

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

In re:

CHARACTER TECHNOLOGIES, INC.,¹

Debtor.

Chapter 11

Case No. 26-11603 ([____])

**DEBTOR'S MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING DEBTOR TO PAY CERTAIN
PREPETITION CLAIMS OF CRITICAL VENDORS;
AND (II) GRANTING RELATED RELIEF**

The debtor and debtor in possession in the above-captioned case (the “Debtor”) hereby submits this motion (this “Motion”) for entry of interim and final orders substantially in the forms attached hereto as **Exhibit A** (the “Interim Order”) and **Exhibit B** (the “Final Order” and, together with the Interim Order, the “Proposed Orders”), (i) authorizing, but not directing, the Debtor to pay, in the ordinary course of business, certain prepetition claims of critical vendors (each, a “Critical Vendor Claim,” and collectively, the “Critical Vendor Claims”); and (ii) granting related relief. In support hereof, the Debtor relies on the *Declaration of Colin M. Adams in Support of the Debtor’s Chapter 11 Petition and First Day Motions* (the “First Day Declaration”)² filed concurrently herewith, and further represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the

¹ The Debtor and the last four digits of its taxpayer identification number are: Character Technologies, Inc. (8842). The Debtor’s mailing address for purposes of the chapter 11 case is 700 El Camino Real, Suite 120, P.O. Box 1152, Menlo Park, CA 94025.

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

District of Delaware dated February 29, 2012. Pursuant to Rule 9013-1(f) of the Local Rules of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the Debtor confirms its consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this chapter 11 case and this Motion is proper in this district under 28 U.S.C. §§ 1408 and 1409.

3. The statutory and other bases for the relief requested herein are sections 105(a) and 363(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 6003 and 6004(h) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Local Rule 9013-1(m).

RELIEF REQUESTED

4. The Debtor hereby seeks entry of the Proposed Orders authorizing, but not directing, the Debtor to pay, in its discretion, Critical Vendor Claims in an amount up to \$2,500,000 (the “Critical Vendor Claims Cap”). Specifically, the Debtor seeks authority to pay, in its discretion, up to \$1,500,000 in Critical Vendor Claims under the Interim Order.

5. The Debtor also requests that the Court authorize the Debtor to enter into written agreements (the “Trade Agreements”) pursuant to which payment of certain Critical Vendor Claims shall be conditioned upon the vendor (a) agreeing to continue to provide products and services to the Debtor in accordance with trade terms no worse than those in place during the one hundred and eighty (180) days prior to the Petition Date (as defined below) (the “Customary Trade Terms”), or (b) accepting some discount on its prepetition claim amount.

6. Finally, the Debtor seeks relief authorizing banks and other financial institutions (the “Banks”) to receive, process, honor and pay checks or electronic transfers used by the Debtor

to pay the foregoing and to rely on the representations of such Debtor as to which checks are issued and authorized to be paid in accordance with any relief granted in connection with this Motion.

BACKGROUND

7. On October 12, 2026 (the “Petition Date”), the Debtor filed a voluntary petition for relief pursuant to chapter 11 of the Bankruptcy Code. The Debtor is operating its business and managing its property as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in this chapter 11 case, and no official committee of unsecured creditors has been appointed.

8. The Debtor is a first in kind artificial intelligence (“AI”) entertainment platform that allows users to have immersive, multimodal experiences with fictional or imagined characters. What started as a platform to have one-on-one chats tailored to user preferences, has evolved to become a category leader in entertainment AI. Today, the Character.AI platform generates stunning visuals that become part of a story, creates dynamic video content with AI characters, and actively augments videos and stories with rich audio experiences to enhance immersion. In its 4-year lifespan as an active platform, Character has amassed a large and engaged user base. The burgeoning and evolving field of AI entertainment, however, has proven to be costly to develop and grow. These high costs, coupled with potential litigation related liabilities and regulatory engagement have contributed to the Debtor’s inability to generate sufficient cash flows to support its business in the present form. The Debtor has commenced this case to engage in value-maximizing transactions for the benefit of its stakeholders.

9. Additional factual background regarding the Debtor, including its business operations, its corporate and capital structure, and the events leading to the filing of this chapter 11 case, is set forth in detail in the First Day Declaration, filed concurrently herewith and incorporated herein by reference.

