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

In re:

EIGER BIOPHARMACEUTICALS, INC., *et al.*¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**NOTICE OF STIPULATED CONFIDENTIALITY
AGREEMENT AND PROPOSED PROTECTIVE ORDER**

PLEASE TAKE NOTICE that on April 29, 2024, the debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) filed the *Debtors’ Emergency Motion for Authority to Conduct Examinations Under Federal Rule of Bankruptcy Procedure 2004* [Docket No. 172] (the “Motion”),² seeking an order from the Court directing Innovatus Life Sciences Lending Fund I, LP (“Innovatus”) to appear for depositions and/or produce all documents within their possession, custody, or control that are responsive to the proposed document requests.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion occurred on May 29, 2024 at 2:00 p.m. (prevailing Central Time) [Docket No. 261] (the “Hearing”) before the Honorable Stacey G. C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas (the “Court”).

¹ 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 2100 Ross Avenue, Dallas, Texas 75201.

² A duplicate of the Motion can be found at Docket No. 178.

PLEASE TAKE FURTHER NOTICE that the Court granted the 2004 Motion and entered the *Order Granting Debtors' Emergency Motion for Authority to Conduct Examinations Under Federal Rule of Bankruptcy Procedure 2004* [Docket No. 314] (the "2004 Order").

PLEASE TAKE FURTHER NOTICE that pursuant to the 2004 Order and for the reasons stated more fully by the Court on the record at the Hearing, the Debtors and Innovatus hereby attach as **Exhibit A** the Stipulated Confidentiality Agreement and Protective Order, by which the parties have agreed to terms of confidentiality for production under the 2004 Order.

[Remainder of page intentionally left blank.]

Dated: June 21, 2024
Dallas, Texas

KRAMER LEVIN NAFTALIS & FRANKEL LLP

SIDLEY AUSTIN LLP

/s/ P. Bradley O'Neill

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*Counsel for Innovatus Life Sciences Lending
Fund I, LP*

Certificate of Service

I certify that on the June 21, 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

**Stipulated Confidentiality Agreement
and Proposed Protective Order**

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

In re:

EIGER BIOPHARMACEUTICALS, INC. *et al.*¹,
Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

STIPULATED CONFIDENTIALITY AGREEMENT AND PROTECTIVE ORDER

IT IS HEREBY STIPULATED AND AGREED, by and among Eiger Biopharmaceuticals, Inc., and its debtor and non-debtor affiliates (collectively the “Debtors”), and Innovatus Life Sciences Lending Fund I, LP (“Innovatus”), that the following provisions of this Stipulated

¹ 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 2100 Ross Ave., Dallas, Texas 75201.

Confidentiality Agreement and Protective Order (the “Order”) govern disclosure and use of all documents, including, but not limited to, documents, electronically stored information (“ESI”), testimony, exhibits, and any other materials and information (“Discovery Material”) produced or provided in connection with the above-captioned bankruptcy proceedings, including any existing or future contested matter or adversary proceeding filed in the above-captioned bankruptcy proceeding (the “Cases”).

I. SCOPE OF PROTECTIVE ORDER

1. All materials produced or adduced by a Producing Party (defined below) to any other Party (a “Receiving Party”), formally or informally in each instance, in the course of discovery, including all copies, excerpts, summaries, compilations thereof, initial disclosures, responses to discovery requests, deposition testimony and exhibits, and information derived directly therefrom (each a “document” and collectively “documents”), shall be subject to this Order concerning Confidential or Highly Confidential Information as defined below. This Order is subject to the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, and the Local Rules of this District on matters of procedure; unless otherwise agreed by the Parties or ordered by the Court, all deadlines and time periods herein shall be computed pursuant to Bankruptcy Rule 9006.

2. Notwithstanding entry of this Order, any party may seek a protective order from this Court pursuant to 11 U.S.C. §107(b), Federal Rule of Civil Procedure 26(c), as incorporated by the Federal Rules of Bankruptcy procedure 7026 and 9014, and Federal Rule of Bankruptcy Procedure 9018.

3. Nothing herein shall be construed to affect the admissibility at any court proceeding of any document, testimony, or other evidence.

