
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, DC 20549

SCHEDULE 13D/A

Under the Securities Exchange Act of 1934
(Amendment No. 12)*

Biora Therapeutics, Inc.
(Name of Issuer)

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

74319F107
(CUSIP Number)

Andrew C. Hyman, Esq.
Athyrium Capital Management, LP
505 Fifth Avenue, 18th Floor
New York, New York 10017
(212) 402-6925

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

August 12, 2024
(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1	Name of reporting person Athyrium Opportunities III Co-Invest 1 LP
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC use only
4	Source of funds OO
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>
6	Citizenship or place of organization Delaware
Number of shares beneficially owned by each reporting person with	7 Sole voting power 0
	8 Shared voting power 18,346,773
	9 Sole dispositive power 0
	10 Shared dispositive power 18,346,773
11	Aggregate amount beneficially owned by each reporting person 18,346,773
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>
13	Percent of class represented by amount in Row (11) 36.0%
14	Type of reporting person PN

1	Name of reporting person Athyrium Opportunities III Acquisition LP	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 1,691,317
	9	Sole dispositive power 0
	10	Shared dispositive power 1,691,317
11	Aggregate amount beneficially owned by each reporting person 1,691,317	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 3.3%	
14	Type of reporting person PN	

1	Name of reporting person Athyrium Opportunities III Acquisition 2 LP	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 5,215,948
	9	Sole dispositive power 0
	10	Shared dispositive power 5,215,948
11	Aggregate amount beneficially owned by each reporting person 5,215,948	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 10.2%	
14	Type of reporting person PN	

1	Name of reporting person Athyrium Opportunities 2020 LP	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 183,333
	9	Sole dispositive power 0
	10	Shared dispositive power 183,333
11	Aggregate amount beneficially owned by each reporting person 183,333	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 0.4%	
14	Type of reporting person PN	

1	Name of reporting person Jeffrey A. Ferrell
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC use only
4	Source of funds OO
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>
6	Citizenship or place of organization United States
Number of shares beneficially owned by each reporting person with	7 Sole voting power 0
	8 Shared voting power 25,437,371
	9 Sole dispositive power 0
	10 Shared dispositive power 25,437,371
11	Aggregate amount beneficially owned by each reporting person 25,437,371
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>
13	Percent of class represented by amount in Row (11) 49.9%
14	Type of reporting person IN

1	Name of reporting person Athyrium Opportunities Associates Co-Invest LLC
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>
3	SEC use only
4	Source of funds OO
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>
6	Citizenship or place of organization Delaware
Number of shares beneficially owned by each reporting person with	7 Sole voting power 0
	8 Shared voting power 18,346,773
	9 Sole dispositive power 0
	10 Shared dispositive power 18,346,773
11	Aggregate amount beneficially owned by each reporting person 18,346,773
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>
13	Percent of class represented by amount in Row (11) 36.0%
14	Type of reporting person OO

1	Name of reporting person Athyrium Funds GP Holdings LLC	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 25,437,371
	9	Sole dispositive power 0
	10	Shared dispositive power 25,437,371
11	Aggregate amount beneficially owned by each reporting person 25,437,371	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 49.9%	
14	Type of reporting person OO	

1	Name of reporting person Athyrium Opportunities Associates III LP	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 7,090,598
	9	Sole dispositive power 0
	10	Shared dispositive power 7,090,598
11	Aggregate amount beneficially owned by each reporting person 7,090,598	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 13.9%	
14	Type of reporting person PN	

1	Name of reporting person Athyrium Opportunities Associates III GP LLC	
2	Check the appropriate box if a member of a group* (a) <input type="checkbox"/> (b) <input checked="" type="checkbox"/>	
3	SEC use only	
4	Source of funds OO	
5	Check box if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
6	Citizenship or place of organization Delaware	
Number of shares beneficially owned by each reporting person with	7	Sole voting power 0
	8	Shared voting power 7,090,598
	9	Sole dispositive power 0
	10	Shared dispositive power 7,090,598
11	Aggregate amount beneficially owned by each reporting person 7,090,598	
12	Check box if the aggregate amount in Row (11) excludes certain shares <input type="checkbox"/>	
13	Percent of class represented by amount in Row (11) 13.9%	
14	Type of reporting person OO	

Explanatory Note

This Amendment No. 12 amends and supplements the Schedule 13D originally filed by the Reporting Persons (as defined below) with the Securities and Exchange Commission (the “SEC”) on July 6, 2020, (as amended to date, this “Schedule 13D”). Except as may be described herein, none of the Reporting Persons or, to the knowledge of the Reporting Persons, none of the Covered Persons (as defined below), has had any transactions in the Common Stock (as defined below) during the past 60 days. On January 3, 2023, the Company (as defined below) effected a reverse stock split (the “Reverse Stock Split”) of the Company’s Common Stock at a ratio of 25:1. The share and per share amounts reported in this Schedule 13D give effect to the Reverse Stock Split for all periods presented herein.

Item 1. Security and Issuer.

This Schedule 13D relates to the common stock, par value \$0.001 per share (“Common Stock”), of Biora Therapeutics, Inc., a Delaware corporation (the “Company”). The address of the principal executive offices of the Company is 4330 La Jolla Village Drive, Suite 300, San Diego, California 92122.

Item 2. Identity and Background.

(a)-(c) & (f) This Schedule 13D is filed jointly by the following persons pursuant to Rule 13d-1(k) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”):

- (1) Athyrium Opportunities III Co-Invest 1 LP, a Delaware limited partnership (“Co-Invest LP”), is an investment partnership engaged in the business of making equity and debt investments;
- (2) Athyrium Opportunities III Acquisition LP, a Delaware limited partnership (“Acquisition LP”), is an investment partnership engaged in the business of making equity and debt investments;
- (3) Athyrium Opportunities III Acquisition 2 LP, a Delaware limited partnership (“Acquisition 2 LP” and, together with Acquisition LP, the “AOIII Acquisition Funds”), is an investment partnership engaged in the business of making equity and debt investments;
- (4) Athyrium Opportunities 2020 LP, a Delaware limited partnership (“2020 LP” and, together with Co-Invest LP and the AOIII Acquisition Funds, the “Funds”), is an investment partnership engaged in the business of making equity and debt investments;
- (5) Athyrium Opportunities Associates III GP LLC, a Delaware limited liability company (“Associates III GP”), is engaged in the business of being the general partner of Associates III LP;
- (6) Athyrium Opportunities Associates Co-Invest LLC, a Delaware limited liability company (“Associates Co-Invest”), is engaged in the business of being the general partner of Co-Invest LP;
- (7) Athyrium Funds GP Holdings LLC, a Delaware limited liability company (“GP Holdings”), is engaged in the business of being the managing member of Associates Co-Invest and Associates III GP (as defined below);
- (8) Athyrium Opportunities Associates III LP, a Delaware limited partnership (“Associates III LP”), is engaged in the business of being the general partner of the AOIII Acquisition Funds and 2020 LP; and
- (9) Jeffrey A. Ferrell is an individual citizen of the United States whose principal occupation is to serve as the Managing Member of GP Holdings and the President of Associates III GP and Associates Co-Invest.

The persons described in (1) through (9) above are referred to herein as the “Reporting Persons.” A list of the directors, executive officers, managers, members and partners, as applicable, of each Reporting Person (collectively, the “Covered Persons”) is attached hereto as Annex A and is incorporated by reference herein. To the knowledge of the Reporting Persons, each of the Covered Persons that is a natural person is a United States citizen.

The principal business address of each of the Reporting Persons and each associated Covered Person is c/o Athyrium Capital Management, LP, 505 Fifth Avenue, Floor 18, New York, New York 10017.

(d) During the last five years, none of the Reporting Persons or, to their knowledge, none of the Covered Persons, has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

(e) During the last five years, none of the Reporting Persons or, to their knowledge, none of the Covered Persons, has been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and, as a result of such proceeding, was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 3. Source and Amount of Funds or Other Consideration.

On October 27, 2017, the Company and Co-Invest LP entered into a Series B Preferred Stock Purchase Agreement (the “2017 Series B Stock Purchase Agreement”), which provided for the sale of shares of Series B Preferred Stock for an aggregate purchase price of \$50.0 million.

On August 27, 2019, the Company and Acquisition LP entered into a Series B Preferred Stock Purchase Agreement pursuant to which Acquisition LP purchased shares of Series B Preferred Stock for an aggregate purchase price of \$25.0 million.

On November 12, 2019, the Company and Acquisition LP entered into a Series B Stock Preferred Stock Purchase Agreement (the “2019 Series B Stock Purchase Agreement”) pursuant to which Acquisition LP purchased additional shares of Series B Preferred Stock for an aggregate purchase price of \$25.0 million. Also on November 12, 2019, Acquisition 2 LP acquired all of the securities of the Company held by Acquisition LP.

On December 19, 2019 and February 28, 2020, Acquisition 2 LP purchased additional shares of Series B Preferred Stock pursuant to the 2019 Series B Stock Purchase Agreement for an aggregate purchase price of \$25.0 million and \$10.0 million, respectively.

On March 31, 2020, Co-Invest LP and the Company entered into the First Amendment to the Credit Agreement (the “Credit Agreement Amendment”) providing for the payment in shares of the Company’s Series B Preferred Stock of the interest on the amount outstanding under the applicable credit agreement.

On April 3, 2020, the Company and Acquisition 2 LP entered into a Series B Preferred Stock Purchase Agreement pursuant to which Acquisition 2 LP purchased additional shares of Series B Preferred Stock for an aggregate purchase price of \$10.0 million.

On May 8, 2020, the Company and 2020 LP entered into a Note Purchase Agreement pursuant to which 2020 LP purchased an unsecured convertible promissory note (the “Convertible Promissory Note”) with an annual interest rate of 8.0% and in an aggregate principal amount of \$15.0 million.

In connection with the consummation of the Company’s initial public offering of its Common Stock, the Series B Preferred Stock and the Convertible Promissory Note converted, automatically and without any additional consideration, into 732,794 and 50,000 shares, respectively, of Common Stock. Further, on June 23, 2020, in connection with the initial public offering of the Company’s Common Stock, 2020 LP purchased 133,333 shares of Common Stock. The funds used to purchase such shares were composed of the investment capital of 2020 LP.

On December 7, 2020, the Company consummated a follow-on public offering of its Common Stock and a concurrent private placement of its 7.25% convertible senior notes due 2025 (the “7.25% Convertible Notes”). Acquisition 2 purchased 165,137 shares of Common Stock, and Acquisition LP purchased an aggregate principal amount of \$25,000,000 of the 7.25% Convertible Notes in connection with the offerings. Such shares of Common Stock were purchased for an aggregate purchase price of \$13.5 million, and such 7.25% Convertible Notes were purchased for \$25.0 million in cash, in each case at the same price offered to the public. The funds used to purchase such shares and 7.25% Convertible Notes, as applicable, were composed of the investment capital of the applicable Fund. At the same time, Co-Invest LP consummated an agreement to receive an aggregate principal amount of \$78,500,000 of the 7.25% Convertible Notes and \$95,833.33 in cash in exchange for the cancellation of the \$78.6 million in principal and accrued and unpaid interest outstanding, as well as a prepayment penalty, under the Company’s credit agreement for which Co-Invest LP acted as the lender and collateral agent.

On June 1, 2021, Acquisition LP and Co-Invest LP entered into a Consent and Waiver Agreement and, on May 27, 2021, a Stock Issuance Agreement (the “Stock Issuance Agreement”), each with the Company, pursuant to which Acquisition LP and Co-Invest LP agreed to forgo and waive their right to receive interest in cash due on the 7.25% Convertible Notes held by Acquisition LP and Co-Invest LP, in exchange for the issuance of shares of Common Stock equal to \$3,626,812.50, the amount of cash interest so waived. Pursuant to the Stock Issuance Agreement, Acquisition LP acquired 12,252 shares of Common Stock and Co-Invest LP acquired 38,472 shares of Common Stock.

On June 14, 2021, the Company consummated a private placement of units (the “Private Placement”), with each unit consisting of one share of Common Stock and the right to buy an additional share of Common Stock for the exercise price specified in the warrant conferring such right (the “Common Stock Warrant”). In connection with the Private Placement, Acquisition 2 LP purchased 323,886 units with an aggregate purchase price of \$20.0 million. On November 6, 2022, the Company and Acquisition 2 LP agreed to amend the Common Stock Warrant to reduce the exercise price to \$8.22 per share of Common Stock (as amended, the “Amended Warrant”). The Amended Warrant is exercisable at any time on or after May 9, 2023 and until May 9, 2028, but not thereafter.

On November 6, 2022, Acquisition LP and Co-Invest LP entered into an Interest Waiver and Securities Issuance Agreement and a Securities Purchase Agreement (collectively, the “Interest Waiver Agreements”), in each case with the Company, pursuant to which Acquisition LP and Co-Invest LP agreed to forgo and waive their right to receive an aggregate amount of \$3,751,875 in cash interest due on the 7.25% Convertible Notes held by Acquisition LP and Co-Invest LP, in exchange for the issuance of shares of Common Stock and warrants to purchase an additional share of Common Stock (the “Second Common Stock Warrant”). In connection with the Interest Waiver Agreements, Acquisition LP acquired 120,833 shares of Common Stock and the right to purchase 120,833 shares of Common Stock pursuant to the Second Common Stock Warrant and Co-Invest LP acquired 379,416 shares of Common Stock and the right to purchase 379,416 shares of Common Stock pursuant to the Second Common Stock Warrant. The Second Common Stock Warrant originally had an exercise price of exercise price of \$8.22 per share and is exercisable at any time on or after May 9, 2023 and until May 9, 2028, but not thereafter.