THE CRITICAL VENDORS

10. As described above, and as set forth in more detail in the First Day Declaration, the Debtor operates an AI entertainment platform available online and through an application. In the ordinary course of business, the Debtor engages a limited number of vendors (each, a “Critical Vendor”, and collectively, the “Critical Vendors”) that provide computing hardware and infrastructure to the Debtor, cloud space and storage for the Debtor’s platform and data needs, various platform monitoring and safety services, along with providing services for other operational needs of the Debtor.

11. Absent the ability to pay the Critical Vendors, the Debtor will suffer immediate and irreparable harm to its operations. Further, replacing these vendors at outset of this chapter 11 case would be difficult, and in certain cases, impossible. Even assuming the Debtor could replace the Critical Vendors, the time and expense required to do so would have a detrimental impact on the Debtor’s business, adversely impacting the Debtor’s ability to maximize value.

I. CRITICAL VENDOR ANALYSIS

12. To identify the Critical Vendors, the Debtor spent significant time, aided by its advisors, reviewing and analyzing its books and records and historical practices to identify certain critical business relationships and suppliers of products and services, the loss of which would immediately and irreparably harm its business. In the process, the Debtor considered a variety of factors, including:

- whether certain specifications or contract requirements prevent, directly or indirectly, the Debtor from obtaining goods or services from alternative sources;
- whether a vendor is a sole-source, limited-source, or high-volume supplier of goods or services critical to the Debtor’s business operations;
- whether an agreement exists by which the Debtor could compel a vendor to continue performing on prepetition terms;

- whether alternative vendors are available that can provide the requisite volumes of similar goods or services on equal (or better) terms and, if so, whether the Debtor would be able to continue operating while transitioning business thereto;
- the degree to which replacement costs (including pricing, transition expenses, professional fees, and lost sales or future revenue) exceed the amount of a vendor's prepetition claim;
- whether the Debtor's inability to pay all or part of the vendor's prepetition claim could trigger financial distress for the applicable vendor;
- whether failure to pay all or part of a particular vendor's claim could cause a contraction of trade terms or the vendor to hold goods owned by the Debtor or refuse to ship inventory or provide critical services on a postpetition basis; and
- the location of the vendor.

13. Following this analysis, the Debtor designated certain vendors as Critical Vendors.

The Critical Vendors provide services and goods that are generally proprietary or significantly integrated into the Debtor's business such that the Debtor cannot easily replicate or replace them.

14. Any material interruption in the provision of the services by the Critical Vendors, however brief, could cause irreparable harm to the Debtor's go-forward business, employees, user base, and market share. Such harm would far outweigh the cost of payment of Critical Vendor Claims.³ If the Debtor is unable to receive continued services from the Critical Vendors, it risks losing all of the data, code, intellectual property, and more that make up its entire business. Losing services from the Critical Vendors will cause irreparable damage to the Debtor's business and dissipate the value it seeks to monetize through the sale. It is thus essential to the Debtor's efforts in this chapter 11 case to pay certain Critical Vendor Claims.

15. The Debtor's prepetition liquidity challenges and uncertainties about the future of its business have significantly hindered its ability to make timely payments to many Critical

³ Notwithstanding the relief requested herein, the Debtor reserves all rights and remedies under the Bankruptcy Code and other applicable law to pursue any cause of action against any Critical Vendor on account of, among other things, any violation of the automatic stay pursuant to section 362 of the Bankruptcy Code.

Vendors. This has led to strained relationships with vendors and threatens the Debtor's go-forward relationship with these vendors. It is therefore necessary that the Debtor's relationships with its Critical Vendors begin to normalize immediately in order to stabilize the Debtor's operations.

II. TRADE TERMS CONDITIONS

16. The loss of trade terms with Critical Vendors (whether on account of demands for cash-in-advance, cash-on-delivery, or otherwise) would negatively impact the Debtor's liquidity. The Debtor intends to pay prepetition Critical Vendor Claims only when, in its business judgment, the benefits to its estate from making such payments will exceed the costs to its estate of doing so.

