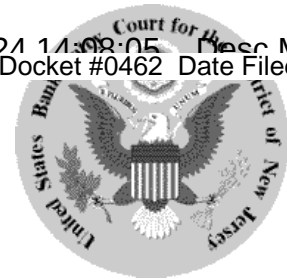


Caption in Compliance with D.N.J. LBR 9004-1(b)

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY



Order Filed on May 7, 2024  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

In re:

Chapter 11

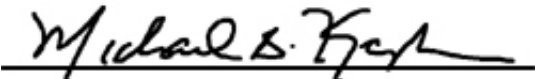
INVITAE CORPORATION, *et al.*,

Case No. 24-11362 (MBK) (Jointly Administered)

**STIPULATION AND AGREED ORDER FOR LIMITED RELIEF FROM THE  
AUTOMATIC STAY TO EFFECTUATE A SETOFF**

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

**DATED: May 7, 2024**

  
Honorable Michael B. Kaplan  
United States Bankruptcy Judge

<sup>1</sup> The last four digits of Debtor Invitae Corporation's tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at [www.kccllc.net/invitae](http://www.kccllc.net/invitae). The Debtors' service address in these chapter 11 cases is 1400 16<sup>th</sup> Street, San Francisco, California 94103.



241136224050700000000005

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

**KIRKLAND & ELLIS LLP**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

Joshua A. Sussberg, P.C. (admitted *pro hac vice*)

Nicole L. Greenblatt, P.C. (admitted *pro hac vice*)

Francis Petrie (admitted *pro hac vice*)

Jeffrey Goldfine (admitted *pro hac vice*)

601 Lexington Avenue

New York, New York 10022

Telephone: (212) 446-4800

Facsimile: (212) 446-4900

joshua.sussberg@kirkland.com

nicole.greenblatt@kirkland.com

francis.petrie@kirkland.com

jeffrey.goldfine@kirkland.com

-and-

**KIRKLAND & ELLIS LLP**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

Spencer A. Winters, P.C. (admitted *pro hac vice*)

333 West Wolf Point Plaza

Chicago, Illinois 60654

Telephone: (312) 862-2000

Facsimile: (312) 862-2200

spencer.winters@kirkland.com

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

**COLE SCHOTZ P.C.**

Michael D. Sirota, Esq.

Warren A. Usatine, Esq.

Felice R. Yudkin, Esq.

Daniel J. Harris, Esq.

Court Plaza North, 25 Main Street

Hackensack, New Jersey 07601

Telephone: (201) 489-3000

msirota@coleschotz.com

wusatine@coleschotz.com

fyudkin@coleschotz.com

dharris@coleschotz.com

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

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) and Alton Tech ADA LLC (the “Landlord” and, together with the Debtors, the “Parties” and each a “Party”) hereby enter into this stipulation and agreed order (the “Stipulation and Agreed Order”) as follows:

### **RECITALS**

**WHEREAS**, on February 13, 2024 (the “Petition Date”), the Debtors each filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), and such cases are being jointly administered pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure [Docket No. 54]. The Debtors continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

**WHEREAS**, Invitae Corporation (“Invitae”), as tenant, entered into a lease agreement prior to the Petition Date with the Landlord for a certain property located at 5 Technology Drive in Irvine, California (collectively with any and all amendments, modifications, or supplements thereto, the “Lease”), which the Debtors rejected effective as of the date set forth in the *Order Authorizing (I) Rejection of Certain Unexpired Leases of Non-Residential Real Property and (II) Abandonment of Any Personal Property, Each Effective as of the Rejection Date* [Docket No. 195].

**WHEREAS**, the Parties agree that the Landlord holds a claim for \$1,086,516 (the “Landlord Claim”), which consists of (i) damages resulting from the Debtors’ rejection of the Lease totaling \$975,161.60, which is adjusted to \$933,336 when applying the section 502(b)(6) cap and (ii) \$153,180 for prepetition rent.

**WHEREAS**, as set forth in the Lease, the Debtors paid to the Landlord a cash security deposit in the amount of \$75,504 (the “Security Deposit”).

**WHEREAS**, on June 26, 2023, JPMorgan Chase Bank, N.A. issued an Irrevocable Standby Letter of Credit in favor of the Landlord in the amount of \$450,000 (the “Letter of Credit”). The total setoff amount is \$525,504.00, calculated as the sum of the Security Deposit and Letter of Credit (the “Setoff Amount”).

**WHEREAS**, the Landlord, through their *Expedited Motion for Relief from the Automatic Stay in Order to Offset Security Deposit and Letter of Credit* [Docket No. 296], requested relief from the automatic stay for the purpose of applying the Security Deposit and the Letter of Credit, as applicable, to offset the Landlord Claim pursuant to sections 362(d) and 553(a) of the Bankruptcy Code.

**WHEREAS**, as of the date hereof, the Debtors have agreed to lift the automatic stay, as applicable, solely for the purpose of allowing the Landlord to apply the Security Deposit and draw on the Letter of Credit to offset the Landlord Claim pursuant to sections 362(d) and 553(a) of the Bankruptcy Code.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND UPON APPROVAL BY THE BANKRUPTCY COURT OF THIS STIPULATION, THE FOLLOWING IS SO ORDERED:**

1. This Stipulation and Agreed Order shall only be effective and enforceable upon its approval and entry by the Bankruptcy Court on the docket for these chapter 11 cases, and then it shall be immediately effective and enforceable.
2. The foregoing recitals are hereby incorporated by reference into this Stipulation and Agreed Order.