On September 18, 2023, the Company, Acquisition LP and Co-Invest LP entered into a Convertible Notes Exchange Agreement for Common Stock and Warrants (the “September 2023 Exchange Agreement”) whereby (i) Acquisition LP exchanged \$12,077,000 aggregate principal amount of 7.25% Convertible Notes for (1) 2,230,690 shares of the Common Stock, pre-funded warrants to purchase 1,787,209 shares of Common Stock (“September 2023 Pre-Funded Warrants”) and warrants to purchase 4,017,899 shares of Common Stock (“September 2023 Warrants”), all to be issued to Acquisition 2 LP pursuant to the terms of the September 2023 Exchange Agreement, and (2) accrued and unpaid interest paid in cash on the 7.25% Convertible Notes exchanged to, but excluding, the closing date and (ii) Co-Invest LP exchanged \$37,923,000 aggregate principal amount of 7.25% Convertible Notes for (1) 7,004,591 shares of Common Stock, September 2023 Pre-Funded Warrants to purchase 5,612,017 shares of Common Stock, September 2023 Warrants to purchase 12,616,608 shares of Common Stock, all to be issued to Co-Invest LP pursuant to the terms of the September 2023 Exchange Agreement, and (2) accrued and unpaid interest paid in cash on the 7.25% Convertible Notes exchanged to, but excluding, the closing date. The September 2023 Pre-Funded Warrants have an exercise price of \$0.001 per share and are exercisable at any time on or after September 18, 2023 until such September 2023 Pre-Funded Warrants have been fully exercised in accordance with their terms. The September 2023 Warrants have an exercise price of \$3.01 per share and are exercisable at any time on or after September 18, 2023 until September 18, 2026. Each of the September 2023 Pre-Funded Warrants and the September 2023 Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder’s beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

On December 18, 2023, the Company, Acquisition LP and Co-Invest LP entered into a Convertible Notes Purchase Agreement (the “December 2023 Purchase Agreement”) whereby (i) Acquisition LP purchased \$1,680,000 aggregate principal amount of 11.00% / 13.00% Convertible Senior Secured Notes due 2028 (the “11.00% / 13.00% Convertible Notes”) and warrants to purchase 503,872 shares of Common Stock (such warrants, “December 2023 Additional Warrants”), which warrants were issued to and are directly held by Acquisition 2 LP pursuant to the terms of the Purchase Agreement, from the Company in exchange for \$1,680,000 in interest that had accrued but not yet been paid to Acquisition LP under the 7.25% Convertible Notes, and (ii) Co-Invest LP purchased \$5,273,000 aggregate principal amount of 11.00% / 13.00% Convertible Notes and December 2023 Additional Warrants to purchase 1,581,500 shares of Common Stock from the Company in exchange for \$5,273,000 in interest that had accrued but not yet been paid to Co-Invest LP under the 7.25% Convertible Notes. On December 18, 2023, the Company, Acquisition LP and Co-Invest LP entered into a Convertible Notes Exchange Agreement for New Notes and Common Stock or Warrants (the “December 2023 Exchange Agreement”) whereby (i) Acquisition LP exchanged (1) \$3,360,000 aggregate principal amount of 7.25% Convertible Notes due 2025 (the “7.25% Convertible Notes”) directly held by Acquisition LP for \$2,520,000 aggregate principal amount of 11.00% / 13.00% Convertible Notes, together with accrued and unpaid interest on the 7.25% Convertible Notes exchanged, and (2) \$9,563,000 aggregate principal amount of 7.25% Convertible Notes for warrants to purchase 1,217,109 shares of Common Stock (the “December 2023 Exchange Warrants”), which warrants were issued to and are directly held by Acquisition 2 LP pursuant to the terms of the December 2023 Exchange Agreement, together with accrued and unpaid interest on the 7.25% Convertible Notes exchanged, and (ii) Co-Invest LP exchanged (1) \$10,546,000 aggregate principal amount of 7.25% Convertible Notes directly held by Co-Invest LP for \$7,910,000 aggregate principal amount of 11.00% / 13.00% Convertible Notes, together with accrued and unpaid interest on the 7.25% Convertible Notes exchanged, and (2) \$30,031,000 aggregate principal amount of 7.25% Convertible Notes for December 2023 Exchange Warrants to purchase 3,822,127 shares of Common Stock, together with accrued and unpaid interest on the 7.25% Convertible Notes exchanged. All accrued and unpaid interest on 7.25% Convertible Notes exchanged pursuant to the December 2023 Exchange Agreement was used to pay, in part, the purchase price owing pursuant to the December 2023 Purchase Agreement. The 11.00% / 13.00% Convertible Notes are subject to certain limitations on conversion, and limitations on the Company’s ability to issue Common Stock to satisfy obligations under the 11.00% / 13.00% Convertible Notes, including a limitation on the ability of the holder to convert or the Company to issue Common Stock if the holder’s beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would, in the case of Acquisition LP and Co-Invest LP, exceed 49.9% of the outstanding Common Stock. The December 2023 Additional Warrants originally had an exercise price of \$5.00 per share and are exercisable at any time on or after December 19, 2023 until December 19, 2028. The December 2023 Exchange Warrants originally had an exercise price of \$5.50 per share and are exercisable at any time on or after December 19, 2023 until December 19, 2028. Each of the December 2023 Additional Warrants and the December 2023 Exchange Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder’s beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

On July 3, 2024, the Company entered into a letter agreement (the “Forbearance Agreement”) with the holders of the 11.00% / 13.00% Convertible Notes pursuant to which, in exchange for the holders agreeing to forbear from exercising or enforcing certain rights and remedies against the Company under the terms of the 11.00% / 13.00% Convertible Notes, the Company issued to the holders certain warrants to purchase shares of Common Stock (the “Forbearance Warrants”). Pursuant to the terms of Forbearance Agreement, on July 3, 2024, the Company issued to Acquisition 2 LP and Co-Invest LP Forbearance Warrants to purchase 110,479 and 346,771 shares of Common Stock, respectively. The Forbearance Warrants originally had an exercise price of \$0.63 per share and are exercisable at any time on or after July 3, 2024 and on or prior to 5:00 p.m. on July 3, 2029. The Forbearance Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder’s beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

On August 12, 2024, the Company, Acquisition LP, Co-Invest LP and the other noteholders party thereto entered into a Convertible Notes Exchange Agreement (the “August 2024 Exchange Agreement”) whereby the Company and the holders of all outstanding 11.00% / 13.00% Convertible Notes agreed to the following:

- The Company and the holders agreed to amend and restate the terms of the indenture governing the 11.00% / 13.00% Convertible Notes to, among other changes, (i) reset the conversion rate of the 11.00% / 13.00% Convertible Notes to 1,321.571348 shares per \$1,000 aggregate principal amount of 11.00% / 13.00% Convertible Notes converted and (ii) create two different tranches of 11.00% / 13.00% Convertible Notes with one tranche (the “Payment Priority Notes”) having cash payment priority over the other tranche (the “Payment Junior Notes”). Interest on the Payment Junior Notes must be paid in the form of payment-in-kind while any Payment Priority Notes remain outstanding.
- Acquisition LP agreed to exchange \$666,842 aggregate principal amount of 11.00% / 13.00% Convertible Notes for an equal aggregate principal amount of 11.00% / 13.00% Convertible Notes constituting Payment Priority Notes and Co-Invest LP agreed to exchange \$2,093,144 aggregate principal amount of 11.00% / 13.00% Convertible Notes for an equal aggregate principal amount of 11.00% / 13.00% Convertible Notes constituting Payment Priority Notes. The remaining \$3,778,858 and \$11,861,062 aggregate principal amount of 11.00% / 13.00% Convertible Notes held by Acquisition LP and Co-Invest LP, respectively, will constitute Payment Junior Notes.
- To the extent that a party to the Convertible Note Purchase Agreement entered into by the Company on August 12, 2024 (the “August 2024 Purchase Agreement”) concurrently with its entry into the August 2024 Exchange Agreement acquires additional Payment Priority Notes under the August 2024 Purchase Agreement, Acquisition LP and Co-Invest LP will have the right to exchange Payment Junior Notes for Payment Priority Notes concurrently with such purchase in an amount equal to 15% of the aggregate principal amount of Payment Junior Notes held by Acquisition LP and Co-Invest LP, respectively, multiplied by the ratio that the aggregate principal amount of Payment Priority Notes purchased under the August 2024 Purchase Agreement bears to \$4,000,000.
- The Company, Acquisition LP, Acquisition 2 LP and Co-Invest LP agreed to amend the terms of the Amended Warrant, the Second Common Stock Warrant, the December 2023 Additional Warrants, December 2023 Exchange Warrants and the Forbearance Warrants to, among other changes, (i) reduce the exercise price of each such warrant to \$0.60 per share of Common Stock, (ii) limit the number of shares issuable upon exercise of each such warrant, together with all other warrants amended or issued pursuant to the August 2024 Purchase Agreement, the August 2024 Exchange Agreement or certain of the 11.00% / 13.00% Convertible Notes to 20% of the number of shares of Common Stock outstanding on March 8, 2024 unless and until stockholder approval is obtained under applicable stock exchange rules (the “Applicable Stockholder Approval”), (iii) provide that 20% of each such warrant will be redeemable under certain conditions following receipt of the Applicable Stockholder Approval and (iv) extend the exercise period of each such warrant by the number of days between the amendment of each such warrant and the receipt of the Applicable Stockholder Approval.

The transactions contemplated by the August 2024 Exchange Agreement are scheduled to close on or about August 15, 2024.

Item 4. Purpose of Transaction.

The Reporting Persons acquired the securities reported herein for investment purposes and intend to review their investments in the Company on a continuing basis. Depending on various factors, including but not limited to the Company's financial position and strategic direction, price levels of the Common Stock, conditions in the securities markets, various laws and regulations applicable to the Company and companies in its industry and the Reporting Persons' ownership in the Company, and general economic and industry conditions, the Reporting Persons may in the future take actions with respect to their investment in the Company as they deem appropriate, including changing their current intentions, with respect to any or all matters required to be disclosed herein. Without limiting the foregoing, and subject to any applicable limitations described in Item 6 below, the Reporting Persons may, from time to time, acquire or cause affiliates to acquire additional shares of Common Stock or other securities of the Company (including any combination or derivative thereof), dispose, or cause affiliates to dispose, of some or all of their Common Stock or other securities of the Company or continue to hold, or cause affiliates to hold, Common Stock or other securities of the Company.

In addition, the Reporting Persons have had and intend to continue having discussions, from time to time, with management and the board of directors of the Company, and may engage with other stockholders or securityholders of the Company and other relevant parties, or take other actions concerning the Company's business, lines of business, operations, strategy, plans and prospects; any extraordinary corporate transactions (including, but not limited to, a merger, reorganization or liquidation); sales of a material amount of assets or divestitures; a change in the board of directors or management; a material change in the Company's capitalization, capital structure or dividend policies; other material changes in the Company's business, lines of business, or corporate structure; or similar actions.

Except as set forth herein, or as would occur upon completion of any of the matters discussed herein, the Reporting Persons have no present plans, proposals or intentions which would result in or relate to any of the transactions described in subparagraphs (a) through (j) of Item 4 of Schedule 13D. Although the foregoing reflects activities presently contemplated by the Reporting Persons and each other individuals named in Item 2 with respect to the Company, the foregoing is subject to change at any time.

The information set forth under Items 3 and 6 is incorporated by reference herein.

Item 5. Interest in Securities of the Issuer.

(a)-(b) The information contained on the cover pages of this Schedule 13D is incorporated herein by reference.

The Reporting Persons beneficially own in the aggregate 25,437,371 shares of Common Stock, which represents approximately 49.9% of the outstanding shares of Common Stock. All calculations of percentage ownership in this Schedule 13D are based on (i) 36,469,088 shares of Common Stock outstanding as of August 6, 2024 as disclosed in the Company's Quarterly Report on Form 10-Q filed with the SEC on August 12, 2024, *plus* (ii) shares issuable upon conversion of the 11.00% / 13.00% Convertible Notes held by the Reporting Persons, to the extent the 11.00% / 13.00% Convertible Notes are then convertible and the resulting shares are considered beneficially owned under applicable rules promulgated under the Exchange Act, *plus* (iii) shares underlying the Amended Warrant, the Amended Second Common Stock Warrant, the September 2023 Pre-Funded Warrants, the September 2023 Warrants, the December 2023 Additional Warrants, the December 2023 Exchange Warrants and the Forbearance Warrants, to the extent such warrants are then exercisable and the resulting shares are considered beneficially owned under applicable rules promulgated under the Exchange Act.

To the knowledge of the Reporting Persons, none of the Covered Persons directly owns any shares of Common Stock; provided, however, that because of each Covered Person's status as a director, executive officer, manager, member or partner of a Reporting Person, a Covered Person may be deemed to be the beneficial owner of the shares of Common Stock beneficially owned by such Reporting Person. Except to the extent of their pecuniary interest, each of the Covered Persons disclaims beneficial ownership of the shares of the Common Stock reported herein and the filing of this Schedule 13D shall not be construed as an admission that any such Covered Person is the beneficial owner of any securities covered by this statement.

(d) Except as described herein, none of the Reporting Persons or, to their knowledge, none of the Covered Persons, has had any transactions in the Common Stock during the past 60 days.

(e) Except as set forth herein, to the knowledge of the Reporting Persons, no other person has the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, any shares of Common Stock.

(f) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.Fourth Amended and Restated Investors' Rights Agreement

On August 27, 2019, Co-Invest LP, Acquisition LP and certain of their affiliates (the "Athyrium Parties") entered into a fourth amended and restated investors' rights agreement (the "Investors' Rights Agreement") with the Company and the other stockholders of the Company. The Investors' Rights Agreement provides that the stockholders of the Company have certain registration rights described below. On November 12, 2019, in connection with its acquisition of the securities of the Company previously held by Acquisition LP, Acquisition 2 LP signed a joinder agreement to the Investors' Rights Agreement and became one of the Athyrium Parties discussed below.

The registration rights described below will expire (i) with respect to any Athyrium Party, at the time such Athyrium Party can sell all of its registrable securities under Rule 144 or another similar exemption under the Securities Act of 1933, as amended (the "Securities Act"), without limitation during a three-month period without registration, or (ii) upon termination of the Investors' Rights Agreement.

The key registration rights under the Investors' Rights Agreement are as follows:

- *Demand Registration Rights.* At any time beginning 210 days after the effective date of the registration statement for the Company's

initial public offering, the holders of 50% or more of the registrable securities then outstanding may make a written request that the Company register all or a portion of their shares, subject to certain specified exceptions and conditions. The Company will then prepare and file a registration statement as requested, unless, in the good faith judgment of the Company's board of directors, such registration would be seriously detrimental to the Company and its stockholders and filing should be deferred.

- *Piggyback Registration Rights.* Subject to certain specified exceptions, if the Company proposes to register any of its securities under the Securities Act either for its own account or for the account of other stockholders, the holders of shares having registration rights are entitled to written notice and certain "piggyback" registration rights allowing them to include their shares in the Company's registration statement. These registration rights are subject to specified conditions and limitations, including the right of the underwriters, in their sole discretion, to limit the number of shares included in any such offering under certain circumstances, but not below 15% of the total amount of securities included in such offering, unless all securities, other than the Company's securities, are entirely excluded from the offering.
- *Form S-3 Registration Rights.* At any time after the Company is qualified to file a registration statement on Form S-3, and subject to limitations and conditions, the holders of 50% or more of the registrable securities then outstanding are entitled to written notice of such registration and may make a written request that the Company prepare and file a registration statement on Form S-3 under the Securities Act covering their shares. The Company will then prepare and file the Form S-3 registration statement as requested, unless, in the good faith judgment of the Company's board of directors, such registration would be seriously detrimental to the Company and its stockholders and filing should be deferred.

On November 10, 2020, the Company and the other stockholders party thereto entered into Amendment No. 1 to the Investors' Rights Agreement in order to provide for the registration of the shares of Common Stock issued or issuable upon conversion of the Convertible Promissory Note.

On December 7, 2020, the Company and the other stockholders party thereto entered into Amendment No. 2 to the Investors' Rights Agreement in order to provide for the registration of the shares of Common Stock issued or issuable upon conversion of the 7.25% Convertible Notes.

On May 31, 2021, the Company and the other stockholders party thereto entered into Amendment No. 3 to the Investors' Rights Agreement in order to provide for the registration of the shares of Common Stock issued pursuant to the Stock Issuance Agreement.

On August 19, 2021, in connection with the proposed sale by the Company of Common Stock and warrants to purchase Common Stock pursuant to the Company's registration statement on Form S-3 filed with the SEC on July 30, 2021 (the "Shelf Registration Statement"), the Company and the stockholders party to the Investors' Rights Agreement entered into that certain Notice and Waiver, pursuant to which such stockholders waived their respective right to request that the Company include the securities registrable pursuant to the Investor Rights Agreement among the securities registered on the Shelf Registration Statement.

On September 18, 2023, in connection with the transactions contemplated by the September 2023 Exchange Agreement, the Company and the other stockholders party thereto entered into Amendment No. 4 to the Investors' Rights Agreement in order to provide for the registration of the shares of Common Stock issued pursuant to the September 2023 Exchange Agreement and issuable pursuant to the terms of the September 2023 Pre-Funded Warrants and the September 2023 Warrants.

Amended Warrant

On June 14, 2021, the Company issued a Common Stock Warrant to Acquisition 2 LP as registered holder. On November 6, 2022 and August 12, 2024, the Company and Acquisition 2 LP agreed to amend the Common Stock Warrant. This Amended Warrant is exercisable for 323,886 shares of Common Stock at an exercise price of \$0.60 per share, at any time on or after May 9, 2023 and prior to May 9, 2028, subject to extension in certain circumstances as described in Item 3 above.

