

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

In re:)
) Chapter 11
NOVAN, INC., *et al.*,¹)
) Case No. 23-10937 (LSS)
Debtors.)
) (Joint Administration Requested)
)
_____)

**DECLARATION OF PAULA BROWN STAFFORD IN SUPPORT OF DEBTORS’
CHAPTER 11 PETITIONS AND FIRST DAY MOTIONS**

I, Paula Brown Stafford, hereby declare, under penalty of perjury, as follows:

1. I am the President, Chief Executive Officer and Chairman of the Board of Directors of Novan, Inc. (“Novan”) and its affiliated debtor and debtor in possession (collectively, the “Debtors”) in the above-captioned cases (the “Chapter 11 Cases”).

2. I joined Novan in March 2017 and served as Chief Development Officer from March 2017 to January 2019; President and Chief Operating Officer from January 2019 to February 2020, and Chief Executive Officer since February 2020. I have served on the Board of Directors of Novan since August 2017 and was appointed as Chairman in July 2020. Prior to joining Novan, from 1985 to 2015, I held various positions with Quintiles Transnational Holdings Inc. (now IQVIA Holdings Inc.), including President of Clinical Development from 2010 to 2015. I hold a Bachelor’s degree in Public Health and a Master’s in Public Health, Biostatistics, from the University of North Carolina at Chapel Hill and have served as an adjunct professor in Public Health Leadership at the Gillings School of Global Public Health at the University of North Carolina at Chapel Hill since 2016.

¹ The Debtors in these chapter 11 cases, along with the last four digitals of the Debtors’ federal tax identification number (if applicable), are: Novan, Inc. (7682) and EPI Health, LLC (9118). The corporate headquarters and the mailing address for the Debtors is 4020 Stirrup Creek Drive, Suite 110, Durham, NC 27703.



3. As a result of my tenure with the Debtors, I am familiar with the day-to-day operations and business and financial affairs of the Debtors. All facts set forth in this declaration (the “Declaration”) are based on my personal knowledge, my communications with other members of the Debtors’ senior management and advisors, my review of relevant documents, or my opinion, based on my overall professional experience, in light of my personal knowledge of the Debtors’ operations, business affairs, and financial condition. If called as a witness, I could and would competently testify to the matters set forth herein based on the foregoing.

4. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions for relief with the United States Bankruptcy Court for the District of Delaware (the “Court”) under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), thereby commencing the Chapter 11 Cases. The Debtors intend to operate their business and manage their property as debtors in possession.

5. Concurrently with this Declaration, the Debtors have filed various motions and applications seeking immediate or expedited relief (collectively, the “First Day Motions”) to minimize the adverse effects of the Debtors’ filing for chapter 11 protection, and to enhance the Debtors’ ability to maximize value for the benefit of their estates and creditors through the contemplated sale of all or substantially all of their assets pursuant to an auction and sale process. As further discussed below, I am familiar with the contents of each of the First Day Motions and I believe the Debtors would suffer immediate and irreparable harm absent the ability to continue their business operations through the relief sought in the First Day Motions.

6. This Declaration provides background with respect to the Debtors’ business and capital structure, the events leading to the commencement of these Chapter 11 Cases, and the relevant facts in support of the First Day Motions.

INTRODUCTION TO THESE BANKRUPTCY CASES

7. The Debtors enter bankruptcy with two primary goals: preserving their portfolio of innovative therapeutic products and product candidates for the treatment of skin diseases and maximizing the value of their assets.

8. Prior to the Petition Date, the Debtors worked to restructure their organization, execute a reduction in force, and cut costs, but ultimately the Debtors were unable to achieve continued funding necessary to continue their operational goals outside of bankruptcy. As a result, the Debtors had no choice but to file for bankruptcy to implement a sale of their assets pursuant to section 363 of the Bankruptcy Code. The proposed financing and sale process is the foundation of these proceedings and critical to maximizing value and potentially preserving jobs for employees.

9. Since Novan's initial public offering in September 2016 and through March 2022, the Debtors were a pre-commercial pharmaceutical development company focused primarily on the research and development of clinical stage product candidates for potential medical dermatology application. In March 2022, the Debtors integrated a commercial business through the acquisition of Debtor EPI Health, LLC ("EPI Health"), which included the acquisition of several commercialized and marketed products, although the primary focus of the Debtors remained the development of dermatology product candidates.

10. Since inception (and since the acquisition of EPI Health in March 2022), the Debtors have incurred net losses from operations on a quarterly and annual basis due to the nature of the Debtor's business. In particular, since March 2022, the Debtors' commercial business has not generated sufficient revenue to result in positive income from product sales, in addition to continuing substantial research and development expenditures related to the Debtors' dermatology product candidates.

11. After the proceeds from the initial public offering in September 2016, the Debtor's continued to fund operations, and focused its funding activities, primarily on equity raises and strategic relationships. However, other historical forms of funding have included payments received from licensing and supply arrangements and government research contracts. Over time, the Debtors have engaged various investment banks to raise additional capital to continue its operations while also continuing outreach to strategic partners and investors potentially interested in the progression of its nitric-oxide technology.

12. Most recently, from September 2022 to May 2023, the Debtors engaged with two separate investment banks in efforts to raise the additional capital necessary to continue operations, including through equity and debt financings and other strategic transaction structures. While the Company has been reporting net losses, has included going concern language with its periodic filings on a recurring basis and has faced pressure from broader market trends related to increased costs and deductions to net revenues and a contracted public equity market for small cap companies, events occurred in June 2023 which accelerated the necessity for relief through bankruptcy.

13. Faced with significant and immediate liquidity pressure, driven primarily by complexities in the supply chain of its commercial business in early June 2023, the Debtors retained Morris, Nichols, Arsht & Tunnell LLP as restructuring counsel ("Morris Nichols"), Raymond James Financial, Inc. ("Raymond James") as investment banker, and SierraConstellation Partners ("SCP") as financial advisor, all of which specialize in distressed financial situations to explore a wide range of strategic options. The results of these efforts have culminated in the stalking horse and post-petition financing described herein as well as interest from other parties in

both the Debtors' research and development assets and commercial assets that will provide a springboard for a post-petition marketing process.

14. Shortly before the filing of these cases, Novan entered into a stalking horse purchase agreement (the "Stalking Horse APA"), subject to Court approval, with Ligand Pharmaceuticals Incorporated ("Ligand" or the "Stalking Horse Bidder") for the sale of substantially all of the Debtors' assets, including the Debtors' pharmaceutical products that are currently sold in the market as well as the Debtors' rights to their pipeline clinical product candidates. Substantially contemporaneously with the negotiations concerning the Stalking Horse APA, Novan also entered into a financing arrangement with Ligand for a \$3 million secured prepetition bridge loan (the "Bridge Loan") and a \$12 million senior secured superpriority postpetition loan (the "DIP Facility," and with the Bridge Loan, the "Secured Financing").

