

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

In re:

OREXIGEN THERAPEUTICS, INC.,  
  
Debtor.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

**Re: D.I. 4 & 48**

**CERTIFICATION OF COUNSEL REGARDING MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS, (I) APPROVING DEBTOR-IN-POSSESSION FINANCING PURSUANT TO 11 U.S.C. §§ 105(a), 362, AND 364, FED. R. BANKR. P. 2002, 4001 AND 9014 AND LOCAL BANKRUPTCY RULE 4001-2; (II) AUTHORIZING USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. §§ 105, 361, 362 AND 363 OF THE BANKRUPTCY CODE; (III) GRANTING ADEQUATE PROTECTION AND SUPER-PRIORITY ADMINISTRATIVE CLAIMS; (IV) SCHEDULING A FINAL HEARING; AND (V) GRANTING RELATED RELIEF**

I, Jose F. Bibiloni, of Morris, Nichols, Arsht & Tunnell LLP, bankruptcy co-counsel to the above-captioned debtor and debtor-in-possession (the “Debtor”), hereby certify as follows regarding the attached revised form of order approving the *Motion For Entry Of Interim And Final Orders, (I) Approving Debtor-In-Possession Financing Pursuant To 11 U.S.C. §§ 105(A), 362, And 364, Fed. R. Bankr. P. 2002, 4001 And 9014 And Local Bankruptcy Rule 4001-2; (II) Authorizing Use Of Cash Collateral Pursuant To 11 U.S.C. §§ 105, 361, 362 And 363 Of The Bankruptcy Code; (III) Granting Adequate Protection And Super-Priority Administrative Claims; (IV) Scheduling A Final Hearing; And (V) Granting Related Relief* (D.I. 4) (the “Motion”):

1. On March 12, 2018, the Debtor filed and served the Motion.
2. On March 13, 2018 the Court entered an order granting the relief sought in the

Motion on an interim basis (D.I. 48).

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<sup>1</sup> The last four digits of the Debtor’s federal tax identification number are 8822. The Debtor’s mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA 92037.



3. The deadline to file objections to the entry of a final order was March 28, 2018 at 4:00 p.m. (ET) (the “Objection Deadline”), which was extended for the Official Committee of Unsecured Creditors (the “Committee”) until April 6, 2018 at 4:00 p.m. (ET) and Wilmington Trust as Trustee for the 2.75% Convertible Senior Notes Due 2020 (“Wilmington Trust”) until April 9, 2018 at 12:00 (noon) (ET).

4. Prior to the objection deadline, the Debtor received informal comments from the Committee, U.S. Bank, as Indenture Trustee for the Prepetition Secured Notes (“U.S. Bank”), and Wilmington Trust filed a preliminary objection at D.I. 131 with respect to the Motion.

5. The Debtor agreed to revise the proposed final order granting the Motion following negotiations with the Committee, Wilmington Trust, U.S. Bank, and the DIP Lenders. Attached hereto as **Exhibit A** is a revised proposed final order granting the Motion (the “Proposed Final Order”). Attached as **Exhibit B** is a redline of the Proposed Final Order showing the changes made to the order that was originally filed with the Motion.

6. The Committee, Wilmington Trust, U.S. Bank, and the DIP Lenders have reviewed the Proposed Final Order and have no objection to its entry.

WHEREFORE, the Debtor respectfully requests that the Court enter the Proposed Final Order attached as **Exhibit A** at its earliest convenience.

Dated: April 12, 2018  
Wilmington, Delaware

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

/s/ Jose F. Bibiloni

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*Counsel for Debtor and Debtor in Possession*

**EXHIBIT A**

Proposed Order

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

In re:

Orexigen Therapeutics, Inc.,

Debtor.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 4 and D.I. 48

**FINAL ORDER (I) APPROVING DEBTOR-IN-POSSESSION FINANCING PURSUANT TO 11 U.S.C. §§ 105(a), 362, AND 364 AND FED. R. BANKR. P. 2002, 4001 AND 9014 AND LOCAL BANKRUPTCY RULE 4001-2; (II) AUTHORIZING USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. §§ 105, 361, 362 AND 363 OF THE BANKRUPTCY CODE; (III) GRANTING ADEQUATE PROTECTION AND SUPER-PRIORITY ADMINISTRATIVE CLAIMS; AND (IV) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”) of Orexigen Therapeutics, Inc., the debtor and debtor-in-possession (the “Debtor”) in the above-captioned Chapter 11 case (the “Chapter 11 Case”) pursuant to sections 105(a), 361, 362, 363 and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 4001-2 of the Local Bankruptcy Rules for the District of Delaware (the “Local Bankruptcy Rules”), seeking, among other things:

A. Authorization and approval for the Debtor to obtain post-petition financing and incur the DIP facility (the “DIP Facility”), including (i) the aggregate principal amount of not more than \$35,000,000 in new borrowings (“New Money Loans”), with the aggregate principal amount of not more than \$7,500,000 being available to the Debtor on an interim basis in one or

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<sup>1</sup> The last four digits of Debtor’s federal tax identification number are (8822). The Debtor’s mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA, 92037.

more draws in accordance with the Budget and pursuant to the interim order (the "Interim DIP Order"); (ii) the roll up of \$35,000,000 in aggregate principal amount of Prepetition Secured Notes (as defined below), to be rolled up (such loans, "Roll-Up Loans," and together with the New Money Loans, the "DIP Loans") and become DIP Loans hereunder, with the aggregate principal amount of not more than \$7,500,000 available to be rolled up on a final basis upon entry of and pursuant to the Interim DIP Order in the same amount and at the same time as New Money Loans are borrowed during the period prior to the entry of this order (the "Final DIP Order"), and the balance automatically deemed rolled up in full into the DIP Facility and into DIP Loans upon the entry of this Final DIP Order; and (iii) \$350,000, constituting the Upfront Fee, to be approved by the Interim DIP Order and deemed fully earned on the Closing Date of the Interim DIP Facility and ratably added to the outstanding principal balance of the DIP Loans on such date and constituting additional DIP Loan principal for all purposes (the New Money Loans, Roll-Up Loans, and Upfront Fee approved pursuant to the Interim DIP Order constituting the "Interim DIP Facility"), all of which shall be on the terms and conditions set forth in (a) the Debtor in Possession Credit and Security Agreement dated as of March 12, 2018 (as may be amended from time to time, the "DIP Loan Agreement"),<sup>2</sup> by and among the Debtor, as Borrower, Wilmington Trust, National Association, as the DIP Administrative Agent (in such capacity, the "DIP Administrative Agent"), and each of the DIP Lenders from time to time party thereto (collectively, the "DIP Lenders"), and (b) all other financing statements, mortgages, deeds of trust, deeds to secure debt, pledge agreements, affidavits, security agreements, fixture filings, assignments, memoranda or other documents, instruments or evidences of perfection with respect to the DIP Collateral (as defined below) as may be acceptable to the DIP Administrative

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<sup>2</sup> Capitalized terms that are not otherwise defined in this Final DIP Order have the meanings given to such terms in the DIP Loan Agreement, which is attached to the Motion as an exhibit.

Agent and the Required DIP Lenders (together with the DIP Loan Agreement, the “DIP Loan Documents”);

B. Authorization, pursuant to section 364(c)(1) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, as security for the DIP Obligations, an allowed Super-priority Claim in the Chapter 11 Case, which Super-priority Claim is a super-priority, administrative expense claim that has priority over all other administrative expenses and other claims against the Debtor in the Chapter 11 Case, including, without limitation, any other super-priority claims;

C. Authorization, pursuant to section 364(c)(2) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully-perfected and enforceable senior, first priority liens on and security interests in the DIP Collateral, other than Avoidance Actions (as defined below) that is not subject to an existing lien;

D. Effective upon entry of the Final DIP Order, authorization, pursuant to section 364(c)(2) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully-perfected and enforceable, senior, first-priority liens on and security interests in all proceeds of Avoidance Actions other than the Excluded Avoidance Actions (as defined below);

E. Authorization, pursuant to section 364(c)(3) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully perfected and enforceable, junior priority liens on and security interests in all DIP Collateral encumbered by (i) a valid, non-avoidable and enforceable Lien that is perfected subsequent to the Petition Date (as defined below) as permitted by section 546(b) of the Bankruptcy Code and which has priority over the Liens securing the Prepetition Secured Notes, or (ii) a valid, non-avoidable and

enforceable Lien that was senior to the Liens securing the Prepetition Secured Notes on the Petition Date (“collectively, “Permitted Exceptions”), which DIP Liens shall be immediately junior to the Liens underlying the Permitted Exceptions and senior to all other Liens on such DIP Collateral (including, but not limited to, the Liens securing the Prepetition Secured Notes);

F. Authorization, pursuant to section 364(d) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully perfected, enforceable, first priority, priming DIP Liens on all DIP Collateral subject to a Lien as of the Petition Date; provided, that such DIP Liens shall be immediately junior to any Liens underlying the Permitted Exceptions, but, for the avoidance of doubt, senior to the Liens securing the Prepetition Secured Notes;

G. Authorization of the Debtor to use Cash Collateral (as defined below) in which the Prepetition Collateral Agent (as defined below) has an interest;

H. Authorization to grant adequate protection (as may be amended from time to time with the approval of the Bankruptcy Court, the “Prepetition Secured Notes Protection”) to the Prepetition Collateral Agent for the benefit of the Prepetition Secured Parties, for any Diminution in Value (as defined below) of its Prepetition Collateral, including (i) effective and perfected upon the entry of the Interim DIP Order, Adequate Protection Liens (as defined below) on all DIP Collateral which liens and security interests are junior and subordinate only to (a) the Carve-Out (as defined below), (b) the DIP Liens, (c) the DIP Obligations, (d) the Super-priority Claim of the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and (e) the Permitted Exceptions, (ii) effective upon the entry of the Interim DIP Order, an allowed Super-priority Claim, subject to (a) the Carve-Out and (b) junior only to the Super-priority Claim of the DIP Administrative Agent, and (iii) current cash payments payable under the Prepetition Note



Documents to the Trustee (as defined below) or the Prepetition Collateral Agent for the benefit of the Prepetition Secured Parties, for all professional fees and expenses incurred by the Trustee or Prepetition Collateral Agent in connection with enforcement of the Prepetition Note Documents and the Chapter 11 Case;

I. Pursuant to Bankruptcy Rule 4001, that an interim hearing (the “Interim Hearing”) on the Motion be held before this Court on or prior to March 13, 2018, to consider entry of the Interim DIP Order;

J. Pursuant to the Interim DIP Order, that this Court schedule a final hearing (the “Final Hearing”) to consider entry of this Final DIP Order authorizing and approving, on a final basis, all of the relief requested in the Motion and DIP Loan Documents, including the full amount of the DIP Facility; and

K. That the Court grant other related relief.

The Interim Hearing having been held by this Court on March 13, 2018, and the Interim DIP Order having been entered by this Court on such date; and the Final Hearing having been held by this Court and concluded on April 11, 2018; and upon the *Declaration of Michael Narachi in Support of First Day Relief* [Dkt. No. 3]; and upon the record made by the Debtor at the Interim Hearing and Final Hearing, the evidence and arguments of counsel; and after due deliberation and consideration and sufficient cause appearing therefor;

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:<sup>3</sup>**

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<sup>3</sup> The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact include conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

1. Petition Date. On March 12, 2018 (the “Petition Date”), the Debtor commenced the Chapter 11 Case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtor is continuing in possession of its property, and operating and managing its business, as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Case.

2. Jurisdiction, Venue and Statutory Predicates. This Court has jurisdiction over the Debtor, the Chapter 11 Case, and the persons, entities and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief requested herein are sections 105(a), 361, 362, 363, and 364, and 507 of the Bankruptcy Code; Bankruptcy Rules 4001 and 9014; and Local Bankruptcy Rule 4001-2(b).

3. Committee Formation. An official committee of unsecured creditors (a “Committee”) was appointed in the Chapter 11 Case on March 27, 2018.

4. Notice. Pursuant to the Interim DIP order, notice of the Motion, the relief requested therein, the entry of the Interim DIP Order, the Final Hearing, and a copy of the Interim DIP Order were served by the Debtor on (a) the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”); (b) the Debtor’s top thirty (30) unsecured creditors; (c) the DIP Administrative Agent and its counsel; (d) the DIP Lenders and their counsel; (e) the Trustee and its counsel; (f) the Prepetition Collateral Agent and its counsel; (g) all other known holders of prepetition liens, encumbrances or security interests against the Debtor’s property; (h) the Internal Revenue Service; (i) the Securities and Exchange Commission; (j) the Delaware Secretary of State; (k) the Delaware Secretary of the Treasury;

(l) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (m) any other party required to be provided notice under Local Rule 9013-1(m). No further notice of the relief sought at the Final Hearing and the relief granted herein is necessary or required.

5. Necessity and Uses of Financing and Cash Collateral. The DIP Facility and the Debtor's use of Cash Collateral will allow the Debtor to continue the operations of its business and administer and preserve the value of its estate during the pendency of the Chapter 11 Case. Pursuant to this Final DIP Order, the Debtor shall be authorized to borrow New Money Loans under the DIP Facility in an aggregate principal amount of not more than \$35,000,000 in one or more draws in accordance with the Initial Budget (as defined below) and each subsequent approved Budget and roll up not more than \$35,000,000 of Prepetition Secured Notes on a final basis automatically upon entry of and pursuant to this Final DIP Order. Entry of this Final DIP Order approving the DIP Facility and the Debtor's use of Cash Collateral will benefit the Debtor and its estate and creditors and is necessary to avoid immediate and irreparable harm to the Debtor's creditors and estate. Therefore, it is in the best interest of the Debtor's creditors and estate to establish the DIP Facility described in the Motion on a final basis, as set forth in this Final DIP Order, and as contemplated by the DIP Loan Documents, and to authorize the Debtor's use of Cash Collateral on a final basis, subject to the terms and conditions in the DIP Loan Documents and as set forth in this Final DIP Order.

6. No Credit Available on Other Terms. The Debtor is unable to obtain unsecured credit allowable under sections 503(b)(1), 364(a) or 364(b) of the Bankruptcy Code. The Debtor is unable to obtain secured credit allowable solely under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting the DIP Liens to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and the Super-priority Claim to the DIP

Administrative Agent, for the benefit of itself and the DIP Lenders, pursuant to sections 364(d) and 364(c)(1) of the Bankruptcy Code, under the terms and conditions set forth in the DIP Loan Documents and this Final DIP Order, including, but not limited to, the priming of the Prepetition Secured Notes as provided herein. The Debtor is also unable to obtain financing from sources other than the DIP Lenders, or on more favorable terms than those set forth in the DIP Loan Documents.

7. Business Judgment and Good Faith. The terms and conditions of the DIP Facility, as set forth in the DIP Loan Documents, and the use of Cash Collateral, as described in the Motion, and as all were set forth at the Interim Hearing and Final Hearing, are fair and reasonable, and the entry into the DIP Facility on a final basis on the terms and conditions set forth in the DIP Loan Documents represent a sound, prudent exercise of the Debtor's business judgment consistent with its fiduciary duties, and are supported by reasonably equivalent value and fair consideration. The DIP Facility and use of the DIP Collateral and Cash Collateral, were negotiated in good faith (as that term is used in section 364(e) of the Bankruptcy Code) and at arm's length and for fair consideration among (a) the Debtor, (b) the DIP Lenders, (c) the DIP Administrative Agent, and (d) the Required Holders of the Prepetition Secured Notes. Accordingly, all of the Debtor's obligations and indebtedness arising under, in respect of, or in connection with the extension of the DIP Facility, the DIP Loan Documents, and all fees and other obligations or indebtedness owing to the DIP Lenders or DIP Administrative Agent, shall be deemed to have been extended by the DIP Administrative Agent and DIP Lenders in good faith (as that term is used in section 364(e) of the Bankruptcy Code), and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that the Interim DIP

Order, Final DIP Order, or any provision thereof or hereof is vacated, reversed or modified, on appeal or otherwise.

8. Property of the Estate. Each item of the DIP Collateral constitutes property of the estate of the Debtor.

9. Good Cause. Good and sufficient cause exists for the entry of this Final DIP Order. The borrowings under the DIP Facility and the Debtor's use of Cash Collateral and the other relief requested in the Motion, are necessary, essential, appropriate and in the best interest of the Debtor, its creditors, and its estate, as the borrowings under the DIP Facility and access to Cash Collateral will, among other things, provide the Debtor with the liquidity necessary to fund the necessary expenses of its business, preserve and maximize the value of the Debtor's estate for the benefit of all creditors through a sale of all or substantially all of its assets, and avoid immediate and irreparable harm to the Debtor and its estate, its creditors, its business, its employees, and its assets which would result if the Debtor did not have access to the DIP Facility and Cash Collateral.

10. Debtor's Acknowledgments and Agreements. Without prejudice to the rights of any other party and subject to Paragraph 42 of this Final DIP Order, the Debtor admits, stipulates, acknowledges and agrees that:

(a) Prepetition Secured Notes. Prior to the Petition Date, the Debtor and U.S. Bank National Association, as Trustee and Prepetition Collateral Agent for the benefit of the Holders of the notes thereunder (the Trustee, Prepetition Collateral Agent and such Holders are referred to collectively as the "Prepetition Secured Parties"), entered into that certain Indenture, dated as of March 21, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified prior to the Petition Date, the "Indenture"), under which the Debtor issued

0% Convertible Senior Secured Notes in the aggregate principal amount of up to \$165,000,000 (the “Prepetition Secured Notes”). The Prepetition Secured Notes, except to as to “Permitted Liens” (as defined in the Indenture), are secured by first priority, fully-perfected security interests in and liens on all of Debtor’s right, title and interest in, to and under the “Pledged Collateral” as defined in the Security Agreement, dated as of March 21, 2016 (as amended, restated, amended and restated, supplemented, or otherwise modified prior to the Petition Date, the “Prepetition Security Agreement,” and together with the Indenture and the Prepetition Secured Notes, the “Prepetition Note Documents”) by and between the Debtor, the Trustee, the Collateral Agent, as defined therein (the “Prepetition Collateral Agent”), and the guarantors party thereto from time to time, if any.

(b) Validity and Enforceability. (i) The Prepetition Note Documents are valid and enforceable by the Prepetition Secured Parties against the Debtor and as between the other parties thereto, (ii) the Debtor's obligations under the Prepetition Note Documents (the “Prepetition Secured Obligations”) constitute legal, valid, binding, and non-avoidable obligations of the Debtor and are secured by valid, binding, enforceable, duly perfected first priority liens (except as to Permitted Liens) and security interests granted by the Debtor to the Prepetition Secured Parties in the Pledged Collateral (as defined in the Security Agreement) in the amount and to the extent set forth in the Prepetition Note Documents, including the proceeds derived therefrom, and (iii) the Prepetition Secured Parties duly perfected the Liens securing the Prepetition Secured Obligations (the “Prepetition Liens”) by, among other things, filing financing statements and, where necessary, by possession of relevant instruments, certificates, cash or other property, and all such financing statements were validly executed by, or at the direction or with the consent of, authorized representatives of the Debtor.