Second Common Stock Warrant

On November 9, 2022, the Company issued the Second Common Stock Warrant to Acquisition LP and Co-Invest LP in connection with the Interest Waiver Agreements. On August 12, 2024, the Company, Acquisition LP and Co-Invest LP agreed to amend the Second Common Stock Warrant. As amended, the Second Common Stock Warrant is exercisable for 500,249 shares of Common Stock, has an exercise price of \$0.60 per share of Common Stock and is exercisable at any time between May 9, 2023 and prior to its expiration on May 9, 2028, subject to extension in certain circumstances as described in Item 3 above.

September 2023 Pre-Funded Warrants

On September 18, 2023, pursuant to the terms of the September 2023 Exchange Agreement, the Company issued (i) September 2023 Pre-Funded Warrants to purchase 1,787,209 shares of Common Stock to Acquisition 2 LP and (ii) September 2023 Pre-Funded Warrants to purchase 5,612,017 shares of Common Stock to Co-Invest LP. The September 2023 Pre-Funded Warrants have an exercise price of \$0.001 per share and are exercisable at any time on or after September 18, 2023 until such September 2023 Pre-Funded Warrants have been fully exercised in accordance with their terms. Each of the September 2023 Pre-Funded Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

September 2023 Warrants

On September 18, 2023, pursuant to the terms of the September 2023 Exchange Agreement, the Company issued (i) September 2023 Warrants to purchase 4,017,899 shares of Common Stock to Acquisition 2 LP and (ii) September 2023 Warrants to purchase 12,616,608 shares of Common Stock to Co-Invest LP. The September 2023 Warrants have an exercise price of \$3.01 per share and are exercisable at any time on or after September 18, 2023 until September 18, 2026. Each of the September 2023 Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

11.00% / 13.00% Convertible Notes

On December 19, 2023, the Company issued a new series of 11.00% / 13.00% Convertible Notes. The 11.00% / 13.00% Convertible Notes were issued pursuant to, and are governed by, an indenture, dated as of December 19, 2023, by and between the Company and GLAS Trust Company LLC, as trustee and collateral agent. The 11.00% / 13.00% Convertible Notes are the Company's senior secured obligations and are secured by substantially all of the Company's and its subsidiaries' assets. The indenture governing the 11.00% / 13.00% Convertible Notes will be amended and restated in connection with the completion of the transactions contemplated by the August 2024 Exchange Agreement and will divide the 11.00% / 13.00% Convertible Notes into two tranches: Payment Priority Notes and Payment Junior Notes.

Interest on the 11.00% / 13.00% Convertible Notes is payable in cash, or at the Company's election subject to certain limitations, with a combination of cash and shares of Common Stock ("blended payments") or, with the agreement of the applicable holder, through payment-in-kind. The 11.00% / 13.00% Convertible Notes will accrue interest at a rate of 11.00% per annum in the case of cash payment and 13.00% in the case of blended payments or payments-in-kind, payable semi-annually in arrears on June 1 and December 1 of each year, with the initial payment on June 1, 2024. On December 19, 2023, the Company, Acquisition LP and Co-Invest LP agreed that payments of interest on 11.00% / 13.00% Convertible Notes held by Acquisition LP and Co-Invest LP would be made as payments-in-kind until Acquisition LP and Co-Invest LP provide five business days advance notice to the Company revoking this election. Notwithstanding the foregoing, the Company must pay interest on the Payment Junior Notes in-kind while the Payment Priority Notes are outstanding.

The 11.00% / 13.00% Convertible Notes will mature on the earlier of December 19, 2028 and the date that is 90 days prior to the maturity of the 7.25% Convertible Notes solely to the extent there are 7.25% Convertible Notes outstanding in a principal amount equal to or greater than \$5,000,000 as of such date, unless earlier repurchased, redeemed or converted.

At any time from the December 19, 2023 and before the close of business on the second scheduled trading day immediately before the maturity date, noteholders may convert their 11.00% / 13.00% Convertible Notes at their option into shares of Common Stock, together, if applicable, with cash in lieu of any fractional share, at the then-applicable conversion rate. The initial conversion rate (as agreed to be amended and restated in connection with the August 2024 Exchange Agreement) is 1,321.571348 shares of Common Stock per \$1,000 principal amount of 11.00% / 13.00% Convertible Notes, which represents an initial conversion price of approximately \$0.76 per share of Common Stock. Noteholders that convert their Notes will be entitled to an additional premium payment representing the amount of certain of the remaining interest payments on the 11.00% / 13.00% Convertible Notes as specified in the indenture, which the Company may settle in cash, shares of common stock, or a combination, subject to the terms of the indenture. The conversion rate and conversion price will be subject to customary adjustments upon the occurrence of certain events. The 11.00% / 13.00% Convertible Notes are subject to certain limitations on conversion, and limitations on the Company's ability to issue Common Stock to satisfy obligations under the 11.00% / 13.00% Convertible Notes, including a limitation on the ability of the holder to convert or the Company to issue Common Stock if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would, in the case of Acquisition LP and Co-Invest LP, exceed 49.9% of the outstanding Common Stock.

The 11.00% / 13.00% Convertible Notes are redeemable, in whole and not in part, at the Company's option at any time on or after December 19, 2024, and in some circumstances prior to that date, at a cash redemption price equal to the principal amount of the 11.00% / 13.00% Convertible Notes to be redeemed, plus accrued and unpaid interest, if any, to, but excluding, the redemption date, but only if the last reported sale price per share of the Common Stock exceeds 150% of the conversion price on (i) each of at least 20 trading days, whether or not consecutive, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice; and (2) the trading day immediately before the date the Company sends such notice.

If certain corporate events that constitute a "Fundamental Change" (as defined in the indenture) occur, then noteholders may require the Company to repurchase their 11.00% / 13.00% Convertible Notes at a cash repurchase price equal to the principal amount of the 11.00% / 13.00% Convertible Notes to be repurchased, plus accrued and unpaid interest, if any, to, but excluding, the fundamental change repurchase date. The definition of Fundamental Change includes certain business combination transactions involving the Company and certain de-listing events with respect to the Common Stock.

The Company must offer to repurchase the Payment Priority Notes or all of the 11.00% / 13.00% Convertible Notes based on certain conditions relating to the Company's consummation of an equity capital raise within 30 days following announcement of a collaboration agreement with a pharmaceutical company involving one or more of the Company's product development programs.

The indenture contains covenants restricting the Company's ability to incur indebtedness, incur liens, make restricted payments, make asset sales and engage in transactions with affiliates, subject to certain baskets. The indenture also requires the Company to maintain minimum liquidity of \$4 million and to add future assets to the collateral securing the 11.00% / 13.00% Convertible Notes and to add future subsidiaries as guarantors of the 11.00% / 13.00% Convertible Notes.

December 2023 Additional Warrants

On December 19, 2023, pursuant to the terms of the December 2023 Purchase Agreement, the Company issued (i) December 2023 Additional Warrants to purchase 503,872 shares of Common Stock to Acquisition 2 LP and (ii) December 2023 Additional Warrants to purchase 1,581,500 shares of Common Stock to Co-Invest LP. On August 12, 2024, the Company, Acquisition 2 LP and Co-Invest LP agreed to amend the December 2023 Additional Warrants. As amended, the December 2023 Additional Warrants have an exercise price of \$0.60 per share and are exercisable at any time on or after December 19, 2023 until December 19, 2028, subject to extension in certain circumstances as described in Item 3 above. Each of the December 2023 Additional Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

December 2023 Exchange Warrants

On December 19, 2023, pursuant to the terms of the December 2023 Exchange Agreement, the Company issued (i) December 2023 Exchange Warrants to purchase 1,217,109 shares of Common Stock to Acquisition 2 LP and (ii) December 2023 Exchange Warrants to purchase 3,822,127 shares of Common Stock to Co-Invest LP. On August 12, 2024, the Company, Acquisition 2 LP and Co-Invest LP agreed to amend the December 2023 Exchange Warrants. As amended, the December 2023 Exchange Warrants have an exercise price of \$0.60 per share and are exercisable at any time on or after December 19, 2023 until December 19, 2028, subject to extension in certain circumstances as described in Item 3 above. Each of the December 2023 Exchange Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

December 2023 Registration Rights Agreement

On December 19, 2023, in connection with the completion of the transactions contemplated by the December 2023 Purchase Agreement and the December 2023 Exchange Agreement, the Company, Acquisition LP, Acquisition 2 LP, Co-Invest LP and certain other parties thereto entered into a Registration Rights Agreement (the "December 2023 Registration Rights Agreement"), which requires the Company to register, among other things, the resale of all shares of Common Stock issuable upon conversion or exercise of, or otherwise issuable pursuant to, the 11.00% / 13.00% Convertible Notes, the December 2023 Additional Warrants or the December 2023 Exchange Warrants. The Company is required to prepare and file a registration statement with the SEC no later than five business days after the date of the agreement, and to use its commercially reasonable efforts to have the registration statement declared effective 120 days after the date of the agreement. The registration rights will expire on the earliest of (i) when a registration statement covering such securities becomes or has been declared effective by the SEC and such securities have been sold or disposed of pursuant to such effective registration statement; (ii) when such securities are held by the Company or one of its subsidiaries; and (iii) the date on which such securities may be sold by the holder thereof without volume or manner of sale restrictions under Rule 144 under the Securities Act.

Forbearance Warrants

On July 3, 2024, the Company entered into the Forbearance Agreement with the holders of the 11.00% / 13.00% Convertible Notes pursuant to which, in exchange for the holders agreeing to forbear from exercising or enforcing certain rights and remedies against the Company under the terms of the 11.00% / 13.00% Convertible Notes, the Company issued to the holders Forbearance Warrants. Pursuant to the terms of Forbearance Agreement, on July 3, 2024, the Company issued to Acquisition 2 LP and Co-Invest LP Forbearance Warrants to purchase 110,479 and 346,771 shares of Common Stock, respectively. On August 12, 2024, the Company, Acquisition 2 LP and Co-Invest LP agreed to amend the Forbearance Warrants. As amended, the Forbearance Warrants have an exercise price of \$0.60 per share and are exercisable at any time on or after July 3, 2024 and on or prior to 5:00 p.m. on July 3, 2029, subject to extension in certain circumstances as described in Item 3 above. The Forbearance Warrants are subject to certain exercise limitations, including a limitation on the ability to exercise if the holder's beneficial ownership of Common Stock (together with its affiliates and certain attribution parties) would exceed 49.9% of the outstanding Common Stock.

August 2024 Exchange Agreement

On August 12, 2024, the Company, Acquisition LP, Co-Invest LP and the other noteholders party thereto entered into the August 2024 Exchange Agreement whereby the Company and the holders of all outstanding 11.00% / 13.00% Convertible Notes agreed to the following:

- The Company and the holders agreed to amend and restate the terms of the indenture governing the 11.00% / 13.00% Convertible Notes to, among other changes, (i) reset the conversion rate of the 11.00% / 13.00% Convertible Notes to 1,321.571348 shares per \$1,000 aggregate principal amount of 11.00% / 13.00% Convertible Notes converted and (ii) create two different tranches of 11.00% / 13.00% Convertible Notes: the Payment Priority Notes and the Payment Junior Notes. Interest on the Payment Junior Notes must be paid in the form of payment-in-kind while any Payment Priority Notes remain outstanding.
- Acquisition LP agreed to exchange \$666,842 aggregate principal amount of 11.00% / 13.00% Convertible Notes for an equal aggregate principal amount of 11.00% / 13.00% Convertible Notes constituting Payment Priority Notes and Co-Invest LP agreed to exchange \$2,093,144 aggregate principal amount of 11.00% / 13.00% Convertible Notes for an equal aggregate principal amount of 11.00% / 13.00% Convertible Notes constituting Payment Priority Notes. The remaining \$3,778,858 and \$11,861,062 aggregate principal amount of 11.00% / 13.00% Convertible Notes held by Acquisition LP and Co-Invest LP, respectively, will constitute Payment Junior Notes.
- To the extent that a party to the August 2024 Purchase Agreement acquires additional Payment Priority Notes under the August 2024 Purchase Agreement, Acquisition LP and Co-Invest LP will have the right to exchange Payment Junior Notes for Payment Priority Notes concurrently with such purchase in an amount equal to 15% of the aggregate principal amount of Payment Junior Notes held by Acquisition LP and Co-Invest LP, respectively, multiplied by the ratio that the aggregate principal amount of Payment Priority Notes purchased under the August 2024 Purchase Agreement bears to \$4,000,000.
- The Company, Acquisition LP, Acquisition 2 LP and Co-Invest LP agreed to amend the terms of the Amended Warrant, the Second Common Stock Warrant, the December 2023 Additional Warrants, December 2023 Exchange Warrants and the Forbearance Warrants to, among other changes, (i) reduce the exercise price of each such warrant to \$0.60 per share of Common Stock, (ii) limit the number of shares issuable upon exercise of each such warrant, together with all other warrants amended or issued pursuant to the August 2024 Purchase Agreement, the August 2024 Exchange Agreement or certain of the 11.00% / 13.00% Convertible Notes to 20% of the number of shares of Common Stock outstanding on March 8, 2024 unless and until the receipt of the Applicable Stockholder Approval, (iii) provide that 20% of each such warrant will be redeemable under certain conditions following the Applicable Stockholder Approval and (iv) extend the exercise period of each such warrant by the number of days between the amendment of each such warrant and the receipt of the Applicable Stockholder Approval.
- Acquisition LP, Acquisition 2 LP, Co-Invest LP and 2020 LP will enter into a voting agreement to vote for receipt of the Applicable Stockholder Approval at any meeting of the stockholders of the Company through the 2026 annual meeting of stockholders.
- The Company and the holders of the 11.00% / 13.00% Convertible Notes will enter into a registration rights agreement requiring the Company to register, among other things, the resale of all shares of Common Stock issuable upon conversion or exercise of, or otherwise issuable pursuant to, the 11.00% / 13.00% Convertible Notes and any of the warrants issued pursuant to the August 2024 Exchange Agreement or the August 2024 Purchase Agreement.

The transactions contemplated by the August 2024 Exchange Agreement are scheduled to close on or about August 15, 2024.

Other Information

The foregoing summary of the Investors' Rights Agreement, December 2023 Registration Rights Agreement, 11.00% / 13.00% Convertible Notes, Amended Warrant, Second Common Stock Warrant, September 2023 Exchange Agreement, September 2023 Pre-Funded Warrants, September 2023 Warrants, December 2023 Additional Warrants, December 2023 Exchange Warrants, Forbearance Agreement, Forbearance Warrants and the August 2024 Exchange Agreement is qualified in its entirety by reference to the complete text of such agreements and to the forms of voting agreement, registration rights agreement and amendment to the existing warrants, each to be executed in connection with the completion of the transactions contemplated by the August 2024 Exchange Agreement. Copies of each of these documents are filed as exhibits hereto and are incorporated herein by reference.

Pursuant to Rule 13d-1(k) promulgated under the Exchange Act, the Reporting Persons have entered into an agreement with respect to the joint filing of this Schedule 13D, which agreement is set forth on the signature page to this Schedule 13D.

Except as described above and herein in this Schedule 13D, there are no other contracts, understandings or relationships (legal or otherwise) among the parties named in Item 2 hereto and between such persons and any person with respect to any of the common stock of the Company owned by the Funds.

Item 7. Material to be Filed as Exhibits.