15. The stalking horse bid, which will be implemented through these Chapter 11 Cases, commits to a purchase price of \$15,000,000, subject to overbids, that will be payable at closing by a reduction on a dollar-for-dollar basis of the outstanding obligations under the DIP Facility and cash to the extent such obligations are less than \$15,000,000 (the "Stalking Horse Bid").

16. The Stalking Horse Bid and the Secured Financing emerged during the prepetition marketing process. Notably, the Stalking Horse Bid is subject to higher or otherwise better offers in accordance with the Debtors' proposed bidding procedures. The Debtors will continue marketing their assets throughout the Chapter 11 Cases.

17. Building off of this momentum, the Debtors are seeking to continue their sale process now that they are in bankruptcy. To facilitate a competitive auction process, the Debtors have filed a motion requesting approval of uniform bidding and auction procedures. Pursuant to the proposed bidding procedures, which remain subject to Court approval, interested parties will

have the opportunity to bid for the Debtors' research and development or commercial assets or both. In addition to the marketing process that unfolded prior to the Petition Date, interested parties will now have approximately forty-two (42) days to submit bids in accordance with the bidding procedures. The Debtors believe this timeline is sufficient to run a comprehensive sale process—particularly in light of (a) the marketing process conducted by the Debtors prepetition and (b) the potential loss in value to the estates that could occur if there is delay in bringing the Debtors' research and development assets to market and bringing the Debtors' commercial assets back to market.

18. In sum, the Debtors' decision to file the Chapter 11 Cases and pursue a sale process is informed by the difficult set of circumstances the Debtors face and several months of deliberations, and was made only after all alternative options were first considered and it became clear that the Debtors' ability to successfully raise additional capital to fund their cost structure and develop their pipeline would be best achieved as a part of a chapter 11 process. Although prevailing headwinds limited the Debtors' options out of court, the Debtors' significant efforts prior to the Petition Date provide a clear path to value-maximizing transactions in chapter 11 for the benefit of all of the Debtors' stakeholders.

CORPORATE BACKGROUND

I. General Background, History and Key Product Lines



19. Novan is a medical dermatology company primarily focused on researching, developing and commercializing innovative therapeutic products for skin diseases in the United States. Founded in 2006, Novan is a publicly traded company with its shares listed on the Nasdaq Stock Market (ticker symbol: NOVN). Novan is a corporation organized under the laws of the State of Delaware and maintains its approximately 20,000 square foot headquarters and manufacturing facility at 4020 Stirrup Creek Drive, Suite 110, Durham, North Carolina.

20. Novan has been developing SB206 (berdazimer gel, 10.3%) as a topical prescription gel for the treatment of viral skin infections, with a current focus on molluscum contagiosum (“molluscum”). Novan’s molluscum program has been progressing through the U.S. Food and Drug Administration’s (“FDA”) New Drug Application (“NDA”) process since January 2023 and Novan hopes to receive the FDA’s approval on or before January 5, 2024. If approved, Novan would seek to commercialize SB206 by the end of the first half of 2024, subject to securing additional capital. In addition to the regulatory progression of SB206, Novan also has plans to progress SB204, a topical monotherapy for the treatment of acne, which would require commencing a pivotal Phase 3 study, in addition to other product candidates, subject to additional funding.

21. In addition to its research and developmental work, in the first quarter of 2022, Novan completed an acquisition of Debtor EPI Health. The acquisition equipped the Debtors with

a commercial infrastructure including sales, marketing, and communications, as well as a dedicated market access and pharmacy relations team, and positioned the Debtors as a fully integrated dermatology company with a pipeline of development candidates focused primarily on dermatological indications supported by a commercial platform to market and sell therapeutic products for skin diseases. Through the acquisition, the Debtors procured five branded prescription drugs, and a license and commercialization agreement for one prescription drug. The Debtor actively promoted three of the dermatological products in the United States through May 31, 2023—Rhofade, Wynnora, and Minolira—and derived revenue from the sale of these branded products through pharmaceutical wholesalers as well as direct to pharmacies. These prescription dermatology therapies are targeted to patients with rosacea, plaque psoriasis, and acne, respectively.

22. The following is a more detailed summary of the Debtors' commercial portfolio and research and development portfolio. Additional information is available in the Debtors' Annual Report on Form 10-K, filed on March 30, 2023, and in their Quarterly Reports on Form 10-Q filed on August 11, 2022, November 14, 2022, and May 15, 2023.

A. Research and Development Portfolio

23. Novan is developing SB206 as a topical gel with anti-viral properties for the treatment of viral skin infections, with a current focus on molluscum contagiosum. Molluscum is a contagious skin infection caused by the molluscipoxvirus that affects up to six million people in the United States annually. The greatest incidence is in children aged one to 14 years. The average time to resolution is 13 months; however, 13% of children experience lesions that may not resolve in 24 months. There is currently no FDA-approved prescription drug treatment for molluscum. More than half of patients diagnosed with the infection are untreated. The majority of patients in

the United States that receive treatment are treated with potentially painful procedures and the remaining are often prescribed products off-label that have not proven to be safe or efficacious for treating molluscum.

24. In early January 2023, Novan submitted an NDA to the FDA seeking marketing approval for SB206, following positive results of Novan's phase 3 B-SIMPLE4 trial for SB206 in June 2021. In March 2023, Novan announced that the FDA completed its filing review of its NDA seeking marketing approval for SB206. The FDA determined its application was sufficiently complete, no filing review issues were identified, the substantive review process had commenced, and Novan was assigned a Prescription Drug User Fee Act goal date of January 5, 2024.

25. In anticipation of the potential approval of SB206 by the FDA, Novan has been manufacturing registration batches of the active pharmaceutical ingredient (the "API") at its manufacturing facility located in North Carolina. The Debtor's facility has undergone and completed its on-site preapproval inspection from the FDA. The Debtors are required to comply with the FDA's Bioresearch Monitoring (BIMO) program which is a comprehensive program of on-site inspections, data audits, and remote regulatory assessments designed to monitor all aspects of the conduct and reporting of FDA regulated research. The Debtors hosted a BIMO audit by the FDA and passed with no issues. The Debtors met with FDA on June 21 for a Mid-Cycle Communication. Through the Petition Date, no material issues or significant deficiencies have been identified nor communicated to the Debtors by the FDA.

26. In preparation for both the regulatory approval process and to prepare for potential commercial launch of SB206, if approved, Novan is prepared to ship the API to its contract drug manufacturing partner to manufacture SB206 for sale to the public (with a prescription). This outsourcing of manufacturing allows Novan to focus on the development and commercialization

of its other promising drug candidates, minimize fixed costs and capital expenditures, and gain access to advanced manufacturing process capabilities and expertise.

B. Commercial Portfolio

27. In addition to its research portfolio, since the acquisition of EPI Health, the Debtors have had rights to market six dermatological products and, through May 31, 2023, actively promoted three of them. On May 31, 2023, Novan commenced a restructuring of its commercial segment, resulting in a reduction in force of 39 employees (approximately 50%) of its employees, primarily among its field sales representatives. Novan took these steps to focus its resources on pursuing the regulatory approval of the SB206 product candidate. Prior to the Petition Date, the Debtors relied on vendors and suppliers for the timely production and delivery of these products, as the Debtors did not manufacture, package, or distribute these products.

