

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**FORM 10-K/A
Amendment No. 1**

(Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2023
OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: 001-41184

ZYVERSA THERAPEUTICS, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction
of incorporation or organization)

86-2685744
(I.R.S. Employer
Identification No.)

2200 N. Commerce Parkway, Suite 208
Weston, FL 33326
(Address of registrant's principal executive offices)

33326
(Zip Code)

(754) 231-1688
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, \$0.0001 par value per share	ZVSA	The Nasdaq Capital Market

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes: No:

Indicate by check mark if the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes: No:

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes: No:

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b).

Indicate by check mark if the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes: No:

As of June 30, 2023, the last business day of the registrant's most recently completed second fiscal quarter, the aggregate market value of shares of the registrant's common stock held by non-affiliates of the registrant (based upon the closing sales price of \$8.61 for such shares on the Nasdaq Global Market on June 30, 2023) was approximately \$5.6 million. For purposes of calculating the aggregate market value of shares held by non-affiliates, we have assumed that all outstanding shares are held by non-affiliates, except for shares held by each of our executive officers, directors, and 5% or greater stockholders. In the case of 5% or greater stockholders, we have not deemed such stockholders to be affiliates unless there are facts and circumstances which would indicate that such stockholders exercise any control over our company, or unless they hold 10% or more of our outstanding common stock. These assumptions should not be deemed to constitute an admission that all executive officers, directors, and 5% or greater stockholders are, in fact, affiliates of our company, or that there are not other persons who may be deemed to be affiliates of our company. Further information concerning shareholdings of our officers, directors, and principal stockholders is included in Part III, Item 12 of our Annual Report on Form 10-K that was filed with the Securities and Exchange Commission on March 25, 2024.

As of May 10, 2024, the number of shares outstanding of the registrant's common stock, \$0.0001 par value per share, was 834,896.

Auditor Name	Auditor Location	Auditor Firm ID
Marcum LLP	New York, NY	688

DOCUMENTS INCORPORATED BY REFERENCE

None.

Explanatory Note

ZyVersa Therapeutics, Inc. (the “Company,” “ZyVersa,” “we,” “us” and “our”) is filing this Amendment No. 1 on Form 10-K/A (this “Form 10-K/A”) to amend the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2023 (the “2023 10-K”), which was originally filed with the Securities and Exchange Commission (the “SEC”) on March 25, 2024. This Form 10-K/A amends and restates in its entirety Item 9A of Part II and Item 15 of Part IV of the 2023 10-K in order to clarify its existing language. The cover page of the 2023 10-K is also amended to update the number of outstanding shares of common stock as of May 10, 2024. Also, Exhibit 97.1 was appended to this Form 10-K/A.

Pursuant to Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), this Form 10-K/A amends Item 15 of Part IV of the 2023 10-K solely to update the exhibit list to include new certifications by our principal executive officer and principal financial officer under Section 302 of the Sarbanes-Oxley Act of 2002. Because no financial statements have been included in this Form 10-K/A, paragraph 3 of these certifications has been omitted. Similarly, because no financial statements have been included in this Form 10-K/A, certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 have been omitted.

Except as described above, no other changes have been made to the 2023 10-K, and this Form 10-K/A does not modify, amend or update in any way any of the financial or other information contained in the 2023 10-K. This Form 10-K/A does not reflect events occurring after the date of the filing of the 2023 10-K, nor does it amend, modify or otherwise update any other information in the 2023 10-K. Accordingly, this Form 10-K/A should be read in conjunction with the 2023 10-K and with the Company’s filings with the SEC subsequent to the filing of the 2023 10-K.

Emerging Growth Company—Scaled Disclosure

We are an emerging growth company, as defined in the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”), enacted in April 2012. We intend to take advantage of certain exemptions under the JOBS Act from various public company reporting requirements, including not being required to have our internal control over financial reporting audited by our independent registered public accounting firm pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002, reduced disclosure obligations regarding executive compensation and exemptions from the requirements of holding a nonbinding advisory vote on executive compensation and any golden parachute payments not previously approved. We will remain an emerging growth company until the earliest of the last day of the fiscal year in which we have total annual gross revenues of approximately \$1.07 billion or more; the last day of the fiscal year following the fifth anniversary of the date of the completion of the closing of our IPO, which is December 23, 2026; the date on which we have issued more than \$1 billion in nonconvertible debt during the previous three years; or the date on which we are deemed to be a large accelerated filer under the rules of the SEC.

ZYVERSA THERAPEUTICS, INC.
ANNUAL REPORT ON FORM 10-K/A
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2023
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PART II

ITEM 9A. CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in company reports filed or submitted under the Exchange Act is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer (who serve as our Principal Executive Officer and Principal Financial and Accounting Officer, respectively), to allow timely decisions regarding required disclosure.

As required by Rules 13a-15 and 15d-15 under the Exchange Act, our Chief Executive Officer and Chief Financial Officer carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of December 31, 2023. Based upon their evaluation and due to the material weakness cited below, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) were ineffective.

Management's Report on Internal Controls over Financial Reporting

Our management, including our principal executive officer and principal financial officer, is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act). Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP. Our internal control over financial reporting includes those policies and procedures that: (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with U.S. GAAP, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the financial statements.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2023, based on the Internal Control-Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) (2013 Framework). Based on this evaluation, our principal executive officer and principal financial officer have concluded that our internal control over financial reporting was not effective as of December 31, 2023, as a result of the material weakness described below.

Specifically, management's conclusion was based on the following material weakness which existed as of December 31, 2023:

- Business process controls across the entity's financial reporting processes were not effectively designed and implemented to properly address the risk of material misstatement, including controls without proper segregation of duties between preparer and reviewer.

A material weakness is a control deficiency or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected on a timely basis.

Notwithstanding the existence of the material weakness as described above, we believe that the financial statements in the December 31, 2023 Form 10-K fairly present, in all material respects, our financial position, results of operations and cash flows as of the dates, and for the periods presented, in conformity with GAAP.

Remediation Plan

Our management is committed to taking further action and implementing necessary enhancements or improvements, including those actions already taken to address the material weakness related to design and implementation of effective controls over the accounting for significant and complex non-routine transactions cited in the Company's December 31, 2022 Form 10-K, and the material weakness identified as of December 31, 2023. Management expects to complete the development and implementation of its remediation plan, during 2024.

Inherent Limitations of the Effectiveness of Controls

Management does not expect that our disclosure controls and procedures or our internal control over financial reporting will prevent or detect all error and fraud. A control system, no matter how well designed and operated, is based upon certain assumptions and can provide only reasonable, not absolute, assurance that its objectives will be met. Further, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) during the most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Attestation Report of Registered Public Accounting Firm

This Form 10-K/A does not contain an attestation report of our independent registered public accounting firm related to internal control over financial reporting because the rules for emerging growth companies provide an exemption from the attestation requirement.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

The following exhibits are filed as part of, or incorporated by reference into, this Annual Report on Form 10-K/A.

Exhibit Number	Description
2.1+	<u>Business Combination Agreement, dated as of July 20, 2022, by and among Larkspur Health Acquisition Corp., Larkspur Merger Sub Inc., Stephen Glover and ZyVersa Therapeutics, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the SEC on July 22, 2022).</u>
3.1	<u>Second Amended and Restated Certificate of Incorporation of ZyVersa Therapeutics, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
3.2	<u>Second Amended and Restated Bylaws of ZyVersa Therapeutics, Inc. (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
3.3	<u>Certificate of Designation relating to the Series A Convertible Preferred Stock (incorporated by reference to Exhibit 3.3 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
3.4	<u>Certificate of Designation relating to the Series B Convertible Preferred Stock (incorporated by reference to Exhibit 3.4 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
3.5	<u>Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of ZyVersa Therapeutics, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8K filed with the SEC on November 30, 2023).</u>
4.1	<u>Specimen Class A Common Stock Certificate of ZyVersa Therapeutics, Inc. (incorporated by reference to Exhibit 4.1 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
4.2	<u>Form of Warrant issued by the Company in connection with the Public Warrants (incorporated by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
4.3	<u>Form of Warrant issued by the Company in connection with the Private Placement Warrants (incorporated by reference to Exhibit 4.3 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
4.4	<u>Form of Warrant issued by the Company to each PIPE Investor (incorporated by reference to Exhibit 4.4 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
4.5	<u>Form of Bridge Warrant issued by the Company (incorporated by reference to Exhibit 4.5 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022).</u>
4.6	<u>Form of Warrant pursuant to License Agreement, dated April 18, 2019, by and between InflamaCORE, LLC and Variant Pharmaceuticals, Inc. (incorporated by reference to Exhibit 4.3 to the Company's Form S-4 filed with the SEC on October 21, 2022).</u>
4.7	<u>Form of Warrant pursuant to License Agreement, dated December 15, 2015, by and between L&F Research LLC and Variant Pharmaceuticals, Inc. (incorporated by reference to Exhibit 4.4 to the Company's Form S-4 filed with the SEC on October 21, 2022).</u>
4.8**	<u>Description of the Company's Securities.</u>
4.9	<u>Form of Warrant (incorporated by reference to Exhibit 4.8 to the Company's Registration Statement filed with the SEC on April 24, 2023).</u>
4.10	<u>Form of Pre-Funded Warrant (incorporated by reference to Exhibit 4.9 to the Company's Registration Statement filed with the SEC on April 24, 2023).</u>
4.11	<u>Form of Pre-Funded Warrant (incorporated by reference to Exhibit 4.11 to the Company's Amendment No. 2 to Form S-1 Registration Statement filed with the SEC on July 7, 2023).</u>
4.12	<u>Form of Common Warrant (incorporated by reference to Exhibit 4.10 to the Company's Amendment No. 2 to Form S-1 Registration Statement, filed with the SEC on July 7, 2023).</u>
4.13	<u>Warrant Amendment (incorporated by reference to Exhibit 4.8.1 to the Company's Post-Effective Amendment No. 1 to Form S-1 Registration Statement, filed with the SEC on July 26, 2023).</u>
4.14	<u>Form of Inducement Warrant (incorporated by reference to Exhibit 4.1 to the Company's Current Report to Form 8-K filed with the SEC on September 14, 2023).</u>
4.15	<u>Form of Pre-Funded Warrant (incorporated by reference to Exhibit 4.1 to the Company's Form 8-K filed with the SEC on December 11, 2023).</u>
4.16	<u>Form of Series A Warrant (incorporated by reference to Exhibit 4.2 to the Company's Form 8-K filed with the SEC on December 11, 2023).</u>
4.17	<u>Form of Series B Warrant (incorporated by reference to Exhibit 4.3 to the Company's Form 8-K filed with the SEC on December 11, 2023).</u>

- 10.1 [Amended and Restated Registration Rights Agreement, dated as of December 12, 2022, by and among the Company and each of the purchasers identified on the signature pages thereto \(incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.2 [Form of Shareholder Support Agreement, dated as of July 20, 2022, by and among Larkspur Health Acquisition Corp., ZyVersa Therapeutics, Inc. and certain of the stockholders of ZyVersa Therapeutics, Inc., identified on the signature pages thereto \(incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the SEC on July 22, 2022\).](#)
- 10.3 [Form of Lock-Up Agreement, dated as of July 20, 2022, by and among the Company and the parties listed on Schedule A thereto \(incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on July 22, 2022\).](#)
- 10.4 [Registration Rights Agreement, relating to Series A Preferred Stock, dated as of December 12, 2022, by and among the Larkspur Health Acquisition Corp. and each of the PIPE Investors \(incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.5 [Registration Rights Agreement, relating to Series B Preferred Stock, dated as of December 12, 2022, by and among the Company and each purchaser identified on the signature pages thereto \(incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.6 [Business Combination Advisor Agreement, dated December 20, 2021, by and between the Company and A.G.P \(incorporated by reference to Exhibit 1.2 to the Company's Current Report on Form 8-K filed with the SEC on December 23, 2021\).](#)
- 10.7+† [License Agreement, dated April 18, 2019, by and between InflamaCORE, LLC and Variant Pharmaceuticals, Inc. \(incorporated by reference to Exhibit 10.14 to the Company's Form S-4 filed with the SEC on October 21, 2022\).](#)
- 10.8+† [License Agreement, dated December 15, 2015, by and between L&F Research LLC and Variant Pharmaceuticals, Inc. \(incorporated by reference to Exhibit 10.15 to the Company's Form S-4 filed with the SEC on October 21, 2022\).](#)
- 10.8.1 [Second Amendment to Waiver of Certain Rights under License Agreement \(incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on December 23, 2022\).](#)
- 10.8.2 [Amendment and Restatement Agreement, by and between L&F Research LLC and ZyVersa Therapeutics, Inc. \(incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed with the SEC on March 3, 2023\).](#)
- 10.9+† [First Amendment to License Agreement, dated January 9, 2020, by and between L&F Research LLC and Variant Pharmaceuticals, Inc. \(incorporated by reference to Exhibit 10.16 to the Company's Form S-4 filed with the SEC on October 21, 2022\).](#)
- 10.10# [ZyVersa Therapeutics, Inc. 2022 Omnibus Incentive Plan \(incorporated by reference to Exhibit 10.10 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.11# [Form of Incentive Stock Option Grant Agreement under the Combined Entity 2022 Omnibus Incentive Plan \(incorporated by reference to Exhibit 10.6.1 to the Company's Form S-4 filed with the SEC on September 27, 2022\).](#)
- 10.12# [Form of Restricted Stock Unit Award Agreement under the Combined Entity 2022 Omnibus Incentive Plan \(incorporated by reference to Exhibit 10.6.2 to the Company's Form S-4 filed with the SEC on September 27, 2022\).](#)
- 10.13# [Form of Non-Qualified Stock Option Grant Agreement under the Combined Entity 2022 Omnibus Incentive Plan \(incorporated by reference to Exhibit 10.6.3 to the Company's Form S-4 filed with the SEC on September 27, 2022\).](#)
- 10.14# [Variant Pharmaceuticals, Inc. 2014 Equity Incentive Plan \(incorporated by reference to Exhibit 10.7 to the Company's Form S-4 filed with the SEC on September 27, 2022\).](#)
- 10.15# [Form of Indemnification Agreement by and between the Company and each of its officers and directors \(incorporated by reference to Exhibit 10.15 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.16# [Executive Employment Agreement, by and between the Company and Stephen Glover \(incorporated by reference to Exhibit 10.16 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.17# [Executive Employment Agreement, by and between the Company and Nicholas A. LaBella \(incorporated by reference to Exhibit 10.17 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.18# [Executive Employment Agreement, by and between the Company and Karen A. Cashmere \(incorporated by reference to Exhibit 10.18 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.19# [Executive Employment Agreement, by and between the Company and Peter Wolfe \(incorporated by reference to Exhibit 10.19 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.21# [Executive Employment Agreement by and between the Company and Pablo Guzman, M.D. \(incorporated by reference to Exhibit 10.21 to the Company's Registration Statement on Form S-1 filed with the SEC on January 27, 2023\).](#)
- 10.22# [Amendment to Variant Pharmaceuticals, Inc. 2014 Equity Incentive Plan \(incorporated by reference to Exhibit 10.20 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 10.23 [Form of Placement Agency Agreement \(incorporated by reference to Exhibit 1.1 to Company's Registration Statement on Form S-1 filed with the SEC on April 24, 2023\).](#)

- 10.24 [Form of Securities Purchase Agreement \(incorporated by reference to Exhibit 10.22 to Company's Registration Statement on Form S-1 filed with the SEC on April 24, 2023\).](#)
- 10.25 [Form of Escrow Agreement \(incorporated by reference to Exhibit 10.23 to Company's Registration Statement on Form S-1 filed with the SEC on April 24, 2023\).](#)
- 10.26 [Placement Agency Agreement \(incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the SEC on July 26, 2023\).](#)
- 10.27 [Form of Securities Purchase Agreement \(incorporated by reference to Exhibit 10.24 to the Company's Registration Statement on Form S-1/A filed with the SEC on July 7, 2023\).](#)
- 10.28 [Form of Inducement Letter \(incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K filed with the SEC on September 14, 2023\).](#)
- 10.29 [Form of Securities Purchase Agreement, dated as of December 6, 2023, between the Company and each purchaser named in the signature pages thereto \(incorporated by reference to Exhibit 10.1 to the Company's Form 8-K filed with the SEC on December 11, 2023\).](#)
- 10.30 [Placement Agency Agreement, dated as of December 6, 2023, between the Company and A.G.P. \(incorporated by reference to Exhibit 10.2 to the Company's Form 8-K filed with the SEC on December 11, 2023\).](#)
- 16.1 [Letter dated December 22, 2023 from Ernst & Young LLP to the U.S. Securities and Exchange Commission \(incorporated by reference to Exhibit 16.1 to the Company's Form 8-K filed with the SEC on December 22, 2023\).](#)
- 21.1 [Subsidiaries of the Company \(incorporated by reference to Exhibit 21.1 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 23.1** [Consent of Marcum LLP](#)
- 23.2** [Consent of Ernst & Young LLP](#)
- 24.1** [Power of Attorney \(included on the signature page\).](#)
- 31.1** [Certification of Chief Executive Officer pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\).](#)
- 31.2** [Certification of Chief Financial Officer pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\).](#)
- 31.3* [Certification of Chief Executive Officer pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\).](#)
- 31.4* [Certification of Chief Executive Officer pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\).](#)
- 32.1** [Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350.](#)
- 97.1* [Compensation Recovery Policy.](#)
- 99.1 [Securities Purchase Agreement, dated as of July 20, 2022, by and among Larkspur Health Acquisition Corp. and each purchaser identified on the signature pages thereto \(incorporated by reference to Exhibit 99.2 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 99.2 [Securities Purchase Agreement, dated as of December 12, 2022, by and among Larkspur Health Acquisition Corp. and each purchaser identified on the signature pages thereto \(incorporated by reference to Exhibit 99.3 to the Company's Current Report on Form 8-K filed with the SEC on December 13, 2022\).](#)
- 101.INS** XBRL Inline Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document).
- 101.SCH** Inline XBRL Taxonomy Extension Schema Document.
- 101.CAL** Inline XBRL Taxonomy Extension Calculation Linkbase Document.
- 101.DEF** Inline XBRL Taxonomy Extension Definition Linkbase Document.
- 101.LAB** Inline XBRL Taxonomy Extension Label Linkbase Document.
- 101.PRE** Inline XBRL Taxonomy Extension Presentation Linkbase Document.
- 104** Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibits 101).
- # Management contract or compensatory plan or arrangement.
- + Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Registrant agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon its request.
- † Certain portions of this Exhibit have been omitted in accordance with Regulation S-K Item 601(b)(10). The Registrant agrees to furnish supplementally an unredacted copy of this Exhibit to the SEC upon its request.
- * Filed herewith.
- ** Incorporated by reference to the Company's December 31, 2023 Form 10-K that was filed with the SEC on March 25, 2024.

SIGNATURES

Pursuant to the requirements of Section 13 and 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Amendment No. 1 to the report to be signed on its behalf by the undersigned thereunto duly authorized.

ZYVERSA THERAPEUTICS, INC.

Date: May 15, 2024

/s/ Stephen C. Glover

Stephen C. Glover
Chief Executive Officer
(Principal Executive Officer)

Date: May 15, 2024

/s/ Peter Wolfe

Peter Wolfe
Chief Financial Officer
(Principal Financial and Accounting Officer)

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Stephen C. Glover certify that:

1. I have reviewed this Amendment No. 1 to the annual report on Form 10-K of ZyVersa Therapeutics, Inc. (the “Registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the Registrant’s disclosure controls and procedures and presented in this report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. disclosed in this report any change in the Registrant’s internal control over financial reporting that occurred during the Registrant’s most recent fiscal quarter (the Registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant’s internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the Registrant’s auditors and the audit committee of the Registrant’s board of directors (or persons performing the equivalent functions):
 - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant’s ability to record, process, summarize and report financial information; and
 - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant’s internal control over financial reporting.

Date: May 15, 2024

/s/ Stephen C. Glover

Stephen C. Glover
President and Chief Executive Officer
(Principal Executive Officer)

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Peter Wolfe certify that:

1. I have reviewed this Amendment No. 1 to the annual report on Form 10-K of ZyVersa Therapeutics, Inc. (the “Registrant”);
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
4. I am responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the Registrant and have:
 - a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under my supervision, to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to me by others within those entities, particularly during the period in which this report is being prepared;
 - b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c. evaluated the effectiveness of the Registrant’s disclosure controls and procedures and presented in this report my conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d. disclosed in this report any change in the Registrant’s internal control over financial reporting that occurred during the Registrant’s most recent fiscal quarter (the Registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the Registrant’s internal control over financial reporting; and
5. I have disclosed, based on my most recent evaluation of internal control over financial reporting, to the Registrant’s auditors and the audit committee of the Registrant’s board of directors (or persons performing the equivalent functions):
 - a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Registrant’s ability to record, process, summarize and report financial information; and
 - b. any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant’s internal control over financial reporting.

Date: May 15, 2024

/s/ Peter Wolfe

Peter Wolfe
Chief Financial Officer
(Principal Financial and Accounting Officer)

ZYVERSA THERAPEUTICS, INC.
COMPENSATION RECOVERY POLICY
(Adopted as of November 21, 2023)

1. Introduction. Zyversa Therapeutics, Inc. (the “Company”) has adopted this Compensation Recovery Policy (the “Policy”), which provides for the recovery of certain executive compensation in the event of an accounting restatement resulting from material noncompliance with financial reporting requirements under the federal securities laws. This Policy is intended to comply with Section 10D of the Securities Exchange Act of 1934 (the “Exchange Act”), the rules of the Securities and Exchange Commission (the “Commission”) promulgated thereunder and the listing requirements of The Nasdaq Capital Market, or such other national securities exchange on which the Company’s securities may be listed from time to time (the “Exchange”).

2. Covered Executive Officers. This Policy applies to the Company’s current and former executive officers, as determined by the Company in accordance with Section 10D of the Exchange Act (the “Executive Officers”). This Policy does not apply to Incentive Compensation (defined below) received by an Executive Officer (a) prior to beginning services as an Executive Officer, or (b) if that person did not serve as an Executive Officer at any time during the performance period for such Incentive Compensation.

3. Recovery in General; Applicable Restatements

a. If the Company is required to prepare an accounting restatement of its financial statements due to the Company’s material noncompliance with any financial reporting requirement under the securities laws, including a required accounting restatement to correct an error in previously issued financial statements that (i) is material to the previously issued financial statements, or (ii) would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (a “Restatement”), the Compensation Committee (the “Committee”) of the Board of Directors (the “Board”) of the Company shall cause the Company to recover reasonably promptly, and subject to the exceptions set forth below, any erroneously awarded Incentive Compensation (as defined in Section 4 below) received by each Executive Officer during the three completed fiscal years immediately preceding the date on which the Company is required to prepare such a Restatement (including, where required under Section 10D of the Exchange Act, any transition period resulting from a change in the Company’s fiscal year).

b. For purposes of clarity, a “Restatement” shall not be deemed to include changes to the Company’s financial restatements that do not involve the correction of an error resulting from material non-compliance with financial reporting requirements, as determined in accordance with applicable accounting standards and guidance.

c. For purposes of this Policy, the date that the Company is required to prepare a Restatement shall be the earlier of (i) the date that the Board of committee thereof (or if Board or committee action is not required, the officer(s) of the Company authorized to take such action) concludes, or reasonably should have concluded, that the Company is required to prepare a Restatement; or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare a Restatement.

d. For purposes of this Policy, Incentive Compensation shall be deemed to be “received” by an Executive Officer in the Company’s fiscal period during which the applicable Financial Reporting Measure (as defined in Section 4 below) specified in the Incentive Compensation award is attained, even if the payment or grant of the Incentive Compensation occurs after the end of that period.

4. Incentive Compensation. For purposes of this Policy, “Incentive Compensation” means any compensation that is granted, earned or vested based wholly or in part on the attainment of a Financial Reporting Measure (as defined below). For purposes of this Policy, “Financial Reporting Measures” are measures that are determined and presented in accordance with the accounting principles used in preparing the Company’s financial statements, and any measures that are derived wholly or in part from such measures, regardless of whether such measures are presented within the Company’s financial statements or included in a filing with the Commission. Financial Reporting Measures include stock price and total shareholder return.

5. Erroneously Awarded Compensation: Amount Subject to Recovery

a. The amount to be recovered from an Executive Officer pursuant to this Policy in the event of a Restatement shall equal the amount of Incentive Compensation received by the Executive Officer that exceeds the amount of Incentive Compensation that otherwise would have been received had it been determined based on the restated amounts, computed without regard to any taxes paid.

b. Where the amount of erroneously awarded Incentive Compensation is not subject to mathematical recalculation directly from the information in the Restatement (as in the case of Incentive Compensation based on stock price or total shareholder return), the Committee shall determine such amount based on a reasonable estimate of the effect of the Restatement on the applicable Financial Reporting Measure, and the Committee shall maintain documentation of any such estimate and provide such documentation to the Exchange.

6. Exceptions to Recovery. Notwithstanding anything herein to the contrary, the Company need not recover erroneously awarded Incentive Compensation from an Executive Officer to the extent that the Committee determines that such recovery would be impracticable and either: (a) the direct expense paid to a third party to assist in enforcing this Policy would exceed the amount to be recovered (determined by the Committee after making and documenting a reasonable attempt to recover such erroneously awarded compensation, and providing documentation to the Exchange of such reasonable attempt to recover the compensation); or (b) recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the requirements of Section 401(a)(13) or Section 411(a) of the Internal Revenue Code and regulations thereunder.

7. Methods of Recovery

a. The Committee will determine, in its absolute discretion and taking into account the applicable facts and circumstances, the method or methods for recovering any erroneously awarded Incentive Compensation hereunder, which method(s) need not be applied on a consistent basis; provided in any case that any such method provides for reasonably prompt recovery and otherwise complies with any requirements of the Exchange and applicable law (including, without limitation, Section 409A of the Internal Revenue Code of 1986, as amended (“Section 409A”). By way of example and not in limitation of the foregoing, methods of recovery that the Committee, in its discretion, may determine to use under the Policy may include one or more of the following methods to the extent permitted by applicable law (which rights shall be cumulative and not exclusive): repayment by the Executive Officer in immediately available funds, the forfeiture or repayment of Incentive Compensation, the forfeiture or repayment of time-based equity or cash incentive compensation awards, the forfeiture of benefits under a deferred compensation plan, and/or the offset of all or a portion of the amount of the erroneously awarded Incentive Compensation against other compensation payable to the Executive Officer.

b. To the fullest extent permitted by applicable law (including, without limitation, Section 409A), the Committee may, in its sole discretion, delay the vesting or payment of any compensation otherwise payable to an Executive Officer to provide a reasonable period of time to conduct or complete an investigation into whether this Policy is applicable, and if so, how it should be enforced, under the circumstances.

8. No Indemnification. Notwithstanding the terms of any agreement, policy or governing document of the Company to the contrary, the Company shall not indemnify any Executive Officer against (a) the loss of any erroneously awarded Incentive Compensation, or (b) any claim relating to the Company’s enforcement of its rights under this Policy. By signing the Acknowledgement Agreement (defined below), each Executive Officer irrevocably agrees never to institute any claim against the Company or any subsidiary, knowingly and voluntarily waives his or her ability, if any, to bring any such claim, and releases the Company and any subsidiary from any such claim, for indemnification with respect to any expenses (including attorneys’ fees), judgments or amounts of compensation paid or forfeited by the Executive Officer in connection with the application or enforcement of this Policy.

9. Administration.

a. This Policy shall be administered by the Committee. The Committee shall have full and final authority to make all determinations under this Policy. In this regard, the Committee shall have no obligation to treat any Executive Officer uniformly and the Committee may make determinations selectively among Executive Officers in its business judgment. All determinations and decisions made by the Committee pursuant to the provisions of this Policy shall be final, conclusive and binding on all persons, including the Company, its subsidiaries, its stockholders and its employees.

b. Notwithstanding the foregoing, the independent members of the Board may reserve to itself any or all of the authority or responsibility of the Committee under this Policy or may act as the administrator of the Policy for any and all purposes. To the extent the independent members of the Board have reserved any such authority or responsibility or during any time that the independent members of the Board are acting as administrator of the Policy, it shall have all the powers of the Committee hereunder, and any reference herein to the Committee (other than in this Section 9(b)) shall include the independent members of the Board.

10. Policy Not Exclusive. The remedies specified in this Policy shall not be exclusive and shall be in addition to every other right or remedy at law or in equity that may be available to the Company.

11. Effective Date. This Policy shall apply to any Incentive Compensation that is received by an Executive Officer on or after October 2, 2023.

12. Amendment; Termination. To the extent permitted by, and in a manner consistent with applicable law, including the rules of the Commission and the Exchange, the Committee may terminate, suspend or amend this Policy at any time in its discretion.

13. Governing Law. To the extent not preempted by federal law, this Policy shall be governed, construed, interpreted and enforced in accordance with the substantive laws of the State of Delaware, without regard to conflicts of law principles.

14. Severability; Waiver. If any provision of this Policy is determined to be unenforceable or invalid under any applicable law, such provision will be applied to the maximum extent permitted by applicable law and shall automatically deemed to be amended in a manner consistent with its objectives to the extent necessary to conform to any limitations required under applicable law. The waiver by the Company or the Committee with respect to compliance of any provision of this Policy by an Executive Officer shall not operate or be construed as a waiver of any other provision of this Policy, or of any subsequent acts or omissions by an Executive Officer under this Policy.

15. Filings. The Committee shall cause the Company to make any filings with, or submissions to, the Commission and the Exchange that may be required pursuant to rules or standards adopted by the Commission or the Exchange pursuant to Section 10D of the Exchange Act.

16. Acknowledgement by Executive Officers. The Company shall require each Executive Officer serving as such on or after the effective date of this Policy to sign and return to the Company an acknowledgement agreement in the form attached hereto as Exhibit A (or in such other form as may be prescribed by the Committee from time to time) (the "Acknowledgement Agreement"), pursuant to which the Executive Officer will affirmatively agree to be bound by, and to comply with, the terms and conditions of this Policy; provided that an Executive Officer's failure or refusal to sign or return an Acknowledgement Agreement as provided herein shall not waive the Company's right to enforce the Policy against such Executive Officer.

* * * * *

ACKNOWLEDGEMENT AGREEMENT

**ZYVERSA THERAPEUTICS, INC.
COMPENSATION RECOVERY POLICY**

I, the undersigned, agree and acknowledge that I am fully bound by, and subject to, all of the terms and conditions of the Zyversa Therapeutics, Inc. Compensation Recovery Policy (as it may be amended, restated, supplemented or otherwise modified from time to time, the "Policy"). In the event of any inconsistency between the Policy and the terms of any employment agreement to which I am a party, or the terms of any compensation plan, program or agreement under which any compensation has been granted, awarded, earned or paid, the terms of the Policy shall govern. In the event it is determined by the Committee that any amounts granted, awarded, earned or paid to me must be forfeited or reimbursed to the Company, I will promptly take any action necessary to effectuate such forfeiture and/or reimbursement, including, upon demand, repaying to the Company fully and promptly (in immediately available funds denominated in U.S. dollars or otherwise as specified by the Company pursuant to the Policy) all amounts of erroneously awarded Incentive Compensation. Any capitalized terms used in this Acknowledgment Agreement without definition shall have the meaning set forth in the Policy.

Signature

Date

Print Name
