

SIDLEY AUSTIN LLP

Thomas R. Califano (TX Bar No. 24122825)
William E. Curtin (admitted *pro hac vice*)
Anne G. Wallace (admitted *pro hac vice*)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300
Facsimile: (212) 839-5599
Email: tom.califano@sidley.com
wcurtin@sidley.com
anne.wallace@sidley.com

SIDLEY AUSTIN LLP

Charles M. Persons (TX Bar No. 24060413)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300
Facsimile: (214) 981-3400
Email: cpersons@sidley.com

*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.*,¹

Debtors.

Chapter 11

Case No. 24-80040 (SGJ)

(Jointly Administered)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
EXTENDING DEBTORS' EXCLUSIVITY PERIODS TO FILE
A CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THEREOF**

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.



If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txnb.uscourts.gov> no more than twenty-four (24) days after the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk and filed on the docket no more than twenty-four (24) days after the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on the matters set forth in this motion on September 5, 2024 at 9:30 a.m. (prevailing Central Time) in Courtroom #1, 14th Floor, Earle Cabell Federal Building, 1100 Commerce Street, Suite 1254, Dallas, Texas 75242.

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 650.479.3207. Video communication will be by the 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 2304-154-2638. Click the settings icon in the upper right corner and enter your name under the personal information setting. WebEx hearing instructions may be obtained from Judge Jernigan's hearing/calendar site: <https://www.txnb.uscourts.gov/judges-info/hearing-dates/chief-judge-jernigans-hearing-dates>.

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.

Eiger BioPharmaceuticals, Inc., and its debtor affiliates, as debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases, hereby state as follows in support of this motion (this "Motion"):

RELIEF REQUESTED

1. The Debtors hereby submit this Motion for entry of an order, substantially in the form attached hereto as **Exhibit A** (the "Proposed Order"), granting a 90-day extension of the (i) period during which the Debtors have the exclusive right to file a chapter 11 plan (the "Exclusive Filing Period"), from July 30, 2024 through October 28, 2024, and (ii) the period during which the Debtors have the exclusive right to solicit a plan filed during the Exclusive Filing Period (the "Exclusive Solicitation Period" and, together with the Exclusive Filing Period, the "Exclusivity Periods"), from September 28, 2024 through December 27, 2024 for cause; and (iii) granting related relief.² As the Court is aware, the Debtors filed both the *Joint Plan of*

² Section N of the Complex Case Procedures (as defined below) provides that, unless otherwise specified in the Bankruptcy Code, Bankruptcy Rules, Local Rules, or Court order, the time for taking any action before the

Liquidation of Eiger BioPharmaceuticals, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 424] (the “Plan”) and their *Disclosure Statement for Joint Plan of Liquidation of Eiger BioPharmaceuticals, Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 425] (the “Disclosure Statement”) on July 15, 2024, with the hearing to conditionally approve the Disclosure Statement set for July 29, 2024 at 9:30 a.m. prevailing Central Time (the “Disclosure Statement Hearing”). The Debtors have also requested the scheduling of a combined hearing on confirmation of the Plan and the adequacy of the Debtors’ Disclosure Statement on September 5, 2024, at 9:30 a.m. prevailing Central Time. The Debtors are seeking an extension of the Exclusivity Periods out of an abundance of caution to continue pursuing approval of the Disclosure Statement and confirmation and consummation of the Plan, rather than be distracted by the potential for competing plans.

JURISDICTION AND VENUE

2. The United States Bankruptcy Court for the Northern District of Texas (the “Court”) has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Order of Reference of Bankruptcy Cases and Proceedings Nunc Pro Tunc* dated August 3, 1984, entered by the United States District Court for the Northern District of Texas. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and the Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

3. The Debtors confirm their consent to the entry of a final order by the Court in connection with the Motion in the event that it is later determined that the Court, absent consent

expiration of the period prescribed by the Bankruptcy Code, Bankruptcy Rules, or Local Rules is automatically extended until the Court rules on the motion. Such automatic extension under Section N does not require the issuance or entry of an order extending the time.

of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

4. The statutory and legal predicates for the relief requested herein are section 1121(d) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”), rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), rule 3016-1 of the of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Rules”), and Section N of the Procedures for Complex Chapter 11 Cases in the Northern District of Texas (the “Complex Case Procedures”).

