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*Proposed Attorneys for the Debtors  
and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Joint Administration Requested)  
(Emergency Hearing Requested)

**DEBTORS' EMERGENCY MOTION FOR  
ENTRY OF INTERIM AND FINAL ORDERS  
(I) AUTHORIZING THE DEBTORS TO CONTINUE TO  
OPERATE THEIR CASH MANAGEMENT SYSTEM AND  
MAINTAIN EXISTING BANK ACCOUNTS (II) HONOR CERTAIN  
OBLIGATIONS RELATING THERETO; AND (III) GRANTING A  
WAIVER OF CERTAIN DEPOSIT AND INVESTMENT REQUIREMENTS  
IN 11 U.S.C. § 345(b) AND THE UST GUIDELINES**

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors' service address is 2155 Park Boulevard, Palo Alto, California 94306.



**Emergency relief has been requested. Relief is requested not later than 1:30 p.m. prevailing Central Time on April 3, 2024.**

**If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

**A hearing will be conducted on this matter on April 3, 2024 at 1:30 p.m. prevailing Central Time in Courtroom 1, Floor 14, 1100 Commerce Street, Dallas, TX 75242-1496.**

**You may participate in the hearing either in person or by an audio and video connection.**

**Audio communication will be by use of the Court’s dial-in facility. You may access the facility at 1.650.479.3207. Video communication will be by use of the Cisco WebEx platform. Connect via the Cisco WebEx application or click the link on Judge Jernigan’s home page. The meeting code is 479**

**393 582. Click the settings icon in the upper right corner and enter your name under the personal information setting.**

**Hearing appearances must be made electronically in advance of electronic hearings. To make your appearance, click the “Electronic Appearance” link on Judge Jernigan’s home page. Select the case name, complete the required fields and click “Submit” to complete your appearance.**

The debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) state as follows in support of this motion:<sup>2</sup>

### **Relief Requested**

1. The Debtors seek entry of interim order and final orders, substantially in the forms attached hereto as **Exhibit A** and **Exhibit B** (respectively, the “Interim Order” and “Final Order”):

(i) authorizing the Debtors to (a) continue to use their existing cash management system, including existing bank accounts, (b) honor certain prepetition obligations related thereto, and (c) maintain their existing business forms, (ii) waiving certain requirements of the U.S. Trustee Guidelines (defined below) and section 345(b) of the Bankruptcy Code (defined below), and (iii) granting related relief, including scheduling a hearing to consider approval of the Motion on a final basis (the “Final Hearing”).

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<sup>2</sup> A detailed description of the Debtors and their business, and the facts and circumstances supporting this motion and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of David Apelian in Support of Chapter 11 Petitions and First Day Pleadings* (the “First Day Declaration”), filed contemporaneously herewith. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the First Day Declaration.

### **Jurisdiction and Venue**

2. The United States Bankruptcy Court for the Northern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). The Debtors confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the Court’s entry of a final order in connection with this motion.

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

4. The bases for the relief requested herein are sections 105, 345, 363, and 553 of title 11 of the United States Code (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

### **Background**

5. The Debtors are a commercial-stage biopharmaceutical company focused on the development of innovative therapies for hepatitis delta virus (HDV) and other serious diseases. All five of the Debtors’ rare disease programs have FDA Breakthrough Therapy designation.

6. On the date hereof (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their business and managing their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this motion, the Debtors have requested procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No party has requested the appointment of a trustee or examiner in these cases, and no statutory committee has been appointed.

## The Cash Management System

### **I. Overview.**

7. In the ordinary course of business, the Debtors operate a cash management system to facilitate the timely and efficient collection, management, and disbursement of funds used in the Debtors' business (the "Cash Management System"). An illustrative schematic of the Cash Management System is attached as Exhibit C.

8. The Debtors use the Cash Management System to collect and disburse cash generated by their business, pay their financial obligations, centrally control and monitor corporate funds and available cash, comply with the requirements of their financing agreements, obtain accurate account balances and other financial data, forecast financial performance, and ensure cash availability and liquidity. The Cash Management System is narrowly tailored to meet the Debtors' operating needs while reducing administrative expenses. The Debtors maintain daily oversight over the Cash Management System and implement controls for entering, processing, and releasing funds. Additionally, the Debtors' accounting department regularly reconciles books and records to ensure that all transfers are accounted for properly.

9. As described herein, any disruption to the Cash Management System would have an immediate adverse effect on the Debtors' business and operations to the detriment of their estates and numerous stakeholders. Accordingly, to minimize the disruption caused by these chapter 11 cases and to maximize the value of the Debtors' estates, the Debtors request authority to continue to utilize their existing Cash Management System during the pendency of these chapter 11 cases, subject to the terms described herein.

### **II. The Bank Accounts.**

10. As of the Petition Date, the Cash Management System includes six (6) bank accounts (together with any other bank accounts the Debtors may open in the ordinary course of

business, collectively, the “Bank Accounts”). A list of the Bank Accounts is attached as **Exhibit D**.<sup>3</sup> Three (3) of the Bank Accounts are held at Silicon Valley Bank, which has recently become a division of First Citizens Bank (“SVB”). The other three (3) Bank Accounts are maintained by the Debtors at: J.P. Morgan (“JPM”), Merrill Lynch (“ML”), and the Bank of Ireland (collectively, with SVB, the “Cash Management Banks”). As of the Petition Date, the Debtors have approximately \$9.9 million of unrestricted cash in the Bank Accounts.

