

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (___)

**DEBTOR'S MOTION FOR
ENTRY OF INTERIM AND FINAL ORDERS
(A) AUTHORIZING THE DEBTOR TO (I) PAY
PREPETITION WAGES, COMPENSATION, AND BENEFIT
OBLIGATIONS AND (II) CONTINUE EMPLOYEE COMPENSATION
AND BENEFITS PROGRAMS, AND (B) GRANTING RELATED RELIEF**

Tricida, Inc., as the debtor in possession in the above-captioned chapter 11 case (the "Debtor" or "Company"), hereby submits this motion (this "Motion"), under sections 105(a), 362(d), 363(b), and 507(a) of title 11 of the United States Code (the "Bankruptcy Code"), and rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), for entry of interim and final orders, (a) authorizing, but not directing, the Debtor to continue to honor its obligations on account of the Employee Compensation and Benefits (as defined below), including payment of prepetition and postpetition obligations related thereto, and (b) granting related relief, including scheduling a hearing to consider approval of the Motion on a final basis (the "Final Hearing"). In support of this Motion, the Debtor submits the *Declaration of Lawrence Perkins in Support of the Debtor's Chapter 11 Petition and First Day Pleadings* (the "First Day

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 7000 Shoreline Court, Suite 201, South San Francisco, CA 94080.



Declaration”), filed contemporaneously herewith and incorporated herein by reference.² In further support of this Motion, the Debtor respectfully states as follows:

STATUS OF THE CASE AND JURISDICTION

1. On the date hereof (the “Petition Date”), the Debtor filed a voluntary petition for relief under sections 101–1532 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “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 in this case, and no statutory committee has been appointed.

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 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 U.S.C. § 157(b)(2), and the Debtor confirms its consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Local Rules”), 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.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

² Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the First Day Declaration.

4. The statutory and other bases for the relief requested in this Motion are sections 105(a), 362(d), 363(b), and 507(a) of the Bankruptcy Code, Bankruptcy Rules 6003 and 6004, and Bankruptcy Local Rule 9013-1(f).

BACKGROUND OF THE DEBTOR

5. 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. In addition to veverimer, the Debtor's intellectual property portfolio includes 233 patents in 52 different countries, including compositions-of-matter, dosage unit forms, methods-of-treatment, medical use, and methods of manufacture.

6. Additional information regarding the Debtor's business, capital structure and the circumstances preceding the Petition Date may be found in the First Day Declaration.

RELIEF REQUESTED

7. By this Motion, the Debtor seeks entry of an interim order and a final order (together, the "Proposed Orders"), substantially in the forms attached hereto as Exhibit A and Exhibit B, respectively, granting, among other things, the following relief:

- a. authorizing, but not directing, the Debtor to continue to honor its obligations on account of the Employee Compensation and Benefits (as defined below) including payment of prepetition and postpetition obligations related thereto, and
- b. granting related relief, including scheduling a final hearing to consider approval of the Motion on a final basis.

THE DEBTOR'S WORKFORCE

8. As set forth in greater detail in the First Day Declaration, in November 2022, the Debtor executed a plan to reduce its workforce and provide severance to terminated individuals

(the “RIF and Severance Plan”). Developed with the assistance of professionals and management, the RIF and Severance Plan called for termination of thirty-two (32) of the Company’s fifty-six (56) employees, leaving a core group of twenty-four (24) employees to guide the company through the strategic review process and any proposed transaction in this chapter 11 case. The RIF and Severance Plan contemplated paying certain employees severance amounts averaging from two to four months of salary, net of taxes, with the employees to be terminated shortly before the Thanksgiving holiday. As of the Petition Date, there are no severance amounts due and owing, and the Debtor is not seeking approval of the RIF and Severance Plan.

9. Shortly thereafter but before the Petition Date, with its advisors, the Debtor developed, approved and entered a plan designed to retain certain key employees with knowledge to assist with a sale process (the “Retention Plan”). The Retention Plan contemplated the continued employment of nineteen (19) rank-and-file employees whose positions were imperative to either maintaining regulatory controls over the course of continued operations (as in the case of certain accounting and controller employees), completing post-VALOR-CKD reports necessary to preserve the value and future trial potential of veverimer, or guide the company through the strategic review process, including any potential sale or restructuring. It also contemplated the retention of four (4) senior executive employees, all of whom hold critical knowledge or expertise necessary to continue operations of the company during the strategic review process and assist the company in maximizing the value of its assets through a sale or other strategic transaction. Employees that are part of the Retention Plan are not eligible for severance payments. If any Employee voluntarily leaves before their retention period is realized, the retention payments made under the Retention Plan are subject to clawback.

10. As contemplated under the Retention Plan, eleven (11) of the remaining twenty-four (24) employees were terminated on January 5, 2023, following the completion of the work for which they were being retained. The remaining employees may not voluntarily leave the Company before the wind-down of the Debtor's business or their retention payments will be subject to clawback. By this Motion, the Debtor is not seeking approval of the RIF and Severance Plan or the Retention Plan.

11. As of the Petition Date, the Company directly and indirectly employs a workforce of approximately 13 individuals, both on a full and part-time basis, with substantially all of the workforce located in South San Francisco, California. Approximately 13 individuals (the "Employees") are employed by the Debtor, all of which are salaried Employees. None of the Employees are represented by a union or employed pursuant to a collective bargaining agreement.

12. The Debtor's Employees are vital to its efforts to implement a sale of its assets through this chapter 11 case and the safe and orderly wind-down of the business, as described in the First Day Declaration. The Employees perform a wide variety of corporate and other job functions—including various managerial, financial, administrative, and other support services—that are critical to the Debtor's ongoing sale marketing process and the administration of this chapter 11 case. In many instances, the Employees are highly skilled personnel intimately familiar with the Debtor's processes, systems, and regulatory obligations, many of which are highly technical and require specialized training and experience. Without the continued, uninterrupted services of the Employees, the ability of the Debtor to maintain and administer its estate will be materially impaired, and the ability to maximize the value of the assets through a sale process may be compromised.