28. The Debtors' supply chain for these products was comprised of several integrated phases: (a) procuring raw materials for the Debtors' products; (b) contract manufacturing organizations manufacturing the consumable pharmaceuticals (i.e., dosage forms and tubes); (c) packaging and labeling the commercial products for the Debtors' various markets; and (d) distribution through specialty pharmacies and distributors to ensure that the Debtors' products make their way to end users (i.e., hospitals, pharmacies, clinics and wholesalers—and, ultimately, to patients).

1. Rhofade



29. Rhofade is the first of the Debtors' three formerly commercially-marketed products and is a prescription medication indicated for the topical treatment of persistent facial erythema

associated with rosacea in adult patients. EPI Health acquired the rights to Rhofade in October 2019. In connection with the 2019 acquisition and other historical acquisitions related to Rhofade, the Debtors are required to make certain milestone payments based on future net sales of Rhofade along with paying a combined royalty on net sales of Rhofade and related products.

2. Wyzora Cream

Wyzora[®]
(calcipotriene and betamethasone dipropionate)
Cream, 0.005%/0.064%

30. Wyzora is the second of the Debtors' formerly commercially-marketed products and is a prescription medication indicated for the topical treatment of plaque psoriasis in adult patients. EPI Health entered into a collaboration agreement with MC2 Therapeutics ("MC2"), in August 2020, as amended effective January 1, 2022, for the commercialization of Wyzora in the United States (the "MC2 Agreement"). Under the MC2 Agreement, MC2 retains full ownership of Wyzora. Novan used its commercial infrastructure to promote and sell Wyzora in return for the pre-funding of certain expenditures, as contractually defined, to be utilized for the marketing and commercialization efforts for Wynona, in addition to retaining a minimal share of net sales of Wyzora in the United States. The MC2 Agreement will expire in June 2028, unless earlier terminated by either party in accordance with the terms of the MC2 Agreement.

3. Minolira

minolira[™]
(minocycline hydrochloride)
extended-release tablets

31. Minolira is the Debtors' final formerly commercially-marketed product and is an oral prescription medication indicated to treat inflammatory lesions of non-nodular moderate to

severe acne vulgaris in patients 12 years of age and older. EPI Health acquired the rights to Minolira in the United States in August 2018, and the Debtors are required to make certain milestone payments based on future net sales of Minolira.

4. Other Medications

32. The Debtors also had three products that were not actively promoted prior to the Petition Date. Cloderm is a prescription medication indicated for the relief of the inflammatory and pruritic manifestations of corticosteroid-responsive dermatoses. EPI Health acquired the rights to Cloderm in September 2018. In connection with the Cloderm acquisition, EPI Health is required to pay minimum royalty payments on net sales of Cloderm, subject to meeting certain sales milestones.

33. Sitavig is a prescription medication indicated for the treatment of recurrent herpes labialis (cold sores) in immunocompetent adults. The Debtors are party to a license agreement that EPI Health entered into with Vectans Pharma for the rights to commercialize Sitavig in the United States and Canada, and EPI Health is party to an out-license for a commercial partner to develop an over-the-counter version of Sitavig.

34. Nuvail is a prescription medication indicated for managing signs and symptoms of nail dystrophy, i.e., nail splitting or nail fragility, for intact and damaged nails. The Debtors are party to a license agreement that EPI Health entered into for the sale of Nuvail and to serve as an exclusive distributor of Nuvail in the United States. Chesson had the ability to terminate the license agreement upon 180 days' notice, and such notice was provided to EPI Health on May 4, 2023. This agreement and the related supply agreement with Chesson Labs were terminated on June 15, 2023, with EPI Health agreeing to the early termination of the agreement in exchange for

Chesson repurchasing the inventory and releasing EPI Health from any further payment obligations, among other matters.

II. The Debtors' Prepetition Corporate and Capital Structure

35. A summary chart depicting the Debtors' corporate structure is attached hereto as Schedule 1.

A. Bay View Factoring Agreement

36. In early December 2022, EPI Health entered into an accounts receivable-backed factoring agreement (the "Factoring Agreement") with Bay View Funding, a wholly-owned subsidiary of Heritage Bank of Commerce ("Bay View"). Pursuant to the Factoring Agreement, EPI Health sells certain trade accounts receivable to Bay View from time to time, with recourse. The factoring facility provides for EPI Health to have access to the lesser of (i) \$15.0 million, or (ii) the sum of all undisputed receivables purchased by Bay View multiplied by 70% (which percentages may be adjusted by Bay View in its sole discretion), less any reserved funds. Upon receipt of any advance, EPI Health will have sold and assigned all of its rights in such receivables and all proceeds thereof. EPI Health factors the accounts receivable on a recourse basis. The proceeds were used to fund general working capital needs.

37. As of the Petition Date, approximately \$2.6 million of advances were outstanding under the Factoring Agreement. The Debtors believe that Bay View has been paid in full for the current loans under the Factoring Agreement and are in negotiations concerning an appropriate termination that should release the remaining cash to the Debtors' estates. The Debtors will seek Court approval of such termination agreement at a later date.

B. Bridge Loan

38. As noted above, on July 14, 2023, the Debtors entered into a prepetition secured loan, the Bridge Loan, with Ligand, the proposed Stalking Horse Bidder, to provide the Debtors with \$3 million worth of liquidity secured by all of the Debtors' assets. As of the Petition Date, the Debtors had just over \$3,000,000 in principal, interest in fees owing on the Bridge Loan.

C. Trade Claims

39. In addition to the Debtors' funded debt, the Debtors estimate that, as of the Petition Date, they had approximately \$27.3 million in unpaid trade and other ordinary course obligations.

D. Equity Interests

40. Novan is a publicly traded company with its shares listed on the Nasdaq Stock Market (ticker symbol: NOVN).

III. Events Leading to the Chapter 11 Cases

41. The Debtors have incurred losses each year since their inception, having suffered a net loss of \$31.3 million in 2022. Since its inception, the Debtors have been a research and development company and only acquired EPI Health and its commercial product portfolio in 2022. The value proposition of the EPI Health acquisition was, in part, to provide the Debtors with the commercial infrastructure needed to launch SB206, if approved, while also having a commercial product portfolio that could effectively generate sufficient revenue with the goal to cover the operating expenditures of the commercial business.

42. While the Company has generated revenues from the commercial products, they have not been sufficient to get to break-even, based in part on the deterioration of revenue deductions systemic in the pharmaceutical industry related to payors and patient assistance programs. However, even if the commercial business had been able to operate at break-even, the

Debtor's would still have needed to raise additional capital to progress the SB206 potential approval and commercialization. While the Debtors have historically relied heavily on debt and equity financings to fund operations, and despite the revenues generated from the commercial sales and management's best efforts to stabilize operations, the Debtors' business prospects have significantly declined in recent months. Several factors have contributed to this decline. Chief among them has been the Debtors' need for significant cash resources to execute their business plan, advance regulatory development and approval of SB206, and prepare to launch and commercialize SB206, if approved, which became increasingly difficult as a result of many factors described below, regarding the general market and economic conditions.