17. To preserve working capital and liquidity during this chapter 11 case and ensure that the Debtor continues to receive vital products and services, the Debtor seeks authority, in its discretion, to condition any payment on account of Critical Vendor Claims on entry into a Trade Agreement, under which such Critical Vendor may be required to (a) continue supplying products or services to the Debtor on the Customary Trade Terms between the parties (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, and other applicable terms and programs), or (b) agree to accept some discount on its prepetition claim. The Debtor, however, reserves the right to negotiate different terms with any Critical Vendor, as a condition to payment of any Critical Vendor Claim, whether or not memorialized by a Trade Agreement, to the extent the Debtor determines that such trade terms are necessary to procure essential products and services or are otherwise in the best interests of the Debtor's estate.

18. The Debtor hereby requests authority to enter into Trade Agreements with the Critical Vendors if the Debtor determines, in its discretion, that such an agreement is necessary to

its postpetition operations.⁴ Maintaining normal trade credit terms will improve the Debtor's chances of successfully emerging from chapter 11 because purchasing goods on credit preserves working capital and liquidity, thereby enabling the Debtor to maintain its competitiveness and to maximize the value of its business.

19. If a Critical Vendor refuses to provide products or services to the Debtor on Customary Trade Terms (or such other terms that the parties agree upon as a condition to providing Critical Vendor status) following any postpetition payment toward its Critical Vendor Claim, or fails to comply with any Trade Agreement it entered into with the Debtor, the Debtor hereby requests authority, in its discretion and without further order of the Court but with notice to the affected Critical Vendor, (a) to declare such Trade Agreement immediately terminated (if applicable) and (b) to declare any payments made to such Critical Vendor on account of its Critical Vendor Claim to have been in payment of then outstanding postpetition obligations owed to such Critical Vendor without further order of the Court.

BASIS FOR RELIEF

I. THE COURT SHOULD AUTHORIZE, BUT NOT DIRECT, THE DEBTOR, IN ITS DISCRETION, TO PAY THE CRITICAL VENDOR CLAIMS

20. Courts have recognized that it is appropriate to authorize the payment of prepetition obligations, including payments to critical vendors, when it is necessary to protect and preserve the estate. *See, e.g., Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 985 (2017) (noting that courts “have approved . . . ‘critical vendor’ orders that allow payment of essential suppliers’ prepetition invoices”); *see also In re Just for Feet, Inc.*, 242 B.R. 821, 826 (D. Del. 1999) (finding that payment of prepetition claims to certain trade vendors was “essential to the survival of the

⁴ The Debtor's entry into a Trade Agreement shall not change the nature or priority of the underlying Critical Vendor Claims and shall not constitute an assumption or rejection under section 365 of the Bankruptcy Code of any executory contract or prepetition or postpetition agreement between the Debtor and a Critical Vendor.

debtor during the chapter 11 reorganization”); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (“The ability of a bankruptcy court to authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.”). In so doing, these courts acknowledge that several legal theories rooted in sections 105(a) and 363(b) of the Bankruptcy Code support the payment of the Critical Vendor Claims as provided herein.

21. Section 363(b) of the Bankruptcy Code permits a bankruptcy court, after notice and a hearing, to authorize a debtor to “use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A debtor’s decision to use, sell, or lease assets outside the ordinary course of business must be based upon the sound business judgment of the debtor. *See In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999); *Ionosphere Clubs*, 98 B.R. at 175 (noting that section 363(b) of the Bankruptcy Code provides “broad flexibility” to authorize a debtor to honor prepetition claims when supported by an appropriate business justification). Indeed, courts have recognized that there are instances when a debtor’s fiduciary duty can “only be fulfilled by the preplan satisfaction of a prepetition claim.” *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002).

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

Bankruptcy Code to authorize payment of prepetition obligations pursuant to the “necessity of payment” rule (also referred to as the “doctrine of necessity”). The United States Court of Appeals for the Third Circuit recognized the “necessity of payment” doctrine in *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981). The Third Circuit held that a court could authorize the payment of prepetition claims if such payment was essential to the continued operation of the debtor. *Id.* (stating courts may authorize payment of prepetition claims when there “is the possibility that the creditor will employ an immediate economic sanction, failing such payment”); *see also In re Penn Cent. Transp. Co.*, 467 F.2d 100, 102 n.1 (3d Cir. 1972) (holding that the necessity of payment doctrine permits “immediate payment of claims of creditors where those creditors will not supply services or material essential to the conduct of the business until their pre-reorganization claims have been paid”); *In re Just for Feet*, 242 B.R. at 824-25 (noting that, in the Third Circuit, debtors may pay prepetition claims that are essential to continued operation of business); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (same).