11. Debtor Eiger BioPharmaceuticals, Inc. (“Eiger BioPharmaceuticals”) is the primary operating entity and maintains a primary operating account at Silicon Valley Bank for disbursements and/or collections. Eiger BioPharmaceuticals additionally maintains a secondary account and depository account at Silicon Valley Bank, as well as investment accounts at both J.P. Morgan and Merrill Lynch.

12. The following table describes each Bank Account in the Cash Management System:

Bank Accounts	Account Description
<p><b>Primary Account</b></p> <ul style="list-style-type: none"> <li>SVB account ending x0066</li> </ul>	<p>The Debtors maintain a primary operating account at Silicon Valley Bank (the “<u>Primary Account</u>”). The Primary Account is used to aggregate all funds from the Debtors’ business segments, in the United States and internationally, other than EigerBio Europe Limited, and then satisfy day-to-day operating expenses, including accounts payable, payroll obligations, and corporate tax payments.</p> <p>The Primary Account is funded by the Depository Accounts, the Investment Accounts, and the Secondary Account. With the exception of the SVB Depository Account, all accounts are manually transferred to the Primary Account on an as-needed basis.</p>

<sup>3</sup> **Exhibit D** is a complete list of the Bank Accounts. To the extent that any Bank Accounts have been inadvertently omitted from the list, the Debtors request that the Interim Order and Final Order granting the relief sought herein apply to such Bank Accounts.

<p><b>Secondary Account</b></p> <ul style="list-style-type: none"> <li>SVB account ending x5537</li> </ul>	<p>The Debtors maintain a secondary distribution account at SVB (the “<u>Secondary Account</u>”). The Secondary Account is funded on an as-needed basis by the Primary Account and is used to make day-to-day operating payments for the Debtors, other than EigerBio Europe Limited.</p>
<p><b>Depository Accounts</b></p> <ul style="list-style-type: none"> <li>SVB account ending x6377</li> <li>Bank of Ireland Account ending x9404</li> </ul>	<p>The Debtors maintain two depository accounts, one at Silicon Valley Bank (the “<u>SVB Depository Account</u>”) and one at Bank of Ireland (the “<u>Bank of Ireland Depository Account</u>”, and, together with the SVB Depository Account, the “<u>Depository Accounts</u>”).</p> <p>Cash collections from any sales in Germany are deposited into the Bank of Ireland Depository Account, and cash collections from all other countries are deposited into the SVB Depository Account.</p> <p>Amounts collected in the SVB Depository Account are automatically swept into the Primary Account. The Bank of Ireland Depository Account is used to fund rent and other operating expenses of EigerBio Europe Limited. Any excess funds are then transferred into the Primary Account on an as-needed basis.</p>
<p><b>Investment Accounts</b></p> <ul style="list-style-type: none"> <li>JPM account ending x2469</li> <li>ML account ending x6031</li> </ul>	<p>The Debtors maintain investment accounts at JPM and ML (collectively, the “<u>Investment Accounts</u>”). The Investment Accounts are used to hold excess cash in certain investments.</p>

13. The Debtors incur periodic service charges and other fees in connection with the maintenance of the Cash Management System (collectively, the “Bank Fees”), which are not invoiced and withdrawn directly according to services provided by the Bank Accounts. The Debtors pay the Cash Management Banks an aggregate of approximately \$20,000 per quarter in aggregate Bank Fees, which are generally due and paid monthly, and intend to pay such amounts going forward. The Debtors seek authority to continue paying Bank Fees, including the prepetition Bank Fees, in the ordinary course on a postpetition basis, consistent with historical practices.

### **III. The Debtors' Intercompany Transactions.**

14. In the ordinary course of business, the Debtors routinely engage in intercompany transactions (collectively, the "Intercompany Transactions") with one another, which result in intercompany receivables and payables (collectively, the "Intercompany Claims"). Intercompany Transactions and Intercompany Claims arise from relationships and historical practice, or certain intercompany agreements and intercompany loans (collectively, the "Intercompany Relationships" or "Intercompany Agreements") to support operations and shared service functions, including product development services, software sales, software licensing, provision of management services, revenue sharing arrangements, back-office support transactions and intercompany loan and interest payments. The Debtors manually track and allocate receivables and payables across the corporate enterprise.

15. In sum, the Intercompany Relationships are an essential component of the Debtors' operations, and they are crucial to the Debtors' ability to conduct their business and generate revenue. In addition, the Debtors could suffer adverse tax consequences if they are required to materially change their Intercompany Relationships. The Debtors anticipate that postpetition Intercompany Transactions will continue at prepetition levels and closely monitor and record the Intercompany Transactions and Intercompany Claims consistent with prepetition practice.

16. Accordingly, the Debtors request authority to continue to engage in Intercompany Transactions, and to settle these transactions on a periodic basis, and to continue to accrue Intercompany Claims to the extent they are not settled, consistent with historical practice and the governing Intercompany Relationship, during the pendency of these chapter 11 cases.