43. Factors which impacted the Debtors' financial situation, as it related to the commercial business, included a deteriorating gross-to-net deduction environment experienced throughout the pharmaceutical industry and supply chain disruptions. Gross-to-Net deductions are amounts that reduce gross revenue of a product, what is commonly referred to as the wholesaler acquisition cost less contract price discounts, cash discounts, rebates, and returns that are the result of collaborating with third-party partners including patient co-pay assistance coupons and the pharmacy benefit managers ("PBMs"). PBMs are third party companies that function as intermediaries between insurance providers and pharmaceutical companies. Soaring costs with both the PBMs and co-pay assistance programs, greatly reduced the cash flow from the commercial business of the Debtors.

44. As disclosed in Novan's Form 10-K filed on March 30, 2023, the Debtors' lead commercial asset, Rhofade, also experienced supply chain disruptions due to its third-party manufacturer having multiple batches of finished goods not being available for sale by the Debtor due to manufacturing issues resulting in product out-of-specification problems and validation

testing errors. This disruption of supply created a cascading impact in March and again in early June 2023. Product sales plummeted and the Debtors were unable to utilize its accounts receivable factoring facility to bring working capital into the business, and key vendors were unable to be paid, which resulted in those vendors discontinuing their services which exacerbated the Debtors ability to sell product, once it ultimately became available. While the Debtor had been evaluating supply chain challenges and advised investors of the risk in its public filings, these specific supply chain issues mixed with the limited liquidity of the Debtors had an acute immediate impact to the operating cash flow of the Debtors.

45. Factors which impacted the Debtor's financial situation, as it related to the research and development business, related to the ongoing need to fund the SB206 asset progression primarily through equity raises and/or strategic relationships. However, the general capital market and economic conditions have proven difficult to navigate for the purposes of raising additional capital. According to Capital IQ, Stifel Analysis – *Biopharmaceutical Sector Market Update – June 26, 2023*, the recovery from the lowest point in the bio-tech sector in June 2022 has been the slowest market recovery in bio-tech history. From September 2021 to June 2023, the number of negative enterprise value life science companies has grown from 21 to 170. The Debtors marketed a potential equity offering following the announcement of its NDA submission in January 2023. Following that marketing effort, the Debtors were only able to secure an offering in March 2022 for gross proceeds of \$6 million. Following the end of the lock-up period associated with the March 2022 offering, the Debtors evaluated other potential equity offerings but ultimately concluded that the quantum of potential proceeds, with the potential dilution to stockholders, would not be sufficient to advance operations of the business for any substantial period.

46. Furthermore, in its Form 10-Q for the quarter ended March 31, 2023, the Debtor disclosed the following as it relates to financial challenges related to its commercial and research and development business:

- The Debtors had reported a net loss in all fiscal periods since inception and, as of March 31, 2023, had an accumulated deficit of \$324.4 million.
- As of March 31, 2023, the Debtor had total cash and cash equivalents of \$12.5 million and a working capital deficit of \$11.2 million.
- The Debtor disclosed that its cash runway was into late second quarter of 2023.
- The Debtors disclosed that it would continue to generate losses for the foreseeable future, and it expects the losses to increase as it continues the development of, and seeks regulatory approvals for, its product candidates and begins activities to prepare for potential commercialization of SB206, if approved.
- The Debtors concluded that the prevailing conditions and ongoing liquidity risks, coupled with current forecasts, including costs associated with implementing the SB206 prelaunch strategy and commercial preparation, raised substantial doubt about its ability to continue as a going concern.

47. The Debtors subsequently notified the market in a press release on June 5, 2023 that it would update the market following its annual stockholder meeting on June 6, 2023. In a presentation following the annual stockholder meeting, the Debtors disclosed that the unaudited consolidated cash balance was approximately \$13.1 million as of April 30, 2023 and that the commercial segment working capital deficit was approximately \$17.4 million as of April 30, 2023. The Debtors further disclosed that they were evaluating a wide range of opportunities to access capital, including long-term financing (debt), commercial asset(s) disposition, and/or capital

market access, that they were continuing actions to delay, defer or avoid certain R&D, Commercial and G&A costs, and that if they were unable to successfully access capital or enter into some other strategic transaction in the coming weeks, the Debtors would then need to proceed to wind down operations.

48. Pharmaceutical and biotechnology product development is highly speculative because it entails substantial upfront capital expenditures and significant risk that any potential product candidate will fail to demonstrate adequate efficacy or an acceptable safety profile, obtain regulatory approval or become commercially viable. Product development also includes significant research and development costs incurred in the development of product candidates. These costs include, among others, license fees and milestone payments related to the acquisition of in-licensed products; employee-related expenses; expenses related to contract research and manufacturing organizations; clinical trials; regulatory and compliance; manufacturing and raw materials; market research and disease education; sales and marketing; and other costs associated with regulatory operations.

I. Efforts to Negotiate a Comprehensive Restructuring

49. In an attempt to mitigate these adverse economic and operational circumstances and the lack of access to capital markets, in the months leading up to the bankruptcy filing the Debtors initiated various cost-cutting measures to preserve liquidity. These efforts included: implementing pay cuts, not paying discretionary bonuses for calendar year 2022, a reduction in force in May 2023 consisting of 39 employees, reducing discretionary research and development expenses, voluntary reduction of the CEO's salary, reducing commercial marketing and related expenses, and other restructuring initiatives.

50. While the Debtors have continued to generate revenues, these revenue streams—even when combined with their extensive cost-cutting measures—have been and will be insufficient to cover the Debtors’ ongoing and projected future cash requirements.

51. With the concerns discussed above in mind, and with their operating cash running low, the Debtors retained Morris Nichols, Raymond James, and SCP to assist the Debtors in pursuing various strategic alternatives.

V. Prepetition Marketing Process and DIP Facility

52. While the Debtors have been proactively seeking a strategic partner and/or additional investors for some time now, Raymond James was retained in early June 2023. Since its retention, Raymond James has led a prepetition marketing process seeking potential financing or strategic buyers. The Debtors and their professionals have worked vigorously over the last four weeks evaluating the Debtors’ options and exploring paths to address the difficulties facing the company. Concurrently with the Debtors’ prepetition marketing process, the Debtors and their advisors began seeking financing to bridge the company’s cash requirements until it could reach definitive agreements on potential partnership and/or sale transactions and potentially to a further point when the Debtors may have greater clarity from the FDA on the potential to receive approval for SB206 in January 2024.

53. During this prepetition process leading up to the Petition Date, the Debtors (and more recently, with the assistance of Raymond James) contacted approximately 30 potential strategic buyers in the Debtors’ industry. Of those potential strategic partners, 14 executed non-disclosure agreements. The Debtors and their advisors explored both in- and out-of-court financing or purchase options with these potential strategic partners. Raymond James and the Debtors also reached out to approximately 10 potential financing parties that regularly lend in

Chapter 11 cases. Due to the nature of the Debtors' assets, none of the potential parties were willing to provide postpetition financing.