BACKGROUND OF THE DEBTORS

I. General Background

5. On April 1, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the Bankruptcy Code in the Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. These chapter 11 cases have been consolidated for procedural purposes only and are being administered jointly. No party has requested the appointment of a trustee or examiner in these cases.

6. On June 10, 2024, the United States Trustee appointed an Official Committee of Unsecured Creditors [Docket No. 322] (the “Creditors’ Committee”), and, on June 26, 2024, the United States Trustee appointed an Official Unsecured Equity Security Holders’ Committee [Docket No. 359] (the “Equityholders’ Committee,” and collectively with the Creditors’ Committee, the “Committees”).

7. A comprehensive description of the Debtors’ businesses and operations, capital structure, and the events leading to the commencement of these chapter 11 cases can be found in

the *Declaration of David Apelian in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 19] (the “First Day Declaration”).³

II. Progress in the Cases Since the Petition Date

8. The Debtors have made significant progress in these chapter 11 cases, and are now poised to seek confirmation of the Plan. Since the Petition Date, the Debtors had been focused on maximizing value for all stakeholders, and have been extraordinarily successful in that regard:

- On April 1, 2024, the Debtors filed a motion seeking approval of bid procedures (the “Bid Procedures”) for multiple asset sales (the “Bid Procedures Motion”). See Docket No. 13. Over the objections of certain interested parties, the Debtors successfully obtained an order approving the relief requested in the Bid Procedures Motion (the “Bid Procedures Order”). See Docket No. 94. The Bid Procedures were later revised to account for certain non-substantive changes. See Docket No. 119. The Bid Procedures Motion also sought approval of a stalking horse bid (the “Zokinvy Stalking Horse Bid”) by Sentyln Therapeutics, Inc. (“Sentyln”) for the Zokinvy assets (the “Zokinvy Sale Transaction”), which included a purchase price of \$26 million (*less* cure costs) if the Zokinvy sale closed no later than April 24, 2024. After additional post-petition negotiations, Sentyln further increased the Zokinvy Stalking Horse Bid to a purchase price of \$30 million, and the Zokinvy Stalking Horse Bid was approved pursuant to the Bid Procedures Order.
- Also on April 1, 2024, the Debtors filed a motion seeking Court authority to utilize cash collateral to fund these chapter 11 cases (the “Cash Collateral Motion”). See Docket No. 16. Over the objections of Innovatus Life Sciences Lending Fund I, LP (“Innovatus”), the Court authorized the relief sought in the Cash Collateral Motion first on an interim and then on a final basis (the “Cash Collateral Order”). See Docket No. 176. On May 8, 2024, Innovatus filed a notice of appeal of the Cash Collateral Order. See Docket No. 245. The Debtors are actively engaged in defending the Cash Collateral Order while concurrently negotiating with Innovatus for a consensual resolution.
- On April 11, 2024, the United States Trustee filed a motion to transfer venue of these chapter 11 cases, and on May 5, 2024, Innovatus filed a joinder to this motion. See Docket Nos. 4, 219. The Debtors successfully defended venue before the Court, see Docket No. 200, and, on May 13, 2024, the

³ Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the First Day Declaration.

Court entered an order denying the United States Trustee's motion and Innovatus' joinder (the "Venue Order"). *See* Docket No. 260.

