

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

In re:) Chapter 11
)
AKORN, INC. *et al.*,) Case No. 20-11177 (KBO)
)
Debtors.) (Jointly Administered)
)
) **Hearing: September 1, 2020 at 10:00 a.m.**
)
) **Re: D.I. 18, 181, 210, 438**

**RESERVATION OF RIGHTS OF PREMIER, INC. AND ITS
SUBSIDIARIES IN RELATION TO THE DEBTORS' PROPOSED CURE AMOUNTS**

Premier, Inc., for itself and its subsidiaries (collectively, “Premier”), including Premier Healthcare Alliance, L.P. (f/k/a Premier Purchasing Partners, L.P.) (“Premier Healthcare”), hereby files this reservation of rights with respect to the above-captioned debtors (“Debtors”) and their proposed assumption and/or assignment and proposed cure payments pursuant to the Debtors’ Sale Motion.¹

1. Premier Healthcare and Debtor, Akorn, Inc. (“Akorn”), are party to one or more executory contracts (collectively and, including any and all amendments, ancillary documents, exhibits, riders and agreements related thereto, the “GPO”), including but not limited to the Premier Healthcare Alliance, L.P. Group Purchasing Agreement-Pharmaceuticals, dated July 1, 2015, and its amendments and exhibits.²

¹ Reference is hereby made to the *Debtors’ Motion Seeking Entry of an 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* [D.I. 18] (the “Sale Motion”).

² This would include, among other things, Amendment Number 50 (October 15, 2017), Amendment Number 73 (July 1, 2018), Amendment Number 75 (July 1, 2018) and Amendment Number 78 (July 1, 2018). The GPO may also include the Group Purchasing Agreement-Pharmaceuticals, dated March 1, 2013, between Premier Healthcare and Akorn, and its amendments and exhibits thereto (including Amendment Number 53 (June 6, 2014), Amendment Notice Number 5 (July 28, 2014), Amendment Number 18 (June 11, 2018) and Amendment Number 19 (December



2. Pursuant to the Sale Motion, the Debtors have provided Premier with cure notices reflecting a \$0 cure amount due and owing to Premier in relation to the proposed assumption and assignment of the GPO. While Premier's records do not reflect that any amounts are currently due and owing to Premier pursuant to the GPO, given the nature of the relationship of the parties under the GPO, and because there exists a delayed reconciliation process under the GPO to determine amounts due and owing, it is possible that Premier Healthcare may later discover or determine that amounts remain due and owing under the GPO that should be included as a cure amount. As such, Premier is hereby filing this reservation to preserve any objection that Premier may have, in relation to the sale underlying the Sale Motion (the "Sale") or otherwise, in the event that Premier later discovers that cure amounts are due and owing in relation to any assumption, or assumption and assignment, of the GPO (whether pursuant to the Sale Motion or otherwise).

3. Premier further expressly reserves the right to supplement this filing as additional information is received, both with respect to additional documents relevant or included in the GPO, as well as to any proposed cure amount, and to introduce evidence at any hearing related to the Sale Motion, this filing and/or any future objection to the Sale. Premier further reserves all of its rights, claims, defenses and remedies with respect to the Debtors, the GPO, the Sale (including any objections to adequate assurance of future performance) and otherwise, including any right to assert any claims, rights of setoff or rights of recoupment against the Debtors, any right to seek appropriate relief to protect any Premier entity's assets and contractual rights and

1, 2018)).

any other rights Premier is entitled to assert under the GPO, the Bankruptcy Code, applicable law or otherwise.

Dated: August 13, 2020
Wilmington, Delaware

Respectfully submitted,

KLEIN LLC

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and

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