(c) No Challenges. (i) No offsets, recoupments, challenges, objections, reductions, defenses, impairments, claims, counterclaims, or cross-claims of any kind or nature to any of the Prepetition Secured Parties, Prepetition Liens or Prepetition Secured Obligations (or to any amounts previously paid to the Prepetition Secured Parties on account thereof or with respect thereto) by any person or entity exist, including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (whether equitable, contractual, or otherwise) pursuant to the Bankruptcy Code or applicable foreign or domestic law or regulation, (ii) the Debtor and its estate have no valid claims, objections, challenges, causes of actions, or choses in action, including without limitation, claims of causes of action pursuant to sections 502(d), 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code or applicable non-bankruptcy law (collectively, "Avoidance Actions"), against the Prepetition Secured Parties or against any of their respective affiliates, agents, attorneys, advisors, professionals, officers, managers, members, directors or employees arising out of, based upon or related to the Prepetition Liens, Prepetition Secured Obligations or Prepetition Note Documents, and (iii) the Debtor irrevocably waives any right to challenge or contest the Prepetition Liens of the Prepetition Secured Parties on the Pledged Collateral or the validity or amount of the Prepetition Liens, Prepetition Secured Obligations or Prepetition Note Documents, as applicable;

(d) Cash Collateral. All of the Debtor's cash constitutes Cash Collateral or proceeds of the Pledged Collateral and, therefore, is Cash Collateral of the Prepetition Secured Parties. For purposes of this Final DIP Order, the term "Cash Collateral" shall be deemed to include, without limitation: (x) all "cash collateral" as defined in section 363(a) of the Bankruptcy Code; and (y) all deposits subject to setoff and cash arising from the collection or other conversion to cash of property of the Debtor in which the Prepetition Secured Parties assert

security interests, liens or mortgages, regardless of whether such security interests, liens, or mortgages existed as of the Petition Date or arose thereafter pursuant to the Interim DIP Order or this Final DIP Order, and whether the property converted to cash existed as of the Petition Date or arose thereafter.

Based on the foregoing, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED**, that:

11. Motion Granted. The Motion is granted in accordance with the terms and conditions of this Final DIP Order. Any objections to the Motion with respect to entry of this Final DIP Order that have not been withdrawn, waived or settled are hereby denied and overruled.

12. Final Hearing. The Final Hearing to consider entry of the Final DIP Order was held and concluded on April 11, 2018.

13. Authorization of the DIP Facility and DIP Loan Documents. The Debtor is hereby authorized, pursuant to the terms of this Final DIP Order and the DIP Loan Documents, to incur the DIP Facility in the aggregate amount of \$70,350,000, including to (a) borrow New Money Loans under the DIP Facility in an aggregate principal amount of not more than \$35,000,000 in one or more draws in accordance with the Budget prior to the Maturity Date, (b) roll up not more than \$35,000,000 of Prepetition Secured Notes on a final basis automatically upon entry of and pursuant to this Final DIP Order, and (c) incur the \$350,000 Upfront Fee, which was deemed fully earned on the Closing Date of the Interim DIP Facility and ratably added to the outstanding principal balance of the DIP Loans on such date and constitutes additional DIP Loan principal for all purposes. The Debtor's use of borrowings under the DIP Facility and Cash Collateral, subject to the Permitted Deviations (as defined below) shall be in



accordance with the purposes described herein and the Budgets approved by the Required DIP Lenders.

(a) Authorization. In furtherance of the foregoing and without further approval of this Court, the Debtor is authorized and directed to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements) that may be reasonably required or necessary for the Debtor's performance of its obligations under or in connection with the DIP Facility and DIP Loan Documents, including, without limitation, (i) the execution, delivery and performance of the DIP Loan Documents, any other documents or instruments that may be reasonably requested by the DIP Administrative Agent and DIP Lenders in connection with the DIP Facility, and any waivers, forbearances, consents or amendments to the DIP Loan Documents as the Debtor and the Required DIP Lenders may agree in writing, all in accordance with the terms of the DIP Loan Documents and this Final DIP Order, (ii) the execution, delivery and performance of all instruments, certificates, notices, or other documents required under the Indenture, or as may reasonably requested by the Trustee, to effectuate the Roll-Up Facility and the corresponding reduction in the outstanding principal amount of the Prepetition Secured Notes resulting therefrom, including, without limitation, the execution, delivery and authentication of new Prepetition Secured Notes, and (iii) payment of all reasonable fees and expenses of the DIP Administrative Agent and DIP Lenders and their respective counsel and other retained professionals as set forth in the DIP Loan Documents and Paragraph 45 hereof.

14. The DIP Loan Documents constitute valid, binding and enforceable obligations of the Debtor, enforceable against the Debtor in accordance with the terms thereof. No obligation, payment, transfer or grant of security under the DIP Loan Documents or this Final DIP Order

shall be voidable, or recoverable under the Bankruptcy Code (including without limitation, under section 502(d) of the Bankruptcy Code) or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim and shall survive dismissal of, or conversion of the case to a case under Chapter 7 of the Bankruptcy Code

15. DIP Liens. As security for the DIP Obligations, effective and perfected as of the date of entry of the Interim DIP Order with respect to the DIP Obligations incurred thereunder, and effective and perfected as of the date of entry of this Final DIP Order with respect to the DIP Obligations which are the subject of this Final DIP Order, without the necessity of the execution, recordation of filings of mortgages, deeds of trust, security agreements, control agreements, pledge agreements, financing statements or other similar documents, the DIP Liens are hereby granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders pursuant to the Interim DIP Order are hereby ratified and continued pursuant to this Final DIP Order, on all of the Debtor's right, title and interest in and to the Designation Rights and all Personal Property, now owned or which may be hereafter acquired by the Debtor, including, but not limited to, the following (as more fully set forth in the DIP Loan Documents, as amended by this Final DIP Order, collectively, the "DIP Collateral"):

- (a) the Collateral;
- (b) all funds of the Debtor on deposit from time to time;
- (c) all Personal Property (including, but not limited to, all Intellectual Property);
- (d) all Designation Rights respecting the leases of real property described on Schedule 3 of the DIP Loan Agreement; and

(e) all products, proceeds, replacements, substitutions, accessions and additions of any of the foregoing.

16. Avoidance Actions. Notwithstanding anything in the Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Collateral excludes all Avoidance Actions and all proceeds thereof. For the avoidance of doubt, notwithstanding anything else set forth herein or in the DIP Loan Documents, DIP Collateral shall not include (i) Avoidance Actions or the proceeds thereof that the Debtor may be entitled to assert by reason of avoidance or other power vested in or on behalf of the Debtor or the estate of the Debtor under Chapter 5 or Section 724(a) of the Bankruptcy Code and any and all recoveries and settlements thereof, and (ii) the Free and Clear Subsidiary Interest (as defined below), or any interests, proceeds, profits or rights related thereto (collectively, the “Free & Clear Assets”).

17. First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, constitute valid, binding, continuing, enforceable, fully-perfected first priority senior security interests in and liens upon the DIP Collateral (including all cash advanced as New Money Loans and all products and proceeds thereof) to the extent not subject to valid, perfected, non-avoidable and enforceable Liens in existence as of the Petition Date, or valid Liens in existence as of the Petition Date that are perfected subsequent to such date to the extent permitted by section 546(b) of the Bankruptcy Code, if any; provided that such DIP Liens shall be immediately junior to any Liens that are perfected subsequent to the Petition Date pursuant to section 546(b) of the Bankruptcy Code to the extent that such Liens otherwise have priority over the Liens securing the Prepetition Secured Notes; provided further that notwithstanding anything in the Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Collateral excludes the

equity interests in Orexigen Ireland that were not subject to a valid, perfected, non-avoidable and enforceable Lien of the Prepetition Secured Parties in existence as of the Petition Date, which interests are not encumbered by any DIP Liens (the "Free and Clear Subsidiary Interest").

18. Junior Lien on Encumbered Property. Pursuant to section 364(c)(3) of the Bankruptcy Code, the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, constitute valid, binding, continuing, enforceable, fully-perfected junior priority security interests in and liens upon the DIP Collateral, to the extent subject to the Permitted Exceptions;

19. Priming DIP Liens. Pursuant to section 364(d) of the Bankruptcy Code, the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, constitute valid, binding, continuing, enforceable, fully perfected, first priority, priming DIP Liens upon the DIP Collateral subject to a Lien as of the Petition Date, and which shall be senior to all Liens securing the Existing Primed DIP Secured Obligations (including Prepetition Liens) and the Adequate Protection Liens; provided, that such DIP Liens shall be immediately junior to any Liens underlying the Permitted Exceptions.

20. Liens Senior to Certain Other Liens. The DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, are senior to and not subject or subordinate to (a) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or (b) subject to applicable law, any liens arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtor other than as expressly permitted under the DIP Loan Agreement.

21. Super-priority Claim. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations constitute allowed claims against the Debtor with priority over any and all administrative expenses and all other claims against the Debtor, including, now or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses or claims arising under Sections 105, 326, 328, 330,331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (the “DIP Super-priority Claim”) and, for the avoidance of doubt, the Super-priority Claim granted as adequate protection in respect to the Prepetition Secured Notes hereunder; provided, however, that notwithstanding anything in the Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Super-priority Claim shall not attach to and shall not have recourse against the Free & Clear Assets.

22. Adequate Protection for Prepetition Lien Holders. Subject to the terms and conditions set forth in the Interim DIP Order and this Final DIP Order, as adequate protection for any Diminution in Value (as defined below), the Prepetition Collateral Agent, for the benefit of the Holders, was granted (effective upon the entry of the Interim DIP Order and without the necessity of the execution of mortgages, deeds of trust, security agreements, pledge agreements, control agreements, financing statements or otherwise), valid and fully perfected, security interests in, and liens upon all assets of the DIP Collateral, in the same relative priority and to the same extent, priority, enforceability, unavailability and validity applicable to the respective Prepetition Secured Parties’ security interests and liens in the Pledged Collateral, which Adequate Protection Liens (as defined below) are junior and subordinate only to (a) the Carve-Out, (b) the DIP Obligations, (c) the DIP Liens, (d) the Super-priority Claim of the DIP Administrative Agent, and (e) the Permitted Exceptions (the “Adequate Protection Liens”). The Court ratifies and confirms such Adequate Protection Liens pursuant to the Interim DIP Order.

23. The Prepetition Collateral Agent, for the benefit of the Holders, is hereby granted the following adequate protection pursuant to this Final DIP Order with respect to (a) (i) the priming of the Prepetition Liens securing the Prepetition Secured Notes to be effectuated by the DIP Liens and DIP Facility, (ii) the use of the Pledged Collateral (including Cash Collateral), and (iii) all of the other transactions contemplated by the DIP Facility; and (b) for any diminution in the value of the Prepetition Liens of the Prepetition Collateral Agent, for the benefit of the Holders, whether or not such diminution in value results from the sale, lease or use by the Debtor of the Pledged Collateral securing the Existing Primed DIP Secured Obligations (including Cash Collateral), or the stay of enforcement of any Prepetition Lien securing the Prepetition Secured Notes arising from sections 105 or 362 of the Bankruptcy Code, or otherwise, provided, however, that, notwithstanding anything to the contrary herein or in any other document or order, diminution in the value of the Prepetition Liens shall exclude any calculation, claim or contest based on the priming of such liens by the DIP Facility or the consequent use of such DIP funds (“Diminution of Value”):

(a) The Prepetition Secured Parties shall have and are hereby granted the Adequate Protection Liens subject to the exceptions and priorities set forth in Paragraph 22 and this Paragraph 23 hereof;

(b) The Prepetition Collateral Agent, for the benefit of the Holders, is hereby granted, subject to the Carve-Out, an allowed claim against the Debtor pursuant to section 507(d) of the Bankruptcy Code to the extent any Diminution of Value with priority over any and all administrative expenses and all other claims against the Debtor, now or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses or claims arising under Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the

Bankruptcy Code (the “Adequate Protection Claims”) junior only to the DIP Super-priority Claim, the DIP Liens and any Permitted Exceptions. The Prepetition Collateral Agent and the Holders shall not receive or retain any payments, property or other amounts in respect of such claim unless and until the DIP Obligations have been indefeasibly paid in cash in full; and

(c) As further adequate protection, the Debtor shall make current cash payments payable under the Prepetition Note Documents to the Trustee or the Prepetition Collateral Agent for all reasonable professional fees and expenses incurred by the Trustee or Prepetition Collateral Agent in connection with enforcement of the Prepetition Note Documents and the Chapter 11 Case, subject to the delivery of a Fee Notice in the manner set forth in Paragraph 45 of this Final DIP Order (collectively, the “Adequate Protection Payments”).

(d) The Rights of the Committee and the 2020 Notes Trustee (as defined below) to challenge the extent of the Diminution of Value, and the respective rights of the Prepetition Collateral Agent, the Holders, the Debtor, the DIP Administrative Agent, and the DIP Lenders to contest any such challenge, are preserved. Notwithstanding anything in this Final Order or the DIP Loan Documents to the contrary, the Adequate Protection Liens and Adequate Protection Claims shall not attach to or have recourse against the Free & Clear Assets.

24. Carve-Out. All DIP Obligations (and the repayment thereof), Prepetition Secured Notes Protection, DIP Liens other liens and security interests, and Super-priority Claims of the DIP Administrative Agent and the DIP Lenders securing the DIP Facility and DIP Obligations shall be subject to and subordinate to a carve out for payment of (a) all fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court that are (i) incurred prior to the Maturity Date, and (ii) included in the Budget for the period prior to the Maturity Date; plus (b) all fees and expenses of professionals retained by the Debtor and

the Committee, other than ordinary course professionals (collectively, “Professionals”) in the Chapter 11 Case that are (i) incurred prior to the Maturity Date and which have not been paid prior to the Maturity Date, (ii) allowed either prior to or after the Maturity Date, and (iii) included in the amounts scheduled as “Restructuring Professional Fees Incurred” in the Budget; plus (c) all fees and expenses of Professionals incurred and allowed after the occurrence of the Maturity Date, in an amount not to exceed \$3,500,000; plus (d) an amount not to exceed \$500,000 to fund the Debtor’s costs and expenses (other than Professional fees and expenses included in the preceding clause (c)) to conclude the Chapter 11 Case through a plan process, structured or other case dismissal, case conversion or otherwise; plus (e) all amounts necessary to fund the Debtor’s “Key Employee Retention Plan,” pursuant to the terms attached to the DIP Loan Agreement as Exhibit D (subject to and as approved by the Bankruptcy Court, the “KEIP/KERP Term Sheet”); plus (f) an amount necessary to fund the Operational Incentive (as defined in the KEIP/KERP Term Sheet) and Asset Sale Incentives (as defined in the KEIP/KERP Term Sheet) under the “Key Employee Incentive Plan,” equal to one percent (1%) of Asset Sale Proceeds (as defined in the KEIP/KERP Term Sheet) generated from a sale of the Debtor’s assets that generated Asset Sale Proceeds of at least \$40,000,000 and not more than \$80,000,000 Term Sheet; plus (g) all fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court after the Maturity Date.

25. Payment of Allowed Professional Fees Prior to the Maturity Date. Any payment or reimbursement made prior to the occurrence of the Maturity Date in respect of any allowed Professional fees shall not reduce the Carve-Out.

26. Payment of Carve Out on or After the Maturity Date. Any payment made on or after the occurrence of the Maturity Date in respect of any allowed fees and expenses of



Professionals shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Final DIP Order, the DIP Loan Documents, the Bankruptcy Code, and applicable law.

27. Access to Collateral. The DIP Administrative Agent, DIP Lenders, Prepetition Collateral Agent, and their respective advisors shall be given reasonable access to the collateral securing their respective liens, security interests and claims granted pursuant to the Interim DIP Order and this Final DIP Order for purposes of monitoring the business of the Debtor and valuing such collateral.

28. Reservation of Rights of Prepetition Secured Parties. Except as expressly provided herein, nothing contained in the Interim DIP Order or this Final DIP Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity, to the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties, to assert rights of setoff or other rights with respect thereto as permitted by applicable law (or the right of the Debtor to contest such assertion).

29. Perfection of DIP Liens and Adequate Protection Liens. The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit the Debtor to grant the DIP Liens to the DIP Lenders and the Adequate Protection Liens to the Prepetition Secured Parties contemplated by the DIP Loan Documents, the Interim DIP Order, and this Final DIP Order, including, but not limited to, the right to seek additional or different adequate protection.

30. The DIP Liens and Adequate Protection Liens granted pursuant to the DIP Loan Documents, the Interim DIP Order and this Final DIP Order constitute valid, enforceable and

fully perfected security interests and liens, and the DIP Administrative Agent, DIP Lenders and the Prepetition Secured Parties shall not be required to file or serve financing statements, notices of lien or similar instruments which otherwise may be required under federal, state or local law in any jurisdiction, or take any action, including taking possession, to validate and perfect such security interests and liens; and the failure by the Debtor to execute any documentation relating to the DIP Liens or Adequate Protection Liens shall in no way affect the validity, enforceability, perfection or relative priority of such security interests and liens. The DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, deeds of trust, or notices of lien or similar instruments in any jurisdiction, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder. Whether or not the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties shall, in their sole discretion, choose to file any of the foregoing or otherwise confirm perfection of the liens and security interests granted to them under the DIP Loan Documents, the Interim DIP Order and this Final DIP Order, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, nonavoidable and not subject to challenge, dispute or subordination, at the time and as of the date of entry of the Interim DIP Order. The DIP Administrative Agent, DIP Lenders, and the Prepetition Secured Parties, without any further consent of any party, are authorized to take, execute and deliver such instruments (in each case without representation or warranty of any kind) to enable the DIP Administrative Agent (for the benefit of itself and the DIP Lenders), the DIP Lenders, and Prepetition Secured Parties to further validate, perfect, preserve and enforce the DIP Liens, and the Debtor shall cooperate with any reasonable requests of such parties to facilitate any of the foregoing.

31. A certified copy of this Final DIP Order may be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this Final DIP Order for filing and recording.

