

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

In re:

TRICIDA, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 23-10024 (\_\_\_)

**DEBTOR'S MOTION FOR ENTRY  
OF INTERIM AND FINAL ORDERS (I) AUTHORIZING  
THE DEBTOR TO PAY CERTAIN PREPETITION TAXES & FEES;  
(II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS  
RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Tricida, Inc., as the debtor in possession in the above-captioned chapter 11 case (the "Debtor"), hereby submits this motion (this "Motion"), under sections 105(a), 363(b), 507(a), and 541(d) 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 (the "Proposed Orders"), (a) authorizing the Debtor to pay certain prepetition taxes and fees; (b) authorizing financial institutions to honor and process related checks and transfers; and (c) granting related relief. 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 Declaration"), filed contemporaneously herewith and incorporated herein by reference.<sup>2</sup> In further support of this Motion, the Debtor respectfully states as follows:

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<sup>1</sup> 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.

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



**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 chapter 11 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.

4. The statutory and other bases for the relief requested in this Motion are sections 105(a), 363(b), 507(a), and 541(d) of the Bankruptcy Code and Rules 6003 and 6004 of the Bankruptcy Rules.

**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 veriverim, 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 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, in its discretion, to pay (or use tax credits to offset, if possible) certain Taxes (as defined below) due and owing to the Taxing Authorities (as defined below) that accrued prior to the Petition Date, but not including any "catch up" payments;
- b. authorizing applicable banks and other financial institutions to receive, process, honor, and pay any and all checks drawn on the Debtor's accounts and other transfers to the extent those checks or transfers relate to payment of such Taxes; and
- c. granting related relief, including scheduling a final hearing to consider approval of the Motion on a final basis.

8. In sum, the Debtor seeks authority to pay prepetition Taxes that come due in the ordinary course of business and, on an interim basis, in an amount not to exceed \$1,000.

### **DEBTOR'S TAXES**

9. In the ordinary course of business, the Debtor collects, withholds, and incurs various types of taxes and fees as described further below (collectively, the "Taxes").<sup>3</sup> The Debtor

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<sup>3</sup> The Debtor is seeking authority to pay and remit Payroll Taxes and Withholdings (as defined below) in a separate motion—*Debtor's Motion for Interim and Final Orders (A) Authorizing Debtor to (I) Pay Prepetition Wages*,

remits the Taxes to various federal, state, and local government entities (collectively, the “Taxing Authorities”).

10. The Debtor generally pays the Taxes quarterly, annually, or as invoiced, in each case, as required by applicable laws and regulations. As of the Petition Date, the Debtor estimates that an aggregate amount of approximately \$42,575 in Taxes have accrued and remain due and owing to the various Taxing Authorities. Of this amount, the Debtor estimates that approximately \$25 will come due within the twenty-one (21) days following the Petition Date.

11. A chart outlining the various categories and approximate amounts of Taxes the Debtor is seeking authority to pay is set forth below. The amounts in this chart are good faith estimates based on the Debtor’s books and records and remain subject to potential audits and other adjustments. As such, the Debtor also seeks authority to pay any Taxes due and owing following any such audit and adjustment.

<b>Nature of Tax</b>	<b>Frequency Paid</b>	<b>Approx. Amount Due and Owing</b>	<b>Approx. Amount Requesting to Pay on Interim Basis</b>
Use Tax	As Incurred	\$25	\$25
Personal Property Tax	Annually	\$0	\$0
Income Tax	Annually <sup>4</sup>	\$2,500	\$0
Business Tax	Annually	\$0	\$0
Franchise Tax	Quarterly	\$40,050	\$0

12. *Use Tax.* In the ordinary course of its business, the Debtor occasionally incurs a de minimis amount of use taxes when it purchases materials and services from a vendor that is not registered to collect sales tax for the state where the property is delivered or the services are provided (the “Use Tax”). In these circumstances, the Debtor, as purchaser, must self-assess and

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*Compensation, and Benefit Obligations and (II) Continue Employee Compensation and Benefits Programs; (B) Granting Related Relief (the “Wage Motion”)*—filed contemporaneously herewith.

<sup>4</sup> Because the Debtor has no revenue-generating operations, it pays the minimum income tax owed to the Federal Government and to those states where it is subject to taxation.

pay the Use Tax, when due, to the appropriate Taxing Authority. As of the Petition Date, less than \$100 in Use Tax has accrued and remains unpaid.