- On April 17, 2024, the Debtors conducted an auction for their Zokinvy assets. After 35 rounds of bidding, Sentyln was designated as the winning bidder, with a final bid during the auction of a base price in the amount of \$46.1 million, *less* a credit in the amount of \$900,000 for the termination fee, resulting in a net base price in the amount of \$45.2 million (assuming a closing on April 24, 2024). *See* Docket No. 129.
- On May 3, 2024, the Debtors and Sentyln closed the Zokinvy Sale Transaction with a final purchase price of \$44.3 million, which was \$14.3 million over the Zokinvy Stalking Horse Bid. *See* Docket No. 214. Pursuant to the Court's final order authorizing the use of cash collateral and the order approving the Zokinvy Sale Transaction, the Debtors utilized the net sale proceeds to effectuate a partial paydown of the prepetition secured claim of Innovatus in the amount of \$15 million.
- On May 28, 2024, Innovatus filed a notice of appeal of the Venue Order. *See* Docket No. 298. The Debtors are actively engaged in defending the Venue Order.
- On June 10, 2024, the United States Trustee appointed the Creditors' Committee. *See* Docket No. 322.
- In parallel to the Debtors' work on the successful Zokinvy sale, the Debtors continued to market their Avexitide assets. On June 13, 2024, the Debtors selected Spruce Biosciences, Inc. to act as the stalking horse purchaser for the Avexitide sale transaction (the "Avexitide Sale Transaction"), with a base purchase price of \$10 million (the "Avexitide Stalking Horse Bid"). *See* Docket No. 333. Thereafter, on June 17, 2024, the Debtors held an auction for the Avexitide assets which consisted of 122 rounds of bidding, and, on June 21, 2024, announced that Amylyx Pharmaceuticals, Inc. ("Amylyx") was selected as the winning bidder with a base purchase price of \$35.1 million, \$25.1 million over the Avexitide Stalking Horse Bid. *See* Docket No. 350.
- On June 25, 2024, the United States Trustee appointed the Equityholders' Committee. *See* Docket No. 359.
- On July 10, 2024, the Debtors and Amylyx closed the Avexitide Sale Transaction, and the Debtors made a further partial paydown of the prepetition secured claim of Innovatus in the amount of \$12 million from the net sale proceeds from the Avexitide Sale Transaction. *See* Docket Nos. 376, 416.

- On July 15, 2024, the Debtors, Creditors' Committee, and Equityholders' Committee filed a joint motion seeking, among other things, to authorize the Equityholders' Committee to commence and prosecute certain claims and causes of action against Innovatus. A hearing to consider the relief requested in this motion is scheduled for July 29, 2024. *See* Docket No. 428.
- On July 15, 2024, the Debtors filed their Plan and related Disclosure Statement. *See* Docket Nos. 424, 425.
- Since the Petition Date, the Debtors have continued marketing their lonafarnib and lambda assets and remain actively engaged in negotiations with interested parties. The bidding deadlines for such assets are July 19, 2024, and August 2, 2024, respectively. The Debtors will determine the time and place of the auction(s), if any, for these assets at a later date.

9. The Debtors are working to expeditiously conclude these chapter 11 cases and, as noted above, have filed their Plan and Disclosure Statement in anticipation of the Disclosure Statement Hearing, and continue to engage with key stakeholders regarding the Plan. The Debtors submit that allowing any competing plans to be introduced at this pivotal moment in these chapter 11 cases would be highly detrimental to their efforts of maximizing estate value and would severely detract from the Debtors' focus on finalizing a consensual Plan and exit strategy.