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|---------------|---|
| Exhibit 99.1 | Fourth Amended and Restated Investors' Rights Agreement, dated August 27, 2019, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 4.5 of the Company's Registration Statement on Form S-1 filed on May 27, 2020). |
| Exhibit 99.2 | Amendment No. 1 to Fourth Amended and Restated Investors' Rights Agreement, dated as of November 10, 2020, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 4.6 of the Company's Registration Statement on Form S-1 filed on December 1, 2020). |
| Exhibit 99.3 | Amendment No. 2 to Fourth Amended and Restated Investors' Rights Agreement, dated as of December 7, 2020, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 99.3 to the Schedule 13D/A filed by the Reporting Persons on December 11, 2020). |
| Exhibit 99.4 | Amendment No. 3 to Fourth Amended and Restated Investors' Rights Agreement, dated as of May 31, 2021, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 99.4 to the Schedule 13D/A filed by the Reporting Persons on June 21, 2021). |
| Exhibit 99.5 | Notice and Waiver, dated as of November 22, 2021, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 99.5 to the Schedule 13D/A filed by the Reporting Persons on November 26, 2021). |
| Exhibit 99.6 | Amendment No. 4 to Fourth Amended and Restated Investors' Rights Agreement, dated as of September 18, 2023, by and among the Company and certain of its stockholders (Incorporated by reference to Exhibit 4.3 to of the Company's Current Report on Form 8-K filed on September 19, 2023). |
| Exhibit 99.7 | Form of Warrant (Incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K filed on June 14, 2021). |
| Exhibit 99.8 | Form of Securities Purchase Agreement, dated as of November 6, 2022, between the Company and the Purchasers signatory therein (Incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed on November 9, 2022). |
| Exhibit 99.9 | Form of Amended Warrant (Incorporated by reference to Exhibit 10.4 of the Company's Current Report on Form 8-K filed on November 9, 2022). |
| Exhibit 99.10 | Form of Warrant (Incorporated by reference to Exhibit 10.2 of the Company's Current Report on Form 8-K filed on November 9, 2022). |
| Exhibit 99.11 | Convertible Notes Exchange Agreement for Common Stock and Warrants, dated September 18, 2023, by and among, the Company, Acquisition LP, and Co-Invest LP (Incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed on September 19, 2023). |
| Exhibit 99.12 | Form of September 2023 Pre-Funded Warrant (Incorporated by reference to Exhibit 4.1 of the Company's Current Report on Form 8-K filed on September 19, 2023). |
| Exhibit 99.13 | Form of September 2023 Warrant (Incorporated by reference to Exhibit 4.2 of the Company's Current Report on Form 8-K filed on September 19, 2023). |
| Exhibit 99.14 | Indenture, to be dated as of December 19, 2023, between the Company and GLAS Trust Company LLC (Incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed on December 18, 2023). |
| Exhibit 99.15 | Form of December 2023 Purchase Agreement (Incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on December 18, 2023). |
| Exhibit 99.16 | Form of December 2023 Exchange Agreement (Incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on December 18, 2023). |

Exhibit 99.17	Form of December 2023 Additional Warrant (Incorporated by reference to Exhibit 4.4 to the Company's Current Report on Form 8-K filed on December 18, 2023).
Exhibit 99.18	Form of December 2023 Exchange Warrant (Incorporated by reference to Exhibit 4.3 to the Company's Current Report on Form 8-K filed on December 18, 2023).
Exhibit 99.19	Form of Registration Rights Agreement, to be dated as of December 19, 2023, between the Company and the investors named therein (Incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed on December 18, 2023).
Exhibit 99.20	Forbearance Agreement, dated July 3, 2024, between the Company and the holders of 11.00% / 13.00% Convertible Notes. (Incorporated by reference to Exhibit 99.20 to the Schedule 13D/A filed by the Reporting Persons on July 8, 2024).
Exhibit 99.21	Form of Forbearance Warrant (contained in Exhibit 99.20).
Exhibit 99.22	Note Exchange Agreement, dated August 12, 2024, between the Company and the holders named therein (Incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on August 12, 2024).
Exhibit 99.23	Form of Voting Agreement.
Exhibit 99.24	Form of Registration Rights Agreement.
Exhibit 99.25	Form of Amendment to Amended Warrant, Second Common Stock Warrant, December 2023 Additional Warrants, December 2023 Exchange Warrants and Forbearance Warrants.

SIGNATURES

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

In accordance with Rule 13d-1(k)(1)(iii) under the Securities Exchange Act of 1934, as amended, the persons named below agree to the joint filing on behalf of each of them of this Schedule 13D with respect to the common stock of the Company.

Dated as of August 14, 2024.

ATHYRIUM OPPORTUNITIES 2020 LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III LP,
its General Partner

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III
GP LLC, its General Partner

By: /s/ Andrew Hyman
Name: Andrew Hyman
Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES III ACQUISITION LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III LP,
its General Partner

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III
GP LLC, its General Partner

By: /s/ Andrew Hyman
Name: Andrew Hyman
Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES III ACQUISITION 2 LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III LP,
its General Partner

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III
GP LLC, its General Partner

By: /s/ Andrew Hyman
Name: Andrew Hyman
Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES
CO-INVEST LLC, its General Partner

By: /s/ Andrew Hyman
Name: Andrew Hyman
Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES ASSOCIATES
CO-INVEST LLC

By: /s/ Andrew Hyman
Name: Andrew Hyman
Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES ASSOCIATES III GP LLC

By: /s/ Andrew Hyman

Name: Andrew Hyman

Title: Senior Vice President, Secretary

ATHYRIUM OPPORTUNITIES ASSOCIATES III LP

By: ATHYRIUM OPPORTUNITIES ASSOCIATES III GP
LLC,
its General Partner

By: /s/ Andrew Hyman

Name: Andrew Hyman

Title: Senior Vice President, Secretary

ATHYRIUM FUNDS GP HOLDINGS, LLC

By: /s/ Jeffrey A. Ferrell

Name: Jefferey A. Ferrel

Title: Managing Member

/s/ Jeffrey A. Ferrell

JEFFEREY A. FERREL

ANNEX A

Other than as set forth below, and in the Schedule 13D to which this Annex A is attached, none of the Reporting Persons have appointed any executive officers or directors.

Athyrium Opportunities Associates Co-Invest LLC

The name and principal occupation of each of the members and executive officers of Athyrium Opportunities Associates Co-Invest LLC are listed below:

<u>Name</u>	<u>Principal Occupation</u>
Athyrium Funds GP Holdings LLC	N/A (Managing Member)
Jeffrey A. Ferrell	President
Andrew C. Hyman	Senior Vice President, Secretary
Elin Strong	Senior Vice President
Courtney Paul	Vice President, Assistant Secretary
Rashida Adams	Vice President

Athyrium Opportunities Associates III GP LLC

The name and principal occupation of each of the members and executive officers of Athyrium Opportunities Associates III GP LLC are listed below:

<u>Name</u>	<u>Principal Occupation</u>
Athyrium Funds GP Holdings LLC	N/A (Managing Member)
Jeffrey A. Ferrell	President
Andrew C. Hyman	Senior Vice President, Secretary
Elin Strong	Senior Vice President
Courtney Paul	Vice President, Assistant Secretary
Rashida Adams	Vice President

VOTING AND SUPPORT AGREEMENT

This **VOTING AND SUPPORT AGREEMENT** (this “Agreement”) is entered into as of August [•], 2024, by and among Biora Therapeutics, Inc., a Delaware corporation (the “Company”), and the undersigned stockholders (each, a “Stockholder”). Capitalized terms used but not defined herein have the meanings given to them in the Convertible Notes Purchase Agreement, dated August 12, 2024 (the “August 2024 Purchase Agreement”), by and among the Company and the purchasers party thereto.

WHEREAS, the Company has entered into the August 2024 Purchase Agreement, pursuant to which the purchasers party thereto will purchase New Notes and acquire Commitment Warrants and Additional Warrants to purchase shares of Common Stock, and the Convertible Notes Exchange Agreement, dated August 12, 2024 (the “August 2024 Exchange Agreement”), by and among the Company and the noteholders party thereto, pursuant to which the noteholders party thereto will exchange certain of their 2028 Notes for New Notes.

WHEREAS, pursuant to the terms of, and as an inducement for the parties to enter into, the August 2024 Purchase Agreement and the August 2024 Exchange Agreement, the Stockholders have agreed to enter into this Agreement with the Company.

NOW, THEREFORE, in consideration of the mutual agreements and covenants set forth below, as well as other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Agreement to Vote Shares of Common Stock. Subject to the terms and conditions of this Agreement, each Stockholder irrevocably and unconditionally agrees that, until the Termination Date (as defined below), at any annual or special meeting of the stockholders of the Company called with respect to the following matters, and at any adjournment or postponement thereof, and on any action by written consent of the stockholders of the Company with respect to the following matters, Stockholder shall appear or cause the holder of record to appear at such meeting or otherwise cause the Subject Securities (as defined below) then owned by such Stockholder that are entitled to vote at such meeting to be present thereat for purposes of establishing a quorum and shall vote or cause the holder of record to vote the Subject Securities then owned by such Stockholder that are entitled to vote at such meeting (in each case including via proxy) or to act by such consent: (a) in favor of (i) the Stockholder Approval and (ii) any proposal to adjourn or postpone any such meeting of stockholders of the Company to a later date if there are not sufficient votes to approve the Stockholder Approval; and (b) against any action, proposal, transaction, or agreement that would reasonably be expected to impede, interfere with, delay, discourage, adversely affect, or inhibit the adoption of the Stockholder Approval or the fulfillment of the conditions to Closing under the August 2024 Purchase Agreement or the August 2024 Exchange Agreement. Any written consent shall be given in accordance with such procedures relating thereto so as to ensure that it is duly counted for purposes of recording the results of such consent. For purposes of this Agreement, “Subject Securities” means, with respect to each Stockholder, (i) all shares of Common Stock set forth under such Stockholder’s name on the signature page to this Agreement, and (ii) all additional shares of Common Stock of which such Stockholder or any of its affiliates acquires record or beneficial ownership during the period from the date of this Agreement through and including the Termination Date (including by way of

stock dividend or distribution, split-up, recapitalization or combination, or by way of exercise, exchange or conversion of any exercisable, exchangeable, convertible or derivative securities, *provided* that nothing in this Agreement shall obligate any Stockholder or any of their respective affiliates to exercise, exchange or convert any exercisable, exchangeable, convertible or derivative securities such Stockholder or any of its affiliates may at any time own or hold).

2. Directors and Officers. Notwithstanding any provision of this Agreement to the contrary, each Stockholder is entering into this Agreement solely in such Stockholder's capacity as a holder of the Subject Securities and not in such Stockholder's capacity as a director, officer or employee of the Company or any of its subsidiaries. For the avoidance of doubt, notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall (or shall require any Stockholder or any partner, officer, employee or affiliate of Stockholder to attempt to) limit or restrict any actions or omissions of a director, officer or employee of the Company or any of its subsidiaries in the exercise of his or her fiduciary duties as a director, officer or employee of the Company or any of its subsidiaries or prevent or be construed to create any obligation on the part of any director, officer or employee of the Company or any of its subsidiaries from taking any action solely in his or her capacity as such director, officer or employee in violation of any such fiduciary duties, and no action taken solely in his or her capacity as such director, officer or employee in accordance with the foregoing shall be deemed to constitute a breach of this Agreement.

3. No Ownership Interest. Nothing contained in this Agreement shall be deemed to vest in the Company or any of its directors, officers or employees any direct or indirect ownership or incidence of ownership of or with respect to any Subject Securities or to create or form a "group" for purposes of the Exchange Act. All rights, ownership and economic benefits of and relating to the Subject Securities shall remain vested in and belong to the Stockholders.

4. Representations and Warranties of the Stockholders. Each Stockholder severally and not jointly represents and warrants to the Company as follows:

(a) Power; Binding Agreement. Such Stockholder has full power and authority to execute and deliver this Agreement, to perform such Stockholder's obligations hereunder and to consummate the transactions contemplated hereby. Such Stockholder is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation (except to the extent the "good standing" concept is not applicable in any relevant jurisdiction). The execution and delivery by such Stockholder of this Agreement, the performance by such Stockholder of his, her or its obligations hereunder and the consummation by such Stockholder of the transactions contemplated hereby have been duly and validly authorized by such Stockholder and no other actions or proceedings on the part of such Stockholder are necessary to authorize the execution and delivery by such Stockholder of this Agreement, the performance by such Stockholder of its obligations hereunder or the consummation by such Stockholder of the transactions contemplated hereby. This Agreement has been duly executed and delivered by such Stockholder, and, assuming this Agreement constitutes a valid and binding obligation of the Company, constitutes a valid and binding obligation of such Stockholder, enforceable against such Stockholder in accordance with its terms, subject to: (i) laws of general application relating to bankruptcy, insolvency and the relief of debtors and (ii) rules of law governing specific performance and other equitable remedies.

(b) No Conflicts. Except for filings under the Exchange Act, no filing with, and no authorization, consent, or approval of, any governmental authority is necessary for the execution and delivery by such Stockholder of this Agreement, the performance by such Stockholder of its obligations hereunder and the consummation by such Stockholder of the transactions contemplated hereby. None of the execution and delivery by such Stockholder of this Agreement, the performance by such Stockholder of its obligations hereunder or the consummation by the Stockholder of the transactions contemplated hereby will (i) violate, contravene, conflict with or result in any breach of any organizational documents applicable to such Stockholder; (ii) result in (with or without notice or lapse of time or both) a violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any third party right of termination, cancellation, material modification or acceleration) under any of the terms, conditions or provisions of any note, loan agreement, bond, mortgage, indenture, commitment, arrangement, understanding or other agreement to which such Stockholder is a party or by which such Stockholder or any of such Stockholder's properties or assets may be bound; or (iii) violate any order, writ, injunction, decree, judgment, order, statute, rule, or regulation or laws applicable to such Stockholder or any of such Stockholder's properties or assets, except, in the case of clauses (ii) and (iii), for such occurrences which would not, individually or in the aggregate, adversely affect or prevent or delay or impair in any material respect the ability of such Stockholder to perform its obligations hereunder or under the August 2024 Purchase Agreement or the August 2024 Exchange Agreement.

(c) Ownership of Common Stock; Voting and Dispositive Power. Except as disclosed on the Schedule 13D/A jointly filed by Athyrium Opportunities III Co-Invest 1 LP, Athyrium Opportunities III Acquisition LP, Athyrium Opportunities III Acquisition 2 LP, Athyrium Opportunities 2020 LP, Jeffrey A. Ferrell, Athyrium Opportunities Associates Co-Invest LLC, Athyrium Funds GP Holdings LLC, Athyrium Opportunities Associates III LP and Athyrium Opportunities Associates III GP LLC with the SEC on July 8, 2024, such Stockholder:

(i) is the sole beneficial owner of the number of shares of Common Stock set forth under such Stockholder's name on the signature page to this Agreement, all of which are free and clear of any Liens (other than those (x) created by this Agreement, (y) created in favor of a prime broker under and in accordance with its prime brokerage agreement with such broker or (z) arising under applicable securities laws);

(ii) does not own, beneficially or otherwise, any shares of Common Stock other than those (x) described in clause (i) above or (y) issuable upon the exercise, exchange or conversion of any unexercised, unexchanged or unconverted securities issued by the Company;

(iii) has full and sole voting power and full and sole power of disposition, full and sole power to issue instructions with respect to the matters set forth herein and full and sole power to agree to all of the matters set forth in this Agreement, in each case with respect to all of the Subject Securities beneficially owned as of the date hereof; and

(iv) none of the Subject Securities beneficially owned as of the date hereof are subject to any stockholders' agreement, proxy, voting trust or other agreement or arrangement with respect to the voting of such Subject Securities.

