the Company under a written agreement, infringe such Valid Product Claim in such country on the date of sale or if such Valid Product Claim is a claim in a pending application for a Patent, would infringe such claim if it were issued.

“CVR Patents” means Patent No. US10,407,479 titled “Mutant FGF-21 peptide pegylated conjugates and uses thereof” and filed September 4, 2018, any Patent claiming priority to U.S. Provisional Application No. 62/553,970, filed September 4, 2017, any foreign counterparts of any of the foregoing, and any Patents issued or granted with respect to any of the foregoing.

“CVR Product” means (a) a pharmaceutical product containing or comprising a BIO89-100 Compound, regardless of finished form, formulation, dosage, route of administration, presentation, or delivery system (including injectable, infusion, depot, sustained release, nanoparticle, or other viable mode of delivery), including Combination Products, and (b) at the time the product of clause (a) is sold in any country or jurisdiction of the world, there is at least one Valid Product Claim of a CVR Patent in the United States or the European Patent Office.

“CVR Register” has the meaning set forth in Section 2.3(b).

“CVRs” means the rights of Holders to receive contingent cash payments pursuant to the Merger Agreement and this Agreement.

“DTC” means The Depository Trust Company or any successor thereto.

“Employee Equity Award Holder” means an Equity Award Holder who was an employee of the Company for employment tax purposes as of the Closing Date or at any time during the vesting period of the applicable Company Stock Options, Company RSUs or Company PSUs.

“Entity” means any corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust, company (including any limited liability company or joint stock company), firm or other enterprise, association, organization or entity.

“Equity Award Holder” means the Holder of CVRs granted with respect to a Company Stock Option, a Company RSU or a Company PSU in accordance with the terms of the Merger Agreement.

“FDA” means the United States Food and Drug Administration, or any successor thereto.

“First Commercial Sale” means the first bona fide commercial sale in a country or jurisdiction to a Third Party of a CVR Product following Marketing Authorization in such country or jurisdiction by or under authority of Parent (or any of its Affiliates, Licensees, assignees or transferees of the portions of this Agreement applicable to a First Commercial Sale, or a CVR Patent). Sales prior to the receipt of Marketing Authorization for such CVR Product, such as so-called “treatment IND sales,” “named patient sales,” and “compassionate use sales,” shall not be construed as a First Commercial Sale. For purposes of “First Commercial Sale” as defined hereunder, Marketing Authorization does not include any post-approval marketing authorizations set forth under clause (b) of the definition of “Regulatory Approval”.

“**Governmental Body**” means any: (a) country, nation, state, multi-national or supra-national authority, commonwealth, province, territory, county, municipality, district or other jurisdiction of any nature; (b) multi-national, supra-national, federal, state, local, municipal, foreign or other government; or (c) governmental or quasi-governmental authority of any nature (including any governmental division, regulatory authority, association, council or bureau, department, agency, commission, instrumentality, official, organization, unit or self-regulatory organization, body or Entity and any court or other tribunal).

“**Holder**” means a Person in whose name a CVR is registered in the CVR Register at the applicable time.

“**IFRS**” means International Financial Reporting Standards.

“**IND**” means an investigational new drug application filed with the FDA pursuant to 21 C.F.R. §312 before the commencement of clinical trials of a product, or any comparable filing with any relevant regulatory authority in any other jurisdiction.

“**Independent Accountant**” has the meaning set forth in [Section 4.4\(b\)](#).

“**Indication**” means a distinct type of human medical disease, disorder or condition.

“**IRS**” means the Internal Revenue Service, or any successor thereto.

“**Law**” means any federal, state, local, municipal, foreign or other law, statute, constitution, principle of common law, resolution, ordinance, code, edict, decree, rule, regulation, ruling, bylaw, official standard or similar requirement issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of any Governmental Body, excluding, for the avoidance of doubt, the provisions of any Contract between the Company or any Subsidiary of the Company and a Governmental Body entered into in the ordinary course with respect to any CVR Product.

“**Licensee**” means a Person, other than Parent or any of its Affiliates or any of their respective distributors, wholesalers or other CVR Product resellers, that is granted, directly or indirectly, by Parent or any of its Affiliates a license or similar right to develop or commercialize a CVR Product (regardless of the number of tiers, layers or levels of (sub)license of such rights).

“**Marketing Authorization**” means with respect to a CVR Product and a given country or jurisdiction, Regulatory Approval (including pricing approval, solely if required in such country or jurisdiction) required to sell such CVR Product, as applicable, for an Indication in accordance with the applicable Law of such country or jurisdiction.

“**Milestone**” means Milestone 1, Milestone 2 or Milestone 3, as applicable.

“**Milestone 1**” means the First Commercial Sale of a CVR Product with an approved Indication for the treatment of Stage 4 MASH.

“**Milestone 1 Outside Date**” has the meaning set forth in [Section 2.4\(a\)](#).

“Milestone 1 Payment” means an amount per CVR equal to \$2.00, which shall become payable upon the first achievement of Milestone 1.

“Milestone 2” means worldwide Net Sales of at least \$3,000,000,000 of a CVR Product in a single calendar year.

“Milestone 2 Outside Date” has the meaning set forth in Section 2.4(b).

“Milestone 2 Payment” means an amount per CVR equal to \$1.50, which shall become payable upon the first achievement of Milestone 2.

“Milestone 3” means worldwide Net Sales of at least \$4,000,000,000 of a CVR Product in a single calendar year.

“Milestone 3 Outside Date” has the meaning set forth in Section 2.4(c).

“Milestone 3 Payment” means an amount per CVR equal to \$2.50, which shall become payable upon the first achievement of Milestone 3.

“Milestone Notice” has the meaning set forth in Section 2.4(d).

“Milestone Notice Date” has the meaning set forth in Section 2.4(d).

“Milestone Outside Date” has the meaning set forth in Section 2.4(c).

“Milestone Payment” means each of the (a) Milestone 1 Payment, (b) Milestone 2 Payment or (c) Milestone 3 Payment, as the context requires.

“Milestone Payment Amount” means, for a given Holder, an amount equal to (a) the product of (i) the applicable Milestone Payment and (ii) the number of CVRs that are not in respect of an Out of the Money Option or an Out of the Money Company Warrant held by such Holder as of immediately prior to the Effective Time (if any) as reflected on the CVR Register as of the close of business on the applicable Milestone Notice Date, (b) in respect of an Out of the Money Option held by such Holder as of immediately prior to the Effective Time (if any), as reflected on the CVR Register as of the close of business on the applicable Milestone Notice Date, the product of (i) the number of CVRs that are in respect of such Out of the Money Option and (ii) the amount, if any, by which (A) the Closing Amount (which, for clarity, includes the Closing Amount even though such amount was not paid with respect to such Out of the Money Option) plus the applicable Milestone Payment plus any other Milestone Payment that previously became due and payable under this Agreement (which, for clarity, includes such Milestone Payments even if such amount was not paid with respect to such Out of the Money Option) exceeds (B) the exercise price per share with respect to such Out of the Money Option plus the amounts, if any, paid to such Holder with respect to such CVR in respect of any Milestone Payments that previously became due and payable under the terms of this Agreement, and (c) in respect of an Out of the Money Company Warrant held by such Holder as of immediately prior to the Effective Time (if any), as reflected on the CVR Register as of the close of business on the applicable Milestone Notice Date, the product of (i) the number of CVRs that are in respect of such Out of the Money Company Warrant and (ii) the amount, if any, by which (X) the Closing Amount (which, for clarity, includes the

Closing Amount even though such amount was not paid with respect to such Out of the Money Company Warrant) plus the applicable Milestone Payment plus any other Milestone Payment that previously became due and payable under this Agreement (which, for clarity, includes such Milestone Payments even if such amount was not paid with respect to such Out of the Money Company Warrant) exceeds (Y) the exercise price per share with respect to such Out of the Money Company Warrant plus the amounts, if any, paid to such Holder with respect to such CVR in respect of any Milestone Payments that previously became due and payable under the terms of this Agreement.