**IV. The Cash Management System’s Substantial Compliance with the U.S. Trustee Guidelines and Section 345 of the Bankruptcy Code.**

**A. U.S. Trustee Authorized Depositories.**

17. The *Region 6 Guidelines for Chapter 11 Cases* (the “U.S. Trustee Guidelines”) generally require chapter 11 debtors to, among other things, deposit all estate funds into an account with an authorized depository that agrees to comply with the requirements of the United States Trustee for the Northern District of Texas (the “U.S. Trustee”). Two of the Cash Management Banks—First Citizens Bank, which has taken over the Debtors’ accounts formerly held with SVB, and JPM—are authorized depositories under the U.S. Trustee Guidelines, while the remaining Cash Management Banks are not. Given the global scope of the Debtors’ operations and cash management requirements, it is infeasible to consolidate all cash activities to the narrow group of financial institutions authorized by the U.S. Trustee Guidelines.

18. The Cash Management System is situated across two countries and enables the Debtors to transact in two different currencies. Although neither Bank of Ireland nor ML are authorized depositories, they are highly-rated, global financial institutions that are recognized as being well-capitalized and financially stable. Additionally, the Debtors’ accounts at ML are insured by the Federal Deposit Insurance Corporation (“FDIC”). Notwithstanding that Bank of Ireland and ML are not authorized depositories, the Debtors believe that the Cash Management Banks are well positioned to continue to perform the depository and cash management functions for the Debtors during the chapter 11 cases. The Bank Account at Bank of Ireland holds a *de minimis* cash balance, and the Bank Account at ML typically has a \$5.1 million balance.

19. The Cash Management System is complex and critical to the ongoing stability of the Debtors’ businesses and transition into chapter 11. Requiring the Debtors to transfer the Bank Accounts at Bank of Ireland and ML to a designated authorized depository would place a needless



and excessive administrative burden on the Debtors and impose significant, value-destructive costs to the Debtors' estates. Additionally, any effort to relocate the Bank Accounts at Bank of Ireland to an authorized depository could have potentially significant tax or regulatory impacts and would require extensive diligence and analysis to ensure that no unwanted or detrimental effects would stem from such a transition.

20. Section 345(a) of the Bankruptcy Code authorizes deposits of money as “will yield the maximum reasonable net return on such money, taking in account the safety of such deposit or investment.” 11 U.S.C. § 345(a). For deposits or investments that are not “insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States,” section 345(b) of the Bankruptcy Code requires debtors to obtain, from the entity with which the money is deposited, a bond in favor of the United States and secured by the undertaking of an adequate corporate surety, or “the deposit of securities of the kind specified in section 9303 of title 31,” unless the court “for cause” orders otherwise. 11 U.S.C. §§ 345(a)–(b).

21. The Debtors are in substantial compliance with section 345(b) of the Bankruptcy Code. The Debtors' largest Bank Accounts are insured by the FDIC. All of the Bank Accounts are maintained at Cash Management Banks that are well-capitalized and sophisticated financial institutions. Accordingly, the Debtors respectfully submit that cause exists to continue to allow the Debtors to implement the Cash Management System.

**B. Business Forms and Books and Records.**

22. As part of the Cash Management System, the Debtors use a variety of preprinted business forms (including checks, letterhead, correspondence forms, invoices, and other business forms) in the ordinary course of business (collectively, the “Business Forms”). The Debtors also maintain books and records to document their financial results and a wide array of operating

information (collectively, the “Books and Records”). To avoid a significant disruption to their business operations and to minimize administrative expense to their estates, the Debtors request authorization to continue using all of the Business Forms and Books and Records in a manner consistent with prepetition practice, without reference to the Debtors’ status as chapter 11 debtors in possession.

**Basis For Relief**

**I. The Court Should Approve the Debtors’ Continued Use of the Cash Management System as Essential to the Debtors’ Operations and Restructuring Efforts.**

23. The U.S. Trustee Guidelines require debtors in possession to, among other things, (a) close all existing bank accounts and open new debtor in possession bank accounts at an authorized depository; (b) establish one debtor in possession account for all estate monies required for payment of taxes, including payroll taxes; (c) physically set aside all monies required by law to be withheld from employees or collected from others for taxes; (d) open a new set of books and records as of the commencement date of the case; (e) use new business forms indicating the debtor in possession status of the chapter 11 debtor, including checks that bear the designation “debtor in possession” and reference the bankruptcy case number and type of account on such checks; and (f) make all disbursements of estate funds by check with a notation representing the reason for the disbursement. *See* U.S. Trustee Guidelines.

24. These guidelines are intended to provide a clear line of demarcation between prepetition and postpetition transactions and operations and to prevent inadvertent payment of prepetition claims. Enforcement of these provisions of the U.S. Trustee Guidelines during the Debtors’ chapter 11 cases would cause substantial delays in the Debtors’ ability to operate their businesses early in the chapter 11 cases and would risk meaningfully disrupting the Debtors’ operations. Accordingly, Debtors request that the Court allow them to continue to use, designate,

maintain, and close any or all Bank Accounts that comprise the Cash Management System, as each was maintained in the ordinary course of business before the Petition Date and as described herein.

25. Continuation of the Cash Management System nevertheless should be permitted pursuant to section 363(c)(1) of the Bankruptcy Code, which authorizes the debtor in possession to “use property of the estate in the ordinary course of business without notice or a hearing.” 11 U.S.C. § 363(c)(1). Bankruptcy courts routinely treat requests for authority to continue utilizing existing cash management systems as relatively “simple matter.” *See In re Baldwin-United Corp.*, 79 B.R. 321, 327 (Bankr. S.D. Ohio 1987). In addition, in granting such relief, courts recognize that an integrated cash management system “allows efficient utilization of cash resources and recognizes the impracticalities of maintaining separate cash accounts for the many different purposes that require cash.” *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 934 (Bankr. D. Del. 1992), *aff’d in relevant part*, 997 F.2d 1039, 1061 (3d Cir. 1993). The requirement to maintain all accounts separately “would be a huge administrative burden and economically inefficient.” *Columbia Gas Sys.*, 997 F.2d at 1061.

