



Statement recommends that Company stockholders tender their shares in support of a proposed transaction whereby Astros Merger Sub, Inc. (“Merger Sub”), a wholly owned subsidiary of Merck Sharp & Dohme Corp. (“Parent”), will purchase any and all of the outstanding shares of the Company (the “Tender Offer”) and will be merged with and into the Company and the Company will continue as the surviving corporation and a wholly-owned subsidiary of Parent (the “Proposed Transaction”). Merger Sub will thereafter cease to exist. Pursuant to the terms of the definitive agreement and plan of merger the companies entered into, dated September 29, 2021 (the “Merger Agreement”), each Acceleron common share issued and outstanding will be converted into the right to receive \$180.00 (the “Merger Consideration”). In accordance with the Merger Agreement, Merger Sub commenced a tender offer to acquire all of Acceleron’s outstanding common stock and will expire on November 10, 2021.

3. Defendants have now asked Acceleron’s stockholders to support the Proposed Transaction based upon the materially incomplete and misleading representations and information contained in the Solicitation Statement, in violation of Sections 14(e), 14(d), and 20(a) of the Exchange Act. Specifically, the Solicitation Statement contains materially incomplete and misleading information concerning, among other things, (i) Acceleron’s financial projections relied upon by the Company’s financial advisors, Centerview Partners LLC (“Centerview”) and J.P. Morgan Securities LLC (“J.P. Morgan”) in their financial analyses; and (ii) the data and inputs underlying the financial valuation analyses that support the fairness opinions provided by the financial advisors. The failure to adequately disclose such material information constitutes a violation of Sections 14(e), 14(d), and 20(a) of the Exchange Act as Acceleron stockholders need such information in order to tender their shares in support of the Proposed Transaction.

4. It is imperative that the material information that has been omitted from the Solicitation Statement is disclosed to the Company's stockholders prior to the expiration of the tender offer.

5. For these reasons and as set forth in detail herein, Plaintiff seeks to enjoin Defendants from taking any steps to consummate the Proposed Transaction unless and until the material information discussed below is disclosed to Accelaron's stockholders or, in the event the Proposed Transaction is consummated, to recover damages resulting from the Defendants' violations of the Exchange Act.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to Section 27 of the Exchange Act (15 U.S.C. § 78aa) and 28 U.S.C. § 1331 (federal question jurisdiction) as Plaintiff alleges violations of Sections 14(e), 14(d), and 20(a) of the Exchange Act and SEC Rule 14a-9.

7. Personal jurisdiction exists over each Defendant either because each is an individual who is either present in this District for jurisdictional purposes or has sufficient minimum contacts with this District as to render the exercise of jurisdiction over defendant by this Court permissible under traditional notions of fair play and substantial justice.

8. Venue is proper in this District under Section 27 of the Exchange Act, 15 U.S.C. § 78aa, as well as under 28 U.S.C. § 1391, because Accelaron stock is traded on the NASDAQ stock exchange, headquartered in this District. Centerview, Accelaron's financial advisor, is also headquartered in this District.

### **PARTIES**

9. Plaintiff is, and has been at all relevant times, the owner of Accelaron common stock and has held such stock since prior to the wrongs complained of herein.

10. Individual Defendant Francois Nader, M.D., M.B.A. has served as a member of the Board since December 2014 and as Chairman of the Board since March 2015.

11. Individual Defendant Habib Dable has served as a member of the Board since December 2016 and is Acceleron's President and Chief Executive Officer.

12. Individual Defendant Laura J. Hamill has served as a member of the Board since September 2020.

13. Individual Defendant Christopher Hite has served as a member of the Board and since June 2020.

14. Individual Defendant Terrence C. Kearney has been a member of the Board since July 2014.

15. Individual Defendant Kemal Malik, M.B., B.S. has served as a member of the Board since January 2020.

16. Individual Defendant Thomas A. McCourt has served as member of the Board since July 2016.

17. Individual Defendant Karen K. Smith, M.D., Ph.D. has served as member of the Board since November 2017.

18. Individual Defendant Joseph S. Zakrzewski has served as member of the Board since 2011.

19. Defendant Acceleron is incorporated in Delaware and maintains its principal offices at 128 Sidney Street, Cambridge, Massachusetts 02139. The Company's common stock trades on the NASDAQ Stock Exchange under the symbol "XLRN."

20. The defendants identified in paragraphs 10-18 are collectively referred to as the "Individual Defendants" or the "Board."

21. The defendants identified in paragraphs 10-19 are collectively referred to as the “Defendants.”

## SUBSTANTIVE ALLEGATIONS

### A. The Proposed Transaction

22. Acceleron, a biopharmaceutical company, focuses on the discovery, development, and commercialization of therapeutics to treat serious and rare diseases. It offers REBLOZYL (luspatercept-aamt), a first-in-class erythroid maturation agent, for the treatment of anemia in adult patients with beta-thalassemia and transfusion-dependent anemia. The Company is also developing Sotatercept, an activin receptor type IIA fusion protein, for the treatment of patients with pulmonary arterial hypertension; ACE-1334, a pulmonary therapeutic candidate that is in Phase I clinical trials; and luspatercept-aamt for non-transfusion-dependent beta-thalassemia patients and lower-risk myelodysplastic syndrome patients. It has a license agreements with the Salk Institute for Biological Studies for the cloning of type II activin receptors; and license agreement with Fulcrum Therapeutics, Inc. to identify small molecules designed to modulate specific pathways associated with a targeted indication within the pulmonary disease space. The Company was formerly known as Phoenix Pharma, Inc. Acceleron was incorporated in 2003 and is headquartered in Cambridge, Massachusetts.

23. On September 30, 2021, Merck and the Company announced the Proposed Transaction:

KENILWORTH, N.J. & CAMBRIDGE, Mass.--(BUSINESS WIRE)--Merck (NYSE: MRK), known as MSD outside the United States and Canada, and Acceleron Pharma Inc. (Nasdaq: XLRN), a publicly traded biopharmaceutical company, today announced that the companies have entered into a definitive agreement under which Merck, through a subsidiary, will acquire Acceleron for \$180 per share in cash for an approximate total equity value of \$11.5 billion.

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