

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

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In re: : Chapter 11

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VALERITAS HOLDINGS, INC., *et al.*,¹ : Case No. 20-10290 (LSS)

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Debtors. : (Joint Administration Requested)

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**DECLARATION OF BRIAN BOCK IN SUPPORT OF
SALE AND BIDDING PROCEDURES MOTION**

I, Brian Bock, hereby declare under penalty of perjury:

1. I am a Managing Director in the Mergers & Acquisitions Healthcare Group at Lincoln International (together with its affiliates, "Lincoln"), which has its principal office at 500 West Madison Street, Suite 3900, Chicago, Illinois 60661. I submit this declaration (the "Declaration") in support of the sale and bidding procedures motion (the "Bidding Procedures Motion")² filed by Valeritas Holdings, Inc. and its affiliated debtors and debtors in possession (collectively, the "Debtors" or the "Company," as applicable).

2. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my discussions with members of the Debtors' management team and the Debtors' advisors, my review of relevant documents and information concerning the Debtors'

¹ The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Valeritas Holdings, Inc. (8907); Valeritas, Inc. (1056); Valeritas Security Corporation (9654); Valeritas US, LLC (0007). The corporate headquarters and the mailing address for the debtors is 750 Route 202 South, Suite 600, Bridgewater, New Jersey 08807.

² Contemporaneously herewith, the Debtors are filing the *Motion of Debtors for Entry of Orders (I)(A) Establishing Bidding Procedures; (B) Approving Bid Protections; (C) Establishing Procedures Relating to Assumption and Assignment Of Certain Executory Contracts and Unexpired Leases, Including Notice of Proposed Cure Amounts; (D) Approving Form and Manner of Notice; (E) Scheduling a Hearing to Consider any Proposed Sale; and (F) Granting Certain Related Relief; and (II)(A) Approving a Sale; (B) Authorizing Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection with the Sale; and (C) Granting Related Relief.* Capitalized terms used but not otherwise defined in this Declaration shall have the meaning ascribed to them in the Bidding Procedures Motion.



operations, financial affairs, and restructuring initiatives, or my opinions based upon my experience and knowledge. If called as a witness, I could and would testify competently to the facts set forth in this Declaration. I am authorized to submit this Declaration on behalf of the Debtors.

Professional Background and Experience

3. Lincoln is a multinational investment banking firm with approximately 500 professionals in more than 22 offices around the world. In 2019 alone, Lincoln closed over 230 transactions and completed over 5,000 company valuations. Lincoln and its senior professionals have extensive experience in providing investment banking services to various parties in complex situations, including both in- and out-of-court.

4. I have more than 20 years of M&A and investment banking experience, working in partnership with management teams, boards of directors, venture capital and growth equity firms. I have extensive experience: (i) marketing companies or their assets for sale, including experience marketing companies in distress; (ii) raising capital for special situation transactions; and (iii) restructuring companies' balance sheets. My M&A advisory experience includes successful engagements for both private and public companies, U.S. domestic and cross-border transactions, reverse mergers, divestitures and special situation assignments across all segments of healthcare with a primary focus on life sciences companies.

5. Prior to joining Lincoln, I was a managing director in JMP Securities' healthcare investment banking group and a key contributor in establishing the firm's healthcare practice. Previously, I worked in the healthcare investment banking group at RBC Capital Markets, where my practice focused on serving life sciences clients. I have a Bachelor of Science from Northern Arizona University.

Marketing Process

6. Commencing in February 2019, the Company and its advisors engaged in a fulsome marketing process with the goal of selling the Company to a buyer outside of chapter 11. The Company was close to consummating a sale in December 2019 when, during the final stages of the diligence process, a manufacturing yield issue was discovered.³ As a result, the likely purchasers withdrew their bids and declined to move forward with a sale transaction.

7. For the reasons set forth in the First Day Declaration, including inventory issues and liquidity constraints attributable to the temporary supply disruption that resulted from the manufacturing yield issue, the Company eventually determined in its business judgment that pursuing a chapter 11 sale of substantially all of its assets under section 363 of the Bankruptcy Code was the best path forward for the Company under the circumstances.⁴

8. On December 19, 2019,⁵ the Company replaced its previous advisor with Lincoln to assist with soliciting indications of interest for a “363 sale” of the Company’s business, as well as obtaining debtor-in-possession financing. Lincoln immediately began contacting potential bidders regarding the acquisition opportunity, including parties who had previously expressed an interest in acquiring the Company during the prior sales process.

9. In the seven weeks leading up to the Petition Date, Lincoln reached out to a total of approximately 60 strategic and financial parties. Of the potential bidders contacted by Lincoln,

³ The Debtors contemporaneously have filed the *Declaration of John E. Timberlake in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), which describes this issue in detail.

⁴ The Company disclosed these issues on December 20, 2019 through a Form 8-K filing with the Securities and Exchange Commission as well as in a formal press release. Valeritas Holdings, Inc., Current Report (Form 8-K) (Dec. 20, 2019); *Valeritas Experiences a Temporary Supply Disruption Resulting in Revised Preliminary Financial Results for 2019 Fourth Quarter and Full Year*, Valeritas (Dec. 20, 2019), <https://www.valeritas.com/investors/press-releases/press-release-details/2019/Valeritas-Experiences-a-Temporary-Supply-Disruption-Resulting-in-Revised-Preliminary-Financial-Results-for-2019-Fourth-Quarter-and-Full-Year/default.aspx>.

⁵ Lincoln and the Company executed a restated engagement letter on January 27, 2020.

more than half conducted both public and confidential due diligence on the Company, its business and its assets. These efforts included, but were not limited to, in-depth calls and meetings with management, telephonic and in-person conversations with Lincoln, and physical site visits. Interested buyers who executed a confidentiality agreement were provided access to an extensive data room and other marketing materials. On January 24, 2020, the Company received a non-binding proposal and marked-up asset purchase agreement from Zealand Pharma A/S (“Zealand”), or a designee of Zealand as permitted pursuant to the Stalking Horse APA (collectively, the “Stalking Horse Bidder”) to purchase substantially all of the assets of the Company and serve as a “stalking horse” in a 363 sale process.

10. On February 9, 2020, the Company and the Stalking Horse Bidder entered into that certain Asset Purchase Agreement (the “Stalking Horse APA”) for a sale of the Assets, subject to higher or otherwise better offers in accordance with the Bidding Procedures.

11. Against this backdrop, the Company and its advisors developed the Bidding Procedures to enable the Debtors to simultaneously pursue the Stalking Horse Transaction and continue their marketing process, all with the goal of maximizing the value of the Company’s business and Assets and selling the Company as a going concern.

The Bidding Procedures

12. The Bidding Procedures are designed to promote participation and active bidding and ensure an orderly post-petition marketing process. The Bidding Procedures describe, among other things, the procedures for interested parties to gain access to due diligence, the process for written, irrevocable offers (“Bids”), the manner in which bidders and Bids become “qualified,” the receipt and negotiation of Bids received, the conduct of any auction, the selection and approval of any ultimately successful bidders, and the deadlines with respect to the foregoing. The Bidding

Procedures will allow the Debtors to conduct the sale process in an organized, impartial and transparent manner that will maximize value for all stakeholders.

13. I believe that the proposed Bidding Procedures are designed to permit a fair, efficient, competitive, and value-maximizing sale process for the Debtors' Assets, consistent with the timeline of these Chapter 11 Cases. Based upon my professional experience, I believe that the Bidding Procedures and sale schedule will provide potential bidders with sufficient notice and time to conduct (or finish conducting) thorough due diligence to be in a position to propose their highest and best Bids in advance of the Bid Deadline (or at the Auction, if any). The Bidding Procedures appropriately balance the Debtors' interest in consummating the Sale on an expedited timeline while preserving the opportunity to attract the highest or otherwise best offer for the Debtors' Assets. I believe that the Bidding Procedures encourage prospective bidders to put their highest and best bid forward, bring finality to the Debtors' sale process, and create a path toward entry of an order approving the Sale that represents the highest or otherwise best available recoveries to the Debtors' stakeholders.

The Stalking Horse Bidder

14. After significant, good faith, and arm's-length negotiations (in which Lincoln was an active participant on behalf of the Debtors), the Debtors entered into the Stalking Horse APA with the Stalking Horse Bidder on February 9, 2020. Under the Stalking Horse APA, the Stalking Horse Bidder would acquire substantially all of the Debtors' Assets, other than certain excluded assets. The consideration offered by the Stalking Horse Bidder is \$23 million in cash plus the assumption of certain liabilities, including the payment of cure costs up to \$1.5 million. The offer is not subject to any financing contingencies and shall be satisfied with cash on hand. Additionally, the Stalking Horse Bidder intends to extend offers of employment (conditioned upon closing) to a

majority of the Debtors' employees under the Stalking Horse APA.

The Bid Protections

15. In recognition of the considerable time, energy, and resources that the Stalking Horse Bidder has expended in connection with the Stalking Horse Transaction, if the Stalking Horse Bidder is not the Successful Bidder (or if the Debtors consummate any transaction other than the Stalking Horse Transaction), the Debtors seek authority to grant the Stalking Horse Bidder a cash break-up fee equal to 3.0% of the Purchase Price (the "Break-Up Fee") and to reimburse the reasonable expenses of the Stalking Horse Bidder in an amount up to \$1,000,000 (the "Expense Reimbursement") and, together with the Break-Up Fee, the "Bid Protections"). The Bid Protections were heavily negotiated by the parties, and it is my understanding that the Stalking Horse Bidder would not have agreed to serve as the stalking horse and would not have entered into the Stalking Horse APA without the proposed Bid Protections.

16. In my opinion, in light of the size and nature of the Sale, and the efforts that the Stalking Horse Bidder has expended to date, the amount of the proposed Bid Protections is reasonable and appropriate. The Stalking Horse Bidder has performed and will continue to perform substantial incremental work to formulate, document, and close the Stalking Horse Transaction, and has already conducted substantial due diligence concerning the Debtors' business and Assets. These efforts have positioned the Debtors to maximize the going concern value of their business for the benefit of all stakeholders, further justifying approval of the Bid Protections.

17. The Bid Protections, including the Break-Up Fee, are necessary to preserve the value of the estate and were critical to securing the Stalking Horse Bidder's commitment under the Stalking Horse Transaction. As such, I believe the Bid Protections provide the Debtors with a springboard to a value-maximizing transaction for the benefit of their estates, creditors, and

stakeholders. Moreover, payment of bid protections is customary and consistent with the “market” in a transaction of this size and will not diminish the Debtors’ estates, as the amount of these Bid Protections will be covered in the Minimum Initial Overbid amount. I believe that the Bid Protections are necessary to successfully pursue the Sale and will not chill bidding.

18. Additionally, the Minimum Initial Overbid and Minimum Overbid Increments were heavily negotiated by the parties. Through these negotiations with the Stalking Horse Bidder, the Debtors have agreed to a Minimum Initial Overbid of the Bid Protections plus \$750,000 and Minimum Overbid Increments of \$250,000.

Pursuant to 28 U.S.C. § 1746, I certify 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.

February 10, 2020

/s/ Brian Bock
Brian Bock
Lincoln International