II. DEFINITIONS

4. Party. The Parties to this Order are the Debtors and Innovatus and any other persons or entities who become bound by this Order by signifying their assent through execution of the declaration attached hereto as Exhibit A in accordance with paragraphs 19, 20, and 35 of this Order (each a “Party and collectively the “Parties”).

5. Producing Party. “Producing Party” means a Party or non-Party that produces or otherwise makes available Discovery Material in connection with the Cases.

6. Receiving Party. “Receiving Party” means a Party that receives Discovery Material in connection with the Cases.

7. Confidential Information. “Confidential Information” or information marked “Confidential” is information that (i) a Producing Party believes in good faith constitutes or contains nonpublic, proprietary, commercially sensitive, or confidential technical, business, financial, personal or other information, or is subject to protection under applicable law, regulation, or contract; (ii) a Producing Party has a good faith reason to believe it is under a preexisting obligation to a third-party to treat as confidential; or (iii) a Producing Party has, in good faith, been requested by another Party, or non-Party, to designate as either Confidential Information or Confidential on the grounds that such other Party or non-Party considers such documents to contain information that is confidential, commercially sensitive, or proprietary to such Party or non-Party.

8. Highly Confidential Information. “Highly Confidential Information” or information marked “Highly Confidential” or “Professionals’ Eyes Only” is information that the Producing Party believes in good faith is Confidential Information that is also: (a) highly personal in nature; or (b) is of such a nature that a risk of competitive injury would be created if such information were disclosed to persons other than those identified in Paragraph 20, which

information may include trade secrets, sensitive financial or business information, or documents prepared by its industry professionals, advisors, financial advisors, accounting advisors, experts and consultants to the extent such material contains trade secrets or sensitive financial or business information that would create a risk of competitive injury if disclosed to persons other than those identified in Paragraph 20; or (c) were produced to the Producing Party in litigation and are subject to a protective order or confidentiality agreement in connection with that litigation and were provided to the Producing Party under an obligation that the Producing Party maintain it as “Highly Confidential”, or similar.

9. “Confidential Information” and “Highly Confidential Information” are collectively referred to herein as “Protected Material”.

III. DESIGNATION AND REDACTION OF PROTECTED MATERIAL

10. A Producing Party may designate documents as Confidential Information for protection under this Order by placing or affixing the words “CONFIDENTIAL” on the document and on all copies in a manner that the Producing Party reasonably believes will not interfere with the legibility of the document. As used in this Order, “copies” includes electronic images, duplicates, extracts, summaries or descriptions that contain the Confidential Information. The marking “CONFIDENTIAL” shall be applied prior to or at the time of the documents are produced or disclosed, *provided, however*, that the failure to designate any document as Confidential Information shall not, and does not, operate to waive a Party’s right to later so designate such document as Confidential or Highly Confidential Information in accordance with the provisions of this Order. Any copies that are made of any documents marked “CONFIDENTIAL” shall also be so marked, except that indices, electronic databases, or lists of documents that do not contain substantial portions or images of the text of marked documents **and** do not disclose the substance of the Confidential Information are not required to be marked as such.

11. A Producing Party may designate a document as Highly Confidential Information for protection under this Order by placing or affixing the words “HIGHLY CONFIDENTIAL” or “PROFESSIONALS’ EYES ONLY” on the document and on all copies in a manner that the Producing Party reasonably believes will not interfere with the legibility of the document. The marking “HIGHLY CONFIDENTIAL” and/or “PROFESSIONALS’ EYES ONLY” shall be applied prior to or at the time of the documents are produced or disclosed, *provided, however*, that the failure to designate any document as Highly Confidential Information shall not, and does not, operate to waive a Party’s right to later so designate such document as Confidential or Highly Confidential Information in accordance with the provisions of this Order. Any copies that are made of any documents marked “HIGHLY CONFIDENTIAL” or “PROFESSIONALS’ EYES ONLY” shall also be so marked, except that indices, electronic databases or lists of documents that do not contain substantial portions or images of the text of marked documents **and** do not otherwise disclose the substance of the Highly Confidential Information are not required to be marked as such.

