UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): April 19, 2018

OREXIGEN THERAPEUTICS, INC.
(Exact Name of Registrant as Specified in its Charter)

Delaware	001-33415	65-1178822
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification No.)

3344 N. Torrey Pines Ct., Suite 200, La Jolla, CA	92037
(Address of Principal Executive Offices)	(Zip Code)

Registrant's telephone number, including area code: (858) 875-8600

(Former Name or Former Address, if Changed Since Last Report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Item 1.01. Entry into a Material Definitive Agreement.

As previously reported, on March 12, 2018, Orexigen Therapeutics, Inc. (the "Company") filed a voluntary petition for bankruptcy protection under Chapter 11 of Title 11 of the United States Bankruptcy Code (the "Bankruptcy Code) in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (Case No. 18-10518).

On April 23, 2018, the Company entered into an asset purchase agreement (the "Agreement") with Nalpropion Pharmaceuticals, Inc. (the "Purchaser"), pursuant to which the Purchaser agreed to acquire substantially all of the assets and assume certain liabilities of the Company for an aggregate purchase price of $75,000,000 (the "Acquisition").

The Agreement contains customary representations and warranties of the parties. The Agreement is also subject to a number of closing conditions, including, without limitation: approval by the Bankruptcy Court; the absence of any governmental orders or other legal prohibitions related to the transaction; the accuracy of representations and warranties of the parties, subject to certain qualifications; the absence of a material adverse effect, as defined in the Agreement, with respect to the Company's business and the assets being acquired by the Purchaser; and material compliance with the obligations set forth in the Agreement.

The sale contemplated by the Agreement is expected to be conducted under the provisions of Sections 105, 363 and 365 of the Bankruptcy Code and is subject to certain Bankruptcy Court approved bidding procedures and receipt of higher or otherwise better bid(s) at auction. Under the Agreement, the Company has agreed to pay the Purchaser a break-up fee equal to $3,500,000 and to reimburse the Purchaser for certain expenses in an amount not to exceed $2,000,000 (the "Bid Protections") upon certain triggering conditions, including if the Agreement is terminated because the Purchaser is not the prevailing bidder at auction or the Company consummates another sale or restructuring transaction.

The foregoing description of the Agreement does not purport to be complete and is qualified in its entirety by reference to the Agreement, a copy of which is attached hereto as Exhibit 2.1 and incorporated herein by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Key Employee Incentive Plan

On April 19, 2018, the Bankruptcy Court approved the implementation of the Company's Key Employee Incentive Plan (the "KEIP"). The KEIP provides incentive payments to six key executives based on the achievement of certain performance goals to improve creditor recoveries through the completion of the bankruptcy process. The six key executives are Michael Narachi, Thomas Cannell, Peter Flynn, Monica Forbes, Thomas Lynch and Stephen Moglia (the "Key Executives").

Pursuant to the terms of the KEIP, operational incentive payments will be measured based on operating disbursements from the cumulative budget through the completion of the bankruptcy process. Only Ms. Forbes and Mr. Moglia ("Participating Finance Employees") are eligible for the operational incentives. Participating Finance Employees will receive a one-time payout equal to three-months of their base salary if operating disbursements during the bankruptcy process are no more than 115% of the cumulative budget through the completion of the bankruptcy process.

Pursuant to the terms of the KEIP, asset sale incentives ("Asset Sale Incentives") will be paid in connection with the sale of the Company's assets. For the Participating Finance Employees, the operational incentive will be credited against any Asset Sale Incentives they receive.

The Asset Sale Incentives will be based on a percentage of the proceeds from the asset sale (whether in one or a series of asset sales) (the "Asset Sale Proceeds") as outlined below. Collectively, the Key Executives will receive an allocated portion of an aggregate payout equal to a percentage of Asset Sale Proceeds (the "Incentive Payout"). Allocation of the Incentive Payout to individual Key Employees will be determined by the Company's Compensation Committee; provided, however, if the Asset Sale Proceeds do not exceed $80 million, the Chief Executive Officer is not eligible to participate in the Incentive Payout, and such Incentive Payout will be reallocated among the other Key Employees, as determined by the Compensation Committee. Asset Sale Incentives are capped at $6.25 million for Asset Sale Proceeds exceeding $250 million.

In the event of the involuntary termination of employment of a Key Employee by the Company for cause or voluntary termination of employment by a Key Employee for any reason, the amount of the Incentive Payout allocated for such departing Key Employee may be reallocated among the other Key Employees, as determined by the Compensation Committee.

Asset Sale Proceeds	Incentive Payout
$0 - $40m	0%
$40 - $80m	1%
$80m - $120m	1.5%
$120m - $165m	2.0%
$165m - $250m	2.5%
>$250m	$ 6.25m

The foregoing summary is qualified in its entirety by reference to the KEIP, the terms of which are contained within the motion and order attached hereto as Exhibit 10.1 and is incorporated herein by reference.

Key Employee Retention Plan

On April 19, 2018, the Bankruptcy Court also approved the Company's implementation of a Key Employee Retention Plan ("KERP") covering approximately 67 non-insiders employed by the Company (the "KERP Participants"), as determined by the Chief Executive Officer to be critical to the Company's business and reorganization. The collective funds reserved for the KERP will not exceed $3,115,000 and each KERP Participant is entitled to three month's salary if they do not voluntary terminate their employment with the Company prior to the consummation of the Acquisition. Unused funds may be reallocated to other KERP Participants or other employees who are not currently KERP Participants at the discretion of the Chief Executive Officer.

Item 8.01. Other Events.

On April 23, 2018, the Bankruptcy Court entered an order approving the Purchaser as the "stalking horse" bidder for the assets identified in the Agreement, approving the Bid Protections, implementing certain bidding procedures, scheduling the deadline for qualified competing bidders to submit qualified bids as 4:00 p.m. (Eastern Time) on June 21, 2018, scheduling the auction (if qualified bids are received) for 10:00 a.m. (Eastern Time) on June 26, 2018, setting the date for the sale hearing to approve the sale of substantially all of the Company's assets for 10:00 a.m. (Eastern Time) on June 28, 2018, and approving certain other matters (the "Bidding Procedures Order"). The Bidding Procedures Order is attached hereto as Exhibit 99.1.

A copy of the press release announcing the entry by the Company into the Agreement and the extension of the bid deadline is attached hereto as Exhibit 99.2.

Cautionary Statements Regarding Trading in the Company's Securities\

The Company's securityholders are cautioned that trading in the Company's securities during the pendency of the Chapter 11 process will be highly speculative and will pose substantial risks. Trading prices for the Company's securities may bear little or no relationship to the actual recovery, if any, by holders thereof in the Company's Chapter 11 process. Accordingly, the Company urges extreme caution with respect to existing and future investments in its securities.

Cautionary Statement Regarding Forward-Looking Statements

This Current Report on Form 8-K and the exhibits hereto (collectively, this "Current Report") may contain "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements are those involving future events and future results that are based on current expectations, estimates, forecasts, and projections as well as the current beliefs and assumptions of the Company's management. We often use words such as "anticipate," "estimate," "expect," "project," "intend," "plan," "believe," "may," "predict," "will," "would," "could," "should," "target" and similar expressions to identify forward-looking statements. All statements contained in this Current Report that are not statements of historical fact and other estimates, projections, future trends and the outcome of events that have not yet occurred referenced in this Current Report should be considered forward-looking statements. Actual results or events could differ materially from those indicated in forward-looking statements as a result of risks and uncertainties, including, among others, the potential adverse impact of the Chapter 11 filings on our liquidity or results of operations, changes in our ability to meet financial obligations during the Chapter 11 process or to maintain contracts that are critical to our operations, the outcome or timing of the Chapter 11 process, the effect of the Chapter 11 filings or related proposed asset sale on our relationships with third parties, regulatory authorities and employees, proceedings that may be brought by third parties in connection with the Chapter 11 process and the timing or amount of any distributions to the Company's

stakeholders. Many of such factors relate to events and circumstances that are beyond the Company's control. You should not place undue reliance on forward-looking statements. The Company does not assume any obligation to update the information contained in this Current Report.

Additional Information regarding the Chapter 11 Case

Additional information about the Chapter 11 process and proposed asset sale, as well as other documents related to the restructuring and reorganization proceedings, is available through the Company's claims agent Kurtzman Carson Consultants LLC at www.kccllc.net/orexigen. Information contained on, or that can be accessed through, such web site or the Bankruptcy Court's web site is not part of this Current Report.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

2.1	Asset Purchase Agreement, dated as of April 23, 2018, by and between Orexigen Therapeutics, Inc. and Nalpropion Pharmaceuticals, Inc. (Schedules and exhibits have been omitted from this exhibit pursuant to Item 601(b)(2) of Regulation S-K and are not filed herewith. The registrant hereby agrees to furnish a copy of any omitted schedule or exhibits to the U.S. Securities and Exchange Commission upon request.)
10.1	Key Employee Incentive Plan
99.1	Bidding Procedures Order, filed with the United States Bankruptcy Court for the District of Delaware on April 23, 2018
99.2	Press Release, dated April 23, 2018

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

OREXIGEN THERAPEUTICS, INC.

