

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

In re:

Chapter 11

AKORN, INC.,¹

Case No.: 20-11177(KBO)
(Jointly Administered)

Debtors.

RE: D.I. 18, 181

**OBJECTION OF LEADIANT BIOSCIENCES INC. TO NOTICES TO
CONTRACT PARTIES TO POTENTIALLY ASSUMED EXECUTORY
CONTRACTS AND UNEXPIRED LEASES**

Leadiant Biosciences, Inc., f/k/a Sigma-Tau Pharmaceuticals, Inc. (“Leadiant”), hereby submits its Objection to the cure amounts and the potential assumption of the contracts stated in the four *Notices to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* (the “Cure Notices”) it received from the Debtors. In support of its Objection, Leadiant states as follows:

RELEVANT BACKGROUND

1. On May 20, 2020 (the “Petition Date”), the above-captioned debtors (the “Debtors”) filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). (D.E. 1). Upon information and belief, the Debtors continue to operate their business under sections 1107 and 1108 of the Bankruptcy Code.

2. On May 21, 2020, the Debtors filed their *Motion Seeking Entry of an Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and a Sale Hearing,*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if any, are: Akorn, Inc. (7400); 10 Edison Street LLC (7890); 13 Edison Street LLC; Advanced Vision Research, Inc. (9046); Akorn (New Jersey), Inc. (1474); Akorn Animal Health, Inc. (6645); Akorn Ophthalmics, Inc. (6266); Akorn Sales, Inc. (7866); Clover Pharmaceuticals Corp. (3735); Covenant Pharma, Inc. (0115); Hi- Tech Pharmacal Co., Inc. (8720); Inspire Pharmaceuticals, Inc. (9022); Oak Pharmaceuticals, Inc. (6647); Olta Pharmaceuticals Corp. (3621); VersaPharm Incorporated (6739); VPI Holdings Corp. (6716); and VPI Holdings Sub, LLC. The location of the Debtors’ service address is: 1925 W. Field Court, Suite 300, Lake Forest, Illinois 60045.



201117720082500000000017

(C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for the Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief (the “Sale Motion”). (D.E. 18).

3. The Sale Motion contemplated the sale of the Debtors’ business by a stalking horse auction, with a group of lenders (the “Ad Hoc Group”) to participate as the Stalking Horse bidder. (*Id.*). Accordingly, the Sale Motion provided for the sale of the Debtors’ business to the Ad Hoc Group or a successful topping bidder. (*Id.*).

4. On June 15, 2020, the Court entered the *Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and a Sale Hearing, (C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for the Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief* (the “Bidding Procedures Order”). (D.E. 181).

5. Among other things, the Bidding Procedures Order established procedures for the sale of the Debtors’ business, for the assumption of executory contracts by the Debtors pursuant to section 365(b) of the Bankruptcy Code and assignment of such executory contracts to the Stalking Horse Bidder pursuant to section 365(f) of the Bankruptcy Code. (D.E. 181).

6. The Bidding Procedures Order set forth August 10, 2020 as the date for the auction of the Debtors’ assets. It also directed the Debtors to file a “notice of Successful Bid and Successful Bidder” within 24 hours after closing the Auction. (D.E. 181, at ¶ 3).

7. Ultimately, however, the Debtors did not receive any qualified Bids by the Bid Deadline and the Auction did not occur. (D.E. 249). Accordingly, pursuant to the Bidding Procedures Order, the Debtors will sell their business to the Ad Hoc Group. (D.E. 181).

8. The Bidding Procedures Order provides that within five (5) business days of its entry, “the Debtors shall serve a notice of contract assumption (the ‘Contract Assumption Notice’) . . . on all counterparties, whose assumed contracts are included in such bid and that are subject to the Contract Assumption Notice.” (D.E. 181, at ¶19(a)). The Contract Assumption Notice shall include, among other things, the “Debtors’ good faith estimates of the Cure Payments (if any) required in connection with the executory contract.” (D.E. 181, at ¶19(b)).

9. Leadiant has received four separate Notices to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases (the “Ladian Contract Notices”), all dated June 22, 2020. The Ladian Contract Notices are attached hereto as **Exhibit “A”**.

10. The Ladian Contract Notices list various contracts with debtors Akorn, Inc. (“Akorn”) and Hi-Tech Pharmacal Co., Inc. (“Hi-Tech”). Ex. A. The cure amounts for all but one of the contracts listed is \$0.00. Ex. A. For one contract, described as “Amendment #3 to the Statement of Work – Cystaran 2015 Modified Stability Dated December 1, 2015,” the proposed cure amount is \$259,555.94. Ex. A.

11. Currently, Leadiant and the Debtors are parties to the following contracts:

- i. That certain API Supply Agreement and that certain License Agreement, entered into by and between Leadiant and Akorn as of April 1, 2016, to supply the Debtors with active pharmaceutical ingredient for the manufacturing of Levocarnitine oral solution (the “Levocarnitine Agreements”).
- ii. That certain “Statement of Work – Cystaran 2015 Modified Stability,” entered into by and between Leadiant and Hi-Tech, effective as of December 1, 2015, as amended on August 26, 2016, January 1, 2017, July 1, 2018, and August 1, 2019, to provide Cystaran Ophthalmic Solution support for Cystaran Commercial Batches (the “SOWs”).
- iii. Those certain “Acquisition and Assumption of Cost: Additional Freezers for Storage of Cystaran (cysteamine ophthalmic solution) 0.44%,” entered on March 9, 2015, March 17, 2016, and April 18, 2018, for the acquisition

of freezers to store Cystaran product: (collectively, the “Freezer Agreements”).

12. For the avoidance of doubt, despite being included in the Leadiant Contract Notices, the following contracts are either expired or not otherwise subject to assumption:

- i. The “Manufacture and Supply Agreement,” dated April 26, 2013, has expired.
- ii. The “Memorandum of Understanding” in connection with the License Agreement, dated February 21, 2019.

OBJECTION

13. To the extent the Debtors seek to assume Leadiant’s contracts, Leadiant objects to the assumption of its contracts to the extent the proposed cure amounts are not adequate and to the extent not enough information has been provided regarding the assignee’s ability to provide adequate assurance of future performance.

A. Objection to the Proposed Cure Amounts

14. Pursuant to sections 365(b)(1) and 365(f)(2)(A) of the Bankruptcy Code, prior to assumption of a contract in default, (i) the trustee must cure or provide adequate assurance that the trustee will promptly cure a default; (ii) compensate, or provide adequate assurance of prompt compensation, of a party other than the debtor to such contract, for any actual pecuniary loss to such party resulting from such default; and (iii) provide adequate assurance of future performance under such contract.

15. Leadiant objects to the proposed cure amounts set forth in the Leadiant Contract Notices as they fail to provide the correct cure amounts for all amounts currently due and for additional amounts which may be incurred by the time of assumption of the contracts, as also set forth in Leadiant’s filed proofs of claims in these jointly administered proceedings.

i. Objection to Proposed Cure Amount for the Levocarnitine Agreements

16. To the extent that the Debtors seek to assume the API Supply Agreement, Leadiant objects to the proposed cure amount of \$0.00.

17. As of July 28, 2020, Akorn owes Leadiant the sum of \$871,841.26, resulting from underpayment of various invoices under the API Supply Agreement, as more specifically set forth in the invoice numbers listed in **Schedule 1** hereto and Leadiant's proofs of claim against Akorn.²

18. To the extent that the Debtors seek to assume the License Agreement, Leadiant objects to the proposed cure amount of \$0.00.

19. As of July 28, 2020, Akorn owes Leadiant the sum of \$1,198,000.00 under the License Agreement, consisting of the amount of \$193,000.00 owed in connection with the rights relating to Generic Oral Solution and \$1,005,000.00 owed in connection with the rights relating to Generic Tablets.

20. The correct cure amounts owed to Leadiant under the Levocarnitine Agreements will likely increase by the date of assumption.

ii. Objection to Proposed Cure Amount for the SOWs

21. To the extent that the Debtors seek to assume the SOWs, Leadiant does not object to the cure amount of \$259,555.94.

22. Leadiant objects to the proposed cure amount to the extent the amount owed under the SOWs increases by the date of assumption.

23. In addition to the default amounts set forth above, Leadiant is entitled to payment of its attorneys' fees as a condition to assumption under the Bankruptcy Code. *See In re Crown Books, Corp.*, 269 B.R. 12, 15 (Bankr. D. Del. 2001). Accordingly, in addition to the cure amounts

² Invoices are in the Debtors' possession, but are available upon request.

set forth above, the Debtors shall pay Leadant no less than \$25,000.00 for the reasonable attorneys' fees incurred in connection with this Bankruptcy Case.

B. Adequate Assurance and Clarification Regarding Counterparties to the Assumed Contracts and their Respective Obligations

24. Leadant also objects to the assumption and assignment of any contract as Leadant has not been provided with adequate assurance of future performance.

25. Adequate assurance of future performance “is considered to be something less than an absolute guarantee.” *In re DBSI, Inc.*, 405 B.R. 698, 708 (Bankr. D. Del. 2009) (quoting *In re PRK Enters., Inc.*, 235 B.R. 597, 603 (Bankr. E.D. Tex. 1999)). To determine what constitutes adequate assurance of future performance, the Court must evaluate the facts and circumstances of each case. *Id.*; see *In re Fleming Companies*, 499 F.3d 300, 307 (3d Cir. 2007) (“Adequate assurance of future performance are not words of art; the legislative history of the Bankruptcy Code shows that they were intended to be given a practical, pragmatic construction,” and “must be determined by consideration of the facts of the proposed assumption.” (quoting *Cinicola v. Scharffenberger*, 248 F.3d 110, 120 n.10 (3d Cir. 2001))).

26. In the Sale Motion, the Debtors state that they “will demonstrate” the Ad Hoc Group’s “financial wherewithal, willingness, and ability to perform under the Assigned Contracts.” (D.E. 18, at ¶¶ 67-68). The Sale Motion further provides that the assumption procedures provide interested parties with “ample opportunity” to evaluate and challenge the assumption and assignment of executory contracts. (D.E. 18, at ¶ 68). However, as of this Motion, the Debtors have not filed a notice or otherwise informed Leadant of the financial health, industry experience or ability of the Ad Hoc Group (or any other entity it wishes to assign the contracts to) to perform under the contracts.

27. In order for Leadiant to determine that sufficient adequate assurance is provided, at a minimum, it must be able to evaluate the financial ability of the purported assignee of the contracts as well as its technical ability and reputation in manufacturing and marketing pharmaceutical products like the products that are subject of the contracts in the Leadiant Contracts Notices. This is particularly important with respect to the Licensing Agreement, which was based on Akorn's ability, as well as its industry reputation and experience, to effectively develop and market a pharmaceutical product.

28. Thus, until the Debtors provide Leadiant with sufficient information to evaluate the entity to whom its contract will be assigned, including its ability to perform under the contracts, Leadiant objects to the assumption and assignment of its contracts.

C. Joinder

29. Leadiant hereby joins in and incorporates by reference any objections filed by other contract counter-parties to the assumption and assignment of their contracts.

RESERVATION OF RIGHTS

30. Leadiant reserves its right to amend, modify or supplement this Objection and to raise any additional arguments and objections as permitted under applicable law, including without limitation, the right to objections regarding adequate assurance of future performance under section 365.

CONCLUSION

WHEREFORE, Leadiant respectfully requests that the Court enter an Order (i) sustaining this Objection to the extent that the Debtors do not rectify the cure amounts as set forth herein and requiring any order authorizing the assumption of any agreements of Leadiant to include the cure

amounts set forth herein; and (ii) granting Lediand such other and further relief as the Court deems proper.

Dated: August 25, 2020

GELLERT SCALI BUSENKELL & BROWN, LLC

By: /s/ Michael Busenkell

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Counsel for Lediand Biosciences, Inc.

Schedule 1

<u>Invoice Number</u>	<u>Outstanding Balance</u>
2019061501	\$4,290.00
206166	\$16,837.15
206167	\$3,588.86
206168	\$14,107.39
206169	\$13,900.48
206170	\$13,689.94
206171	\$14,009.38
206172	\$3,533.20
206173	\$3,513.84
206174	\$14,044.47
206175	\$3,542.88
206176	\$17,387.70
206177	\$25,707.00
206178	\$10,433.83
206179	\$3,542.88
206180	\$6,984.12
206181	\$3,600.96
206186	\$9,022.97
206187	\$10,505.22
206188	\$3,542.88
206189	\$14,241.70
206190	\$21,417.00
206192	\$10,549.99
206193	\$5,178.80
206194	\$6,990.17
206196	\$3,484.80
206197	\$10,427.78
206198	\$10,609.28
206199	\$9,060.48
206200	\$3,542.88
206201	\$4,892.03
206202	\$13,998.49
206203	\$3,484.80
206204	\$13,771.01
206205	\$17,517.17
206206	\$7,095.44
206207	\$13,812.15
206208	\$3,529.57
206209	\$51,414.00
206210	\$17,492.93
206211	\$3,600.96
206212	\$6,715.50

206213	\$3,289.99
206214	\$3,392.84
206215	\$10,075.67
206216	\$3,420.67
206217	\$10,132.54
206218	\$6,939.35
206219	\$13,474.56
206220	\$30,381.00
206221	\$236,491.14
206222	\$79,006.32

TOTAL	\$871,841.26
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EXHIBIT A

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

In re:

AKORN, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 20-11177 (KBO)
)
) (Jointly Administered)
)

**NOTICE TO CONTRACT PARTIES TO POTENTIALLY
ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**YOU ARE RECEIVING THIS NOTICE BECAUSE YOU
OR ONE OF YOUR AFFILIATES IS A COUNTERPARTY TO AN
EXECUTORY CONTRACT OR UNEXPIRED LEASE WITH ONE OR MORE
OF THE DEBTORS AS SET FORTH ON EXHIBIT A ATTACHED HERETO.**

PLEASE TAKE NOTICE that on June 15, 2020, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered the *Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and a Sale Hearing, (C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for the Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief* [Docket No. 181] (the “Bidding Procedures Order”),² authorizing the Debtors³ to conduct an auction (the “Auction”) to select the party to purchase the Debtors’ assets. The Auction will be governed by the bidding procedures approved pursuant to the Bidding Procedures Order (attached to the Bidding Procedures Order as Exhibit 2, the “Bidding Procedures”).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures and the terms of any Successful Bid, the Debtors may assume and assign to the Successful Bidder the contract or agreement listed on Exhibit A to which you are a counterparty, upon approval of the Sale. The Debtors have conducted a review of their books and records and have determined that

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² All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Bidding Procedures Order or the Sale Motion.

³ This relief granted in the Bidding Procedures Order is solely limited to the Debtors.

the cure amount for unpaid monetary obligations under such Assigned Contracts is as set forth on **Exhibit A** attached hereto (the “Cure Amounts”).

PLEASE TAKE FURTHER NOTICE that if you disagree with the proposed Cure Amounts, object to a proposed assignment to the Successful Bidder of any Assigned Contract, or object to the ability of the Successful Bidder to provide adequate assurance of future performance with respect to any Assigned Contract, your objection must: (i) be in writing; (ii) comply with the applicable provisions of the Bankruptcy Rules, Local Bankruptcy Rules, and any order governing the administration of these chapter 11 cases; (iii) state with specificity the nature of the objection and, if the objection pertains to the proposed Cure Amounts, state the correct cure amount alleged to be owed to the objecting Contract Counterparty, together with any applicable and appropriate documentation in support thereof; and (iv) be filed with the Court and served and **actually received no later than August 14, 2020, at 5:00 p.m. (prevailing Central Time)** (the “**Contract Objection Deadline**”) by the Court and the following parties: (i) proposed counsel to the Debtors, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, Attn: Nicole L. Greenblatt, email: nicole.greenblatt@kirkland.com, and Kirkland & Ellis LLP, 300 North LaSalle, Chicago, Illinois 60654, Attn: Patrick J. Nash, Jr. P.C., Gregory F. Pesce, and Christopher M. Hayes, email: patrick.nash@kirkland.com, gregory.pesce@kirkland.com, and christopher.hayes@kirkland.com; (ii) proposed Delaware counsel to the Debtors, Richards, Layton & Finger, 920 N. King Street, Wilmington, Delaware 19801, Attn: Paul M. Heath, Amanda R. Steele, Zachary I. Shapiro, and Brett M. Haywood, email: heath@rlf.com, steele@rlf.com, shapiro@rlf.com, and haywood@rlf.com; (iii) counsel to the Stalking Horse Bidder and counsel to the Ad Hoc Group, Gibson Dunn & Crutcher, 200 Park Avenue, New York, New York, 10166, Attn: Scott J Greenberg and Michael J. Cohen, e-mail: sgreenberg@gibsondunn.com and mcohen@gibsondunn.com; (iv) co-counsel to the Stalking Horse Bidder and co-counsel to the Ad Hoc Group, Young Conaway Stargatt & Taylor, 1000 North King Street, Wilmington, Delaware 19801, Attn: Robert S. Brady, e-mail: rbrady@ycst.com; (v) counsel to the Term Loan Agent under the Debtors’ Term Loan Agreement, Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York 10007, Attn: Andrew Goldman, email: andrew.goldman@Wilmerhale.com; (vi) the counsel to the agent under any post-petition financing; (vii) the Office of the U.S. Trustee for the District of Delaware, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Jane M. Leamy, email: Jane.M.Leamy@usdoj.gov; (viii) counsel to the official committee of unsecured creditors, Jenner & Block LLP, 353 N. Clark Street, Chicago, Illinois 60654, Attn: Landon Raiford and William Williams, email: lraiford@jenner.com and wwilliams@jenner.com; (ix) co-counsel to the official committee of unsecured creditors, Saul Ewing Arnstein & Lehr, 1201 North Market Street, Suite 2300, Wilmington, Delaware 19801, Attn: Mark Minuti and Luke Murley, email: mark.minuti@saul.com and luke.murley@saul.com; (x) counsel to any official committee appointed in these Chapter 11 Cases; and (xi) any other party that has filed a notice of appearance in these chapter 11 cases.

PLEASE TAKE FURTHER NOTICE that if no objection to (a) the Cure Amounts(s), (b) the proposed assignment and assumption of any Assigned Contract, or (c) adequate assurance of the Successful Bidder’s ability to perform is filed by the Contract Objection Deadline, then (i) you will be deemed to have stipulated that the Cure Amounts as determined by the Debtors are correct, (ii) you will be forever barred, estopped, and enjoined from asserting any

additional cure amount under the proposed assigned Assigned Contract, and (iii) you will be forever barred, estopped, and enjoined from objecting to such proposed assignment to the Successful Bidder on the grounds that the Successful Bidder has not provided adequate assurance of future performance as of the closing date of the Sale.

PLEASE TAKE FURTHER NOTICE that any objection to the proposed assumption and assignment of an Assigned Contract or related Cure Amounts in connection with the Successful Bid that otherwise complies with these procedures yet remains unresolved as of the commencement of the Sale Hearing, shall be heard at a later date as may be fixed by the Court.

PLEASE THAT FURTHER NOTICE that, notwithstanding anything herein, the mere listing of any Assigned Contract on the Cure Notice does not require or guarantee that such Assigned Contract will be assumed by the Debtors at any time or assumed and assigned, and all rights of the Debtors and the Successful Bidder with respect to such Executory Contracts and/or Unexpired Leases are reserved. Moreover, the Debtors explicitly reserve their rights, in their reasonable discretion, to seek to reject or assume each Assigned Contract pursuant to section 365(a) of the Bankruptcy Code and in accordance with the procedures allowing the Debtors and/or the Successful Bidder, as applicable, to designate any Assigned Contract as either rejected or assumed on a post-closing basis.

PLEASE TAKE FURTHER NOTICE that, nothing herein (i) alters in any way the prepetition nature of the Assigned Contracts or the validity, priority, or amount of any claims of a counterparty to any Assigned Contract against the Debtors that may arise under such Assigned Contract, (ii) creates a postpetition contract or agreement, or (iii) elevates to administrative expense priority any claims of a counterparty to any Assigned Contract against the Debtors that may arise under such Assigned Contract.

PLEASE TAKE FURTHER NOTICE that you may obtain additional information concerning the above-captioned chapter 11 cases at the website maintained in these chapter 11 cases at www.kccllc.net/akorn.

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Wilmington, Delaware
June 22, 2020

/s/ Paul N. Heath

RICHARDS, LAYTON & FINGER, P.A.

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*Proposed Co-Counsel for the
Debtors and Debtors in Possession*

Exhibit A

Debtor Party	Contract Counterparty	Contract Name / Description	Cure Amount (if any)
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Amendment #3 to the Statement of Work - Cystaran 2015 Modified Stability Dated December 1, 2015	\$259,555.94
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Statement of Work - Engineering Batch with Limited Stability Testing to Manufacture and Supply Agreement Dated April 26, 2013	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Memorandum of Understanding re: Price Increase for Levocarnitine Tablets Under License Agreement Dated April 1, 2016	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Amendment #3 to the Statement of Work to Manufacturing and Supply Agreement Dated April 26, 2013	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Amendment #2 to the Statement of Work - Cystaran 2015 Modified Stability Dated December 1, 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Amendment #1 to the Statement of Work - Cystaran 2015 Modified Stability Dated December 1, 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Amendment #2 to the Statement of Work - Cystaran 2015 Dated December 1, 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Statement of Work re: Work Performed in 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Memorandum re: Acquisition and Assumption of Cost: Additional Freezers for Storage of Cystaran	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc.	Statement of Work - Elemental Impurities Risk Assessment for Leadiant Products	\$0.00

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Wilmington, Delaware
June 22, 2020

/s/ Paul N. Heath

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Email: nicole.greenblatt@kirkland.com

*Proposed Co-Counsel for the
Debtors and Debtors in Possession*

Exhibit A

Debtor Party	Contract Counterparty	Contract Name / Description	Cure Amount (if any)
Akorn, Inc.	Sigma-Tau Pharmaceuticals, Inc.	API Supply Agreement dated April 1, 2016	\$0.00
Akorn, Inc.	Sigma-Tau Pharmaceuticals, Inc.	License Agreement dated April 1, 2016	\$259,555.94
Hi-Tech Pharmacal Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Statement of Work - 2015 Modified Stability dated December 1, 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Amendment #1 to Statement of Work - 2015 Modified Stability dated August 26, 2016	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc. (fka Sigma-Tau Pharmaceuticals, Inc.)	Amendment #2 to Statement of Work - 2015 Modified Stability dated January 1, 2017	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc. (fka Sigma-Tau Pharmaceuticals, Inc.)	Amendment #3 to Statement of Work - 2015 Modified Stability dated August 1, 2017	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc. (fka Sigma-Tau Pharmaceuticals, Inc.)	Amendment #4 to Statement of Work - 2015 Modified Stability dated August 1, 2019	\$0.00
Hi-Tech Pharmacal Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Memo Re Acquisition and Assumption of Cost of Additional Freezer for Storage dated March 9, 2015	\$0.00
Hi-Tech Pharmacal Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Memo Re Acquisition and Assumption of Cost of Additional Freezer for Storage dated March 17, 2016	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc. (fka Sigma-Tau Pharmaceuticals, Inc.)	Memo Re Acquisition and Assumption of Cost of Additional Freezer for Storage dated April 18, 2018	\$0.00
Hi-Tech Pharmacal Co., Inc.	Leadiant Biosciences, Inc. (fka Sigma-Tau Pharmaceuticals, Inc.)	Memorandum of Understanding Under License Agreement Dated April 1, 2016 (Memorandum dated 2/21/2019)	\$0.00

Akorn, Inc., et al.
222 N Pacific Coast Highway, Ste. 300
El Segundo, CA 90245

PRF # 109569
Case#: 20-11177
Svc: 4

ID Sort: 2401|1
Contract ID: 623|1|1
PackID: 2401

Sigma-Tau Pharmaceuticals, Inc.
Attn: Nancy Parsons
800 South Frederick Avenue, Suite 300
Gaithersburg, MD 20877

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

In re:

AKORN, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 20-11177 (KBO)
)
) (Jointly Administered)
)

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PLEASE TAKE NOTICE that on June 15, 2020, the United States Bankruptcy Court for the District of Delaware (the “Court”) entered the *Order (A) Authorizing and Approving Bidding Procedures, (B) Scheduling an Auction and a Sale Hearing, (C) Approving the Form and Manner of Notice Thereof, (D) Establishing Notice and Procedures for the Assumption and Assignment of Certain Executory Contracts and Leases, and (E) Granting Related Relief* [Docket No. 181] (the “Bidding Procedures Order”),² authorizing the Debtors³ to conduct an auction (the “Auction”) to select the party to purchase the Debtors’ assets. The Auction will be governed by the bidding procedures approved pursuant to the Bidding Procedures Order (attached to the Bidding Procedures Order as Exhibit 2, the “Bidding Procedures”).

PLEASE TAKE FURTHER NOTICE that, pursuant to the Bidding Procedures and the terms of any Successful Bid, the Debtors may assume and assign to the Successful Bidder the contract or agreement listed on Exhibit A to which you are a counterparty, upon approval of the Sale. The Debtors have conducted a review of their books and records and have determined that

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Wilmington, Delaware
June 22, 2020

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-and-

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Hi-Tech Pharmacal Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Letter Agreement re: Notice of Non-Renewal of License and Supply Agreements Dated March 8, 2005	\$0.00

Akorn, Inc., et al.
222 N Pacific Coast Highway, Ste. 300
El Segundo, CA 90245

PRF # 109569
Case#: 20-11177
Svc: 6

ID Sort: 4171|1
Contract ID: 612|1|1
PackID: 4171

Sigma-Tau Pharmaceuticals, Inc.
Attn: GianFranco Fornasini; Gregg A. Lapointe; Mike
Minarich
9841 Washingtonian Boulevard, Suite 500
Gaithersburg, MD 20878

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

In re:

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)
) Chapter 11
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) (Jointly Administered)
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June 22, 2020

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*Proposed Co-Counsel for the
Debtors and Debtors in Possession*

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Exhibit A

Debtor Party	Contract Counterparty	Contract Name / Description	Cure Amount (if any)
Hi-Tech Pharmaceutical Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Memorandum re: Acquisition and Assumption of Cost: Additional Freezers for Storage of Cystaran Dated March 9, 2015	\$0.00
Hi-Tech Pharmaceutical Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Statement of Work - Cystaran 2015 Modified Stability to Manufacture and Supply Agreement Dated April 26, 2013	\$0.00
Hi-Tech Pharmaceutical Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Amendment No. 2 to License Agreement Dated March 28, 2005	\$0.00
Hi-Tech Pharmaceutical Co., Inc.	Sigma-Tau Pharmaceuticals, Inc.	Amendment No. 1 to Commercial Supply Agreement	\$0.00
Akorn, Inc.	Sigma-Tau Pharmaceuticals, Inc.	License Agreement	\$0.00
Hi-Tech Pharmaceutical Co., Inc.	Sigma - Tau Pharmaceuticals, Inc.,	Hi-Tech Memorandum 4.7.15	\$0.00
Akorn, Inc.	Sigma-Tau Pharmaceuticals, Inc.	API Supply Agreement	\$0.00

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 25, 2020, I caused a true and correct copy of the Objection to be electronically filed and served via CM/ECF upon all parties requesting electronic notices in this case and additionally upon the following counsel and parties in the manner indicated:

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