

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

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:
In re: : Chapter 11
:
VALERITAS HOLDINGS, INC., *et al.*,¹ : Case No. 20-10290 (LSS)
:
Debtors. : (Jointly Administered)
:
-----X Re: D.I. 25, 129, 127

**SUPPLEMENTAL NOTICE OF PROPOSED ASSUMPTION AND
ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS**

PLEASE TAKE NOTICE REGARDING THE FOLLOWING:

1. On February 9, 2020, the above-captioned Debtors each filed a voluntary petition for relief pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”).

2. On February 9, 2020, the Debtors entered into an Asset Purchase Agreement with Zealand Pharma A/S, by which Zealand or its designee (the “Stalking Horse Bidder”) will acquire all or substantially all of the Debtors’ assets.

3. On February 10, 2020, in connection with a proposed sale of the assets under section 363 of the Bankruptcy Code to the successful bidder at an auction, the Debtors filed a motion [D.I. 25] (the “Motion”), seeking, among other things, (i) entry of an order (the “Bidding Procedures Order”)² approving the bidding procedures governing the solicitation of higher or better bids; (ii) establishing procedures for the assumption or assignment and assumption of executory contracts; (iii) scheduling a sale hearing; and (iv) granting related relief.

4. On March 6, 2020, the Court entered the Bidding Procedures Order [D.I. 129] and the Debtors filed the *Notice of Proposed Assumption or Assumption and Assignment of Certain Executory Contracts* (the “Original Cure Notice”) [D.I. 127]. This supplemental notice (the “Supplemental Contract Assumption Notice”) is filed pursuant to paragraph 8 of the Original Cure Notice and is permitted by the Bidding Procedures Order. To the extent a Designated Contract (as defined below) is included in both the Original Cure Notice and this Supplemental Contract

¹ The debtors (collectively, 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 Capitalized terms used but not defined in the Supplemental Contract Assumption Notice (as defined herein) shall have the meaning ascribed to them in the Bidding Procedures Order.



Assumption Notice, the information, including estimated cure amount, in the Supplemental Contract Assumption Notice shall control.

5. On March 13, 2020, the Debtors filed the *Notice of (I) Designation of Successful Bidder; and (II) Cancellation of Auction* [D.I. 188], designating the Stalking Horse Bidder as the Successful Bidder.

6. On March 13, 2020, the Stalking Horse Bidder filed the *Declaration of Matthew Dallas* [D.I. 182], establishing its adequate assurance of future performance.

7. Pursuant to the Sale and the APA, the Debtors will assume and assign the Designated Contracts to the Successful Bidder, in accordance with the Sale Order as same may be entered at or following the Sale Hearing.

8. Pursuant to the Bidding Procedures Order, the Debtors hereby provide this supplemental notice that they are seeking to assume and assign to the Successful Bidder the executory contracts or unexpired leases (each, a “Designated Contract”) listed on **Exhibit A** hereto.

9. On the closing date of the Sale, or as soon thereafter as practicable, the Successful Bidder or the Debtors, as applicable, will pay the non-debtor counterparties to the Designated Contracts the Debtors’ good-faith estimates of the amount of the required cure payments, as set forth on **Exhibit A** (the “Cure Amount”). The payment of your Cure Amount by the Successful Bidder or the Debtors, as applicable, shall (i) constitute a cure of all defaults existing under your executory contract(s) or expired lease(s), as applicable, and (ii) compensate you for any actual pecuniary loss resulting from such default.

10. **The inclusion of an executory contract or unexpired lease as a Designated Contract on Exhibit A is not a guarantee that such executory contract or unexpired lease will ultimately be assumed and assigned.** Should it be determined that the Designated Contract to which you are a party will not be assumed and assigned, you will be notified in writing of such decision.

11. The Debtors may remove any executory contract or unexpired lease, as applicable, to be assumed by the Debtors and assigned to the Successful Bidder (the “Eliminated Agreements”) through and including the Designation Deadline (March 18, 2020). The Debtors shall, as soon as reasonably practicable after identifying an Eliminated Agreement, provide notice to the impacted counterparties and their counsel of record, if any, indicating that the Debtors no longer intend to assume and assign the counterparty’s executory contract or unexpired lease to the Successful Bidder in connection with the Sale.

12. Objections, if any, to the sale of the Assets to the Successful Bidder and/or to the proposed assumption and assignment or the Cure Amount proposed with respect thereto, including with respect to adequate assurance of future performance by the Successful Bidder, the proposed Sale to the Successful Bidder, and the ability of the Successful Bidder to provide adequate assurance of future performance, or the proposed form of adequate assurance of future performance, with respect to the assumption and assignment of any Designated Contracts, may be

filed on the docket or submitted at the hearing scheduled for **March 20, 2020, at 10:00 a.m. (EDT)**.

13. For the avoidance of doubt, the objection deadline for counterparties who receive this Supplemental Contract Assumption Notice shall be **March 20, 2020, at 10:00 a.m. (EDT)**.

14. If an objection to the Cure Amount or assumption and assignment is timely filed and not resolved by the parties, a hearing with respect to the objection will take place before the Honorable Laurie Selber Silverstein of the United States Bankruptcy Court for the District of Delaware, 824 Market St. N., 6th Floor, Courtroom #2, Wilmington, Delaware 19801 at the Sale Hearing scheduled for **March 20, 2020, at 10:00 a.m. (EDT)**. A hearing regarding the Cure Amount, if any, may be continued at the discretion of the Debtors and the Successful Bidder until after the closing.

15. If there is a timely objection to a Cure Amount, any undisputed portion of such Cure Amount will be paid in accordance with these Assumption Procedures and such payment will not be withheld pending resolution of any such objection; *provided that* the Stalking Horse Bidder shall be obligated only to pay the Cure Amounts as set forth in the Stalking Horse APA.

16. Any party that does not timely object to the Cure Amount, the proposed assumption and assignment of a Designated Contract or Additional Designated Contract listed on this Supplemental Contract Assumption Notice or Further Supplemental Assumption Notice, or any Sale is deemed to have consented to (a) such Cure Amount, (b) the assumption and assignment of such Designated Contract or Additional Designated Contract (including the adequate assurance of future payment), (c) the related relief requested in the Motion, and (d) the Sale. **Such party shall be forever barred and estopped from objecting to the Cure Amount, the assumption and assignment of the Designated Contract, or Additional Designated Contract, adequate assurance of future performance, the relief requested in the Motion, and the Sale, whether applicable law excuses such counterparty from accepting performance by, or rendering performance to, the Successful Bidder and/or the Debtors, for purposes of section 365(c)(1) of the Bankruptcy Code and from asserting any additional cure or other amounts against the Debtors or the Successful Bidder, as applicable, with respect to such party's Designated Contract or Additional Designated Contract.**

17. The Debtors and/or the Successful Bidder reserve all of their rights, claims and causes of action with respect to the contracts and agreements listed on **Exhibit A** hereto. Notwithstanding anything to the contrary herein or in the Motion, the Bidding Procedures, or the Bidding Procedures Order, service of this Supplemental Contract Assumption Notice does not constitute an admission that any contract is an executory contract, that any lease is unexpired, or that the stated Cure Amount related to any executory contract or unexpired lease constitutes a claim against the Debtors or establishes any rights against any Successful Bidder (all rights with respect thereto being expressly reserved); *provided further*, that the Successful Bidder or the Debtors, as applicable, reserve all rights to assert that any Cure Amount is lower than the Debtors' estimate, subject to each counterparty's opportunity to object.

Dated: March 17, 2020
Wilmington, Delaware

DLA PIPER LLP (US)

/s/ Maris J. Kandestin

Maris J. Kandestin (DE5294)
1201 North Market Street, Suite 2100
Wilmington, Delaware 19801
Telephone: (302) 468-5700
Facsimile: (302) 394-2341
Email: maris.kandestin@us.dlapiper.com

– and –

Rachel Ehrlich Albanese (admitted *pro hac vice*)
1251 Avenue of the Americas
New York, New York 10020
Telephone: (212) 335-4500
Facsimile: (212) 335-4501
Email: rachel.albanese@us.dlapiper.com

Counsel to Debtors and Debtors in Possession

EXHIBIT A

Valeritas Holdings, Inc. et al
 Supplemental Cure Schedule 17-Mar

Counterparty	Executory Contract or Unexpired Lease	Cure Amount (\$)
AB Specialty Silicones	Purchase Order Based	0
Adaptive Insights	Order Form and Agreement	0
Afshan Mohammed	Clinical Training Specialist Agreement	0
Amerisourcebergen	Distribution Services Agreement	94,519
Ascent Health Services LLC	Rebate Program Agreement	0
Asia Invest Limited	First Amendment to Manufacturing Service Agreement	0
Asia Invest Limited	Trademark License Agreement	0
Asia Invest Limited	Quality Agreement	0
Asia Invest Limited	Settlement Agreement	0
Branchwood Pharma Consulting (William Stinson) LLC	Consulting Agreement	9,907
Cardinal Health	Developing Suppliers Program Distribution Services Agreement, entered into on the 11th day of November, 2009	591,294
Cardinal Health	Wholesale Purchase Agreement, as amended	0
Cardinal Health	Amendment No. 1 Developing Suppliers Program Distribution Services Agreement	0
Cardinal Health	Distribution Services Agreement	0
Cardinal Health	Marketing Agreement - Statement of Work	0
Cardinal Health	National Logistics Center Agreement	0
Cardinal Health	Operating Guidelines, effective April 3, 2018	0
Cardinal Health	Valeritas No Change Supplier Agreement, effective November 2, 2017	0
Cardinal Health	Quality Agreement, effective October 31, 2017	0
Cardinal Health 105 3PL	Exclusive Distribution Agreement, made as of January 30, 2018	0
Conduent Commercial Solutions	Master Service Agreement	277,848
Federal Express	Shipping & Logistics Agreement	0
Harvard Pilgrim	Managed Care Organization Product Rebate Agreement	0
HealthPartners, Inc.	Medicare Part D Rebate Agreement	0
Humana Pharmacy Solutions. Inc.	Medicare Part D Rebate Agreement Between Valeritas Inc. and Humana Pharmacy Solutions, Inc.	0
Humana Pharmacy Solutions. Inc.	Commercial Rebate Agreement Between Valeritas Inc. and Humana Pharmacy Solutions, Inc.	0
Independent Health Association	Second Amendment to the Medicare Part D Product Rebate Agreement	0
Integrated Medical Development LLC	Master Service Agreement	36,744
J. Knipper and Company, Inc.	Master Services Agreement	0
Kaiser Permanente Medical Care Program	Amendment to Kaiser Permanente Medical Care Program	0
Kelsey Ellenberg	Clinical Training Specialist Agreement	0
Kristy Willis	Consulting Agreement	11,800
Margaret "Peggy" Boswell	Clinical Training Specialist Agreement	0
MedImpact Healthcare Systems	Medicare Part D Reimbursement Agreement	0
MedPlast Inc.	Packaging Agreement	0
Monica Jones	CTM	0
Navitus Health Solutions	Medicare Part D Rebate Program Agreement	0
Navitus Health Solutions	Product Rebate Agreement	0
OptumRx, Inc.	Medicare Part D Rebate Agreement	0
Secretary of State of Maine	Business License	90
Specialty Coating Systems	Manufacturing Services Agreement	0
Suzhou Kondoh Daqian Precision Parts, Co. Ltd.	Letter Agreement	0
Trialcard Incorporated	Master Service Agreement	0
Z-Tech	Consulting Agreement	0