“Net Sales” with respect to a CVR Product in a particular period, means the amount calculated by subtracting from the Sales of such CVR Product for such period: (i) a lump sum deduction of 4% of Sales in lieu of those deductions that are not accounted for on a CVR Product-by-CVR Product basis (e.g., freight, postage charges, transportation insurance and packing materials for dispatch of goods); (ii) uncollectible amounts accrued during such period based on a proportional allocation of the total bad debts accrued during such period and not already taken as a gross-to-net deduction in accordance with the then-currently used IFRS in the calculation of Sales of such CVR Product for such period; (iii) credit card charges (including processing fees) accrued during such period on such Sales and not already taken as a gross-to-net deduction in accordance with the then-currently used IFRS in the calculation of Sales of such CVR Product for such period; and (iv) government-mandated fees and taxes and other government charges accrued during such period not already taken as a gross-to-net deduction in accordance with the then-currently used IFRS in the calculation of Sales of such CVR Product for such period, including, for example, any fees, taxes, customs duties/tariffs (including any import duties, export duties, antidumping duties, countervailing duties and safeguard duties), any other governmental charges or levies imposed upon or measured by the import, export, use, manufacture, processing or sale of a CVR Product (excluding income or franchise taxes) or other charges that become due in connection with any healthcare reform, change in government pricing or discounting schemes, or other action of a Governmental Body. For clarity, no deductions taken in calculating Sales may be taken a second time in calculating Net Sales.

- (a) *Sales Among Affiliates and Licensees.* Sales between or among Parent, its Affiliates and/or their respective Licensees shall be excluded from the computation of Net Sales, but Net Sales shall include the first sale to a Third Party by any such Affiliates or Licensees.
- (b) *Supply as Samples/Test Materials.* Notwithstanding anything to the contrary in the definition of Net Sales, the supply or other disposition of CVR Products (i) as samples; (ii) for use in non-clinical studies or human clinical trials; (iii) for use in any tests or studies reasonably necessary to comply with any applicable Law or request by a Governmental Body; or (iv) as is otherwise reasonable and customary in the industry, in each case, shall not be included in the computation of Net Sales.
- (c) *Products Sold in Combination Products.*
 - (i) For purposes of this definition of Net Sales, “Combination Product” means (1) a single pharmaceutical product in which both a CVR Product and one or more other therapeutically or prophylactically active ingredients are co-formulated as

such product's active ingredients, (2) a combination therapy comprised of (i) a pharmaceutical product containing a CVR Product as its active ingredient and (ii) one or more other therapeutically or prophylactically active products, which are either priced and sold in a single package containing such multiple products or packaged separately but sold together for a single price, or (3) a combination therapy comprised of (i) a pharmaceutical product containing a CVR Product as its active ingredient and (ii) a companion diagnostic, which are either priced and sold in a single package containing such multiple products or packaged separately but sold together for a single price, in each case, including all dosage forms, formulations, presentations, line extensions, and package configurations.

- (ii) If a CVR Product is sold in a Combination Product with a companion diagnostic or with one or more other therapeutically or prophylactically active ingredients or therapeutic compounds or products that are not the subject of this Agreement, the gross amount invoiced for such Combination Product shall be calculated by multiplying the gross amount invoiced for such Combination Product by the fraction $A/(A+B)$, where "A" is the gross amount invoiced for such CVR Product sold separately and "B" is the gross amount invoiced for such companion diagnostic or other therapeutically or prophylactically active ingredient(s) or therapeutic compounds or products sold separately.
- (iii) If such companion diagnostic or other therapeutically or prophylactically active ingredient(s) or therapeutic compounds are not sold separately (but such CVR Product is), the gross amount invoiced for such CVR Product shall be calculated by multiplying the gross amount invoiced for such Combination Product by the fraction A/C , where "A" is the gross invoice amount for such CVR Product, and "C" is the gross invoice amount for such Combination Product.
- (iv) If such CVR Product is not sold separately, Net Sales for Net Sales Milestone calculations shall be determined by Parent in good faith.

"Net Sales Milestone" means each of Milestone 2 and Milestone 3, as the context requires.

"Net Sales Report" means a written report of Parent, certified by an authorized officer of Parent, in his or her capacity as such an officer, setting forth with reasonable detail the cumulative Net Sales in United States dollars of CVR Products sold by Parent or any Affiliate or Licensee of Parent, for the period from the Effective Time until the applicable Milestone Outside Date, on a CVR Product-by-CVR Product basis.

"Officer's Certificate" means a certificate signed by an authorized officer of Parent, in his or her capacity as such an officer, and delivered to the Rights Agent.

"Payment Fund" has the meaning set forth in Section 2.4(d).

“Permitted Transfer” means a transfer of one or more CVRs: (a) upon death of a Holder by will or intestacy, (b) by instrument to an *inter vivos* or testamentary trust in which the CVRs are passed to beneficiaries of the Holder upon the death of the Holder, (c) pursuant to a court order (including in connection with bankruptcy or liquidation), (d) by operation of law (including by consolidation or merger) or without consideration in connection with the dissolution, liquidation or termination of any corporation, limited liability company, partnership or other Entity, (e) in the case of CVRs held in book-entry or other similar nominee form, from a nominee to a beneficial owner and, if applicable, through an intermediary, to the extent allowable by DTC, (f) if the Holder is a partnership or limited liability company, a distribution by such Holder to its partners or members, as applicable (provided that such distribution does not subject the CVRs to a requirement of registration under the Securities Act of 1933 or the Securities Exchange Act of 1934 or any securities or “blue sky” laws of any state or other jurisdiction), or (g) as provided in Section 2.6.

“Person” means any individual, Entity or Governmental Body.

“Product Transferee” has the meaning set forth in Section 4.2(b).

“Qualified Pharmaceutical Company” means a company that, together with its Affiliates, has sufficient capabilities and experience in the development, manufacture, distribution and commercialization of pharmaceutical products as well as the financial resources to achieve any then-unmet Milestones and that, in its most recent fiscal year, had annual consolidated revenues (with its Affiliates) of at least \$4 billion, as reflected in such company’s consolidated audited financial statements.

“Regulatory Approval” means, with respect to a CVR Product, in a given country or jurisdiction, any approval, including any accelerated approval, of a new drug application or biologics license application, or other approval, license, registration, or authorization of any Governmental Body necessary to manufacture, commercially distribute, sell, or market such CVR Product in such country or jurisdiction, including, solely where applicable, (a) pricing or reimbursement approval in such country or jurisdiction, (b) post-approval marketing authorizations (including any prerequisite manufacturing approval or authorization related thereto) by such Governmental Body for such country or jurisdiction, and (c) labeling approval by such Governmental Body for such country or jurisdiction.

“Review Request Period” has the meaning set forth in Section 4.4(b).

“Rights Agent” means the Rights Agent named in the preamble to this Agreement, until a successor Rights Agent becomes such pursuant to the applicable provisions of this Agreement, and thereafter “Rights Agent” shall mean such successor Rights Agent.

“Sales” means, for a CVR Product in a particular period, the sum of (a),(b) and (c):

- (a) the amount stated in Roche Holding AG “Sales” line of its externally published audited consolidated financial statements with respect to such CVR Product for such period (excluding sales to any Licensees that are not Affiliates of Parent). This amount reflects the gross invoice price at which such CVR Product was sold or otherwise disposed of (other than for use as clinical supplies or free samples) by Parent and its Affiliates to such Third Parties (excluding sales to any Licensees that are not Affiliates of Parent) in such period reduced by gross-to-net deductions, if not previously deducted from such invoiced amount, taken in accordance with the then-currently used IFRS.

By way of example, the gross-to-net deductions taken in accordance with IFRS include items such as the following:

- (i) credits, reserves or allowances granted for (1) damaged, outdated, returned, rejected, withdrawn or recalled CVR Product, (2) wastage replacement and short-shippments; (3) billing errors; and (4) indigent patient and similar programs (e.g., price capitation);
 - (ii) governmental price reductions and government-mandated rebates;
 - (iii) chargebacks, including those granted to wholesalers, buying groups and retailers;
 - (iv) customer rebates, including cash sales incentives for prompt payment, cash and volume discounts; and
 - (v) taxes, customs duties/tariffs (including any import duties, export duties, antidumping duties, countervailing duties and safeguard duties) and any other governmental charges or levies imposed upon or measured by the import, export, use, manufacture, processing or sale of a CVR Product (excluding income or franchise taxes).
- (b) for Licensees that are not Affiliates of Parent, the sales amounts reported to Parent and its Affiliates in accordance with the Licensee contractual terms and their then-currently used accounting standards.
- (c) for assignees or transferees of the portions of this Agreement applicable to a sale, or a CVR Patent, the sales amounts reported by such Persons in accordance with its then-currently used accounting standards.