3. The automatic stay under section 362 of the Bankruptcy Code is hereby modified solely to permit the Landlord to apply and offset the Setoff Amount against the Landlord Claim, as applicable. The Landlord shall have a prepetition general unsecured claim against the Debtors for the difference between the Landlord Claim and the Setoff Amount on the date hereof in the amount of \$561,012 (the “General Unsecured Claim”).

4. Notwithstanding anything to contrary in paragraph 3, to the extent the Landlord is entitled to receive less than the Setoff Amount under the Debtors’ chapter 11 plan, the Landlord shall refund the Debtors’ estate for any such overpayment within five (5) business days of an order compelling the Landlord to return any potential overpayment.

5. Upon the Bankruptcy Court’s approval and entry of this Stipulation and Agreed Order, (a) Landlord’s proof of claim (Claim No. 818) filed against the Debtors in these chapter 11 cases in connection with the Landlord Claim shall be deemed disallowed, except with respect to the General Unsecured Claim, and (b) Landlord fully, finally, and forever releases and discharges its claims (as defined in section 101(5) of the Bankruptcy Code) against the Debtors arising as a result of the Landlord Claim, except for its General Unsecured Claim. These agreed upon terms may be reflected on the Bankruptcy Court’s official claims register. Notwithstanding anything in this Stipulation to the contrary, the Landlord retains all rights to seek the allowance of an administrative expense and all Parties’ rights are reserved with respect to such a request. Notwithstanding the foregoing, nothing herein constitutes an admission as to the validity of any such administrative expense claim.

6. Neither this Stipulation and Agreed Order nor any actions taken pursuant hereto shall constitute evidence admissible against the Parties in any action or proceeding other than one to enforce the terms of this Stipulation and Agreed Order.

7. The Parties intend for this Stipulation and Agreed Order to be binding upon their successors, agents, assigns, including bankruptcy trustees and estate representatives and any parent, subsidiary, or affiliated entity of the Parties.

8. The undersigned hereby represent and warrant that they have full authority to execute this Stipulation and Agreed Order on behalf of the respective Parties and that the respective Parties have full knowledge of and have consented to this Stipulation and Agreed Order.

9. The Parties agree that each of them, through their respective counsel, has had a full opportunity to participate in the drafting of this Stipulation and Agreed Order, and, accordingly, any claimed ambiguity shall be construed neither for nor against either of the Parties.

10. This Stipulation and Agreed Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect thereto.

11. This Stipulation and Agreed Order shall not be modified, altered, amended, or supplemented except pursuant to a written agreement between the Parties or their authorized representatives or an order that the Bankruptcy Court may enter on the docket for these chapter 11 cases. In the event that the Debtors attempt to modify this Stipulation and Agreed Order, it shall provide specific notice to the Landlord's counsel, via email, at [damien.tancredi@flastergreenberg.com](mailto:damien.tancredi@flastergreenberg.com) in addition to any notice otherwise required under the Bankruptcy Code. Email notice via CM/ECF or through a claims' agent shall not constitute specific notice as required under this paragraph.

12. The Bankruptcy Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Agreed Order, and the Parties hereby

consent to such jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation and Agreed Order.

Dated: May 6, 2024

*/s/ Michael D. Sirota*

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**COLE SCHOTZ P.C.**

Michael D. Sirota, Esq.  
Warren A. Usatine, Esq.  
Felice R. Yudkin, Esq.  
Daniel J. Harris, Esq.  
Court Plaza North, 25 Main Street  
Hackensack, New Jersey 07601  
Telephone: (201) 489-3000  
Email: msirota@coleschotz.com  
wusatine@coleschotz.com  
fyudkin@coleschotz.com  
dharris@coleschotz.com

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

**KIRKLAND & ELLIS LLP**

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Joshua A. Sussberg, P.C. (admitted *pro hac vice*)  
Nicole L. Greenblatt, P.C. (admitted *pro hac vice*)  
Francis Petrie (admitted *pro hac vice*)  
Jeffrey Goldfine (admitted *pro hac vice*)  
601 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-4900  
Email: joshua.sussberg@kirkland.com  
nicole.greenblatt@kirkland.com  
francis.petrie@kirkland.com  
jeffrey.goldfine@kirkland.com

-and-

**KIRKLAND & ELLIS LLP**

**KIRKLAND & ELLIS INTERNATIONAL LLP**

Spencer A. Winters, P.C. (admitted *pro hac vice*)  
333 West Wolf Point Plaza  
Chicago, Illinois 60654  
Telephone: (312) 862-2000  
Facsimile: (312) 862-2200  
spencer.winters@kirkland.com

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



*/s/ Damien Tancredi*

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**FLASTER/GREENBERG P.C.**

Damien Nicholas Tancredi, Esquire

1810 Chapel Avenue West

Cherry Hill, NJ 09002

215-587-5675

[Damien.tancredi@flastergreenberg.com](mailto:Damien.tancredi@flastergreenberg.com)

*Attorneys for Alton Tech ADA LLC*