Date: April 23, 2018

By: /s/ Thomas P. Lynch
Name: Thomas P. Lynch
Title: Executive Vice President, Chief Administrative Officer, General Counsel and Secretary

Exhibit 2.1

ASSET PURCHASE AGREEMENT

by and between

OREXIGEN THERAPEUTICS, INC.,

SELLER,

and

NALPROPION PHARMACEUTICALS, INC.,

PURCHASER

DATED AS OF APRIL 23, 2018

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ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made and entered into as of April 23, 2018, by and between Orexigen Therapeutics, Inc., a Delaware corporation (the "Seller"), and Nalpropion Pharmaceuticals, Inc., a Delaware corporation (the "Purchaser").

RECITALS

WHEREAS, the Seller, together with Orexigen Therapeutics Ireland, Limited, a limited company formed under the laws of Ireland ("Orexigen Ireland"), and Orexigen Therapeutics Ireland, LLC, a Delaware limited liability company (together with Orexigen Ireland, the "Purchased Subsidiaries" and the Purchased Subsidiaries together with the Seller, the "Seller Companies"), is a biopharmaceutical company focused on the development and commercialization of pharmaceutical products and product candidates for the treatment of obesity (the "Business");

WHEREAS, on March 12, 2018, the Seller filed a voluntary petition (the "Petition") for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq*. (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") (Case No. 18-10518), and is operating and managing its businesses as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, subject to and upon the terms and conditions herein, the Seller desires to sell, assign, transfer, convey and deliver to the Purchaser, and the Purchaser desires to purchase and acquire from the Seller, all of the Purchased Assets (as defined below);

WHEREAS, the transactions contemplated by this Agreement are subject to the approval of the Bankruptcy Court and will be consummated only pursuant to the Sale Order (as defined below) approving such sale free and clear of all Liens and Claims, all as more specifically provided in this Agreement, and in accordance with sections 105, 363 and 365 of the Bankruptcy Code and other applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Bidding Procedures Order (as defined below); and

WHEREAS, the Seller and the Purchaser have negotiated in good faith and at arm's length for the purchase and sale of the Purchased Assets, the assumption of certain Liabilities associated therewith and for certain bid protections in connection therewith, subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, agreements, representations and warranties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1
DEFINITIONS AND CONSTRUCTION

Section 1.1 Definitions. For the purposes of this Agreement:

"Acquired Intellectual Property" has the meaning set forth in Section 2.1(d).

"Affiliate" means, with respect to a specified Person, a Person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, the specified Person. For purposes of this definition, the term "control" (including the terms "controlling," "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, under no circumstance will the Purchaser and the Seller be deemed Affiliates of one another notwithstanding the possession by the Purchaser (whether or not exercised) of any rights of control with respect to the Seller.

"Agreement" has the meaning set forth in the Preamble.

"Allocation" has the meaning set forth in Section 2.7(a).

"Allocation Statement" has the meaning set forth in Section 2.7(a).

"Alternative Transaction" means any transaction or series of related transactions (other than pursuant to this Agreement), whether effectuated pursuant to a merger, consolidation, tender offer, exchange offer, share exchange, amalgamation, stock acquisition, asset acquisition, business combination, restructuring, recapitalization, liquidation, dissolution, joint venture or similar transaction, whether or not proposed by the Seller, pursuant to which the Seller: (i) accepts a Qualified Bid, other than that of the Purchaser or its Affiliates, as the highest or otherwise best offer; or (ii) sells, transfers, leases or otherwise disposes of, directly or indirectly, including through an acquisition, asset sale, stock sale, purchase, merger, reorganization, recapitalization or other similar transaction with or involving any equity securities in the Seller or other interests in the Purchased Assets, including a stand-alone plan of reorganization, plan of liquidation, or refinancing, all or substantially all of the Purchased Assets (or agrees to any of the foregoing) in a transaction or series of transactions to a party or parties other than the Purchaser or its Affiliates.

"Asset Option" has the meaning set forth in Section 5.10(h).

"Assignment and Assumption Agreement" has the meaning set forth in Section 2.9(a)(ii).

"Assumed Contracts" has the meaning set forth in Section 2.1(e).

"Assumed Liabilities" has the meaning set forth in Section 2.3.

"Assumption Effective Date" has the meaning set forth in Section 5.12(a).

"Assumption Procedures" means the procedures for the assumption and assignment of Executory Contracts as contemplated in this Agreement, the Bidding Procedures and the Bidding Procedures Order.

"Auction" means the bankruptcy auction of the Seller's assets, conducted by the Seller pursuant to the Bidding Procedures Order.

"Back-Up Bidder" has the meaning set forth in Section 5.13.

"Back-Up Period" has the meaning set forth in Section 5.13.

"Balance Sheet" has the meaning set forth in Section 3.12.

"Bankruptcy Code" has the meaning set forth in the Recitals.

"Bankruptcy Court" has the meaning set forth in the Recitals.

"Bidding Procedures" means the procedure governing the solicitation of bids and the conduct of the Auction for the Purchased Assets under the supervision of the Bankruptcy Court which are attached to the Bidding Procedures Order.

"Bidding Procedures Order" means the order entered by the Bankruptcy Court on April 23, 2018, approving the Bidding Procedures (Dkt. No. 18-10518 (KG)).

"Bill of Sale" has the meaning set forth in Section 2.9(a)(i).

"Break-Up Fee" has the meaning set forth in Section 7.3.

"Budget" has the meaning set forth in the Debtor in Possession Credit and Security Agreement, dated as of March 12, 2018 (the "DIP Loan Agreement"), by and among the Seller, Wilmington Trust, National Association, as DIP Administrative Agent (the "DIP Administrative Agent"), and the DIP Lenders party thereto from time to time.

"Business" has the meaning set forth in the Recitals.

"Business Day" means any day other than Saturday, Sunday or any day on which banking institutions in New York are closed either under applicable Law or action of any Governmental Authority.

"Business Payments" has the meaning set forth in Section 5.15.

"Cash Amount" has the meaning set forth in Section 2.5.

"Chapter 5 Actions and Claims" means, with respect to any Person, all avoidance actions, claims or causes of action that constitute property of such Person's bankruptcy estate under section 541 of the Bankruptcy Code, including claims and causes of action under chapter 5 of the Bankruptcy Code or any other applicable law, and all proceeds therefrom.

"Chapter 11 Case" means the case to be commenced by the Seller under chapter 11 of the Bankruptcy Code in the Bankruptcy Court (Case No. 18-10518).

"Claim" has the meaning set forth in section 101(5) of the Bankruptcy Code.

"Closing" has the meaning set forth in Section 2.8.

"Closing Date" has the meaning set forth in Section 2.8.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, and any rules or regulations promulgated thereunder.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, including the regulations promulgated thereunder.

"Collective Bargaining Agreement" means any written or oral agreement, memorandum of understanding or other contractual obligation between any Seller Company and any labor organization or other authorized employee representative representing Service Providers.

"Company Owned Intellectual Property" means all Intellectual Property owned or purported to be owned by any Seller Company.

"Company Used Intellectual Property" means all right, title and interest of any Seller Company in all Intellectual Property owned or controlled by a Third Party that is (i) licensed or sublicensed to such Seller Company or for which such Seller Company has obtained a covenant not to be sued or (ii) otherwise used or held for use in connection with the Business.

"Confidential Information" means any information that is not generally known to the public and that is or has been used, developed or obtained by the Seller and its Affiliates to the extent it relates to the Business, the Purchased Assets or the Assumed Liabilities, including: (i) products or services; (ii) fees, costs and pricing structures; (iii) designs and specifications; (iv) analyses; (v) drawings, photographs and reports; (vi) computer software, including electronic mail, operating systems, applications and program listings; (vii) flow charts, transaction summaries and models, manuals and documentation; (viii) databases; (ix) financial reports, investment summaries, and accounting and business methods; (x) ideas, formulas, compositions, inventions, devices, new developments, methods and processes, whether patentable or unpatentable and whether or not reduced to practice; (xi) supplier, customers and clients and supplier, customer, contact or client lists and other marketing data or plans; (xii) know-how; (xiii) manufacturing and production processes and techniques; (xiv) research and development information; (xv) files and records; and (xvi) all similar and related information in whatever form, except that Confidential Information will not include any information that has been published in a form generally available to the public, other than as a result of a disclosure by the parties hereto or their respective representatives.

"Contract" means any contract, agreement, arrangement, lease, license, commitment, understanding, franchise, warranty, guaranty, mortgage, note, bond or other instrument or consensual obligation.

"Contract & Cure Schedule" has the meaning set forth in Section 5.12(a).