54. In the weeks leading up to the Petition Date, the Debtors (with the assistance of their advisors) had determined that an out-of-court sale or restructuring was not practical and pivoted towards preparing for a bankruptcy-facilitated transaction. During this time, the Debtors engaged in negotiations with five (5) potential strategic partners for the financing of the Debtors and/or purchase of the Debtors' assets in bankruptcy. By late June/early July, several of the potential strategic partners had dropped out.

55. For the last two weeks, the Debtors engaged in extensive negotiations with Ligand and a couple of other potential partners concerning a potential Stalking Horse Bid and DIP Facility. Based on my knowledge of the Debtors' business and consultation with bankruptcy counsel for the Debtors who explain the definitions of "insider" and "affiliate" under the Bankruptcy Code, I believe that Ligand is neither an insider nor affiliate of the Debtors. During the last six weeks, including on July 13, 2023, the Board of Directors of Novan met and evaluated potential options, along with the opportunities and risks associated with each option. On July 16, 2023, the Debtors, in the reasoned exercise of their business judgment, determined that the combined DIP Financing and Stalking Horse Bid submitted by Ligand was the highest and best offer received to date. The results are the proposed Stalking Horse Bid, the proposed DIP Facility and the Chapter 11 process being presented to the Court in connection with the hearing on first day relief. The Debtors and their advisors are prepared to launch a broad outreach process after the Petition Date to achieve the milestones set forth in the proposed DIP Facility and proposed bidding procedures.

FACTS IN SUPPORT OF FIRST DAY MOTIONS

56. In my capacity as Chief Executive Officer, I believe that the relief requested in the First Day Motions is necessary and essential to ensuring that the Debtors' immediate needs are met, and that the Debtors (and other constituencies) will not suffer any immediate and irreparable harm as a result of the commencement of these Chapter 11 Cases. My opinion as to the necessity of the First Day Motions is based upon my firsthand experience as Chief Executive Officer and my review of various materials and information provided to me by the Debtors' senior management and the Debtors' advisors, as well as discussions had in connection therewith. In considering the necessary first-day relief, the Debtors' senior management, the Debtors' advisors, and I were cognizant of the level of cash on hand and the limitations imposed by the cash collateral and/or DIP budgets and, in light of these limitations, narrowed the relief requested at the outset of these Chapter 11 Cases to only those matters that require urgent relief to preserve value during the pendency of these chapter 11 proceedings.

A. Motions Related to Case Management

i. Joint Administration Motion

57. The Debtors seek the joint administration of their Chapter 11 Cases for procedural purposes only. I believe that it would be far more efficient for the administration of these Chapter 11 Cases if the Court were to authorize their joint administration. Many of the motions, hearings, and other matters involved in these Chapter 11 Cases will affect both of the Debtors, and given the nature of the Debtors' operations, the treatment of certain contracts and business relationships of a single Debtor may impact the assets and operations of the other Debtor. I understand that joint administration will reduce costs and facilitate the administrative process by avoiding the need for duplicative hearings, notices, applications and orders. I understand that no prejudice will befall

any party by the joint administration of the Debtors' cases, as the relief sought is solely procedural and is not intended to affect substantive rights.

ii. Application to Retain KCC as Claims and Noticing Agent

58. The Debtors filed an application to retain Kurtzman Carson Consultants LLC ("KCC") as the Court's claims and noticing agent for these Chapter 11 Cases. I believe that the retention of KCC is critical because of the large number of creditors identified in these cases.

59. I understand that KCC is a data-processing firm with extensive experience in noticing, claims processing, and other administrative tasks in chapter 11 cases. I further understand that, in compliance with the Protocol for the Employment of Claims and Noticing Agents Under 28 U.S.C. §156(c) of the United States Bankruptcy Court for the District of Delaware, the Debtors obtained and reviewed engagement proposals from four (4) Court-approved claims and noticing agents to ensure selection through a competitive process. I believe that KCC's rates are competitive and reasonable given KCC's quality of services and expertise. Given the need for the services described above and KCC's expertise in providing such services, I believe that retaining KCC will expedite service of notices, streamline the claims administration process, and permit the Debtors to focus on their restructuring efforts.

60. The Debtors also intend to file a separate application to retain KCC as administrative agent to provide, among other things, certain solicitation-related services.

iii. Consolidated Creditor Matrix Motion (the "Creditor Matrix Motion")

61. Pursuant to the Creditor Matrix Motion, the Debtors seek entry of interim and final orders (a) authorizing them to maintain one consolidated list of creditors (the "Creditor Matrix") in lieu of submitting a separate matrix for each Debtor, (b) file a consolidated list of the Debtors'

thirty largest creditors, and (c) to file under seal certain portions of the Creditor Matrix and other filings containing personal identification.

62. Although there are only two debtors in these Chapter 11 Cases, the exercise of compiling separate creditor matrices for each Debtor would consume an excessive amount of the Debtors' already limited resources. The Debtors have significantly reduced their workforce prior to these Chapter 11 Cases. Presenting the information in a consolidated form will allow the Debtors to focus their limited resources to other pressing concerns. Further, converting computerized records to a format compatible with matrix requirements would be burdensome and could increase the risk of error.

63. Likewise, I believe that it is in the Debtors' and their estates best interest to redact certain personal information of individuals. The Debtors propose to provide an unredacted version of the Creditor Matrix and any other applicable filings in accordance with the terms of the proposed order granting the Creditor Matrix Motion. The Debtors submit that it is appropriate to redact from any paper filed or to be filed with the Court in these Chapter 11 Cases the home addresses of the Debtors' individual creditors and interest holders because such information could be used, among other things, to perpetrate identity theft or locate survivors of domestic violence or stalking who have otherwise taken steps to conceal their whereabouts.

64. For the foregoing reasons, the Debtors respectfully request that the relief set forth in the Creditor Matrix Motion be approved.

B. Motions Related to Cash Management and Usage

i. Motion to Authorize Continued Use of Debtors' Cash Management Systems and Bank Accounts (the "Cash Management Motion")

65. By the Cash Management Motion, the Debtors request entry of an order (a) authorizing the Debtors to (i) continue their existing cash management system (as defined below),

(ii) honor certain prepetition obligations related thereto, (iii) maintain their Bank Accounts (as defined below) and existing business forms (as defined below), (iv) implement changes to the Cash Management System as necessary, and (v) continue ordinary course intercompany transactions, (II) waiving the requirements of 11 U.S.C. § 345(b) and the U.S. Trustee's operating guidelines.

66. As mentioned previously, the Debtors have a Factoring Agreement with Bay View that provided for the sale of the Debtors accounts receivable. As payments from the Debtors customers are received, the revenue is deposited into a "lockbox" account at Bank of America (the "Lockbox Account"). Only Bay View is authorized to transfer funds from this account pursuant to a deposit account control agreement that was entered as part of the Factoring Agreement. The Lockbox Account has a balance of approximately \$130,000.00. The Debtors believe that Bay View has been paid in full for the current loans under the Factoring Agreement and are in negotiations concerning an appropriate termination that should release the remaining cash to the Debtors' estates. The Debtors will seek Court approval of such termination agreement at a later date.