23. The Debtor’s request for authority to pay Critical Vendor Claims as outlined herein is appropriate and warranted under the circumstances. Payment of the Critical Vendor Claims, as described above, is essential to the continued operation of the Debtor’s business. Failure to pay such claims could harm the Debtor’s ability to obtain necessary products and services, prevent the Debtor from preserving favorable trade terms, and increase the likelihood of significant disruptions to the Debtor’s postpetition operations.

24. The resulting harm to the Debtor’s estate far outweighs the cost associated with paying a portion of the Debtor’s prepetition obligations to the Critical Vendors. As stated above, the Critical Vendors provide goods and services that, in the Debtor’s business judgment, are necessary to preserve and maximize the going concern value of its business. If the Critical Vendors

cease to continue to provide goods and services to the Debtor, the Debtor could face a degradation in the value of its business due to interruption of the flow of necessary goods and services to the Debtor. Thus, the Debtor submits that its other creditors will be no worse off from implementation of the relief sought herein, and in fact will fare far better, if the relief requested by this Motion is granted and the Debtor is empowered to negotiate such payments to achieve a smooth transition into bankruptcy with minimal disruption to its operations.

25. Accordingly, in light of the potential for immediate and irreparable consequences if the Critical Vendors do not continue to provide uninterrupted and continued deliveries of products and services, the Debtor has determined, in the exercise of its business judgment, that payment of Critical Vendor Claims necessary to its go-forward business is essential to avoid costly disruptions to its operations. The Debtor has examined other options short of payment of the Critical Vendor Claims and has determined that to avoid significant disruption of the Debtor's operations, the Debtor must pay all or part of the Critical Vendor Claims.

26. For these reasons, the Debtor submits that the relief requested herein represents a sound exercise of the Debtor's business judgment, is necessary to avoid immediate and irreparable harm to the Debtor's estate, preserves value for the benefit of all stakeholders in this chapter 11 case, and is therefore justified under sections 105(a) and 363(b) of the Bankruptcy Code.

IMMEDIATE AND UNSTAYED RELIEF IS NECESSARY

27. The Court may grant the relief requested in this Motion immediately if the "relief is necessary to avoid immediate and irreparable harm." Fed. R. Bankr. P. 6003; *In re First NLC Fin. Servs., LLC*, 382 B.R. 547, 549 (Bankr. S.D. Fla. 2008). The Third Circuit has interpreted the language "immediate and irreparable harm" in the context of preliminary injunctions. In that context, the Third Circuit has instructed that irreparable harm is that which "cannot be redressed by a legal or an equitable remedy following a trial." *Instant Air Freight Co. v. C.F. Air Freight*,

Inc., 882 F.2d 797, 801 (3d Cir. 1989). The Debtor submits that, for the reasons set forth herein, the relief requested in this Motion is necessary to avoid immediate and irreparable harm to the Debtor and its estate. Importantly, the amounts sought to be paid under the Interim Order are only those amounts that will come due in the first thirty (30) days of this chapter 11 case and, accordingly, the Debtor has appropriately tailored the relief to that which must be paid pending a final hearing on this Motion.

28. The Debtor also requests that the Court waive the stay imposed by Bankruptcy Rule 6004(h), which provides that “[u]nless the Court orders otherwise, an order authorizing the use, sale, or lease of property (other than cash collateral) is stayed for 14 days after the order is entered” Fed. R. Bankr. P. 6004(h). As described above, the relief that the Debtor requests pursuant to this Motion is necessary for the Debtor to operate without interruption and to preserve value for its estate. Accordingly, the Debtor respectfully requests that the Court waive the fourteen (14)-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

RESERVATION OF RIGHTS

29. Nothing in this Motion: (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor or its estate; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate to contest the validity, priority, or amount of any claim against the Debtor or its estate; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate with respect to any and all claims or causes of action against any third party; or (d) shall be construed as a promise to pay a claim or continue any applicable program postpetition, which decision shall be in the discretion of the Debtor. Any payment made pursuant to an order of the Court granting the relief requested herein 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.