“Stage 4 MASH” means metabolic dysfunction-associated steatohepatitis (MASH), formerly known as nonalcoholic steatohepatitis (NASH), with compensated cirrhosis (consistent with stage F4 fibrosis).

An Entity shall be deemed to be a “Subsidiary” of another Person if such Person directly or indirectly owns, beneficially or of record: (a) an amount of voting securities of other interests in such Entity that is sufficient to enable such Person to elect at least a majority of the members of such Entity’s board of directors or other governing body; or (b) at least 50% of the outstanding equity or financial interests of such Entity.

“Tax” means any tax (including any income tax, franchise tax, capital gains tax, gross receipts tax, value-added tax, surtax, excise tax, ad valorem tax, transfer tax, stamp tax, sales tax, use tax, property tax, business tax, withholding tax, payroll tax or other tax of any kind whatsoever), levy, assessment, tariff, duty (including any customs duty), deficiency or fee in the nature of tax, and any related charge or amount (including any fine, penalty or interest), imposed, assessed or collected by or under the authority of any Governmental Body (including on account of any failure to file, or improper filing of, any Tax Return).

“Tax Return” means any return (including any information return), report, statement, declaration, estimate, schedule, notice, notification, form, election, certificate or other document or information filed with or submitted to, or required to be filed with or submitted to, any Governmental Body in connection with the determination, assessment, collection or payment of any Tax or in connection with the administration, implementation or enforcement of or compliance with any Law relating to any Tax, including any attachment thereto or amendment thereof.

“Taxing Authority” means any Governmental Body having jurisdiction over or responsible for the assessment, determination, reporting, collection or administration of Taxes.

“Third Party” means a Person that is not Parent or the Company or any of their respective Affiliates.

“Treasury Regulations” means the regulations promulgated under the Code.

“Valid Product Claim” means, with respect to a CVR Product, a claim of an issued and unexpired CVR Patent that Covers the composition of matter of the BIO89-100 Compound contained in such CVR Product: (a) that has not been: (i) disclaimed; (ii) dedicated to the public; (iii) abandoned; (iv) declared invalid, unenforceable or revoked by a decision of a court, government agency or other authority having jurisdiction, which decision is unappealable or unappealed within the time allowed for appeal; or (v) admitted to be invalid or unenforceable through reexamination, reissue or otherwise; or (b) with respect to a claim of a pending CVR Patent application that Covers the composition of matter of the BIO89-100 Compound contained in such CVR Product that: (i) has been pending for less than five years from the date of filing of the earliest patent application from which such claim is entitled to claim priority; and (ii) has not been finally cancelled, withdrawn, abandoned or rejected by an administration agency action from which no appeal can be taken.

“Warrantholder” means the Holder of CVRs granted with respect to a Company Warrant in accordance with the terms of the Merger Agreement.

Section 1.2. Rules of Construction. For purposes of this Agreement, whenever the context requires: (i) the singular number shall include the plural, and vice versa; (ii) the masculine gender shall include the feminine and neuter genders; (iii) the feminine gender shall include the masculine and neuter genders; and (iv) the neuter gender shall include the masculine and feminine genders. The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of this Agreement. As used in this Agreement, the words “include” and “including,” and variations thereof, shall not be deemed to be terms of limitation, but rather shall be deemed to be followed by the words “without limitation”. Except as otherwise indicated, all references in this Agreement to “Sections” are intended to refer to Sections of this Agreement. Unless the context requires otherwise, references to any specific legislation or to any provision of any legislation shall include any amendment to, and any modification or re-enactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto. Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. The parties hereto have been represented by counsel during the negotiation and execution of this Agreement and, therefore, waive the application of any law, holding or rule of construction providing that ambiguities in an agreement or other document shall be construed against any particular party.

ARTICLE 2.
CONTINGENT VALUE RIGHTS

Section 2.1. CVRs. The CVRs represent the rights of their respective Holders (which rights were granted to the initial Holders pursuant to the terms of the Merger Agreement) to receive a contingent cash payment in accordance with this Agreement.

Section 2.2. Nontransferable. The CVRs may not be sold, assigned, transferred, pledged, encumbered or in any other manner transferred or disposed of, in whole or in part, other than through a Permitted Transfer. Any attempted sale, assignment, transfer, pledge, encumbrance or disposition of CVRs, in whole or in part, in violation of this Section 2.2 shall be null and void *ab initio* and of no effect.

Section 2.3. No Certificate; Registration; Registration of Transfer; Change of Address.

(a) The CVRs shall not be evidenced by a certificate or other instrument.

(b) The Rights Agent shall keep a register (the “CVR Register”) for the purpose of (i) identifying the Holders of CVRs, and (ii) registering CVRs and Permitted Transfers thereof. The CVR Register shall initially show one position for Cede & Co. representing all the Company Shares held by DTC on behalf of the street holders of the Company Shares as of immediately prior to the Effective Time. The Rights Agent shall have no responsibility whatsoever directly to the street name holders with respect to transfers of CVRs unless and until such CVRs are transferred into the name of such street name holders in accordance with Section 2.2. With respect to any payments to be made under Section 2.4, the Rights Agent shall accomplish the payment to any former street name holders of Company Shares by sending one lump payment to DTC. The Rights Agent shall have no responsibilities whatsoever with regard to the distribution of payments by DTC to such street name holders.

(c) Subject to the restrictions on transferability set forth in Section 2.2, every request made to transfer a CVR must be in writing and accompanied by a written instrument of transfer in a form reasonably satisfactory to the Rights Agent pursuant to its guidelines, duly executed by the Holder thereof, the Holder’s duly authorized representative or the Holder’s survivor, and setting forth in reasonable detail the circumstances relating to the proposed transfer. Upon receipt of such written notice, the Rights Agent shall, subject to its reasonable determination that the transfer instrument is in proper form and the proposed transfer otherwise complies with the other terms and conditions of this Agreement (including the provisions of Section 2.2), register the transfer of the CVRs in the CVR Register. Parent and Rights Agent may require payment of a sum sufficient to cover any stamp or similar Tax or governmental charge that is imposed by reason of any such registration of transfer. The Rights Agent shall have no duty or obligation to register the transfer of the CVRs in the CVR Register under this Section 2.3(c) unless and until the Rights Agent is reasonably satisfied that all such Taxes or charges have been paid or are not applicable. All duly transferred CVRs registered in the CVR Register shall be the valid obligations of Parent and shall entitle the transferee to the same benefits and rights under this Agreement as those held immediately prior to the transfer by the transferor. No transfer of a CVR shall be valid until registered in the CVR Register in accordance with this Agreement.

(d) A Holder (or a duly authorized representative thereof) may make a written request to the Rights Agent to change such Holder's address of record in the CVR Register. The written request must be duly executed by the Holder (or a duly authorized representative thereof). Upon receipt of such written notice, the Rights Agent shall promptly record the change of address in the CVR Register.

Section 2.4. Payment Procedures.

(a) If Milestone 1 is achieved on or prior to March 31, 2030 (the "Milestone 1 Outside Date"), then as soon as reasonably practicable following the achievement of Milestone 1 by the Milestone 1 Outside Date (and in any event no later than 30 days after the date on which Milestone 1 is achieved), Parent shall deliver to the Rights Agent written notice indicating that Milestone 1 has been achieved. If Milestone 1 is not achieved by the Milestone 1 Outside Date, Parent shall deliver to the Rights Agent written notice indicating that Milestone 1 has not been achieved within 30 days after the Milestone 1 Outside Date.