67. The Debtors maintain a cash management system to operate their businesses in the ordinary course (the "Cash Management System"). The Cash Management System allows the Debtor to efficiently collect, transfer and distribute funds generated by the Debtors' business operations.

68. The Cash Management System is operated primarily through one (1) Bank Account maintained by the Debtors at PNC Bank (the "PNC Operating Account") and two (2) Bank Accounts at Silicon Valley Bank (the "SVB Operating Account," and the "SVB EPI Health Operating Account") and with the PNC Operating Account, the "Operating Accounts"). Funds generated by the Debtors' operations are deposited into the Operating Accounts. In addition,

operating expenses incurred by the Debtors are paid out of the Operating Accounts. The Debtors also have six (6) additional accounts at either PNC Bank or Silicon Valley Bank that are inactive, have zero balances, or have balances less than \$30,000.

69. Further, the Debtors also maintain an account at PNC Bank to support a letter of credit for a facility leased by the Debtors. This account has a balance of approximately \$590,000.00.

70. It is my view that the Cash Management System enables the Debtors to efficiently track and control funds, ensure cash availability and reduce administrative costs. I believe that requiring the Debtor to dismantle the Cash Management System and adopt a new cash management system would, among other things, impair the Debtors day-to-day operations. It is also my view that adopting a new cash management system would result in the Debtors incurring material expenses and would create unnecessary burdens on its employees.

71. In contrast, I believe that allowing the Debtors to maintain their Cash Management System will avoid costly delays and distractions and allow the Debtors to have a more seamless transition into chapter 11. Further, parties in interest will not be harmed by maintaining the Cash Management System as the Debtors have appropriate measures to ensure that payments will not be made on account of obligations incurred before the Petition Date other than those authorized by the Court.

72. I believe that allowing the Debtors to maintain their Cash Management System, continue intercompany transactions, continue to use their customary business forms and modify certain requirements under section 345(b) and the U.S. Trustee Guidelines would be in the best interests of the Debtors' estates, creditors, and other parties-in-interest.

ii. Motion to Authorize to Pay Certain Prepetition Claims of Employees (the “Employee Wages Motion”)

73. Pursuant to the Employee Wages and Benefits Motion, the Debtors seek, among other things: authority (a) to pay certain prepetition wages, salaries, and other compensation, taxes and withholdings, and reimbursable employee expenses, (b) to honor and continue benefit programs for employees, and (c) for the Debtors’ banks and financial institutions at which the Debtors maintain disbursement and other accounts (collectively, the “Banks”) to receive, process, honor, and pay all checks issued and electronic payment requests made related to such employee obligations

74. As of the Petition Date, the Debtors employ approximately thirty-eight (38) full-time and one (1) part-time employee (collectively, the “Employees”). A majority of the Debtors current employees are salaried employees, while four (4) are hourly employees. The remaining Employees were and continue to be integral to the Debtors’ operations. They perform a wide variety of functions critical to the Debtors’ operations during the sale and wind down process. As a whole, the Employees have an essential working knowledge of the Debtors’ business that cannot easily be replaced during the proposed sale and wind down process. The efforts of these Employees will ensure a smooth transition into chapter 11 and preservation of the value of the Debtors’ assets.

75. Upon information and belief, the vast majority of Employees rely exclusively or primarily on the Employee Compensation and Benefit Programs to pay their daily living expenses and support themselves and/or their families. Thus, Employees will face significant financial consequences if the Debtors cannot continue the Employee Compensation and Benefits Programs in the ordinary course of business. The Debtors seek to minimize the personal hardship that the Employees would suffer if employee obligations are not paid when due and, consequently, submit that the relief requested is necessary and appropriate. The Debtors do not believe that any

prepetition amounts owed to any Employees on account of the Employee programs exceeds \$15,150.00, and do not seek authority to pay any Employee in an amount exceeding \$15,150.00 on account of prepetition claims.

76. I believe that any delay in payments to the Employees could cause the Debtors to lose the benefit of the Employees' services, which would jeopardize the Debtors' sale process, which I believe would likely lead to a rapid deterioration in the value of the Debtors' assets.

iii. Motion to Provide Adequate Assurance to Utility Companies (the "Utilities Motion")

77. Pursuant to the Utilities Motion, the Debtors seek entry of interim and final orders (a) approving the Debtors' Proposed Adequate Assurance of payment (as defined below) for postpetition Utility Services (as defined below), (b) prohibiting the Utility Companies from altering, refusing or discontinuing service to, or discriminating against, the Debtors on the basis of the commencement of these Chapter 11 Cases or outstanding prepetition invoices and (c) establishing procedures for resolving objections by Utility Companies (as defined below) relating to the adequacy of the Proposed Adequate Assurance. In particular, the Debtors request authorization to make payments as set forth in the table below:

Category	Final Amount (Inclusive of Interim Amount)	Interim Amount
Proposed Adequate Assurance Deposit	\$14,660	\$14,660
Total	\$14,660	\$14,660

78. To operate their business, the Debtors obtain telecommunications, waste removal, water, gas, electricity and other utility services (collectively, the "Utility Services") from a number of utility companies (collectively, the "Utility Companies"). Uninterrupted Utility Services are essential to the Debtors' operations. I believe that, should any utility company refuse or

discontinue service, even for a brief period, the Debtors business operations could be severely disrupted.

79. Historically, the Debtors have a good payment record with the Utility Companies. I understand that there are no defaults or arrearages of any significance for the Debtors' undisputed invoices for prepetition Utility Services, other than payment interruptions that may be caused by the commencement of these Chapter 11 Cases. The Debtors spend an average of approximately \$29,320.00 each month on account of Utility Services.

80. The Debtors intend to pay all postpetition obligations owed to the Utility Companies in a timely manner and anticipate having sufficient funds to do so. Nevertheless, to provide the Utility Companies with adequate assurance, the Debtors propose to deposit cash into a segregated account for the benefit of the Utility Companies in an amount equal to two weeks' payment for the Utility Services, calculated using average for such payments (the "Adequate Assurance Deposit") and together with the Debtor's ability to pay for future Utility Services in the ordinary course, the "Proposed Adequate Assurance"). Based on the foregoing, the proposed total amount of the Adequate Assurance Deposit is approximately \$14,660.00.

81. I believe that the relief requested in the Utilities Motion is in the best interests of the Debtors, their creditors and other parties-in-interest and will ensure a smooth transition into chapter 11 and provide the Utility Companies with a fair and orderly procedure for determining requests for addition adequate assurance.

iv. Motion for Authority to Pay Prepetition Taxes and Regulatory Fees (the “Taxes Motion”)

82. Pursuant to the Taxes Motion, the Debtors seek authority to (a) pay certain prepetition Taxes and related obligations and (b) authority for banks and other financial institutions to honor and process checks and transfers related to such prepetition taxes and related obligations. More specifically, the Debtors seek authority to pay prepetition taxes and related obligations up to a maximum of \$50,000.00 on an interim basis and \$200,000.00, in the aggregate, on a final basis.