NOTICE

30. The Debtor will provide notice of this Motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the United States Attorney's Office for the District of Delaware; (c) the Internal Revenue Service; (d) the holders of the twenty (20) largest unsecured claims against the Debtor; (e) the Banks; (f) the Authorities; (g) counsel to Disney; and (h) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtor will serve copies of this Motion and any order entered in respect hereto as required by Local Rule 9013-1(m). The Debtor respectfully submits that, in light of the nature of the relief requested, no further notice is necessary.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that this Court enter the Interim Order and the Final Order, substantially in the form annexed hereto as **Exhibit A** and **Exhibit B**, respectively, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: October 13, 2026
Wilmington, Delaware

WILSON SONSINI GOODRICH & ROSATI, P.C.

/s/ Erin R. Fay

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Proposed Counsel to the Debtor and Debtor in Possession

EXHIBIT A

Interim Order

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

In re:

CHARACTER TECHNOLOGIES, INC.,¹

Debtor.

Chapter 11

Case No. 26-11603 ([____])

Ref. Docket No. __

**INTERIM ORDER (I) AUTHORIZING DEBTOR TO PAY
CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS;
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the Debtor for entry of this interim order (this “Interim Order”) and a final order (the “Final Order”) (i) authorizing the Debtor to pay certain prepetition claims of Critical Vendors; and (ii) granting related relief, all 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. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this case and this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; and this Court having found that notice of the Motion and opportunity for a hearing thereon were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at

¹ The Debtor and the last four digits of its taxpayer identification number are: Character Technologies, Inc. (8842). The Debtor’s mailing address for purposes of the chapter 11 case is 700 El Camino Real, Suite 120, P.O. Box 1152, Menlo Park, CA 94025.

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

a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.

2. The final hearing on the Motion (the “Final Hearing”) is set for _____, 2026 at __:__ a.m./p.m. (prevailing Eastern Time). Any objections or responses to the entry of the proposed Final Order shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on _____, 2026 (the “Objection Deadline”), and shall be served on the following parties or their respective counsel on or before the Objection Deadline: (a) proposed counsel to the Debtor, Wilson Sonsini Goodrich & Rosati, P.C., 222 Delaware Avenue, Suite 800, Wilmington, DE 19801 (Attn: Erin R. Fay, Shane M. Reil, and Heather P. Lambert (emails: efay@wsgr.com, sreil@wsgr.com, and hlambert@wsgr.com)); (b) the United States Trustee for the District of Delaware, 844 N. King Street, Room 2207, Wilmington, DE 19801 (Attn: Linda Casey (email: Linda.Casey@usdoj.gov)); and (c) counsel for any statutory committee appointed in this chapter 11 case. If no objections or responses are filed and served by the Objection Deadline, the Court may enter the Final Order without further notice or hearing.

3. The Debtor is hereby authorized, but not required, to pay, in its discretion and without further order of this Court, (a) the Critical Vendor Claims, provided that such payments shall not exceed \$1,500,000 absent further order of this Court. The Debtor is further authorized, but not directed, in its discretion, to settle all or some of the Critical Vendor Claims for less than their face amount without further notice or hearing. Nothing in this paragraph shall be construed as requiring the Debtor to make a payment to a particular creditor or claimant. The Debtor shall

provide a copy of this Interim Order to any Critical Vendor to whom a payment is made pursuant to this Interim Order.

4. The Debtor is further authorized to undertake appropriate efforts to enter into Trade Agreements with the Critical Vendors if the Debtor determines, in its discretion, that such agreements are necessary to the Debtor's operations; *provided, however*, that the absence of such written verification or the Debtor's failure to request such an acknowledgement will not limit the Debtor's rights hereunder; *provided further, however*, that the Debtor's inability to obtain a commitment to provide Customary Trade Terms shall not preclude the Debtor from paying certain Critical Vendor Claims if the Debtor determines, in the reasonable exercise of its business judgment, that payment of such Critical Vendor Claims is nevertheless necessary to the Debtor's operations. Nothing in this paragraph shall be construed as requiring the Debtor to make a payment to a particular creditor or claimant.