(b) If Milestone 2 is achieved on or prior to December 31, 2033 (the "Milestone 2 Outside Date"), then as soon as reasonably practicable following the achievement of Milestone 2 by the Milestone 2 Outside Date (and in any event no later than 30 days after the date on which Milestone 2 is achieved), Parent shall deliver to the Rights Agent written notice indicating that Milestone 2 has been achieved. If Milestone 2 is not achieved by the Milestone 2 Outside Date, Parent shall deliver to the Rights Agent written notice indicating that Milestone 2 has not been achieved within 30 days after the Milestone 2 Outside Date.

(c) If Milestone 3 is achieved on or prior to December 31, 2035 (the "Milestone 3 Outside Date" and together with the Milestone 1 Outside Date and the Milestone 2 Outside Date, each, a "Milestone Outside Date"), then as soon as reasonably practicable following the achievement of Milestone 3 by the Milestone 3 Outside Date (and in any event no later than 30 days after the date on which Milestone 3 is achieved), Parent shall deliver to the Rights Agent written notice indicating that Milestone 3 has been achieved. If Milestone 3 is not achieved by the Milestone 3 Outside Date, Parent shall deliver to the Rights Agent written notice indicating that Milestone 3 has not been achieved within 30 days after the Milestone 3 Outside Date. For the avoidance of doubt, if more than one Milestone is achieved for the first time in the same calendar year, then Parent shall pay the applicable Milestone Payments for the achievement of each of such Milestones in accordance with the terms hereof.

(d) Any written notice described in clauses "(a)" through "(c)" above delivered to the Rights Agent (each such notice, a "Milestone Notice" and the date on which such Milestone Notice is delivered to the Rights Agent, a "Milestone Notice Date") shall also instruct the Rights Agent to solicit Tax forms or other information required to make Tax deductions or withholdings from Holders. Within five Business Days of the applicable Milestone Notice Date, Parent shall deliver to the Rights Agent cash, by wire transfer of immediately available funds to an account specified by the Rights Agent, equal to the aggregate amount necessary to pay the Milestone Payment Amounts in respect of the Milestone 1 Payment in the case of the achievement of

Milestone 1, the Milestone 2 Payment in the case of the achievement of Milestone 2 or the Milestone 3 Payment in the case of the achievement of Milestone 3 (the total cash deposited with the Rights Agent, the “Payment Fund”), to all Holders other than to Employee Equity Award Holders (with respect to which any such amounts payable shall be retained by Parent for payment pursuant to Section 2.4(e) of this Agreement and Section 3.4 of the Merger Agreement, including, for the avoidance of doubt, any amounts payable in respect of a CVR received by an Employee Equity Award Holder in respect of any Out of the Money Option in accordance with the terms of this Agreement).

(e) The Rights Agent shall promptly, and in any event within ten Business Days of receipt of the cash amount delivered by Parent in accordance with Section 2.4(d) above (the “Funding Date”), send each Holder (other than Employee Equity Award Holders) at its registered address a copy of the applicable Milestone Notice and pay the applicable Milestone Payment Amount to each of the Holders (other than Employee Equity Award Holders) (i) by check mailed to the address of each Holder as reflected in the CVR Register as of the close of business on the applicable Milestone Notice Date or (ii) with respect to any such Holder that is due an amount in excess of \$100,000 in the aggregate who has provided the Rights Agent with wiring instructions in writing as of the close of business on the Milestone Notice Date, by wire transfer of immediately available funds to the account specified on such wiring instructions. Parent shall (i) promptly, and in any event within ten Business Days after the applicable Milestone Notice Date, send each Employee Equity Award Holder at such Holder’s registered address a copy of the applicable Milestone Notice and (ii) with respect to any portion of the applicable Milestone Payment that is payable to Employee Equity Award Holders, as soon as reasonably practicable following the applicable Funding Date (but in any event no later than the next regularly scheduled payroll date that is not less than ten Business Days following the applicable Funding Date, and in all events no later than the date that is 75 days following the date on which the applicable Milestone is achieved (and in all events prior to March 15th of the calendar year following the year in which the applicable Milestone is achieved)), pay, or shall cause the Surviving Corporation or an Affiliate thereof to pay through Parent’s, the Surviving Corporation’s or such Affiliate’s payroll, accounts payable or equity award maintenance system (and subject to any applicable withholding Taxes pursuant to Section 3.4 of the Merger Agreement and subject to any adjustment to account for any unpaid exercise price per share of any such Company Stock Option that is an Out of the Money Option), the applicable Milestone Payment Amount payable to each such Employee Equity Award Holder in accordance with Section 3.4 of the Merger Agreement. Notwithstanding anything in this Agreement to the contrary, it is the intent of the parties that the Milestone Payments shall each be deemed a conditional payment subject to a substantial risk of forfeiture within the meaning of Section 409A of the Code and that any Milestone Payment Amounts for Company Equity Awards therefore be exempt from Section 409A of the Code. For purposes of Section 409A of the Code, each payment in respect of a Company Equity Award under Section 3.2 of the Merger Agreement or this Agreement shall be treated as a separate payment for purposes of Treasury Regulations Section 1.409A-2(b)(2).

(f) Except to the extent any portion of any applicable Milestone Payment is required to be treated as imputed interest pursuant to applicable Tax law, the parties hereto intend to treat Holder’s receipt of the CVRs as an open transaction for U.S. federal income tax purposes, and treat the applicable Milestone Payment for all Tax purposes as additional consideration or compensation for the Company Shares, Company Equity Awards and Company Warrants pursuant to the Offer or the Merger pursuant to the Merger Agreement, as the case may be.

(g) Parent or its applicable Subsidiary (including the Surviving Corporation) shall be entitled to deduct and withhold, or cause the Rights Agent to deduct and withhold, from any applicable Milestone Payment Amount or any other amounts otherwise payable pursuant to this Agreement such amounts as are required to be deducted and withheld therefrom under applicable Tax Law, as may reasonably be determined by Parent or the Rights Agent. With respect to Company Equity Awards with respect to which Parent has payroll Tax withholding obligations, any such Tax withholdings shall be made, or caused to be made, by Parent through Parent's, the Surviving Corporation's or its applicable Affiliate's payroll system. Prior to making any deductions or withholdings or causing any deductions or withholdings to be made with respect to any Holder (other than an Employee Equity Award Holder), Parent shall instruct the Rights Agent to solicit IRS Form W-9s or W-8s, or any other appropriate forms or information, from the applicable Holders within a reasonable amount of time in order to provide a reasonable opportunity for such Holder to timely provide any necessary Tax forms (including an IRS Form W-9 or an applicable IRS Form W-8) in order to avoid or reduce such deduction or withholding, and the Milestone Payment may be reasonably delayed in order to gather such necessary Tax forms. Parent, its Subsidiaries (including the Surviving Corporation) and the Rights Agent may assume all such forms in its possession or provided by any such Holder are valid under applicable Tax Law until subsequently notified by such Holder. Parent or its applicable Subsidiary (including the Surviving Corporation) shall, or shall cause the Rights Agent to, take all action that may be necessary to ensure that any amounts deducted or withheld in respect of Taxes are promptly and properly remitted to the appropriate Taxing Authority. To the extent any amounts are deducted or withheld and remitted to the appropriate Taxing Authority, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of whom such deduction or withholding was made, and, as required by applicable Tax law, Parent shall deliver (or shall cause the Rights Agent, the Surviving Corporation or its applicable Affiliate to deliver) to the applicable Holder an original IRS Form 1099 or an original IRS Form W-2, as applicable, or other reasonably acceptable evidence of such deduction or withholding.

(h) Subject to the following sentence, the delivery of an aggregate amount of cash necessary to pay all Holders (other than Employee Equity Award Holders) by Parent to the Rights Agent following the Milestone Notice Date for each applicable Milestone Payment pursuant to Section 2.4(a)-(d) and the payment through payroll pursuant to Section 2.4(e) of an aggregate amount of cash necessary to pay Employee Equity Award Holders for each applicable Milestone Payment when due pursuant to Section 2.4(e) shall be deemed to have been paid in full satisfaction of all rights with respect to such Holders. Any portion of the aggregate applicable Milestone Payment Amount delivered to the Rights Agent that remains undistributed to a Holder one year after the applicable Milestone Notice Date shall be delivered by the Rights Agent to Parent, on demand, and any Holder shall thereafter look only to Parent (subject to abandoned property Law, escheat Law or similar Law) for payment of such applicable Milestone Payment Amount, without interest, but such Holder shall have no greater rights against Parent than those accorded to general unsecured creditors of Parent under applicable Law.