BASIS FOR RELIEF REQUESTED

10. The foremost goal of chapter 11 is to reorganize troubled businesses in a manner that, among other things, increases the pool of assets available for distribution to stakeholders. *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 527 (1984). To that end, Congress codified a number of interwoven provisions that reflect the ultimate goal of rehabilitation through a considered and consensual chapter 11 plan, including a debtor's exclusive right to a fair amount of time in which only the debtor may propose a plan. *See, e.g., Official Comm. of Unsecured Creditors of Mirant Ams. Generation, L.L.C. v. Mirant Corp. (In re Mirant Corp.)*, 2004 U.S. Dist. LEXIS 19796, at *10 (N.D. Tex. Sept. 30, 2004) (holding that extending the exclusivity periods for jointly administered debtors was appropriate because such extension would allow the debtors

“an opportunity to present a single plan . . . that would have the potential to achieve the greatest good for everyone so that the court and the parties would not be burdened by piecemeal resolution of the individual estates”); *In re Perkins*, 71 B.R. 294, 297 (W.D. Tenn. 1987) (explaining that extensions of exclusivity periods further the purpose of chapter 11 by providing more time to negotiate a consensual plan “which would inure to the benefit of all”). At times, it is only by extended exclusivity that a debtor can bring all parties to the bargaining table in hopes of striking a balanced and successful plan.

11. Section 1121(b) of the Bankruptcy Code establishes an initial period of 120 days after commencement of a chapter 11 case during which only a debtor may file a plan, and section 1121(c) further provides an additional 60-day period thereafter, during which only the debtor may solicit votes for a plan. 11 U.S.C. §§ 1121(b)–(c). Section 1121(d)(1) of the Bankruptcy Code permits a court to extend a debtor’s exclusivity “for cause.” 11 U.S.C. § 1121(d)(1). Although the Bankruptcy Code does not define “cause,” bankruptcy courts have the discretion to extend exclusivity to promote the orderly, consensual, and successful reorganization of a debtor’s affairs. *See In re Timbers of Inwood Forest Assocs., Ltd.*, 808 F.2d 363, 372 (5th Cir. 1987) (noting that the meaning of “cause” under section 1121 should be viewed in the context of the Bankruptcy Code’s goal of fostering reorganization); *In re Mirant Corp.*, 2004 U.S. Dist. LEXIS 19796, at *8 (noting that an extension of exclusivity is typically granted where “the debtor showed substantial progress had been made in negotiations toward reorganization”).

12. Currently, the Exclusive Filing Period will expire on July 30, 2024, and the Exclusive Solicitation Period will expire on September 28, 2024. The Debtors seek a 90-day extension of the Exclusivity Periods, for cause, to preserve their exclusive right to file and solicit

a new chapter 11 plan through October 28, 2024, and December 27, 2024, respectively. The Debtors are seeking this extension of the Exclusivity Periods out of an abundance of caution, in the unlikely event the Plan is not confirmed or cannot be consummated.

I. The Court May Extend the Exclusivity Periods For “Cause”

13. Courts often use the following factors in determining whether “cause” exists to extend a debtor’s exclusivity plan filing period:

- (i) the size and complexity of the case;
- (ii) the necessity of sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information;
- (iii) the existence of good faith progress toward reorganization;
- (iv) the fact that the debtor is paying its bills as they become due;
- (v) whether the debtor has demonstrated reasonable prospects for filing a viable plan;
- (vi) whether the debtor has made progress in negotiations with its creditors;
- (vii) the amount of time which has elapsed in the case;
- (viii) whether the debtor is seeking an extension of exclusivity in order to pressure creditors to submit to the debtor’s reorganization demands; and
- (ix) whether an unresolved contingency exists.

See, e.g., In re New Millennium Mgmt., LLC, No. 13-35719 (LZP), 2014 WL 792115, at *6 (Bankr. S.D. Tex. Feb. 25, 2014) (listing factors relevant to whether “cause” exists to extend exclusivity periods) (citing *In re GMG Cap. Partners, L.P.*, 503 B.R. 596 (Bankr. S.D.N.Y. 2014)); *In re Adelphia Commc’ns Corp.*, 336 B.R. 610, 674 (Bankr. S.D.N.Y. 2006) (denying motion to terminate exclusivity based on factors for cause).