26. Requiring the Debtors to adopt a new cash management system during these chapter 11 cases would be expensive, burdensome, and unnecessarily disruptive to the Debtors’ operations. The Cash Management System provides the Debtors with the ability to, among other things, quickly assess the location and amount of funds, which, in turn, allows management to efficiently track and control such funds, ensure cash availability to companies, and reduce administrative costs through a centralized method of coordinating the collection and movement of funds. Any disruption of the Cash Management System could have a severe and adverse effect on the Debtors’ restructuring efforts, the cost of which would ultimately be borne by the Debtors’ creditors and other stakeholders. Maintaining the current Cash Management System will facilitate

the Debtors' transition into chapter 11 by, among other things, minimizing delays in paying postpetition debts and eliminating administrative inefficiencies. Finally, maintaining the current Cash Management System will allow the Debtors' treasury and accounting employees to focus on their daily responsibilities as opposed to the task of reconstructing the Cash Management System.

27. Parties in interest will not be harmed by the Debtors' maintenance of the Cash Management System, including maintenance of the Bank Accounts, because the Debtors have implemented appropriate mechanisms to ensure that Debtor entities will not make unauthorized payments on account of prepetition obligations, including implementing procedures to mark prepetition and postpetition payables, splitting invoices that cover both the prepetition and postposition periods, and stopping automatic payments on prepetition obligations. The Debtors will continue to work closely with the Cash Management Banks to ensure that appropriate procedures are in place to prevent checks that were issued prepetition from being honored without the Court's approval. Maintaining the Cash Management System is in the best interests of the Debtors' estates and creditors.

28. Finally, the Debtors respectfully request that the Court authorize the Debtors to continue to pay the Bank Fees, including any prepetition Bank Fees. In light of the material benefit of maintaining the Cash Management System in order to avoid unnecessary disruption and costly delay, especially as compared to the relatively modest amount of the Bank Fees, such relief is warranted under the circumstances.

**II. The Court Should Authorize the Banks to Continue to Maintain, Service, and Administer the Bank Accounts in the Ordinary Course of Business.**

29. The Debtors request that the Court authorize and direct the Cash Management Banks to receive, process, honor, and pay any and all checks, electronic fund transfers, credit cards, ACH payments and other instructions, and drafts payable through, or drawn or directed on, such

Bank Accounts after the Petition Date by holders, makers, or other parties entitled to issue instructions with respect thereto, irrespective of whether such checks, drafts, electronic fund transfers, credit card, or ACH payments are dated prior or subsequent to the Petition Date. The Debtors also request, to the extent a Cash Management Bank honors a prepetition check or other item drawn on any account that is the subject of this Motion, either at the direction of the Debtors or in a good-faith belief that the Court has authorized such prepetition check or item to be honored, such Cash Management Bank will not be deemed to be liable to the Debtors or to their estates on account of such prepetition check or other item honored postpetition. Such relief is reasonable and appropriate because the Cash Management Banks are not in a position to independently verify or audit whether the Debtors may pay a particular item in accordance with an order by this Court or otherwise.

30. The Debtors request that the Court authorize the Debtors to continue to pay the Bank Fees. In light of the material benefit of maintaining the Cash Management System to avoid the unnecessary disruption and costly delay, especially as compared to the relatively modest amount of the Bank Fees, such relief is warranted under the circumstances.

### **III. The Debtors Should Be Granted Authority to Use Existing Business Forms.**

31. The Debtors request that they be authorized to continue to use their Business Forms and Books and Records, substantially in the form existing immediately before the Petition Date, without reference to their status as debtors in possession. Parties doing business with the Debtors will be aware of their status as debtors in possession and changing forms such as letterhead would be an unnecessary additional expense and unduly burdensome.

32. The Debtors should be permitted to maintain their existing Books and Records rather than open a new set as required under the U.S. Trustee Guidelines. The Debtors use a sophisticated recordkeeping system that enables them to consolidate their Books and Records for

financial reporting purposes while maintaining separate records on an entity-by-entity basis to track the operations and results of individual entities across their corporate structure. Continued use of the Debtors' current Books and Records, therefore, will maximize efficiency and decrease administrative burden while maintaining the precise entity-by-entity reporting contemplated by the U.S. Trustee.

**IV. Cause Exists to Waive the U.S. Trustee Guidelines Regarding Authorized Depositories on an Interim and Final Basis.**

33. To the extent the Cash Management System does not strictly comply with section 345 of the Bankruptcy Code, the Debtors seek a waiver of the deposit and investment requirements set forth herein.

34. Section 345(a) of the Bankruptcy Code authorizes deposit or investment of money of estates, such as cash, as "will yield the maximum reasonable net return on such money, taking into account the safety of such deposit or investment." 11 U.S.C. § 345(a). For deposits that are not "insured or guaranteed by the United States or by a department, agency or instrumentality of the United States or backed by the full faith and credit of the United States," section 345(b) of the Bankruptcy Code provides that the estate must require from the entity with which the money is deposited or invested a bond in favor of the United States secured by the undertaking of a corporate security, "unless the court for cause orders otherwise." 11 U.S.C. § 345(b). Additionally, under the U.S. Trustee Guidelines, debtors in possession must, among other things, close prepetition bank accounts and open new "debtor in possession" operating, payroll, and tax accounts at one or more Authorized Depositories.