12. A Producing Party may redact certain information from produced documents, materials, or other things. The Producing Party shall indicate the basis for each redaction and, including, for example, if information so redacted is Privileged Information. The information that a Producing Party may redact, for example, may include:

- a. Personal Identifying Information. The home addresses, personal email addresses, personal phone numbers, Social Security or tax identification numbers, and other private information protected by law of individuals and persons including current and former employees (other than employees’ names and business contact information);
- b. Privileged Information. Information protected from disclosure by the attorney-client privilege, work product doctrine, or any other applicable privilege or immunity protecting information from discovery in the Cases.

13. Information disclosed through testimony at a deposition taken in connection with the Cases may be designated as Confidential or Highly Confidential, as the case may be. Portions of transcripts, including preliminary or rough transcripts, may be designated as Confidential or Highly Confidential, as the case may be, orally during a deposition or within seven days of the delivery of the transcript of the deposition by notifying the court reporter and opposing counsel in writing of such designation. Such designation shall be specific as to the portions that contain Confidential or Highly Confidential Information. All copies of deposition transcripts that contain Protected Material shall be prominently marked “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL”, as the case may be, (1) on the cover thereof, and/or (2) at the beginning and end of any portions thereof so designated.

14. In accordance with this Order, only persons identified under Paragraphs 19 and 20, below, along with the witness and the witness’s counsel, may be present at a deposition for the period during which any questions regarding Protected Material are asked. This paragraph shall not be deemed to authorize disclosure of any document or information to any person to whom disclosure is prohibited under this Order.

15. A non-Party from whom discovery is sought may designate Discovery Material as “Confidential” or “Highly Confidential” consistent with the terms of this Protective Order. Under such circumstances, Discovery Material designated “Confidential” or “Highly Confidential” by a non-Party shall be assigned the same protection as Discovery Material so designated by a Party, and all duties applicable to a Disclosing Party under this Protective Order shall apply to the non-Party.

IV. DISCOVERY MATERIAL

16. Unless otherwise agreed in writing by the Disclosing Party, upon request of a Receiving Party, all Discovery Material produced or disclosed in connection with the Cases shall

be used solely for the purposes of the Cases, including any appeal therefrom, and not for any other purpose or in any other forum. Such prohibited use would include use for any other litigation or judicial proceeding that is not related to these Cases.

17. In the absence of written permission from the Producing Party or an order from the Court, the Receiving Party and counsel for the Receiving Party shall not disclose or permit the disclosure of any Protected Material to any person or entity except as set forth in Paragraphs 19 and 20.

18. Confidential and Highly Confidential Information shall not be given, shown, made available, discussed, or otherwise communicated to anyone (i) inconsistent with the provisions of this Order and (ii) without first informing them of the contents of this Order. Counsel making a disclosure to a party required to sign a Declaration in the form provided as Exhibit A hereto shall retain the original acknowledgements described hereinabove, together with the full names and addresses of each signatory.

19. Confidential Information: Confidential Information produced in accordance with the provisions of this Order may be given, shown, made available to, or communicated only to the following:

- a) Counsel of record for the Parties, including attorneys, paraprofessionals, employees, and agents of such law firms who have responsibility for the Cases.
- b) Professionals, other than counsel, engaged by the Parties or their counsel, including financial advisors, accounting advisors, experts and consultants, and employees of such professionals, in each case, only as necessary to assist with respect to the Cases and who agree in writing to be bound by the terms of this Order by executing the attached Exhibit A.
- c) The Parties.
- d) The Court and its personnel.

- e) The U.S. Trustee, and counsel and staff of the U.S. Trustee.
- f) Court reporters, stenographers, or videographers who record testimony in connection with the Cases.
- g) Those persons specifically engaged for the limited purpose of making copies of documents or organizing or processing documents, including outside vendors hired to process electronically stored documents, who are, in each case, employed by the Parties or their counsel to assist in the Cases.
- h) Deponents and witnesses or prospective witnesses (and counsel for such deponents or witnesses), who agree to be bound by the terms of this Order by executing the attached Exhibit A.
- i) Persons who are indicated to have been authors or recipients of the Confidential Information (not including a person who received the document in the course of litigation), or who had access to such Confidential Information in the normal course of business.
- j) Any mediators and their staffs retained in connection with these Cases.
- k) Any other persons or entities but only upon written consent of the Producing Party or upon order of the Court and on such conditions as may be agreed or ordered.