13. *Personal Property Tax.* The Debtor has personal property in California and is thus subject to property tax levied by the state and local governments (the “Personal Property Tax”). In order to avoid the imposition of statutory liens on its property, the Debtor typically pays the Personal Property Tax in the ordinary course of business as such tax is invoiced. As of the Petition Date, no amount of Personal Property Tax has accrued and remains unpaid.

14. *Income Tax.* In the ordinary course of business, the Debtor incurs a minimum income tax in each of the states where it is authorized to conduct business even though no revenue is generated (the “Income Tax”). Specifically, the Debtor pays the minimum amount of Income Tax in all of the jurisdictions in which it operates. As of the Petition Date, approximately \$2,500 in Income Tax has accrued and remains unpaid.

15. *Business License and Permit Fees.* In the ordinary course of business, the Debtor incurs fees relating to business licensing and permitting, along with other corporate fees required to be paid to remain in good standing for the purpose of conducting business within the state (the “Business Tax”). As of the Petition Date, no amount of Business Tax has accrued and remains unpaid.

16. *Franchise Tax.* The Debtor pays certain franchise taxes to Delaware in connection with its right to operate in such state (the “Franchise Tax”). As of the Petition Date, approximately \$40,050 in Franchise Tax has accrued and remains unpaid.

17. *Taxes for Which Directors and/or Officers May be Personally Liable.* Some federal, state, and local Taxing Authorities impose personal liability on directors and/or responsible officers of an entity obligated to collect or pay certain taxes or fees in the event such

taxes or fees are not paid. Although the Debtor believes all taxes for which its directors and/or responsible officers may be personally liable are described either above or in the Wage Motion, it is possible that other such prepetition tax obligations may be uncovered by the Debtor subsequent to the filing of this Motion. To the extent such undisputed prepetition tax obligations exist, the Debtor seeks authority to treat them as Taxes and pay them as they are discovered or become payable.

18. The amounts of Taxes listed above are good faith estimates based on the Debtor's books and records and remain subject to potential audits and other adjustments. Based on these estimates and the projected timing of when the Taxes are likely to come due, the Debtor respectfully requests authority to pay the above prepetition Taxes in full as they come due in the ordinary course of business, with up to \$1,000 paid upon on an interim basis. To the extent the Debtor has inadvertently failed to timely pay any Taxes that became due and owing prior to the Petition Date, the Debtor is not by this Motion seeking authority to remit any "catch up" payments, late penalties, or similar fees to any Taxing Authorities.

### **BASIS FOR RELIEF REQUESTED**

#### **I. Certain of the Taxes May Not Be Property of the Estate**

19. Many of the Taxes collected or withheld by the Debtor on behalf of the applicable Taxing Authority are held in trust for the benefit of the applicable Taxing Authority. As such, these taxes are not property of the Debtor's estate under section 541 of the Bankruptcy Code and, accordingly, not available to satisfy creditor's claims.<sup>5</sup>

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<sup>5</sup> See, e.g., 26 U.S.C. § 7501; *Begier v. IRS*, 496 U.S. 53, 59 (1990) (holding withholding taxes are property held by a debtor in trust and are thus not property of the estate); *City of Farrell v. Sharon Steel Corp.*, 41 F.3d 92, 95 (3d Cir. 1994) (holding withholding taxes were subject to a trust); *Al Copeland Enters. Inc. v. Tex. (In re Al Copeland Enters., Inc.)*, 991 F.2d 233, 235 (5th Cir. 1993) (holding sales tax were subject to a trust); *Official Comm. of Unsecured Creditors v. Columbia Gas Sys., Inc. (In re Columbia Gas Sys. Inc.)*, 997 F.2d 1039, 1060 (3d Cir. 1993) (indicating that even if a statute does not establish an express trust, a constructive trust may still be found).

20. In addition, many federal, state, and local statutes also impose personal liability on officers and directors of companies for prepetition taxes or fees such entities owe. To the extent that the relevant Taxes remain unpaid by the Debtor, the Debtor's officers may be subject to lawsuits or criminal prosecution during this chapter 11 case, which would distract the Debtor and its officers from devoting their full attention to the orderly administration of value maximizing sale and subsequent distribution to creditors. The Debtor believes these distractions would materially and adversely affect the sale process and the interests of creditors and other parties in interest. As a result, and because the Debtor may not have an equitable interest in the Taxes held for the Taxing Authorities, the Debtor should be permitted to pay the Taxes as they come due.