35. Courts may waive compliance with the Bankruptcy Code section 345 and the U.S. Trustee Guidelines for "cause." 11 U.S.C. § 345(b). In evaluating whether "cause" exists, courts have considered a number of factors, such as:

- a. the sophistication of the debtor's business;
- b. the size of the debtor's business operations;
- c. the amount of the investments involved;
- d. the bank ratings (Moody's and Standard & Poor) of the financial institutions where the debtor in possession funds are held;
- e. the complexity of the case;
- f. the safeguards in place within the debtor's own business for ensuring the safety of the funds;
- g. the debtor's ability to reorganize in the face of a failure of one or more of the financial institutions;
- h. the benefit to the debtor;
- i. the harm, if any, to the debtor;
- j. the harm, if any, to the estate; and
- k. the reasonableness of the debtor's request for relief from section 345(b) requirements in light of the overall circumstances of the case.

*See In re Serv. Merch. Co., Inc.*, 240 B.R. 894, 896 (Bankr. M.D. Tenn. 1999).

36. Because the Bank Accounts are vital to the Cash Management System, requiring the Debtors to transfer funds to other banks would be unduly burdensome to the Debtors' operations, which span multiple jurisdictions, and potentially cause severe tax consequences to the detriment of the Debtors' estates. In addition, the Debtors believe based on their business relationships that all banks at which the Debtors have their Bank Accounts are well-capitalized and financially stable institutions.

#### **Processing of Checks and Electronic Fund Transfers**

37. The Debtors have sufficient funds to pay the Bank Fees in the ordinary course of business by virtue of expected cash flows from ongoing business operations, access to unencumbered cash, and access to cash collateral. Based on the Cash Management System, the

Debtors also believe that checks or electronic fund transfer requests, other than those relating to authorized payments, will not be honored inadvertently. Therefore, the Debtors respectfully request that the Court authorize and direct all applicable financial institutions, when requested by the Debtors, to receive, process, honor, and pay any and all checks or electronic fund transfer requests in respect of the relief requested in this Motion.

### **Emergency Consideration**

38. Bankruptcy Rule 6003 empowers a court to grant relief within the first twenty-one days after the Petition Date “to the extent that relief is necessary to avoid immediate and irreparable harm.” Failure to receive the relief requested in this motion during the first twenty-one days of these chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture, jeopardizing the Debtors’ ability to run a value maximizing sale process for the benefit of its creditors and parties in interest. The Debtors have satisfied the “immediate and irreparable” harm standard in Bankruptcy Rule 6003 and request that the Court approve the relief requested on an emergency basis.

### **Waiver of Bankruptcy Rule 6004(a) and 6004(h)**

39. The Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the fourteen-day stay period under Bankruptcy Rule 6004(h), which is necessary to implement the relief requested in this motion.

### **Reservation of Rights**

40. Nothing contained herein or any action taken pursuant to relief requested is intended to be or shall be construed as (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors’ or any party in interest’s rights to dispute any claim or interest



on any grounds; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party-in-interest's rights under the Bankruptcy Code or any other applicable law; (e) an implication or admission that any particular claim is of a type specified or defined in this motion or any order granting the relief requested in this motion or a finding that any particular claim is an administrative expense claim or other priority claim; (f) a request for or approval to assume, adopt, or reject any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code; or (g) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute such claim.

**Notice**

41. The Debtors will provide notice of this motion to the following: (a) the U.S. Trustee for the Northern District of Texas; (b) the holders of the thirty (30) largest unsecured claims against the Debtors (on a consolidated basis); (c) Innovatus Life Sciences Lending Fund I, LP, as agent to the Debtors' secured lenders, and counsel thereto; (d) the United States Attorney's Office for the Northern District of Texas; (e) the Food and Drug Administration; (f) Internal Revenue Service; (g) the United States Securities and Exchange Commission; (h) the state attorneys general for the states in which the Debtors conduct business; (i) the Cash Management Banks; and (j) any party that has requested notice pursuant to Bankruptcy Rule 2002. No other or further notice is needed in light of the nature of the relief requested.

*[Remainder of page intentionally left blank]*

The Debtors request entry of the Interim Order and Final Order, substantially in the forms attached hereto, granting the relief requested herein and granting such other relief as is just and proper.

Dated: April 1, 2024  
Dallas, Texas

**SIDLEY AUSTIN LLP**

*/s/ Thomas R. Califano*

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*Proposed Attorneys for the Debtors and Debtors  
in Possession*

**Certificate of Service**

I certify that on April 1, 2024, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/ Thomas R. Califano  
Thomas R. Califano

**Exhibit A**

**Proposed Interim Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Joint Administration Requested)

**INTERIM ORDER AUTHORIZING THE  
DEBTORS TO (I) CONTINUE TO OPERATE THEIR  
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THERE TO; AND (III) GRANTING A WAIVER OF CERTAIN DEPOSIT AND  
INVESTMENT REQUIREMENTS IN 11 U.S.C. § 345(b) AND THE UST GUIDELINES**

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors' service address is 2155 Park Boulevard, Palo Alto, California 94306.