(i) Any amounts remaining unclaimed by Holders, other than Employee Equity Award Holders, at such time when the amounts would otherwise escheat to or become property of any Governmental Body shall become, to the extent permitted by applicable Law, the property of Parent free and clear of any claims or interest of any Person previously entitled thereto. Notwithstanding anything herein to the contrary, none of Parent, the Surviving Corporation nor the Rights Agent shall be liable to any Holder or to any other Person with respect to any applicable Milestone Payment Amount delivered to any public official pursuant to any applicable abandoned property Law, escheat Law or similar Law.

(j) For the avoidance of doubt, the applicable Milestone Payment Amount shall only be paid in respect of the applicable Milestone, if at all, one time under this Agreement and the applicable Milestone Payment Amount shall not become payable unless the applicable Milestone has been achieved on or prior to the applicable Milestone Outside Date.

(k) The Payment Fund shall not be used for any purpose other than the payment of the Milestone Payment Amounts; provided that any interest or income produced by investments with respect to the Payment Fund shall be the property of Parent. The Payment Fund may be invested by the Rights Agent as directed by the Parent; provided that such investments shall be (i) in obligations of, or guaranteed by, the United States of America, (ii) in commercial paper obligations rated A-1 or P-1 or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation, respectively, (iii) in certificates of deposit, bank repurchase agreements or banker's acceptances of commercial banks with capital exceeding \$1 billion, or (iv) in money market funds having a rating in the highest investment category granted by a recognized credit rating agency at the time of acquisition or a combination of the foregoing, and, in any such case, no such investment will relieve Parent or the Rights Agent from making the payment required by this Section 2.4.

(l) For the avoidance of doubt, any Milestone Payment Amounts payable to holders of Section 102 Shares, Section 102 Awards or Company Equity Awards that are subject to Section 3(i) of the Ordinance shall be deposited with the Rights Agent for further distribution to, and held in trust by, the 102 Trustee on behalf of such holders in accordance with Section 102 and Section 3(i) of the Ordinance, as applicable, and shall be released by the 102 Trustee, together with any interest earned thereon by virtue of the investment of such amounts by the 102 Trustee, in accordance with the terms and conditions of Section 102 and Section 3(i) of the Ordinance, as applicable, the Ordinance and the Options Tax Ruling (or the Interim Options Tax Ruling, if applicable), if obtained, or otherwise in accordance with applicable law. The Rights Agent shall have no duty to supervise, and shall in no event be liable for, the acts or omissions of the 102 Trustee.

Section 2.5. No Voting, Dividends or Interest; No Equity or Ownership Interest in Parent.

(a) The CVRs shall not have any voting or dividend rights, and interest shall not accrue on any amounts payable on the CVRs to any Holder.

(b) The CVRs shall not represent any equity or ownership interest in Parent, any constituent company to the Merger or any of their respective Affiliates.

(c) Neither Parent, its Affiliates nor any of their respective directors and officers will be deemed to have any fiduciary or similar duties to any Holder by virtue of this Agreement or the CVRs.

Section 2.6. Ability to Abandon CVR. A Holder may at any time, at such Holder's option, abandon all of such Holder's remaining rights in a CVR by transferring such CVR to Parent without consideration therefor, which a Holder may effect via delivery of a written notice of such abandonment to Parent and the Rights Agent. Nothing in this Agreement shall prohibit Parent or any of its Affiliates from offering to acquire or acquiring any CVRs for consideration from any Holder, in private transactions or otherwise, in its sole discretion. Any CVRs acquired by Parent or any of its Affiliates shall be automatically deemed extinguished and no longer outstanding for purposes of the definition of Acting Holders and ARTICLE 5 and Section 6.4. The Rights Agent shall update the CVR Register to reflect any abandonment or acquisition of CVRs described in this Section 2.6.

ARTICLE 3. THE RIGHTS AGENT

Section 3.1. Certain Duties and Responsibilities.

(a) The Rights Agent shall not have any liability for any actions taken or not taken in connection with this Agreement, except to the extent of its willful or intentional misconduct, bad faith or gross negligence.

(b) Each Holder shall be deemed to have irrevocably appointed, authorized and directed the Rights Agent (including any successor in accordance with this ARTICLE 3) to act as the Rights Agent and such Holder's agent, representative, proxy and attorney-in-fact for the purpose of enforcing such Holder's rights under this Agreement, and exercising, on behalf of all Holders, the rights and powers of the Holders hereunder and thereunder. Without limiting the generality of the foregoing, the Rights Agent shall have full power and authority, and is hereby directed, for and on behalf of the Holders, to take such action, and to exercise such rights, power and authority, as are authorized, delegated and granted to the Rights Agent hereunder in connection with the transactions contemplated hereby or to the extent directed to by the Acting Holders in writing. Parent and its Affiliates shall be entitled to rely solely on the Rights Agent as an authorized representative of the Holders with respect to any such matters concerning the Holders arising hereunder for which the Rights Agent is acting at the written direction of the Acting Holders.

(c) The Rights Agent may in its discretion or upon the written request of the Acting Holders proceed to and shall be entitled and empowered to protect and enforce the rights of the Holders hereunder by such appropriate judicial proceedings as the Rights Agent shall deem most effectual to protect and enforce any such rights. The Rights Agent may only proceed to and shall be entitled and empowered to protect and enforce the rights herein for the benefit of and on behalf of all Holders to the extent directed to by the Acting Holders in writing; provided that the Rights Agent shall have the right to decline to follow any such direction if the Rights Agent, being advised by counsel in writing, shall determine that the action or proceeding so directed may not lawfully be taken or if the Rights Agent in good faith shall determine that the action or proceedings so directed would involve the Rights Agent in personal liability or if the Rights Agent in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of Holders not joining in the giving of said direction. No individual Holder shall be entitled to protect and enforce its rights or the rights of the Holders other than through the Rights Agent under the direction of the Acting Holders, as provided for in this Section 3.1.

Section 3.2. Certain Rights of Rights Agent. The Rights Agent undertakes to perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Rights Agent. In addition:

(a) the Rights Agent may rely and shall be protected and held harmless by Parent in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document reasonably believed by the Rights Agent to be genuine and to have been signed or presented by the proper party or parties;

(b) whenever the Rights Agent deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Rights Agent may rely upon an Officer's Certificate, which shall constitute full authorization and protection to the Rights Agent, and the Rights Agent shall, in the absence of bad faith, gross negligence or willful or intentional misconduct on its part, incur no liability and be held harmless by Parent for or in respect of any action taken, suffered or omitted to be taken by the Rights Agent under the provisions of this Agreement in reliance upon such Officer's Certificate;

(c) the Rights Agent may engage and consult with counsel of its selection and the written advice of such counsel or any written opinion of such counsel shall be full and complete authorization and protection to the Rights Agent and the Rights Agent shall be held harmless by Parent in respect of any action taken, suffered or omitted by the Rights Agent hereunder in good faith and in reliance thereon and that does not constitute gross negligence or willful or intentional misconduct;

(d) the permissive rights of the Rights Agent to do things enumerated in this Agreement shall not be construed as a duty;

(e) the Rights Agent shall not be required to give any note or surety in respect of the execution of such powers or otherwise in respect of the premises;

(f) the Rights Agent shall not be liable for or by reason of, and shall be held harmless by Parent with respect to, any of the statements of fact or recitals contained in this Agreement or be required to verify the same, but all such statements and recitals are and shall be deemed to have been made by Parent only;

(g) the Rights Agent shall have no liability and shall be held harmless by Parent in respect of the validity of this Agreement or the execution and delivery hereof (except the due execution and delivery hereof by the Rights Agent and the enforceability of this Agreement against the Rights Agent, assuming the due execution and delivery hereof by Parent); nor shall the Rights Agent be responsible for any breach by Parent of any covenant or condition contained in this Agreement;