14. Not all factors are relevant to every case, and the existence of even one of the factors listed above may be sufficient to extend a debtor’s exclusivity periods. *See In re Express One Int’l, Inc.*, 194 B.R. 98, 100 (Bankr. E.D. Tex. 1996) (“The traditional ground for cause is the large

size of the debtor and the concomitant difficulty in formulating a plan of reorganization.”). Instead, courts examine all “cause” factors holistically within the context of a particular case. *See id.*; *see also In re Texas Extrusion Corp.*, 844 F.2d 1142, 1160 (5th Cir. 1988) (holding “cause” existed in the mirror instance of reducing a debtor’s exclusivity period after analyzing the single factor that the debtor was “delay[ing] . . . the creditors’ efforts at reorganization”); *In re Amko Plastics, Inc.*, 197 B.R. 74, 76-77 (Bankr. S.D. Ohio 1996) (granting a five-month exclusivity extension—despite fact that the case was not large or complex—because the debtor exhibited substantial turn-around efforts). Moreover, courts regularly grant a debtor’s first request for an extension of the debtor’s exclusive period to file a chapter 11 plan. *See In re Apex Pharm., Inc.*, 203 B.R. 432, 441 (N.D. Ind. 1996) (“It is true that during the initial 120-day period in which debtors have an exclusive right to file a plan of reorganization . . . the bankruptcy courts apply a lesser standard in determining whether the burden of showing a reasonable possibility of a successful reorganization within a reasonable time has been satisfied.”) (internal quotations omitted).

II. Cause Exists to Extend the Exclusivity Periods in These Chapter 11 Cases

15. Ample cause exists to grant the relief requested in these chapter 11 cases. As set forth below, the relevant factors strongly weigh in favor of an extension of the Exclusivity Periods:

- a. ***The Debtors’ Chapter 11 Cases Are Large and Complex.*** These cases met the requirements for and were designated as complex cases. *See Order Granting Complex Chapter 11 Bankruptcy Case Treatment* [Docket No. 77]. As of the Petition Date, the Debtors had approximately \$42 million of funded debt, along with unsecured obligations to over a hundred creditors, including various vendors and contractual counterparties. Additionally, the Debtors have a fulsome drug distribution operation spanning the globe. Moreover, the Debtors are a publicly traded company with approximately 1,479,483 shares issued and outstanding as of December 31, 2023, adjusted for stock splits. *See Debtors’ Form 10-K for the fiscal year ended December 31, 2023*, at 106. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.
- b. ***The Additional Time Requested Will Provide the Debtors with Sufficient Time to Seek Confirmation and Consummation of the Plan.*** As set forth

above, the Debtors have filed their Plan and Disclosure Statement, and the Disclosure Statement Hearing is scheduled for July 29, 2024, with the Confirmation Hearing requested for September 5, 2024. The current Exclusivity Periods will terminate before the Confirmation Hearing. Granting additional time will allow the Debtors the room to confirm and consummate the Plan. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.

- c. ***The Debtors Have Made Good Faith Progress Toward Exiting Chapter 11.*** The Debtors have progressed their chapter 11 cases far enough to formulate the Plan. The Debtors have spent the time in these cases operating in the ordinary course, running multiple highly successful sale processes, and will continue negotiating support among their constituents for the Plan. The Debtors expect these efforts to culminate in an orderly winddown of these chapter 11 cases in the near term. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.
- d. ***The Debtors Are Paying Their Bills as They Come Due.*** Since the Petition Date, the Debtors have paid their vendors and counterparties in the ordinary course of business or as otherwise provided by orders of the Court. More importantly, the Debtors maintain their ability to continue to pay their bills throughout these chapter 11 cases. *See* Monthly Operating Reports [Docket Nos. 288-292 and 385-389]. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.
- e. ***The Debtors Have Filed a Viable Plan.*** On July 15, 2024, the Debtors filed their Disclosure Statement and Plan, which are viable. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.
- f. ***The Debtors Have Made Significant Progress in Negotiations with Creditors and an Extension of the Exclusivity Period Will Not Prejudice Creditors' Rights.*** As shown by the record in these chapter 11 cases, the Debtors have focused on garnering broad creditor and interest holder support for their actions. The Debtors will continue driving consensus among key stakeholders with the goal of presenting the Plan uncontested at any confirmation hearing. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.
- g. ***An Extension Will Not Pressure Creditors.*** The Debtors are not seeking an extension of the Exclusivity Periods to pressure or prejudice any of their stakeholders. All parties in interest have had an opportunity to actively participate in substantive discussions with the Debtors throughout these chapter 11 cases. As previously noted, the Debtors are actively pursuing consensual resolution with all stakeholders, and hope to present the Plan on an uncontested basis at any confirmation hearing. Allowing the Debtors the exclusive right to solicit a chapter 11 plan will help drive consensus and

maximize estate resources. Accordingly, this factor weighs in favor of granting an extension of the Exclusivity Periods.

16. Thus, in light of the totality of the circumstances, the Exclusivity Periods should be extended.

NOTICE

17. The Debtors will provide notice of this motion to the following: (a) the U.S. Trustee for the Northern District of Texas; (b) Innovatus Life Sciences Lending Fund I, LP, as agent to the Debtors' secured lenders, and counsel thereto; (c) the United States Attorney's Office for the Northern District of Texas; (d) the Food and Drug Administration; (e) the Internal Revenue Service; (f) the United States Securities and Exchange Commission; (g) the state attorneys general for the states in which the Debtors conduct business; (h) counsel to the Creditors' Committee; (i) counsel to the Equityholders' Committee; 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.]

WHEREFORE, the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: July 23, 2024
Dallas, Texas

SIDLEY AUSTIN LLP

/s/ Thomas R. Califano

Thomas R. Califano (TX Bar No. 24122825)
William E. Curtin (admitted *pro hac vice*)
Anne G. Wallice (admitted *pro hac vice*)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300
Facsimile: (212) 839-5599
Email: tom.califano@sidley.com
wcurtin@sidley.com
anne.wallice@sidley.com

and

Charles M. Persons (TX Bar No. 24060413)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300
Facsimile: (214) 981-3400
Email: cpersons@sidley.com

*Attorneys for the Debtors and
Debtors in Possession*

Certificate of Service

I certify that on July 23, 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 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)

**[PROPOSED] ORDER EXTENDING DEBTORS' EXCLUSIVITY
PERIODS TO FILE A CHAPTER 11 PLAN AND SOLICIT ACCEPTANCES THEREOF**

Upon consideration of the motion ("Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors"), for entry of an order (this "Order"), (i) extending the Exclusivity Periods and (ii) granting related relief, each as more fully set forth in the Motion; and

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

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 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 this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and that no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The relief requested in the Motion is GRANTED as set forth herein.
2. The Exclusive Filing Period to file a chapter 11 plan for each Debtor is extended through October 28, 2024.
3. The Exclusive Solicitation Period to solicit acceptance of a chapter 11 plan is extended through December 27, 2024.
4. 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 Local Rules are satisfied by such notice.
5. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

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

END OF ORDER

Submitted By:

SIDLEY AUSTIN LLP

Thomas R. Califano (TX Bar No. 24122825)
William E. Curtin (admitted *pro hac vice*)
Anne G. Wallice (admitted *pro hac vice*)
787 Seventh Avenue
New York, NY 10019
Telephone: (212) 839-5300
Facsimile: (212) 839-5599
Email: tom.califano@sidley.com
wcurtin@sidley.com
anne.wallice@sidley.com

and

Charles M. Persons (TX Bar No. 24060413)
2021 McKinney Avenue, Suite 2000
Dallas, Texas 75201
Telephone: (214) 981-3300
Facsimile: (214) 981-3400
Email: cpersons@sidley.com

*Attorneys for the Debtors and
Debtors in Possession*