"Copyrights" means all copyrights (whether or not registered), copyrightable works and all other corresponding rights, including copyrights in software and in the content contained on any Web site, and registrations and applications for any of the foregoing in any jurisdiction, and all derivative works, moral rights, renewals, extensions, reversions or restorations associated with any of the foregoing.

"Cure Amount" means, for any Executory Contract, the amount required to be paid under section 365 of the Bankruptcy Code to effectuate the assumption and assignment of such Executory Contract by the Seller to the Purchaser, as determined by the agreement of the parties to such Executory Contract or by Order of the Bankruptcy Court.

"Customer Financial Incentives" means any rebates, chargebacks, credits, product returns, patient savings card benefits, wholesaler fees and other financial incentives relating to any product that was sold in the conduct of the Business.

"Employee Information Document" has the meaning set forth in Section 3.15(d).

"Employees" has the meaning set forth in Section 5.3(a).

"Employee Plan" means any (i) "employee benefit plan" as defined in Section 3(3) of ERISA, (ii) compensation, employment, consulting, severance, termination protection, change in control, transaction bonus, retention or similar plan, agreement, arrangement, program or policy or (iii) other plan, agreement, arrangement, program or policy providing for compensation, bonuses, profit-sharing, equity or equity-based compensation or other forms of incentive or deferred compensation, vacation benefits, insurance (including any self-insured arrangement), medical, dental, vision, prescription or fringe benefits, life insurance, relocation or expatriate benefits, perquisites, disability or sick leave benefits, employee assistance program, workers' compensation, supplemental unemployment benefits or post-employment or retirement benefits (including compensation, pension, health, medical or insurance benefits), in each case whether or not written (x) that is sponsored, maintained, administered, contributed to or entered into by any Seller Company for the current or future benefit of any current or former Service Provider or (y) for which any Seller Company has any direct or indirect liability.

"Environmental Law" means any Law concerning: (i) the treatment, disposal, emission, discharge, Release or threatened Release of, or exposure to, Hazardous Material; (ii) human health and safety, or (iii) the protection of the environment (including natural resources, air and surface or subsurface land or waters or wildlife).

"Equity Commitment Letter" has the meaning set forth in Section 4.5.

"Equity Financing" has the meaning set forth in Section 4.5.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any rules or regulations promulgated thereunder.

"ERISA Affiliate" with respect to an entity means any other entity that, together with such first entity, would be treated as a single employer under Section 414 of the Code.

"Excluded Assets" has the meaning set forth in Section 2.2.

"Excluded Contracts" has the meaning set forth in Section 2.2(a).

"Excluded Liabilities" has the meaning set forth in Section 2.4.

"Executory Contract" means a Contract that is an "executory contract" or "unexpired lease", as such terms are used in section 365 of the Bankruptcy Code.

"Expense Reimbursement" has the meaning set forth in Section 7.3.

"Final Order" means an order of the Bankruptcy Court or other court of competent jurisdiction: (i) as to which no appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, it has been disposed of in a manner that upholds and affirms the subject order in all respects without the possibility for further appeal or rehearing thereon; (ii) as to which the time for instituting or filing an appeal, motion for rehearing or motion for new trial shall have expired; and (iii) as to which no stay is in effect; provided, however, that the filing or pendency of a motion under Federal Rule of Bankruptcy Procedure 9024(b) shall not cause an order not to be deemed a "Final Order" unless such motion shall be filed within fourteen (14) calendar days of the entry of the order at issue. In the case of (i) the Sale Order, a Final Order shall also consist of an order as to which an appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, but as to which the Purchaser, in its sole and absolute discretion, elects to proceed with Closing, and (ii) any other order that is required hereunder to be a Final Order, a Final Order shall also consist of an order as to which an appeal, notice of appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing or motion for new trial has been filed, but as to which the Purchaser, in its sole and absolute discretion, elects to proceed.

"Fundamental Representations" means each of the representations and warranties contained in Section 3.2, Section 3.3(a), the first sentence of Section 3.4 and Section 3.17.

"Governmental Authority" means any: (i) nation, region, state, county, city, town, village, district or other jurisdiction; (ii) federal, state, local, municipal, foreign or other government; (iii) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department or other entity and any court or other tribunal); (iv) multinational organization exercising judicial, legislative or regulatory power; or (v) body

exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature of any federal, state, local, municipal, foreign or other government.

"Governmental Authorization" means any approval, consent, ratification, waiver, license, Permit, registration or other authorization issued or granted by any Governmental Authority.

"Hazardous Material" means any waste or other substance that is listed, defined, designated or classified as hazardous, radioactive or toxic or a pollutant or a contaminant under, or is otherwise regulated by, any Environmental Law, including any admixture or solution thereof, and including petroleum and all derivatives thereof or synthetic substitutes therefor, asbestos or asbestos-containing materials in any form or condition and polychlorinated biphenyls.

"Intellectual Property" means all of the following anywhere in the world and all legal rights, title or interest in the following arising under Law: (i) all Patents; (ii) all Copyrights; (iii) all mask works, mask work registrations and mask work applications and all other corresponding rights; (iv) all Trademarks; (v) all inventions (whether patentable or unpatentable and whether or not reduced to practice), know how, technology, technical data, trade secrets, confidential business information, manufacturing and production processes and techniques, research and development information, financial, marketing and business data, pricing and cost information, business and marketing plans, advertising and promotional materials, customer, distributor, reseller and supplier lists and information, correspondence, records, and other documentation, and other proprietary information of every kind; (vi) all computer software (including source and object code), firmware, development tools, algorithms, files, records, technical drawings and related documentation, data and manuals; (vii) all databases and data collections; (viii) all licenses and permits to the extent transferable; (ix) all other intellectual property rights; and (x) all rights to assert, claim or sue and collect damages for the past, present or future infringement, misappropriation or other violation of any of the foregoing.

"Intellectual Property Assignment" has the meaning set forth in Section 2.9(a)(iv).

"IP Agreements" means all Contracts (including outstanding decrees, orders, judgments, settlement agreements, or stipulations) to which any Seller Company is a party which contain provisions: (i) granting to any Person rights in Company Owned Intellectual Property or Company Used Intellectual Property; (ii) granting to any Seller Company any rights in Company Used Intellectual Property; (iii) consenting to another Person's use of Company Owned Intellectual Property or Company Used Intellectual Property, or covenanting not to sue any Person for infringement, misappropriation or any other violation of any such Intellectual Property; or (iv) restricting any Seller Company's use of Company Owned Intellectual Property or any Company Used Intellectual Property.

"IRS" means the Internal Revenue Service.

"Judgment" means any Order, injunction, judgment, decree, ruling, assessment or arbitration award of any Governmental Authority or arbitrator.

"Knowledge of the Seller" or "the Seller's Knowledge" means: (i) the actual knowledge of Michael Narachi, Thomas Cannell, Peter Flynn, Thomas Lynch and Monica Forbes after due inquiry into the facts or circumstances supporting any representation, warranty or statement qualified by such terms; and (ii) all such knowledge as would reasonably be obtained by any current executive officer of any Seller Company, for the time period of his tenure, in the discharge of such officer's duties.

"Law" means any applicable federal, state, local, municipal, foreign, international, multinational, or other constitution, law, statute, treaty, rule, regulation, ordinance or code.

"Leased Real Property" has the meaning set forth in Section 2.1(c).

"Liability" means any liability or obligation, whether known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due.

"Lien" means any possessory or non-possessory lien, license (other than with respect to any Company Used Intellectual Property), encumbrance or charge against or other interest in any property or assets, whether voluntary or involuntary and whether statutory or contractual, including any mortgage, deed of trust, deed to secure debt, pledge, assignment, hypothecation, security interest, attachment, judgment, levy, conditional sale agreement, right of first refusal, right of first offer or other arrangement, and including any agreement to give any of the foregoing.

"Material Adverse Effect" means any event, change, circumstance, effect or other matter that has, individually or in the aggregate, a material adverse effect on: (i) the financial condition or results of operations of the Business, taken as a whole; (ii) the condition or value of any material portion of the Purchased Assets or the Assumed Liabilities; or (iii) the ability of the Seller to consummate timely the transactions contemplated by this Agreement; provided, however, that in the case of clauses (i) and (ii), none of the following, either alone or in combination, will constitute, or be considered in determining whether there has been, a Material Adverse Effect, and that in the case of clause (iii), none of clause (F), (G) or (H), either alone or in combination, will constitute, or be considered in determining whether there has been, a Material Adverse Effect: any event, change, circumstance, effect or other matter to the extent resulting from or related to: (A) any outbreak or escalation of war or major hostilities or any act of terrorism; (B) changes in Laws, United States generally accepted accounting principles or enforcement or interpretation thereof; (C) changes that generally affect the industries and markets in which the Seller operates; (D) changes in financial markets, general economic conditions (including prevailing interest rates, exchange rates, commodity prices and fuel costs) or political conditions; (E) any failure, in and of itself, of the Seller to meet any published or internally prepared projections, budgets, plans or forecasts of revenues, earnings or other financial performance measures or operating statistics (provided that the underlying causes of such failure that are not otherwise excluded from the definition of a "Material Adverse Effect" may be taken into account in determining whether there has been a Material Adverse Effect); (F) any action required to be taken or not taken pursuant to or in accordance with this Agreement or at the express written request of, or expressly consented to in writing by, the Purchaser; (G) the filing or continuation of the Chapter 11 Case or any action approved by the Bankruptcy Court (or

any other Governmental Authority in connection with any such Proceeding); or (H) the execution or delivery of this Agreement, the consummation of the transactions contemplated by this Agreement or the public announcement or other publicity with respect to any of the foregoing (provided that this clause (H) shall not apply to any representation, warranty, covenant or agreement intended to address the consequences of the execution or delivery of this Agreement or the consummation of the transactions contemplated by this Agreement), in each of clauses (A), (B), (C) and (D) to the extent that such event, change, circumstance, effect or matter does not disproportionately affect the Seller compared to other companies that are principally engaged in the Business.