32. Budget. Attached hereto as **Exhibit A** is the initial Budget (the “Initial Budget”), which has been approved by the Required DIP Lenders and attached hereto as **Exhibit B** is the subsequent Budget which has been approved by the Required DIP Lenders which is deemed to have been timely delivered by the Debtor under the DIP Loan Agreement. All references to the Budget (which includes the Initial Budget) in this Final DIP Order and the DIP Loan Agreement shall mean as the same is subject to the Permitted Deviations. Unless otherwise ordered by the Bankruptcy Court or with the prior written consent of the Committee, subject to the Maturity Date, the Budget attached hereto as **Exhibit B** includes, and each subsequent approved Budget shall include, the following amounts: (i) \$150,000 for each of April, May and June 2018, and \$50,000 per month thereafter to fund the allowed costs and expenses of all legal counsel retained by the Committee in the Chapter 11 Case (and/or to reimburse Committee members for their reasonable, direct, out of pocket expenses associated with their service to the Committee but excluding any fees or expenses of any professionals retained individually by a Committee member), with any amounts not used in a specific month carrying forward to succeeding months (provided that if the hearing to approve the 363 Sale does not occur in June 2018, the Budget shall include \$150,000 for such purpose for each month through and including the month the 363 Sale hearing actually occurs); and (ii) \$100,000 for each of April and May 2018, \$75,000 for June 2018, and \$50,000 per month thereafter to fund the allowed costs and expenses of all financial advisors retained by the Committee in the Chapter 11 Case. Commencing on the

Wednesday of the fourth (4th) week following the Petition Date, the Debtor shall deliver to the DIP Administrative Agent no less frequently than once every two (2) weeks an updated budget (each a "Proposed Budget") reflecting weekly cash flow forecasts of receipts and disbursements for such Budget period (in substantially the same format as the prior monthly cash flow forecast of receipts and disbursements), in the manner and with the accompanying information set forth in the DIP Loan Agreement. Each Proposed Budget shall be subject to review and approval by the Required DIP Lenders before being deemed an approved Budget. Three (3) Business Days after delivery of a Proposed Budget, unless the DIP Administrative Agent or Required DIP Lenders delivers a written, good faith, objection to the Debtor (a "Proposed Budget Objection") setting forth specific objections to the Proposed Budget, such Proposed Budget shall be deemed approved by the Required DIP Lenders and shall become the new Budget. If the DIP Administrative Agent or the Required DIP Lenders shall have timely delivered a Proposed Budget Objection to the Debtor, the prior approved Budget shall continue in place and the Parties shall negotiate in good faith to resolve the objections set forth in the Proposed Budget Objection. Upon resolution of the objections set forth in the Proposed Budget Objection, such Proposed Budget shall become the new Budget.

33. Compliance with the Budget shall be tested for the first week and each subsequent week on a cumulative basis beginning on March 12, 2018. During each Budget Test Period, the Debtor will not permit (a) the actual aggregate amount of Net Receipts collected to be less than, in the first Budget Test Period, beginning on Monday of the first week following the Petition Date, and for all subsequent Budget Test Periods, to be less than 85% of the aggregate budgeted amount for such Budget Test Period set forth in the Budget and each previous Budget Test Period set forth in the Budget ("Net Receipt Permitted Deviation"); provided that the DIP

Administrative Agent, at the direction of the Required DIP Lenders, may authorize the Debtor in writing to exceed the Net Receipt Permitted Deviation for any Budget Test Period; or (b) the actual aggregate amount of disbursements set forth in the Budget to be more than 115% of the aggregate budgeted amount for such Budget Test Period set forth in the Budget and each previous Budget Test Period set forth in the Budget (excluding the fees and expenses of the DIP Administrative Agent and DIP Lenders that are required to be reimbursed under certain provisions of the DIP Loan Agreement) (the “Disbursements Permitted Deviation”, and together with the Net Receipt Permitted Deviation, “Permitted Deviations”); provided that the DIP Administrative Agent, at the direction of the Required DIP Lenders, may authorize the Debtor in writing to exceed the Disbursements Permitted Deviation for any Budget Test Period. The Debtor shall deliver a weekly Reconciliation Report to the DIP Administrative Agent in accordance with the DIP Loan Agreement. In addition, the Debtor shall notify the DIP Administrative Agent as soon as reasonably practicable if the Debtor anticipates that it will violate the Permitted Deviation in any respect for any Budget Test Period. All other provisions related to the Budget as set forth in the DIP Loan Agreement shall be adhered to by the Debtor.

34. Budget Covenants.

(a) Except as provided in the DIP Loan Agreement or this Final DIP Order, or as approved by the DIP Administrative Agent at the direction of the Required DIP Lenders, the Debtor shall not, directly or indirectly, (i) use any proceeds of the DIP Loans in a manner or for a purpose other than those consistent with the DIP Loan Agreement and this Final DIP Order; or (ii) permit a disbursement causing any deviation from the Budget other than Permitted Deviations.

(b) Prior to the occurrence of a DIP Event of Default, the Debtor shall be permitted to pay fees and expenses of Professionals solely to the extent that such fees and expenses are in accordance with the Budget and authorized to be paid under sections 330 and 331 of the Bankruptcy Code (other than any Professionals whose fees are not subject to such provisions) pursuant to an order of the Court, as the same may be due and payable. Upon the occurrence of a DIP Event of Default, the right of the Debtor to pay professional fees and expenses shall terminate, other than as provided with respect to the Carve-Out.

35. Termination. Subject to the terms and conditions set forth in this Final DIP Order, the Debtor is authorized to use the proceeds of the DIP Facility and the Cash Collateral in the amounts set forth in the Initial Budget and each subsequent approved Budget, subject to Permitted Deviations, through the Maturity Date.

36. Remedies; Termination of DIP Facility and Use of Cash Collateral. Following five (5) Business Days' notice of a DIP Event of Default to the Debtor, the Committee, and the Office of the U.S. Trustee, unless such DIP Event of Default is cured within such time or an order of the Bankruptcy Court is entered to the contrary, the DIP Administrative Agent and the DIP Lenders shall have relief from the automatic stay to exercise remedies under the DIP Loan Documents, the Chapter 11 Orders, and applicable law. In addition, following five (5) Business Days' notice of a DIP Event of Default to the Debtor, the Committee, and the Office of the U.S. Trustee and continuing during the pendency of such DIP Event of Default, unless such DIP Event of Default is cured within such time or an order of the Bankruptcy Court is entered to the contrary, without limitation of any of the remedies set forth in the DIP Loan Agreement and the other DIP Loan Documents, the Debtor shall have no right to use or seek to use any Cash Collateral in which the DIP Administrative Agent, DIP Lenders, or Prepetition Secured Parties

has an interest, other than in connection with funding and/or reserving amounts to fund the Carve-Out, or to request further DIP Loans. Subject to the terms and conditions set forth in this Final DIP Order, the Debtor is authorized to use the proceeds of the DIP Facility and the Cash Collateral of the Prepetition Secured Parties solely for the purposes set forth in the DIP Loan Documents, in accordance with the Initial Budget, and in accordance with any subsequent approved Budget, including, without limitation, to fund and/or reserve amounts to fund the Carve-Out.

37. Asset Dispositions. Promptly upon, but in no event more than two (2) Business Days after, receipt by the Debtor of net cash proceeds from any asset disposition of DIP Collateral, the Debtor shall prepay the DIP Obligations in an amount equal to 100% of the net cash proceeds so received, provided that the Debtor shall not sell assets outside the ordinary course of business unless such sale is approved by the Required DIP Lenders in their sole discretion and by the Bankruptcy Court. Promptly upon, but in no event more than two (2) Business Days after, receipt by Orexigen Therapeutics Ireland Limited (“Orexigen Ireland”) of net cash proceeds from any disposition of assets of Orexigen Ireland, then (a) Orexigen Ireland shall, or the Debtor shall cause Orexigen Ireland to, apply 100% of the net cash proceeds so received to repay intercompany debt owing from Orexigen Ireland to the Debtor (“Loan Repayment Funds”), and (b) promptly upon receipt by the Debtor of the Loan Repayment Funds, but in no event more than two (2) business days thereafter, the Debtor shall prepay the DIP Obligations in an amount equal to 100% of the Loan Repayment Funds; provided that the Orexigen Ireland shall not sell assets outside the ordinary course of business unless such sale is approved by the Required DIP Lenders in their sole discretion. The Orexigen Ireland Letter (as defined in the Interim DIP Order) shall remain in full force and effect until the DIP Obligations

are satisfied in full, subject to the rights of the Committee and Wilmington Trust, National Association, in its capacity as Indenture Trustee (the “2020 Notes Trustee”), under the Indenture dated as of December 6, 2013, pursuant to which the Debtor issued its 2.75% convertible senior notes due 2020, to challenge the application and treatment of the Loan Repayment Funds, and the respective rights of the Debtor, DIP Administrative Agent and DIP Lenders to contest any such challenge, which are preserved. The Debtor is prohibited from incurring any additional post-petition financing unless such full outstanding balance of the DIP Obligations are immediately repaid from the proceeds or such financing.

38. Marshaling. In no event shall the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral or any part thereof.

39. Section 552(b). The DIP Lenders and Prepetition Secured Parties are entitled to all of the rights and benefits of section 552(b)(1) of the Bankruptcy Code and the “equities of the case” exception therein shall not apply.

40. Proofs of Claim. The DIP Administrative Agent, the DIP Lenders, and the Prepetition Secured Parties, may, but shall not be required to file proofs of claim in the Chapter 11 Case or any successor case and any order entered by the Court in relation to the establishment of procedures to file proofs or a bar date in the Chapter 11 Case or any successor case shall, or shall be deemed to, so provide.

41. Preservation of Rights Granted Under this Final DIP Order.

(a) Except as otherwise set forth herein, no claim or Lien having a priority senior to or *pari passu* with those granted by the Interim DIP Order or this Final DIP Order to the DIP Administrative Agent and DIP Lenders or to the Prepetition Secured Parties,



respectively, shall be granted or allowed while any portion of the DIP Facility (or any refinancing thereof), the New Money Loan Commitments, the DIP Obligations, or the Prepetition Secured Notes Protections remain outstanding, and the DIP Liens and the Adequate Protection Liens shall not be (a) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor's estate under section 551 of the Bankruptcy Code or (b) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise.

(b) To the extent permitted by applicable law, if an order dismissing the Chapter 11 Case under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code), to the fullest extent permitted by law, that (a) the DIP Liens, Adequate Protection Liens, and Super-priority Claims pursuant to the Interim DIP Order and this Final DIP Order shall continue in full force and effect and shall maintain their relative priorities as provided in this Final DIP Order until all DIP Obligations and Prepetition Secured Notes Protections shall have been paid and satisfied in full and that such DIP Liens, Adequate Protection Liens and Super-priority Claims, shall, notwithstanding such dismissal, remain binding on all parties in interest and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to and provided for in the DIP Loan Documents, the Interim DIP Order and/or the Final DIP Order.

(c) If any or all of the provisions of the Interim DIP Order or this Final DIP Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacation shall not affect (a) the validity of any DIP Obligations or the Debtor's obligation to provide the Prepetition Secured Notes Protection incurred prior to the effective date of such

reversal, stay, modification or vacation or (b) the validity or enforceability of any lien or priority authorized or created by the Interim DIP Order, this Final DIP Order or pursuant to the DIP Loan Documents, with respect to any DIP Obligations or with respect to the Prepetition Secured Notes Protection. Notwithstanding any such reversal, stay, modification or vacation, any use of Cash Collateral, or DIP Obligations or Prepetition Secured Notes Protection incurred by the Debtor prior to the effective date of such reversal, stay, modification or vacation shall be governed in all respects by the original provisions of the Interim DIP Order or the Final DIP Order, as the case may be, and the DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code, the Interim DIP Order, this Final DIP Order and pursuant to the DIP Loan Documents with respect to all uses of Cash Collateral, DIP Obligations and Prepetition Secured Notes Protection.

(d) Except as expressly provided in this Final DIP Order or in the DIP Loan Documents, the DIP Liens, Adequate Protection Liens, Super-priority Claims and all other rights and remedies of the DIP Administrative Agent, the DIP Lenders and the Prepetition Secured Parties granted by the provisions of the Interim DIP Order, the Final DIP Order and the DIP Loan Documents, as applicable, shall survive, and shall not be modified, impaired or discharged by (a) the entry of an order converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, dismissing the Chapter 11 Case, or (b) the entry of an order confirming a plan of reorganization in the Chapter 11 Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtor waives any discharge as to any remaining DIP Obligations. The terms and provisions of the Interim DIP Order, this Final DIP Order and the DIP Loan Documents shall continue in this Chapter 11 Case or in any superseding chapter 7 case under the Bankruptcy

Code, and the DIP Liens, Adequate Protection Liens and Super-priority Claims and all other rights and remedies of the DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties granted pursuant to the Interim DIP Order, the Final DIP Order or DIP Loan Documents, as applicable, shall continue in full force and effect.

42. **Effect of Stipulations on Third Parties.** The agreements, stipulations and findings contained in this Final DIP Order shall be binding upon all parties in interest in this Chapter 11 Case, including, but not limited to, the Debtor and the Committee, if appointed, except to the extent that (a) a party in interest with standing, has timely commenced an adversary proceeding or contested matter asserting any claims or causes of action against the Prepetition Secured Parties, objecting to the Prepetition Secured Parties' claims or liens, or challenging any of the admissions set forth in Paragraph 10 of this Final DIP Order (a "Challenge") no later than May 28, 2018 (the "Challenge Deadline"), with respect to parties in interest including the Committee, and (b) the Court has ruled in favor of the party who timely commenced such Challenge whether prior to or after the Challenge Deadline. If no such Challenge is timely commenced prior to the Challenge Deadline, (a) all of the admissions in Paragraph 10 of this Final DIP Order shall be binding and preclusive on the Debtor and its estate and its respective creditors, the Committee (if any), equity holders, and all other parties in interest in this Chapter 11 Case, (b) the claims of the Prepetition Secured Parties shall constitute allowed claims for all purposes in this Chapter 11 Case and any subsequent chapter 7 case, (c) the Prepetition Liens shall be deemed legal, valid, binding, perfected and otherwise unavoidable, (d) the Prepetition Liens and Prepetition Secured Obligations shall not be subject to subordination, counterclaims, set-off, defense, avoidance or any other or further challenge by any party in interest seeking to

exercise the rights of the Debtor's estate, including, without limitation, any successor thereto, and (e) as a result of the foregoing, the repayment of any Prepetition Secured Obligations (including, but not limited to, by means of the Roll-Up Loans) in accordance with the terms of this Final DIP Order and the Prepetition Note Documents shall constitute an indefeasible payment and shall be final and binding for all purposes. If any such Challenge is timely commenced within the Challenge Deadline, the agreements, stipulations and findings contained in Paragraph 10 of this Final DIP Order shall nonetheless remain binding and preclusive on the Debtor and its estate and its creditors, the Committee (if any), equity holders, and all other parties in interest in this Chapter 11 Case, except to the extent that such findings or admissions were expressly and successfully disputed in such Challenge. Nothing in this Final DIP Order confers on any Person, including, but not limited to the Committee, standing or authority to pursue any cause of action belonging to the Debtor or its estate, including without limitation, claims and defenses with respect to the Prepetition Secured Obligations; provided that the Debtor and DIP Lenders agree that the Committee shall have the right to file a motion seeking standing or authority to pursue any cause of action belonging to the Debtor or its estate (a "Standing Motion") on seven (7) days' notice to each of them. The filing of a Challenge or Standing Motion prior to the Challenge Deadline shall be deemed sufficient to commence a Challenge. In addition to the amounts referenced in Paragraph 32 of this Final DIP Order which are to be included in the Budget in respect of counsel and the financial advisor to the Committee, the Budget shall include an amount not to exceed \$125,000 for the Committee to investigate potential Challenges commenced prior to the Challenge Deadline, but not to commence a Challenge in respect of, the Prepetition Secured Parties' claims or liens, and the admissions set forth

**in Paragraph 10 of this Final DIP Order. In the event that a final order is entered by the Bankruptcy Court or another court of competent jurisdiction sustaining a successful Challenge, the Bankruptcy Court may enter an order requiring any amounts paid to the Prepetition Secured Parties prior to such successful Challenge with respect to their allowed secured claims arising under or in connection with the Prepetition Secured Notes or Prepetition Secured Note Documents to be repaid to the Debtor's estate in full and without setoff, but such an order shall exclude any payments to the DIP Lenders with respect to the Roll-up Loans.**

43. Limitations on Use of DIP Facility Proceeds and Cash Collateral.

Notwithstanding anything in the Interim DIP Order, the Final DIP Order or in any other order by this Court to the contrary, no portion of the Cash Collateral or other cash, if any, the DIP Facility, the DIP Collateral or the Carve-Out may be used: (a) for any purpose that is prohibited under the Bankruptcy Code or the Chapter 11 Order; (b) to finance in any way: (i) any adversary action, contested matter, suit, arbitration, proceeding, application, motion, objection or other Litigation of any type adverse to the interests of any or all of the DIP Administrative Agent, the DIP Lenders, the Trustee, or the Holders or their respective rights and remedies under the DIP Loan Documents, the Interim DIP Order, this Final DIP Order or the Prepetition Note Documents, or (ii) any other action which with the giving of notice or passing of time would result in a DIP Event of Default under the DIP Loan Documents; (c) for the payment of fees, expenses, interest or principal under the Prepetition Note Documents (other than the inclusion of the Roll-Up Loans in the DIP Loan Facility and the permitted adequate protection payments as set forth in Section 8.7 of the DIP Loan Agreement); (d) to make any distribution under a plan of reorganization in the Chapter 11 Case; (e) to make any payment in settlement of any claim,

action or proceeding, before any court, arbitrator or other governmental body without the prior written consent of the Required DIP Lenders; and/or (f) for any purpose or in any manner not approved in the Budget or by the Required DIP Lenders.

44. Rights to Credit Bid. The DIP Administrative Agent, at the direction of the Required DIP Lenders, and the DIP Lenders shall have the right to (a) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the DIP Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including under section 363 of the Bankruptcy Code or any similar laws in any other jurisdictions to which the Debtor is subject, or (b) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the DIP Collateral at any other sale or foreclosure conducted by the DIP Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Law, and shall have standing with respect to all aspects of any such sales or hearings related thereto. Subject to payment in full in cash of the DIP Obligations the Prepetition Collateral Agent (upon the direction of the Required Holders) may credit bid all or any portion of the Pledged Collateral that is subject to a senior lien in favor of the Prepetition Collateral Agent (for the benefit of the Holders) offered for sale in accordance with the procedures set forth herein and in the DIP Loan Agreement; provided, however, that the rights of the Committee and the 2020 Notes Trustee to challenge the rights of the Prepetition Collateral Agent (upon the direction of the Required Holders) to credit bid, and the respective rights of the Debtor, DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties to contest any such challenge, are preserved.

45. Reimbursement of Fees and Expenses. The Debtor shall reimburse the DIP Administrative Agent and DIP Lenders for all of their reasonable costs, fees, charges and

expenses incurred in connection with the DIP Facility, the Interim DIP Order, this Final DIP Order, DIP Loan Documents and the Chapter 11 Case (including, without limitation, the reasonable fees and expenses of their attorneys (including counsel for certain Prepetition Secured Parties, Quinn Emanuel Urquhart & Sullivan, LLP and Whiteford Taylor Preston LLC, and counsel for the 1992 Funds, Brown Rudnick LLP) and financial advisors), as set forth in the DIP Loan Agreement. A copy of any invoice submitted by the DIP Administrative Agent or DIP Lenders to the Debtor shall be delivered simultaneously to the U.S. Trustee and counsel to the Committee (the "Fee Notice"). Such invoices may be redacted to preserve any applicable privilege or work product doctrine and shall not be required to contain specific time entries. None of such costs, fees, charges and expenses shall be subject to Court approval or required to be recorded or maintained in accordance with the United States Trustee guidelines relating to compensation and reimbursement of expenses and no recipient of any such payment shall be required to file any interim or final fee application with the Court. Subject to the Debtor, the Committee, or the U.S. Trustee filing a written objection with this Court to any such fees and expenses within fourteen (14) days after receipt of the Fee Notice, the Debtor shall pay promptly such invoice in accordance with this Final DIP Order and DIP Loan Agreement. To the extent a timely filed objection is filed by the Debtor, the Committee, or the U.S. Trustee, the Debtor (a) shall pay such portion of the fees and expenses to which no objection is interposed and (b) shall pay any remaining fees and expenses as ordered by the Bankruptcy Court (or upon withdrawal or resolution of the objection).