5. If a Critical Vendor agrees to supply goods or services to the Debtor on Customary Trade Terms (or such other terms as are agreed to by the parties, regardless of whether the parties have entered into a Trade Agreement) and subsequently refuses to honor such terms following receipt of any payment on account of its Critical Vendor Claim, or otherwise fails to comply with any Trade Agreement, then the Debtor may, with notice to the affected Critical Vendor and on or before the date on which any plan or plans of reorganization are confirmed in the chapter 11 case, (a) deem any payments made to such Critical Vendor on account of its Critical Vendor Claim to have been in payment of any then outstanding postpetition obligations owed to such Critical Vendor, and (b) if applicable, declare such Trade Agreement immediately terminated. For the avoidance of doubt, nothing herein shall constitute a waiver of the Debtor's rights to seek damages

or other appropriate remedies against any Critical Vendor for breach of a Trade Agreement or other terms as are agreed to by the parties.

6. If any Critical Vendor accepts payment on account of a prepetition obligation of the Debtor and thereafter does not continue to provide goods or services to the Debtor on Customary Trade Terms (or such other terms as are agreed to by the parties, regardless of whether the parties have entered into a Trade Agreement), the Debtor reserves all rights and remedies, including to assert after notice and a hearing that such payments constitute avoidable postpetition transfers pursuant to section 549 of the Bankruptcy Code and, as such, are recoverable by the Debtor.

7. The Debtor shall maintain a matrix summarizing (a) the name of each Critical Vendor paid, (b) the amount paid to each Critical Vendor on account of its claim(s), and (c) the type of goods or services provided by that Critical Vendor.

8. The Debtor's Banks are authorized, when requested by the Debtor, in the Debtor's discretion, to honor and process checks or electronic fund transfers drawn on the Debtor's bank accounts to pay prepetition obligations authorized to be paid hereunder, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Banks may rely on the representations of the Debtor with respect to whether any check or other transfer drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this Interim Order, and any such Banks shall not have any liability to any party for relying on such representations by the Debtor, as provided for in this Interim Order.

9. For the avoidance of doubt, the authorization granted hereby to pay the Critical Vendor Claims shall not create any obligation on the part of the Debtor or its officers, directors,

attorneys, or agents to pay the Critical Vendor Claims. None of the foregoing persons shall have any liability on account of any decision by the Debtor to not pay or to settle a Critical Vendor Claim for less than the asserted amount of such claim.

10. Nothing herein shall prejudice the Debtor's rights to request additional authority to pay Critical Vendor Claims.

11. Nothing in this Interim Order nor any actions taken hereunder: (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor or its estate; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate to contest the validity, priority, or amount of any claim against the Debtor or its estate; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate with respect to any and all claims or causes of action against any third party; or (d) shall be construed as a promise to pay a claim or continue any applicable program postpetition, which decision shall be in the discretion of the Debtor. Any payment made pursuant to this Interim 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.

12. The requirements of Bankruptcy Rule 6003 are satisfied.

13. Notwithstanding Bankruptcy Rule 6004(h), this Interim Order shall be effective and enforceable immediately upon entry hereof.

14. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

15. Notice of the Motion as provided therein shall be deemed good and sufficient and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

16. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Interim Order.

EXHIBIT B

Final Order

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

In re:

CHARACTER TECHNOLOGIES, INC.,¹

Debtor.

Chapter 11

Case No. 26-11603 ([____])

Ref. Docket Nos. __ & __

**FINAL ORDER (I) AUTHORIZING DEBTOR TO PAY CERTAIN
PREPETITION CLAIMS OF CRITICAL VENDORS;
AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)² of the Debtor for entry of an interim order and this final order (this “Final Order”) (i) authorizing the Debtor, to pay certain prepetition claims of Critical Vendors; and (ii) granting related relief, all 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. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this case and this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtor’s estate, its creditors, and other parties in interest; and this Court having found that notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing

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before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted on a final basis as set forth herein.
2. The Debtor is hereby authorized, but not required, to pay, in its discretion, without further order of this Court, (a) the Critical Vendor Claims, *provided* that such payments shall not exceed \$2,500,000 in the aggregate absent further order of this Court. The Debtor is further authorized, but not directed, in its discretion, to settle all or some of the Critical Vendor Claims for less than their face amount without further notice or hearing. Nothing in this paragraph shall be construed as requiring the Debtor to make a payment to a particular creditor or claimant. The Debtor shall provide a copy of this Final Order to any Critical Vendor to whom a payment is made pursuant to this Final Order.
3. The Debtor is further authorized to undertake appropriate efforts to enter into Trade Agreements with the Critical Vendors if the Debtor determines, in its discretion, that such agreements are necessary to the Debtor’s operations; *provided, however*, that the absence of such written verification or the Debtor’s failure to request such an acknowledgement will not limit the Debtor’s rights hereunder; *provided further, however*, that the Debtor’s inability to obtain a commitment to provide Customary Trade Terms shall not preclude the Debtor from paying certain Critical Vendor Claims if the Debtor determines, in the reasonable exercise of its business judgment, that payment of such Critical Vendor Claims is nevertheless necessary to the Debtor’s operations. Nothing in this paragraph shall be construed as requiring the Debtor to make a payment to a particular creditor or claimant.