(h) Parent shall indemnify the Rights Agent for, and hold the Rights Agent harmless against, any loss, liability, claim, demands, suits or expense arising out of or in connection with the Rights Agent's duties under this Agreement, including the reasonable and documented out-of-pocket costs and expenses of defending the Rights Agent against any claims, charges, demands, suits or loss, unless such loss has been determined by a court of competent jurisdiction to be a result of Rights Agent's gross negligence, bad faith or willful or intentional misconduct;

(i) Parent shall (i) pay the reasonable and documented out-of-pocket fees and expenses of the Rights Agent in connection with this Agreement as agreed upon in writing by the Rights Agent and Parent on or prior to the date hereof and (ii) reimburse the Rights Agent for all Taxes and governmental charges, reasonable and documented out-of-pocket expenses incurred by the Rights Agent in the execution of this Agreement (other than Taxes imposed on or measured by the Rights Agent's net income and franchise or similar Taxes imposed on it in lieu of net income Taxes), and for all necessary and documented out-of-pocket expenses paid or incurred by it in connection with the administration by the Rights Agent of its duties hereunder; and

(j) no provision of this Agreement shall require the Rights Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of its rights if there shall be reasonable grounds for believing that repayment of such funds or adequate indemnification against such risk or liability is not reasonably assured to the Rights Agent.

Notwithstanding anything to the contrary herein, Parent shall not be required to indemnify, hold harmless or reimburse the expenses of the Rights Agent in connection with any Action commenced by the Rights Agent on behalf of itself or any of the Holders against Parent.

Section 3.3. Resignation and Removal; Appointment of Successor.

(a) The Rights Agent may resign at any time by giving written notice thereof to Parent specifying a date when such resignation will take effect, which notice shall be sent at least 60 days prior to the date so specified but in no event shall such resignation become effective until a successor Rights Agent has been appointed. Parent has the right to remove the Rights Agent at any time by specifying a date when such removal shall take effect but no such removal shall become effective until a successor Rights Agent has been appointed. Notice of such removal shall be given by Parent to the Rights Agent, which notice shall be sent at least 60 days prior to the date so specified.

(b) If the Rights Agent provides notice of its intent to resign, is removed pursuant to Section 3.3(a) or becomes incapable of acting, Parent shall as soon as is reasonably possible appoint a qualified successor Rights Agent who has been approved in writing by the Acting Holders, which successor shall be a stock transfer agent of national reputation or the corporate trust department of a commercial bank. The successor Rights Agent so appointed shall, forthwith upon its acceptance of such appointment in accordance with Section 3.4, become the successor Rights Agent.

(c) Parent shall give or cause to be given notice of each resignation and each removal of a Rights Agent and each appointment of a successor Rights Agent by mailing written notice of such event by first-class mail to the Holders as their names and addresses appear in the CVR Register. Each notice shall include the name and address of the successor Rights Agent. If Parent fails to send or cause to be sent such notice within ten days after acceptance of appointment by a successor Rights Agent in accordance with Section 3.4, the successor Rights Agent shall cause the notice to be mailed at the expense of Parent.

(d) The Rights Agent shall cooperate with Parent and any successor Rights Agent as reasonably requested in connection with the transition of the duties and responsibilities of the Rights Agent to the successor Rights Agent, including transferring the CVR Register to the successor Rights Agent.

Section 3.4. Acceptance of Appointment by Successor. Every successor Rights Agent appointed pursuant to Section 3.3(b) shall execute, acknowledge and deliver to Parent and to the retiring Rights Agent an instrument accepting such appointment and a counterpart of this Agreement, and thereupon such successor Rights Agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Rights Agent. On request of Parent or the successor Rights Agent, the retiring Rights Agent shall execute and deliver an instrument transferring to the successor Rights Agent all the rights, powers and trusts of the retiring Rights Agent.

ARTICLE 4. COVENANTS

Section 4.1. List of Holders. Parent shall furnish or cause to be furnished to the Rights Agent (a) in such form as Parent receives from the Company's transfer agent (or other agent performing similar services for the Company with respect to the Company Shares), the names and addresses of the Holders of such securities within 30 Business Days after the Effective Time, (b) in the case of Equity Award Holders, the names and addresses of such Holders as set forth in the books and records of the Company at the Effective Time, and designations of each such Holder that is not an Employee Equity Award Holder and (c) in the case of Warranholders, the names and addresses of such Holders as set forth in the books and records of the Company at the Effective Time.

Section 4.2. Efforts.

(a) Parent shall (directly or through its Affiliates) use Commercially Reasonable Efforts to achieve a First Commercial Sale in the United States of a CVR Product for the treatment of Stage 4 MASH. Parent's obligations in this Section 4.2 shall terminate in full with respect to the foregoing on the earlier to occur of the achievement of Milestone 1 or March 31, 2030. The termination date is included solely to limit the time during which Parent is obligated to use Commercially Reasonable Efforts and does not impose any obligation (express or implied) on Parent to achieve any Milestone by such termination date. Other than to the extent expressly set forth in the foregoing, (A) Parent and its Affiliates shall have the right, in their sole and absolute discretion, to direct and control the development, marketing, commercialization and sale of any Company Product (including the CVR Products) in all respects and (B) Parent (directly or through

its Affiliates) shall not otherwise be required (expressly or implicitly) to achieve or undertake any level of efforts, or employ any level of resources, to achieve any Milestone or to make or maximize any Milestone Payment. For the avoidance of doubt, Parent does not guarantee (and the use of any “Commercially Reasonable Efforts” hereunder does not mean nor shall it be deemed or interpreted to mean) that any Milestone will be achieved by a specific date or at all, and a failure to achieve a Milestone may nonetheless be consistent with the use of “Commercially Reasonable Efforts”.

(b) Parent shall not, and shall cause its Affiliates (including the Company) not to sell, assign, transfer or exclusively license all or substantially all of the rights, to research, develop, manufacture, commercialize and otherwise exploit the CVR Products to a Third Party until (i) the Milestone 1 Outside Date or (ii) if as of the Milestone 1 Outside Date any Milestone Payment Amounts are due but remain unpaid, until such later date that such amounts are paid, unless as a condition to such sale, assignment, transfer or exclusive license, such Third Party (a “Product Transferee”) expressly and unconditionally assumes and agrees to be bound by, pursuant to an assumption agreement executed and delivered to the Rights Agent, all of the terms and conditions binding on Parent contained in this Agreement, including the due and punctual payment of any unpaid Milestone Payments and the due and punctual performance of every duty, obligation, agreement and covenant of this Agreement on the part of Parent to the extent to be performed or observed (or to be observed) by Parent. Parent shall remain liable for the performance by any Product Transferee that is not a Qualified Pharmaceutical Company of all obligations of Parent hereunder; provided, however, that in the case of a Product Transferee that is a Qualified Pharmaceutical Company, neither Parent nor any of its Affiliates (including the Surviving Corporation), shall have any further liability or obligation under this Agreement. Parent shall provide the Rights Agent and the Holders (or cause the Rights Agent to provide to the Holders) prompt written notice of any such sale, assignment, transfer or exclusive license and shall provide the Rights Agent with a duly executed copy of the assumption agreement executed by the applicable Qualified Pharmaceutical Company.

Section 4.3. Books and Records. Parent shall, shall cause its Affiliates to, keep records in sufficient detail to enable the Rights Agent to determine the amounts payable hereunder.

Section 4.4. Audit Rights.

(a) If Parent does not achieve a Net Sales Milestone prior to the applicable Milestone Outside Date, then, upon the written request of the Acting Holders, Parent shall deliver the Net Sales Report to the Rights Agent within 60 days following such written request. The Rights Agent shall promptly, and in any event within ten Business Days of receipt of the Net Sales Report, send each Holder at its registered address a copy of such Net Sales Report.