Upon the motion (“Motion”)<sup>2</sup> of the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) for entry of an order (this “Interim Order”) (i) authorizing the Debtors to (a) continue to use their existing Cash Management System, including existing bank accounts, (b) honor certain prepetition obligations related thereto, and (c) maintain their existing business forms, (ii) waiving certain requirements of the U.S. Trustee Guidelines (defined below) and section 345(b) of the Bankruptcy Code (defined below), and (iii) granting related relief, including scheduling a hearing to consider approval of the Motion on a final basis, each as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The final hearing (the “Final Hearing”) on the Motion shall be held on **April [•], 2024 at [•] a.m./p.m. (prevailing Central Time)** in the United States Bankruptcy Court for the Northern District of Texas, Courtroom 1, floor 14, 1100 Commerce Street, Dallas, TX 75242-1496. Any objections or responses to entry of a final order on the Motion shall be filed **on or**

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

**before April [•], 2024, at [•] a.m./p.m. (prevailing Central Time)** and served on the following parties: (a) the Debtors; (b) proposed attorneys for the Debtors, Sidley Austin LLP, 787 Seventh Avenue, New York, NY 10019, Attn: William E. Curtin (wcurtin@sidley.com), Anne G. Wallace (anne.wallace@sidley.com); (c) the Office of the United States Trustee, Northern District of Texas, Region 6, 1100 Commerce Street, Room 976, Dallas, Texas 75242, Attn: Elizabeth A. Young; (d) counsel to Innovatus Life Sciences Lending Fund I, LP, as agent to the Debtors' secured lenders, Bradley Arant, Attn: Roger G. Jones (rjones@bradley.com); and (e) counsel to any official committee appointed in these chapter 11 cases (collectively, the "Notice Parties"). In the event no objections to entry of a final order on the Motion are timely received, this Court may enter such final order without need for the Final Hearing.

2. The Debtors are authorized, but not directed, on an interim basis and in their sole discretion, to: (a) continue operating the Cash Management System as described in the Motion and honor any prepetition obligations related to the use thereof; (b) designate, maintain, close, and continue to use any or all of their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit D attached to the Motion, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor in possession Bank Accounts with reasonable prior written notice to the U.S. Trustee; *provided*, that in the case of each of clauses (a) through (e), such action is taken in the ordinary course of business and consistent with prepetition practices.

3. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, and maintain and continue using, in their present form, the Books and Records; *provided*, that once the Debtors have exhausted their existing stock of Business Forms, they shall ensure that any new Business Forms are clearly labeled with the “Debtor in Possession” designation as soon as reasonably practicable to do so. To the extent the Debtors print any new checks or use any electronic Business Forms, they shall include the “Debtor in Possession” designation and the corresponding bankruptcy case number on all such checks as soon as reasonably practicable.

4. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors’ designation of any particular check or electronic payment request as approved in this Interim Order.

5. The Cash Management Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any reasonable Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course and consistent with prepetition practices.

6. As soon as practicable after entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Cash Management Banks.

7. The Debtors are authorized, but not directed, to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash



Management Banks as service charges for the maintenance of the Cash Management System;  
(b) reimburse the Cash Management Banks for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Banks that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

8. Those certain agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and, subject to applicable bankruptcy or other law, all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements shall remain in full force and effect absent further order of the Court or, with respect to any such agreement with any Cash Management Bank (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement), unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

9. The Debtors are authorized, in the ordinary course and consistent with prepetition practices, to open new bank accounts or close any existing Bank Account and enter into any ancillary agreements, including new deposit control agreements, related to the foregoing, as the Debtors may deem necessary and appropriate, subject to the terms and provisions of the Debtors' agreement with the Cash Management Banks, as applicable; *provided*, that: (a) any such new account is with one of the Debtors' existing Cash Management Banks or with a bank that is

(i) insured with the FDIC and (ii) designated as an authorized depository by the U.S. Trustee; and (b) such bank agrees to be bound by the terms of this Interim Order. The Debtors shall provide written notice to the U.S. Trustee and the Notice Parties, including Innovatus Life Sciences Lending Fund I, LP as agent to the Debtors' secured lenders and counsel thereto, of the opening of such account; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Bank Account as if it had been listed on Exhibit D attached to the Motion.

10. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank.

11. To the extent that any of the Debtors' Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code and any provision of the U.S. Trustee Guidelines, the Debtors shall have forty-five (45) days from the Petition Date, without prejudice to seeking an additional extension or extensions, to come into compliance with section 345(b) of the Bankruptcy Code and the U.S. Trustee Guidelines; *provided* that nothing herein shall prevent the Debtors or the U.S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the time period set forth in this paragraph by entering into a written stipulation with the U.S. Trustee and filing such stipulation on the Court's docket without the need for further Court order. Notwithstanding the foregoing, subject to entry of the Final Order, the U.S. Trustee Guidelines requiring the Debtor to maintain all bank accounts at an Authorized Depository are waived.

12. Notwithstanding any other provision of this Interim Order, should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject

of this Interim Order (a) at the direction of the Debtors to honor such prepetition check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Interim Order. Without limiting the foregoing, any of the Cash Management Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of this Court, and such Cash Management Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

13. The Debtors will not be required to establish separate bank accounts for cash collateral and/or tax payments.

14. The Debtors' credit card processors are authorized to process payments in the ordinary course of business, including the netting out of any fees and/or chargebacks arising before, on or after the Petition Date.