## **II. Payment of the Taxes Is a Sound Exercise of the Debtor's Business Judgment and Required by the U.S. Trustee**

21. To the extent any of the amounts collected or withheld by the Debtor for the Taxes are property of the estate, the use of these amounts to pay the Taxes to the Taxing Authorities is a sound exercise of the Debtor's business judgment under sections 363(b) and 105(a) of the Bankruptcy Code. Under section 363(b)(1) of the Bankruptcy Code, a debtor may, in the exercise of its sound business judgment and after notice and a hearing, "use, sell or lease, other than in the ordinary course of business, property of the estate."<sup>6</sup> The debtor must articulate "some business justification, other than mere appeasement of major creditors" to be eligible for this relief.<sup>7</sup>

22. In addition, under section 1107(a) of the Bankruptcy Code, a debtor in possession has, among other things, an implied duty "to protect and preserve the estate, including an operating

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<sup>6</sup> See 11 U.S.C. § 363(b)(1); *Official Comm. of Unsecured Creditors v. LTV Corp. (In re Chateaugay Corp.)*, 973 F.2d 141, 143 (2d Cir. 1992).

<sup>7</sup> *In re Ionsphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989).

business's going-concern value.”<sup>8</sup> Likewise, section 105(a) of the Bankruptcy Code empowers a court to “issue any order, process, or judgment that is necessary and appropriate to carry out the provisions of [the Bankruptcy Code].”<sup>9</sup> Finally, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) requires that a debtor pay all tax obligations arising after the filing of the petition in full when due. Taken together, a court well within its power to authorize the pre-plan payment of a prepetition obligation when such payment is critical to preserving the value of the Debtor's estate.

23. The Debtor's ability to pay the Taxes is critical to its value maximizing sale efforts and smooth transition into chapter 11. If certain Taxes remain unpaid, California state law holds directors, officers, and other employees of entities responsible for collecting or withholding taxes, or remitting certain taxes, personally liable for these types of taxes, thereby distracting such key personnel from the value maximizing sale process in this chapter 11 case.<sup>10</sup> Accordingly, to the extent certain Taxes incurred by the Debtor before the Petition Date are not paid as requested herein, certain of the Debtor's directors, officers, and other employees may be subject to personal liability. The Debtor asserts it would not be fair to expose these individuals to personal liability. Moreover, any collection action on account of such claims and any potential ensuing liability would distract the Debtor and its personnel to the detriment of all parties in interest. The dedicated and active participation of the Debtor's officers and remaining employees is integral to the sale

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<sup>8</sup> See, e.g., *F.D.I.C. v. Castetter*, 184 F.3d 1040, 1043 (9th Cir. 1999) (holding the business judgment rule “requires directors to perform their duties in good faith and as an ordinarily prudent person in a like circumstance would”); *In re CoServe, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002).

<sup>9</sup> 11 U.S.C. § 105(a); *In re CoServe, L.L.C.*, 273 B.R. at 497 (“[I]t is only logical that the bankruptcy court be able to use [s]ection 105(a) of the [Bankruptcy] Code to authorize satisfaction of the prepetition claim in the aid of preservation or enhancement of the estate.”).

<sup>10</sup> See, e.g., Cal. Code Regs. Title 18, § 1702.5 (personal liability for officers, employees, or members of limited partnerships or corporations who are under a duty to perform on behalf of an entity).

process and essential to the orderly administration and, ultimately, the success of this chapter 11 case. Finally, to the extent the Debtor does not timely pay the prepetition Taxes, it may ultimately be required to pay those amounts with additional interest and penalties, thereby reducing the amount of available recovery for other creditors.

24. Accordingly, to the extent any of the amounts collected or withheld by the Debtor for the Taxes are property of the estate, it is within the Debtor's sound business judgment to pay such Taxes and the Court should authorize those payments as set forth herein.

### **III. Some of the Taxes May Be Entitled to Special Treatment Under the Bankruptcy Code**

25. Finally, certain of the Taxes may be secured or priority claims entitled to payment before any general unsecured claims. For instance, some of the Taxing Authorities may be entitled to assert a statutory lien for unpaid taxes, giving them secured claims in this case. Other Taxes are entitled to priority status under section 507(a)(8) of the Bankruptcy Code, which provides that these Taxes must be paid in full under a confirmable plan pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent certain unpaid Taxes are entitled to priority treatment under the Bankruptcy Code, the respective Taxing Authorities may also attempt to assess fees, interest, and penalties if such amounts are not timely paid.<sup>11</sup>

26. Due to this secured or priority status, payment of the Taxes at this time will not unduly prejudice the rights and recoveries of other creditors in this chapter 11 case—the right to payment will not be affected, only the timing. Accordingly, the Debtor respectfully requests permission to pay any secured or priority Taxes as they come due.