(d) Reliance. Such Stockholder has been represented by or had the opportunity to be represented by independent counsel of its own choosing and has had the right and opportunity to consult with its attorney, and to the extent, if any, that such Stockholder desired, such Stockholder availed itself of such right and opportunity and such Stockholder is competent to execute this Agreement and has executed this Agreement free from coercion, duress or undue influence. Such Stockholder understands and acknowledges that the Company is entering into the August 2024 Purchase Agreement and the August 2024 Exchange Agreement in reliance upon the Stockholder's execution, delivery and performance of this Agreement and the representations and warranties of such Stockholder contained herein.

5. Representations and Warranties of the Company. The Company represents and warrants to each Stockholder as follows:

(a) Power; Binding Agreement. The Company has full power and authority to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The Company is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation (except to the extent the "good standing" concept is not applicable in such jurisdiction). The execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder and the consummation by the Company of the transactions contemplated hereby have been duly and validly authorized by the Company and no other actions or proceedings on the part of the Company are necessary to authorize the execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder or the consummation by the Company of the transactions contemplated hereby. This Agreement has been duly executed and delivered by the Company, and, assuming this Agreement constitutes a valid and binding obligation of the Stockholders, constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject to: (i) laws of general application relating to bankruptcy, insolvency and the relief of debtors and (ii) rules of law governing specific performance and other equitable remedies.

(b) No Conflicts. Except for filings under the Exchange Act, no filing with, and no permit, authorization, consent, or approval of, any governmental authority is necessary for the execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder and the consummation by the Company of the transactions contemplated hereby. None of the execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder or the consummation by the Company of the transactions contemplated hereby will (i) violate, contravene, conflict with or result in any breach of any organizational documents applicable to the Company; (ii) result (with or without notice or lapse of time or both) in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any third party right of termination, cancellation, material modification or acceleration) under any of the terms, conditions or provisions of any note, loan agreement, bond, mortgage, indenture, commitment, arrangement, understanding or other agreement to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries or any of their respective properties or assets may be bound; or (iii) violate any order, writ, injunction, decree, judgment, order, statute, rule, or regulation or law applicable to the Company or any of its subsidiaries or any of their respective properties or assets, except, in the case of clauses (ii) and (iii), for such occurrences which would not, individually or in the aggregate, adversely affect or prevent or delay or impair in any material respect the ability of the Company to perform its obligations hereunder or under the August 2024 Purchase Agreement or the August 2024 Exchange Agreement.

6. Further Assurances. Subject to the terms and conditions of this Agreement, each party shall use reasonable best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary to fulfill such party's obligations under this Agreement.

7. Termination. This Agreement shall automatically and immediately terminate upon the earliest of the following (the "Termination Date"): (a) the receipt of the Stockholder Approval, (b) the termination of the August 2024 Purchase Agreement without the occurrence of the Initial Closing (as defined in the August 2024 Purchase Agreement), (c) the date when none of the securities that are the subject of the Stockholder Approval remain outstanding, (d) the date of any amendment to, or waiver or modification of, the August 2024 Purchase Agreement or the August 2024 Exchange Agreement that materially and adversely affects the rights or obligations hereunder or thereunder of any Stockholder party thereto (which, to avoid doubt, shall include, without limitation, any amendment, waiver or modification of (i) any of the economic terms of the August 2024 Purchase Agreement or the August 2024 Exchange Agreement or any of the securities to be issued pursuant thereto other than any amendment, waiver or modification that makes only a de minimis change to any such economic term or (ii) any change to the provisions and related definitions pertaining to the obligations to seek Stockholder Approval other than non-substantive ministerial edits) without the written consent prior to such amendment, waiver or modification from each Stockholder, or (e) the day after the date of the annual meeting of stockholders of the Company held during calendar year 2026. In the event of the termination of this Agreement, this Agreement shall forthwith become null and void, there shall be no liability on the part of any of the parties, and all rights and obligations of each party hereto shall cease; *provided* that no termination of this Agreement shall relieve any party from liability from any Willful and Material Breach (as defined below) of this Agreement prior to such termination; *provided, further*, that in the event the Stockholder Approval is obtained, no Stockholder shall have any liability or other obligation hereunder whatsoever, including with respect to any Willful and Material Breach occurring prior thereto. For purposes of this Agreement, "Willful and Material Breach" means a material breach of, or a material failure to perform, any covenant, representation, warranty or agreement set forth in this Agreement, in each case that is a consequence of an act undertaken by the breaching party or the failure by the breaching party to take an act it is required to take under this Agreement, with the actual knowledge that the taking of or failure to take such act would, or would be reasonably expected to, result in, constitute or cause a breach of this Agreement.

8. Miscellaneous Provisions.

(a) Amendment and Waivers. Except as otherwise provided herein, additional parties may be added to this Agreement in accordance with the terms hereof, and any provision of this Agreement may be amended or waived at any time if, but only if, such amendment or waiver is in writing and is signed, in the case of an amendment, by each party to this Agreement or, in the case of a waiver, by each party against whom the waiver is to be effective, *provided* that no amendment or waiver hereof shall be effective if such amendment or waiver would materially and adversely affect the rights of the parties to the August 2024 Purchase Agreement or the August 2024 Exchange Agreement in respect of the Stockholder Approval, or otherwise frustrate the intent of, and the benefits intended from, this Agreement. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, among the parties with respect to the subject matter hereof.

(c) Governing Law. This Agreement and all claims and causes of action hereunder shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflicts of law rules of such state.

(d) Consent to Jurisdiction. Each of the parties irrevocably submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware for the purposes of any suit, action or other proceeding arising out of or related to this Agreement, the other agreements contemplated hereby or any transaction contemplated hereby (or, solely if the Court of Chancery of the State of Delaware declines to accept jurisdiction over any such suit, action or other proceeding, any state or federal court within the State of Delaware) (the "Chosen Court"). Each of the parties agrees to commence any action, suit or proceeding relating hereto in the applicable Chosen Court pursuant to the immediately preceding sentence. Each of the parties irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby in the applicable Chosen Court, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum. Each of the parties irrevocably waives any objections or immunities to jurisdiction to which it may otherwise be entitled or become entitled (including sovereign immunity, immunity to pre-judgment attachment, post-judgment attachment and execution) in any legal suit, action or proceeding against it arising out of or relating to this Agreement or the transactions contemplated hereby which is instituted in any such court. Notwithstanding the foregoing, the parties agree that a final trial court judgment in any such suit, action or other 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; *provided, however*, that nothing in the foregoing shall restrict any party's rights to seek any post-judgment relief regarding, or any appeal from, such final trial court judgment.

(e) WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE MERGER, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(f) Specific Performance. The parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy would occur in the event that the parties do not perform their obligations under the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties shall be entitled to an injunction or injunctions, specific performance and other equitable relief to prevent breaches of this Agreement and to enforce specifically the terms

and provisions hereof in the Chosen Courts without proof of damages, this being in addition to any other remedy to which they are entitled under this Agreement and any other agreement executed in connection herewith, at law or in equity, and the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, the parties would not have entered into this Agreement. Each of the parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that the other parties have an adequate remedy at law or an award of specific performance is not an appropriate remedy for any reason at law or in equity. The parties acknowledge and agree that any party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in accordance with this Section 8(f) shall not be required to provide any bond or other security in connection with any such order or injunction. Further, each party agrees that a party's rights would be materially and adversely affected if the obligations of the other parties under this Agreement were not carried out in accordance with the terms and conditions hereof.

(g) Successors and Assigns; Assignment. Except as otherwise expressly provided in this Agreement, the provisions hereof shall inure to the benefit of, and be binding upon, the successors and assigns of the parties, except to the extent any of the Subject Securities are sold pursuant into the public markets. No party may assign, delegate or otherwise transfer, by operation of law or otherwise, any of its rights or obligations under this Agreement without the consent of each other party hereto; *provided*, that any Stockholder may assign this Agreement with respect to any of the Subject Securities to any of its affiliates in connection with a transfer of such Subject Securities to such affiliate. No assignment by any party shall relieve such party of any of its obligations hereunder. Any purported assignment of this Agreement without the consent required by this Section 8(g) is null and void. Notwithstanding anything to the contrary herein, no Stockholder shall, and the Company shall not, permit the transfer of any Stockholder's Subject Securities (except for sales of Subject Securities into the public markets), unless and until the person to whom such securities are to be transferred shall have executed a written agreement pursuant to which such person becomes a party to this Agreement and agrees to be bound by all the provisions hereof as if such person was a Stockholder hereunder.

(h) No Restrictions on Transfer. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement shall prohibit or otherwise prohibit any Stockholder from transferring any securities other than the Subject Securities.

(i) Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by “.pdf” format, scanned pages or electronic signature such as DocuSign shall be effective as delivery of a manually executed counterpart to this Agreement.

(j) Severability. In the event that any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

[Signature Page Follows.]

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

BIORA THERAPEUTICS, INC.

By: _____
Name:
Title:

[Signature Page to Voting and Support Agreement]

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

ATHYRIUM OPPORTUNITIES 2020 LP

By: Athyrium Opportunities Associates III LP,
its General Partner

By: Athyrium Opportunities Associates III GP LLC,
its General Partner

By: _____
Name:
Title:

Number of shares of Common Stock: [.] shares _____

ATHYRIUM OPPORTUNITIES III ACQUISITION LP

By: Athyrium Opportunities Associates III LP,
its General Partner

By: Athyrium Opportunities Associates III GP LLC,
its General Partner

By: _____
Name:
Title:

Number of shares of Common Stock: [.] shares _____

[Signature Page to Voting and Support Agreement]

**ATHYRIUM OPPORTUNITIES III ACQUISITION 2
LP**

By: Athyrium Opportunities Associates III LP,
its General Partner

By: Athyrium Opportunities Associates III GP LLC,
its General Partner

By: _____
Name:
Title:

Number of shares of Common Stock: [•] shares

ATHYRIUM OPPORTUNITIES III CO-INVEST 1 LP

By: Athyrium Opportunities Associates Co-Invest LLC,
its General Partner

By: _____
Name:
Title:

Number of shares of Common Stock: [•] shares

[Signature Page to Voting and Support Agreement]

REGISTRATION RIGHTS AGREEMENT

This **REGISTRATION RIGHTS AGREEMENT** (this “**Agreement**”), dated as of August [•], 2024, is by and among the undersigned (together with any of their permitted transferees and assigns pursuant to Section 9 hereof) (collectively, the “**Investors**”), and Biora Therapeutics, Inc., a Delaware corporation (the “**Company**”).

RECITALS

A. The Company and the Investors party hereto have entered into (i) an exchange agreement, dated as of August [•], 2024 (the “**Exchange Agreement**”), pursuant to which the Investors will exchange certain of their 11.00% / 13.00% Convertible Senior Secured Notes due 2028 (the “**2028 Notes**”) of the Company for a new tranche of payment priority 2028 Notes of the Company (the “**New Notes**”) and pursuant to which the Company has agreed to amend the terms of certain existing warrants of the Company held by the Investors (such existing warrants, as so amended, the “**Amended Warrants**”) and (ii) a purchase agreement, dated as of August [•], 2024, pursuant to which the Investors will purchase New Notes and acquire new warrants (the “**New Warrants**”) to purchase shares of common stock, par value \$0.001 per share (“**Common Stock**”), of the Company (the “**Purchase Agreement**”) and, together with the Exchange Agreement, the “**Transaction Agreements**”).

B. Pursuant to the terms of, and in consideration for the Investors entering into, the Transaction Agreements, and to induce the Investors to execute and deliver the Transaction Agreements, the Company has agreed to provide the Investors with certain registration rights with respect to the Registrable Securities (as defined herein) as set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the representations, warranties, covenants and agreements contained herein and in the Transaction Agreements, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, intending to be legally bound hereby, the Company and the Investors hereby agree as follows:

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings set forth in the Transaction Agreements. As used in this Agreement, the following terms shall have the following meanings:

(a) “**Affiliate**” means, with respect to any Person, any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person, as such terms are used in and construed under Rule 405 under the Securities Act.

(b) “**Allowable Grace Period**” shall have the meaning assigned to such term in Section 3(m).

(c) “**Blue Sky Filing**” shall have the meaning assigned to such term in Section 6(a).

(d) “**Business Day**” means any day other than Saturday, Sunday or any other day on which commercial banks in New York, New York are authorized or required by law to remain closed.

(e) “**Claims**” shall have the meaning assigned to such term in Section 6(a).

(f) “**Commission**” means the U.S. Securities and Exchange Commission or any successor entity.

(g) “**Common Stock**” shall have the meaning assigned to such term in the recitals to this Agreement.

(h) “**Company**” shall have the meaning assigned to such term in the preamble of this Agreement.

(i) “**Effective Date**” means the date that the applicable Registration Statement has been declared effective by the Commission.

(j) “**Effectiveness Deadline**” means the earlier of (i) the one hundred and twentieth (120th) calendar day after the date of this Agreement if the SEC notifies the Company that it will review the Initial Registration Statement and (ii) the tenth (10th) Business Day after the Commission notifies the Company that it will not review or has completed its review of the Initial Registration Statement.

(k) “**Exchange Agreement**” shall have the meaning assigned to such term in the recitals to this Agreement.

(l) “**Filing Deadline**” means the fifth (5th) Business Day after the date of this Agreement.

(m) “**Indemnified Damages**” shall have the meaning assigned to such term in Section 6(a).

(n) “**Initial Registration Statement**” shall have the meaning assigned to such term in Section 2(a).

(o) “**Investor**” shall have the meaning assigned to such term in the preamble of this Agreement.

(p) “**Investor Party**” and “**Investor Parties**” shall have the meaning assigned to such terms in Section 6(a).

(q) “**Legal Counsel**” shall have the meaning assigned to such term in Section 2(b).

(r) “**New Registration Statement**” shall have the meaning assigned to such term in Section 2(c).

(s) “**Person**” means any person or entity, whether a natural person, trustee, corporation, partnership, limited partnership, limited liability company, trust, unincorporated organization, business association, firm, joint venture, governmental agency or authority.

(t) “**Prospectus**” means the prospectus in the form included in the Registration Statement, as supplemented from time to time by any Prospectus Supplement, including the documents incorporated by reference therein.

(u) “**Prospectus Supplement**” means any prospectus supplement to the Prospectus filed with the Commission from time to time pursuant to Rule 424(b) under the Securities Act, including the documents incorporated by reference therein.

(v) “**Purchase Agreement**” shall have the meaning assigned to such term in the recitals to this Agreement.

(w) “**register**,” “**registered**,” and “**registration**” refer to a registration effected by preparing and filing one or more Registration Statements in compliance with the Securities Act and pursuant to Rule 415 and the declaration of effectiveness of such Registration Statement(s) by the Commission.

(x) “**Registrable Securities**” means (i) all shares of Common Stock issuable upon conversion or exercise of, or otherwise issuable pursuant to, (1) the 2028 Notes and the Amended Warrants held by any Investor from time to time, and (2) the New Notes and the New Warrants issued or issuable pursuant to the Exchange Agreement or the Purchase Agreement (including pursuant to Subsequent Draws (as defined in the Purchase Agreement) and Subsequent Exchanges (as defined in the Exchange Agreement)), including, in each case, for the avoidance of doubt, in respect of interest amounts, make whole amounts or other premiums payable on the 2028 Notes or the New Notes in accordance with the terms thereof (collectively “**Shares**”) and (ii) any capital stock of the Company issued or issuable with respect to such Shares, including, without limitation, (1) as a result of any stock split, stock dividend, recapitalization, exchange or similar event or otherwise and (2) shares of capital stock of the Company into which the shares of Common Stock are converted or exchanged and shares of capital stock of a successor entity into which the shares of Common Stock are converted or exchanged, in each case until such time as such securities cease to be Registrable Securities pursuant to Section 2(f).

