

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

----- X  
In re: :  
 : Chapter 11  
PhaseBio Pharmaceuticals, Inc.,<sup>1</sup> :  
 : Case No. 22-10995 (LSS)  
Debtor. :  
 : **Re: Docket Nos. 210 and 218**  
----- X

**BIOVECTRA INC.’S OBJECTION TO PROPOSED CURE AMOUNT  
AND RESERVATION OF RIGHTS**

BioVectra Inc. (“BioVectra”), by and through its undersigned counsel, hereby submits its: (1) objection to the proposed cure amount for the Supply Agreement dated as of March 10, 2021 (the “Bentricimab Supply Agreement”) between BioVectra and the debtor and debtor in possession (the “Debtor”); and (2) reservation of rights in connection with the potential assumption and assignment to SFJ Pharmaceuticals X, Ltd. (“SFJ”) of the Bentricimab Supply Agreement and otherwise. In support hereof, BioVectra respectfully represents as follows:

**BACKGROUND**

1. BioVectra supplies bentricimab product to the Debtor pursuant to the Bentricimab Supply Agreement.
2. BioVectra also supplies other (non-bentricimab) product to the Debtor.
3. The Debtor commenced this voluntary chapter 11 case on October 23, 2022 (the “Petition Date”).
4. On December 31, 2023, the Court entered its *Order (A) Approving The Settlement Agreement Between the Debtor and SFJ Pharmaceutical X, Ltd., Including, Among Other Things,*

---

<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 5697. The Debtor’s principal office is located at 1 Great Valley Parkway, Suite 30, Malvern, Pennsylvania 19355.

*The Sale and Transfer of Substantially All of the Debtor's Bentracimab Assets Free and Clear of Liens, Claims, and Encumbrances to SFJ Pharmaceutical X, Ltd., and (B) Granting Related Relief* [D.I. 346] (the "SFJ Settlement Order").<sup>2</sup>

5. Pursuant to the SFT Settlement Order, parties to potential Assigned Contracts are required to object to the proposed Cure Amounts for such contracts prior to SFJ actually designating the list of Assigned Contracts.

6. The Debtor previously extended the deadline for BioVectra to object to the proposed Cure Amount for the Bentracimab Supply Agreement through January 11, 2023.

7. As of the Petition Date, the Debtor owed BioVectra not less than \$13,914,666 for bentracimab product, plus an additional \$1,445,610 for other (non-bentracimab) product, excluding any credit for unapplied advance deposits.

8. As of December 31, 2022, the Debtor owes BioVectra an additional \$15,927,122 for bentracimab product supplied from and after the Petition Date.

9. Thus, if the Bentracimab Supply Agreement was to be included as one of the Assigned Contracts by SFJ, then BioVectra would be owed a Cure Amount of not less than \$29,841,788 (excluding any credit for unapplied advance deposits) through December 31, 2023.

10. However, the Debtor's *Corrected Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [D.I. 218] lists BioVectra with a total cure amount of only \$22,678,666.00.

### **OBJECTION**

11. Section 365 of the Bankruptcy Code generally requires as a condition to the assumption and assign of an executory contract that any monetary defaults (and certain

---

<sup>2</sup> Capitalized terms used but not defined herein have the meaning ascribed in the SFJ Settlement Order.

nonmonetary defaults) must be cured or adequate assurance of prompt cure must be provided.

12. BioVectra objects to the Debtor's proposed Cure Amount for the Bentracimab Supply Agreement because it is understated by over \$7 million. BioVectra has provided back-up support for its calculation of the correct Cure Amount of \$29,841,788 through December 31, 2023. To date, BioVectra has not received any contrary calculation or documentation from the Debtor (or SFJ).

**RESERVATION OF RIGHTS**

13. In accordance with the SFJ Settlement Order, BioVectra does not waive and expressly reserves all rights regarding the Bentracimab Supply Agreement (whether via assumption, rejection or otherwise), the treatment of BioVectra's claims (whether arising prepetition or postpetition, and whether related to the supply of bentracimab product or otherwise), the application of any unapplied advance deposit(s) under the Bentracimab Supply Agreement, and all related matters.

14. In particular, BioVectra does not waive and expressly reserves the right to file a further objection to the potential assumption and assignment of the Bentracimab Supply Agreement on any additional grounds not set forth herein, including the failure to satisfy the requirement of adequate assurance of future performance.

15. In addition, BioVectra reserves the right to supplement the foregoing Objection to the extent that the Cure Amount increases for the period from and after January 1, 2023.

Dated: January 11, 2023  
Wilmington, Delaware

**A.M. SACCULLO LEGAL, LLC**

/s/ Mary E. Augustine  
Anthony M. Saccullo (No. 4141)  
Mary E. Augustine (No. 4477)  
27 Crimson King Drive  
Bear, DE 19701  
Telephone: (302) 836-8877

Email: [ams@saccullolegal.com](mailto:ams@saccullolegal.com)  
[meg@saccullolegal.com](mailto:meg@saccullolegal.com)

– and –

**LAW OFFICE OF NATHAN A. SCHULTZ, P.C.**

Nathan A. Schultz (*Pro Hac Vice* pending)

10621 Craig Road

Traverse City, MI 49686

Telephone: (310) 429-7128

Email: [nschultzesq@gmail.com](mailto:nschultzesq@gmail.com)

*Counsel to BioVectra Inc.*