4. If a Critical Vendor agrees to supply goods or services to the Debtor on Customary Trade Terms (or such other terms as are agreed to by the parties, regardless of whether the parties have entered into a Trade Agreement) and subsequently refuses to honor such terms following receipt of any payment on account of its Critical Vendor Claim, or otherwise fails to comply with any Trade Agreement, then the Debtor may, with notice to the affected Critical Vendor and on or before the date on which any plan or plans of reorganization are confirmed in this chapter 11 case, (a) deem any payments made to such Critical Vendor on account of its Critical Vendor Claim to have been in payment of any then outstanding postpetition obligations owed to such Critical Vendor, and (b) if applicable, declare such Trade Agreement immediately terminated. For the avoidance of doubt, nothing herein shall constitute a waiver of the Debtor's rights to seek damages or other appropriate remedies against any Critical Vendor for breach of a Trade Agreement or other terms as are agreed to by the parties.

5. If any Critical Vendor accepts payment on account of a prepetition obligation of the Debtor and thereafter does not continue to provide goods or services to the Debtor on Customary Trade Terms (or such other terms as are agreed to by the parties, regardless of whether the parties have entered into a Trade Agreement), the Debtor reserves all rights and remedies, including the right to assert that such payments constitute avoidable postpetition transfers pursuant to section 549 of the Bankruptcy Code and, as such, are recoverable by the Debtor.

6. The Debtor shall maintain a matrix summarizing (a) the name of each Critical Vendor paid, (b) the amount paid to each Critical Vendor on account of its claim(s), and (c) the type of goods or services provided by that Critical Vendor.

7. The Debtor's Banks are authorized, when requested by the Debtor, in the Debtor's discretion, to honor and process checks or electronic fund transfers drawn on the Debtor's bank

accounts to pay prepetition obligations authorized to be paid hereunder, whether such checks or other requests were submitted prior to, or after, the Petition Date, provided that sufficient funds are available in the applicable bank accounts to make such payments. The Banks may rely on the representations of the Debtor with respect to whether any check or other transfer drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this Final Order, and any such Banks shall not have any liability to any party for relying on such representations by the Debtor, as provided for in this Final Order.

8. For the avoidance of doubt, the authorization granted hereby to pay the Critical Vendor Claims shall not create any obligation on the part of the Debtor or its officers, directors, attorneys, or agents to pay the Critical Vendor Claims. None of the foregoing persons shall have any liability on account of any decision by the Debtor to not pay or to settle a Critical Vendor Claim for less than the asserted amount of such claim.

9. Nothing herein shall prejudice the Debtor's rights to request additional authority to pay Critical Vendor Claims.

10. Nothing in this Final Order nor any actions taken hereunder: (a) is intended or shall be deemed to constitute an assumption of any agreement pursuant to section 365 of the Bankruptcy Code or an admission as to the validity of any claim against the Debtor or its estate; (b) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate to contest the validity, priority, or amount of any claim against the Debtor or its estate; (c) shall impair, prejudice, waive, or otherwise affect the rights of the Debtor or its estate with respect to any and all claims or causes of action against any third party; or (d) shall be construed as a promise to pay a claim or continue any applicable program postpetition, which decision shall be in the discretion of the Debtor. Any payment made pursuant to this Final Order is not intended to be nor should it be

construed as an admission as to the validity of any claim or a waiver of the Debtor's rights to subsequently dispute such claim.

11. Notwithstanding Bankruptcy Rule 6004(h), this Final Order shall be effective and enforceable immediately upon entry hereof.

12. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Final Order.

13. Notice of the Motion as provided therein shall be deemed good and sufficient and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

14. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation, or enforcement of this Final Order.