"Materials of Environmental Concern" means all substances defined as Hazardous Substances, Oils, Pollutants or Contaminants in the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. § 300.5, or defined as such by, or regulated as such under, any Environmental Law.

"Non-Proration Items" has the meaning set forth in Section 9.2.

"Order" means any writ, judgment, decree, injunction or similar order, writ, ruling, directive or other requirement of any Governmental Authority (in each case whether preliminary or final).

"Orexigen Ireland" has the meaning set forth in the Recitals.

"Orexigen Ireland Securities" has the meaning set forth in Section 3.17(b).

"Orexigen Ireland Shares" has the meaning set forth in Section 2.1(m).

"Orexigen Ireland Subsidiary Securities" has the meaning set forth in Section 3.17(d).

"Other Seller Taxes" has the meaning set forth in Section 9.2.

"Outside Date" has the meaning set forth in Section 5.10(b)(ii).

"Patent" means all national and multinational statutory invention registrations, patents and patent applications of any type issued or applied for in any jurisdiction, including all industrial designs, provisionals, non-provisionals, continuations, divisionals, continuations-in-part, renewals, reissues, extensions, supplementary protection certificates, reexaminations and the equivalents of any of the foregoing in any jurisdiction, and all inventions disclosed in each such registration, patent or patent application.

"Permit" means all permits, licenses, consents, approvals, franchises, accreditations, certifications, easements, rights of way and authorizations related to the operation of the Business.

"Person" means an individual or an entity, including a corporation, limited liability company, general or limited partnership, trust, association or other business or investment entity, or any Governmental Authority.

"Petition" has the meaning set forth in the Recitals.

"Petition Date" means March 12, 2018, the date the Petition was filed with the Bankruptcy Court.

"Post-Closing Access and Cooperation Period" has the meaning set forth in Section 10.15(a).

"Prepaid Expenses" means all prepaid charges and expenses of the Seller to the extent related to the Excluded Assets.

"Previously Omitted Contract" has the meaning set forth in Section 5.12(e).

"Proceeding" means any action, arbitration, audit, examination, investigation, hearing, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, and whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

"Proration Items" has the meaning set forth in Section 9.2.

"Purchase Price" has the meaning set forth in Section 2.5.

"Purchased Assets" has the meaning set forth in Section 2.1.

"Purchased Inventory" has the meaning set forth in Section 2.1(a).

"Purchased Subsidiaries" has the meaning set forth in the Recitals.

"Purchaser" has the meaning set forth in the Preamble.

"Qualified Bid" means competing bids that are submitted in accordance with the Bidding Procedures and Bidding Procedures Order.

"Receivables" has the meaning set forth in Section 2.1(l).

"Release" means the release, spill, emission, leaking, pumping, pouring, emptying, escaping, dumping, injection, deposit, disposal, discharge, dispersal, leaching or migrating of any Hazardous Material into the environment.

"Sale Hearing" means the hearing to be conducted by the Bankruptcy Court to approve this Agreement and seeking entry of the Sale Order.

"Sale Order" means, collectively, one or more orders of the Bankruptcy Court in form and substance acceptable to the Purchaser and the Seller: (i) approving the sale of the Purchased Assets (and the assumption and assignment of the Assumed Contracts) to the Purchaser free and clear of all Claims and Liens pursuant to section 363(f) of the Bankruptcy Code, on the terms and conditions set forth in this Agreement; (ii) approving the Back-Up Bidder chosen at the

Auction and the asset purchase agreement submitted by such Back-Up Bidder; (iii) authorizing consummation of the transactions contemplated hereby; (iv) containing a finding that the transactions contemplated by this Agreement are undertaken by the Seller and the Purchaser (solely in its capacity as such) at arm's length, without collusion and in good faith by the Purchaser within the meaning of section 363(m) of the Bankruptcy Code; (v) assuring that the Purchaser will not be subject to successor liability for any claims or causes of action of any kind or character against the Seller, whether known or unknown, unless expressly assumed as an Assumed Liability pursuant to this Agreement; (vi) authorizing the Purchaser to freely own and operate the Purchased Assets; (vii) providing that the Bankruptcy Court shall retain jurisdiction to hear any disputes arising in connection with the transactions contemplated by this Agreement, and (viii) permitting the Purchaser to waive, in its sole discretion, the 14-day stay period under Rule 6004(h) of the Federal Rules of Bankruptcy Procedure.

"Schedule" means a schedule included in the Seller Disclosure Schedule and the other schedules attached hereto; provided, however, that in the event the Purchaser and the Seller agree for the Purchaser to exercise the Asset Option pursuant to Section 5.10(h), the Schedules may be updated to reflect such exercise in accordance with Section 5.10(h).

"Seller" has the meaning set forth in the Preamble.

"Seller Companies" has the meaning set forth in the Recitals.

"Seller Disclosure Schedule" has the meaning set forth in Article 3.

"Seller Names and Marks" means any and all (i) Trademarks of each Seller Company, including all names, marks and logos set forth on Schedule 3.9(a) and the name and mark "Orexigen Therapeutics" and all design marks and logos therefor and (ii) Trademarks derived from, confusingly similar to or including any of the foregoing.

"Service Provider" means any director, officer, employee or individual independent contractor of any Seller Company.

"Subsidiary" means, with respect to a specified Person, any corporation or other Person of which equity securities or other interests having the power to elect a majority of that corporation's or other Person's board of directors or similar governing body, or otherwise having the power to direct the business and policies of that corporation or other Person (other than securities or other interests having such power only upon the happening of a contingency that has not occurred), are held directly or indirectly by the specified Person. When used in this Agreement without reference to a particular Person, "Subsidiary" means a Subsidiary of the Seller. Notwithstanding the foregoing, under no circumstance will the Seller be deemed a Subsidiary of the Purchaser notwithstanding the possession by the Purchaser (whether or not exercised) of any rights of control with respect to the Seller.

"Successful Bidder" means the bidder who shall have submitted the highest or otherwise best bid at the conclusion of the Auction in accordance with the Bidding Procedures and Bidding Procedures Order.

"Supplement" has the meaning set forth in Section 5.14.

"Straddle Period" means any taxable period beginning before the Closing Date and ending after the Closing Date.

"Tax" means: (i) any federal, state, local, foreign or other tax, charge, fee, duty (including customs duty), levy or assessment, including any income, gross receipts, net proceeds, alternative or add-on minimum, corporation, ad valorem, turnover, real property, personal property (tangible or intangible), sales, use, franchise, excise, value added, stamp, leasing, lease, user, transfer, fuel, excess profits, profits, occupational, premium, interest equalization, windfall profits, severance, license, registration, payroll, environmental (including Taxes under section 59A of the Code), capital stock, capital duty, disability, estimated, gains, wealth, welfare, employee's income withholding, other withholding, unemployment or social security or other tax of whatever kind (including any fee, assessment or other charges in the nature of or in lieu of any tax) that is imposed by any Governmental Authority; (ii) any interest, fines, penalties or additions resulting from, attributable to, or incurred in connection with any items described in this paragraph or any related contest or dispute; and (iii) any Liability for the Taxes of another Person.

"Tax Return" means any report, return, declaration, claim for refund, or information return or statement related to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"Third Party" means any Person and/or group of Persons other than the Seller, the Purchaser or any of their respective Affiliates.

"Trademarks" means all trademarks, trade names, service marks, designs, logos, brand names, certification marks, corporate names, trade dress, emblems, signs or insignia, slogans, Internet addresses and domain names, other similar designations of source or origin and general intangibles of like nature, any derivations of any of the foregoing, and all registrations and applications for registrations pertaining to any of the foregoing (including any intent to use applications, supplemental registrations and any renewals or extensions of any of the foregoing), and all goodwill associated with any of the foregoing.

"Transfer Taxes" has the meaning set forth in Section 9.1.

"Transferred Employees" has the meaning set forth in Section 5.3(a).

"Welfare Plans" has the meaning set forth in Section 5.3(b).

Section 1.2 Construction. Any reference in this Agreement to an "Article," "Section," "Exhibit" or "Schedule" refers to the corresponding Article, Section, Exhibit or Schedule of or to this Agreement, unless the context indicates otherwise. The table of contents and the headings of Articles and Sections are provided for convenience only and are not intended to affect the construction or interpretation of this Agreement. All words used in this Agreement are to be construed to be of such gender or number as the circumstances require. The words "including,"

"includes" or "include" are to be read as listing non-exclusive examples of the matters referred to, whether or not words such as "without limitation" or "but not limited to" are used in each instance. Where this Agreement states that a party "shall", "will" or "must" perform in some manner or otherwise act or omit to act, it means that the party is legally obligated to do so in accordance with this Agreement. Any reference to a statute is deemed also to refer to any amendments or successor legislation as in effect at the relevant time. Any reference to a Contract or other document as of a given date means the Contract or other document as amended, supplemented and modified from time to time through such date, except with respect to any Contract or other document described in the Seller Disclosure Schedule.

ARTICLE 2
THE TRANSACTION

Section 2.1 Sale and Purchase of Purchased Assets. In accordance with the provisions of this Agreement and the Sale Order, and except as set forth in Section 2.2, at the Closing, the Seller will sell, convey, assign, transfer and deliver to the Purchaser, and the Purchaser will purchase and acquire from the Seller, all of the Seller's right, title and interest in and to all of the properties and assets of the Seller held or used in or arising from the conduct of the Business, of every kind and description, wherever located, real, personal or mixed, tangible or intangible, known or unknown, free and clear of all Liens and Claims other than the Assumed Liabilities, including the following (all of the assets to be sold, conveyed, assigned, transferred or delivered to the Purchaser are referred to as the "Purchased Assets"):

(a) Inventory. All raw materials (including all active pharmaceutical ingredients), work in process, components, packaging and labeling materials, supplies, finished goods and other inventory, regardless of where located (the "Purchased Inventory");

(b) Equipment. All furniture, fixtures, equipment, and other personal property owned, leased, licensed, used or held for use in the Business, including all trade fixtures, supplies, computer and other information technology equipment, applications, systems and motor vehicles, including any substitutions or replacements thereof made in accordance with this Agreement between the date of this Agreement and the Closing Date, regardless of where located;

(c) Real Property. All rights in respect of the leased real property set forth on Schedule 2.1(c) to the extent the underlying lease is an Assumed Contract (the "Leased Real Property");

(d) Intellectual Property. All Company Owned Intellectual Property, including (i) all Seller Names and Marks and (ii) Patents, Copyrights and Trademarks and other Intellectual Property set forth on Schedule 2.1(d) (collectively, the "Acquired Intellectual Property");

(e) Contracts. All Executory Contracts (including IP Agreements of the Seller) assumed by the Seller and assigned to the Purchaser pursuant to Section 5.12 (collectively, the "Assumed Contracts"); provided, however, that if any Assumed Contract is recharacterized by a Final Order to not be an Executory Contract, then the real property or personal property that is subject to such Assumed Contract shall be a Purchased Asset;

(f) Authorizations. All Governmental Authorizations, including those Governmental Authorizations set forth on Schedule 2.1(f);

(g) Correspondence. All correspondence with or to any Governmental Authority (including letters, minutes and official contact reports relating to any communications with any Governmental Authority), including (i) all regulatory submissions with respect to any product, and (ii) all original dossiers with respect to any Governmental Authorizations for any product;

(h) Advertising Materials. All advertising, marketing, sale and promotional files and materials (including any television, radio and print content and materials), point of sale materials and Web site content (together with all source code, design notes and design documents associated therewith solely to the extent it is Company Owned Intellectual Property), including all Company Owned Intellectual Property therein;

(i) Books and Records. All books, records, files and papers, client and customer lists, supplier and vendor lists, purchase orders, sales and purchase invoices, production reports, information and records, personnel and employment records, and financial and accounting records, that are within the Seller's control or readily accessible to the Seller;

(j) Claims. All claims, rights, credits, causes of action, defenses and rights of set-off against Third Parties, including any commercial tort claims and unliquidated rights under manufacturers' and vendors' warranties and any Chapter 5 Action and Claim related to the Purchased Assets including, the Receivables being purchased hereunder;

(k) Insurance. All insurance policies, excluding those for the benefit of officers and directors of the Seller, subject to Section 2.11, and all insurance claims and proceeds other than Excluded Assets;

(l) Receivables. All accounts receivable and other receivables (together with any unpaid interest or fees accrued thereon or other amounts due with respect thereto), and all causes of action pertaining to the collection of the foregoing, including any intercompany receivables due to the Seller from the Purchased Subsidiaries or from any other Subsidiary of the Seller (provided that at the Purchaser's sole election, any such intercompany receivable may be terminated or reinstated at the Closing pursuant to Section 5.18) ("Receivables"); and

(m) Orexigen Ireland. One hundred percent (100%) of the equity interests in Orexigen Ireland (the "Orexigen Ireland Shares").

Section 2.2 Excluded Assets. Notwithstanding the terms of Section 2.1, the Seller will retain and will not sell, convey, assign, transfer or deliver to the Purchaser, and the Purchaser will not purchase or acquire, and the Purchased Assets do not include, any of the following assets described below (the "Excluded Assets"):

(a) Contracts. All Contracts that are not assumed by the Seller and assigned to the Purchaser pursuant to Section 5.12 (each, an "Excluded Contract");

(b) Books and Records. All minute books and records, stock ledgers, Tax records and all other materials that the Seller is required by Law to retain or primarily relating to an Excluded Asset or Excluded Liability; provided, however, that the Seller shall provide the Purchaser with reasonable access to and copies of any such materials;

(c) Insurance. All insurance claims and proceeds to the extent related to the Excluded Assets and Excluded Liabilities;

(d) Claims. All rights, claims or causes of action of the Seller to the extent relating to any Excluded Assets or Excluded Liability;

(e) Chapter 5 Actions and Claims. All Chapter 5 Actions and Claims not constituting Purchased Assets pursuant to Section 2.1(j);

(f) Estate Claims. All estate claims of the Seller (except to the extent constituting Purchased Assets pursuant to Section 2.1(j));

(g) Accounts and Deposits. All: (i) cash, cash equivalents, bank deposits, investment accounts, lockboxes, certificates of deposit, marketable securities, bank accounts, corporate credit cards and other similar cash items, and (ii) deposits, pre-payments, refunds, rebates, credits and similar items, including rent and utility deposits, prepaid rent and all other prepaid charges and expenses, attributable to any period of time (or portion thereof) ending on or prior to the Closing Date;

(h) Prepaid Expenses. All Prepaid Expenses;

(i) Tax Refunds. All rights to refunds, rebates, credits or similar benefits relating to Taxes and other governmental charges of whatever nature attributable to any period of time (or portion thereof) ending on or prior to the Closing Date;

(j) This Agreement. All of the Seller's rights under this Agreement and all agreements ancillary to this Agreement (including payments comprising part of the Purchase Price); and

(k) Specifically Excluded Assets. All assets specifically listed as Excluded Assets on Schedule 2.2(k).

Section 2.3 Assumed Liabilities. In accordance with the provisions of this Agreement and the Sale Order, at the Closing, the Purchaser will assume and pay or perform and discharge when due only the following Liabilities of the Seller, in each case other than the Excluded Liabilities, and no other Liabilities (the "Assumed Liabilities"), and except for the Assumed Liabilities, the Purchaser shall not be deemed to have assumed any other Liabilities of the Seller or any of its predecessors:

(a) Contractual Liabilities. All Liabilities arising after the Closing under the Assumed Contracts, the Leased Real Property, the Receivables and the Governmental Authorizations included in the Purchased Assets that were incurred from the conduct of the Business by the Purchaser following the Closing (other than Liabilities attributable to any failure by the Seller to comply with the terms thereof or to the extent attributable to any conduct of the Seller with respect to any event or condition first occurring prior to the Closing, in each case to the extent not otherwise an Assumed Liability set forth below);

(b) Cure Amounts. To the extent set forth next to any Assumed Contract on the Contract & Cure Schedule (including as determined by the Bankruptcy Court or by mutual agreement with the contract counterparty to such Assumed Contract), any Cure Amount with respect to such Assumed Contract;

(c) Accounts Receivable Obligations. All obligations of the Seller to Third Parties related to or in connection with any Customer Financial Incentives first arising or incurred after the Closing owing or to be owing pertaining to sales of the Seller prior to the Closing but after the Petition Date; provided that all such Customer Financial Incentives in the aggregate relating to the Receivables shall not exceed the outstanding amount of the Receivables on the Closing Date;

(d) Transfer Taxes. All Liabilities for Taxes borne by the Purchaser pursuant to Section 9.1;

(e) Employee Benefits and Labor. (i) All Liabilities of the Seller relating to or arising out of paid time off due to any Transferred Employees which remain accrued but unused or unpaid as of the Closing; (ii) any Liabilities relating to or in connection with any Transferred Employees arising in connection with their relationship with the Purchaser after the Closing, and (iii) the Purchaser's obligation to provide COBRA continuation coverage for all "M&A Qualified Beneficiaries" as described in Section 5.3(e); and

(f) Other Assumed Liabilities. All Liabilities specifically identified on Schedule 2.3(f) to be delivered by the Purchaser to the Seller on or prior to May 7, 2018, including trade payables to the extent set forth therein that are not assumed pursuant to Section 2.3(c) or paid as a Cure Amount;

For the avoidance of doubt, all Liabilities arising out of, relating to or incurred in connection with the Business or the Purchased Assets arising after the Closing that were incurred from the conduct of the Business by the Purchaser after the Closing (other than Liabilities attributable to any failure by the Seller to comply with the terms thereof or to the extent attributable to any conduct of the Seller with respect to any event or condition first occurring prior to the Closing, in each case to the extent not otherwise an Assumed Liability set forth below) shall be Liabilities of the Purchaser.

Section 2.4 Excluded Liabilities. Notwithstanding any other provision of this Agreement or any other writing to the contrary, the Purchaser is assuming only the Assumed Liabilities and is not assuming any other Liability of the Seller or any of its predecessors of

whatever nature, whether presently in existence or arising hereafter, which shall be retained by and remain Liabilities of the Seller (the "Excluded Liabilities"). Such Excluded Liabilities include the following:

(a) Operating Liabilities. All Liabilities which are not Assumed Liabilities to the extent relating to claims (including claims instituted after the Closing), events or conditions arising out of or relating in any way to the conduct or operation of the Business or the ownership of the Purchased Assets prior to the Closing, including as a result of the manufacture, design, use, operation, storage, acquisition, development or construction of, or warranties provided with respect to, a Purchased Asset during the period prior to the Closing, including any Customer Financial Incentives (excluding any such Customer Financial Incentive that is an Assumed Liability to the extent set forth in Section 2.3(c));

(b) Taxes. Any Liability for (i) Taxes of the Seller or any of its Affiliates, (ii) Taxes with respect to amounts included in income under Section 951 of the Code with respect to the Purchased Subsidiaries as a result of Section 965 of the Code, (iii) Taxes attributable to the Business or the Purchased Assets for any period of time (or portion thereof) ending on or prior to the Closing Date (other than the Taxes expressly assumed by the Purchaser pursuant to Section 9.1 or Section 9.2), and (iv) Taxes borne by the Seller pursuant to Section 9.1 or Section 9.2;

(c) Incidents and Events. All Liabilities and obligations arising out of, relating to or in connection with incidents or events occurring prior to the Closing by any Person employed by, or acting as an independent contractor on the property of or on behalf of, the Seller for payment, claims or benefits under workers' compensation Laws or any other Law;

(d) Costs. All Liabilities of the Seller for fees, costs and expenses incurred in connection with the Chapter 11 Case or negotiating, preparing, closing and carrying out this Agreement and the transactions contemplated hereby, including (i) the fees and expenses of attorneys, investment bankers, finders, brokers, accountants and consultants and (ii) any fees, costs and expenses or payments related to any transaction bonus, discretionary bonus, change-of-control payment, retention or other compensatory payments made to any Employee (including the employer portion of any pre-Closing payroll, social security, unemployment or similar Taxes);

(e) Litigation Claims. Any litigation claims and any other Liabilities arising from any Proceeding (i) arising prior to the Closing, including any tort claims, breach of contract claims, employment claims and discrimination claims, or (ii) to the extent relating to events or conditions arising out of or relating in any way to the conduct of the Business or the ownership of the Purchased Assets prior to the Closing even if instituted after the Closing;

(f) Environmental. Any Liabilities arising in connection with or in any way relating to the Seller (or any predecessor or any prior owner of all or part of its business and assets), any property now or previously owned, leased or operated by the Seller or the Purchased Assets or any activities or operations occurring or conducted at any real property used or held for use by the Seller (including offsite disposal), which (i) arise under or relate to any Environmental Law and (ii) relate to actions occurring or conditions existing on or prior to the Closing Date;

(g) Excluded Assets. Any Liability arising out of or related to any Excluded Asset;

(h) Indebtedness. Any Liability in respect of any indebtedness for borrowed money of the Seller or any of its predecessors, including any Liability in respect of the Debtor in Possession Credit and Security Agreement, dated as of March 12, 2018, by and among the Seller, Wilmington Trust, National Association, as DIP Administrative Agent, and the DIP Lenders party thereto from time to time;

(i) Employee Benefits and Labor. Any Liabilities of the Seller relating to or arising out of an Employee Plan and any Liabilities relating to (i) any Transferred Employees arising on or prior to the Closing Date or (ii) any current or former Service Providers who are not Transferred Employees;

(j) Related Persons. Any Liabilities to any (i) owner or former owner of capital stock or other equity interests of the Seller, (ii) current or former officer or director of the Seller, or (iii) Subsidiary of the Seller, in each case in their capacity as such; and

(k) Other. Any Liabilities that are not Assumed Liabilities.

Section 2.5 Consideration. The consideration for the Purchased Assets (the "Purchase Price") consists of: (a) cash in the amount of $75,000,000 (the "Cash Amount"); and (b) the assumption of the Assumed Liabilities.

Section 2.6 [Intentionally Omitted.]

Section 2.7 Allocation of Purchase Price.

(a) Within sixty (60) days after the Closing Date, the Purchaser will deliver to the Seller, or any trustee appointed under the terms set forth in any bankruptcy plan confirmed by the Seller (as applicable), with a copy to the Official Committee of Unsecured Creditors in the Chapter 11 Case and DIP Administrative Agent, an allocation statement (the "Allocation Statement"), setting forth its calculation of the allocation of the sum of the Purchase Price and the Assumed Liabilities, as adjusted for payments made pursuant to Article 9, among the Purchased Assets, in accordance with section 1060 of the Code and any comparable provisions of state or local Law (the "Allocation"). The Seller will review the Allocation Statement and the Allocation, and, to the extent the Seller disagrees with the content of the Allocation Statement, the Seller will inform the Purchaser of such disagreement within thirty (30) days after receipt of the Allocation Statement. The Seller and the Purchaser will attempt in good faith to resolve any such disagreement. If the Seller and the Purchaser are unable to reach a good faith agreement on the content of the Allocation Statement within ninety (90) days of the Closing Date, the Seller and the Purchaser will each use its own allocation statement. For purposes of this Section 2.7, all actions of the Seller may be the obligations or rights of a liquidating trustee of the Seller's estate.

(b) If the Purchaser and the Seller agree on the Allocation Statement, the Purchaser and the Seller will report the Allocation of the Purchase Price in a manner consistent with the Allocation Statement and will act in accordance with the Allocation Statement in the preparation and filing of all Tax Returns and for all other Tax, financial accounting or other purposes, in any litigation, or otherwise.

(c) The Purchaser and the Seller will promptly inform one another of any challenge by any Governmental Authority to the Allocation made pursuant to this Section 2.7 and agree to consult with and keep each other informed with respect to the status of, and any discussion, proposal or submission with respect to, such challenge.

Section 2.8 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") will take place at the offices of Hogan Lovells US LLP, 875 Third Avenue, New York, New York 10022, at 10:00 a.m., prevailing Eastern time, if not conducted electronically at the option of the parties hereto, as soon as practicable, but in no event later than two (2) Business Days after the date on which all the conditions set forth in Article 6 have been satisfied or (if permissible) waived by the party hereto entitled to waive such condition (other than conditions which by their nature are to be satisfied at the Closing, but subject to the satisfaction or (if permissible) waiver of such conditions). The date on which the Closing actually occurs is referred to in this Agreement as the "Closing Date."

Section 2.9 Closing Deliveries.

(a) At the Closing, the **Seller** will deliver or cause to be delivered to the Purchaser:

(i) a bill of sale in the form of Exhibit A (the "Bill of Sale") executed by the Seller;

(ii) an assignment and assumption agreement in the form of Exhibit B (the "Assignment and Assumption Agreement") executed by the Seller;

(iii) a certificate, dated as of the Closing Date, executed by the Seller confirming the satisfaction of the conditions specified in Sections 6.1(a) and 6.1(b);

(iv) an Intellectual Property assignment agreement in the form of Exhibit C (the "Intellectual Property Assignment") executed by the Seller;

(v) assignments and assumptions of the Assumed Contracts in the form to be mutually agreed by the Seller and the Purchaser in good faith prior to the Closing Date, duly executed by the Seller and the applicable counterparties;

(vi) a certified copy of the Sale Order;

(vii) a duly executed certification in accordance with Treasury Regulations Section 1.1445-2(b)(2) to the effect that the Seller is neither a disregarded entity as defined in Treasury Regulations Section 1.1445-2(b)(2)(iii) nor a "foreign person"; and

(viii) such other instruments of sale, transfer, conveyance and assignment as the Purchaser reasonably requests for the purpose of consummating the transactions contemplated by this Agreement.

(b) At the Closing, the **Purchaser** will deliver or cause to be delivered to the Seller or for the Seller's benefit:

(i) the Purchase Price by delivery of cash to the Seller by wire transfer of immediately available funds to an account designated by the Seller prior to the Closing in an amount equal to the Cash Amount;

(ii) an Assignment and Assumption Agreement executed by the Purchaser;

(iii) evidence of the ability to satisfy the Assumed Liabilities (other than those to be satisfied in cash on the Closing Date) to the extent necessary to satisfy the Bankruptcy Code, or as required by order of the Bankruptcy Court;

(iv) the Bill of Sale executed by the Purchaser;

(v) a certificate, dated as of the Closing Date, executed by the Purchaser confirming the satisfaction of the conditions specified in Sections 6.2(a) and 6.2(b);

(vi) the Intellectual Property Assignment executed by the Purchaser; and

(vii) such other instruments of assumption as the Seller reasonably requests for the purpose of consummating the transactions contemplated by this Agreement.

Section 2.10 Payment of Cure Amounts. The Purchaser shall pay any and all Cure Amounts with respect to the Assumed Contracts, in cash on the Assumption Effective Date in the amount specified on the final Contract & Cure Schedule (or as otherwise fixed by the Bankruptcy Court), or in such other manner as agreed by the Purchaser and the counterparty to an Assumed Contract.

Section 2.11 Consents. Notwithstanding any other provision of this Agreement, this Agreement does not effect an assignment of any Assumed Contract to the extent that such Assumed Contract is not assignable under the Bankruptcy Code without the consent of the other party or parties thereto, and the consent of such other party has not been given or received, as applicable. As to any Purchased Asset (including any Assumed Contract and Governmental Authorization), the Seller will use commercially reasonable efforts to obtain as promptly as practicable prior to the Closing (and, prior to the entry by the Bankruptcy Court of an order confirming a Chapter 11 plan or dismissing the Chapter 11 Case, and subject to the availability of funds for such purpose, use commercially reasonable efforts to continue seeking after the Closing, if consent is not obtained prior to the Closing), the consent of the other parties to transfer such Purchased Asset to the Purchaser or, if required, for novation thereof to the Purchaser or, alternatively, written confirmation from such parties reasonably satisfactory to the Purchaser that such consent is not required. In no event, however, will the Seller be obligated to

pay any money to any Person or to offer or grant financial or other accommodations to any Person in connection with obtaining any consent, waiver, confirmation, novation or approval with respect to any such Assumed Contract. If any consent, waiver, confirmation, novation or approval is not obtained with respect to any such Purchased Asset prior to the Closing, then to the extent permitted by applicable Law, the Seller and the Purchaser will cooperate to establish an agency type or other similar arrangement reasonably satisfactory to the Seller and the Purchaser under which the Purchaser would obtain (including by means of subcontracting, sublicensing or subleasing arrangement), to the extent practicable, all rights, and assume the corresponding Assumed Liabilities thereunder for the period of time that the Purchaser shall receive such rights, or under which the Seller would enforce, for the benefit of the Purchaser, with the Purchaser assuming and agreeing to pay the Seller's Liabilities and expenses (other than Excluded Liabilities) for the period of time that the Purchaser shall receive such benefits, any and all rights of the Seller against a Third Party to any such Purchased Asset. In such event: (a) the Seller will promptly pay to the Purchaser when received all moneys relating to the period on or after the Closing Date received by it under any Purchased Asset not transferred pursuant to this Section 2.11; and (b) for the period of time set forth in clause (a) the Purchaser will promptly pay, perform or discharge when due any Assumed Liabilities arising thereunder after the Closing Date but not transferred to the Purchaser pursuant to this Section 2.11. The failure by the Purchaser or the Seller to obtain any required consent, waiver, confirmation, novation or approval with respect to any Assumed Contract will not relieve any party from its obligation to consummate at the Closing the transactions contemplated by this Agreement. Except as expressly set forth in this Agreement, the Purchaser acknowledges that no adjustment to the Purchase Price will be made for any such Assumed Contracts that are not assigned and that the Purchaser will have no claim against the Seller after the Closing in respect of any such unassigned Contracts.

Section 2.12 Withholding. The Purchaser and its Affiliates shall be entitled to deduct and withhold from any amount otherwise payable to the Seller pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under any provision of federal, state, local or foreign Law. If any amount is so withheld, such withheld amounts shall be treated for all purposes of the Agreement as having been paid to the Seller.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF THE SELLER

The Seller represents and warrants to the Purchaser as of the date hereof and as of the Closing Date as follows, except as (subject to Section 10.7) set forth on the disclosure schedules delivered by the Seller to the Purchaser concurrently with the execution and delivery of this Agreement and dated as of the date of this Agreement (the "Seller Disclosure Schedule"):

Section 3.1 Organization. Each Seller Company is duly organized and validly existing and in good standing under the Laws of its jurisdiction of formation. Except as a result of the filing of the Petition, each Seller Company has all requisite power and authority to conduct the Business as presently conducted. Each Seller Company is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction where such qualification is

necessary, except for those jurisdictions where failure to be so qualified would not reasonably be expected to have a Material Adverse Effect. The Seller has heretofore delivered to the Purchaser true and complete copies of the certificate of incorporation and bylaws of each Seller Company as currently in effect.

Section 3.2 Authority and Enforceability. Subject only to the entry of the Bidding Procedures Order and the Sale Order, the Seller has all requisite corporate power, authority and capacity to execute and deliver this Agreement and the other agreements contemplated hereunder and to perform its obligations under this Agreement and such other agreements. Subject only to the entry of the Bidding Procedures Order and the Sale Order, the execution, delivery and performance of this Agreement and the other agreements contemplated by this Agreement and the consummation of the transactions contemplated by this Agreement and such other agreements by the Seller have been duly authorized by all necessary action on the part of the Seller. The Seller has duly and validly executed and delivered this Agreement. Assuming the due authorization, execution and delivery of this Agreement by the Purchaser and subject to the entry of the Sale Order, this Agreement constitutes the valid and binding obligation of the Seller, enforceable against the Seller in accordance with its terms.

Section 3.3 No Conflict. Subject only to the entry of the Bidding Procedures Order and the Sale Order, and except in the case of clauses (b), (c), (d) and (e) that has not had, and would not reasonably be expected to have, a Material Adverse Effect, neither the execution, delivery and performance of this Agreement by the Seller, nor the consummation by the Seller of the transactions contemplated by this Agreement, will: (a) conflict with or violate the Seller's organizational documents; (b) result in a breach or default under, or create in any Person the right to terminate, cancel, accelerate or modify, or require any notice, consent or waiver under, any Contract or Governmental Authorization; (c) violate any Law or Judgment applicable to any Seller Company, the Business or the Purchased Assets; (d) require any Seller Company to obtain any Governmental Authorization or make any filing with or provide any notice to, or, to the Knowledge of the Seller, require any action by, any Governmental Authority (provided that, subject to Section 5.4 and Section 5.17, the transfer of any Permits will be the obligation of the Purchaser, provided further that the Seller shall provide commercially reasonable assistance regarding the transfer of such Permits); or (e) result in the creation of any Lien or Claim on any Purchased Asset or any material asset of any Purchased Subsidiary.

Section 3.4 Title to Assets; Liens. The Seller has good and marketable title to, or in the case of leaseholds, valid leasehold interests in, the Purchased Assets, and each Purchased Subsidiary has good and marketable title to, or in the case of leaseholds, valid leasehold interests in, the assets of such Purchased Subsidiary reflected in the Balance Sheet, in each case free and clear of any Liens or Claims except as set forth on Schedule 3.4 of the Seller Disclosure Schedule, and subject to the entry of the Sale Order, at Closing, the Purchaser will be vested with good and marketable title to, or in the case of leaseholds, valid leasehold interests in, all of the Purchased Assets, which Purchased Assets shall be conveyed free and clear of any Liens or Claims by order of the Bankruptcy Court. The Purchased Assets and the Excluded Assets constitute all of the property and assets used or held for use in the Business and are adequate to conduct the Business as currently conducted.

Section 3.5 Claims, Litigation and Disputes. Except as set forth on Schedule 3.5 of the Seller Disclosure Schedule, there are currently no pending or, to the Knowledge of the Seller, threatened, lawsuits, administrative or regulatory Proceedings, actions, Orders, or reviews, or formal complaints or investigations or inquiries, including grand jury subpoenas by any Person, concerning or against any Seller Company or to which the Business or any of the Purchased Assets may be subject.

Section 3.6 Compliance With Laws; Permits and Licenses.

