

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

ZYMERGEN INC.,<sup>1</sup>

Liquidating Debtor.

Chapter 11

Case No. 23-11661 (KBO)

**Objection Deadline:**

August 8, 2024 at 4:00 p.m. (ET)

**Hearing Date:**

August 15, 2024 at 10:30 a.m. (ET)

**LIQUIDATING TRUSTEE’S MOTION FOR ENTRY OF AN ORDER EXTENDING THE  
DEADLINE TO FILE OBJECTIONS TO CLAIMS**

Pursuant to sections 1.20 and 8.1 of the Debtors’ *First Amended Joint Chapter 11 Plan of Liquidation* (D.I. 372-1) (the “Plan”)<sup>2</sup>, Neal Goldman, solely in his capacity as liquidating trustee (the “Liquidating Trustee”) of the ZYM Liquidating Trust (the “Liquidating Trust”), by and through his undersigned counsel, submits this motion (the “Motion”), respectfully requesting the entry of an order, substantially in the form attached hereto as **Exhibit A**, extending the deadline to file objections to claims (the “Claims Objection Deadline”) for an additional 222 days, from Wednesday, August 21, 2024, through and including March 31, 2025<sup>3</sup>, pursuant to section 105 of the Bankruptcy Code and Bankruptcy Rule 9006, without prejudice to any request for a further extension.

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<sup>1</sup> This chapter 11 case is now being administered by the ZYM Liquidating Trust, pursuant to the terms of the Liquidating Debtors’ *First Amended Joint Chapter 11 Plan of Liquidation* [D.I. 372-1]. The ZYM Liquidating Trust’s mailing address is 500 East Broward Boulevard, Ste 1700, Fort Lauderdale, FL 33394.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

<sup>3</sup> The Liquidating Trustee notes that having filed this Motion before the initial deadline of August 21, 2024, Local Rule 9006-2 provides that “the time shall automatically be extended until the Court acts on the motion, without the necessity for the entry of a bridge order.” Local Rule 9006- 2.

## **JURISDICTION**

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware, the Liquidating Trustee consents to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution.

3. The statutory bases for the relief requested herein are section 105 of the Bankruptcy Code, Rule 9006 of the Federal Rules of Bankruptcy Procedure, and Local Rule 9006-2.

## **BACKGROUND**

4. On October 3, 2023, Zymergen Inc. and three of its affiliates, Lodo Therapeutics Corporation, enEvolv, Inc., and Genesis Acquisition Sub, LLC (the “Debtors”), commenced chapter 11 cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

5. On February 5, 2024, the Court entered the *Findings of Fact, Conclusions of Law, and Order Confirming the Debtors’ First Amended Joint Chapter 11 Plan of Liquidation* (D.I. 372) (the “Confirmation Order”), confirming the Debtors’ Plan. The effective date of the Plan occurred on February 23, 2024 (the “Effective Date”). On the Effective Date, the Liquidating

Trust was established to administer the Plan and the Liquidation Trust Assets were deemed transferred to the Liquidating Trust on the Effective Date without any further action by the Debtors.

6. Section 8.1 of the Plan grants the Liquidating Trustee the power and responsibility to manage the claims reconciliation process and the power to file objections to all Claims. *See* Plan, Section 8.1 (“As of the Effective Date, objections to, and requests for estimation of Claims against the Debtors may be interposed and prosecuted by the Liquidation Trustee. Such objections and requests for estimation shall be served and filed on or before the Claims Objection Bar Date . . . .”)

7. Section 1.20 of the Plan sets the Claims Objection Deadline as “the date that is 180 days after the Effective Date, subject to extension by the Court.” *See* Plan, § 1.20. The Effective Date occurred on February 23, 2024, making the Claims Objection Deadline August 21, 2024, the date that is 180 days after the Effective Date. Further, Section 1.20 of the Plan also expressly provides that the Court may extend the Claims Objection Deadline.

8. The terms of the Liquidating Trust Agreement (the “LTA”) that were approved by the Court as part of the Debtors’ Plan Supplement (D.I. 319-1) also expressly provide that the initial 180-day period for the Liquidating Trustee to object to claims may be extended by the Court.<sup>4</sup>

9. To date, the Liquidating Trust has filed objections to thirty-seven claims. Additionally, on May 31, 2024, the Liquidating Trust filed its *Motion of ZYM Liquidating Trust for Entry of an Order Approving Stipulation Between the ZYM Liquidating Trust and U.S.*

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<sup>4</sup> Article 7.1 of the LTA provides that “[a]s soon as practicable, but in no event later than 180 days after the Effective Date, objections to Claims shall be filed with the Bankruptcy Court and served upon holders of each of the Claims to which objections are made, provided, however, that such deadline may be extended by order of the Bankruptcy Court.”

*Securities and Exchange Commission* (D.I. 500), requesting authority to enter into a stipulation (the “SEC Stipulation”) with the Securities and Exchange Commission (the “SEC”), which would resolve disputes between the Liquidating Trust and the SEC, subject to the SEC’s approval of further documentation. The Court subsequently entered the *Order Approving the Stipulation Between the ZYM Liquidating Trust and U.S. Securities and Exchange Commission* (D.I. 512) (the “SEC Order”) on June 10, 2024, which, among other things, facilitated the Liquidating Trust’s making of an initial distribution to holders of allowed Class 3 general unsecured claims.

10. On July 1, 2024, the Liquidating Trust made a significant initial distribution on allowed Class 3 claims. The initial distribution approximated 78.7% on the allowed amount of the claims. Pending receipt and confirmation of tax information from certain allowed claim holders, the Liquidating Trust will be making an initial distribution of 78.7% to those allowed claim holders.

11. Additionally, per the SEC Order, the governmental bar date for the SEC to file a proof of claim against the Debtors was extended from April 1, 2024 to Sept. 30, 2024.

### **BASIS FOR RELIEF**

12. Good cause exists to extend the Claims Objection Deadline. The Liquidating Trustee has objected to, or will have objected to, all or substantially all of the Claims that the Liquidating Trustee believes are objectionable before the Claims Objection Deadline passes. Nevertheless, the Liquidating Trustee files this Motion out of an abundance of caution to ensure that all of the Claims are appropriately reconciled for the benefit of all of the beneficiaries of the Liquidating Trust (the “Liquidating Trust Beneficiaries”).

13. The Plan contemplates that the Court may extend the Claims Objection Deadline. *See* Plan, § 1.20; LTA, Art. 7.1. In addition, the Court has broad authority pursuant to

section 105(a) of the Bankruptcy Code to issue orders necessary to implement the provisions of the Plan and the Bankruptcy Code. *See* 11 U.S.C. § 105(a) (“The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].”).

14. Moreover, Bankruptcy Rule 9006(b) provides that the Court may extend a time period provided under the Bankruptcy Rules or order of the Court for cause shown. Bankruptcy Rule 9006 provides, in pertinent part, as follows:

Except as provided in paragraphs (2) and (3) of this subdivision when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.

Fed. R. Bankr. P. 9006(b)(1).

15. As discussed above, the Liquidating Trust has made significant progress in implementing the Plan following the Effective Date. The Liquidating Trust has objected to numerous claims, settled with the largest governmental creditor that could have significantly delayed or disrupted distributions to unsecured creditors, and made a significant interim distribution to holders of allowed Class 3 claims. Notwithstanding, the Trust continues to review filed claims and to avoid a situation where a claim may be inadvertently allowed due to the expiration of the Claims Objection Deadline,<sup>5</sup> the Liquidating Trustee seeks to extend the Claims Objection Deadline.

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<sup>5</sup> Additionally, the Stipulation with the SEC extended the SEC’s bar date through September 30, 2024, forty (40) days after the current Claims Objection Deadline expires. Thus, the Liquidating Trustee requires an extension of the Claims Objection Deadline at least until the SEC’s extended bar date in the event that the SEC Stipulation and all aspects of the proposed settlement with the SEC are not

16. Accordingly, to facilitate the efficient continued administration of the Liquidating Trust, the Liquidating Trustee requests an extension of the Claims Objection Deadline for an additional 222 days, from August 21, 2024, through and including March 31, 2025, without prejudice to any request for a further extension, if necessary.

17. Moreover, the proposed extension of the Claims Objection Deadline sought by this Motion is well within the range of extensions granted by other courts in this jurisdiction. *See, e.g., In re ExpressJet Airlines LLC*, Case No. 22-10787 (MFW) (Bankr. D. Del. Apr. 25, 2023) (D.I. 528) (extending the claims objection deadline by 150 days); *In re Promise Healthcare Group, LLC*, Case No. 18-12491 (CTG) (Bankr. D. Del. Aug. 25, 2021) (D.I. 2478) (extending the claims objection by 180 days); *In re Maxus Energy Corporation, et al.*, Case No. 16-11501 (CSS) (Bankr. D. Del. July 15, 2021) (D.I. 2400) (same); *In re Quicksilver Resources Inc., et al.*, Case No. 15-10585 (LSS) (Bankr. D. Del. Aug. 17, 2021) (D.I. 2275) (same).

18. The Liquidating Trustee believes that the requested extension of the Claims Objection Deadline is in the best interests of the Liquidating Trust Beneficiaries and is appropriate under the circumstances as it will provide the Liquidating Trustee with the additional time needed to reconcile the remaining Claims for the benefit of the Liquidating Trust Beneficiaries.

### **RESERVATION OF RIGHTS**

19. The Liquidating Trustee reserves the right to seek further extensions of the Claims Objection Deadline, if necessary.

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consummated and the SEC ultimately files a claim that is different than the amount set forth in the SEC Stipulation.

**NOTICE**

20. Notice of this Motion has been given to the Office of the United States Trustee and any other party entitled to notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Liquidating Trustee submits that no further notice is required.

**CONCLUSION**

WHEREFORE, the Liquidating Trustee respectfully requests the entry of an order, substantially in the form attached hereto as **Exhibit A**, extending the Claims Objection Deadline for an additional 222 days, from August 21, 2024, through and including March 31, 2025, and granting to the Liquidating Trustee such other and further relief as the Court deems just and proper.

Dated: August 1, 2024  
Wilmington, Delaware

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

*/s/ Austin T. Park* \_\_\_\_\_

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

ZYMERGEN INC.,<sup>1</sup>

Liquidating Debtor.

Chapter 11

Case No. 23-11661 (KBO)

**Objection Deadline:**

August 8, 2024 at 4:00 p.m. (ET)

**Hearing Date:**

August 15, 2024 at 10:30 a.m. (ET)

**NOTICE OF LIQUIDATING TRUSTEE'S MOTION FOR ENTRY OF AN ORDER  
EXTENDING THE DEADLINE TO FILE OBJECTIONS TO CLAIMS**

**PLEASE TAKE NOTICE** that on August 1, 2024, Neal Goldman, solely in his capacity as liquidating trustee (the "Liquidating Trustee") of the ZYM Liquidating Trust (the "Liquidating Trust"), by and through his undersigned counsel, filed the attached *Liquidating Trustee's Motion for Entry of an Order Extending the Deadline to File Objections to Claims* (the "Motion") with the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Motion must be filed in writing with the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801, and served upon and received by the undersigned counsel to the Liquidating Trustee on or before August 8, 2024, at 4:00 p.m. (ET).

**PLEASE TAKE FURTHER NOTICE** that a hearing with respect to the Motion will be held on August 15, 2024, at 10:30 a.m. (ET) at the United States Bankruptcy Court for the District of Delaware before the Honorable Karen B. Owens, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801.

**IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.**

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<sup>1</sup> This chapter 11 case is now being administered by the ZYM Liquidating Trust, pursuant to the terms of the Liquidating Debtors' *First Amended Joint Chapter 11 Plan of Liquidation* [D.I. 372-1]. The ZYM Liquidating Trust's mailing address is 500 East Broward Boulevard, Ste 1700, Fort Lauderdale, FL 33394.

Dated: August 1, 2024  
Wilmington, Delaware

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

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**EXHIBIT A**

**Proposed Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

ZYMERGEN INC.,<sup>1</sup>

Liquidating Debtor.

Chapter 11

Case No. 23-11661 (KBO)

**Re: D.I. \_\_\_\_\_**

**ORDER GRANTING THE LIQUIDATING TRUSTEE'S MOTION FOR ENTRY OF AN  
ORDER EXTENDING THE DEADLINE TO FILE OBJECTIONS TO CLAIMS**

Upon consideration of the *Liquidating Trustee's Motion for Entry of an Order Extending the Deadline to File Objections to Claims* (the "Motion"); and the Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012, and that this Court may enter a final order consistent with Article III of the United States Constitution, (ii) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iv) notice of the Motion and opportunity for a hearing was sufficient under the circumstances; and the Court having determined that the relief requested in the Motion is necessary and essential for the administration of the Debtors' confirmed chapter 11 Plan and such relief is in the best interests of the Liquidating Trust and the Liquidating Trust Beneficiaries and all other parties in interest; and the legal and factual bases set forth in the Motion having established just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor; it is hereby

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<sup>1</sup> This chapter 11 case is now being administered by the ZYM Liquidating Trust, pursuant to the terms of the Liquidating Debtors' *First Amended Joint Chapter 11 Plan of Liquidation* [D.I. 372-1]. The ZYM Liquidating Trust's mailing address is 500 East Broward Boulevard, Ste 1700, Fort Lauderdale, FL 33394.

**ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Motion is GRANTED as set forth herein.
2. The deadline to file objections to claims is hereby extended 222 days, through and including March 31, 2025, without prejudice to the rights of the Liquidating Trustee to seek further extensions.
3. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
4. The Liquidating Trustee is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.
5. This Order shall be effective and enforceable by its terms immediately upon entry.
6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.