(b) Upon the written request of the Acting Holders provided to Parent within 45 days after the delivery of the Net Sales Report pursuant to Section 4.4(a) (the “Review Request Period”), Parent shall permit, and shall cause its Affiliates to permit, one independent certified public accounting firm of nationally recognized standing mutually agreed upon by such Acting Holders and Parent (the “Independent Accountant”) to have such access during normal business hours and on reasonable advance notice to such of the records of Parent or its Affiliates as may be necessary and are requested by the Independent Accountant to verify the accuracy of the Net Sales Report and the figures underlying the calculations set forth therein; provided that such access does

not unreasonably interfere with the conduct of the business of Parent or any of its Affiliates. The Independent Accountant shall be instructed to determine its calculation of Net Sales prior to the applicable Milestone Outside Date within 30 days following the engagement of such Independent Accountant. The Independent Accountant shall deliver a written report to the Acting Holders of its determination as to whether the Net Sales Milestone was achieved and such additional information directly related to its findings. The Independent Accountant shall provide Parent with a copy of all disclosures made to the Acting Holders. The fees charged by such accounting firm shall be paid by the Holders, pro rata according to the number of CVRs held by each Holder unless such audit discloses an underpayment by Parent of 10% or more of the applicable Milestone Payment due under this Agreement, in which case the fees charged by such accounting firm shall be borne by Parent.

(c) If, upon the expiration of the Review Request Period, the Acting Holders have not requested that an Independent Accountant review the Net Sales Report in accordance with this Section 4.4, the calculations set forth in the Net Sales Report shall be binding and conclusive upon the Holders.

(d) Each Person seeking to receive information from Parent in connection with a review pursuant to this Section 4.4 shall enter into, and shall cause the Independent Accountant to enter into, a reasonable and mutually satisfactory confidentiality agreement with Parent or any Affiliate obligating such party to retain all such information disclosed to such party in confidence pursuant to such confidentiality agreement.

(e) The audit rights set forth in this Section 4.4 may not be exercised by the Acting Holders more than once with respect to the non-achievement of each Net Sales Milestone.

ARTICLE 5. AMENDMENTS

Section 5.1. Amendments without Consent of Holders.

(a) Without the consent of any Holders, Parent, at any time and from time to time, may enter into one or more amendments hereto, for any of the following purposes:

(i) to evidence the succession of another Person to Parent and the assumption by any such successor of the covenants of Parent herein as provided in Section 6.3;

(ii) to add to the covenants of Parent such further covenants, restrictions, conditions or provisions as Parent and the Rights Agent consider to be for the protection or benefit of the Holders; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iii) to cure any ambiguity, to correct or supplement any provision herein that may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Agreement; provided that, in each case, such provisions do not adversely affect the interests of the Holders;

(iv) as may be necessary or appropriate to ensure that the CVRs are not subject to registration under the Securities Act of 1933 or the Securities Exchange Act of 1934 or any securities or “blue sky” laws of any state or other jurisdiction;

(v) to evidence the succession of another Person as a successor Rights Agent and the assumption by any such successor of the covenants and obligations of the Rights Agent herein in accordance with Section 3.3 and Section 3.4;

(vi) to evidence the assignment of this Agreement by Parent as provided in Section 6.3; and/or

(vii) any other amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, unless such addition, elimination or change is adverse to the interests of the Holders.

(b) Without the consent of any Holders, Parent and the Rights Agent, at any time and from time to time, may enter into one or more amendments hereto, to reduce the number of CVRs, in the event any Holder agrees to renounce such Holder’s rights under this Agreement in accordance with Section 2.6 or Section 6.4.

(c) Promptly after the execution and delivery by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.1, Parent shall mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth such amendment.

Section 5.2. Amendments with Consent of Holders.

(a) Subject to Section 5.1 (which amendments pursuant to Section 5.1 may be made without the consent of the Holders), with the consent of the Acting Holders, whether evidenced in writing or taken at a meeting of the Holders, Parent and the Rights Agent may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Agreement, even if such addition, elimination or change is materially adverse to the interest of the Holders.

(b) Promptly after the execution and delivery by Parent and the Rights Agent of any amendment pursuant to the provisions of this Section 5.2, Parent shall mail (or cause the Rights Agent to mail) a notice thereof by first class mail to the Holders at their addresses as they appear on the CVR Register, setting forth such amendment.

Section 5.3. Execution of Amendments. In executing any amendment permitted by this ARTICLE 5, the Rights Agent shall be entitled to receive, and shall be fully protected in relying upon, an opinion of counsel selected by Parent stating that the execution of such amendment is authorized or permitted by this Agreement. The Rights Agent may, but is not obligated to, enter into any such amendment that it reasonably determines adversely affects the Rights Agent’s own rights, privileges, covenants or duties under this Agreement or otherwise.

Section 5.4. Effect of Amendments. Upon the execution of any amendment under this ARTICLE 5, this Agreement shall be modified in accordance therewith, such amendment shall form a part of this Agreement for all purposes and every Holder shall be bound thereby.

ARTICLE 6.
OTHER PROVISIONS OF GENERAL APPLICATION

Section 6.1. Notices to Rights Agent and Parent. All notices and other communications to the Rights Agent or Parent hereunder shall be in writing and shall be deemed duly delivered and received hereunder: (a) four Business Days after being sent by registered or certified mail, return receipt requested, postage prepaid; (b) one Business Day after being sent for next Business Day delivery, fees prepaid, via a reputable nationwide overnight courier service; (c) if sent by email transmission prior to 6:00 p.m. recipient's local time, upon transmission (provided that the sender of such email does not receive written notification of delivery failure); or (d) if sent by email transmission after 6:00 p.m. recipient's local time, the Business Day following the date of transmission (provided that the sender of such email does not receive written notification of delivery failure):

if to the Rights Agent:

Equiniti Trust Company, LLC
28 Liberty Street, Floor 53
New York, New York 10005
Attention: Reorg Department
E-mail: [***]

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

Equiniti Trust Company, LLC
28 Liberty Street, Floor 53
New York, New York 10005
Attention: Legal Department
E-mail: [***]

if to Parent:

Roche Holdings, Inc.
1 DNA Way
South San Francisco, California 94080
Attention: General Counsel
Facsimile: [***]

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

F. Hoffmann-La Roche Ltd
Grenzacherstrasse 124
CH-4070 Basel
Switzerland

Attention: Group Legal Department
Email: [***]

and

Sidley Austin LLP
555 California Street, Suite 2000
San Francisco, California 94104
Attention: Sharon R. Flanagan; John H. Butler; Sally Wagner Partin; Daniel J. Belke
Email: [***]

Section 6.2. Notice to Holders. Where this Agreement provides for notice to Holders, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder affected by such event, at the Holder's address as it appears in the CVR Register, not later than the latest date, and not earlier than the earliest date, if any, prescribed for the giving of such notice. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders.

Section 6.3. Parent Successors and Assigns. Parent may assign any or all of its rights, interests and obligations hereunder (a) in its sole discretion and without the consent of any other party, to (i) any Affiliate of Parent, but only for so long as it remains an Affiliate of Parent or (ii) in accordance with Section 4.2(b) or (b) otherwise with the prior written consent of the Acting Holders, to any other Person, in each case provided that the applicable assignee (the "Assignee") agrees, in an instrument supplemental hereto, executed and delivered to the Rights Agent, to assume and be bound by all of the terms of this Agreement. Any Assignee may thereafter assign any or all of its rights, interests and obligations hereunder in the same manner as Parent pursuant to the prior sentence. Parent shall remain liable for the performance by each such Assignee of all obligations of Parent hereunder; provided however, that in the case of an Assignee that is a Qualified Pharmaceutical Company under clause "(a)(ii)" above in accordance with Section 4.2(b), neither Parent nor any of its Affiliates (including the Surviving Corporation) shall have any further liability or obligation under this Agreement. Subject to compliance with the requirements set forth in Section 4.2(b) and this Section 6.3 relating to assignments or other direct or indirect transfers, this Agreement shall not restrict Parent's or its Affiliates' ability to merge or consolidate with, or sell, issue, license or dispose of its stock or other equity interests or assets to, any other Person, or spin-off or split-off. Each of Parent's and its Affiliate's respective successors and each Assignee shall, by a supplemental contingent consideration payment agreement or other acknowledgement executed and delivered to the Rights Agent, expressly and unconditionally agree to assume and be bound by all of the terms and conditions binding on Parent contained in this Agreement, including the due and punctual payment of the Milestone Payments and the due and punctual performance of every duty, obligation, agreement and covenant of this Agreement on the part of Parent to the extent to be performed or observed (or to be observed) by Parent. The Rights Agent may not assign this Agreement without Parent's prior written consent, except to an Affiliate of the Rights Agent in connection with a corporate restructuring. Any attempted assignment, transfer or delegation of this Agreement or any such rights in violation of this Section 6.3 shall be void and of no effect. This Agreement will be binding upon, inure to the benefit of and be enforceable by Parent's successors and each Assignee.