83. In the ordinary course of business, the Debtors are subject to various taxes, regulatory fees and assessments, and related obligations (collectively, the “Taxes”) that are payable directly to various taxing authorities (collectively, the “Taxing Authorities”). The Debtors seek interim and final authority (but not direction) to pay various unpaid taxes, fees, and related obligations that accrued or assessed before the Petition Date.

84. Satisfaction of the prepetition Taxes in the ordinary course of business is necessary to preserve the Debtors’ resources, thereby better positioning the Debtors to realize maximum value from the sale process. Further, the Debtors’ failure to pay the Taxes could have a material adverse impact on the Debtors’ ability to maximize the value of their assets for the benefit of all stakeholders. Accordingly, the Debtors respectfully request that the relief set forth in the Taxes Motion be approved.

v. Motion for Authority to Pay Prepetition Insurance Premiums (the “Insurance Motion”)

85. Pursuant to the Insurance Motion, the Debtors seek, among other things, authority to honor their prepetition and postpetition obligations (the “Insurance Obligations”) under their insurance program (the “Insurance Program”), on an uninterrupted basis in the ordinary course of business.

86. For the 2022 to 2023 policy period, the Debtors incurred approximately \$1,558,124.00 in annual premiums relating to the Commercial Insurance Policies, including associated fees and taxes. Further, the Debtors spent an additional \$62,509.00 on a 3-month extension of certain of the Commercial Insurance Policies that was necessitated by their expiration on July 1, 2023 (the “Additional Premiums”). These Additional Premiums remain unpaid as of the Petition Date.

87. Maintenance of the Insurance Program is essential to the continued operation of the Debtors’ business through the proposed sale process. Moreover, the Debtors are required to maintain insurance coverage, like the coverage provided in the Insurance Program, under the U.S. Trustee’s Operating Guidelines, the laws of the various states in which the Debtors operate, applicable federal law, and certain of the Debtors’ contracts and leases.

88. Therefore, the Debtors submit that they should pay their Insurance Obligations as they come due in the ordinary course of business. The Debtors’ maintenance of their relationships with the Insurers is critical to ensuring the continued availability of insurance coverage and reasonable pricing of such coverage

89. In the ordinary course of business, the Debtors employ Arthur J. Gallagher Broker & Risk Management Services, LLC (the “Broker”), to assist the Debtors in procuring and negotiating elements of the Debtors’ Insurance Program. For Broker-related services, the Debtors pay the Broker’s commissions in the ordinary course of business (the “Broker Fees”). The Broker is essential to the Debtors’ ability to secure insurance coverage, as it structures and manages the Insurance Program in a reasonable and prudent manner and enable the Debtors to realize considerable savings in the procurement of aspects of the Insurance Program. The Debtors do not have access to certain key markets unless represented by the Broker as of the date hereof. The

Debtors believe that they are current in their obligations to the Broker. The Debtors seek Court authority to continue to employ the Broker in the ordinary course of business and to pay Broker Fees as necessary in connection with procurement and maintenance of the Insurance Program.

90. For the foregoing reasons, the Debtors respectfully request that the relief set forth in the Insurance Motion be approved.

vi. Motion for Authority to Pay Critical Vendors (the “Critical Vendor Motion”)

91. Pursuant to the Critical vendor Motion, the Debtors seek authority to pay prepetition claims certain indispensable vendors and suppliers (collectively, the “Critical Vendors”) that provide raw materials and services that are essential to the Debtor’s operations.

92. The Debtors receive product and services from highly specialized vendors. I believe that the trade relationships with the Critical Vendors may materially deteriorate if, due to the commencement of these Chapter 11 Cases, the Debtors are unable to pay the claims of the Critical Vendors as requested in the Critical Vendor Motion.

93. The Debtors are a medical dermatology company focused on developing and commercializing innovative therapeutic products for skin diseases. They are developing SB206 (berdazimer gel, 10.3%) as a topical prescription gel for the treatment of viral skin infections, with the focus on molluscum contagiosum, or molluscum. The Debtors’ continued business operations and ongoing clinical trials require uninterrupted goods and services from the Debtors’ Critical Vendors. The Debtors have relied upon and plan to continue to rely upon third-party contract development and manufacturing organizations, drug manufacturing suppliers and service providers, regulatory consultants, commercial product vendors and related supporting activities, laboratories, shippers, data analytic firms, contractors, and other various Critical Vendors. These Critical Vendors conduct, manage or support the ongoing SB206 development program and

commercial business, including product manufacturing, regulatory progression, responding to the FDA, storing or shipping raw materials, finished products, and ensuring compliance with various regulatory guidelines for both commercial and developmental product activities.

94. I believe that, without these products and services from the Critical Vendors, the Debtors would be unable to meet the needs of their business. As such, I believe it is essential that the Debtors retain their ability to pay a portion of prepetition claims of Critical Vendors that are necessary to maintain the stability of the Debtors' supply chain and operations.

95. The Debtors are only seeking authority to pay an amount necessary to preserve the value of their estates, which shall not exceed \$500,000 on an interim basis and \$1,641,000 on a final basis, on account of the Critical Vendors.

96. I believe that the relief requested in the Critical Vendor Motion represents a sound exercise of the Debtors' business judgment and is necessary for the preservation of the resources and value of their estates. Payment of the claims of the Critical Vendors as they become due in the ordinary course of business is critical to the Debtors' uninterrupted operations as such payments will facilitate the ongoing delivery of goods and services required by the Debtors. Nonpayment of the claims of the Critical Vendors would likely result in them refusing to provide essential goods and services and/or conditioning the delivery of such goods and services in compliance with onerous and commercially unreasonable terms. This could cause irreparable harm to the Debtor's business, goodwill and market share. For these reasons, the relief requested in the Critical Vendor Motion is in the best interest of the Debtors, their creditors and all other parties-in-interest.

C. Motions Related to Financing and Sale Process

i. Sale and Bidding Procedures Motion

97. On the date hereof, the Debtors filed a motion seeking, among other things, to (a) establish uniform bidding and notice procedures with respect to the Debtors' assets (the "Bidding Procedures"), and (b) authorizing the Debtors to provide certain bid protections pursuant to Ligand in accordance with the Stalking Horse APA for the sale of their development and commercialization rights to the Debtors' research and development portfolio, as described above (the "R&D Assets"), and to the rights to commercialize the Debtors' commercial portfolio, as described above (the "Commercial Assets" and together with the R&D Assets, the "Assets").

98. I believe the relief requested in the motion will best position the Debtors and their professionals to maximize the value of the Assets. The stalking horse bid of Ligand for the Assets establishes a floor for further bidding that may increase the consideration received in exchange for such assets, and provides significant value to the Debtors' estates that would be used to repay obligations of the Debtors.