(y) “**Registration Period**” shall have the meaning assigned to such term in Section 3(a).

(z) “**Registration Statement**” means a registration statement or registration statements of the Company filed under the Securities Act covering the resale by the Investor of Registrable Securities, as such registration statement or registration statements may be amended and supplemented from time to time, including all documents filed as part thereof or incorporated by reference therein.

(aa) “**Rule 144**” means Rule 144 promulgated by the Commission under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the Commission that may at any time permit the Investor to sell securities of the Company to the public without registration.

(bb) “**Rule 415**” means Rule 415 promulgated by the Commission under the Securities Act, as such rule may be amended from time to time, or any other similar or successor rule or regulation of the Commission providing for offering securities on a delayed or continuous basis.

(cc) “**Shares**” shall have the meaning assigned to such term in the definition of “**Registrable Securities**.”

(dd) “**Staff**” shall have the meaning assigned to such term in Section 2(c).

(ee) “**Subsidiaries**” means the consolidated subsidiaries of the Company.

(ff) “**Transaction Agreements**” shall have the meaning assigned to such term in the recitals to this Agreement.

(gg) “**Violations**” shall have the meaning assigned to such term in Section 6(a).

2. REGISTRATION.

(a) Mandatory Shelf Registration. The Company shall prepare and, as soon as practicable, but in no event later than the Filing Deadline, file with the Commission an initial shelf Registration Statement on Form S-3, or equivalent if Form S-3 is unavailable to the Company (or any successor form) or a shelf Registration Statement on Form S-1 to the extent Form S-3 is unavailable to register all Registrable Securities, covering the resale by the Investors of all of the Shares, so as to permit the resale of such Registrable Securities by the Investors under Rule 415 under the Securities Act on a delayed or continuous basis at then prevailing market prices or at privately negotiated prices or as otherwise permitted by law (the “**Initial Registration Statement**”). Such initial Registration Statement shall name any Investor requesting inclusion therein as a selling shareholder, and provide for the resale of the Registrable Securities included therein pursuant to any method or combination of methods legally available to, and requested by, the Investors named therein. The Company shall use its commercially reasonable efforts to have the Initial Registration Statement declared effective by the Commission as promptly as practicable, and in any event not later than by the Effectiveness Deadline. In the event the Company files a Registration Statement on Form S-1, as soon as the Company qualifies for, and is able to include all Registrable Securities on, Form S-3, the Company shall use its commercially reasonable efforts to (i) convert the Registration Statement on Form S-1 (and any New Registration Statement) to a Form S-3 Registration Statement or (ii) file a Form S-3 Registration Statement, as the case may be, in each case, as soon as practicable.

(b) Legal Counsel. The Investors who are Affiliates of the Company, on the one hand, and the Investors that are not Affiliates of the Company, on the other hand, shall each have the right to select one legal counsel to review and oversee, solely on their behalf, any registration pursuant to this Section 2 (“**Legal Counsel**”).

(c) Sufficient Number of Shares Registered. If at any time all Registrable Securities are not covered by the Initial Registration Statement filed pursuant to Section 2(a) as a result of Section 2(e) or otherwise, the Company shall then use its best efforts to file with the Commission one or more additional shelf Registration Statements so as to cover all of the Registrable Securities not covered by such initial Registration Statement, in each case, as soon as practicable (taking into account any position of the staff of the Commission (“**Staff**”) with respect to the date on which the Staff will permit such additional Registration Statement(s) to be filed with the Commission and the rules and regulations of the Commission) (each such additional Registration Statement, a “**New Registration Statement**”). The Company shall use its commercially reasonable efforts to cause each such New Registration Statement to become effective as soon as practicable following the filing thereof with the Commission.

(d) No Inclusion of Other Securities. In no event shall the Company include any securities other than Registrable Securities on any Registration Statement pursuant to Section 2(a) or Section 2(c) without consulting the Investors and Legal Counsel prior to filing such Registration Statement with the Commission. For the avoidance of doubt, nothing in this Agreement shall limit the Company’s ability to comply with the terms of any separate registration rights agreement.

(e) Offering. If the Staff or the Commission seeks to characterize any offering pursuant to a Registration Statement filed pursuant to this Agreement as constituting an offering of securities that does not permit such Registration Statement to become effective and be used for resales by the Investors on a delayed or continuous basis under Rule 415, or if after the filing of any Registration Statement pursuant to Section 2(a), Section 2(c), or Section 2(g), the Company is otherwise required by the Staff or the Commission to reduce the number of Registrable Securities included in such Registration Statement, then the Company shall reduce the number of Registrable Securities to be included in such Registration Statement (after consultation with the Investors and Legal Counsel as to the specific Registrable Securities to be removed therefrom) until such time as the Staff and the Commission shall so permit such Registration Statement to become effective and be used as aforesaid. Notwithstanding anything in this Agreement to the contrary, if after giving effect to the actions referred to in the immediately preceding sentence, the Staff or the Commission does not permit such Registration Statement to become effective and be used for resales by the Investors on a delayed or continuous basis under Rule 415, the Company shall not request acceleration of the Effective Date of such Registration Statement and the Company shall promptly (but in no event later than 48 hours) request the withdrawal of such Registration Statement pursuant to Rule 477 under the Securities Act. In the event of any reduction in Registrable Securities pursuant to this paragraph, the Company shall then use its commercially reasonable efforts to file one or more New Registration Statements with the Commission in accordance with Section 2(c) as promptly as practicable until such time as all Registrable Securities have been included in Registration Statements that have been declared effective and the Prospectuses contained therein are available for use by the Investors. For the avoidance of doubt, if Form S-3 is not available for the inclusion of all Registrable Securities thereon, the obligation under Section 2(a), (c) and (e) to file an Initial Registration Statement or a New Registration Statement shall include the obligation to file such Registration Statement(s) on Form S-1 (or any successor or equivalent form).

(f) Any Registrable Security shall cease to be a “**Registrable Security**” at the earliest of the following: (i) when a Registration Statement covering such Registrable Security becomes or has been declared effective by the Commission and such Registrable Security has been sold or disposed of pursuant to such effective Registration Statement; (ii) when such Registrable Security is held by the Company or one of its Subsidiaries; and (iii) the date on which such Registrable Security may be sold by the holder thereof without volume or manner of sale restrictions under Rule 144 under the Securities Act.

(g) If any Registration Statement ceases to be effective under the Securities Act for any reason during the Registration Period, the Company shall, subject to Section 3(n), use its commercially reasonable efforts to as promptly as is reasonably practicable cause such Registration Statement to again become effective under the Securities Act (including using its commercially reasonable efforts to obtain the prompt withdrawal of any order suspending the effectiveness of such Registration Statement), and shall use its commercially reasonable efforts to as promptly as is reasonably practicable amend such Registration Statement in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Registration Statement or file an additional shelf Registration Statement on Form S-3 or, if required by the terms hereof, Form S-1 (each, a “**Subsequent Registration Statement**”) registering the resale of all Registrable Securities. If a Subsequent Registration Statement is filed, the Company shall use its commercially reasonable efforts to (i) cause such Subsequent Registration Statement to become effective under the Securities Act as promptly as is reasonably practicable after the filing thereof and (ii) keep such Subsequent Registration Statement continuously effective, available for use to permit the Investors named therein to sell their Registrable Securities included therein and in compliance with the provisions of the Securities Act During the Registration Period.

3. RELATED OBLIGATIONS.

The Company shall use its commercially reasonable efforts to effect the registration of the Registrable Securities in accordance with the intended method of disposition thereof, and, pursuant thereto, the Company shall have the following obligations:

(a) Subject to Allowable Grace Periods, the Company shall keep each Registration Statement effective (and the Prospectus contained therein available for use) pursuant to Rule 415 for resales by the Investor on a continuous basis at then-prevailing market prices at all times until the earlier of (i) the date on which the Investor shall have sold all of the Registrable Securities covered by such Registration Statement and (ii) the date on which all Shares are no longer Registrable Securities (the “**Registration Period**”). Notwithstanding anything to the contrary contained in this Agreement (but subject to the provisions of Section 3(n) hereof), the Company shall ensure that, when filed and at all times while effective, each Registration Statement (including, without limitation, all amendments and supplements thereto) and the Prospectus (including, without limitation, all amendments and supplements thereto) used in connection with such Registration Statement shall not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein, or necessary to make the statements therein (in the case of Prospectuses, in the light of the circumstances in which they were made) not misleading. The Company shall submit to the Commission, as soon as reasonably practicable after the date that the Company learns that no review of a particular Registration Statement will be made by the Staff or that the Staff has no further comments on a particular Registration Statement (as the case may be), a request for acceleration of effectiveness of such Registration Statement to a time and date as soon as reasonably practicable in accordance with Rule 461 under the Securities Act.

(b) Subject to Section 3(c) of this Agreement, the Company shall use its commercially reasonable efforts to prepare and file with the Commission such amendments (including, without limitation, post-effective amendments) and supplements to each Registration Statement and the Prospectus used in connection with each such Registration Statement, which Prospectus is to be filed pursuant to Rule 424 promulgated under the Securities Act, as may be necessary to keep each such Registration Statement effective (and the Prospectus contained therein current and available for use) at all times during the Registration Period for such Registration Statement, and, during such period, comply with the provisions of the Securities Act with respect to the disposition of all Registrable Securities of the Company required to be covered by such Registration Statement until such time as all of such Registrable Securities shall have been disposed of in accordance with the intended methods of disposition by the Investors. In the case of amendments and supplements to any Registration Statement or Prospectus related thereto which are required to be filed pursuant to this Agreement (including, without limitation, pursuant to this Section 3(c)) by reason of the Company filing a report on Form 8-K, Form 10-Q or Form 10-K or any analogous report under the Exchange Act, the Company shall have incorporated such report by reference into such Registration Statement and Prospectus, if applicable, or shall file such amendments or supplements to the Registration Statement or Prospectus with the Commission on the same day on which the Exchange Act report is filed which created the requirement for the Company to amend or supplement such Registration Statement or Prospectus, for the purpose of including or incorporating such report into such Registration Statement and Prospectus. The Company consents to the use of the Prospectus (including, without limitation, any supplement thereto) included in each Registration Statement in accordance with the provisions of the Securities Act and with the securities or “**Blue Sky**” laws of the jurisdictions in which the Registrable Securities may be sold by the Investors, in connection with the resale of the Registrable Securities and for such period of time thereafter as such Prospectus (including, without limitation, any supplement thereto) (or in lieu thereof, the notice referred to in Rule 173(a) under the Securities Act) is required by the Securities Act to be delivered in connection with resales of Registrable Securities.

(c) The Company shall (A) permit Legal Counsel an opportunity to review and comment upon (i) each Registration Statement at least five (5) Business Days prior to its filing with the Commission and (ii) all amendments and supplements to each Registration Statement (including, without limitation, the Prospectus contained therein) (except for Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any similar or successor reports or Prospectus Supplements the contents of which is limited to that set forth in such reports) within a reasonable number of days prior to their filing with the Commission, and (B) shall reasonably consider any comments of the Investors and Legal Counsel on any such Registration Statement or amendment or supplement thereto or to any Prospectus contained therein. The Company shall promptly furnish to Legal Counsel, without charge, (i) electronic copies of any correspondence from the Commission or the Staff to the Company or its representatives relating to each Registration Statement (which correspondence shall be redacted to exclude any material, non-public information regarding the Company or any of its Subsidiaries), (ii) after the same is prepared and filed with the Commission, one (1) electronic copy of each

Registration Statement and any amendment(s) and supplement(s) thereto, including, without limitation, financial statements and schedules, all documents incorporated therein by reference, if requested by the Investors, and all exhibits and (iii) upon the effectiveness of each Registration Statement, one (1) electronic copy of the Prospectus included in such Registration Statement and all amendments and supplements thereto; provided, however, the Company shall not be required to furnish any document (other than the Prospectus, which may be provided in .PDF format) to Legal Counsel to the extent such document is available on EDGAR.

(d) The Company shall promptly furnish to the Investors, without charge, (i) after the same is prepared and filed with the Commission, at least one (1) electronic copy of each Registration Statement and any amendment(s) and supplement(s) thereto, including, without limitation, financial statements and schedules, all documents incorporated therein by reference, if requested by the Investors, all exhibits thereto, (ii) upon the effectiveness of each Registration Statement, one (1) electronic copy of the Prospectus included in such Registration Statement and all amendments and supplements thereto (or such other number of copies as the Investors may reasonably request from time to time) and (iii) such other documents, including, without limitation, copies of any final Prospectus and any Prospectus Supplement thereto, as the Investors may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities owned by the Investors; provided, however, the Company shall not be required to furnish any document (other than the Prospectus, which may be provided in .PDF format) to the Investors to the extent such document is available on EDGAR.

(e) The Company shall take such action as is reasonably necessary to (i) register and qualify, unless an exemption from registration and qualification applies which allows the Registrable Securities to be freely tradable, the resale by the Investors of the Registrable Securities covered by a Registration Statement under such other securities or “Blue Sky” laws of such jurisdictions in the United States as the holders of Registrable Securities included in such Registration Statement (in light of their intended plan of distribution) may request (or provide evidence satisfactory to such holders that the Registrable Securities are exempt from such registration or qualification), (ii) prepare and file in those jurisdictions, such amendments (including, without limitation, post-effective amendments) and supplements to such registrations and qualifications as may be necessary to maintain the effectiveness thereof during the Registration Period, (iii) take such other actions as may be reasonably necessary to maintain such registrations and qualifications in effect at all times during the Registration Period, and (iv) take all other actions reasonably necessary or advisable to qualify the Registrable Securities for sale in such jurisdictions; provided, however, the Company shall not be required in connection therewith or as a condition thereto to (x) qualify to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 3(g), (y) subject itself to general taxation in any such jurisdiction, or (z) file a general consent to service of process in any such jurisdiction. The Company shall promptly notify Legal Counsel and the Investors of the receipt by the Company of any notification with respect to the suspension of the registration or qualification of any of the Registrable Securities for sale under the securities or “Blue Sky” laws of any jurisdiction in the United States or its receipt of actual notice of the initiation or threatening of any proceeding for such purpose.

(f) The Company shall notify Legal Counsel and the Investor in writing of the happening of any event, as promptly as reasonably practicable after becoming aware of such event, as a result of which the Prospectus included in a Registration Statement, as then in effect, includes an untrue statement of a material fact or omission to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (provided that in no event shall such notice contain any material, non-public information regarding the Company or any of its Subsidiaries), and, subject to Section 3(c), promptly prepare a supplement or amendment to such Registration Statement and such Prospectus contained therein to correct such untrue statement or omission and deliver one (1) electronic copy of such supplement or amendment to Legal Counsel and the Investors (or such other number of copies as Legal Counsel or the Investors may reasonably request). The Company shall also promptly notify Legal Counsel and the Investors in writing (i) when a Prospectus or any Prospectus Supplement or post-effective amendment has been filed, when a Registration Statement or any post-effective amendment has become effective (notification of such effectiveness shall be delivered to Legal Counsel and the Investors by facsimile or e-mail on the same day of such effectiveness and by overnight mail), and when the Company receives written notice from the Commission that a Registration Statement or any post-effective amendment will be reviewed by the Commission, (ii) of any request by the Commission for amendments or supplements to a Registration Statement or related Prospectus or related information, (iii) of the Company's reasonable determination that a post-effective amendment to a Registration Statement would be appropriate and (iv) of the receipt of any request by the Commission or any other federal or state governmental authority for any additional information relating to the Registration Statement or any amendment or supplement thereto or any related Prospectus. The Company shall respond as promptly as reasonably practicable to any comments received from the Commission with respect to a Registration Statement or any amendment thereto. Nothing in this Section 3(f) shall limit any obligation of the Company under the Purchase Agreement.