Before any Confidential Information is reviewed or inspected by or otherwise disclosed to any person listed above, the Party being assisted by those persons shall be responsible for ensuring those persons are familiar with the terms of this Order and for otherwise taking reasonable steps to ensure that those persons comply with the terms of this Order.

20. Highly Confidential Information: Highly Confidential Information produced in accordance with the provisions of this Order may be given, shown, made available to or communicated only to the following:

- a) Counsel of record for the Parties, including attorneys, paraprofessionals, employees, and agents of such law firms who have responsibility for the Cases.
- b) Professionals, other than counsel, engaged by the Parties or their counsel, including financial advisors, accounting advisors, experts and consultants, and employees of such professionals, in each case,

only as necessary to assist with respect to the Cases and who agree in writing to be bound by the terms of this Order by executing the attached Exhibit A.

- c) The Court and its personnel.
- d) The U.S. Trustee, and counsel and staff of the U.S. Trustee.
- e) Court reporters, stenographers, or videographers who record testimony in connection with the Cases.
- f) Those persons specifically engaged for the limited purpose of making copies of documents or organizing or processing documents, including outside vendors hired to process electronically stored documents, who are, in each case, employed by the Parties or their counsel to assist in the Cases.
- g) For the purpose of witness preparation, and upon prior written consent of the Disclosing Party (which shall not be unreasonably withheld), any deponent or witness who was noticed for a deposition, or is on a witness list for a hearing or trial, in preparation for his or her noticed deposition, hearing, or trial testimony where such Highly Confidential Information is determined by counsel in good faith to be necessary to the anticipated subject matter of testimony, and that doing so would not cause competitive harm, *provided, however*, that such Highly Confidential Information can only be shared with such persons in connection with preparation for the anticipated testimony, and the persons identified in this paragraph shall not be permitted to retain copies of such Highly Confidential Information.
- h) Persons who are indicated to have been authors or recipients of the Confidential Information (not including a person who received the document in the course of litigation), or who had access to such Confidential Information in the normal course of business.
- i) Any mediators and their staffs retained in connection with these Cases.
- j) Any other persons or entities but only upon the written consent of the Producing Party or upon order of the Court and on such conditions as may be agreed or ordered.

Before any Highly Confidential Information is reviewed or inspected by or otherwise disclosed to any person listed above, the Party being assisted by those persons shall be responsible for ensuring

that those persons are familiar with the terms of this Order and for otherwise taking reasonable steps to ensure that those persons comply with the terms of this Order.

21. Designated Material to be Disclosed in Accordance with Paragraph 20: Highly Confidential Information, and any and all information contained therein, shall not be given, shown, made available to, disclosed or communicated in any way, except to those people provided in Paragraph 20 of this Order. For the avoidance of doubt, however, (a) any professionals falling under Paragraph 20 of this Order and who are engaged by the Debtors, or Innovatus, in connection with the Cases may use Highly Confidential Material to advise the Debtors, or Innovatus, respectively; *provided, however*, that such advice may not disclose the contents of any Highly Confidential Information; and (b) professionals falling under Paragraph 20 of this Order may exchange and discuss Highly Confidential Information among themselves.

22. Control of Documents. Persons receiving or having knowledge of Protected Material by virtue of their participation in the Cases, or by virtue of obtaining any documents or other Protected Material produced or disclosed pursuant to this Order, shall use such Protected Material only as permitted by this Order. Counsel shall take reasonable steps to assure the security of any Protected Material. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of three years after the termination of the Cases.

