UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re: VYAIRE MEDICAL, INC., *et al*. Debtors	Chapter 11 Case No. 24-11217(BLS) (Jointly Administered)

OBJECTION OF QUAD DBC HOLDINGS, LLC TO FIRST NOTICE TO CONTRACT PARTIES OF POTENTIALLY ASSUMED AND ASSIGNED EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Quad DBC Holdings, LLC ("Landlord"), by and through its undersigned counsel, hereby objects to the *Debtors' First Notice to Contract Parties of Potentially Assumed and Assigned Executory Contracts and Unexpired Leases* [D.I. 256] (the "Cure Notice"), and respectfully states as follows:

Background

1. Landlord and debtor, Vyaire Medical Inc., ("Tenant") are parties to an unexpired lease of two buildings of non-residential real property located at 510 Technology Drive and 520 Technology Drive in Irvine, California, (the "Lease"). On the Petition Date herein, Tenant was in default under the Lease.

2. On June 10, 2024, the Debtors filed the *Motion of Debtors for Entry of an Order (1) Approving Bidding Procedures in Connection with the Sale of Substantially All of the Debtors' Assets, (II) Authorizing the Debtors to Enter into a Stalking Horse Agreement and Provide Bid Protections, (III) Approving the Form and Manner of Notice Thereof; (IV) Scheduling an Auction and Sale Hearing, (V) Approving Procedures for the Assumption and Assignment of Contracts, (VI) Approving the Sale of the Debtors' Assets Free and Clear, and (VII) Granting Related Relief* [Docket No. 16] ("Sale Motion"). Through the Sale Motion,

Debtors seek this Court's Approval of the sale of substantially all of their assets to one or more to-be-determined purchasers.

3. On July 11, 2024, this Court entered the *Order (I) Approving Bidding Procedures in Connection with the Sale of Substantially All of the Debtors' Assets, (II) Authorizing the Debtors to Enter into a Stalking Horse Agreement and Provide Bid Protections, (III) Approving the Form and Manner of Notice Thereof; (IV) Scheduling an Auction and Sale Hearing, (V) Approving Procedures for the Assumption and Assignment of Contracts, (VI) Approving the Sale of the Debtors' Assets Free and Clear, and (VII) Granting Related Relief* [Docket No. 249] ("Sale Procedures Order").

4. On July 11, 2024, pursuant to the Sale Procedures Order, the Debtors filed the Cure Notice. The Cure Notice includes several entries corresponding to the Landlord ("Landlord Listings"). All Landlord Listings propose cure amounts of $0.00 (the "Proposed Cure Amount").

Objection

5. Landlord objects to the Proposed Cure Amount and the Cure Notice because, *inter alia,* the Proposed Cure Amount and the Cure Notice does not propose to satisfy Debtors' cure obligations consistent with section 365(b)(1) of the Bankruptcy Code.

6. To assume a lease in default under section 365 (b)(1) of the Bankruptcy Code, the debtor, inter alia, must or propose to cure all non-monetary defaults and to compensate the lessor for all actual pecuniary losses. Accordingly, to the extent that the Debtors here seek to assume and assign the Lease, the Debtors must pay the full cure amounts based upon the actual amounts that are due on Petition Date and that accrue thereafter which are not paid as of the date for assumption and assignment by the Debtors ("Effective Date"). *See* 11 U.S.C. § 365(b)(1).

7. Landlord expressly objects to the Proposed Cure Amount of $0. On the Petition Date, Tenant owed Landlord no less than **$713,051.00** for unpaid rent. Additionally, Tenant owes Landlord $45,000 for Landlord's legal fees and costs incurred to the date of this Objection, which will continue to accrue up to the Effective Date. Tenant and/or other Debtors continue to utilize and/or keep third parties from utilizing the rented building. As such, the Cure amount may exceed the foregoing pecuniary losses calculable through the Effective Date.

8. Any order permitting the assumption and assignment of any of the Lease must direct that the Debtors or their assignees fully pay all amounts due to Landlord under the Lease as of the Effective Date, as a condition precedent to any assumption and assignment.

WHEREFORE, Landlord respectfully requests that this Court enter an order that: (i) approves assumption and assignment of the Lease only upon payment of the full cure, in an amount not less than $713,051.00; and (ii) grants Landlord such additional relief as this Court deems just and equitable.

Date: August 1, 2024

FLASTER/GREENBERG, P.C.

By: */s/ Damien Nicholas Tancredi*

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