99. Additionally, I believe the Bidding Procedures (a) provide adequate time for interested parties to conduct due diligence, arrange financing, and construct and submit informed competing bids for the Assets, (b) help ensure that the Debtors maximize creditor recoveries while working towards the efficient completion of these Chapter 11 Cases in a timely manner, and (c) provide the Debtors' sale process with finality. I also believe that the Bidding Procedures allow the Debtors to exercise their fiduciary duties to pursue an alternative restructuring strategy, if necessary.

100. Accordingly, and as set forth in more detail in the declaration filed in support of the motion, I respectfully submit that the requested relief should be approved.

ii. DIP and Cash Collateral Motion

101. Concurrently herewith, the Debtors filed a motion seeking authority to enter into the DIP Facility with Ligand. The DIP Facility would provide the Debtors with total financing of up to \$12,000,000 in new money term loans made available in multiple draws.

102. As explained in greater detail in the Motion and supporting declarations, the Debtors are facing a liquidity crisis and are in immediate need of financing to continue their operations. Access to the DIP Facility, coupled with the Debtors' continued use of cash collateral, will provide the necessary liquidity to fund the Debtors' operating, working capital and other needs during the sale process to be completed during these Chapter 11 cases.

103. I believe that access to the funds available under the DIP Facility are crucial to avoid immediate and irreparable harm to the Debtors' estates, employees, customers, and creditors. Moreover, I believe that the terms of the DIP Facility are reasonable as they include favorable pricing, reasonable adequate protection measures for the prepetition secured creditors' interests and reasonable fees.

104. For the foregoing reasons, I believe that the DIP Facility embodies the best available financing under these circumstances and that entry into the DIP Facility is in the best interests of the Debtors and their estates.

* * *

105. I have reviewed each of the First Day Motions (including the exhibits and schedules thereto). The facts stated therein are true and correct to the best of my knowledge, information, and belief, and I believe that the type of relief sought in each of the First Day Motions: (i) is necessary to enable the Debtors to operate in chapter 11 with minimal disruption to their business operations; and (ii) is in the best interests of the Debtors and their stakeholders.

106. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

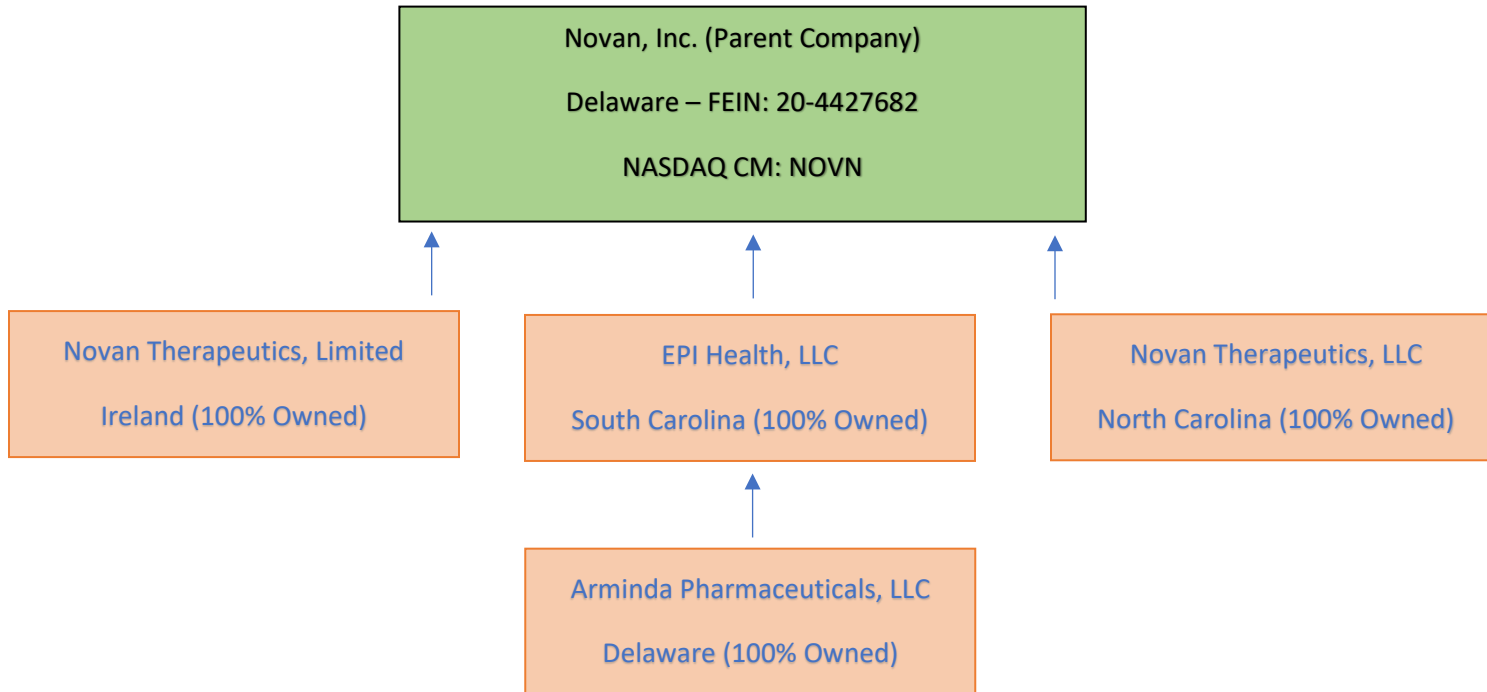
Executed this 17th day of July, 2023.

Novan, Inc.,
EPI Health, LLC,
Debtors and Debtors in Possession

By: /s/ Paula Brown Stafford

Schedule 1

Organizational Chart

NOVAN, INC. – Corporate Structure

Novan, Inc. (“Novan” and together with its subsidiaries, the “Company”) is a medical dermatology company focused primarily on researching, developing and commercializing innovative therapeutic products for skin diseases. Its goal is to deliver safe and efficacious therapies to patients, including developing product candidates where there are unmet medical needs. The Company is developing SB206 (berdazimer gel, 10.3%) as a topical prescription gel for the treatment of viral skin infections, with a current focus on molluscum contagiosum. On March 11, 2022, the Company acquired EPI Health, LLC, a specialty pharmaceutical company focused on medical dermatology (“EPI Health”), from Evening Post Group, LLC, a South Carolina limited liability company (“EPG” or the “Seller”). The acquisition of EPI Health (the “EPI Health Acquisition”) has provided the Company with a commercial infrastructure to sell a marketed portfolio of therapeutic products for skin diseases. Subsequent to the acquisition, the Company sells various medical dermatology products for the treatments of plaque psoriasis, rosacea, acne and dermatoses.

Novan was incorporated in January 2006 under the state laws of Delaware. In 2015, Novan Therapeutics, LLC, was organized as a wholly owned subsidiary under the state laws of North Carolina; in March 2019, the Company completed registration of a wholly owned Ireland-based subsidiary, Novan Therapeutics, Limited; and in March 2022, the Company acquired its wholly owned subsidiary, EPI Health, a South Carolina limited liability company.