Section 6.4. Benefits of Agreement. Nothing in this Agreement, express or implied, shall give to any Person (other than the Rights Agent, Parent, Parent's successors and Assignees, the Holders and the Holders' successors and assigns pursuant to a Permitted Transfer) any benefit or any legal or equitable right, remedy or claim under this Agreement or under any covenant or provision herein contained, all such covenants and provisions being for the sole benefit of the foregoing. The rights of Holders and their successors and assigns pursuant to Permitted Transfers are limited to those expressly provided in this Agreement and the Merger Agreement.

Notwithstanding anything to the contrary contained herein, any Holder or Holder's successor or assign pursuant to a Permitted Transfer may agree to renounce, in whole or in part, its rights under this Agreement by written notice to the Rights Agent and Parent, which notice, if given, shall be irrevocable. Except for the rights of the Rights Agent set forth herein, the Acting Holders shall have the sole right, on behalf of all Holders, by virtue of or under any provision of this Agreement, to institute any action or proceeding with respect to this Agreement, and no individual Holder or other group of Holders shall be entitled to exercise such rights. Reasonable expenditures incurred by such Acting Holders in connection with any enforcement action hereunder may be deducted from any damages or settlement obtained prior to the distribution of any remainder to Holders generally. The Acting Holders acting pursuant to this Section 6.4 on behalf of all Holders shall have no liability to any other Holders for such actions.

Section 6.5. Governing Law; Jurisdiction; WAIVER OF JURY TRIAL.

(a) This Agreement, the CVRs and all actions (whether at law, in contract, in tort or otherwise) arising under or in connection therewith shall be governed by, and construed in accordance with, the laws of the State of Delaware, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws.

(b) All actions and proceedings (whether at law, in contract, in tort or otherwise) arising out of or in connection with, this Agreement or the transactions contemplated hereby shall be heard and determined in the Court of Chancery of the State of Delaware, and the parties irrevocably submit to the jurisdiction of such court (and, in the case of appeals, the appropriate appellate court therefrom), in any such action or proceeding and irrevocably waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. The consents to jurisdiction set forth in this paragraph shall not constitute general consents to service of process in the State of Delaware and shall have no effect for any purpose except as provided in this paragraph and shall not be deemed to confer rights on any Person other than the parties hereto. The parties agree that service of any court paper may be made in any manner as may be provided under the applicable Laws or court rules governing service of process in such court. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law.

(c) EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER AT LAW, IN CONTRACT, IN TORT OR OTHERWISE) ARISING OUT OF OR RELATED TO THIS AGREEMENT.

Section 6.6. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction. If a final judgment of a court of competent jurisdiction declares that any term or provision of this Agreement is invalid or unenforceable, the parties hereto agree that the court making such determination shall have the power to limit such term or provision, to delete specific words or phrases or to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Agreement shall be valid and enforceable as so modified. In the event such court does not exercise the power granted to it in the prior sentence, the parties hereto agree to replace such invalid or unenforceable term or provision with a valid and enforceable term or provision that will achieve, to the extent possible, the economic, business and other purposes of such invalid or unenforceable term or provision.

Section 6.7. Counterparts and Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties hereto and delivered to the other parties, it being understood that all parties need not sign the same counterpart. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by combination of such means.

Section 6.8. Termination. This Agreement shall be terminated and be of no force or effect, the parties hereto shall have no liability hereunder (other than with respect to monies due and owing by Parent to Rights Agent), and no payments shall be required to be made, upon the earliest to occur of (a) the mailing by the Rights Agent to the address of each Holder as reflected in the CVR Register (or payment by wire transfer, as applicable) if the full amount of all Milestone Payment Amounts required to be paid under the terms of this Agreement and (b) the delivery of a written notice of termination duly executed by Parent and the Acting Holders. If this Agreement is still in effect as of the latest Milestone Outside Date, Parent and the Acting Holders shall be deemed to have delivered such notice of termination as of 90 days following the latest Milestone Outside Date. Notwithstanding the foregoing, Section 6.4 through Section 6.11 inclusive shall survive the termination of this Agreement. For the avoidance of doubt, the termination of this Agreement will not affect or limit the right to receive the Milestone Payments under Section 2.4 to the extent earned prior to termination of this Agreement.

Section 6.9. Entire Agreement. This Agreement and the Merger Agreement (including the exhibits and annexes thereto and the documents and instruments referred to therein) constitute the entire agreement between the parties with respect to the subject matter of this Agreement and supersede all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter of this Agreement. If and to the extent any provision of this Agreement is inconsistent or conflicts with the Merger Agreement, (a) this Agreement shall govern and be controlling with respect to CVR matters only, and (b) the Merger Agreement shall govern and be controlling with respect to all matters unrelated to the CVRs.

Section 6.10. Payments on Next Business Day. In the event that any date by which any payment in respect of the CVRs shall be required to be made hereunder shall not be a Business Day, then, notwithstanding any provision of this Agreement to the contrary, any payment required to be made in respect of the CVRs on such date need not be made on such date, but may be made on the next Business Day thereafter with the same force and effect as if made on the applicable required date.

Section 6.11. Confidentiality. The Rights Agent agrees that all books, records, information and data pertaining to the business of Parent or its Affiliates, including *inter alia*, personal, non-public Holder information, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement shall not be used by the Rights Agent for any purpose other than carrying out its duties under this Agreement and shall not be voluntarily disclosed by the Rights Agent to any other Person, including any Holder, except as may be required by a valid order of any Governmental Body of competent jurisdiction or is otherwise required by applicable law, the rules and regulations of the Securities and Exchange Commission or any stock exchange on which the securities of the Rights Agent are listed, or pursuant to subpoenas from state or federal Governmental Bodies (subject to (x) the Rights Agent notifying, to the extent practicable, Parent of such potential disclosure reasonably in advance of such disclosure, (y) cooperating with Parent, at Parent's expense, in any effort to restrict disclosure of such book, records, information or data and (z) the Rights Agent only disclosing such books, records, information or data that is required to be so disclosed by such valid order, such applicable law, rule or regulation of the Securities and Exchange Commission or any stock exchange on which the securities of the Rights Agent are listed or such subpoena). This Section 6.11 shall survive the termination of this Agreement and shall remain in full force and effect in accordance with its terms.

Section 6.12. Action by Acting Holders. Except for the rights of the Rights Agent expressly granted to the Rights Agent herein, the Acting Holders will have the sole right, on behalf of all Holders, by virtue of or under any provision of this Agreement, to institute any Action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Agreement, and no individual Holder or other group of Holders will be entitled to exercise such rights; provided, that all Holders and the Acting Holders must enforce any such legal or equitable rights, remedies or claims under this Agreement against Parent and not the Rights Agent. In any such Action, the Acting Holders shall be deemed to represent all Holders. Amounts collected by the Acting Holders in any such suit shall be paid first to reimburse the legal fees and other costs and expenses incurred by the Acting Holders and the balance shall be distributed to all Holders. The Acting Holders, in acting pursuant to this Section 6.12 on behalf of all Holders, shall have no liability to any of the Holders for any such Actions. Any Action or proceeding at law or in equity brought by the Acting Holders shall be subject to Section 6.5, the terms of which shall apply to the Acting Holders or such Holder, as applicable, and such Action or proceeding at law or in equity *mutatis mutandis*.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf by its duly authorized officers as of the day and year first above written.

ROCHE HOLDINGS, INC.

By: _____
Name:
Title:

EQUINITI TRUST COMPANY, LLC

By: _____
Name:
Title: