

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (JTD)

Hearing Date: June 27, 2023 at 11:00 a.m. (ET)

Obj. Deadline: May 30, 2023 at 4:00 p.m. (ET)

**DEBTOR'S MOTION FOR AN ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 363
AUTHORIZING THE DEBTOR TO RETAIN EXPERT WITNESS**

The above-captioned debtor and debtor in possession (the “Debtor”) hereby submits this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), pursuant to sections 105 and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), authorizing the Debtor to pay fees and expenses of Alvarez & Marsal Taxand, LLC (“A&M Taxand”) incurred in connection with the objections to confirmation of the *Third Amended Chapter 11 Plan of Liquidation for Tricida, Inc.* [Docket No. 328] (as may be further amended, the “Plan”).² In support of this Motion, the Debtor respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012 (Sleet, C.J.). This matter is a core proceeding within the meaning of 28

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, is Tricida, Inc. (2526). The Debtor’s service address is 2108 N St., Ste. 4935, Sacramento, CA 95816.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.



U.S.C. § 157(b)(2), and the Debtor confirms its consent, pursuant to Local Rule 9013-1(f), to the entry of a final order or judgment by the Court in connection with this Motion if it is determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409

3. The statutory predicates for the relief requested herein are sections 105 and 363 of the Bankruptcy Code.

BACKGROUND

A. General Background

4. On January 11, 2023 (the “Petition Date”), the Debtor filed a voluntary petition for relief under sections 101–1532 of the Bankruptcy Code in this Court. The Debtor continues to operate its business as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner.

5. On January 23, 2023, the Office of the United States Trustee (the “U.S. Trustee”) appointed an Official Committee of Unsecured Creditors (the “Committee”).

6. Founded in 2013, the Debtor is a clinical-stage pharmaceutical company focused on the development and commercialization of veverimer, a drug meant to slow the progression of CKD through the treatment of chronic metabolic acidosis. Veverimer is a new chemical entity discovered by the Debtor using its own proprietary technology. As of the Petition Date, in addition to veverimer, the Debtor’s intellectual property portfolio included 233 patents in 52 different countries, including compositions-of-matter, dosage unit forms, methods-of-treatment, medical use, and methods of manufacture.

7. Additional information regarding the Debtor’s business, capital structure and the circumstances preceding the Petition Date may be found in the *Declaration of Lawrence Perkins*

in Support of the Debtor's Chapter 11 Petition and First Day Pleadings [Docket No. 2] (the "First Day Declaration").

B. The Plan Confirmation Discovery

8. On March 27, 2023, the Debtor filed the Plan. The Debtor intends to present the Plan for the Court's consideration on May 19, 2023 (the "Confirmation Hearing"). *See* Docket No. 330. In advance of the Confirmation Hearing, the Debtor and counsel for the Committee engaged in discovery, including anticipated expert discovery, regarding various aspects of the Plan, including the potential range of value (if any) of various potential claims that the Debtor proposes to either release or retain under the Plan. *See Stipulated Scheduling Order with Respect to Confirmation of Plan* [Docket No. 365]. Among other things, the Committee's discovery requests sought information about certain of the Debtor's tax attributes.

C. The A&M Taxand Engagement Contract

9. A&M Taxand is an international professional services firm that offers a wide variety of services to private and public clients, including tax services in restructurings and reorganizations.. The Debtor submits that A&M Taxand is well-qualified to provide expert services in connection with the Plan discovery and litigation.

10. On May 1, 2023, the Debtor agreed to the terms of a contract with A&M Taxand, attached hereto as **Exhibit B** (the "Contract"). Pursuant to the Contract, A&M Taxand has agreed to provide the services of Mr. Lee Zimet (the "Expert"), a Senior Director at A&M Taxand. In particular, the Expert will be available for the following: (i) assist in negotiations with opposing counsel or the mediator, as applicable, at the request of counsel; (ii) analyze the Section 382, or other applicable, tax analysis related to the tax attributes of the Debtor available prior to the chapter 11 filing and post-emergence; (iii) provide tax consulting services; and

(iv) provide an expert rebuttal report and testimony (at both deposition and a hearing on confirmation of the Plan), if requested. The Contract provides that A&M Taxand's professionals, including the Expert, will receive fees based on the following hourly rates:

Title	Hourly Rate
Managing Directors	\$1300-\$1350
Senior Directors	\$975
Directors	\$850
Managers	\$800
Senior Associates	\$700
Associates	\$600

The Debtor also agreed to pay all reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, duplicating, messenger, and telephone charges.

RELIEF REQUESTED

11. By this Motion, the Debtor seeks the entry of an order authorizing the Debtor to (a) enter into the Contract and (b) pay the fees and expenses of A&M Taxand in accordance with the terms of the Contract.

BASIS FOR RELIEF

12. In pertinent part, section 363(b) of the Bankruptcy Code provides that “[t]he trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. §363(b). Courts within this Circuit interpreting section 363(b) have held that transactions should be approved pursuant to this provision when, as here, they are supported by management's sound business judgment. *See, e.g., Dai-Ichi Kangyo Bank, Ltd., Chi. Branch v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (Bankr. D. Del. 1999); *In re Del. & H.R. Co.*, 124 B.R. 169, 176 (Bankr. D. Del. 1991); *Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d. Cir. 1983). Moreover, pursuant to section 105(a) of the Bankruptcy Code,

a bankruptcy court “may issue any order, process or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. §105(a).

13. It is well established that courts are unwilling to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence, and will uphold a board’s decisions as long as they are attributable to any “rational business purpose.” *Unocal Corp. v. Mesa Petroleum Co.*, 493 A.2d 946, 954 (Del. 1985) (citing *Sinclair Oil Corp. v. Levien*, 280 A.2d 717, 720 (Del. 1971)). Whether or not there are sufficient business reasons to justify the use of assets of the estate depends upon the facts and circumstances of each case. *See Lionel*, 722 F.2d at 1071.

14. In this case, the Debtor has ample justification to enter into the Contract and to pay the fees and expenses of A&M Taxand pursuant to the Contract. The Expert will assist the Debtor in connection with Plan confirmation by preparing to act as an expert witness at a deposition and at the confirmation hearing, if needed. These services are essential to allow the Debtor to satisfy the statutory predicates for Plan confirmation, which is in the best interests of the Debtor, its creditors, and its estate.

15. In the exercise of its business judgment, the Debtor determined that the fees and expenses provided for in the Contract are normal and customary for such services, and that the payment of those fees and expenses is reasonable and appropriate. A&M Taxand, and the Expert in particular, has the requisite expertise and is undoubtedly qualified to assist the Debtor in connection with this matter.

16. The Debtor respectfully submits that the retention of A&M Taxand and the payment of A&M Taxand’s fees and expenses are proper under section 363 of the Bankruptcy Code. Courts have uniformly held that experts are not “professionals” under section 327 and

need not be formally retained to testify. *In re Napoleon*, 233 B.R. 910, 913 (Bankr. D. N.J. 1999) (finding that expert witnesses are not “professionals” under section 327 because they do not “play an integral role in the administration of the bankruptcy case”); *In re Zenith Elecs. Corp.*, 241 B.R. 92 (Bankr. D. Del. 1999) (holding that investment banking firm and its representatives that had provided prepetition services for the debtor were not disqualified from testifying in the debtor’s bankruptcy case notwithstanding the fact that the firm had not, and could not, be retained pursuant to Section 327); *In re Babcock Dairy Co. of Ohio, Inc.*, 70 B.R. 691, 692 (Bankr. N.D. Ohio 1987) (expert witness’ relationship to the administration of the debtor’s estate is too tangential for the expert to be considered a section 327 professional); *Elstead v. M. Nolden (In re That’s Entm’t Mktg. Grp., Inc.)*, 168 B.R. 226, 230 (N.D. Cal. 1994) (same).

17. A&M Taxand has not and will not provide any significant services that could be described as central to the administration of the bankruptcy case. Indeed, the Debtor anticipates that the only material services that A&M Taxand has provided or will provide will be providing the services of the Expert to potentially act as an expert witness in connection with Plan confirmation. As such, the retention of A&M Taxand and the payment of any fees and expenses related thereto are appropriate pursuant to section 363 of the Bankruptcy Code.

18. For the reasons set forth above, the Debtor submits that the retention of A&M Taxand and the services of the Expert, pursuant to the terms of the Contract, are in the best interests of the Debtor’s estate and creditors and therefore should be approved.