13. In addition to the Employees, the Debtor has historically relied on specialized individuals on a temporary or project basis. As of the Petition Date, the Debtor has retained a single independent contractor to provide consultancy services related to human resources (the “Independent Contractor”). The Independent Contractor is critical to the Debtor’s operations and supports the efforts of its Employees.

EMPLOYEE COMPENSATION AND BENEFITS

14. Like many similarly-situated companies, the Debtor maintains certain compensation and benefits programs and pays various administrative fees and insurance premiums in connection therewith (collectively, the “Employee Compensation and Benefits”), including the following (each as defined below): Wage Obligations, Independent Contractor Obligations, Withholding and Deduction Obligations, Employer Payroll Taxes, Reimbursable Expenses, Paid Vacation Benefits, Paid Leave Benefits, Health and Welfare Coverage and Benefits, Workers’ Compensation Program, the 401(k) Plan, Employee Administration Service Providers, and certain other benefits that the Debtor provides in the ordinary course.

15. The Debtor estimates that, as of the Petition Date, it owed certain outstanding amounts in connection with the Employee Compensation and Benefits Programs (the “Prepetition Employee Obligations”). The following chart summarizes the Debtor’s estimates of the Prepetition Employee Obligations that may come due within approximately the first thirty days following the Petition Date (the “Interim Amounts”).

Employee Compensation and Benefits Programs	Interim Amounts
Compensation, Withholding and Deduction and Expense Reimbursement	
Wage Obligations	\$323,150.11
Independent Contractor Obligations	\$0
Withholding and Deduction Obligations	\$125,320.31
Employer Payroll Taxes	\$28,831.53
Reimbursable Expenses	\$2,000
Paid Vacation Benefits	\$4,500

Paid Leave Benefits	[N/A]
Health and Welfare Coverage and Benefits	
Medical Plans	\$45,568.57
Dental Plan	\$2,667.72
Vision Plan	\$251.94
COBRA	\$175
Flexible Spending Program	\$241.67
Life, Disability, and AD&D Insurance Coverage	\$5,792.56
Worker's Compensation Program	\$0
401(k) Plan	\$0
Employee Administration Service Providers	\$12,017.52
TOTAL	\$550,516.93

16. The descriptions of the Employee Compensation and Benefits set forth in this Motion constitute a summary only. The actual terms of the agreements, contracts, plans, programs, and manuals governing the Employee Compensation and Benefits will govern in the event of any inconsistency with the descriptions in this Motion. The Debtor requests authority to honor obligations related to Employee Compensation and Benefits in the ordinary course of business consistent with prepetition practices, regardless of whether the Debtor inadvertently fails to include a particular benefit or aspect of compensation in the defined term "Employee Compensation and Benefits," and any such omitted benefit or aspect of compensation is hereby included in the defined term "Employee Compensation and Benefits" as used herein and in the Proposed Orders.

17. The Employees and the Independent Contractor rely on their compensation and benefits to pay their daily living expenses. These individuals and their families could experience significant hardship if the Court does not permit the Debtor to honor prepetition obligations that may be outstanding as of the Petition Date in connection with the Employee Compensation and Benefits (and to continue paying and providing the Employee Compensation and Benefits on a postpetition basis), particularly in light of inflation and other macroeconomic pressures. Further, the Debtor's failure to honor its prepetition and postpetition obligations in connection with the

Employee Compensation and Benefits could cause attrition that would severely impact the administration of this chapter 11 case, and the Debtor's efforts to maximize value of the assets.

18. The Debtor seeks to minimize the personal hardship Employees and the Independent Contractor would suffer if the Prepetition Employee Obligations are not paid or remitted when due or as expected. The Debtor, therefore, seeks authorization, but not direction, to (a) pay and honor the Prepetition Employee Obligations, consistent with the manner summarized in the chart above and described in more detail below; and (b) continue to honor or elect to modify, change, and/or discontinue obligations related to or on account of the Employee Compensation and Benefits in the ordinary course of business (or as required to accommodate the Debtor's reduced operations as it winds down) in the Debtor's sole discretion and without the need for further Court approval, subject to applicable law.

I. Compensation, Withholding and Deduction, and Expense Reimbursement

A. Wage Obligations

19. In the ordinary course, the Debtor incurs payroll obligations for base wages and salaries owed to Employees (the "Wage Obligations"). Employees are paid in arrears, bi-monthly on the 15th and last day of the month. The Debtor's most recent payroll was funded on January 10, 2023, in the amount of approximately \$164,669.36 and includes funds for all amounts due through January 15, 2023. The Debtor's next payroll (for the period ending January 31, 2023) will be funded on January 31, 2023.

20. The Debtor incurs a monthly average of approximately \$323,150,11 on account of Wage Obligations. As of the Petition Date, the Debtor estimates that it owes approximately \$4,500 on account of accrued but unpaid Wage Obligations, all of which will become due and owing during the Interim Period.

21. The Debtor seeks authorization, but not direction, to continue to satisfy amounts incurred on account of the Wage Obligations (including any prepetition amounts that may be outstanding) in the ordinary course of business on a postpetition basis. For the avoidance of doubt, as of the Petition Date, the Debtor does not believe that the amount due and owing to any Employee on account of Wage Obligations together with any other Prepetition Employee will exceed the statutory cap of \$15,150 set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code during the Interim Period. In the event that prepetition amounts owed to any Employee on account of Wages (together with any other Prepetition Employee Obligations owed to such Employee, if any) exceed the statutory cap of \$15,150 set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, the Debtor seeks authorization to pay such excess amounts solely pursuant to the Final Order.