15. Nothing in this Interim Order constitutes (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code; or (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors'

estates. 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 Debtors' rights to subsequently dispute such claim.

16. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

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

18. Notwithstanding the applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

19. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Interim Order.

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

**### END OF ORDER ###**

Submitted By:

**SIDLEY AUSTIN LLP**

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*Proposed Attorneys for the Debtors and  
Debtors in Possession*

**Exhibit B**

**Proposed Final Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Joint Administration Requested)

**FINAL ORDER AUTHORIZING THE DEBTORS TO  
(I) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM  
AND MAINTAIN EXISTING BANK ACCOUNTS (II) HONOR CERTAIN  
OBLIGATIONS RELATING THERETO; AND (III) GRANTING A WAIVER OF  
CERTAIN DEPOSIT AND INVESTMENT REQUIREMENTS  
IN 11 U.S.C. § 345(b) AND THE UST GUIDELINES**

Upon the motion (“Motion”)<sup>2</sup> of the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”), for entry of an order (this “Final Order”)

<sup>1</sup> The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal tax identification number, are: Eiger BioPharmaceuticals, Inc. (1591); EBPI Merger Inc. (9986); EB Pharma LLC (8352); Eiger BioPharmaceuticals Europe Limited (N/A); and EigerBio Europe Limited (N/A). The Debtors’ service address is 2155 Park Boulevard, Palo Alto, California 94306.

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

(i) authorizing the Debtors to (a) continue to use their existing Cash Management System, including existing bank accounts, (b) honor certain prepetition obligations related thereto, and (c) maintain their existing business forms, (ii) waiving certain requirements of the U.S. Trustee Guidelines (defined below) and section 345(b) of the Bankruptcy Code (defined below), and (iii) granting related relief, each as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this matter being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Court being able to issue a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and appropriate notice of and opportunity for a hearing on the Motion having been given; and the relief requested in the Motion being in the best interests of the Debtors' estates, their creditors and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

**HEREBY ORDERED THAT:**

1. The Debtors are authorized, but not directed, on a final basis and in their sole discretion, to: (a) continue operating the Cash Management System as described in the Motion and honor any prepetition obligations related to the use thereof; (b) designate, maintain, close, and continue to use any or all of their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit D attached to the Motion, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all



purposes as debtor in possession accounts; and (e) open new debtor in possession Bank Accounts with reasonable prior written notice to the U.S. Trustee; *provided*, that in the case of each clauses (a) through (e), such action is taken in the ordinary course of business and consistent with prepetition practices.

2. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms, as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date, and maintain and continue using, in their present form, the Books and Records; *provided*, that once the Debtors have exhausted their existing stock of Business Forms, they shall ensure that any new Business Forms are clearly labeled with the “Debtor in Possession” designation as soon as reasonably practicable to do so. To the extent the Debtors print any new checks or use any electronic Business Forms, they shall include the “Debtor in Possession” designation and the corresponding bankruptcy case number on all such checks as soon as reasonably practicable.

3. To the extent any of the Debtors’ Bank Accounts are not in compliance with section 345(b) of the Bankruptcy Code or any of the U.S. Trustee’s requirements or guidelines, the Debtors shall have until thirty (30) days following entry of this Final Order, without prejudice to seeking an additional extension, to come into compliance with section 345(b) of the Bankruptcy Code or to make other arrangements to which the U.S. Trustee agrees; *provided*, that nothing herein shall prevent the Debtors or the U.S. Trustee from seeking further relief from the Court to the extent that an agreement cannot be reached. The Debtors may obtain a further extension of the time-period referenced above by entering into a written stipulation with the U.S. Trustee and filing such stipulation on the Court’s docket without the need for further Court order.

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

5. The Cash Management Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts and charge back returned items to the Bank Accounts in the ordinary course and consistent with prepetition practices.

6. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Cash Management Banks.

7. The Debtors are authorized, but not directed, to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Banks as service charges for the maintenance of the Cash Management System; (b) reimburse the Cash Management Banks for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Banks that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

8. Those certain agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and, subject to applicable bankruptcy or other law, all of the

provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements shall remain in full force and effect absent further order of the Court or, with respect to any such agreement with any Cash Management Bank (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement), unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

9. The Debtors are authorized, in the ordinary course and consistent with prepetition practices, to open new bank accounts or close any existing Bank Account and enter into any ancillary agreements, including new deposit control agreements, related to the foregoing, as the Debtors may deem necessary and appropriate, subject to the terms and provisions of the Debtors' agreement with the Cash Management Banks, as applicable; *provided*, that: (a) any such new account is with one of the Debtors' existing Cash Management Banks or with a bank that is (i) insured with the FDIC and (ii) designated as an authorized depository by the U.S. Trustee; and (b) such bank agrees to be bound by the terms of this Final Order. The Debtors shall provide written notice to the U.S. Trustee and the Notice Parties of the opening of such account; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account as if it had been listed on Exhibit D attached to the Motion.

10. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank.

11. Notwithstanding any other provision of this Final Order, should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Final Order. Without limiting the foregoing, any of the Cash Management Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of this Court, and such Cash Management Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

12. The Debtors will not be required to establish separate bank accounts for cash collateral and/or tax payments.

13. The Debtors' credit card processors are authorized to process payments in the ordinary course of business, including the netting out of any fees and/or chargebacks arising before, on or after the Petition Date.