(g) The Company shall (i) use its commercially reasonable efforts to prevent the issuance of any stop order or other suspension of effectiveness of a Registration Statement or the use of any Prospectus contained therein, or the suspension of the qualification, or the loss of an exemption from qualification, of any of the Registrable Securities for sale in any jurisdiction and, if such an order or suspension is issued, to obtain the withdrawal of such order or suspension at the earliest possible time and (ii) promptly after it shall receive notice or obtain knowledge notify in writing Legal Counsel and the Investors of the issuance of such order and the resolution thereof or its receipt of actual notice of the initiation or threat of any proceeding.

(h) The Company shall hold in confidence and not make any disclosure of information concerning the Investors provided to the Company unless (i) disclosure of such information is necessary to comply with federal or state securities laws, (ii) the disclosure of such information is necessary to avoid or correct a misstatement or omission in any Registration Statement or is otherwise required to be disclosed in such Registration Statement pursuant to the Securities Act, (iii) the release of such information is ordered pursuant to a subpoena or other final, non-appealable order from a court or governmental body of competent jurisdiction, or (iv) such information has been made generally available to the public other than by disclosure in violation of this Agreement or any other Transaction Agreement. The Company agrees that it shall, upon learning that disclosure of such information concerning the Investors is sought in or by a court or governmental body of competent jurisdiction or through other means, give prompt written notice to the Investors and allow the Investors, at the Investors' expense, to undertake appropriate action to prevent disclosure of, or to obtain a protective order for, such information.

(i) Upon the written request of the Investors, the Company shall as soon as reasonably practicable after receipt of notice from the Investors and subject to Section 3(b) hereof, (i) incorporate in a Prospectus Supplement or post-effective amendment such information as the Investors reasonably request to be included therein relating to the sale and distribution of Registrable Securities, including, without limitation, information with respect to the number of Registrable Securities being offered or sold, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering; (ii) make all required filings of such Prospectus Supplement or post-effective amendment after being notified of the matters to be incorporated in such Prospectus Supplement or post-effective amendment; and (iii) supplement or make amendments to any Registration Statement or Prospectus contained therein if reasonably requested by the Investors.

(j) The Company shall use its commercially reasonable efforts to cause the Registrable Securities covered by a Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to consummate the disposition of such Registrable Securities.

(k) The Company shall otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the Commission in connection with any registration hereunder.

(l) Within one (1) Business Day after each Registration Statement which covers Registrable Securities is declared effective by the Commission, the Company shall deliver, and shall cause legal counsel for the Company to deliver, to the transfer agent for such Registrable Securities (with copies to the Investors) confirmation that such Registration Statement has been declared effective by the Commission in a form to be provided by counsel to the Company and reasonably acceptable to the Investors.

(m) Notwithstanding anything to the contrary contained herein (but subject to the last sentence of this Section 3(m)), at any time after the Effective Date of a particular Registration Statement, the Company may, upon written notice to the Investors (provided that in no event shall such notice contain any material, non-public information regarding the Company or any of its Subsidiaries), suspend Investors' use of any prospectus that is a part of any Registration Statement (in which event the Investors shall discontinue sales of the Registrable Securities pursuant to such Registration Statement contemplated by this Agreement, but shall settle any previously made sales of Registrable Securities) if the Company (x) is pursuing an acquisition, merger, tender offer, reorganization, disposition or other material transaction and the Company determines in good faith that (A) the Company's ability to pursue or consummate such a material transaction would be materially adversely affected by any required disclosure of such transaction in such Registration Statement or other registration statement or (B) such material transaction renders the Company unable to comply with Commission requirements, in each case under circumstances that would make it impractical or inadvisable to cause any Registration Statement (or such filings) to be used by Investor or to promptly amend or supplement any Registration Statement contemplated by this Agreement on a post effective basis, as applicable, or (y) has other material non-public information the disclosure of which at such time, in the good faith judgment of the Company, would materially adversely affect the Company (each, an "**Allowable Grace Period**"); *provided, however*, that in no event shall the Investor be suspended from selling

Registrable Securities (i) pursuant to any another exemption from registration, or (ii) pursuant to any Registration Statement for a period that exceeds (x) 60 days for each Allowable Grace Period, (y) two Allowable Grace Periods in any 365-day period, or (z) an aggregate of 120 days in any 365-day period. Upon disclosure of such information or the termination of the condition described above, the Company shall provide prompt notice, but in any event within one Business Day of such disclosure or termination, to the Investor and shall promptly terminate any suspension of sales it has put into effect and shall take such other reasonable actions to permit registered sales of Registrable Securities as contemplated in this Agreement (including as set forth in the first sentence of Section 3(f) with respect to the information giving rise thereto unless such material, non-public information is no longer applicable).

(n) The Company shall cause all such Registrable Securities to be listed on each national securities exchange on which similar securities issued by the Company are then listed.

(o) The Company shall provide a transfer agent or warrant agent, as applicable, and registrar for all such Registrable Securities no later than the effective date of such Registration Statement.

(p) The Company shall make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months beginning with the first day of the Company's first full calendar quarter after the effective date of the Registration Statement which satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any successor rule then in effect).

(q) The Company shall, in good faith, cooperate reasonably with, and take such customary actions as may reasonably be requested by the Investors, consistent with the terms of this Agreement, in connection with such registration of the Registrable Securities.

4. OBLIGATIONS OF THE INVESTORS.

(a) At least five (5) Business Days prior to the first anticipated filing date of each Registration Statement (or such shorter period to which the parties agree), the Company shall notify the Investors in writing of any other information the Company requires from the Investors with respect to such Registration Statement. It shall be a condition precedent to the obligations of the Company to complete the registration pursuant to this Agreement with respect to the Registrable Securities of each Investor that such Investor shall furnish to the Company such information regarding itself, the Registrable Securities held by it and the intended method of disposition of the Registrable Securities held by it, as shall be reasonably required to effect and maintain the effectiveness of the registration of such Registrable Securities and shall execute such documents in connection with such registration as the Company may reasonably request.

(b) Each of the Investors, by its acceptance of the Registrable Securities, agrees to cooperate with the Company as reasonably requested by the Company in connection with the preparation and filing of each Registration Statement hereunder, unless the Investor has notified the Company in writing of the Investor's election to exclude all of the Investor's Registrable Securities from such Registration Statement.

(c) The Investors agree that, upon receipt of any notice from the Company of the happening of any event of the kind described in the first sentence of Section 3(f) or the first sentence of Section 3(g), the Investor shall immediately discontinue disposition of Registrable Securities pursuant to any Registration Statement(s) covering such Registrable Securities until the Investor's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 3(b) or the receipt of notice that no supplement or amendment is required or that the stop-order or other suspension has been withdrawn.

(d) The Investors covenant and agree that they shall comply with the prospectus delivery and other requirements of the Securities Act as applicable to them in connection with sales of Registrable Securities pursuant to a Registration Statement.

5. EXPENSES OF REGISTRATION.

All reasonable expenses, other than sales or brokerage commissions of the Investors, incurred in connection with registrations, filings or qualifications pursuant to Sections 2 and 3, including, without limitation, all registration, listing and qualifications fees, printers and accounting fees, and fees and disbursements of counsel for the Company and Legal Counsel for the Investors, selected pursuant to Section 2(b) hereof, shall be paid by the Company.

6. INDEMNIFICATION.

(a) In the event any Registrable Securities are included in any Registration Statement under this Agreement, to the fullest extent permitted by law, the Company will, and hereby does, indemnify, hold harmless and defend each Investor, each of its directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) and each Person, if any, who controls the Investor within the meaning of the Securities Act or the Exchange Act and each of the directors, officers, shareholders, members, partners, employees, agents, advisors, representatives (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding the lack of such title or any other title) of such controlling Persons (each, an "**Investor Party**" and collectively, the "**Investor Parties**"), against any losses, obligations, claims, damages, liabilities, contingencies, judgments, fines, penalties, charges, costs (including, without limitation, court costs, documented attorneys' fees, costs of defense and investigation), amounts paid in settlement or expenses, joint or several, (collectively, "**Claims**") reasonably incurred in investigating, preparing or defending any action, claim, suit, inquiry, proceeding, investigation or appeal taken from the foregoing by or before any court or governmental, administrative or other regulatory agency, body or the Commission, whether pending or threatened, whether or not an Investor Party is or may be a party thereto ("**Indemnified Damages**"), to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claims (or actions or proceedings, whether commenced or threatened, in respect thereof) arise out of or are based upon: (i) any untrue statement or alleged untrue statement of a material fact in a Registration Statement or any post-effective amendment thereto or in any filing made in connection with the qualification of the offering under the securities or other "**Blue Sky**" laws of any jurisdiction in which Registrable Securities are offered ("**Blue Sky Filing**"), or the omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii)

any untrue statement or alleged untrue statement of a material fact contained in any Prospectus (as amended or supplemented) or in any Prospectus Supplement or the omission or alleged omission to state therein any material fact necessary to make the statements made therein, in light of the circumstances under which the statements therein were made, not misleading (the matters in the foregoing clauses (i) and (ii) being, collectively, “**Violations**”). Subject to Section 6(c), the Company shall reimburse the Investor Parties, promptly as such expenses are incurred and are due and payable, for any legal fees or other properly documented expenses incurred by them in connection with investigating or defending any such Claim. Notwithstanding anything to the contrary contained herein, the indemnity agreement contained in this Section 6(a): (i) shall not apply to a Claim by an Investor Party arising out of or based upon a Violation which occurs in reliance upon and in conformity with information furnished in writing to the Company by such Investor Party for such Investor Party expressly for use in connection with the preparation of such Registration Statement, Prospectus or Prospectus Supplement or any such amendment thereof or supplement thereto (it being hereby acknowledged and agreed that the written information set forth on Exhibits A and B attached hereto is the only written information furnished to the Company by or on behalf of the Investor expressly for use in any Registration Statement, Prospectus or Prospectus Supplement); (ii) shall not be available to the Investor to the extent such Claim is based on a failure of the Investor to deliver or to cause to be delivered the Prospectus (as amended or supplemented) made available by the Company (to the extent applicable), including, without limitation, a corrected Prospectus, if such Prospectus (as amended or supplemented) or corrected Prospectus was timely made available by the Company pursuant to Section 3(d) and then only if, and to the extent that, following the receipt of the corrected Prospectus no grounds for such Claim would have existed; and (iii) shall not apply to amounts paid in settlement of any Claim if such settlement is effected without the prior written consent of the Company, which consent shall not be unreasonably withheld or delayed. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of the Investor Party and shall survive the transfer of any of the Registrable Securities by the Investor pursuant to Section 9.

(b) In connection with any Registration Statement in which the Investor is participating, the Investor agrees to severally and not jointly indemnify, hold harmless and defend, to the same extent and in the same manner as is set forth in Section 6(a), the Company, each of its directors, each of its officers who signs the Registration Statement and each Person, if any, who controls the Company within the meaning of the Securities Act or the Exchange Act (each, an “**Company Party**”), against any Claim or Indemnified Damages to which any of them may become subject, under the Securities Act, the Exchange Act or otherwise, insofar as such Claim or Indemnified Damages arise out of or are based upon any Violation, in each case, to the extent, and only to the extent, that such Violation occurs in reliance upon and in conformity with written information relating to the Investor furnished to the Company by the Investor expressly for use in connection with such Registration Statement, the Prospectus included therein or any Prospectus Supplement thereto (it being hereby acknowledged and agreed that the written information set forth on Exhibits A and B attached hereto is the only written information furnished to the Company by or on behalf of the Investor expressly for use in any Registration Statement, Prospectus or Prospectus Supplement); and, subject to Section 6(c) and the below provisos in this Section 6(b), the Investor shall reimburse a Company Party any legal or other expenses reasonably incurred by such Company Party in connection with investigating or defending any such Claim; provided, however, the indemnity agreement contained in this Section 6(b) and the agreement with respect to contribution contained in Section 7 shall not apply to amounts paid in settlement of any Claim

if such settlement is effected without the prior written consent of the Investor, which consent shall not be unreasonably withheld or delayed; and provided, further that the Investor shall be liable under this Section 6(b) for only that amount of a Claim or Indemnified Damages as does not exceed the net proceeds to the Investor as a result of the applicable sale of Registrable Securities pursuant to such Registration Statement, Prospectus or Prospectus Supplement. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Company Party and shall survive the transfer of any of the Registrable Securities by the Investor pursuant to Section 9.

(c) Promptly after receipt by an Investor Party or Company Party (as the case may be) under this Section 6 of notice of the commencement of any action or proceeding (including, without limitation, any governmental action or proceeding) involving a Claim, such Investor Party or Company Party (as the case may be) shall, if a Claim in respect thereof is to be made against any indemnifying party under this Section 6, deliver to the indemnifying party a written notice of the commencement thereof, and the indemnifying party shall have the right to participate in, and, to the extent the indemnifying party so desires, jointly with any other indemnifying party similarly noticed, to assume control of the defense thereof with counsel mutually satisfactory to the indemnifying party and the Investor Party or the Company Party (as the case may be); provided, however, an Investor Party or Company Party (as the case may be) shall have the right to retain its own counsel with the fees and expenses of such counsel to be paid by the indemnifying party if: (i) the indemnifying party has agreed in writing to pay such fees and expenses; (ii) the indemnifying party shall have failed promptly to assume the defense of such Claim in a reasonable period of time and to employ counsel reasonably satisfactory to such Investor Party or Company Party (as the case may be) in any such Claim; or (iii) the named parties to any such Claim (including, without limitation, any impleaded parties) include both such Investor Party or Company Party (as the case may be), or an Investor Party that is an Affiliate of the Company and an Investor Party that is not an Affiliate of the Company, and the indemnifying party, and such Investor Party or such Company Party (as the case may be) shall have been advised by counsel that a conflict of interest is likely to exist if the same counsel were to represent such Investor Party or such Company Party and such other Investor Party or the indemnifying party (in which case, if such Investor Party or such Company Party (as the case may be) notifies the indemnifying party in writing that it elects to employ separate counsel at the expense of the indemnifying party, then the indemnifying party shall not have the right to assume the defense thereof on behalf of the indemnified party and such counsel shall be at the expense of the indemnifying party), provided further that in the case of clause (iii) above the indemnifying party shall not be responsible for the documented fees and expenses of more than two (2) separate legal counsel for all Investor Parties or one (1) separate legal counsel for all Company Parties (as the case may be). The Company Party or Investor Party (as the case may be) shall reasonably cooperate with the indemnifying party in connection with any negotiation or defense of any such action or Claim by the indemnifying party. The indemnifying party shall keep the Company Party or Investor Party (as the case may be) reasonably apprised at all times as to the status of the defense or any settlement negotiations with respect thereto. No indemnifying party shall be liable for any settlement of any action, claim or proceeding effected without its prior written consent; provided, however, the indemnifying party shall not unreasonably withhold, delay or condition its consent. No indemnifying party shall, without the prior written consent of the Company Party or Investor Party (as the case may be), consent to entry of any judgment or enter into any settlement or other compromise which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Company

Party or Investor Party (as the case may be) of a release from all liability in respect to such Claim or litigation, and such settlement shall not include any admission as to fault on the part of the Company Party. For the avoidance of doubt, the immediately preceding sentence shall apply to Sections 6(a) and 6(b) hereof. Following indemnification as provided for hereunder, the indemnifying party shall be subrogated to all rights of the Company Party or Investor Party (as the case may be) with respect to all third parties, firms or corporations relating to the matter for which indemnification has been made. The failure to deliver written notice to the indemnifying party within a reasonable time of the commencement of any such action shall not relieve such indemnifying party of any liability to the Investor Party or Company Party (as the case may be) under this Section 6, except to the extent that the indemnifying party is materially and adversely prejudiced in its ability to defend such action.