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<sup>11</sup> See 11 U.S.C. § 507(a)(8)(G) (granting eighth priority status to a “penalty related to a claim of a kind specified in this paragraph and in compensation for actual pecuniary loss”).

**IV. Applicable Banks and Other Financial Institutions Should Be Authorized to Receive, Process, Honor, and Pay Checks Issued and Transfers Requested to Pay the Taxes**

27. The Debtor further requests that the Court authorize, but not direct, the financial institutions at which the Debtor maintains its accounts (the “Banks”) to receive, process, honor, and pay any and all checks issued or to be issued and electronic fund transfers requested or to be requested by the Debtor relating to the Taxes. The Debtor also seeks authority, but not direction, to issue new postpetition checks or effect new postpetition electronic fund transfers in replacement of any checks or transfer requests on account of any prepetition Taxes that are dishonored or rejected as a result of the filing of this chapter 11 case.

**THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED**

28. 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**

29. 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**

30. 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**

31. 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; (e) the United States Attorney's Office for the District of Delaware; (f) the Internal Revenue Service; (g) the Securities and Exchange Commission; (h) the United States Food and Drug Administration; (i) the

Taxing Authorities; and (j) 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.

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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**Exhibit A**

**Proposed Interim Order**

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

In re:

TRICIDA, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 23-10024 (\_\_\_)

Re: Docket No. \_\_\_

**INTERIM ORDER (I) AUTHORIZING  
THE DEBTOR TO PAY CERTAIN PREPETITION TAXES & FEES;  
(II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS  
RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (“Motion”)<sup>2</sup> of Tricida, Inc., as debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”), for entry of an interim order (a) authorizing the Debtor to pay certain prepetition taxes and fees; (b) authorizing financial institutions to honor and process related checks and transfers; and (c) granting related relief, each as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having 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; 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 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

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Motion.

Motion is necessary to avoid immediate and irreparable harm to the Debtor and its estate, as contemplated by Bankruptcy Rule 6003; 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, in its discretion and business judgment, to pay any and all prepetition Taxes, excluding catch up payments, in the ordinary course of business as such obligations become due, in an aggregate amount not to exceed \$1,000 without further order of this Court.

4. The Banks are authorized, but not directed, at the Debtor's request to receive, process, honor, and pay, to the extent of funds on deposit, any and all checks issued or to be issued or electronic fund transfers requested or to be requested by the Debtor relating to the payment of Taxes as authorized herein.

5. The Debtor is authorized, but not directed, to issue new postpetition checks, or effect new electronic fund transfers, on account of the Taxes to replace any prepetition checks or

electronic fund transfer requests that may be lost, dishonored, or rejected as a result of the commencement of this chapter 11 case.

6. 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.

7. 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.

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 interim 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 interim 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 interim order.

**Exhibit B**

**Proposed Final Order**

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

In re:

TRICIDA, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 23-10024 (\_\_\_)

**Re: Docket No.** \_\_\_

**FINAL ORDER (I) AUTHORIZING  
THE DEBTOR TO PAY CERTAIN PREPETITION TAXES & FEES;  
(II) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR AND PROCESS  
RELATED CHECKS AND TRANSFERS; AND (III) GRANTING RELATED RELIEF**

Upon consideration of the motion (“Motion”)<sup>2</sup> of Tricida, Inc., as debtor and debtor in possession in the above-captioned chapter 11 case (the “Debtor”), for entry of a final order (a) authorizing the Debtor to pay certain prepetition taxes and fees; (b) authorizing financial institutions to honor and process related checks and transfers; and (c) granting related relief, each as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having 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; 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 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 a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Motion.

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, in its discretion and business judgment, to pay any and all prepetition Taxes, excluding catch-up payments, in the ordinary course of business as such obligations become due without further order of this Court.
3. The Banks are authorized, but not directed, at the Debtor's request to receive, process, honor, and pay, to the extent of funds on deposit, any and all checks issued or to be issued or electronic fund transfers requested or to be requested by the Debtor relating to the payment of Taxes as authorized herein.
4. The Debtor is authorized, but not directed, to issue new postpetition checks, or effect new electronic fund transfers, on account of the Taxes to replace any prepetition checks or electronic fund transfer requests that may be lost, dishonored, or rejected as a result of the commencement of this chapter 11 case
5. Nothing in this final 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.

6. 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.

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

8. The Debtor is authorized to take all actions necessary to effectuate the relief granted in this final order in accordance with the Motion.

9. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this final order.