B. Independent Contractor Obligations

22. The Employees and the Independent Contractor work side by side with respect to many of the Debtor's business operations, as described above. The Debtor has previously incurred amounts on account of payments to the Independent Contractor (the "Independent Contractor Obligations"). As of the Petition Date, the Debtor believes no amounts are due and owing in connection with the Independent Contractor Obligations, and none will become due and owing during the Interim Period.

23. The Debtor seeks authorization, but not direction, to continue to satisfy amounts incurred on account of the Independent Contractor Obligations (including any prepetition amounts that may be outstanding) in the ordinary course of business on a postpetition basis.

C. Withholding and Deduction Obligations

24. Certain federal and state laws require that the Debtor withhold certain amounts from Employees' gross pay related to federal, state, and local income taxes for remittance to the

appropriate federal, state, or local taxing authorities or as required by statute including for garnishments, child support, and Social Security and Medicare taxes (the “Withholding Obligations”). On average, the Debtor withholds and subsequently remits approximately \$101,512.03 per month on account of Withholding Obligations for its Employees.

25. The Debtor also routinely deducts certain amounts from Employees’ paychecks, including pre-tax and after-tax deductions payable pursuant to certain employee benefit plans discussed herein, such as an Employee’s share of healthcare benefits and insurance premiums, 401(k) contributions, and miscellaneous deductions (collectively, the “Deductions,” and together with the Withholding Obligations, the “Withholding and Deduction Obligations”) and forward such amounts to various third-party recipients or retain such amounts for any self-insured benefit programs. On average, the Debtor withholds and remits approximately \$11,904.14 per month on account of Deductions.

26. As of the Petition Date, the Debtor asserts that it has deducted but not yet remitted to the appropriate third-party payees approximately \$11,904.14 in Withholding and Deduction Obligations, all of which must be remitted during the Interim Period. Additionally, the Debtor anticipates deducting and remitting to the appropriate third-party payees approximately \$113,416.17 in Withholding and Deduction Obligations during the Interim Period.

27. Any amounts held by the Debtor on account of the Withholding and Deduction Obligations generally are held in trust by the Debtor and are not property of its estate. As such, the Debtor does not need authorization to remit such payments to the appropriate third-parties. Nonetheless, out of an abundance of caution, by this Motion the Debtor requests authorization to remit all outstanding prepetition amounts deducted on account of the Withholding and Deduction

Obligations and to continue to deduct and remit the Withholding and Deduction Obligations on a postpetition basis in the ordinary course of business consistent with its prepetition practices.

D. Employer Payroll Taxes

28. In addition to the Withholding and Deduction Obligations described above, the Debtor is required by applicable statutory authority to match from its own funds Social Security taxes and pay, based on a percentage of gross payroll, additional amounts for federal and state unemployment and disability insurance (the “Employer Payroll Taxes”), to the appropriate taxing authorities. On average, the Debtor remits approximately \$28,831.53 per month on account of the Employer Payroll Taxes.

29. The Debtor estimates that as of the Petition Date approximately \$0 of accrued but unpaid Employer Payroll Taxes have not been remitted to the appropriate governmental authorities, all of which will become due and owing during the Interim Period. The Debtor seeks authorization, but not direction, to remit the Employer Payroll Taxes and to continue to honor and process the Employer Payroll Taxes on a postpetition basis in the ordinary course of business and consistent with past practices.

E. Reimbursable Expenses

30. Certain ordinary course expenses that Employees incur in performing their job functions, including, but not limited to, expenses for parking, travel expenses, business meals, and mobile phone usage (the “Reimbursable Expenses”) are reimbursable by the Debtor. In order to obtain such reimbursements, Employees must apply for reimbursement by submitting an expense report within 30 days of the expenditure and obtain approval from designated approval authorities. As of the Petition Date, the Debtor estimates that it owes approximately \$2,000 on account of Reimbursable Expenses, all of which will become due and owing during the Interim Period.

31. The Debtor's inability to reimburse Reimbursable Expenses could impose a hardship on Employees where such individuals incurred Reimbursable Expenses on the Debtor's behalf and with the understanding that such expenses would be reimbursed. Accordingly, the Debtor seeks authorization, but not direction, to continue to satisfy amounts incurred on account of the Reimbursable Expenses (including any prepetition amounts that may be outstanding) in the ordinary course of business on a postpetition basis. For the avoidance of doubt, the Debtor will not seek to pay any outstanding amounts incurred on account of the Reimbursable Expenses in advance of the date they come due.

F. Vacation and Leave Benefits

32. The Debtor provides paid time off for vacation (the "Paid Vacation Benefits") to full-time employees. Eight Employees earn sixteen (16) days of paid vacation per year, three of the Employees earn twenty (20) days of paid vacation per year and two of the Employees earn twenty-five (25) days of paid vacation per year.³ At the end of each calendar year, Employees can generally carry over unused vacation days to the following calendar year, but may not accrue more than twenty five (25) paid vacation days. Employees are paid their regular hourly or salaried rate when they elect to use Paid Vacation Benefits.

33. As of the Petition Date, the Debtor estimates the accrued liability for Paid Vacation Benefits to be approximately \$73,356.80. In the event of termination of an Employee during the Interim Period, prepetition earned but unused Paid Vacation Benefits may become due within the Interim Period and in accordance with applicable state law. The Debtor seeks authorization, but not direction, to pay any prepetition amounts due with respect to earned but unused Paid Vacation

³ The rate at which Employees accrue Paid Vacation Benefits is negotiated on an individual Employee basis as part of the Employee's individual agreement.

Benefits for terminated Employees—including if such amounts become due and payable and are required to be paid by applicable state law—and continue the Paid Vacation Benefits policies in the ordinary course of business on a postpetition basis.

34. The Debtor also provides paid leave benefit programs (the “Paid Leave Benefits”) for eligible Employees. Employees are eligible to be paid only for specific types of leave, including sick leave, bereavement, jury duty compensation and other types of leave authorized or required by law. Full-time Employees are eligible to receive up to ten paid sick days each year. Unused paid sick leave is not carried over to the following calendar year. Employees do not receive a payment for any unused leave days at the end of the year or at termination unless required by law. The Debtor seeks authorization, but not direction, to honor all fully earned obligations under the Paid Leave Benefits and to continue the Paid Leave Benefits in the ordinary course of business on a postpetition basis.

II. Health and Welfare Coverage and Benefits

35. The Debtor offers health and welfare benefits to eligible Employees for medical, prescription, dental, and vision care coverage and certain other welfare benefits, including life, disability insurance, and other insurance benefits (collectively, the “Health and Welfare Coverage and Benefits”). Failure to continue the Health and Welfare Coverage and Benefits could cause Employees to experience severe hardship and make it difficult to retain the Employees.

36. The Debtor asserts that it is authorized to continue the Health and Welfare Coverage and Benefits in the ordinary course; however, out of an abundance of caution the Debtor seeks authorization, but not direction, to continue the Health and Welfare Coverage and Benefits on a postpetition basis in the ordinary course of business (including honoring any prepetition obligations that may be outstanding) and consistent with its prepetition practices (except as may be modified as a result of the Company’s wind-down).

A. Medical and Prescription Coverage

37. The Debtor offers its Employees and Employees' dependents medical insurance benefits through a choice of three fully-insured health insurance plan options: two administered by Cigna, the Exclusive Provider Organization plan and the Preferred Provider Organization plan (collectively, the "Cigna Plans") and one administered by Kaiser Permanente (the "Kaiser HMO Plan" and, with the Cigna Plans, the "Medical Plans"). Approximately 13 Employees are enrolled in the Medical Plans, under which participants and their eligible dependents receive coverage for, among other things, preventative care, doctor visits, hospital care, and prescription drugs.

38. The Debtor contributes 90 percent of its Employees' premiums, with the remaining amounts being deducted from participating eligible Employees' paychecks. The Debtor incurs a monthly average of approximately \$50,078.57 on account of the Medical Plans, of which approximately \$4,510.07 is offset by deductions from participating eligible Employees as applicable. As of the Petition Date, the Debtor has estimated and accrued in the aggregate approximately \$45,568.57 on account of the Medical Plans, all of which will become due and owing during the Interim Period.

B. Dental and Vision Insurance Coverage

39. The Debtor provides eligible Employees dental insurance coverage through a plan administered by Cigna HealthCare (the "Dental Plan"), and vision insurance coverage through a plan administered by Cigna Health and Life Insurance Company (the "Vision Plan"), each of which are group plans. Approximately 13 Employees are enrolled in the Dental Plan and approximately 13 are enrolled in the Vision Plan.

40. The Debtor remits approximately \$903.00 per month in premiums that have been collected through Payroll Deductions in connection with the Dental Plan. As of the Petition Date, the Debtor estimates that accrued and outstanding prepetition obligations related to the Dental

Plans are approximately \$3,570.72, all of which will become due and owing during the Interim Period. Moreover, the Debtor remits approximately \$99.00 per month in premiums in connection with the Vision Plan. The Debtor estimates that accrued and outstanding prepetition obligations in connection with the Vision Plans as of the Petition Date are approximately \$350.94, all of which will become due and owing during the Interim Period.

C. Flexible Benefit Plan

41. The Debtor provides Employees with the opportunity to make pre-tax contributions to a flexible spending account (“FSA”) administered by the Debtor (the “Flexible Spending Program”). The Debtor makes contributions to the Flexible Spending Program for eligible Employees in amounts based on the type of coverage the Employee elects to receive.

42. The Debtor deducts an average of approximately \$241.67 from participating Employee’s Wage Obligations on account of the Employee contributions to the Flexible Spending Program on a monthly basis. Currently, approximately 2 Employees contribute to an FSA. As of the Petition Date, the Debtor estimates that it is obligated to remit approximately \$241.67, comprised of Employee FSA withholdings, which is expected to come due during the Interim Period.

D. COBRA Obligations

43. Pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), certain current full-time Employees of the Debtor (“Potential COBRA Participants”) may continue insurance coverage under the Health Plans, the Dental Plan, the Vision Plan, and the Health Savings Account Program after the termination of their employment (the “COBRA Benefits”). Potential COBRA Participants are entitled by law to receive COBRA Benefits for up to 18 months, and in certain instances up to 36 months, after termination of their employment. As of the Petition Date, approximately 12 current full-time Employees are Potential COBRA

Participants, excluding the Employees' dependents, and 8 former employees are currently receiving COBRA Benefits (the "COBRA Participants"). COBRA Participants are responsible for paying all premiums associated with the COBRA Benefits. The Debtor administers the COBRA Benefits, including to provide all required notifications, bill and collect premiums from the COBRA Participants, coordinate enrollment information with the Health Plan administrators, and provide customer service and support for COBRA Participants. The Debtor pays a monthly fee of 2% of the COBRA Benefits on behalf of the participating employee. The Debtor estimates that the only accrued and outstanding prepetition obligations in connection with the COBRA Benefits as of the Petition Date are approximately \$175, all of which will become due and owing during the Interim Period.⁴

44. Failure to comply with the requirements of COBRA can subject the Debtor to penalties of up to \$110 per day per qualified beneficiary (with a minimum penalty of \$15,000 for more than *de minimis* violations), actions by the Department of Labor, and civil lawsuits by former employees to recover their benefits. *See, e.g.*, 29 C.F.R. § 2575.502c-6. Accordingly, the Debtor seeks authorization, but not direction, to (i) pay all outstanding prepetition amounts owed by the Debtor in connection with the COBRA Benefits; (ii) continue to offer the COBRA Benefits to eligible former full-time Employees, including to full-time Employees that become eligible postpetition, if any, and (iii) honor all related obligations postpetition in the ordinary course of business and consistent with its prepetition practices.

⁴ The Debtor anticipates the need for the appointment of a third-party administrator may be necessary upon the confirmation of a plan or during the course of this chapter 11 case. If necessary, the Debtor shall seek the appropriate relief from this Court to appoint such administrator if and when necessary.

E. Life, Disability, and AD&D Insurance Coverage

45. The Debtor provides or sponsors, as applicable, (a) basic life insurance, as well as accidental death and dismemberment insurance (the “Basic Life and AD&D Insurance”) administered by Lincoln Financial Group (“Lincoln”) for Employees; (b) an option for eligible Employees to purchase supplemental life insurance administered by Lincoln for themselves and their dependents (the “Supplemental Life Insurance”); (c) optional executive life insurance as well as supplemental life insurance administered by Ameritas Life Insurance Corp. (the “Executive Life Insurance”); and (d) short- and long-term disability insurance to all active eligible Employees on a Debtor-paid basis, which is administered by Lincoln (“Disability Insurance”) (collectively, the “Life, Disability, and AD&D Insurance Coverage”).

46. The Debtor’s total monthly costs in connection with Disability Insurance coverage are approximately \$5,792.56. As of the Petition Date, the Debtor does not believe it has any liability in respect of the Life, Disability, and AD&D Insurance Coverage. The Debtor requests authority to continue honoring its obligations under the Life, Disability, and AD&D Insurance Coverage postpetition in the ordinary course of business and consistent with its prepetition practices.

III. Workers’ Compensation Program

47. The Debtor provides workers’ compensation insurance for its Employees to cover, among other things, workers’ compensation and employer liability for accidents, death, or disease sustained by employees. The Debtor maintains workers’ compensation insurance for its workers with Travelers Property Casualty Company of America (the “Workers’ Compensation Program”).

48. The Debtor’s average annual remittance for Travelers Property Casualty Company of America workers’ compensation plan premium is approximately \$18,352.00.

49. Additional information regarding the processing of payments under the Workers' Compensation Program is contained in the Insurance Motion. All relief with respect to the Workers' Compensation Program is being sought pursuant to the Insurance Motion, and the information contained herein is solely presented for illustrative purposes.

IV. Employee 401(k) Plan

50. As of the Petition Date, the Debtor maintains a retirement savings plan for the benefit of its full-time Employees that satisfies the requirements of section 401(k) of the Internal Revenue Code (the "401(k) Plan"). Employees are immediately eligible to participate in the 401(k) Plan upon the commencement of their employment with the Debtor. The 401(k) Plan is administered by ADP and allows for automatic pre-tax salary deductions of eligible compensation up to the limits set forth in the Internal Revenue Code.

51. The Debtor does not match eligible Employees' contributions.

52. The Debtor seeks authorization, but not direction, to remit continue to honor and process those eligible and participating Employees pre-tax salary deduction in connection with the 401(k) Plan on a postpetition basis (including any prepetition amounts that may be outstanding) in the ordinary course of business and consistent with past practices.

V. Wage, Benefit, and Employee Management Service Providers

53. The Debtor works with one or more firms that handle human resources-related administrative functions, including payroll processing, withholding, remittance, reporting of payroll taxes (including the Employer Payroll Taxes) for the Employees, and the administration of its benefits and retirement plans and programs including claims processing and tax reporting (collectively, the "Employee Administration Service Providers").

54. These relationships with the Employee Administration Service Providers allow the Debtor to realize substantial cost savings with respect to the administration of its employee payroll

and benefits by not having to employ additional human resources professionals and administer payroll and benefit programs, and allow the Debtor to offer better and broader benefits to its Employees at significantly reduced rates relative to the costs of participating in those programs without third-party intermediaries like the Employee Administration Service Providers. The use of the Employee Administration Service Providers allows the Debtor's human resource professionals to manage the Debtor's workforce in an efficient and cost-effective manner, and the inability to use the systems and services provided by the Employee Administration Service Providers would significantly impair such professionals to perform their normal duties.

55. As of the Petition Date, the Debtor estimates it owes approximately \$12,017.52 in the aggregate to the Employee Administration Service Providers, all of which will become due and owing during the Interim Period. The Debtor intends to continue to use the Employee Administration Service Providers during this chapter 11 case and seeks authorization, but not direction, to pay all outstanding prepetition amounts due to the Employee Administration Service Providers, to continue to make all payments in the ordinary course of business on a postpetition basis, and to continue its practice of evaluating and engaging or terminating Employee Administration Service Providers, as the case may be, in the ordinary course of business on a postpetition basis.

BASIS FOR RELIEF REQUESTED

I. Sufficient Cause Exists to Authorize the Debtor to Honor the Employee Compensation and Benefits.

A. Certain Employee Compensation and Benefits Are Entitled to Priority Treatment.

56. Sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code entitle much of the Employee Compensation and Benefits to priority treatment, to the extent such payments do not exceed \$15,150 for each individual as provided for under sections 507(a)(4) and 507(a)(5) of the

Bankruptcy Code. As priority claims, the Debtor is required to pay these claims in full to confirm a chapter 11 plan. *See* 11 U.S.C. § 1129(a)(9)(B) (requiring payment in full of certain allowed unsecured claims, given priority under sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, for (a) wages, salaries or commissions, including vacation, severance, and sick leave pay earned by an individual and (b) contributions to an employee benefit plan). To the extent that an Employee receives no more than \$15,150 on account of claims entitled to priority, the relief sought with respect to compensation only affects the timing of payments to Employees and does not have any material impact on the amounts they may recover. Although an Employee may receive more than \$15,150 on account of certain Employee Compensation and Benefits, the Debtor submits that satisfaction of its full obligations is warranted under section 363(b)(1) of the Bankruptcy Code and the doctrine of necessity as set forth below.

57. The Debtor also submits that payment of the Employee Compensation and Benefits at this time enhances value for the benefit of all interested parties and reduces the risk of Employee attrition that would inevitably result if payment were to cease. As described in the First Day Declaration, maintaining and motivating the Debtor's Employee workforce is vital to the Debtor's efforts to implement a sale through this chapter 11 case and otherwise wind down its operations and sell its assets.

B. Payment of Certain Employee Compensation and Benefits Is Required by Law.

58. The Debtor seeks authorization to pay the Withholding and Deduction Obligations to the appropriate third-party entities. These amounts principally represent Employee earnings that governments, Employees, and judicial authorities have designated for deduction from the Employees' paychecks. Indeed, certain Withholding and Deduction Obligations are not property

of the Debtor's estate because the Debtor has withheld such amounts from the Employees' paychecks on another party's behalf. *See* 11 U.S.C. §§ 541(b)(1), (d).

59. Further, federal and state laws require the Debtor to withhold certain tax payments from the Employees' paychecks and to pay such amounts to the appropriate taxing authority.⁵ Because the Withholding and Deduction Obligations may not be property of the Debtor's estate, the Debtor requests that the Court authorize them to transmit the Withholding and Deduction Obligations on account of the Employees to the proper parties in the ordinary course of business.

II. Payment of the Employee Compensation and Benefits Is Warranted Under Section 363(b) of the Bankruptcy Code and the Doctrine of Necessity.

60. Courts have recognized that it is appropriate to authorize the payment of prepetition obligations where necessary to protect and preserve the estate, including an operating business's going-concern value. *See, e.g., In re Just for Feet, Inc.*, 242 B.R. 821, 824 (D. Del. 1999) (recognizing that courts may "authorize the payment of pre-petition claims if such payment [is] essential to the continued operation of the debtors"); *see also In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992); *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175–76 (Bankr. S.D.N.Y. 1989); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983). In so doing, these courts acknowledge that several legal theories rooted in sections 105(a) and 363(b) of the Bankruptcy Code support the payment of prepetition claims.

⁵ 26 U.S.C. §§ 6672, 7501(a); *see also City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95–97 (3d Cir. 1994) (finding that state law requiring a corporate debtor to withhold city income tax from its employees' wages created a trust relationship between debtor and the city for payment of withheld income taxes); *In re Stanmock, Inc.*, 103 B.R. 228, 229 (B.A.P. 9th Cir. 1989) ("to encourage or enhance withholding and payment of payroll taxes, when the nominal employer (commonly a corporation) does not collect and pay the tax, any other person responsible for the collection and payment of withholding is liable, on a one-hundred percent penalty basis, for the trust fund taxes . . ."); *In re DuCharmes & Co.*, 852 F.2d 194, 196 (6th Cir. 1988) (noting that individual officers of a company may be held personally liable for failure to pay trust fund taxes).

61. Section 363(b) of the Bankruptcy Code permits a bankruptcy court, after notice and a hearing, to authorize a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). “In determining whether to authorize the use, sale or lease of property of the estate under this section, courts require the debtor to show that a sound business purpose justifies such actions.” *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (collecting cases); *see also Armstrong World*, 29 B.R. at 397 (relying on section 363 to allow contractor to pay prepetition claims of suppliers who were potential lien claimants because the payments were necessary for general contractors to release funds owed to Debtor); *Ionosphere Clubs*, 98 B.R. at 175 (finding that a sound business justification existed to justify payment of certain prepetition wages); *In re Phx. Steel Corp.*, 82 B.R. 334, 335–36 (Bankr. D. Del. 1987) (requiring the debtor to show a “good business reason” for a proposed transaction under section 363(b)). Moreover, “[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *In re Johns-Manville Corp.*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted); *see also In re Tower Air, Inc.*, 416 F.3d 229, 238 (3d Cir. 2005) (stating that “[o]vercoming the presumptions of the business judgment rule on the merits is a near-Herculean task”).

62. Courts also authorize payment of prepetition claims in appropriate circumstances based on section 105(a) of the Bankruptcy Code. Section 105(a) of the Bankruptcy Code codifies a bankruptcy court’s inherent equitable powers to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Under section 105(a), courts may authorize pre-plan payments of prepetition obligations when essential to the continued operation of a debtor’s business. *See Just for Feet*, 242 B.R. at 825–26.

63. Specifically, a court may use its power under section 105(a) of the Bankruptcy Code to authorize payment of prepetition obligations pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”). The “doctrine of necessity” functions in a chapter 11 case as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code and further supports the relief requested herein.

64. The United States Court of Appeals for the Third Circuit recognized the “necessity of payment” doctrine in *In re Lehigh & New England Railway, Co.*, 657 F.2d 570, 581 (3d Cir. 1981). The Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating a court may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *see also Just for Feet*, 242 B.R. 821, 824–25 (D. Del. 1999) (holding that section 105(a) of the Bankruptcy Code “provides a statutory basis for payment of pre-petition claims” under the doctrine of necessity); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191–92 (Bankr. D. Del. 1994) (explaining that the doctrine of necessity is the standard in the Third Circuit for enabling a court to authorize the payment of prepetition claims prior to confirmation of a reorganization plan). A bankruptcy court’s use of its equitable powers to “authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *Ionosphere Clubs*, 98 B.R. at 175-76 (citing *Miltenberger v. Logansport, C. & S.W. Ry. Co.*, 106 U.S. 286 (1882)). Indeed, at least one court has recognized that there are instances when a debtor’s fiduciary duty can “only be fulfilled by the preplan satisfaction of a prepetition claim.” *In re CoServ*, 273 B.R. at 497.

65. Payment of the Employee Compensation and Benefits is warranted under these authorities and the facts of this chapter 11 case. The Debtor submits that the relief requested herein represents a sound exercise of the Debtor's business judgment, is necessary to avoid immediate and irreparable harm to the Debtor's estate, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code and Bankruptcy Rule 6003. Paying prepetition compensation, benefits, and similar items to Employees and Independent Contractor will benefit the Debtor's estate by allowing the Debtor's business operations to continue without interruption as the Debtor seeks to implement an asset sale through this chapter 11 case and otherwise wind down its operations.

66. The majority of Employees and Independent Contractor rely exclusively on the Employee Compensation and Benefits to satisfy their daily living expenses. Consequently, Employees and Independent Contractor will be exposed to significant financial difficulties if the Debtor is not permitted to honor its obligations related thereto. Moreover, failure to satisfy such obligations will jeopardize morale and loyalty at a time when Employees' and Independent Contractor's support is critical to the Debtor's business.

67. Additionally, without the relief requested herein, Employees or Independent Contractor may seek alternative employment opportunities. Such a development would deplete the Debtor's workforce, thereby hindering the Debtor's ability to efficiently winddown its business while it seeks to consummate a sale that will maximize the value of the Debtor's assets. The loss of valuable Employees and Independent Contractor would be harmful at this crucial time when the Debtor needs to focus on successfully implementing a sale and wind-down. Enterprise value may be materially impaired to the detriment of all stakeholders in such a scenario. Accordingly, there can be no doubt that the Debtor must do its utmost to retain its remaining workforce by, among

other things, continuing to honor all wages, benefits, and related obligations, including the prepetition Employee Compensation and Benefits.

68. Accordingly, the Debtor respectfully requests that the Court authorize, but not direct, the Debtor to pay any prepetition amounts accrued and unpaid on account of the Employee Compensation and Benefits and to continue the Employee Compensation and Benefits on a postpetition basis in the ordinary course of business consistent with past practices.

III. Processing of Checks and Electronic Fund Transfers Should Be Authorized.

69. The Debtor has sufficient funds to pay the amounts described in this Motion in the ordinary course of business by virtue of existing cash. In addition, under the Debtor's existing cash management system, the Debtor can readily identify checks, ACH, or wire transfer requests as relating to any authorized payment in respect of the relief requested herein. Accordingly, the Debtor believes that checks, ACH, or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtor respectfully requests that the Court authorize all applicable financial institutions, when requested by the Debtor, to receive, process, honor, and pay any and all checks, ACH, or wire transfer requests in respect of the relief requested in this Motion.

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

70. The Debtor asserts that immediate relief is necessary to avoid immediate and irreparable harm. Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the commencement of a chapter 11 case "to the extent that relief is necessary to avoid immediate and irreparable harm." For the reasons discussed above, entry of the proposed interim order is integral to the Debtor's ability to successfully transition into chapter 11 and run an orderly sale. Specifically, the relief requested is necessary to avoid a severe disruption of the Debtor's sale process and operations at this critical juncture and, in turn, to preserve and maximize the value

of the Debtor's estate for the benefit of all stakeholders. Accordingly, the Debtor submits that it has satisfied the "immediate and irreparable harm" standard of Bankruptcy Rule 6003 and, therefore, respectfully requests that the Court approve the relief requested in this Motion.

REQUEST FOR BANKRUPTCY RULE 6004 WAIVERS

71. The Debtor requests a waiver of any applicable notice requirements under Bankruptcy Rule 6004(a) and any stay of the order granting the relief requested herein pursuant to Bankruptcy Rule 6004(h). As explained above and in the First Day Declaration, the relief requested herein is necessary to avoid immediate and irreparable harm to the Debtor's sale process and to preserve and maximize the value of the Debtor's estate for all stakeholders. Accordingly, ample cause exists to justify the waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay imposed by Bankruptcy Rule 6004(h), to the extent such notice requirements and such stay apply.

RESERVATION OF RIGHTS

72. Nothing contained herein or any action taken pursuant to relief requested is intended to be or shall be construed as (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. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtor's or any party in interest's rights to subsequently dispute such claim.

NOTICE

73. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) the holders of the 20 largest unsecured claims against the Debtor; (c) Davis Polk & Wardwell LLP and Greenberg Traurig, LLP counsel to (1) U.S. Bank, the indenture trustee to the 3.50% Convertible Senior Notes Due 2027 and (2) certain holders of 3.50% Convertible Senior Notes Due 2027; (d) the United States Attorney's Office for the District of Delaware; (e) the Internal Revenue Service; (f) the Securities and Exchange Commission; (g) the United States Food and Drug Administration; (h) the Employee Administration Service Providers; and (i) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of page intentionally left blank.]

WHEREFORE, the Debtor respectfully requests entry of the Proposed Orders, substantially in the form attached hereto as Exhibit A and Exhibit B, granting the relief requested herein and granting such other relief as is just and proper.

Dated: January 11, 2023
Wilmington, Delaware

/s/ Sean M. Beach

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Proposed Attorneys for Debtor, Tricida, Inc.

Exhibit A

Proposed Interim Order

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

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (___)

Re: Docket No. ___

INTERIM ORDER

**(A) AUTHORIZING THE DEBTOR TO (I) PAY
PREPETITION WAGES, COMPENSATION, AND BENEFIT
OBLIGATIONS AND (II) CONTINUE EMPLOYEE COMPENSATION
AND BENEFITS PROGRAMS AND (B) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for entry of an interim order (this “Interim Order”) (a) authorizing, but not directing, the Debtor to (i) pay and honor prepetition claims on a postpetition basis, as applicable, relating to the Employee Compensation and Benefits; (ii) continue to honor its obligations on account of the Employee Compensation and Benefits, including payment of employee compensation and benefits in the ordinary course of business postpetition; (b) granting related relief; and (c) scheduling a final hearing to consider approval of the Motion on a final basis; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having 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, and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with

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 7000 Shoreline Court, Suite 201, South San Francisco, CA 94080.

² Capitalized terms used in this Interim Order but not immediately defined have the meanings given to them in the Motion.

Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for hearing on the Motion having been given; and the Court having determined that the relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtor and its estate, as contemplated by Bankruptcy Rule 6003; and the relief requested in the Motion being in the best interests of the Debtor's estate, its creditors, and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED on an interim basis as set forth herein.
2. The final hearing on the Motion shall be held on _____, 2023 at _____ (prevailing Eastern Time) (the "Final Hearing"). Any objections or responses to entry of the proposed final order shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on _____, 2023. In the event no objections to entry of a final order on the Motion are timely received, this Court may enter a final order without need for the Final Hearing.
3. The Debtor is authorized, but not directed, on an interim basis, to: (a) continue to administer the Employee Compensation and Benefits currently in effect and honor any undisputed prepetition obligations related thereto, in each case in the ordinary course of business consistent with its prepetition practices and/or as required by applicable law and (b) continue, modify, replace, or terminate the Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during this chapter 11 case, consistent

with and not to exceed the Interim Amounts set forth in the Motion, and without the need for further Court approval, subject to applicable law.

4. Pending entry of the Final Order, the Debtor shall not pay or honor, and nothing herein shall be deemed to authorize the payment of any prepetition Wages that exceed the priority amounts set forth in sections 507(a)(4) and 507(a)(5) of the Bankruptcy Code, except upon further order of this Court.

5. Nothing herein shall be deemed to authorize the payment of any amounts in satisfaction of severance obligations which may implicate or be subject to section 503(c) of the Bankruptcy Code; *provided* that nothing in this Interim Order shall prejudice the Debtor's ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.

6. The Debtor is authorized to satisfy Reimbursable Expenses on a prepetition and postpetition basis, subject to the limitations of this Interim Order and any interim and final order(s) of this Court granting the Cash Management Motion.

7. The Debtor is authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of this chapter 11 case with respect to prepetition amounts owed in connection with the relief granted herein.

8. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor's designation of any particular check or electronic payment request as approved by this Interim Order.

9. Nothing in this Interim Order authorizes the Debtor to accelerate any payments not otherwise due prior to the date of the Final Hearing.

10. Nothing in this Interim 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.

11. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b) because the relief granted in this interim order is necessary to avoid immediate and irreparable harm to the Debtor's estate.

12. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are waived by such notice.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this interim order are immediately effective and enforceable upon its entry.

14. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

15. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Interim Order.

Exhibit B

Proposed Final Order

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

In re:

TRICIDA, INC.,¹

Debtor.

Chapter 11

Case No. 23-10024 (___)

Re: Docket No. ___

**FINAL ORDER
(A) AUTHORIZING THE DEBTOR TO (I) PAY
PREPETITION WAGES, COMPENSATION, AND BENEFIT
OBLIGATIONS AND (II) CONTINUE EMPLOYEE COMPENSATION
AND BENEFITS PROGRAMS AND (B) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtor and debtor in possession (collectively, the “Debtor”) for entry of a final order (this “Final Order”) (a) authorizing, but not directing, the Debtor to (i) pay and honor prepetition claims on a postpetition basis, as applicable, relating to the Employee Compensation and Benefits; (ii) continue to honor its obligations on account of the Employee Compensation and Benefits, including payment of employee compensation and benefits in the ordinary course of business postpetition; (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having 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, and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent

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 7000 Shoreline Court, Suite 201, South San Francisco, CA 94080.

² Capitalized terms used in this Final Order but not immediately defined have the meanings given to them in the Motion.

with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtor's estate, its creditors, and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The relief requested in the Motion is GRANTED on a final basis as set forth herein.
2. The Debtor is authorized, but not directed, on a final basis, to: (a) continue to administer the Employee Compensation and Benefits currently in effect and honor any undisputed prepetition obligations related thereto, in each case in the ordinary course of business consistent with its prepetition practices and/or as required by applicable law and (b) continue, modify, replace, or terminate the Employee Compensation and Benefits and to implement new programs, policies, and benefits, in the ordinary course of business during this chapter 11 case, consistent with the Interim Amounts set forth in the Motion, and without the need for further Court approval, subject to applicable law.
3. Nothing herein shall be deemed to authorize the payment of any amounts in satisfaction severance obligations, or which may implicate or be subject to section 503(c) of the Bankruptcy Code; *provided* that nothing in this Final Order shall prejudice the Debtor's ability to seek approval of relief pursuant to section 503(c) of the Bankruptcy Code at a later time.
4. The Debtor is authorized to continue the programs associated with the Reimbursable Expenses on a prepetition and postpetition basis, subject to the limitations of this Final Order and any final order(s) of this Court granting the Cash Management Motion.

5. The Debtor is authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of this chapter 11 case with respect to prepetition amounts owed in connection with the relief granted herein.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtor's designation of any particular check or electronic payment request as approved by this Final Order.

7. Nothing in this Final Order (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.

8. Notice of the Motion shall be deemed good and sufficient notice of such Motion, and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are waived by such notice.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

10. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

11. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Final Order.