(d) No Person involved in the sale of Registrable Securities who is guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to indemnification from any Person involved in such sale of Registrable Securities who is not guilty of fraudulent misrepresentation.

(e) The indemnification required by this Section 6 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or Indemnified Damages are incurred; provided that any Person receiving any payment pursuant to this Section 6 shall promptly reimburse the Person making such payment for the amount of such payment to the extent a court of competent jurisdiction determines that such Person receiving such payment was not entitled to such payment.

(f) The indemnity and contribution agreements contained herein shall be in addition to (i) any cause of action or similar right of the Company Party or Investor Party against the indemnifying party or others, and (ii) any liabilities the indemnifying party may be subject to pursuant to the law.

7. CONTRIBUTION.

To the extent any indemnification by an indemnifying party is prohibited or limited by law or unavailable or insufficient to hold harmless an indemnified party in respect of any Claims or Indemnified Damages, the indemnifying party, in lieu of indemnifying the indemnified party, shall contribute to the amount paid or payable by the indemnified party as a result of such Claims and Indemnified Damages in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party, as well as any other relevant equitable considerations. The relative fault of the indemnifying party and indemnified party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, was made by (or not made by, in the case of an omission), or relates to information supplied by (or not supplied by in the case of an omission), such indemnifying party or indemnified party, and the indemnifying party's and indemnified party's relative intent, knowledge, access to information and opportunity to correct or prevent such action; provided, however: (i) no contribution shall be made under circumstances where the maker would not have been liable for indemnification under the fault standards set forth in Section 6 of this Agreement, (ii) no Person involved in the sale of Registrable Securities which Person is guilty of fraudulent

misrepresentation (within the meaning of Section 11(f) of the Securities Act) in connection with such sale shall be entitled to contribution from any Person involved in such sale of Registrable Securities who was not guilty of fraudulent misrepresentation; and (iii) contribution by any seller of Registrable Securities shall be limited in amount to the amount of net proceeds received by such seller from the applicable sale of such Registrable Securities pursuant to such Registration Statement. Notwithstanding the provisions of this Section 7, the Investor shall not be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds actually received by the Investor from the applicable sale of the Registrable Securities subject to the Claim exceeds the amount of any damages that the Investor has otherwise been required to pay, or would otherwise be required to pay under Section 6(b), by reason of such untrue or alleged untrue statement or omission or alleged omission.

8. REPORTS UNDER THE EXCHANGE ACT.

With a view to making available to the Investor the benefits of Rule 144, the Company agrees to:

(a) so long as the Investor owns Registrable Securities, use its commercially reasonable efforts to make and keep public information available, as those terms are understood and defined in Rule 144;

(b) so long as the Investor owns Registrable Securities, use its commercially reasonable efforts to file with the Commission in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act so long as the Company remains subject to such requirements (it being understood that nothing herein shall limit any of the Company's obligations under the Purchase Agreement) and the filing of such reports and other documents is required for the applicable provisions of Rule 144;

(c) furnish to the Investor so long as the Investor owns Registrable Securities, promptly upon request, (i) a written statement by the Company, if true, that it has complied with the reporting, submission and posting requirements of Rule 144 and the Exchange Act, if applicable (ii) a copy of the most recent annual or quarterly report of the Company and such other reports and documents so filed by the Company with the Commission if such reports are not publicly available via EDGAR, and (iii) such other information as may be reasonably requested to permit the Investor to sell such securities pursuant to Rule 144 without registration; and

(d) take such additional action as is reasonably requested by the Investor to enable the Investor to sell the Registrable Securities pursuant to Rule 144, including, without limitation, delivering all such legal opinions, consents, certificates, resolutions and instructions to the Company's Transfer Agent as may be reasonably requested from time to time by the Investor and otherwise fully cooperate with Investor and Investor's broker to effect such sale of securities pursuant to Rule 144.

9. ASSIGNMENT OF REGISTRATION RIGHTS.

The Company shall not assign this Agreement or any rights or obligations hereunder in whole or in part without the prior written consent of the Investors. This Agreement and the rights, duties and obligations of an Investor hereunder may be assigned in whole or in part to a transferee of Registrable Securities; provided, that each of the Investors shall be permitted to transfer its rights hereunder as an Investor to one or more Affiliates or any direct or indirect partners, members or equity holders of such Investor (it being understood that no such transfer shall reduce any rights of such Investor or such transferees). Notwithstanding the foregoing, no such assignment shall be binding or obligate the Company unless and until the assignee agrees in writing to be bound by the terms and conditions of this Agreement.

10. AMENDMENT OR WAIVER.

No provision of this Agreement may be (i) amended other than by a written instrument signed by the parties hereto or (ii) waived other than in a written instrument signed by the party against whom enforcement of such waiver is sought; provided, however, that notwithstanding the foregoing, any amendment hereto or waiver hereof that adversely affects one Investor, solely in its capacity as a holder of Registrable Securities, in a manner that is materially different from the other Investors (in such capacity) shall require the consent of the Investor so affected. Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof.

11. MISCELLANEOUS.

(a) Solely for purposes of this Agreement, a Person is deemed to be a holder of Registrable Securities whenever such Person owns or is deemed to own of record such Registrable Securities. If the Company receives conflicting instructions, notices or elections from two or more Persons with respect to the same Registrable Securities, the Company shall act upon the basis of instructions, notice or election received from such record owner of such Registrable Securities.

(b) Any notices, consents, waivers or other communications required or permitted to be given under the terms of this Agreement shall be given in accordance with Section 6.12 of the Purchase Agreement and the Exchange Agreement or as otherwise modified by a party following the date hereof by notice to the other parties hereto.

(c) Failure of any party to exercise any right or remedy under this Agreement or otherwise, or delay by a party in exercising such right or remedy, shall not operate as a waiver thereof. The Company and the Investors acknowledge and agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that each party shall be entitled to an injunction or injunctions to prevent or cure breaches of the provisions of this Agreement by the other parties and to enforce specifically the terms and provisions hereof (without the necessity of showing economic loss and without any bond or other security being required), this being in addition to any other remedy to which either party may be entitled by law or equity.

(d) All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the federal courts sitting in The City of New York, Borough of Manhattan,

for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. If any provision of this Agreement shall be invalid or unenforceable in any jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remainder of this Agreement in that jurisdiction or the validity or enforceability of any provision of this Agreement in any other jurisdiction. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION HEREWITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

(e) The Transaction Agreements set forth the entire agreement and understanding of the parties solely with respect to the subject matter thereof and supersedes all prior and contemporaneous agreements, negotiations and understandings between the parties, both oral and written, solely with respect to such matters. There are no promises, undertakings, representations or warranties by either party relative to subject matter hereof not expressly set forth in the Transaction Agreements.

(f) This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors. This Agreement is not for the benefit of, nor may any provision hereof be enforced by, any Person, other than the parties hereto, their respective successors and assigns in accordance with the terms hereof, and the Persons referred to in Sections 6 and 7 hereof.

(g) The headings in this Agreement are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. Unless the context clearly indicates otherwise, each pronoun herein shall be deemed to include the masculine, feminine, neuter, singular and plural forms thereof. The terms “including,” “includes,” “include” and words of like import shall be construed broadly as if followed by the words “without limitation.” The terms “herein,” “hereunder,” “hereof” and words of like import refer to this entire Agreement instead of just the provision in which they are found.

(h) This Agreement may be executed in two or more identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party; provided that a facsimile signature or signature delivered by e-mail in a “.pdf” format data file, including any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com, www.echosign.adobe.com, etc., shall be considered due execution and shall be binding upon the signatory thereto with the same force and effect as if the signature were an original signature.

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

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

[Signature Pages Follow]

IN WITNESS WHEREOF, Investors and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

COMPANY:

BIORA THERAPEUTICS, INC.

By: _____

Name: Eric d'Esparbes

Title: Chief Financial Officer

[Signature Page to Registration Rights Agreement]

IN WITNESS WHEREOF, Investors and the Company have caused their respective signature page to this Registration Rights Agreement to be duly executed as of the date first written above.

INVESTORS:

[•]

By:

By: _____

Name:

Title:

[Signature Page to Registration Rights Agreement]

**AMENDMENT
TO
COMMON STOCK PURCHASE WARRANT
BIORA THERAPEUTICS, INC.**

Date: August [•], 2024

Biora Therapeutics, Inc. (the “Company”) and each undersigned Holder of the Common Stock Purchase Warrants of the Company identified on Exhibit A (the “Warrants”), severally and not jointly, enter into this Amendment to Common Stock Purchase Warrant (this “Amendment”), dated as of August [•], 2024, whereby the parties will amend each of the Warrants as described herein.¹ Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Warrants.

WHEREAS, the Company previously issued the Warrants to each Holder;

WHEREAS, the Warrants may be amended with the written consent of the Company and the applicable Holder;

WHEREAS, the Company and each Holder are entering into a Note Purchase Agreement and/or Note Exchange Agreement dated as of the date hereof (the “Purchase and Exchange Agreements”); and

WHEREAS, the Company and each Holder now desire to amend the Warrants held by such Holder to (i) reduce the Exercise Price and (ii) provide for the Company’s ability to purchase 20% of the Warrants under certain circumstances.

NOW, THEREFORE, BE IT RESOLVED, that parties hereto agree as follows:

Section 1. Amendment of Warrants. Each Warrant shall be amended as follows:

- a) The first paragraph of each Warrant shall be amended to include the following sentence at the end thereof: “Notwithstanding anything to the contrary herein, the exercise of this Warrant prior to the Stockholder Approval Date (to the extent required under the rules of Nasdaq) shall be subject to the Conversion Share Cap, and to the extent Stockholder Approval is so required for the complete exercise hereof, the termination date of this Warrant shall be extended for a period of time from the date such Stockholder Approval requirement is applicable and until the Stockholder Approval Date. Accordingly, the number of shares of Common Stock deliverable upon exercise of this Warrant, taken together with shares of Common Stock previously issued upon exercise of any Other Warrants or upon conversion of any Conversion Cap Notes (as defined in the Indenture) shall not exceed the Conversion Share Cap unless the Company shall have obtained the Stockholder Approval.”

¹ This Amendment to be customized for section references of individual warrants as applicable.

b) Section 1 shall be amended to add the following definitions in alphabetical order:

“Conversion Share Cap” means the number of shares of Common Stock corresponding to 19.99% of the total number of shares of Common Stock outstanding as of March 8, 2024 (such number of shares subject to proportionate adjustment for share dividends, share splits or share combinations with respect to the Common Stock).

“Exchange Agreement” means that certain Convertible Notes Exchange Agreement, dated as of August 12, 2024, by and among the Company and Persons party thereto.

“Indenture” has the meaning set forth in the Exchange Agreement and Purchase Agreement.

“Other Warrants” means the Amended Warrants (as defined in the Exchange Agreement) and the Warrants.

“Purchase Agreement” means that certain Convertible Notes Purchase Agreement, dated as of August 12, 2024, by and among the Company and purchasers party thereto.

“Stockholder Approval” has the meaning given to such term in the Purchase and Exchange Agreements.

“Stockholder Approval Date” means the date on which Stockholder Approval is received and deemed effective under Delaware Law (as defined in the Purchase and Exchange Agreements).

“Warrants” means the Warrants (as defined in the Purchase Agreement) issued by the Company pursuant to the Purchase Agreement.

c) Section 2(b) shall be deleted and replaced in its entirety with the following:

“Exercise Price. The exercise price per share of Common Stock under this Warrant shall be \$0.60, subject to adjustment hereunder (the “Exercise Price”).”

d) There shall be added as a new Section 2(f) the following:

“Company Call Right. The Company shall have the right to purchase 20% of this Warrant at a price of \$0.001 per share of Common Stock underlying the portion of the Warrant purchased (the “Repurchase Price”) at any time that the Bid Price is greater than or equal to \$1.00 (the “Threshold Price”) for a minimum of ten (10) consecutive Trading Days ending no fewer than three Trading Days before the date of a Repurchase Notice (as defined below) (the “Company Call Right”). The Company shall notify the Holder of its exercise of the Company Call Right (such notification, a “Repurchase Notice”) and, upon receipt of such Repurchase

Notice, the Holder may elect, no later 4:00 p.m. Eastern Time on the second Trading Day following the date of the Repurchase Notice (the "Counter Deadline"), to return to the Company an executed Notice of Exercise with respect to at least 20% of the shares of Common Stock subject to this Warrant. In the event that the Holder has not returned to the Company an executed Notice of Exercise with respect to at least 20% of the shares of Common Stock subject to this Warrant by such time, (i) the Company shall repurchase the portion of the Warrant subject to the Repurchase Notice, less any portion of the Warrant as to which a Notice of Exercise was delivered by the Holder pursuant to this Section 2(f), on the third Trading Day following the date of the Repurchase Notice (the "Repurchase Date"), and such portion of the Warrant shall be canceled and of no further force and effect and (ii) the Company shall deliver the Repurchase Price to the Holder in cash in immediately available funds and the applicable portion of the Warrant subject to the Company Call Right shall be canceled in accordance with the Warrant. Notwithstanding anything herein to the contrary, the Company may not deliver a Repurchase Notice (and any such Repurchase Notice shall be void), unless, from the beginning of the ten (10) consecutive Trading Day period referenced in this Section 2(f) through the Repurchase Date, (1) the Company shall have honored in accordance with the terms of this Warrant all Notices of Exercise delivered through and including the Counter Deadline, and (2) a registration statement shall be effective as to all shares of Common Stock underlying the Warrant and the prospectus thereunder available for use by the Holder for the resale of all such shares of Common Stock, or the resale of such shares of Common Stock by the Holder (other than to the extent an affiliate of the Company) shall be permissible under Rule 144 without any volume or manner of sale requirements or restrictions, and (3) the shares of Common Stock shall be listed or quoted for trading on the Trading Market, and (4) the issuance of all shares of Common Stock underlying the Warrant that are subject to a Repurchase Notice shall not cause a breach of any provision of Section 2(e) herein or be subject to a limitation on exercise under the rules of the Trading Market and (5) the Stockholder Approval shall have been obtained." The Repurchase Price and the Threshold Price shall be subject to appropriate adjustment hereunder concurrently with any adjustment to the Exercise Price.

- e) Section 3(d) shall be amended to add the following sentence at the end thereof:

"Notwithstanding anything herein to the contrary, the rights of the holder of this Warrant pursuant to this Section 3(d), including for purposes of valuing this Warrant pursuant to the definition of "Black Scholes Value", shall be without regard to any limitations on the exercise of this Warrant."

Section 2. No Additional Changes. Except as expressly set forth herein, the terms and provisions of the Warrants shall remain in full force and effect after execution of this Amendment and shall not be in any way changed, modified or superseded except by the terms set forth herein.

Section 3. Miscellaneous. The provisions of Section 5 of the Warrants shall apply *mutatis mutandis* to this Amendment.

IN WITNESS WHEREOF, the Company and each of the Holders has caused this Amendment to be duly executed as of the date first written above.

COMPANY:

BIORA THERAPEUTICS, INC.

By: _____

Name:

Title:

HOLDERS: