IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: Acerus Pharmaceuticals Corporation, *et al.,* Debtors in a foreign proceeding.[1]	Chapter 15 Case No. 23-10111 (TMH) (Jointly Administered) **Re: D.I. 66**

DECLARATION OF NAVEED Z. MANZOOR IN SUPPORT OF FOREIGN REPRESENTATIVE'S MOTION FOR ENTRY OF AN ORDER (I) RECOGNIZING AND ENFORCING THE CCAA VESTING ORDER, (II) APPROVING THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' INTERESTS FREE AND CLEAR OF LIENS, CLAIMS, AND ENCUMBRANCES, AND (III) GRANTING RELATED RELIEF

I, Naveed Z. Manzoor, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury under the law of the United States, as follows:

1. I am the Chief Restructuring Officer ("**CRO**") of Acerus Pharmaceuticals Corporation ("**APC**"), which is the duly appointed foreign representative ("**Foreign Representative**") of the above captioned debtors (the "**Debtors**"), in Canadian proceedings (the **Canadian Proceedings**") commenced under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), pending before the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**"). I am authorized to provide this declaration on behalf of the Foreign Representative and each of the Debtors.

[1] The Debtors in these chapter 15 proceedings, together with the last four digits of their business identification numbers are: Acerus Pharmaceuticals Corporation (6891); Acerus Biopharma Inc. (0687); Acerus Labs Inc (0126); and Acerus Pharmaceuticals USA, LLC (9089). The location of the Debtors' headquarters and the Debtors' foreign representative is: 205-7025 Langer Drive, Mississauga, Ontario, Canada.

2. I was previously Chief Financial Officer of APC from November 20, 2022 until January 26, 2023. From August 22, 2022 to November 20, 2022, I was the Chief Strategy Officer of APC.

3. I am also a managing director at FAAN Advisors Group Inc. ("**FAAN**"), an advisory firm that provides companies with interim management, chief financial officer, crisis management and strategic planning services. I often act as a chief restructuring officer of companies undergoing either a formal or informal restructuring and have been involved in number of cross-border restructuring proceedings.

4. I am the duly-authorized representative to act on behalf of the Foreign Representative. In preparing this declaration (this "**Declaration**"), I have reviewed the Debtors' records and public filings, and have relied on the Debtors' advisors and other members of the Debtors' senior management as necessary.

5. Except as otherwise indicated herein, all facts set forth in this Declaration are based upon my personal knowledge of the Debtors' employees, operations, and finances, information learned from my review of relevant documents and information supplied to me by other members of the Debtors' management and their advisors, or my opinion based on my experience, knowledge, and information concerning the Debtors' operations, financial affairs, and restructuring initiatives. I am over the age of 18, and I am authorized to submit this Declaration on behalf of the Foreign Representative. If called upon to testify, I could and would testify competently to the facts set forth in this Declaration.

6. I respectfully submit this Declaration in support of the *Foreign Representative's Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA Vesting Order,*

(II) Approving the Sale of Substantially All of the Debtors' Interests Free and Clear of Liens, and Claims, and Encumbrances, and (III) Granting Related Relief (the "**Motion**").[2]

A. The Sale and Investment Solicitation Procedures

7. As detailed in the SISP Recognition Motion[3] and the Manzoor SISP Declaration[4], the Debtors and their advisors pursued (pre-filing) a sales and investment solicitation process for the rights to Natesto and Noctiva as part of its strategic review of capital and business alternatives (the "**Pre-Filing SISP**"). *See* Manzoor SISP Declaration ¶ 7. The Pre-Filing SISP was designed to identify potential bidders and investors, and the Debtors and their advisors assembled a list of approximately one-hundred-and-thirteen (113) potential buyers and investors (the "**Prospective Bidders**"). *See id.* ¶ 8.

8. The Debtors, with assistance from their advisors, then prepared a teaser document and a confidential information memorandum and sent both to the Prospective Bidders. *See id.* ¶ 9. Prospective Bidders who signed non-disclosure agreements were provided a copy of the confidential information memorandum and granted access to a data room (the "**Data Room**"), which included information with respect to the Debtors and their products. *See id.*

9. Although various parties signed non-disclosure agreements and reviewed the confidential information memorandum and information provided in the Data Room and the Debtors' advisors received submissions from various parties indicating formal interest, no actionable transactions were identified through the Pre-Filing SISP. *See id.* ¶ 10.

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[2] Capitalized terms used but not defined herein shall have the meaning given to them in the Motion.

[3] "**SISP Recognition Motion**" means the *Foreign Representative's Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA SISP Approval Order and (II) Granting Related Relief* [D.I. 50].

[4] "**Manzoor SISP Declaration**" means the *Declaration of Naveed M. Manzoor in Support of the Foreign Representative's Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA SISP Approval Order and (II) Granting Related Relief* [D.I. 51].

10. Thereafter, the Debtors determined that it would be appropriate to initiate the Canadian Proceedings and undertake a further sales and investment solicitation process ("**SISP**") under the supervision of the Canadian Court.

1. *The SISP*

11. The SISP, as approved by the Canadian Court and recognized by this Court, provided that the Monitor, with the assistance of the Debtors and myself, would solicit interest in, and opportunities for, an acquisition or refinancing of the Debtors' business or a sale of the assets and/or business of the Debtors, in whole or in part, and contemplated one or more of a restructuring, recapitalization, reverse vesting, or other form of reorganization of the business and affairs of the Debtors. *See id.* ¶ 14.

12. The SISP provided for six (6) key milestones and deadlines. *See id.* ¶ 15.

Milestone	Deadline
Publish notice of SISP and deliver teaser letter and NDA to Known Potential Bidders	Five (5) days following issuance of the SISP Order (March 14, 2023)
Bid Deadline	Fifty (50) days following issuance of SISP Order (April 28, 2023)
Monitor to notify each Bidder in writing as to whether its Bid constitutes a Qualified Bid	Within five (5) business days following the Bid Deadline (No later than May 5, 2023)[5]
Monitor to notify each Qualified Bidder on whether an Auction will take place	Two (2) business days prior to the commencement of the Auction (No later than May 5, 2023)
Auction date (if required)	Sixty-one (61) days following issuance of SISP Order (May 9, 2023)
Hearing of the Sale Approval Motion	No later than seventy-one (71) days following issuance of SISP Order (No later than May 19, 2023)[6]

[5] This deadline, as permitted by the SISP, was extended to May 9, 2023.

[6] On May 15, 2023, this deadline was adjourned by order of the Canadian Court to May 30, 2023.

13. The SISP, which is, in essence, a continuation of the Pre-Filing SISP which began in September 2022 and continued through December 2022, provided for a notification process, bidding procedures, protocol for selection of a successful bid, and the requirement for approval of any proposed transaction. *See id.* ¶ 16-36.

2. *The Execution and Results of the SISP*

14. On or about March 14, 2023, the Debtors' published notice of the SISP and delivered a teaser letter and non-disclosure agreement to 59 Known Potential Bidders who, in the Monitor's reasonable professional judgment, may have been interested in a transaction involving the Debtors' businesses or assets.

15. Of the 59 bidders contacted, 6 entered into non-disclosure agreements and were granted access to a data room and additional information to address due diligence inquiries. Due to the varying level of interest in certain of the Debtors' assets by the parties, the scope of the due diligence requests varied significantly, but all were addressed in a timely and reasonable manner. Of the 6 bidders who executed non-disclosure agreements, the Debtors received 3 Bids by the Bid Deadline (the "**Received Bids**"). As evidenced by the Received Bids, I believe that the SISP provided a reasonable opportunity for interested parties to make an offer to purchase the Purchased Shares or some or all of the assets of the Companies through a transaction structure negotiated in good faith and at arm's-length.

16. On May 1, 2023, following the Bid Deadline, the Monitor was contacted by two additional parties. However, given that the Bid Deadline had expired—and after considering information provided by those parties with respect to their preliminary valuation of the Debtors and the extra time they would need to complete due diligence—the Debtors and the Monitor determined not to pursue discussions with these two parties.

17. The Received Bids consisted of a:

a. Bid for a single product at nominal value;

b. Bid for a separate Product wherein the primary form of consideration consisted of royalty and milestone payments; and

c. Bid by FGC (i.e., the Transaction Agreement) for the shares of APC and all of the assets of the Companies (including the shares of APC's subsidiaries) wherein the consideration is a credit bid of all the secured liabilities of the Companies (including the outstanding amounts under the DIP Facility), to be implemented as a reverse vesting transaction (the "**FGC Bid**").[7]

18. The milestone contemplated in the SISP for the Debtors and the Monitor to assess the Bids received and notify each Bidder as to whether its Bid constituted a Qualified Bid was extended from May 5, 2023 to May 9, 2023, as permitted in the SISP. This milestone was extended to provide the Debtors and the Monitor with additional time to review the Bids. Each of the Bidders were advised of the extension.

19. On May 8, 2023, a committee of independent directors (the "**Special Committee**") held a meeting with the CRO, the Debtors' counsel, the Monitor and its counsel to discuss the Bids. Mr. Ihnatowycz does not sit on the Special Committee and has recused himself from all Board discussion and decisions with respect to the FGC Bid. Following careful consideration of the available options, the Special Committee, in consultation with and based on the recommendation of the Monitor, the CRO and counsel for the Debtors, determined that it was in the Debtors' and its stakeholders' best interest to pursue the Transaction Agreement and complete negotiations as the Successful Bid under the SISP. After reviewing each of the Received Bids and in an exercise of his discretion, the Monitor (as permitted by the SISP) determined no Auction was necessary.

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[7] FGC is the secured lender and majority shareholder of APC. The President and Chief Executive Officer of FGC is Ian Ihnatowycz, who also serves as Chairperson of APC's board of directors (the "**Board**").

20. Following the review and recommendation of the Special Committee, the Monitor and the Debtors and their respective counsel finalized the form of the Transaction Agreement and the proposed CCAA Vesting Order to be submitted to the Canadian Court.

21. After extensive discussion and careful consideration of the alternative options, the Board, without Mr. Ihnatowycz, also approved the FGC Bid as the Successful Bid. In reaching this conclusion, the Board considered, among other things, financial information and analysis provided by the Monitor and the recommendations of the Monitor, CRO and counsel for the Debtors.

22. The Board, without Mr. Ihnatowycz, agreed with the Debtors' advisors, the Monitor and its counsel that the only viable path forward for the Debtors was to pursue the Bid submitted by FGC.

23. The Transaction Agreement was entered into between APC and FGC on May 15, 2023.

24. Thereafter, the Debtors sought approval and consummation of the FGC Bid (the "**Transaction**"), as reflected in the Transaction Agreement submitted in connection with the FGC Bid, through the Canadian Court through entry of the CCAA Vesting Order. Now, through the Motion, the Debtors and the Foreign Representative seek recognition of the CCAA Vesting Order and the Transaction by this Court.

25. Approval and recognition of the Transaction Agreement and the Transaction contemplated therein is the only viable path forward for the Debtors and the only option for a going-concern exit from the Canadian Proceedings. Additionally, prompt recognition of the CCAA Vesting Order is a condition precedent to the closing of the Transaction Agreement.

B. The Transaction Agreement

26. The Transaction Agreement is the culmination of the Debtors' nearly year-long efforts to restructure. Through the Canadian Proceedings, the Debtors worked swiftly to identify a viable going-concern strategy to exit the Canadian insolvency proceeding in a manner which preserves and provides value of the Debtors' businesses for the benefit of stakeholders. The Transaction provides a number of benefits, including the following:

a. based on the price payable under the Transaction Agreement, all of the Debtors' secured liabilities will be satisfied by way of the credit bid;

b. the Transaction Agreement provides for various unsecured and contingent liabilities to be assumed, in comparison to the other potential alternatives which provided for vesting of all liabilities; and

c. the completion of the Transaction will allow for the Debtors to continue operations as a going concern, resulting in (i) the potential for employees to preserve their employment; (ii) suppliers of goods and services being able to maintain their business relationships with the Debtors; (iii) opportunity for each of the Company's pharmaceutical products to be pursued and potentially to market at a future date; and (iv) many of the contractual distribution and pharmaceutical product testing arrangements will also remain intact without need for the Companies to take further steps.

27. The transactions contemplated under the Transaction Agreement have been structured to form a so-called "reverse vesting" transaction. In sum, instead of providing for a traditional asset sale transaction where all purchased assets are purchased and transferred to the purchaser on a "free and clear" basis and all excluded assets, excluded contracts and excluded liabilities remain with the debtor company, the Transaction provides for a transaction whereby, essentially:

a. FGC will subscribe for and purchase new shares of APC, who will, in turn, cancel and terminate all of its existing shares so that FGC may become the sole shareholder of APC and ultimately, each of the subsidiaries of APC (including APL); and

b. all excluded contracts, excluded assets, and excluded liabilities with respect to the Companies (including APL) will be transferred and "vested out" to corporations (Residual Cos.) to be incorporated by APC in advance of the closing date, so as to allow FGC to indirectly acquire APC's business and assets on a "free and clear" basis.

28. The Transaction Agreement was structured as a reverse vesting transaction primarily because the Companies maintain various licenses that are required to maintain its operations, as well as in-progress trials and testing programs that are proceeding under and in the name of the Companies. Under a traditional asset sale transaction structure, some of these licenses would be difficult to transfer to a purchaser and, to the extent that such transfer is possible, the steps required to proceed with such a transfer would likely result in additional delays, costs and uncertainty.

29. Additionally, the Companies hold various contracts with government entities, some of which may be difficult to transfer to a purchaser and, to the extent such transfer is possible, the steps required to proceed with such transfer would likely result in additional delays, costs and uncertainty. The reverse vesting structure will also allow the Debtors to maintain all of its licenses and intellectual property without requiring any additional steps or regulatory approvals to transfer them to FGC. As the Debtors are facing significant liquidity constraints, the delays, costs and uncertainty associated with getting licenses transferred was not a viable option.

30. Furthermore, the Debtors operate in the pharmaceutical industry which is heavily regulated in both Canada and the United States. As such, in connection with the operation of the business, the Debtors are required to maintain various licenses and complex contracts. The licenses and contracts currently held by the Companies which would require transfer or reestablishment and/or new arrangements to be entered into if an asset transfer were implemented, but are not required in a reverse vesting structure, include, but are not limited to:

a. drug establishment licenses and import licenses in Canada;

b. state business licenses in the United States;

c. contracts with the United States government and payors;

d. contracts with distributors in Canada, the United States and globally;

e. intellectual property which would require re-recording and registration of the names and assignment on all patents worldwide; and

f. marketing materials in the name of the Companies, originally approved by the U.S. Food and Drug Administration and Pharmaceutical Advertising Advisory Board in Canada and other organizations, which may require resubmission and approval, and thereafter the cost of rebranding of materials.

31. Additionally, the reverse vesting structure permits the maintenance of the Companies' tax attributes, which include net operating losses in the approximate amount of $215 million. FGC has advised the Monitor that the Companies' tax attributes is an important consideration in their decision to credit bid the entire amount of the Companies' secured debt.

32. Notably, the Monitor had inquired with FGC and its counsel with respect to whether it would be willing to consider a plan of arrangement. FGC was not willing to consider this structure to implement a transaction.

33. The market has been thoroughly canvassed and, as stated in the Third Report of the Monitor, dated May 25, 2023, filed with the Canadian Court, there was simply no other viable alternative transaction available to the Companies. The only going-concern option, which would result in an ongoing customer or supplier for contract counterparties, among other benefits, is the Transaction with FGC under the Transaction Agreement, which is to be implemented through a reverse vesting structure.

34. I believe, based on my involvement with the Pre-Filing SISP and the SISP, that:

a. the process leading to the proposed Transaction, which began in September 2022, was reasonable in the circumstances;

b. the SISP was duly noticed and provided a reasonable opportunity for parties to make any offer;

c. Ernst & Young was actively involved in the Pre-Filing SISP and the Monitor was actively involved in the SISP, and were consulted by the Debtors throughout;

d. the Transaction approved by the Canadian Court will result in the best outcome for the Debtors and their creditors and other stakeholders in the circumstances;

e. the consideration to be received by the Debtors is reasonable and fair, taking into account their market value and the broad canvassing of the potentially interested parties during the Pre-Filing SISP and the SISP;

f. the Company tested the market on two separate occasions with the benefit of experienced advisors and the Transaction is the best outcome in the circumstances, and results in a going concern solution for the Companies;

g. the credit bid by FGC of the entirety of its secured indebtedness will allow the Companies to emerge with a clean balance sheet and will provide the Companies with the opportunity for a fresh start to continue developing its products with the hopes of bringing them to market;

h. the Monitor and the Company's secured creditor FGC are both supportive of the relief obtained by the CCAA Vesting Order and the relief sought in the Motion; and

i. the Debtors' performance under the Transaction Agreement and related agreements constitute a sound and reasonable exercise of the Debtors' business judgment, provide value and are beneficial to the Debtors and are in the best interests of the Debtors, their estates, and their stakeholders, and are reasonable and appropriate under the circumstances.

35. As set forth in the CCAA Vesting Order, the Canadian Court has approved releases in favor of:

a. the present and former directors, officers, employees, legal counsel and advisors of the Debtors;

b. the CRO;

c. the Monitor and its legal counsel;

d. FGC, in its capacities as secured lender to the Applicants and majority shareholder of APC, and its current and former directors, officers, employees, legal counsel and advisors; and

e. FGC and its current and former directors, officers, employees, legal counsel, and advisors,

(collectively, the "**Release Parties**").

36. The releases cover any and all present and future claims against the Released Parties based upon any fact or matter of occurrence in respect of the Transaction or the Debtors, their assets, business or affairs or administration of the Debtors, subject to certain limited exceptions.[8]

37. The releases provided in the Transaction Agreement and CCAA Vesting Order explicitly do not release or discharge: (a) any claim that is not permitted to be released pursuant to the CCAA; (b) claims arising out of fraud, bad faith or illegal acts; or (c) any obligations of any of the Released Parties under or in connection with the Transaction Agreement, the closing documents, and/or the consummation of the Transaction.

38. Also excluded from the releases provided in the Transaction Agreement and CCAA Vesting Order are any claims against any individuals named as defendants in the litigation with Jones Day.

39. I understand that the Debtors, the Monitor, and FGC all believe that the releases are an essential component to the Transaction. Further, Canadian courts have approved releases in similar reverse vesting transactions, and such releases have been in favor of the debtor's directors, officers, the monitors, counsel, employees of the debtor, shareholders and the debtor's advisors. *See, e.g.*, *Green Relief Inc. (Re)*, 2020 ONSC 6837; *Harte Gold Corp. (Re)*, 2022 ONSC 653; *Just Energy Group inc., et. al. v. Morgan Stanley Capital Group Inc., et al.*, 2022 ONSC 6354.

40. As a result of the entry of the CCAA Vesting Order, and consistent with reverse vesting transactions previously approved by Canadian courts, all options, securities and other

[8] Those exceptions include any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, in connection with the Transaction Agreement or the closing documents, or any claims asserted against APL in the Jones Day Litigation (as such term is defined in the Transaction Agreement) or the individuals named as defendants in the litigation with Jones Day. As set forth in greater detail within the Manzoor Recognition Declaration, Jones Day commenced an action in the New York State Supreme Court against APL and certain members of its senior management for alleged unpaid legal bills. *See* Manzoor Recognition Declaration ¶¶ 39-41. That action remains pending before the Supreme Court of the State of New York, County of New York and is styled *Jones Day v. Serenity Pharmaceuticals, LLC, et al.*, No. 657373/2019.

rights held by any person that are convertible or exchangeable for any securities of APC shall terminate or be cancelled. As recognized by Canadian courts, in situations (as here) where shareholders have no economic interest, present or future, it is within the Canadian Court's jurisdiction to approve the cancellation of all outstanding shares and the issuance of new shares to the purchaser. *See, e.g., Harte Gold (Re)*, 2022 ONSC 653.

41. The parties anticipate closing the Transaction on or before June 30, 2023. Time is of the essence as the expeditious consummation of the Transaction, which is supported by the Debtors' key stakeholders as noted herein, is critical to preserving the going-concern value of the Debtors' enterprise.[9] Additionally, the parties have structured the Transaction, in part, as a share transaction in order to avoid costly, lengthy, and uncertain regulatory approvals for the critical regulatory licenses required to operate the business and to preserve tax attributes for the go-forward business. I further believe that preserving the regulatory licenses and tax assets is in the best interests of the Debtors' stakeholders as a whole, as it will assist in the recovery of the going-concern business that emerges from the Debtors' insolvency proceedings.

42. As authorized by the Amended Initial Order and the CCAA Vesting Order, the Debtors (i) have full power and authority necessary to execute the Transaction Agreement and all other documents contemplated thereby; (ii) have all the power and authority necessary to consummate the transactions contemplated by the Transaction Agreement; and (iii) upon entry of an order of the Bankruptcy Court recognizing and enforcing the CCAA Vesting Order, other than any consents identified in the Transaction Agreement (including with respect to antitrust matters, if any), need no consent or approval from any other Person (as defined in the CCAA Vesting

[9] Section 7.1 of the Transaction Agreement includes the entry of an order by this Court recognizing the CCAA Vesting Order as a condition precedent to close the transactions. Similarly, section 9.1 of the Transaction Agreement mandates an order recognizing the CCAA Vesting Order must be issued and entered by this Court not later than twenty-eight (28) days after the CCAA Vesting Order was entered by the Canadian Court.

Order) or governmental unit to consummate the Transaction. The Transaction has been duly and validly authorized by all necessary corporate action of the Debtors.

43. In short, I believe the proposed structure is necessary to consummate the best transaction available to the Debtors under the circumstances, and to ensure the Debtors' businesses continue as a going-concern for a broad array of stakeholders, including vendors, customers, employees, and suppliers. Moreover, the FGC Bid was selected as the Successful Bid after a rigorous marketing process run by the Debtors and their advisors and with the assistance and oversight of the Monitor, pursuant to the Pre-Filing SISP and the SISP, and after solicitation and consideration of the multiple Received Bids. Subject to the procedures set forth in the SISP, the Debtors were at all times free to deal with any other party interested in acquiring the Purchased Shares and/or assets of the Debtors. I therefore believe that the Credit Bid Consideration (as defined in the Transaction Agreement) represents the fair market value for the Debtors and is fair, reasonable, and adequate. In contrast to the Transaction, any other transaction structure that does not enable a timely and efficient closing while achieving these restructuring objectives would undermine the future viability of the business as a going-concern and not maximize value for the Debtors' stakeholders. I understand that the Monitor is supportive of the Transaction, including its contemplated structure.

44. Having been personally involved in the SISP and the Pre-Filing SISP, I believe that the process employed by the Debtors, including, without limitation, the evaluation of the Received Bids by the Debtors and their advisors, and the negotiation of the Transaction Agreement by the Debtors and FGC, was non-collusive, and conducted in good faith and at arm's-length. Based on my participation in the marketing and sale process, I believe the Debtors and FGC have complied

in all respects with the procedures set forth in the SISP, that the process has been substantively and procedurally fair to all parties in interest.

45. I personally reviewed the Received Bids and was involved in the SISP. In accordance with the SISP, the Debtors' assets were subjected to a solicitation and competitive bidding process and the FGC Bid was designated the Successful Bid. I believe each party acted in good faith and without collusion or fraud of any kind. I have also been advised that FGC would not be willing to consummate the Transaction Agreement absent the benefits of sections 363(m) and 363(n) of the Bankruptcy Code.

46. I also understand that FGC would not have entered into the Transaction Agreement, and would not consummate the Transaction, if (a) the sale was not free and clear of all liens, claims, and encumbrances, or (b) FGC would, or in the future could, be liable for or subject to any such liens, claims, or encumbrances. Accordingly, a sale other than free and clear of all liens, claims, and encumbrances, and other interests (other than the Permitted Encumbrances) would yield substantially less value than the sale pursuant to the Transaction Agreement, thus I believe that the Transaction Agreement is fair and reasonable under the circumstances, is the result of good-faith, arm's-length negotiations, and is in the best interests of the Debtors, their creditors, and other stakeholders. Moreover, the reverse vesting structuring of the Transaction is necessary and appropriate to preserve the going-concern value of the Debtors' business and produces an economic result more favorable than any other alternative.

47. In sum, the Transaction Agreement represents the best and only viable outcome for the Debtors, their creditors, and other stakeholders in the circumstances.

[*Remainder of page intentionally left blank.*]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: June 5, 2023
Oakville, Ontario

/s/ Naveed Z. Manzoor
Naveed Z. Manzoor
CRO of Acerus Pharmaceuticals Corporation