NOTICE

19. Notice of this Motion will be provided by email or first class mail to: (a) the U.S. Trustee; (b) Womble Bond Dickinson (US) LLP, counsel to the Committee; (c) Davis Polk & Wardwell LLP, counsel to the Consenting Noteholders; (d) Greenberg Traurig, LLP, counsel to

U.S. Bank, the indenture trustee to the Convertible Notes; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002. A copy of this Motion is also available on the website of the Debtor's notice and claims agent at www.kccllc.net/tricida. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that this Court enter an order, substantially in the form of the Proposed Order attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as this Court deems just and proper.

Dated: May 15, 2023
Wilmington, Delaware

/s/ Allison S. Mielke

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

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Attorneys for Debtor, Tricida, Inc.

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

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (JTD)

Hearing Date: June 27, 2023 at 11:00 a.m. (ET)

Obj. Deadline: May 30, 2023 at 4:00 p.m. (ET)

NOTICE OF MOTION

PLEASE TAKE NOTICE that the above-captioned debtor and debtor in possession (the “Debtor”) has filed the *Debtor’s Motion for an Order Pursuant to 11 U.S.C. §§ 105 and 363 Authorizing the Debtor to Retain Expert Witness* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that the Debtor has requested that any objections or responses to the relief requested in the Motion be filed on or before **May 30, 2023 at 4:00 p.m. (ET)** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER THE MOTION WILL BE HELD ON JUNE 27, 2023 AT 11:00 A.M. (ET) BEFORE THE HONORABLE JOHN T. DORSEY, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 N. MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT IF NO OBJECTIONS OR RESPONSES TO THE MOTION ARE TIMELY FILED, SERVED, AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN CONNECTION WITH SUCH MOTION WITHOUT FURTHER NOTICE OR HEARING.

[Signature page follows]

¹ The Debtor in this chapter 11 case, together with the last four digits of the Debtor’s federal tax identification number, is Tricida, Inc. (2526). The Debtor’s service address is 2108 N Street, Suite 4935, Sacramento, CA 95816.

Dated: May 15, 2023
Wilmington, Delaware

/s/ Allison S. Mielke

**YOUNG CONAWAY STARGATT &
TAYLOR, LLP**

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Counsel to the Debtor, Tricida, Inc.

EXHIBIT A

Proposed Order

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

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (JTD)

Re: Docket No. [●]

**ORDER PURSUANT TO 11 U.S.C. §§ 105 AND 363 AUTHORIZING THE
DEBTOR TO RETAIN EXPERT WITNESS**

Upon consideration of the motion (the “Motion”)² of the Debtor for entry of an order authorizing the Debtor to pay fees and expenses of A&M Taxand in connection with the Debtor’s ongoing Plan confirmation process; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and adequate notice of the Motion and opportunity for objection having been given under the circumstances; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein and that such relief is in the best interests of the Debtor, its estates, its creditors, and all parties in interest; and any objections to the Motion having been withdrawn or overruled on the merits; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

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² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

1. The Motion is granted as set forth herein.
2. The Debtor is hereby authorized to execute and enter into the Contract, which is hereby approved, and the Debtor is hereby authorized and empowered to pay all fees and expenses set forth in the Contract.
3. Nothing in this order constitutes (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtor's or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code. Any payment made pursuant to this order is not intended to be nor should it be construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to subsequently dispute such claim.
4. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of any applicable Bankruptcy Rules and the Local Rules are satisfied by such notice.
5. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.
6. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

EXHIBIT B

A&M Taxand Contract



Alvarez & Marsal Taxand, LLC
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Phone: +1 212 759 4433
Fax: +1 212 759 5532

May 1, 2023

Genevieve Weiner
Partner
Sidley Austin LLP
555 West Fifth Street Suite 4000
Los Angeles, California 90013

Dear Ms. Weiner:

This letter confirms and sets forth the terms and conditions of the engagement between Alvarez & Marsal Taxand, LLC ("A&M") and Sidley Austin LLP ("Counsel") regarding Tricida, Inc. ("Company"). A&M has been retained by Counsel on behalf of Company to provide professional services as described herein and will act under Counsel's direction as to the scope of its work. Any opinions offered shall be based solely on the judgment of A&M. Upon execution of this letter by each of the parties below and receipt of the retainer described below, this letter will constitute an agreement between the Counsel and A&M (the "Agreement"). This Agreement shall be subject to approval by the Bankruptcy Court for the District of Delaware ("Bankruptcy Court"), which Company shall seek, effective as of the execution date herein.

1. Description of Services

- (a) A&M shall provide consulting services to the Company at the direction of Counsel in connection with their efforts to represent the Company in its restructuring. It is anticipated that A&M's activities shall include the following (collectively, the "Expert Services"):
- (i) *assist in negotiations with opposing counsel or the mediator, as applicable, at the request of counsel;*
 - (ii) *analyze the Section 382, or other applicable, tax analysis related to the tax attributes of the Company available prior to the Chapter 11 filing and post-emergence;*
 - (iii) *provide tax consulting services;*
 - (iv) *provide an expert rebuttal report and testimony (at both deposition and a hearing on confirmation of Company's plan), if requested, related to such analysis;*
 - (v) *other activities as are approved by you and agreed to by A&M.*

- (b) In connection with the services to be provided hereunder, from time to time A&M may utilize the services of employees of its affiliates, independent contractors, and subsidiaries. Such affiliates are wholly owned by A&M's parent company and employees. Notwithstanding the foregoing, the A&M party with primary responsibility for the services being provided under this Agreement shall be Lee Zimet ("Named Expert"). The Named Expert shall not be substituted or changed with other A&M personnel without the written consent of Company and Counsel (e-mail being sufficient).

A&M shall work with other professionals of Company to ensure that work is performed efficiently and without duplication of effort.

A&M personnel providing services to Counsel may also work with other A&M clients in conjunction with unrelated matters. Except as disclosed to Company and described in the retention application to be filed with the Bankruptcy Court, A&M confirms that none of its principals or professional staff involved in this engagement have any financial interest or business connection with Company, and A&M is aware of no conflicts in connection with this Agreement.

2. Information Provided by Counsel and Forward Looking Statements

Counsel shall use all reasonable efforts to: (i) to furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition, taxes, and prospects of the Company that A&M reasonably requests in connection with the services to be provided to Counsel. A&M shall rely, without further independent verification, on the accuracy and completeness of all publicly available information and information that is furnished by or on behalf of the Company and otherwise reviewed by A&M in connection with the services performed for Counsel. Counsel acknowledges and agrees that A&M is not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein. A&M is under no obligation to update data submitted to it or to review any other areas unless specifically requested by the Board to do so.

You understand that the services to be rendered by A&M may include the preparation of projections and other forward-looking statements, and numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections. In addition, A&M will be relying on information provided by Counsel in the preparation of those projections and other forward-looking statements.

3. Limitation of Duties

A&M shall not be responsible for providing any services to the Company outside of the Expert Services.

Depending on future developments the spread of the Coronavirus has the potential to affect the services provided under this Agreement. Travel, work place and mobility restrictions (to include measures reasonably mandated by A&M with respect to its employees and personnel) may restrict travel to the Company and other work sites as well as limit access to facilities, infrastructure, information and personnel of A&M, the Company or others. Such circumstances may adversely affect the timetable or content of A&M's deliverables and completion of the scope of services included in this Agreement. A&M will discuss with the Company if A&M believes that the services may be impacted in this way.

4. Compensation

(a) A&M will receive fees based on the following hourly rates:

Managing Directors	\$1,300 - \$1,350
Senior Directors	\$975
Directors	\$850
Managers	\$800
Senior Associates	\$700
Associates	\$600

Such rates shall be subject to adjustment annually at such time as A&M adjusts its rates generally.

(b) In addition, A&M will be reimbursed for its reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, duplicating, messenger and telephone charges. All fees and expenses will be billed on a monthly basis.

(c) A&M understands, in accordance with the Bankruptcy Code, it will apply to the Bankruptcy Court for allowance of its fees and reimbursement of its expenses. A&M also understands that it will be retained as of the date A&M commenced work, subject to Bankruptcy Court approval, which Company shall seek. Company acknowledges and agrees it shall pay A&M in accordance with the orders of the Bankruptcy Court allowing such fees and reimbursement of expenses. If Company fails to do so, A&M reserves the right to cease work until Company complies with such order. For the

avoidance of doubt, Counsel shall not be responsible for compensating A&M for its services, nor for reimbursing A&M for its expenses.

- (d) A&M's fees are not contingent upon the final results or outcome of this engagement, and A&M does not warrant or predict results or final developments in this Agreement. A&M understands that this engagement is in connection with litigation related to Company and Company will be responsible for paying fees and expenses incurred under the Agreement as set forth herein.
- (e) To the extent not disallowed by an order of the Bankruptcy Court, A&M's fees and expense reimbursement shall constitute allowed administrative expenses under section 503(b)(1), with the priority specified in section 507(a), of the Bankruptcy Code. A&M acknowledges that Company is solely responsible for its fees and reimbursement of expenses, subject to Bankruptcy Court approval.

5. Term

- (a) This Agreement will apply from the commencement of the services referred to in Section 1 and may be terminated with immediate effect by either party without cause by written notice to the other party.
- (b) A&M normally does not withdraw from an engagement unless the Company misrepresents or fails to disclose material facts, fails to pay fees or expenses, or makes it unethical or unreasonably difficult for A&M to continue performance of the engagement, or other just cause exists.
- (c) On termination of the Agreement, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but are invoiced subsequent to such termination).
- (d) The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

6. Relationship of the Parties

The parties intend that an independent contractor relationship will be created by this engagement letter. Neither A&M nor any of its personnel or agents is to be considered an employee or agent of the Company and the personnel and agents of A&M are not entitled to any of the benefits that the Company provides for the Company employees. The Company acknowledges and agrees that A&M's engagement shall not constitute an audit, review or compilation, or any other type of financial statement reporting engagement that

is subject to the rules of the AICPA, SEC or other state or national professional or regulatory body.

7. No Third Party Beneficiary

The Company acknowledges that all advice (written or oral) provided by A&M to the Company in connection with this engagement is intended solely for the benefit and use of the Company (limited to its Board and management) in considering the matters to which this engagement relates. The Company agrees that no such advice shall be used for any other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

8. Conflicts

A&M is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on a global basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to or have business associations with other entities or people which had or have or may have relationships with the Company, including creditors of the Company. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the Company's, provided the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained.

9. Confidentiality / Non-Solicitation

A&M shall keep as confidential all non-public information received from the Company in conjunction with this engagement, except: (i) as requested by the Company or Counsel; (ii) as required by legal proceedings or (iii) as reasonably required in the performance of this engagement. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is or becomes public other than as a result of a breach of this provision. The Company agrees that, until two (2) years subsequent to the termination of this engagement, it will not solicit, recruit, hire or otherwise engage any employee of A&M or any of its affiliates who worked on this engagement while employed by A&M or its affiliates ("Solicited Person"). Should the Company extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the Company equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing

Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The Company acknowledges and agrees that this fee fairly represents the loss that A&M will suffer if the Company breaches this provision. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

10. Indemnification and Limitations on Liability

The attached indemnification and limitation on liability agreement is incorporated herein by reference and shall be executed upon the acceptance of this Agreement. Termination of this engagement shall not affect these indemnification and limitation on liability provisions, which shall remain in full force and effect.

Company hereby acknowledges and agrees that it is liable to A&M and its affiliates for all of the Company's representations, warranties, covenants, liabilities and obligations set forth in the Agreement. Any beneficiary of this agreement may seek to enforce any of its rights and remedies hereunder against Company in any order at any time in its sole discretion.

Data Protection. In the provision of services under this Agreement, it is expected that the Company and third parties will provide to A&M certain personally identifiable information or other personal data regarding creditors, employees and other constituents, the processing or transfer of which may be subject to Data Protection Laws. "Data Protection Laws" means all applicable U.S. and foreign national, federal, state and/or local laws, rules, regulations or other binding instruments in relation to the processing or protection of personal data, including, but not limited to, the EU General Data Protection Regulation (GDPR). In furtherance thereof, the Company acknowledges and agrees: it is expected that such information (and work product containing such information) will be transferred by A&M, on behalf of the Company, to third parties including other agents and professionals of the Company acting within this matter (i.e., the Company's counsel, other advisors, and claims agent) as well as, at the Company's direction, other constituents in the Company's case, including but not limited to creditors and their representatives as well as any applicable judicial, regulatory or governmental bodies; and, that A&M's transfer of such data directly to third parties (rather than by the Company to a third party) is for the Company's convenience and such transfers shall always be deemed to be on the Company's behalf. Without limiting the foregoing, each party agrees to comply with Data Protection Laws in connection with this Agreement.

11. Miscellaneous

This Agreement (together with the attached indemnity provisions), including, without limitation, the construction and interpretation thereof and all claims, controversies and

disputes arising under or relating thereto, shall be governed and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law that would defer to the laws of another jurisdiction. The Company and A&M agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of the parties hereto with respect to any matter relating to or arising out of the engagement or the performance or non-performance of A&M hereunder. The Company and A&M agree, to the extent permitted by applicable law, that any Federal Court sitting within the Southern District of New York shall have exclusive jurisdiction over any litigation arising out of this Agreement; to submit to the personal jurisdiction of the Courts of the United States District Court for the Southern District of New York; and to waive any and all personal rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue within the State of New York for any litigation arising in connection with this Agreement.

This Agreement shall be binding upon A&M and the Company, their respective heirs, successors, and assignees, and any heir, successor, or assignee of a substantial portion of A&M's or the Company's respective businesses and/or assets, including any Chapter 11 Trustee. This Agreement incorporates the entire understanding of the parties with respect to the subject matter hereof and may not be amended or modified except in writing executed by the Company and A&M. The Company agrees that A&M may aggregate information provided by or on behalf of the Company during this engagement with information provided by or on behalf of others and use and disclose that information in de-identified form as part of research and advice, including, without limitation, benchmarking services. Notwithstanding anything herein to the contrary, A&M may reference or list the Company's name and/or logo and/or a general description of the services in A&M's marketing materials, including, without limitation, on A&M's website.

If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

Alvarez & Marsal Taxand, LLC

By: 

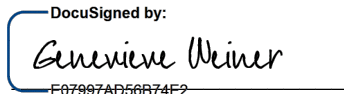
Name: Christopher Howe

Title: Managing Director

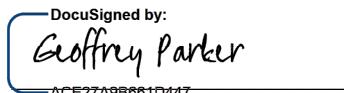


Accepted and agreed:

Sidley Austin LLP.
on behalf of itself and its subsidiaries

By: 
Genevieve Weiner, Partner

Tricida, Inc.

By: 
Geoffrey Parker, CFO and COO

INDEMNIFICATION AND LIMITATION ON LIABILITY AGREEMENT

This indemnification and limitation on liability agreement is made part of an agreement, dated May 1, 2023 (which together with any renewals, modifications or extensions thereof, is herein referred to as the "Agreement"), by and between Alvarez & Marsal Taxand, LLC ("A&M") and Tricida, Inc. ("Company"), for services to be rendered to Company by A&M at the request of Sidley Austin LLP.

A. Company agrees to indemnify and hold harmless each of A&M, its affiliates and their respective shareholders, members, managers, employees, agents, representatives and subcontractors (each, an "Indemnified Party" and collectively, the "Indemnified Parties") against any and all losses, claims, damages, liabilities, penalties, obligations and expenses, including the costs for counsel or others (including employees of A&M, based on their then current hourly billing rates) in investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing the Agreement (including these indemnity provisions), as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties' acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. Company also agrees that (a) no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to Company for or in connection with the engagement of A&M, except to the extent that any such liability for losses, claims, damages, liabilities or expenses are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct and (b) in no event will any Indemnified Party have any liability to Company for special, consequential, incidental or exemplary damages or loss (nor any lost profits, savings or business opportunity). Company further agrees that it will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceedings) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.

B. These indemnification provisions shall be in addition to any liability which Company may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified

Party is required to produce any of its personnel (including former employees) for examination, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, Company will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.

C. If any action, proceeding or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party will notify Company with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify Company will not relieve Company from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. Company shall promptly pay expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party hereby undertakes, and Company hereby accepts its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against Company, Company may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents Company, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and Company such counsel is unable to represent both the Indemnified Party and Company, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and Company shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. Company will be liable for any settlement of any claim against an Indemnified Party made with Company's written consent, which consent shall not be unreasonably withheld.

D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not be enforced in such case, even though the express provisions hereof provide for indemnification, then

the relative fault of Company, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.

E. In the event Company and A&M seek judicial approval for the assumption of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would continue to be engaged by Company, Company shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. Company will also promptly pay the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

F. Neither termination of the Agreement nor termination of A&M's engagement nor the filing of a petition under Chapter 7 or 11 of the United States Bankruptcy Code (nor the conversion of an existing case to one under a different chapter) shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.

G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or bylaws of Company, any other agreements, any vote of stockholders or disinterested directors of Company, any applicable law or otherwise.

TRICIDA, INC.

DocuSigned by:
Geoffrey Parker
By: ACE27A93661D447...
Name: Geoffrey Parker
Title: EVP, CFO, COO

ALVAREZ & MARSAL TAXAND, LLC

Chris Howe
By: _____
Name: Christopher Howe
Title: Managing Director