14. Nothing in this Final Order constitutes (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or nonbankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under

section 365 of the Bankruptcy Code; or (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. 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 Debtors' rights to subsequently dispute such claim.

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

16. Notwithstanding the applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Final Order shall be immediately effective and enforceable upon its entry.

17. The Debtors are authorized to take all such actions as are necessary or appropriate to implement the terms of this Final Order.

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

**### END OF ORDER ###**

Submitted By:

**SIDLEY AUSTIN LLP**

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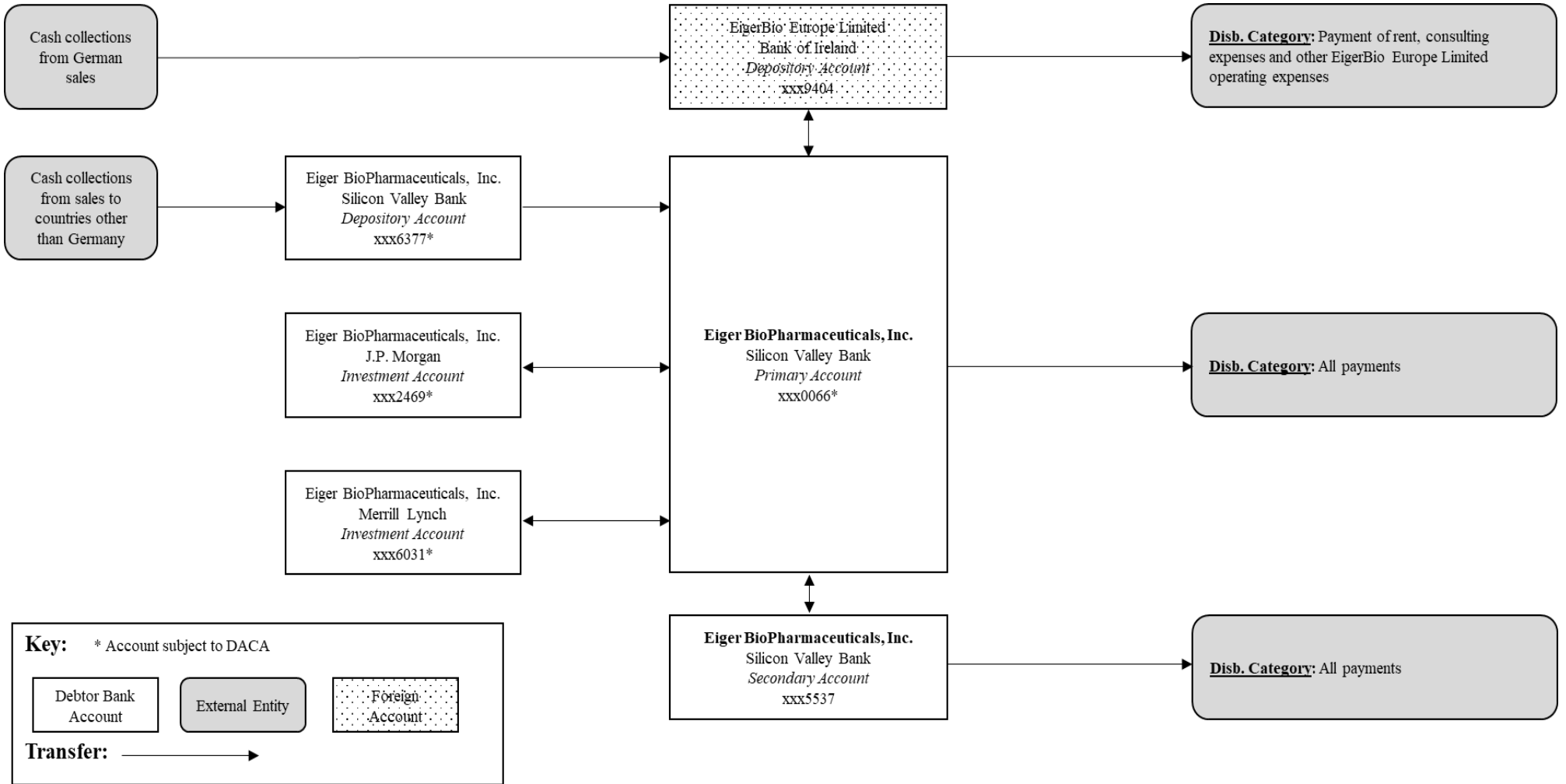
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*Proposed Attorneys for the Debtors and  
Debtors in Possession*

**Exhibit C**

**Cash Management Schematic**



**Exhibit D**

**Bank Accounts**

<b>Debtor</b>	<b>Bank</b>	<b>Account #</b>	<b>Account Type</b>
Eiger BioPharmaceuticals, Inc.	Silicon Valley Bank	x0066	Primary Account
Eiger BioPharmaceuticals, Inc.	Silicon Valley Bank	x5537	Secondary Account
Eiger BioPharmaceuticals, Inc.	Silicon Valley Bank	x6377	Depository Account
Eiger BioPharmaceuticals, Inc.	J.P. Morgan	x2469	Investment Account
Eiger BioPharmaceuticals, Inc.	Merrill Lynch	x6031	Investment Account
EigerBio Europe Limited	Bank of Ireland	x9404	Depository Account