46. Amendments to DIP Loan Agreement; Approval of Budget. Upon entry of this Final DIP Order, the DIP Loan Agreement shall be deemed amended as follows: (i) Section 5.3(c) of the DIP Loan Agreement shall be deemed deleted in its entirety and replaced with the

following: “The Bidding Procedures Order shall provide that bids shall be due not later than June 4, 2018 (the “**Bid Deadline**”); provided that the rights of the Committee and the 2020 Notes Trustee to seek an order of the Bankruptcy Court extending such date, and the respective rights of the Debtor, DIP Administrative Agent and DIP Lenders to contest any such request made by the Committee, the 2020 Notes Trustee or any other party-in-interest, are hereby preserved”; (ii) Section 5.3(e) shall be deemed deleted in its entirety and replaced with the following: “Not later than June 18, 2018, the Bankruptcy Court (subject to its availability) shall have entered an order approving the 363 Sale; provided that the rights of the Committee and the 2020 Notes Trustee to seek an order of the Bankruptcy Court extending such date, and the respective rights of the Debtor, DIP Administrative Agent and DIP Lenders to contest any such request made by the Committee, the 2020 Notes Trustee or any other party-in-interest, are hereby preserved”; (iii) Section 5.4(ii) of the DIP Loan Agreement shall be deemed amended to remove the following: “and any other event or condition which is reasonably likely to have a Material Adverse Effect on the Borrower”; (iv) Section 7.3(f) of the DIP Loan Agreement shall be deemed amended to remove such clause in its entirety; and (v) Section 11.2 of the DIP Loan Agreement shall be deemed amended as follows: all references to the DIP Administrative Agent and DIP Lenders in such Section shall refer to each of them solely in the respective capacities as such (collectively, the “Amendments”). By entry of this Final DIP Order, the Required DIP Lenders have consented to the Amendments as if set forth in a writing signed by them. Upon entry of this Final DIP Order, the Budget attached as **Exhibit B** shall be deemed the Approved Budget under the DIP Loan Agreement.

47. Final DIP Order Governs. In the event of any inconsistency between the provisions of this Final DIP Order, the Motion, the DIP Loan Documents, Prepetition Note



Documents, and/or the Interim DIP Order, the provisions of this Final DIP Order shall govern and control.

48. Enforceability. This Final DIP Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any other Bankruptcy Rule, or Rule 62(a) of the Federal Rules of Civil Procedure, this Final DIP Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this Final DIP Order.

49. Binding Effect; Successors and Assigns. The DIP Loan Documents and the provisions of this Final DIP Order, including all agreements, stipulations and findings herein (subject to Paragraph 42 of this Final DIP Order) shall be binding upon all parties in interest in the Chapter 11 Case, including, without limitation, the DIP Administrative Agent, DIP Lenders, the Prepetition Secured Parties, the Committee and the Debtor and its successors and assigns (including any estate representative or any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of the Debtor) and shall inure to the benefit of the DIP Administrative Agent, the DIP Lenders, the Prepetition Secured Parties and the Debtor and its successors and assigns; provided, however, that the DIP Lenders and the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or extend any financing, as the case may be, to any trustee or similar responsible person appointed for the estate of any Debtor

50. Limitation on Charging Expenses Against Collateral. No expenses of administration of the Chapter 11 Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be

charged against or recovered from the DIP Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law.

51. Exculpation. Nothing in the Interim DIP Order, this Final DIP Order, the DIP Loan Documents, or any other documents related to the transactions contemplated hereby or thereby shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties any liability for any claims arising from the DIP Facility.

52. No Third-Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third-party, any creditor or any direct, indirect or incidental beneficiary.

53. Waiver. No person or entity shall be entitled, directly or indirectly, to, except as expressly provided by Paragraph 24 of this Final DIP Order with respect to the Carve-Out, charge or recover from the Collateral, whether by operation of section 506(c) of Bankruptcy Code, sections 105 or 552(b) of Bankruptcy Code, or otherwise, or direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of Collateral or property after a DIP Event of Default under the DIP Loan Documents, or termination or breach under the DIP Loan Documents.

54. In determining to make any loan under the DIP Loan Agreement or in exercising any rights or remedies as and when permitted pursuant to this Final DIP Order or the DIP Loan Documents, the DIP Administrative Agent and the DIP Lenders shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response,

Compensation and Liability Act, 29 U.S.C. § 9601 *et seq.*, as amended, or any similar federal or state statute).

55. Reporting to Committee. The Debtor shall provide the Committee (which may be done by email to Committee counsel) with copies of all reports, financial information and notices that the Debtor is expressly required to deliver to the DIP Administrative Agent under the DIP Loan Documents or this Final DIP Order, which delivery to the Committee shall be contemporaneous with the delivery thereof to the DIP Administrative Agent.

56. Retention of Jurisdiction. The Bankruptcy Court shall retain jurisdiction to enforce the provisions of the DIP Loan Documents, the Interim DIP Order and this Final DIP Order and the rights of the parties set forth therein and herein, and this retention of jurisdiction shall survive the confirmation and consummation of any Chapter 11 plan for the Debtor notwithstanding the terms or provisions of any such Chapter 11 plan or order confirming such Chapter 11 plan or any order dismissing or closing the Chapter 11 Case.

Dated: April \_\_, 2018  
Wilmington, Delaware

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THE HONORABLE KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT A**

**Budget**

**[ATTACHED]**

Orexigen Therapeutics, Inc.  
DIP Cash Flow Forecast (USD)

\$ in 000s

Week Ended	Post	Post	Post	Post	Post	3/16 - 4/13 Total
	Forecast 3/16/2018	Forecast 3/23/2018	Forecast 3/30/2018	Forecast 4/6/2018	Forecast 4/13/2018	
Forecast Week	1	2	3	4	5	
<b>Operating Cash Flow</b>						
<b>Receipts</b>						
Operating Receipts	\$ 741	\$ 1,159	\$ 1,724	\$ 3,075	\$ 2,297	\$ 8,997
Miscellaneous Receipts	-	-	-	-	-	-
<b>Total Receipts</b>	<b>\$ 741</b>	<b>\$ 1,159</b>	<b>\$ 1,724</b>	<b>\$ 3,075</b>	<b>\$ 2,297</b>	<b>\$ 8,997</b>
<b>Disbursements</b>						
Payroll & Benefits / Contractors	\$ (1,626)	\$ (301)	\$ (983)	\$ (214)	\$ (1,782)	\$ (4,905)
Inventory	(1,461)	-	-	-	-	(1,461)
Manufacturing and Logistics	(362)	(181)	(131)	(37)	(137)	(847)
Gross to Net Disbursements	(2,982)	(1,572)	(2,038)	(1,727)	(1,727)	(10,047)
Marketing / Commercial Operations	(7,661)	(74)	(5,941)	(75)	(75)	(13,826)
Ordinary Course Professionals	(300)	(191)	(191)	(133)	(133)	(948)
Rent / Facilities / Equipment	(25)	(5)	(5)	(134)	(4)	(173)
Insurance	-	-	-	(76)	-	(76)
IT / Utilities	(71)	(30)	(30)	(24)	(24)	(179)
Regulatory and Compliance	(236)	(3)	(3)	(175)	(5)	(423)
Other G&A	(192)	(33)	(33)	(450)	(25)	(733)
<b>Total Operating Disbursements</b>	<b>\$ (14,915)</b>	<b>\$ (2,391)</b>	<b>\$ (9,354)</b>	<b>\$ (3,045)</b>	<b>\$ (3,912)</b>	<b>\$ (33,617)</b>
<b>Operating Cash Flow</b>	<b>\$ (14,174)</b>	<b>\$ (1,231)</b>	<b>\$ (7,631)</b>	<b>\$ 31</b>	<b>\$ (1,615)</b>	<b>\$ (24,621)</b>
<b>Restructuring Costs</b>						
DIP Loan Interest and Fees	\$ (50)	\$ -	\$ -	\$ -	\$ (40)	\$ (90)
Restructuring Professional Fees	-	-	-	(998)	-	(998)
<b>Total Restructuring Costs</b>	<b>\$ (50)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (998)</b>	<b>\$ (40)</b>	<b>\$ (1,088)</b>
<b>Net Cash Flow</b>	<b>\$ (14,224)</b>	<b>\$ (1,231)</b>	<b>\$ (7,631)</b>	<b>\$ (967)</b>	<b>\$ (1,655)</b>	<b>\$ (25,708)</b>
Beginning Cash Balance	\$ 21,160	\$ 6,936	\$ 5,705	\$ 3,000	\$ 3,000	\$ 21,160
Net Cash Flow	(14,224)	(1,231)	(7,631)	(967)	(1,655)	(25,708)
DIP Draw	-	-	4,926	967	1,655	7,548
<b>Ending Cash Balance (maintain \$3.0m min)</b>	<b>\$ 6,936</b>	<b>\$ 5,705</b>	<b>\$ 3,000</b>	<b>\$ 3,000</b>	<b>\$ 3,000</b>	<b>\$ 3,000</b>
<b>DIP Loan Balance</b>						
Opening DIP Balance	\$ -	\$ 350	\$ 350	\$ 5,276	\$ 6,243	\$ -
DIP Draw	350	-	4,926	967	1,655	7,898
<b>Ending DIP Loan Balance</b>	<b>\$ 350</b>	<b>\$ 350</b>	<b>\$ 5,276</b>	<b>\$ 6,243</b>	<b>\$ 7,898</b>	<b>\$ 7,898</b>
<b>DIP Loan Availability</b>	<b>\$ 35,000</b>	<b>\$ 35,000</b>	<b>\$ 30,074</b>	<b>\$ 29,107</b>	<b>\$ 27,452</b>	<b>\$ 27,452</b>

**EXHIBIT B**

**Subsequent Approved Budget**

**[ATTACHED]**

**Orexigen Therapeutics, Inc.**  
**DIP Cash Flow Forecast (USD)**

\$ in 000s

<u>Week Ended</u>	<u>Post Forecast 4/6/2018</u>	<u>Post Forecast 4/13/2018</u>	<u>Post Forecast 4/20/2018</u>	<u>Post Forecast 4/27/2018</u>	<u>Post Forecast 5/4/2018</u>	<u>Post Forecast 5/11/2018</u>	<u>Post Forecast 5/18/2018</u>	<u>Post Forecast 5/25/2018</u>	<u>Post Forecast 6/1/2018</u>	<u>Post Forecast 6/8/2018</u>	<u>Post Forecast 6/15/2018</u>	<u>Post Forecast 6/22/2018</u>	<u>Post Forecast 6/29/2018</u>	<u>4/6 - 6/29 Total</u>
<u>Forecast Week</u>	4	5	6	7	8	9	10	11	12	13	14	15	16	
<b>Operating Cash Flow</b>														
<b>Receipts</b>														
Operating Receipts	\$ 1,585	\$ 882	\$ 952	\$ 3,392	\$ 2,939	\$ 3,996	\$ 3,281	\$ 4,860	\$ 4,516	\$ 4,123	\$ 3,670	\$ 3,707	\$ 4,543	\$ 42,445
Miscellaneous Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total Receipts</b>	<b>\$ 1,585</b>	<b>\$ 882</b>	<b>\$ 952</b>	<b>\$ 3,392</b>	<b>\$ 2,939</b>	<b>\$ 3,996</b>	<b>\$ 3,281</b>	<b>\$ 4,860</b>	<b>\$ 4,516</b>	<b>\$ 4,123</b>	<b>\$ 3,670</b>	<b>\$ 3,707</b>	<b>\$ 4,543</b>	<b>\$ 42,445</b>
<b>Disbursements</b>														
Payroll & Benefits / Contractors	\$ (214)	\$ (995)	\$ (874)	\$ (1,745)	\$ (964)	\$ (1,234)	\$ (981)	\$ (50)	\$ (1,093)	\$ (222)	\$ (1,791)	\$ (49)	\$ (980)	\$ (11,192)
Inventory	-	(426)	(2,216)	-	-	-	(548)	-	-	-	(1,333)	-	-	(4,522)
Manufacturing and Logistics	(37)	(359)	(359)	(309)	(37)	(72)	(72)	(72)	(72)	(69)	(69)	(69)	(69)	(1,666)
Gross to Net Disbursements	(2)	(7,792)	(1,966)	(2,374)	(3,635)	(1,879)	(1,879)	(2,348)	(1,880)	(2,085)	(1,879)	(2,024)	(2,384)	(32,126)
Marketing / Commercial Operations	(75)	(1,474)	(3,951)	(3,789)	(75)	(121)	(1,015)	(1,000)	(121)	(93)	(93)	(93)	(93)	(11,992)
Ordinary Course Professionals	-	(296)	(246)	(246)	(246)	(273)	(110)	(110)	(110)	(107)	(107)	(107)	(107)	(2,065)
Rent / Facilities / Equipment	(134)	(16)	(16)	(16)	(134)	(5)	(5)	(5)	(135)	(5)	(5)	(5)	(5)	(485)
Insurance	(76)	-	-	-	(76)	-	-	-	(76)	-	-	-	-	(228)
IT / Utilities	(24)	(61)	(61)	(61)	(24)	(32)	(32)	(32)	(32)	(41)	(41)	(41)	(41)	(525)
Regulatory and Compliance	(175)	(86)	(86)	(86)	(261)	(3)	(3)	(3)	(129)	(2)	(2)	(2)	(2)	(840)
Other G&A	(450)	(99)	(99)	(99)	(241)	(35)	(35)	(35)	(317)	(50)	(50)	(50)	(50)	(1,609)
<b>Total Operating Disbursements</b>	<b>\$ (1,186)</b>	<b>\$ (11,604)</b>	<b>\$ (9,873)</b>	<b>\$ (8,725)</b>	<b>\$ (5,692)</b>	<b>\$ (3,655)</b>	<b>\$ (4,680)</b>	<b>\$ (3,655)</b>	<b>\$ (3,966)</b>	<b>\$ (2,674)</b>	<b>\$ (5,369)</b>	<b>\$ (2,440)</b>	<b>\$ (3,731)</b>	<b>\$ (67,250)</b>
<b>Operating Cash Flow</b>	<b>\$ 399</b>	<b>\$ (10,722)</b>	<b>\$ (8,921)</b>	<b>\$ (5,333)</b>	<b>\$ (2,753)</b>	<b>\$ 341</b>	<b>\$ (1,399)</b>	<b>\$ 1,204</b>	<b>\$ 550</b>	<b>\$ 1,450</b>	<b>\$ (1,699)</b>	<b>\$ 1,267</b>	<b>\$ 812</b>	<b>\$ (24,805)</b>
<b>Restructuring Costs</b>														
DIP Loan Interest and Fees	\$ -	\$ (3)	\$ -	\$ -	\$ -	\$ -	\$ (350)	\$ -	\$ -	\$ -	\$ (600)	\$ -	\$ -	\$ (952)
Restructuring Professional Fees	(38)	(548)	-	(154)	(40)	(110)	-	(730)	-	(160)	-	(1,174)	-	(2,953)
<b>Total Restructuring Costs</b>	<b>\$ (38)</b>	<b>\$ (550)</b>	<b>\$ -</b>	<b>\$ (154)</b>	<b>\$ (40)</b>	<b>\$ (110)</b>	<b>\$ (350)</b>	<b>\$ (730)</b>	<b>\$ -</b>	<b>\$ (160)</b>	<b>\$ (600)</b>	<b>\$ (1,174)</b>	<b>\$ -</b>	<b>\$ (3,906)</b>
<b>Total Disbursements</b>	<b>\$ (1,224)</b>	<b>\$ (12,154)</b>	<b>\$ (9,873)</b>	<b>\$ (8,879)</b>	<b>\$ (5,732)</b>	<b>\$ (3,765)</b>	<b>\$ (5,030)</b>	<b>\$ (4,385)</b>	<b>\$ (3,966)</b>	<b>\$ (2,834)</b>	<b>\$ (5,969)</b>	<b>\$ (3,614)</b>	<b>\$ (3,731)</b>	<b>\$ (71,155)</b>
Lender Professional Fees	\$ (300)	\$ -	\$ -	\$ -	\$ (400)	\$ -	\$ -	\$ -	\$ (325)	\$ -	\$ -	\$ -	\$ -	\$ (1,025)
<b>Net Cash Flow</b>	<b>\$ 61</b>	<b>\$ (11,272)</b>	<b>\$ (8,921)</b>	<b>\$ (5,487)</b>	<b>\$ (3,193)</b>	<b>\$ 231</b>	<b>\$ (1,748)</b>	<b>\$ 474</b>	<b>\$ 225</b>	<b>\$ 1,290</b>	<b>\$ (2,299)</b>	<b>\$ 93</b>	<b>\$ 812</b>	<b>\$ (29,735)</b>
Beginning Cash Balance	\$ 14,627	\$ 14,688	\$ 3,416	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,231	\$ 3,000	\$ 3,474	\$ 3,699	\$ 4,989	\$ 3,000	\$ 3,093	\$ 14,627
Net Cash Flow	61	(11,272)	(8,921)	(5,487)	(3,193)	231	(1,748)	474	225	1,290	(2,299)	93	812	(29,735)
DIP Draw - Cash	-	-	8,505	5,487	3,193	-	1,518	-	-	-	310	-	-	19,013
<b>Ending Cash Balance (maintain \$3.0m min)</b>	<b>\$ 14,688</b>	<b>\$ 3,416</b>	<b>\$ 3,000</b>	<b>\$ 3,000</b>	<b>\$ 3,000</b>	<b>\$ 3,231</b>	<b>\$ 3,000</b>	<b>\$ 3,474</b>	<b>\$ 3,699</b>	<b>\$ 4,989</b>	<b>\$ 3,000</b>	<b>\$ 3,093</b>	<b>\$ 3,905</b>	<b>\$ 3,905</b>
<b>DIP Loan Balance</b>														
Opening DIP Balance	\$ 350	\$ 350	\$ 350	\$ 8,855	\$ 14,342	\$ 17,535	\$ 17,535	\$ 19,053	\$ 19,053	\$ 19,053	\$ 19,053	\$ 19,363	\$ 19,363	\$ 350
DIP Draw	-	-	8,505	5,487	3,193	-	1,518	-	-	-	310	-	-	19,013
<b>Ending DIP Loan Balance</b>	<b>\$ 350</b>	<b>\$ 350</b>	<b>\$ 8,855</b>	<b>\$ 14,342</b>	<b>\$ 17,535</b>	<b>\$ 17,535</b>	<b>\$ 19,053</b>	<b>\$ 19,053</b>	<b>\$ 19,053</b>	<b>\$ 19,053</b>	<b>\$ 19,363</b>	<b>\$ 19,363</b>	<b>\$ 19,363</b>	<b>\$ 19,363</b>
<b>DIP Loan Availability</b>	<b>\$ 7,500</b>	<b>\$ 35,000</b>	<b>\$ 26,495</b>	<b>\$ 21,008</b>	<b>\$ 17,815</b>	<b>\$ 17,815</b>	<b>\$ 16,297</b>	<b>\$ 16,297</b>	<b>\$ 16,297</b>	<b>\$ 16,297</b>	<b>\$ 15,987</b>	<b>\$ 15,987</b>	<b>\$ 15,987</b>	<b>\$ 15,987</b>

**EXHIBIT B**

Redline of Proposed Order to  
Interim Order Filed on March 12, 2018



IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

Orexigen Therapeutics, Inc.,

Debtor.<sup>1</sup>

Chapter 11

Case No. 18-10518 (KG)

Re: D.I. 4 [and D.I. 48](#)

**INTERIM FINAL ORDER (I) APPROVING DEBTOR-IN-POSSESSION FINANCING PURSUANT TO 11 U.S.C. §§ 105(a), 362, AND 364 AND FED. R. BANKR. P. 2002, 4001 AND 9014 AND LOCAL BANKRUPTCY RULE 4001-2; (II) AUTHORIZING USE OF CASH COLLATERAL PURSUANT TO 11 U.S.C. §§ 105, 361, 362 AND 363 OF THE BANKRUPTCY CODE; (III) GRANTING ADEQUATE PROTECTION AND SUPER-PRIORITY ADMINISTRATIVE CLAIMS; AND (IV) SCHEDULING A FINAL HEARING; AND (V) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”) of Orexigen Therapeutics, Inc., the debtor and debtor-in-possession (the “Debtor”) in the above-captioned Chapter 11 case (the “Chapter 11 Case”) pursuant to sections 105(a), 361, 362, 363 and 364 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), Rules 2002, 4001 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 4001-2 of the Local Bankruptcy Rules for the District of Delaware (the “Local Bankruptcy Rules”), seeking, among other things:

A. Authorization and approval for the Debtor to obtain post-petition financing and incur the DIP facility (the “DIP Facility”), ~~which includes~~including (i) the aggregate principal amount of not more than \$35,000,000 in new borrowings (“New Money Loans”), ~~of which~~with the aggregate principal amount of not more than \$7,500,000 ~~will be~~being available to the Debtor

<sup>1</sup> The last four digits of Debtor’s federal tax identification number are (8822). The Debtor’s mailing address for purposes of this Chapter 11 Case is 3344 North Torrey Pines Court, Suite 200, La Jolla, CA, 92037.

on an interim basis in one or more draws in accordance with the Budget and pursuant to ~~this~~the interim order (~~this~~ “the ”Interim DIP Order”); (ii) the roll up of \$35,000,000 in aggregate principal amount of Prepetition Secured Notes (as defined below), ~~which shall to~~ be rolled up (such loans, “Roll-Up Loans,” and together with the New Money Loans, the “DIP Loans”) and become DIP Loans hereunder, ~~of which~~with the aggregate principal amount of not more than \$7,500,000 ~~shall~~available to be rolled up on a final basis upon entry of and pursuant to ~~this~~the Interim DIP Order in the same amount and at the same time as New Money Loans are borrowed during the period prior to the entry of ~~the final~~this order (the “Final DIP Order”), and the balance ~~of which shall~~ automatically ~~be~~ deemed ~~to have been~~ rolled up in full into the DIP Facility and ~~become~~into DIP Loans upon the entry of ~~the~~this Final DIP Order; and (iii) \$350,000, constituting the Upfront Fee, ~~which shall to~~ be approved by ~~this~~the Interim DIP Order and deemed fully earned on the Closing Date of the Interim DIP Facility and ratably added to the outstanding principal balance of the DIP Loans on such date and ~~constitute~~constituting additional DIP Loan principal for all purposes (the New Money Loans, Roll-Up Loans, and Upfront Fee approved pursuant to ~~this~~the Interim DIP Order constituting the “Interim DIP Facility”), all of which shall be on the terms and conditions set forth in (a) the Debtor in Possession Credit and Security Agreement dated as of March 12, 2018 (as may be amended from time to time, the “DIP Loan Agreement”),<sup>2</sup> by and among the Debtor, as Borrower, Wilmington Trust, National Association, as the DIP Administrative Agent (in such capacity, the “DIP Administrative Agent”), and each of the DIP Lenders from time to time party thereto (collectively, the “DIP Lenders”), and (b) all other financing statements, mortgages, deeds of trust, deeds to secure debt, pledge agreements, affidavits, security agreements, fixture filings, assignments, memoranda or

<sup>2</sup> Capitalized terms that are not otherwise defined in this ~~Interim~~Final DIP Order have the meanings given to such terms in the DIP Loan Agreement, which is attached to the Motion as an exhibit.

other documents, instruments or evidences of perfection with respect to the DIP Collateral (as defined below) as may be acceptable to the DIP Administrative Agent and the Required DIP Lenders (together with the DIP Loan Agreement, the “DIP Loan Documents”);

B. Authorization, pursuant to section 364(c)(1) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, as security for the DIP Obligations, an allowed Super-priority Claim in the Chapter 11 Case, which Super-priority Claim is a super-priority, administrative expense claim that has priority over all other administrative expenses and other claims against the Debtor in the Chapter 11 Case, including, without limitation, any other super-priority claims;

C. Authorization, pursuant to section 364(c)(2) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully-perfected and enforceable senior, first priority liens on and security interests in the DIP Collateral, other than Avoidance Actions (as defined below) that is not subject to an existing lien;

D. Effective upon entry of the Final DIP Order, authorization, pursuant to section 364(c)(2) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully-perfected and enforceable, senior, first-priority liens on and security interests in all proceeds of Avoidance Actions other than the Excluded Avoidance Actions (as defined below);

E. Authorization, pursuant to section 364(c)(3) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully perfected and enforceable, junior priority liens on and security interests in all DIP Collateral encumbered by (i) a valid, non-avoidable and enforceable Lien that is perfected subsequent to the Petition Date (as defined below) as permitted by section 546(b) of the Bankruptcy Code and which has priority

over the Liens securing the Prepetition Secured Notes, or (ii) a valid, non-avoidable and enforceable Lien that was senior to the Liens securing the Prepetition Secured Notes on the Petition Date (“collectively, “Permitted Exceptions”), which DIP Liens shall be immediately junior to the Liens underlying the Permitted Exceptions and senior to all other Liens on such DIP Collateral (including, but not limited to, the Liens securing the Prepetition Secured Notes);

F. Authorization, pursuant to section 364(d) of the Bankruptcy Code, to grant to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, fully perfected, enforceable, first priority, priming DIP Liens on all DIP Collateral subject to a Lien as of the Petition Date; provided, that such DIP Liens shall be immediately junior to any Liens underlying the Permitted Exceptions, but, for the avoidance of doubt, senior to the Liens securing the Prepetition Secured Notes;

G. Authorization of the Debtor to use Cash Collateral (as defined below) in which the Prepetition Collateral Agent (as defined below) has an interest;

H. Authorization to grant adequate protection (as may be amended from time to time with the approval of the Bankruptcy Court, the “Prepetition Secured Notes Protection”) to the Prepetition Collateral Agent for the benefit of the Prepetition Secured Parties, for any Diminution in Value (as defined below) of its Prepetition Collateral, including (i) effective and perfected upon the entry of ~~this~~the Interim DIP Order, ~~a security interest in and lien~~Adequate Protection Liens (as defined below) on all DIP Collateral which liens and security interests are junior and subordinate only to (a) the Carve-Out (as defined below), (b) the DIP Liens, (c) the DIP Obligations, (d) the Super-priority Claim of the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and (e) the Permitted Exceptions (~~“Adequate Protection Liens”~~), (ii) effective upon the entry of the Interim DIP Order, an allowed Super-priority Claim, subject to (a)

the Carve-Out and (b) junior only to the Super-priority Claim of the DIP Administrative Agent, and (iii) current cash payments payable under the Prepetition Note Documents to the Trustee (as defined below) or the Prepetition Collateral Agent for the benefit of the Prepetition Secured Parties, for all professional fees and expenses incurred by the Trustee or Prepetition Collateral Agent in connection with enforcement of the Prepetition Note Documents and the Chapter 11 Case;

I. Pursuant to Bankruptcy Rule 4001, that an interim hearing (the “Interim Hearing”) on the Motion be held before this Court on or prior to March 13, 2018, to consider entry of ~~this~~the Interim DIP Order;

J. Pursuant to ~~this~~the Interim DIP Order, that this Court schedule a final hearing (the “Final Hearing”) ~~on or prior to April 2, 2018,~~ to consider entry of ~~the~~this Final DIP Order authorizing and approving, on a final basis, all of the relief requested in the Motion and DIP Loan Documents, including the full amount of the DIP Facility; and

K. That the Court grant other related relief.

The Interim Hearing having been held by this Court on March ~~—13,~~ 2018, and the Interim DIP Order having been entered by this Court on such date; and the Final Hearing having been held by this Court and concluded on April 11, 2018; and upon the *Declaration of Michael Narachi in Support of First Day Relief* [Dkt. No. 3]; and upon the record made by the Debtor at the Interim ~~DIP~~-Hearing and Final Hearing, the evidence and arguments of counsel; and after due deliberation and consideration and sufficient cause appearing therefor;

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:<sup>3</sup>**

<sup>3</sup> The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent that any of the following findings of fact include conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

1. Petition Date. On March 12, 2018 (the "Petition Date"), the Debtor commenced the Chapter 11 Case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy Court for the District of Delaware (the "Court"). The Debtor is continuing in possession of its property, and operating and managing its business, as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Case.

2. Jurisdiction, Venue and Statutory Predicates. This Court has jurisdiction over the Debtor, the Chapter 11 Case, and the persons, entities and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief requested herein are sections 105(a), 361, 362, 363, and 364, and 507 of the Bankruptcy Code; Bankruptcy Rules 4001 and 9014; and Local Bankruptcy Rule 4001-2(b).

3. Committee Formation. ~~No~~An official committee of unsecured creditors (a "Committee") ~~has been~~was appointed in the Chapter 11 Case ~~to date~~on March 27, 2018.

4. Notice. ~~Notice~~Pursuant to the Interim DIP order, notice of the Motion, the relief requested therein, ~~and~~the entry of the Interim DIP Order, the Final Hearing ~~has been, and a copy of the Interim DIP Order were~~ served by the Debtor on (a) the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee"); (b) the Debtor's top thirty (30) unsecured creditors; (c) the DIP Administrative Agent and its counsel; (d) the DIP Lenders and their counsel; (e) the Trustee and its counsel; (f) the Prepetition Collateral Agent and its counsel; (g) all other known holders of prepetition liens, encumbrances or security interests against the Debtor's property; (h) the Internal Revenue Service; (i) the Securities and Exchange Commission; (j) the Delaware Secretary of State; (~~j~~k) the Delaware Secretary of the Treasury;

(~~k~~l) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (~~l~~m) any other party required to be provided notice under Local Rule 9013-1(m). ~~As this Motion is seeking “first day” relief, within two (2) Business Days after entry of this Interim DIP Order, the Debtor will serve copies of the Motion and this Interim DIP Order and any order entered in respect to the Motion as required by Local Rule 9013-1(m). Under the circumstances, notice was sent under Bankruptcy Rules 4001(b), 4001(c) and 4001(d), Local Bankruptcy Rule 4001-2 and section 102(1) of the Bankruptcy Code in light of the emergency nature of the interim relief requested in the Motion, and no~~ No further notice of the relief sought at the InterimFinal Hearing and the relief granted herein is necessary or required.

5. Necessity and Uses of Financing and Cash Collateral. The DIP Facility and the Debtor’s use of Cash Collateral will allow the Debtor to continue the operations of its business and administer and preserve the value of its estate during the pendency of the Chapter 11 Case. Pursuant to this InterimFinal DIP Order, the Debtor shall be authorized to borrow ~~funds~~ New Money Loans under the ~~Interim~~-DIP Facility in an aggregate principal amount of not more than ~~\$7,500,000~~ 35,000,000 in one or more draws in accordance with the Initial Budget (as defined below) and each subsequent approved Budget and roll up not more than ~~\$7,500,000~~ 35,000,000 of Prepetition Secured Notes; on a final basis automatically upon entry of and pursuant to this InterimFinal DIP Order, ~~in the same amount and at same time as New Money Loans are borrowed by the Debtor under the Interim DIP Facility.~~ Entry of this InterimFinal DIP Order approving the ~~Interim~~-DIP Facility and the Debtor’s ~~interim~~-use of Cash Collateral will benefit the Debtor and its estate and creditors and is necessary to avoid immediate and irreparable harm to the Debtor’s creditors and estate. Therefore, it is in the best interest of the Debtor’s creditors and estate to establish the ~~Interim~~-DIP Facility described in the Motion on a final basis, as set

forth in this ~~Interim~~Final DIP Order, and as contemplated by the DIP Loan Documents, and to authorize the Debtor's use of Cash Collateral on a final basis, subject to the terms and conditions in the DIP Loan Documents and as set forth in this ~~Interim~~Final DIP Order.

6. No Credit Available on Other Terms. The Debtor is unable to obtain unsecured credit allowable under sections 503(b)(1), 364(a) or 364(b) of the Bankruptcy Code. The Debtor is unable to obtain secured credit allowable solely under sections 364(c)(1), 364(c)(2) and 364(c)(3) of the Bankruptcy Code without granting the DIP Liens to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and the Super-priority Claim to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, pursuant to sections 364(d) and 364(c)(1) of the Bankruptcy Code, under the terms and conditions set forth in the DIP Loan Documents and this ~~Interim~~Final DIP Order, including, but not limited to, the priming of the Prepetition Secured Notes as provided herein. The Debtor is also unable to obtain financing from sources other than the DIP Lenders, or on more favorable terms than those set forth in the DIP Loan Documents.

7. Business Judgment and Good Faith. The terms and conditions of the ~~Interim~~-DIP Facility, as set forth in the DIP Loan Documents, and the use of Cash Collateral, as described in the Motion, and as all were set forth at the Interim Hearing and Final Hearing, are fair and reasonable, and the entry into the ~~Interim~~-DIP Facility on a final basis on the terms and conditions set forth in the DIP Loan Documents represent a sound, prudent exercise of the Debtor's business judgment consistent with its fiduciary duties, and are supported by reasonably equivalent value and fair consideration. The ~~Interim~~-DIP Facility and use of the DIP Collateral and Cash Collateral, were negotiated in good faith (as that term is used in section 364(e) of the Bankruptcy Code) and at arm's length and for fair consideration among (a) the Debtor, (b) the



DIP Lenders, (c) the DIP Administrative Agent, and (d) the Required Holders of the Prepetition Secured Notes. Accordingly, all of the Debtor's obligations and indebtedness arising under, in respect of, or in connection with the extension of the ~~Interim~~-DIP Facility, the DIP Loan Documents, and all fees and other obligations or indebtedness owing to the DIP Lenders or DIP Administrative Agent, shall be deemed to have been extended by the DIP Administrative Agent and DIP Lenders in good faith (as that term is used in section 364(e) of the Bankruptcy Code), and in express reliance upon the protections offered by section 364(e) of the Bankruptcy Code, and shall be entitled to the full protection of section 364(e) of the Bankruptcy Code in the event that ~~this~~the Interim DIP Order, Final DIP Order, or any provision thereof or hereof is vacated, reversed or modified, on appeal or otherwise.

8. Property of the Estate. Each item of the DIP Collateral constitutes property of the estate of the Debtor.

9. Good Cause. Good and sufficient cause exists for the entry of this ~~Interim~~Final DIP Order. The borrowings under the ~~Interim~~-DIP Facility and the Debtor's use of Cash Collateral and the other relief requested in the Motion, are necessary, essential, appropriate and in the best interest of the Debtor, its creditors, and its estate, as the borrowings under the ~~Interim~~ DIP Facility and access to Cash Collateral will, among other things, provide the Debtor with the liquidity necessary to fund the necessary expenses of its business, preserve and maximize the value of the Debtor's estate for the benefit of all creditors through a sale of all or substantially all of its assets, and avoid immediate and irreparable harm to the Debtor and its estate, its creditors, its business, its employees, and its assets which would result if the Debtor did not have access to the ~~Interim~~-DIP Facility and Cash Collateral.

10. Debtor's Acknowledgments and Agreements. Without prejudice to the rights of any other party and subject to Paragraph 4442 of this InterimFinal DIP Order, the Debtor admits, stipulates, acknowledges and agrees that:

(a) Prepetition Secured Notes. Prior to the Petition Date, the Debtor and U.S. Bank National Association, as Trustee and Prepetition Collateral Agent for the benefit of the Holders of the notes thereunder (the Trustee, Prepetition Collateral Agent and such Holders are referred to collectively as the "Prepetition Secured Parties"), entered into that certain Indenture, dated as of March 21, 2016 (as amended, restated, amended and restated, supplemented or otherwise modified prior to the Petition Date, the "Indenture"), under which the Debtor issued 0% Convertible Senior Secured Notes in the aggregate principal amount of up to \$165,000,000 (the "Prepetition Secured Notes"). The Prepetition Secured Notes, except to as to "Permitted Liens" (as defined in the Indenture), are secured by first priority, fully-perfected security interests in and liens on all of Debtor's right, title and interest in, to and under the "Pledged Collateral" as defined in the Security Agreement, dated as of March 21, 2016 (as amended, restated, amended and restated, supplemented, or otherwise modified prior to the Petition Date, the "Prepetition Security Agreement," and together with the Indenture and the Prepetition Secured Notes, the "Prepetition Note Documents") by and between the Debtor, the Trustee, the Collateral Agent, as defined therein (the "Prepetition Collateral Agent"), and the guarantors party thereto from time to time, if any.

(b) Validity and Enforceability. (i) The Prepetition Note Documents are valid and enforceable by the Prepetition Secured Parties against the Debtor and as between the other parties thereto, (ii) the Debtor's obligations under the Prepetition Note Documents (the "Prepetition Secured Obligations") constitute legal, valid, binding, and non-avoidable obligations

of the Debtor and are secured by valid, binding, enforceable, duly perfected first priority liens (except as to Permitted Liens) and security interests granted by the Debtor to the Prepetition Secured Parties in the Pledged Collateral (as defined in the Security Agreement) in the amount and to the extent set forth in the Prepetition Note Documents, including the proceeds derived therefrom, and (iii) the Prepetition Secured Parties duly perfected the Liens securing the Prepetition Secured Obligations (the “Prepetition Liens”) by, among other things, filing financing statements and, where necessary, by possession of relevant instruments, certificates, cash or other property, and all such financing statements were validly executed by, or at the direction or with the consent of, authorized representatives of the Debtor.

(c) No Challenges. (i) No offsets, recoupments, challenges, objections, reductions, defenses, impairments, claims, counterclaims, or cross-claims of any kind or nature to any of the Prepetition Secured Parties, Prepetition Liens or Prepetition Secured Obligations (or to any amounts previously paid to the Prepetition Secured Parties on account thereof or with respect thereto) by any person or entity exist, including, without limitation, avoidance, disallowance, disgorgement, recharacterization, or subordination (whether equitable, contractual, or otherwise) pursuant to the Bankruptcy Code or applicable foreign or domestic law or regulation, (ii) the Debtor and its estate have no valid claims, objections, challenges, causes of actions, or choses in action, including without limitation, claims of causes of action pursuant to sections 502(d), 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code or applicable non-bankruptcy law (collectively, “Avoidance Actions”), against the Prepetition Secured Parties or against any of their respective affiliates, agents, attorneys, advisors, professionals, officers, managers, members, directors or employees arising out of, based upon or related to the Prepetition Liens, Prepetition Secured Obligations or Prepetition Note Documents,

and (iii) the Debtor irrevocably waives any right to challenge or contest the Prepetition Liens of the Prepetition Secured Parties on the Pledged Collateral or the validity or amount of the Prepetition Liens, Prepetition Secured Obligations or Prepetition Note Documents, as applicable;

(d) Cash Collateral. All of the Debtor's cash constitutes Cash Collateral or proceeds of the Pledged Collateral and, therefore, is Cash Collateral of the Prepetition Secured Parties. For purposes of this ~~Interim~~Final DIP Order, the term "Cash Collateral" shall be deemed to include, without limitation: (x) all "cash collateral" as defined in section 363(a) of the Bankruptcy Code; and (y) all deposits subject to setoff and cash arising from the collection or other conversion to cash of property of the Debtor in which the Prepetition Secured Parties assert security interests, liens or mortgages, regardless of whether such security interests, liens, or mortgages existed as of the Petition Date or arose thereafter pursuant to ~~this~~the Interim DIP Order or this Final DIP Order, and whether the property converted to cash existed as of the Petition Date or arose thereafter.

Based on the foregoing, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED**, that:

11. Motion Granted. The Motion is granted in accordance with the terms and conditions of this ~~Interim~~Final DIP Order. Any objections to the Motion with respect to entry of this ~~Interim~~Final DIP Order that have not been withdrawn, waived or settled are hereby denied and overruled.

12. Final Hearing. The Final Hearing to consider entry of the Final DIP Order ~~will be~~was held and concluded on April 511, 2018, ~~at 3:00 p.m. prevailing Eastern Time. The Debtor shall, on or before March \_\_, 2018, mail a notice of the entry of this Interim DIP Order, together with a copy of this Interim DIP Order, to the parties having been given notice of the Interim Hearing, to any party which has filed prior to the such date of service a request for notice with~~

~~the Bankruptcy Court and to counsel for any Committee. Such notice shall constitute adequate notice of the Final Hearing, including without limitation, notice that the Debtor will seek approval at the Final Hearing of, among other things, (a) the \$35,000,000 New Money Loan facility, less the aggregate amount of New Money Loans actually borrowed by the Debtor on a final basis pursuant to this Interim DIP Order; (b) the \$35,000,000 Roll Up Facility, less the aggregate amount of Roll Up Loans actually deemed borrowed by the Debtor on a final basis pursuant to this Interim DIP Order, which shall be rolled up automatically into DIP Loans upon entry of the Final DIP Order; (c) the proposed waiver of rights under section 506(c) of the Bankruptcy Code; (d) the proposed findings that the respective Liens of the Prepetition Secured Parties in the Pledged Collateral are valid, binding and enforceable, barring any successful challenges to such Liens; (e) the proposed restriction on “marshaling” (or the application of any similar doctrine) relating to the DIP Administrative Agent, DIP Lenders and/or Prepetition Secured Parties; (f) the waiver under section 552(b) of the Bankruptcy Code; and (g) the Carve-Out. The notice of entry of this Interim DIP Order shall state that any party in interest objecting to the DIP Facility, DIP Loan Documents or use of Cash Collateral on the terms and conditions set forth therein and herein shall file a written objection with the United States Bankruptcy Court Clerk for the District of Delaware no later than March 28, 2018, at 4:00 p.m. prevailing Eastern Time, which shall be served so that the same are received on or before such date and time by: (a) Counsel to Wilmington Trust, National Association, as DIP Administrative Agent; (i) Arnold & Porter Kaye Scholer LLP, 70 W Madison St. Suite 4200, Chicago, IL 60602, Attn: Tyler Nurnberg, Esq. and Alan Glantz, Esq., and (ii) Duane Morris LLP, 222 Delaware Ave., Suite 1600, Wilmington, DE 19801, Attn: Chris Winter, Esq.; (b) Counsel to certain of the Prepetition Secured Parties: (i) Quinn Emanuel Urquhart & Sullivan, LLP, 865 S. Figueroa~~

~~St., 10<sup>th</sup> Floor, Los Angeles, California 90017, Attn: Eric Winston, Esq. and Bennett Murphy, Esq.; and (ii) Whiteford Taylor Preston LLP, The Renaissance Center, Suite 500, 405 N. King Street, Wilmington, DE 19801, Attn: Chris Samis, Esq. and L. Katherine Good, Esq.; (c) counsel to the Debtor: (i) Hogan Lovells US LLP, 875 Third Avenue, New York, New York 10022, Attn: Christopher R. Donoho, III, Esq. and Christopher R. Bryant, Esq., and (ii) Morris, Nichols, Arsht & Tunnell LLP, 1201 N. Market St., 16th Floor, PO Box 1347 Wilmington, DE 19899-1347, Attn: Robert J. Dehney, Esq.; (d) counsel to the Trustee and Prepetition Collateral Agent: Kelley Drye & Warren LLP, 101 Park Ave., New York, NY 10178, Attn: James S. Carr, Esq. and Benjamin D. Feder, Esq.; (e) counsel to any Committee as indicated in the docket of the Chapter 11 Case; (f) the U.S. Trustee, J. Caleb Boggs Federal Building, 844 King Street, Room 5209, Wilmington, Delaware 19801, Attn: Timothy J. Fox, Jr.; and (g) counsel to the 1992 Funds: Brown Rudnick, LLP, 7 Times Square, New York, NY 10036, Attn: Robert J. Stark, Esq. and Steven B. Levine, Esq.~~

13. Authorization of the ~~Interim~~ DIP Facility and DIP Loan Documents. The Debtor is hereby authorized, pursuant to the terms of this ~~Interim~~Final DIP Order and the DIP Loan Documents, to incur the ~~Interim~~ DIP Facility in the aggregate amount of \$~~15,350,000~~70,350,000, including to (a) borrow ~~funds~~New Money Loans under the ~~Interim~~ DIP Facility in an aggregate principal amount of not more than \$~~7,500,000~~35,000,000 in one or more draws in accordance with ~~Initial Budget (as defined below) during the period from the date of closing on the Interim DIP Facility following the entry of this Interim DIP Order until the date of entry of the Final DIP Order~~the Budget prior to the Maturity Date, (b) roll up not more than \$~~7,500,000~~35,000,000 of Prepetition Secured Notes, on a final basis automatically upon entry of and pursuant to this ~~Interim DIP Order, in the same amount and at same time as New Money~~

~~Loans are borrowed by the Debtor during the period from the date of closing on the Interim DIP Facility following the entry of this Interim DIP Order until the date of entry of the Final DIP~~ Order, and (c) incur the \$350,000 Upfront Fee, which ~~shall be~~was deemed fully earned on the Closing Date of the Interim DIP Facility and ratably added to the outstanding principal balance of the DIP Loans on such date and ~~constitute~~constitutes additional DIP Loan principal for all purposes. The Debtor's use of borrowings under the DIP Facility and Cash Collateral, subject to the Permitted Deviations (as defined below) shall be in accordance with the purposes described herein and the ~~Initial Budget and subsequent~~ Budgets approved by the Required DIP Lenders.

(a) Authorization. In furtherance of the foregoing and without further approval of this Court, the Debtor is authorized and directed to perform all acts, to make, execute and deliver all instruments and documents (including, without limitation, the execution or recordation of security agreements, mortgages and financing statements) that may be reasonably required or necessary for the Debtor's performance of its obligations under or in connection with the ~~Interim~~ DIP Facility and DIP Loan Documents, including, without limitation, (i) the execution, delivery and performance of the DIP Loan Documents, any other documents or instruments that may be reasonably requested by the DIP Administrative Agent and DIP Lenders in connection with the DIP Facility, and any waivers, forbearances, consents or amendments to the DIP Loan Documents as the Debtor and the Required DIP Lenders may agree in writing, all in accordance with the terms of the DIP Loan Documents and this ~~Interim~~Final DIP Order, ~~and~~ (ii) the execution, delivery and performance of all instruments, certificates, notices, or other documents required under the Indenture, or as may reasonably requested by the Trustee, to effectuate the Roll-Up Facility and the corresponding reduction in the outstanding principal amount of the Prepetition Secured Notes resulting therefrom, including, without limitation, the

execution, delivery and authentication of new Prepetition Secured Notes, and (iii) payment of all reasonable fees and expenses of the DIP Administrative Agent and DIP Lenders and their respective counsel and other retained professionals as set forth in the DIP Loan Documents and Paragraph 4745 hereof.

14. ~~Upon entry of this Interim DIP Order, the~~The DIP Loan Documents shall constitute valid, binding and enforceable obligations of the Debtor, enforceable against the Debtor in accordance with the terms thereof. ~~Subject to entry of the Final DIP Order, no~~No obligation, payment, transfer or grant of security under the DIP Loan Documents or this ~~Interim~~Final DIP Order shall be voidable, or recoverable under the Bankruptcy Code (including without limitation, under section 502(d) of the Bankruptcy Code) or under any applicable non-bankruptcy law, or subject to any defense, reduction, setoff, recoupment or counterclaim and shall survive dismissal of, or conversion of the case to a case under Chapter 7 of the Bankruptcy Code

15. DIP Liens. As security for ~~and to the extent of the~~the DIP Obligations, effective and perfected as of the date of entry of the Interim DIP Order with respect to the DIP Obligations incurred thereunder, and effective and perfected as of the date of entry of this Final DIP Order with respect to the DIP Obligations which are the subject of this ~~Interim~~Final DIP Order, ~~effective and perfected upon entry of this Interim DIP Order, and~~ without the necessity of the execution, recordation of filings of mortgages, deeds of trust, security agreements, control agreements, pledge agreements, financing statements or other similar documents, the DIP Liens are hereby granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, and the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders pursuant to the Interim DIP Order are hereby ratified and continued pursuant to this



Final DIP Order, on all of the Debtor's right, title and interest in and to the Designation Rights and all Personal Property, now owned or which may be hereafter acquired by the Debtor, including, but not limited to, the following (as more fully set forth in the DIP Loan Documents, as amended by this Final DIP Order, collectively, the “DIP Collateral”):

- (a) the Collateral;
- (b) all funds of the Debtor on deposit from time to time;
- (c) all Personal Property (including, but not limited to, all Intellectual Property);
- (d) all Designation Rights respecting the leases of real property described on **Schedule 3** of the DIP Loan Agreement; and
- (e) all products, proceeds, replacements, substitutions, accessions and additions of any of the foregoing.

16. Avoidance Actions. Notwithstanding anything in the Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Collateral excludes all Avoidance Actions and all proceeds thereof. For the avoidance of doubt, notwithstanding anything else set forth herein or in the DIP Loan Documents, DIP Collateral shall not include (i) Avoidance Actions or the proceeds thereof that the Debtor may be entitled to assert by reason of avoidance or other power vested in or on behalf of the Debtor or the estate of the Debtor under Chapter 5 or Section 724(a) of the Bankruptcy Code and any and all recoveries and settlements thereof, and (ii) the Free and Clear Subsidiary Interest (as defined below), or any interests, proceeds, profits or rights related thereto (collectively, the “Free & Clear Assets”).

~~16. Avoidance Actions. Subject to entry of the Final DIP Order, the DIP Collateral will include proceeds of all Avoidance Actions, other than the Excluded Avoidance Actions.<sup>4</sup>~~

17. First Lien on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, the DIP Liens granted to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, constitute valid, binding, continuing, enforceable, fully-perfected first priority senior security interests in and liens upon the DIP Collateral (including all cash advanced as New Money Loans and all products and proceeds thereof) to the extent not subject to valid, perfected, non-avoidable and enforceable Liens in existence as of the Petition Date, or valid Liens in existence as of the Petition Date that are perfected subsequent to such date to the extent permitted by section 546(b) of the Bankruptcy Code, if any; provided that such DIP Liens shall be immediately junior to any Liens that are perfected subsequent to the Petition Date pursuant to section 546(b) of the Bankruptcy Code to the extent that such Liens otherwise have priority over the Liens securing the Prepetition Secured Notes; provided further that notwithstanding anything in the Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Collateral excludes the equity interests in Orexigen Ireland that were not subject to a valid, perfected, non-avoidable and enforceable Lien of the Prepetition Secured Parties in existence as of the Petition Date, which interests are not encumbered by any DIP Liens (the "Free and Clear Subsidiary Interest").

18. Junior Lien on Encumbered Property. Pursuant to section 364(c)(3) of the Bankruptcy Code, the DIP Liens granted ~~pursuant to this Interim DIP Order~~ to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, constitute valid, binding, continuing, enforceable, fully-perfected junior priority security interests in and liens upon the DIP Collateral, to the extent subject to the Permitted Exceptions;

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~~<sup>4</sup> Pursuant to the DIP Loan Agreement, "Excluded Avoidance Actions" mean all claims and causes of action pursuant to sections 545, 548, 549 and/or 724(a) of the Bankruptcy Code and all proceeds thereof.~~

19. Priming DIP Liens. Pursuant to section 364(d) of the Bankruptcy Code, the DIP Liens granted ~~pursuant to this Interim~~the DIP Order~~Administrative Agent, for the benefit of itself and the DIP Lenders,~~ constitute valid, binding, continuing, enforceable, fully perfected, first priority, priming DIP Liens upon the DIP Collateral subject to a Lien as of the Petition Date, and which shall be senior to all Liens securing the Existing Primed DIP Secured Obligations (including Prepetition Liens) and the Adequate Protection Liens; provided, that such DIP Liens shall be immediately junior to any Liens underlying the Permitted Exceptions.

20. Liens Senior to Certain Other Liens. The DIP Liens granted ~~pursuant to this Interim DIP Order~~ to the DIP Administrative Agent, for the benefit of itself and the DIP Lenders, ~~shall be~~are senior to and ~~shall not be~~ subject or subordinate to (a) any lien or security interest that is avoided and preserved for the benefit of the Debtor and its estate under section 551 of the Bankruptcy Code or (b) subject to applicable law, any liens arising after the Petition Date, including, without limitation, any liens or security interests granted in favor of any federal, state, municipal or other governmental unit, commission, board or court for any liability of the Debtor other than as expressly permitted under the DIP Loan Agreement.

21. Super-priority Claim. Pursuant to section 364(c)(1) of the Bankruptcy Code, all of the DIP Obligations ~~shall~~ constitute allowed claims against the Debtor with priority over any and all administrative expenses and all other claims against the Debtor, including, now or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses or claims arising under Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (the “DIP Super-priority Claim”) and, for the avoidance of doubt, the Super-priority Claim granted as adequate protection in respect to the Prepetition Secured Notes hereunder; provided, however, that notwithstanding anything in the

Interim DIP Order or DIP Loan Agreement to the contrary, the DIP Super-priority Claim shall not attach to and shall not have recourse against the Free & Clear Assets.

22. Adequate Protection for Prepetition Lien Holders. ~~In this Interim DIP Order, the term “Adequate Protection Liens” shall mean that, subject~~ Subject to the terms and conditions set forth in ~~this~~the Interim DIP Order and this Final DIP Order, as adequate protection for any Diminution in Value (as defined below), the Prepetition Collateral Agent, for the benefit of the Holders, ~~shall have and is hereby~~was granted (effective upon the entry of ~~this~~the Interim DIP Order and without the necessity of the execution of mortgages, deeds of trust, security agreements, pledge agreements, control agreements, financing statements or otherwise), valid and fully perfected, security interests in, and liens upon all assets of the ~~Debtor~~DIP Collateral, in the same relative priority and to the same extent, priority, enforceability, unavoidability and validity applicable to the respective Prepetition Secured Parties’ security interests and liens in the Pledged Collateral, which Adequate Protection Liens (as defined below) are junior and subordinate only to (a) the Carve-Out, (b) the DIP Obligations, (c) the DIP Liens, (d) the Super-priority Claim of the DIP Administrative Agent, and (e) the Permitted Exceptions- (the “Adequate Protection Liens”). The Court ratifies and confirms such Adequate Protection Liens pursuant to the Interim DIP Order.

23. The Prepetition Collateral Agent, for the benefit of the Holders, ~~shall be~~is hereby granted the following adequate protection pursuant to this Final DIP Order with respect to (a) (i) the priming of the Prepetition Liens securing the Prepetition Secured Notes to be effectuated by the DIP Liens and DIP Facility, (ii) the use of the Pledged Collateral (including Cash Collateral), and (iii) all of the other transactions contemplated by the DIP Facility; and (b) for any diminution in the value of the Prepetition Liens of the Prepetition Collateral Agent, for the benefit of the

Holders, whether or not such diminution in value results from the sale, lease or use by the Debtor of the Pledged Collateral securing the Existing Primed DIP Secured Obligations (including Cash Collateral), ~~the priming of the Prepetition Liens securing the Prepetition Secured Notes~~ or the stay of enforcement of any Prepetition Lien securing the Prepetition Secured Notes arising from sections 105 or 362 of the Bankruptcy Code, or otherwise, provided, however, that, notwithstanding anything to the contrary herein or in any other document or order, diminution in the value of the Prepetition Liens shall exclude any calculation, claim or contest based on the priming of such liens by the DIP Facility or the consequent use of such DIP funds (“Diminution of Value”):

(a) The Prepetition Secured Parties shall have and are hereby granted the Adequate Protection Liens subject to the exceptions and priorities set forth in Paragraph 22 and this Paragraph 23 hereof;

(b) The Prepetition Collateral Agent, for the benefit of the Holders, is hereby granted, subject to the Carve-Out, an allowed claim against the Debtor pursuant to section 507(d) of the Bankruptcy Code to the extent any Diminution of Value with priority over any and all administrative expenses and all other claims against the Debtor, now or hereafter arising, of any kind whatsoever, including without limitation, all administrative expenses or claims arising under Sections 105, 326, 328, 330, 331, 503(b), 506(c), 507(a), 507(b), 726, 1113 or 1114 of the Bankruptcy Code (the “Adequate Protection Claims”) junior only to the DIP Super-priority Claim, the DIP Liens and any Permitted Exceptions. ~~The Trustee,~~ Prepetition Collateral Agent and the Holders shall not receive or retain any payments, property or other amounts in respect of such claim unless and until the DIP Obligations have been indefeasibly paid in cash in full; and

(c) As further adequate protection, the Debtor shall make current cash payments payable under the Prepetition Note Documents to the Trustee or the Prepetition Collateral Agent for all reasonable professional fees and expenses incurred by the Trustee or Prepetition Collateral Agent in connection with enforcement of the Prepetition Note Documents and the Chapter 11 Case, subject to the delivery of a Fee Notice in the manner set forth in Paragraph 45 of this ~~Interim~~Final DIP Order (collectively, the “Adequate Protection Payments”.

(d) The Rights of the Committee and the 2020 Notes Trustee (as defined below) to challenge the extent of the Diminution of Value, and the respective rights of the Prepetition Collateral Agent, the Holders, the Debtor, the DIP Administrative Agent, and the DIP Lenders to contest any such challenge, are preserved. Notwithstanding anything in this Final Order or the DIP Loan Documents to the contrary, the Adequate Protection Liens and Adequate Protection Claims shall not attach to or have recourse against the Free & Clear Assets.

24. Carve-Out. All DIP Obligations (and the repayment thereof), Prepetition Secured Notes Protection, DIP Liens other liens and security interests, and Super-priority Claims of the DIP Administrative Agent and the DIP Lenders securing the DIP Facility and DIP Obligations shall be subject to and subordinate to a carve out for payment of (a) all fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court that are (i) incurred prior to the Maturity Date, and (ii) included in the Budget for the period prior to the Maturity Date; plus (b) all fees and expenses of professionals retained by the Debtor and ~~any official committee of unsecured creditors or equityholders appointed in the Chapter 11 Case~~the Committee, other than ordinary course professionals (collectively, “Professionals”) in the Chapter 11 Case that are (i) incurred prior to the Maturity Date and which have not been paid prior to the Maturity Date, (ii) allowed either prior to or after the Maturity Date, and (iii)

included in the amounts scheduled as “Restructuring Professional Fees Incurred” in the Budget; plus (c) all fees and expenses of Professionals incurred and allowed after the occurrence of the Maturity Date, in an amount not to exceed \$3,500,000; plus (d) an amount not to exceed \$500,000 to fund the Debtor’s costs and expenses (other than Professional fees and expenses included in the preceding clause (c)) to conclude the Chapter 11 Case through a plan process, structured or other case dismissal, case conversion or otherwise; plus (e) all amounts necessary to fund the Debtor’s “Key Employee Retention Plan,” pursuant to the terms attached to the DIP Loan Agreement as Exhibit D (subject to and as approved by the Bankruptcy Court, the “KEIP/KERP Term Sheet”); plus (f) an amount necessary to fund the Operational Incentive (as defined in the KEIP/KERP Term Sheet) and Asset Sale Incentives (as defined in the KEIP/KERP Term Sheet) under the “Key Employee Incentive Plan,” equal to one percent (1%) of Asset Sale Proceeds (as defined in the KEIP/KERP Term Sheet) generated from a sale of the Debtor’s assets that generated Asset Sale Proceeds of at least \$40,000,000 and not more than \$80,000,000 Term Sheet; plus (g) all fees required to be paid pursuant to 28 U.S.C. § 1930(a)(6) and any fees payable to the Clerk of the Bankruptcy Court after the Maturity Date.

25. Payment of Allowed Professional Fees Prior to the Maturity Date. Any payment or reimbursement made prior to the occurrence of the Maturity Date in respect of any allowed Professional fees shall not reduce the Carve-Out.

26. Payment of Carve Out on or After the Maturity Date. Any payment made on or after the occurrence of the Maturity Date in respect of any allowed fees and expenses of Professionals shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out shall be added to, and made a part of, the DIP Obligations secured by the DIP

Collateral and shall be otherwise entitled to the protections granted under this ~~Interim~~Final DIP Order, the DIP Loan Documents, the Bankruptcy Code, and applicable law.

27. Access to Collateral. The DIP Administrative Agent, DIP Lenders, Prepetition Collateral Agent, and their respective advisors shall be given reasonable access to the collateral securing their respective liens, security interests and claims granted pursuant to ~~this~~the Interim DIP Order and this Final DIP Order for purposes of monitoring the business of the Debtor and valuing such collateral.

28. Reservation of Rights of Prepetition Secured Parties. Except as expressly provided herein, nothing contained in ~~this~~the Interim DIP Order or this Final DIP Order (including, without limitation, the authorization of the use of any Cash Collateral) shall impair or modify any rights, claims or defenses available in law or equity, to the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties, to assert rights of setoff or other rights with respect thereto as permitted by applicable law (or the right of the Debtor to contest such assertion).

29. Perfection of DIP Liens and Adequate Protection Liens. The automatic stay imposed under section 362(a) of the Bankruptcy Code is hereby vacated and modified to the extent necessary to permit the Debtor to grant the DIP Liens to the DIP Lenders and the Adequate Protection Liens to the Prepetition Secured Parties contemplated by the DIP Loan Documents, the Interim DIP Order, and this ~~Interim~~Final DIP Order, including, but not limited to, the right to seek additional or different adequate protection.

30. The DIP Liens and Adequate Protection Liens granted pursuant to the DIP Loan Documents ~~and this~~, the Interim DIP Order ~~shall~~and this Final DIP Order constitute valid, enforceable and fully perfected security interests and liens, and the DIP Administrative Agent,



DIP Lenders and the Prepetition Secured Parties shall not be required to file or serve financing statements, notices of lien or similar instruments which otherwise may be required under federal, state or local law in any jurisdiction, or take any action, including taking possession, to validate and perfect such security interests and liens; and the failure by the Debtor to execute any documentation relating to the DIP Liens or Adequate Protection Liens shall in no way affect the validity, enforceability, perfection or relative priority of such security interests and liens. The DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties are hereby authorized, but not required, to file or record financing statements, trademark filings, copyright filings, mortgages, deeds of trust, or notices of lien or similar instruments in any jurisdiction, or take any other action in order to validate and perfect the liens and security interests granted to them hereunder. Whether or not the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties shall, in their sole discretion, choose to file any of the foregoing or otherwise confirm perfection of the liens and security interests granted to them under the DIP Loan Documents, [the Interim DIP Order](#) and this ~~Interim~~[Final](#) DIP Order, such liens and security interests shall be deemed valid, perfected, allowed, enforceable, nonavoidable and not subject to challenge, dispute or subordination, at the time and as of the date of entry of ~~this~~[the](#) Interim DIP Order. The DIP Administrative Agent, DIP Lenders, and the Prepetition Secured Parties, without any further consent of any party, are authorized to take, execute and deliver such instruments (in each case without representation or warranty of any kind) to enable the DIP Administrative Agent (for the benefit of itself and the DIP Lenders), the DIP Lenders, and Prepetition Secured Parties to further validate, perfect, preserve and enforce the DIP Liens, and the Debtor shall cooperate with any reasonable requests of such parties to facilitate any of the foregoing.

31. A certified copy of this ~~Interim~~Final DIP Order may be filed with or recorded in filing or recording offices in addition to or in lieu of such financing statements, mortgages, notices of lien or similar instruments, and all filing offices are hereby authorized to accept such certified copy of this ~~Interim~~Final DIP Order for filing and recording.

32. Budget. Attached hereto as **Exhibit A** is the initial Budget (the “Initial Budget”), which has been approved by the Required DIP Lenders and attached hereto as Exhibit B is the subsequent Budget which has been approved by the Required DIP Lenders which is deemed to have been timely delivered by the Debtor under the DIP Loan Agreement. All references to the Budget (which includes the Initial Budget) in this ~~Interim~~Final DIP Order and the DIP Loan Agreement shall mean as the same is subject to the Permitted Deviations ~~(as defined below)~~. Unless otherwise ordered by the Bankruptcy Court or with the prior written consent of the Committee, subject to the Maturity Date, the Budget attached hereto as Exhibit B includes, and each subsequent approved Budget shall include, the following amounts: (i) \$150,000 for each of April, May and June 2018, and \$50,000 per month thereafter to fund the allowed costs and expenses of all legal counsel retained by the Committee in the Chapter 11 Case (and/or to reimburse Committee members for their reasonable, direct, out of pocket expenses associated with their service to the Committee but excluding any fees or expenses of any professionals retained individually by a Committee member), with any amounts not used in a specific month carrying forward to succeeding months (provided that if the hearing to approve the 363 Sale does not occur in June 2018, the Budget shall include \$150,000 for such purpose for each month through and including the month the 363 Sale hearing actually occurs); and (ii) \$100,000 for each of April and May 2018, \$75,000 for June 2018, and \$50,000 per month thereafter to fund the allowed costs and expenses of all financial advisors retained by the Committee in the

Chapter 11 Case. Commencing on the Wednesday of the fourth (4th) week following the Petition Date, the Debtor shall deliver to the DIP Administrative Agent no less frequently than once every two (2) weeks an updated budget (each a “Proposed Budget”) reflecting weekly cash flow forecasts of receipts and disbursements for such Budget period (in substantially the same format as the prior monthly cash flow forecast of receipts and disbursements), in the manner and with the accompanying information set forth in the DIP Loan Agreement. Each Proposed Budget shall be subject to review and approval by the Required DIP Lenders before being deemed an approved Budget. Three (3) Business Days after delivery of a Proposed Budget, unless the DIP Administrative Agent or Required DIP Lenders delivers a written, good faith, objection to the Debtor (a “Proposed Budget Objection”) setting forth specific objections to the Proposed Budget, such Proposed Budget shall be deemed approved by the Required DIP Lenders and shall become the new Budget. If the DIP Administrative Agent or the Required DIP Lenders shall have timely delivered a Proposed Budget Objection to the Debtor, the prior approved Budget shall continue in place and the Parties shall negotiate in good faith to resolve the objections set forth in the Proposed Budget Objection. Upon resolution of the objections set forth in the Proposed Budget Objection, such Proposed Budget shall become the new Budget.

33. Compliance with the Budget shall be tested for the first week and each subsequent week on a cumulative basis beginning on March 12, 2018. During each Budget Test Period, the Debtor will not permit (a) the actual aggregate amount of Net Receipts collected to be less than, in the first Budget Test Period, beginning on Monday of the first week following the Petition Date, and for all subsequent Budget Test Periods, to be less than 85% of the aggregate budgeted amount for such Budget Test Period set forth in the Budget and each previous Budget Test Period set forth in the Budget (“Net Receipt Permitted Deviation”); provided that the DIP

Administrative Agent, at the direction of the Required DIP Lenders, may authorize the Debtor in writing to exceed the Net Receipt Permitted Deviation for any Budget Test Period; or (b) the actual aggregate amount of disbursements set forth in the Budget to be more than 115% of the aggregate budgeted amount for such Budget Test Period set forth in the Budget and each previous Budget Test Period set forth in the Budget (excluding the fees and expenses of the DIP Administrative Agent and DIP Lenders that are required to be reimbursed under certain provisions of the DIP Loan Agreement) (the “Disbursements Permitted Deviation”, and together with the Net Receipt Permitted Deviation, “Permitted Deviations”); provided that the DIP Administrative Agent, at the direction of the Required DIP Lenders, may authorize the Debtor in writing to exceed the Disbursements Permitted Deviation for any Budget Test Period. The Debtor shall deliver a weekly Reconciliation Report to the DIP Administrative Agent in accordance with the DIP Loan Agreement. In addition, the Debtor shall notify the DIP Administrative Agent as soon as reasonably practicable if the Debtor anticipates that it will violate the Permitted Deviation in any respect for any Budget Test Period. All other provisions related to the Budget as set forth in the DIP Loan Agreement shall be adhered to by the Debtor.

34. Budget Covenants.

(a) Except as provided in the DIP Loan Agreement or this ~~Interim~~Final DIP Order, or as approved by the DIP Administrative Agent at the direction of the Required DIP Lenders, the Debtor shall not, directly or indirectly, (i) use any proceeds of the DIP Loans in a manner or for a purpose other than those consistent with the DIP Loan Agreement and this ~~Interim~~Final DIP Order; or (ii) permit a disbursement causing any deviation from the Budget other than Permitted Deviations.

(b) Prior to the occurrence of a DIP Event of Default, the Debtor shall be permitted to pay fees and expenses of Professionals solely to the extent that such fees and expenses are in accordance with the Budget and authorized to be paid under sections 330 and 331 of the Bankruptcy Code (other than any Professionals whose fees are not subject to such provisions) pursuant to an order of the Court, as the same may be due and payable. Upon the occurrence of a DIP Event of Default, the right of the Debtor to pay professional fees and expenses shall terminate, other than as provided with respect to the Carve-Out.

35. Termination. Subject to the terms and conditions set forth in this ~~Interim~~Final DIP Order, the Debtor is authorized to use the proceeds of the ~~Interim~~DIP Facility and the Cash Collateral in the amounts set forth in the Initial Budget and each subsequent approved Budget, subject to Permitted Deviations, through the ~~earlier to occur of (a) the date that is thirty (30) calendar days after the date of entry of this Interim DIP Order (unless such date is extended by the Required DIP Lenders), and (b) entry of the Final DIP Order~~Maturity Date.

36. Remedies; Termination of DIP Facility and Use of Cash Collateral. Following five (5) Business Days' notice of a DIP Event of Default to the Debtor, ~~any~~the Committee, and the Office of the U.S. Trustee, unless such DIP Event of Default is cured within such time or an order of the Bankruptcy Court is entered to the contrary, the DIP Administrative Agent and the DIP Lenders shall have relief from the automatic stay to exercise remedies under the DIP Loan Documents, the Chapter 11 Orders, and applicable law. In addition, following five (5) Business Days' notice of a DIP Event of Default to the Debtor, ~~any~~the Committee, and the Office of the U.S. Trustee and continuing during the pendency of such DIP Event of Default, unless such DIP Event of Default is cured within such time or an order of the Bankruptcy Court is entered to the contrary, without limitation of any of the remedies set forth in the DIP Loan Agreement and the

other DIP Loan Documents, the Debtor shall have no right to use or seek to use any Cash Collateral in which the DIP Administrative Agent, DIP Lenders, or Prepetition Secured Parties has an interest, other than in connection with funding and/or reserving amounts to fund the Carve-Out, or to request further DIP Loans. Subject to the terms and conditions set forth in this ~~Interim~~Final DIP Order, the Debtor is authorized to use the proceeds of the ~~Interim~~ DIP Facility and the Cash Collateral of the Prepetition Secured Parties solely for the purposes set forth in the DIP Loan Documents, in accordance with the Initial Budget, and in accordance with any subsequent approved Budget, including, without limitation, to fund and/or reserve amounts to fund the Carve-Out.

37. Asset Dispositions. Promptly upon, but in no event more than two (2) Business Days after, receipt by the Debtor of net cash proceeds from any asset disposition of DIP Collateral, the Debtor shall prepay the DIP Obligations in an amount equal to 100% of the net cash proceeds so received, provided that the Debtor shall not sell assets outside the ordinary course of business unless such sale is approved by the Required DIP Lenders in their sole discretion and by the Bankruptcy Court. Promptly upon, but in no event more than two (2) Business Days after, receipt by Orexigen Therapeutics Ireland Limited (“Orexigen Ireland”) of net cash proceeds from any disposition of assets of Orexigen Ireland, then (a) Orexigen Ireland shall, or the Debtor shall cause Orexigen Ireland to, apply 100% of the net cash proceeds so received to repay intercompany debt owing from Orexigen Ireland to the Debtor (“Loan Repayment Funds”), and (b) promptly upon receipt by the Debtor of the Loan Repayment Funds, but in no event more than two (2) business days thereafter, the Debtor shall prepay the DIP Obligations in an amount equal to 100% of the Loan Repayment Funds; provided that the Orexigen Ireland shall not sell assets outside the ordinary course of business unless such sale is

approved by the Required DIP Lenders in their sole discretion. ~~It shall be a condition to the Closing that the~~The Orexigen Ireland ~~and the Debtor shall have entered into an agreement, in the form attached as an exhibit to the DIP Loan Agreement, to be effective as of the Closing Date and naming the~~Letter (as defined in the Interim DIP Order) shall remain in full force and effect until the DIP Obligations are satisfied in full, subject to the rights of the Committee and Wilmington Trust, National Association, in its capacity as Indenture Trustee (the “2020 Notes Trustee”), under the Indenture dated as of December 6, 2013, pursuant to which the Debtor issued its 2.75% convertible senior notes due 2020, to challenge the application and treatment of the Loan Repayment Funds, and the respective rights of the Debtor, DIP Administrative Agent, ~~for the benefit of itself and the~~ DIP Lenders, ~~as a third party beneficiary of such agreement, requiring that any sale of assets outside the ordinary course of business by Orexigen Ireland shall be for cash, except as may be approved by the Required DIP Lenders in writing, and containing other terms respecting any such sale and the application of Loan Repayment Funds as set forth herein (the “Orexigen Ireland Letter”).~~ ~~The Court shall not permit the Debtor to incur~~to contest any such challenge, which are preserved. The Debtor is prohibited from incurring any additional post-petition financing unless such full outstanding balance of the DIP Obligations are immediately repaid from the proceeds or such financing.

38. Marshaling. ~~Subject to entry of the Final DIP Order, in~~In no event shall the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties be subject to the equitable doctrine of “marshaling” or any similar doctrine with respect to the DIP Collateral or any part thereof.

39. Section 552(b). ~~Subject to entry of the Final DIP Order, the~~The DIP Lenders and Prepetition Secured Parties are entitled to all of the rights and benefits of section 552(b)(1) of the Bankruptcy Code and the “equities of the case” exception therein shall not apply.

40. Proofs of Claim. The DIP Administrative Agent, the DIP Lenders, and the Prepetition Secured Parties, may, but shall not be required to file proofs of claim in the Chapter 11 Case or any successor case and any order entered by the Court in relation to the establishment of procedures to file proofs or a bar date in the Chapter 11 Case or any successor case shall, or shall be deemed to, so provide.

41. Preservation of Rights Granted Under this ~~Interim~~Final DIP Order.

(a) Except as otherwise set forth herein, no claim or Lien having a priority senior to or *pari passu* with those granted by ~~this~~the Interim DIP Order or this Final DIP Order to the DIP Administrative Agent and DIP Lenders or to the Prepetition Secured Parties, respectively, shall be granted or allowed while any portion of the ~~Interim~~DIP Facility (or any refinancing thereof), the New Money Loan Commitments, the DIP Obligations~~—which are the subject of this Interim DIP Order~~, or the Prepetition Secured Notes Protections remain outstanding, and the DIP Liens and the Adequate Protection Liens shall not be (a) subject or junior to any lien or security interest that is avoided and preserved for the benefit of the Debtor’s estate under section 551 of the Bankruptcy Code or (b) subordinated to or made *pari passu* with any other lien or security interest, whether under section 364(d) of the Bankruptcy Code or otherwise.

(b) To the extent permitted by applicable law, if an order dismissing the Chapter 11 Case under section 1112 of the Bankruptcy Code or otherwise is at any time entered, such order shall provide (in accordance with sections 105 and 349 of the Bankruptcy Code), to



the fullest extent permitted by law, that (a) the DIP Liens, Adequate Protection Liens, and Super-priority Claims pursuant to ~~this~~the Interim DIP Order and this Final DIP Order shall continue in full force and effect and shall maintain their relative priorities as provided in this ~~Interim~~Final DIP Order until all DIP Obligations and Prepetition Secured Notes Protections shall have been paid and satisfied in full and that such DIP Liens, Adequate Protection Liens and Super-priority Claims, shall, notwithstanding such dismissal, remain binding on all parties in interest and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing the claims, liens and security interests referred to and provided for in ~~this~~the DIP Loan Documents, the Interim DIP Order and/or the Final DIP Order.

(c) If any or all of the provisions of ~~this~~the Interim DIP Order or this Final DIP Order are hereafter reversed, modified, vacated or stayed, such reversal, stay, modification or vacation shall not affect (a) the validity of any DIP Obligations or the Debtor's obligation to provide the Prepetition Secured Notes Protection incurred prior to the effective date of such reversal, stay, modification or vacation or (b) the validity or enforceability of any lien or priority authorized or created ~~hereby~~by the Interim DIP Order, this Final DIP Order or pursuant to the DIP Loan Documents, with respect to any DIP Obligations or with respect to the Prepetition Secured Notes Protection. Notwithstanding any such reversal, stay, modification or vacation, any use of Cash Collateral, or DIP Obligations or Prepetition Secured Notes Protection incurred by the Debtor prior to the effective date of such reversal, stay, modification or vacation shall be governed in all respects by the original provisions of ~~this~~the Interim DIP Order or the Final DIP Order, as the case may be, and the DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties shall be entitled to all the rights, remedies, privileges and benefits granted in section 364(e) of the Bankruptcy Code, ~~this~~the Interim DIP Order, this Final DIP Order and

pursuant to the DIP Loan Documents with respect to all uses of Cash Collateral, DIP Obligations and Prepetition Secured Notes Protection.

(d) Except as expressly provided in this ~~Interim~~Final DIP Order or in the DIP Loan Documents, the DIP Liens, Adequate Protection Liens, Super-priority Claims and all other rights and remedies of the DIP Administrative Agent, the DIP Lenders and the Prepetition Secured Parties granted by the provisions of ~~this~~the Interim DIP Order, the Final DIP Order and the DIP Loan Documents, as applicable, shall survive, and shall not be modified, impaired or discharged by (a) the entry of an order converting the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code, dismissing the Chapter 11 Case, or (b) the entry of an order confirming a plan of reorganization in the Chapter 11 Case and, pursuant to section 1141(d)(4) of the Bankruptcy Code, the Debtor waives any discharge as to any remaining DIP Obligations. The terms and provisions of ~~this~~the Interim DIP Order, this Final DIP Order and the DIP Loan Documents shall continue in this Chapter 11 Case or in any superseding chapter 7 case under the Bankruptcy Code, and the DIP Liens, Adequate Protection Liens and Super-priority Claims and all other rights and remedies of the DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties granted pursuant to ~~this~~the Interim DIP Order, the Final DIP Order or DIP Loan Documents, as applicable, shall continue in full force and effect.

42. **Effect of Stipulations on Third Parties.** The agreements, stipulations and findings contained in this ~~Interim~~Final DIP Order shall be binding upon all parties in interest in this Chapter 11 Case, including, but not limited to, the Debtor and ~~any~~the Committee, if appointed, except to the extent that (a) a party in interest with standing, has timely commenced an adversary proceeding or contested matter asserting any claims or causes of action against the Prepetition Secured Parties, objecting to the Prepetition

Secured Parties' claims or liens, or challenging any of the admissions set forth in Paragraph 10 of this **InterimFinal** DIP Order (a "Challenge") no later than ~~the earlier of May 28, 2018~~ (the "Challenge Period") ~~———— (i) 75 days from the date of entry of this Interim DIP Order Deadline),~~ with respect to parties in interest ~~other than the Committee,~~ ~~or (ii) 60 days from the date of formation of the Committee with respect to the~~ including the Committee, and (b) the Court has ruled in favor of the party who timely commenced such Challenge whether prior to or after the Challenge Deadline. If no such Challenge is timely commenced ~~within~~ prior to the Challenge ~~Period~~ Deadline, (a) all of the admissions in Paragraph 10 of this **InterimFinal** DIP Order shall be binding and preclusive on the Debtor and its estate and its respective creditors, the Committee (if any), equity holders, and all other parties in interest in this Chapter 11 Case, (b) the claims of the Prepetition Secured Parties shall constitute allowed claims for all purposes in this Chapter 11 Case and any subsequent chapter 7 case, (c) the Prepetition Liens shall be deemed legal, valid, binding, perfected and otherwise unavoidable, (d) the Prepetition Liens and Prepetition Secured Obligations shall not be subject to subordination, counterclaims, set-off, defense, avoidance or any other or further challenge by any party in interest seeking to exercise the rights of the Debtor's estate, including, without limitation, any successor thereto, and (e) as a result of the foregoing, the repayment of any Prepetition Secured Obligations (including, but not limited to, by means of the Roll-Up Loans) in accordance with the terms of this **InterimFinal** DIP Order and the Prepetition Note Documents shall constitute an indefeasible payment and shall be final and binding for all purposes. If any such Challenge is timely commenced within the Challenge ~~Period~~ Deadline, the agreements, stipulations and findings contained in Paragraph 10 of this **InterimFinal** DIP Order shall nonetheless

remain binding and preclusive on the Debtor and its estate and its creditors, the Committee (if any), equity holders, and all other parties in interest in this Chapter 11 Case, except to the extent that such findings or admissions were expressly and successfully disputed in such Challenge. Nothing in this ~~Interim~~Final DIP Order confers on any Person, including, but not limited to ~~any~~the Committee, standing or authority to pursue any cause of action belonging to the Debtor or its estate, including without limitation, claims and defenses with respect to the Prepetition Secured Obligations; provided that the Debtor and DIP Lenders agree that the Committee shall have the right to file a motion seeking standing or authority to pursue any cause of action belonging to the Debtor or its estate (a "Standing Motion") on seven (7) days' notice to each of them. The filing of a Challenge or Standing Motion prior to the Challenge Deadline shall be deemed sufficient to commence a Challenge. In addition to the amounts referenced in Paragraph 32 of this Final DIP Order which are to be included in the Budget in respect of counsel and the financial advisor to the Committee, the Budget shall include an amount not to exceed \$125,000 for the Committee to investigate potential Challenges commenced prior to the Challenge Deadline, but not to commence a Challenge in respect of, the Prepetition Secured Parties' claims or liens, and the admissions set forth in Paragraph 10 of this Final DIP Order. In the event that a final order is entered by the Bankruptcy Court or another court of competent jurisdiction sustaining a successful Challenge, the Bankruptcy Court may enter an order requiring any amounts paid to the Prepetition Secured Parties prior to such successful Challenge with respect to their allowed secured claims arising under or in connection with the Prepetition Secured Notes or Prepetition Secured Note Documents to be repaid to the Debtor's estate in full and without

setoff, but such an order shall exclude any payments to the DIP Lenders with respect to the Roll-up Loans.

43. Limitations on Use of DIP Facility Proceeds and Cash Collateral. Notwithstanding anything in ~~this~~the Interim DIP Order, the Final DIP Order or in any other order by this Court to the contrary, no portion of the Cash Collateral or other cash, if any, the DIP Facility, the DIP Collateral or the Carve-Out may be used: (a) for any purpose that is prohibited under the Bankruptcy Code or the Chapter 11 Order; (b) to finance in any way: (i) any adversary action, contested matter, suit, arbitration, proceeding, application, motion, objection or other Litigation of any type adverse to the interests of any or all of the DIP Administrative Agent, the DIP Lenders, the Trustee, or the Holders or their respective rights and remedies under the DIP Loan Documents, ~~this~~the Interim DIP Order, ~~the~~this Final DIP Order or the Prepetition Note Documents, or (ii) any other action which with the giving of notice or passing of time would result in a DIP Event of Default under the DIP Loan Documents; (c) for the payment of fees, expenses, interest or principal under the Prepetition Note Documents (other than the inclusion of the Roll-Up Loans in the DIP Loan Facility and the permitted adequate protection payments as set forth in Section 8.7 of the DIP Loan Agreement); (d) to make any distribution under a plan of reorganization in the Chapter 11 Case; (e) to make any payment in settlement of any claim, action or proceeding, before any court, arbitrator or other governmental body without the prior written consent of the Required DIP Lenders; and/or (f) for any purpose or in any manner not approved in the Budget or by the Required DIP Lenders.

44. Rights to Credit Bid. The DIP Administrative Agent, at the direction of the Required DIP Lenders, and the DIP Lenders shall have the right to (a) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion

of the DIP Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including under section 363 of the Bankruptcy Code or any similar laws in any other jurisdictions to which the Debtor is subject, or (b) credit bid and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the DIP Collateral at any other sale or foreclosure conducted by the DIP Administrative Agent (whether by judicial action or otherwise) in accordance with applicable Law, and shall have standing with respect to all aspects of any such sales or hearings related thereto. Subject to payment in full in cash of the DIP Obligations, the Prepetition Collateral Agent (upon the direction of the Required Holders) may credit bid all or any portion of the Pledged Collateral that is subject to a senior lien in favor of the Prepetition Collateral Agent (for the benefit of the Holders) offered for sale in accordance with the procedures set forth herein and in the DIP Loan Agreement; provided, however, that the rights of the Committee and the 2020 Notes Trustee to challenge the rights of the Prepetition Collateral Agent (upon the direction of the Required Holders) to credit bid, and the respective rights of the Debtor, DIP Administrative Agent, DIP Lenders and Prepetition Secured Parties to contest any such challenge, are preserved.

45. Reimbursement of Fees and Expenses. The Debtor shall reimburse the DIP Administrative Agent and DIP Lenders for all of their reasonable costs, fees, charges and expenses incurred in connection with the DIP Facility, the Interim DIP Order, this Final DIP Order, DIP Loan Documents and the Chapter 11 Case (including, without limitation, the reasonable fees and expenses of their attorneys (including counsel for certain Prepetition Secured Parties, Quinn Emanuel Urquhart & Sullivan, LLP and Whiteford Taylor Preston LLC, and counsel for the 1992 Funds, Brown Rudnick LLP) and financial advisors), as set forth in the DIP Loan Agreement. A copy of any invoice submitted by the DIP Administrative Agent or DIP

Lenders to the Debtor shall be delivered simultaneously to the U.S. Trustee and counsel to ~~any~~the Committee (the “Fee Notice”). Such invoices may be redacted to preserve any applicable privilege or work product doctrine and shall not be required to contain specific time entries. None of such costs, fees, charges and expenses shall be subject to Court approval or required to be recorded or maintained in accordance with the United States Trustee guidelines relating to compensation and reimbursement of expenses and no recipient of any such payment shall be required to file any interim or final fee application with the Court. Subject to the Debtor, ~~any~~the Committee, or the U.S. Trustee filing a written objection with this Court to any such fees and expenses within fourteen (14) days after receipt of the Fee Notice, the Debtor shall pay promptly such invoice in accordance with this ~~Interim~~Final DIP Order and DIP Loan Agreement. To the extent a timely filed objection is filed by the Debtor, ~~any~~the Committee, or the U.S. Trustee, the Debtor

(a) shall pay such portion of the fees and expenses to which no objection is interposed and

(b) shall pay any remaining fees and expenses as ordered by the Bankruptcy Court (or upon withdrawal or resolution of the objection).

46. Amendments to DIP Loan Agreement; Approval of Budget. Upon entry of this Final DIP Order, the DIP Loan Agreement shall be deemed amended as follows: (i) Section 5.3(c) of the DIP Loan Agreement shall be deemed deleted in its entirety and replaced with the following: “The Bidding Procedures Order shall provide that bids shall be due not later than June 4, 2018 (the “**Bid Deadline**”); provided that the rights of the Committee and the 2020 Notes Trustee to seek an order of the Bankruptcy Court extending such date, and the respective rights of the Debtor, DIP Administrative Agent and DIP Lenders to contest any such request made by the Committee, the 2020 Notes Trustee or any other party-in-interest, are hereby preserved”; (ii) Section 5.3(e) shall be deemed deleted in its entirety and replaced with the following: “Not later

than June 18, 2018, the Bankruptcy Court (subject to its availability) shall have entered an order approving the 363 Sale; provided that the rights of the Committee and the 2020 Notes Trustee to seek an order of the Bankruptcy Court extending such date, and the respective rights of the Debtor, DIP Administrative Agent and DIP Lenders to contest any such request made by the Committee, the 2020 Notes Trustee or any other party-in-interest, are hereby preserved”; (iii) Section 5.4(ii) of the DIP Loan Agreement shall be deemed amended to remove the following: “and any other event or condition which is reasonably likely to have a Material Adverse Effect on the Borrower”; (iv) Section 7.3(f) of the DIP Loan Agreement shall be deemed amended to remove such clause in its entirety; and (v) Section 11.2 of the DIP Loan Agreement shall be deemed amended as follows: all references to the DIP Administrative Agent and DIP Lenders in such Section shall refer to each of them solely in the respective capacities as such (collectively, the “Amendments”). By entry of this Final DIP Order, the Required DIP Lenders have consented to the Amendments as if set forth in a writing signed by them. Upon entry of this Final DIP Order, the Budget attached as **Exhibit B** shall be deemed the Approved Budget under the DIP Loan Agreement.

47. ~~46.~~ Final DIP Order Governs. In the event of any inconsistency between the provisions of this ~~Interim~~Final DIP Order ~~and~~, the Motion, the DIP Loan Documents ~~and/or~~, Prepetition Note Documents, and/or the Interim DIP Order, the provisions of this ~~Interim~~Final DIP Order shall govern and control.

48. ~~47.~~ Enforceability. This ~~Interim~~Final DIP Order shall constitute findings of fact and conclusions of law and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon entry hereof. Notwithstanding Bankruptcy Rules 6004(h), 6006(d), 7062, or 9014 of the Bankruptcy Rules or any other Bankruptcy Rule, or Rule 62(a) of



the Federal Rules of Civil Procedure, this ~~Interim~~Final DIP Order shall be immediately effective and enforceable upon its entry and there shall be no stay of execution or effectiveness of this ~~Interim~~Final DIP Order.

49. ~~48.~~ Binding Effect; Successors and Assigns. The DIP Loan Documents and the provisions of this ~~Interim~~Final DIP Order, including, ~~subject to entry of the Final DIP Order,~~ all agreements, stipulations and findings herein (subject to Paragraph ~~44~~42 of this ~~Interim~~Final DIP Order) shall be binding upon all parties in interest in the Chapter 11 Case, including, without limitation, the DIP Administrative Agent, DIP Lenders, the Prepetition Secured Parties, ~~any~~the Committee and the Debtor and its successors and assigns (including any estate representative or any chapter 7 or chapter 11 trustee hereinafter appointed or elected for the estate of the Debtor) and shall inure to the benefit of the DIP Administrative Agent, the DIP Lenders, the Prepetition Secured Parties and the Debtor and its successors and assigns; provided, however, that the DIP Lenders and the Prepetition Secured Parties shall have no obligation to permit the use of Cash Collateral or extend any financing, as the case may be, to any trustee or similar responsible person appointed for the estate of any Debtor

50. ~~49.~~ Limitation on Charging Expenses Against Collateral. ~~Subject to and effective only upon entry of the Final DIP Order granting such relief, no~~No expenses of administration of the Chapter 11 Case or any future proceeding that may result therefrom, including liquidation in bankruptcy or other proceedings under the Bankruptcy Code, shall be charged against or recovered from the DIP Collateral pursuant to section 506(c) of the Bankruptcy Code or any similar principle of law.

51. ~~50.~~ Exculpation. Nothing in ~~this~~the Interim DIP Order, this Final DIP Order, the DIP Loan Documents, or any other documents related to the transactions contemplated hereby or

thereby shall in any way be construed or interpreted to impose or allow the imposition upon the DIP Administrative Agent, DIP Lenders or Prepetition Secured Parties any liability for any claims arising from the ~~pre-petition or post-petition activities of the Debtor in the operation of its business, or in connection with its Chapter 11 Case~~ DIP Facility.

52. ~~51.~~ No Third-Party Beneficiary. Except as explicitly set forth herein, no rights are created hereunder for the benefit of any third-party, any creditor or any direct, indirect or incidental beneficiary. \_

53. ~~52.~~ Waiver. ~~Effective upon entry of the Final DIP Order, no~~ No person or entity shall be entitled, directly or indirectly, to, except as expressly provided by Paragraph 24 of this ~~Interim~~ Final DIP Order with respect to the Carve-Out, charge or recover from the Collateral, whether by operation of section 506(c) of Bankruptcy Code, sections 105 or 552(b) of Bankruptcy Code, or otherwise, or direct the exercise of remedies or seek (whether by order of this Court or otherwise) to marshal or otherwise control the disposition of Collateral or property after a DIP Event of Default under the DIP Loan Documents, or termination or breach under the DIP Loan Documents.

54. ~~53.~~ In determining to make any loan under the DIP Loan Agreement or in exercising any rights or remedies as and when permitted pursuant to this Final DIP Order or the DIP Loan Documents, the DIP Administrative Agent and the DIP Lenders shall not be deemed to be in control of the operations of the Debtor or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtor (as such terms, or any similar terms, are used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. § 9601 *et seq.*, as amended, or any similar federal or state statute).

55. Reporting to Committee. The Debtor shall provide the Committee (which may be done by email to Committee counsel) with copies of all reports, financial information and notices that the Debtor is expressly required to deliver to the DIP Administrative Agent under the DIP Loan Documents or this Final DIP Order, which delivery to the Committee shall be contemporaneous with the delivery thereof to the DIP Administrative Agent.

56. ~~54.~~ Retention of Jurisdiction. The Bankruptcy Court shall retain jurisdiction to enforce the provisions of the DIP Loan Documents ~~and this,~~ the Interim DIP Order and this Final DIP Order and the rights of the parties set forth therein and herein, ~~including with respect to the Professional Fee Account~~, and this retention of jurisdiction shall survive the confirmation and consummation of any Chapter 11 plan for the Debtor notwithstanding the terms or provisions of any such Chapter 11 plan or order confirming such Chapter 11 plan or any order dismissing or closing the Chapter 11 Case.

Dated: ~~March~~April \_\_, 2018  
Wilmington, Delaware

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THE HONORABLE KEVIN GROSS  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT A**

**~~INITIAL BUDGET~~Budget**

**[ATTACHED]**

**EXHIBIT B**

**Subsequent Approved Budget**

**[ATTACHED]**

<b>Summary report:</b>	
<b>Litéra® Change-Pro 7.5.0.135 Document comparison done on 4/12/2018 10:37:56 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> iw://HLEAST/NEWYORK/8652101/1	
<b>Modified DMS:</b> iw://HLEAST/NEWYORK/8652101/11	
<b>Changes:</b>	
<u>Add</u>	254
<del>Delete</del>	236
<del>Move From</del>	7
<u>Move To</u>	7
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>504</b>