V. INADVERTANT PRODUCTION OF DOCUMENTS

23. If a Producing Party discloses information subject to a claim of attorney-client privilege, attorney work product protection, common interest privilege, or any other privilege, immunity, or protection from production or disclosure ("Privileged Information"), such disclosure shall be deemed inadvertent without need of further showing under Federal Rule of Evidence 502(b) and shall not constitute or be deemed a waiver or forfeiture of the privilege or protection

from discovery by the Producing Party in this case or in any other federal or state proceeding, unless the Producing Party elects to waive or forfeit such privilege and protection. This paragraph shall be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d).

24. To the extent a Party produces information with respect to which the Producing Party and the Receiving Party share a joint defense privilege, common interest privilege, or attorney work product protection, disclosure of such protected information between the Producing and Receiving Parties shall not operate as a waiver of any privilege between the Producing and Receiving Parties, or held by either the Producing Party or the Receiving Party individually, as to any other party, including but not limited to any Participating Parties.

25. If a Producing Party discovers that it has inadvertently produced Privileged Information, it shall promptly notify the Receiving Party of the production in writing, identifying the produced Privileged Information by Bates range where possible, and may demand that the Receiving Party return or destroy the Privileged Information. In the event that a Receiving Party receives information it knows or reasonably should know was an inadvertent disclosure of Privileged Information by the Producing Party, the Receiving Party shall promptly notify the Producing Party in writing that the Receiving Party possesses potentially Privileged Information. The Producing Party shall have five days to assert privilege over the identified information. If the Producing Party does not assert a claim of privilege within the five-day period, the information in question shall be deemed non-privileged. During the five-day period the Receiving Party may not discuss or otherwise disclose the contents of such potentially Privileged Information.

26. If the Producing Party has notified the Receiving Party of production of Privileged Information, or has confirmed the production of Privileged Information called to its attention by

the Receiving Party, the Receiving Party shall within five business days of receiving such notification or confirmation: (1) destroy or return to the Producing Party all copies or versions of the produced Privileged Information requested to be returned or destroyed (the “Clawed-Back Information”); (2) delete from its work product or other materials any quoted or paraphrased portions of the Clawed-Back Information; and (3) take reasonable steps to ensure that Clawed-Back Information is not disclosed in any manner to any Party or non-Party.

27. Notwithstanding the above, the Receiving Party may retain copies of such Clawed-Back Information while disputing the claim of privilege. The Receiving Party shall not use any Clawed-Back Information in connection with the Cases or for any other purpose other than to dispute the claim of privilege. The Receiving Party may file a motion disputing the claim of privilege and seeking an order compelling production of the Clawed-Back Information; and the Producing Party may oppose any such motion, including on the grounds that inadvertent disclosure does not waive privilege.

28. Nothing contained herein is intended to or shall serve to limit a Party’s right to conduct a review of documents, ESI, or information (including metadata) for relevance, responsiveness and/or segregation of privileged and/or protected information before production. Nothing in this Order shall limit the Court’s right or any Party’s right to request an in-camera review of any Privileged Information.

29. In the event any prior order or agreement between the Parties and/or between the Parties and a non-Party concerning the disclosure of privileged and/or work product protected materials conflicts with any of the provisions of the Order, the provisions of the Order shall control.

VI. CHANGES IN DESIGNATION OF INFORMATION

30. Late Designation of Discovery Material. The failure to designate any particular document as Confidential or Highly Confidential Information at the time of production shall not,

and does not, operate to waive a Party's right to later so designate such document as Confidential or Highly Confidential Information in accordance with the provisions of this Order. The Producing Party may give notice to the Receiving Party that the document or thing produced is "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL", as applicable, and should be treated as such in accordance with the provisions of Order, and shall provide replacement media, images, and any associated production information to conform the document to the appropriate designation and facilitate use of the revised designation in the production. If a Producing Party designates a document as Confidential or Highly Confidential Information after it was initially produced, the Receiving Party, on notification of the designation, must make a reasonable effort to assure that the document is treated in accordance with the provisions of this Order. For the avoidance of doubt, the Receiving Party must treat such documents and things with the noticed level of protection from the date such notice is received. Any disclosures prior, or substantially simultaneous to, the receipt of such notice shall not be deemed a violation of this Order.

31. Filing of Confidential or Highly Confidential Information Under Seal. The Court's approval and entry of an Order approving this Stipulation shall constitute authority for the Parties to file Confidential or Highly Confidential Information under seal without the necessity of filing a separate motion under Bankruptcy Rule 9037. Parties filing Confidential or Highly Confidential Information under seal pursuant to this Order shall reference this Order in the pleading accompanying such documents. Confidential or Highly Confidential Information may only be filed with this Court if such filing is made under seal. Before, or contemporaneously with, filing documents with the Court that contain Confidential or Highly Confidential Information, the filing party must notify the Producing Party of the filing. Where possible, however, only those portions of the filings with the Court that disclose Confidential or Highly Confidential Information shall be

filed under seal. Parties filing documents under seal shall also publicly file redacted documents as soon as practicable. This Paragraph is without prejudice to the right of any Party or non-Party to move upon notice to the applicable Party to unseal any papers filed under seal. Except as otherwise ordered by the Court or agreed to by the Producing Party, all Confidential or Highly Confidential Information filed with the Court, and all portions of pleadings, motions or other papers filed with the Court that disclose Confidential or Highly Confidential Information, shall be filed under seal in accordance with the Federal Rules of Civil Procedure, the Bankruptcy Rules, and the Local Rules. Copies of unredacted versions of all materials filed under seal shall be promptly served on counsel to the other Party, subject to the Parties' obligations under this Order as to Confidential or Highly Confidential Information filed under seal.

32. Challenges by a Party to Designation as Confidential or Highly Confidential Information. The designation of any material or document as Confidential or Highly Confidential Information is subject to challenge by any Party. The following procedure shall apply to any such challenge.

a. Meet and Confer. A Party challenging the designation of Confidential or Highly Confidential Information must do so in good faith and must begin the process by conferring directly with counsel for the Producing Party. In conferring, the challenging Party must explain the basis for its belief, both verbally and in writing, that the confidentiality designation was not proper and must give the Producing Party an opportunity to review the designated material and to reconsider the designation. The Producing Party shall respond to a challenge as soon as reasonably possible, but in no event later than three (3) business days, and if the Producing Party does not agree to change the designation, the Receiving Party may seek relief from the Court. The Parties agree that any hearing on such request may be requested to be

heard on an emergency basis if, and only if, exigent circumstances warrant it and that any response to any motion to de-designate shall be filed no later than 48 hours after an emergency motion, or in accordance with such applicable rules as may apply if the motion to de-designate is not filed on an emergency basis.

b. Judicial Intervention. After the expiry of the time by which a Producing Party has to respond to a challenge as forth in paragraph 32(a), a Party may file and serve a motion that identifies the challenged material and sets forth in detail the basis for the challenge. Each such motion must be accompanied by a competent declaration that affirms that the movant has complied with the meet and confer requirements of this procedure. The burden of persuasion as to the confidentiality of the designated material in question shall rest with Producing Party. Until the Court rules on the challenge, all Parties shall continue to treat the material in question as Confidential or Highly Confidential Information, as the case may be, under the terms of this Order.

33. Nothing in this Order or any action or agreement of a Party under this Order limits the Court's power to make orders concerning the disclosure of documents produced in discovery or at trial.

VII. CONFIDENTIALITY ACKNOWLEDGMENT

34. Persons required under this Order to complete the Acknowledgment and Agreement to Be Bound (Exhibit A) shall be provided with a copy of this Order, which they shall read, and, upon reading this Order, shall sign an Acknowledgment and Agreement to Be Bound, acknowledging that he or she has read this Order and shall abide by its terms. Persons who come into contact with Protected Material for clerical or administrative purposes, and who do not retain copies or extracts thereof, are not required to execute an Acknowledgement and Agreement to Be Bound, but must comply with the terms of this Protective Order.

35. Any other interested party to the Cases that, with the written consent of the Producing Party or at the Court's direction, agrees in writing to be bound by the terms of this Order by executing the attached Exhibit A (each, a "Participating Party") shall thereafter be treated as a Party to this Protective Order for all purposes.

VIII. MISCELLENEOUS

36. Use of Confidential or Highly Confidential Information at Trial. Nothing in this Order shall be construed to affect the use of any document, material, or information at any trial or hearing. A Party that intends to, or has reason to believe it may, present Confidential or Highly Confidential Information at a hearing or trial shall bring that issue to the Court's and Parties' attention by letter without disclosing the Confidential or Highly Confidential Information.

37. Confidential Information Subpoenaed or Ordered Produced in Other Litigation.

a. If a Receiving Party is served with a subpoena, demand, request, or order, issued in a separate litigation or other form of legal process, which, in each instance, seeks the disclosure of a Producing Party's Discovery Material, then such Receiving Party must promptly notify the Producing Party, in writing, to enable the Producing Party to have an opportunity to appear and be heard on whether that information should be disclosed. Such notification must include a copy of the subpoena, demand, request, or court order, as applicable.

b. The Receiving Party also must immediately inform in writing the party who caused the issuance of such subpoena, demand, request, in the other litigation that some or all of the material covered by the subpoena, demand, request, or order is the subject of this Order. In addition, the Receiving Party must deliver a copy of this Order promptly to the party in the other action that caused the issuance of such subpoena, demand, request, or order.

c. If the Producing Party seeks to protect its Protected Material, then the Producing Party shall bear the burden and the expense of such efforts.

38. If any party violates or threatens to violate the terms of this Order, the Producing Party may seek injunctive relief against such Party from the Bankruptcy Court in the Cases, and the respondent party, subject to the provisions of this Order, shall not assert as a defense thereto that the Producing Party has an adequate remedy at law.

39. Obligations on Conclusion of Litigation.

a. Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.

b. Within 60 days after dismissal or entry of final judgment not subject to further appeal, all Confidential or Highly Confidential Information under this Order, including copies, shall be returned to the Producing Party unless: (1) the document has been offered into evidence or filed without restriction as to disclosure; (2) the Parties agree to destruction to the extent practicable in lieu of return; or (3) as to documents bearing the notations, summations, or other mental impressions of the Receiving Party, that Party elects to destroy the documents and certifies to the Producing Party that it has done so.

c. Notwithstanding the above requirements to return or destroy documents, counsel may retain (1) any materials required to be retained by law or ethical rules, (2) their work file and work product, and (3) one complete set of all documents filed with the Court including those filed under seal. Any retained Confidential or Highly Confidential Information shall continue to be protected under this Order.

d. Filings under seal shall be deleted from the ECF system only upon order of the Court.

40. No Prior Judicial Determination. This Order is entered based on the representations and agreements of the Parties and for the purpose of facilitating discovery. Nothing herein shall

be construed or presented as a judicial determination that any document or material designated Confidential or Highly Confidential Information by counsel or the Parties is entitled to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific document or issue.

41. Persons Bound. This Order shall take effect when entered and shall be binding upon all counsel of record and their law firms, the Parties, and persons made subject to this Order by its terms.

So Ordered.

END OF ORDER

Submitted By:

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/s/ Thomas R. Califano

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*Counsel to Innovatus Life Sciences Lending
Fund I, LP*

So stipulated through counsel of record below on June 21, 2024.

SIDLEY AUSTIN LLP

/s/ Thomas R. Califano

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*Counsel to Innovatus Life Sciences Lending
Fund I, LP*

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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

In re:

EIGER BIOPHARMACEUTICALS, INC. *et al.*¹,

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

The undersigned hereby agrees and acknowledges:

On behalf of the Parties named below (the “Parties”; each a “Party”) I have read the Stipulated Confidentiality Agreement and Protective Order (“Order”) dated [•] in the above-captioned action and attached to this document, and I and the Parties understand the terms of the Order, and each Party agrees to be bound by its terms.

Each Party agrees to submit to the jurisdiction of the United States Bankruptcy Court for the Northern District of Texas in matters relating to the Order and understands that the terms of the Order obligate them to use materials designated as Confidential or Highly Confidential Information in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such Confidential or Highly Confidential Information to any other person or entity.

Each Party acknowledges that violation of the Order may result in penalties for contempt of court.

Name of the Party: _____

Law Office of the Party Representative: _____

Title of Party Representative: _____

¹ 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 2100 Ross Ave., Dallas, Texas 75201.