(a) Except as disclosed on Schedule 3.6(a) of the Seller Disclosure Schedule, each Seller Company is, and since January 1, 2015 has been, and, to the Knowledge of the Seller each counterparty to any distributor Contract to which any Seller Company is a party is and since January 1, 2015 has been, in compliance with all Laws, Orders, ordinances, decrees, rules or regulations of any Governmental Authority applicable to such Seller Company, the Business or the Purchased Assets, except such noncompliance which has not had, and would not reasonably be expected to have, a Material Adverse Effect. There is no Order of any arbitrator or Governmental Authority outstanding relating to any Seller Company, the Purchased Assets or the conduct of the Business that is material to the Business. Except as set forth on Schedule 3.6(a) of the Seller Disclosure Schedule, since January 1, 2015, no Seller Company has received any written notice from a Governmental Authority of any Proceeding, inquiry, investigation, violation or alleged violation of any Laws or Orders related to such Seller Company, the Business or the Purchased Assets.

(b) Each Seller Company has in effect all Governmental Authorizations necessary to conduct the Business in all material respects as it is currently being conducted in accordance with the Laws of any Governmental Authority having jurisdiction over its properties or activities, except for any such failure to obtain a Permit that has not had, and would not reasonably be expected to have, a Material Adverse Effect. Schedule 2.1(f) sets forth all Governmental Authorizations held by each Seller Company (it being understood that, subject to Section 5.4 and Section 5.17 it shall be the sole and exclusive obligation of the Purchaser to obtain any Permits necessary for future operations, provided that the Seller shall provide commercially reasonable assistance regarding the transfer of such Permits unless otherwise agreed by Purchaser), except that the failure of the Seller to include a Governmental Authorization on Schedule 2.1(f) shall not be a breach of this Section 3.6(b) to the extent that such failure has not had, and would not reasonably be expected to have, a Material Adverse Effect. All Governmental Authorizations held by each Seller Company are in full force and effect and are validly held by such Seller Company, and such Seller Company has, and, to the Knowledge of the Seller each counterparty to any distributor Contract to which such Seller Company is a party has, complied with all terms and conditions thereof in all material respects. All material fees and charges due and payable with respect to the Governmental Authorizations held by each Seller Company have been paid in full. The Seller is the sole and exclusive owner of any Governmental Authorization solely related to the manufacture, production, marketing, commercialization, promotion, distribution and/or sale of products of the Business.

Section 3.7 Environmental Matters. Each Seller Company has conducted the Business since January 1, 2015 in material compliance with all applicable Environmental Laws. The operations conducted by each Seller Company are currently being conducted under all environmental, health and safety Permits and other authorizations required under all applicable Environmental Laws to operate the Business as it is currently being operated, except for such Permits the failure of which to obtain has not had, and would not reasonably be expected to have, a Material Adverse Effect. All such Permits are in full force and effect. No material penalty has been assessed and no investigation or review is pending or, to the Knowledge of the Seller, threatened by any Governmental Authority with respect to any alleged failure by any Seller Company to comply with any applicable Environmental Law or to have any material environmental, health or safety Permit required under any applicable Environmental Law in connection with the operation of the Business. To the Seller's Knowledge, there are no past or present facts, circumstances or conditions, including the Release of any Materials of Environmental Concern, that could reasonably be expected to result in a material claim under applicable Environmental Laws against any Seller Company or the Business. The Seller has made available to the Purchaser prior to the execution of this Agreement all material environmental audits, assessments and documentation regarding environmental matters pertaining to, or the environmental condition of, the Business or the Purchased Assets or the compliance (or non-compliance) by each Seller Company with any applicable Environmental Laws with respect to the Business, to the extent such audits, assessments and documentation are in any Seller Company's possession or are reasonably accessible to any Seller Company.

Section 3.8 Contracts. Schedule 3.8 of the Seller Disclosure Schedule sets forth a true and complete list of all Contracts, and the Seller has made available to the Purchaser prior to the execution of this Agreement in accordance with applicable confidentiality agreements, true and materially complete copies of all Contracts material to the ownership and/or operation of the Business, including any applicable Contract (i) that generated any revenue for such Seller Company in 2017 or under which any revenue would reasonably be expected to be generated for any Seller Company and/or an assignee thereof in 2018; (ii) under which there were payments by any Seller Company in excess of $25,000 for 2017 or under which an amount in excess of $25,000 would reasonably be expected to be paid by any Seller Company and/or an assignee thereof in 2018; (iii) pursuant to which any Seller Company leases from a Third Party any personal property that is material to the Business; (iv) limiting or purporting to limit the freedom of any Seller Company (or, after the Closing, that would so limit the Purchaser or any of its Affiliates) to engage in the Business or compete with any Person or in any geographic region; (v) granting to any Person a first refusal, first offer or similar preferential right to purchase or acquire any Purchased Asset or any material assets of any Purchased Subsidiary; (vi) that requires the purchase of all or substantially all of a particular product or material from a supplier, or containing a minimum purchase or supply commitment, or which provides for "best pricing" or "most favored nations" terms or establishes an exclusive or priority sale or purchase obligation; or (vii) that includes any powers of attorney with respect to any product manufactured, developed or sold by the Business or any Purchased Asset. Each Seller Company has not, and, to the Seller's Knowledge, no other party to any Assumed Contract or any material Contract of any Purchased Subsidiary has, commenced any action against any of the parties to any such Contract or given or received any written notice of any material default or violation under any such Contract that has not been withdrawn or dismissed except to the extent such default or violation will be cured as a result of the payment of the applicable Cure Amount.

Assuming payment of the Cure Amounts, each Assumed Contract and material Contract of any Purchased Subsidiary is, or will be upon the Closing, valid, binding and in full force and effect in accordance with its terms. There are no material disputes between any Seller Company and any other party to any Assumed Contract or material Contract of any Purchased Subsidiary. No Seller Company has received any written notice that any other party to an Assumed Contract or a material Contract of any Purchased Subsidiary intends to cancel or terminate such Contract, except as would not be material to the Business.

Section 3.9 Intellectual Property.

(a) Schedule 3.9(a) sets forth a true and complete list of all of the Company Owned Intellectual Property, Company Used Intellectual Property and IP Agreements, including a true and complete list of all United States, foreign, international and state: (i) Patents, including serial numbers for each filed Patent application and Patent numbers for each issued Patent, included in the foregoing; (ii) Trademark registrations, applications and material unregistered Trademarks included in the foregoing; (iii) domain names, included in the foregoing; and (iv) Copyright registrations, applications and material unregistered Copyrights included in the foregoing. The Seller has provided prior to the date hereof, subject to applicable confidentiality agreements, to the Purchaser true and complete copies of all IP Agreements material to the ownership and/or operation of the Business, together with all written notices and amendments relating thereto. The listing of IP Agreements set forth on Schedule 2.1(d) includes for each agreement the title, the parties and the date executed.

(b) Except as disclosed on Schedule 3.9(b), a Seller Company solely and exclusively owns all Company Owned Intellectual Property and is properly licensed under or has the valid and enforceable right to use all Company Used Intellectual Property, free and clear of all Liens and Claims, and none of such rights will be materially adversely affected by the consummation of the transactions contemplated by this Agreement (subject to any necessary consents for the transfer of any Company Used Intellectual Property. Except as disclosed on Schedule 3.9(b), to the Knowledge of the Seller, there are no inquiries, investigations or Claims, and no Seller Company has received written notice from any Third Party: (i) alleging infringement, misappropriation or other violation by any Seller Company or the Business of Intellectual Property of any Person; or (ii) challenging or threatening to challenge any Seller Company's right, title, or interest with respect to its ownership or use of, or continued use or right to preclude others from using, any Company Owned Intellectual Property or Company Used Intellectual Property as currently used, or the inventorship, validity, enforceability or registrability of any such Intellectual Property. To the Knowledge of the Seller, (x) no Seller Company has infringed, misappropriated or otherwise violated any Intellectual Property of any Person and (y) no Person has infringed, misappropriated or otherwise violated any Company Owned Intellectual Property or any Seller Company's interest in any Company Used Intellectual Property.

(c) No Seller Company has brought or threatened in writing a Claim against any Person: (i) alleging infringement, misappropriation or other violation of Company Owned Intellectual Property or Company Used Intellectual Property; or (ii) challenging any Person's ownership or use of, or the inventorship, validity, enforceability or registrability of any Intellectual Property.

(d) The Company Owned Intellectual Property and the Company Used Intellectual Property is the only Intellectual Property used in or necessary for the operation of the Business. The Company Owned Intellectual Property: (i) has been duly maintained; (ii) to the Knowledge of the Seller, is subsisting, in full force and effect; (iii) has not been cancelled, expired or abandoned or adjudged invalid or unenforceable; and (iv) to the Knowledge of the Seller, is valid and enforceable (except for pending Patent applications in various jurisdictions, which by their nature as applications are not yet enforceable).

(e) Each Seller Company has taken reasonable steps in accordance with normal industry practice to maintain the confidentiality of all Company Owned Intellectual Property and Company Used Intellectual Property, the value of which to such Seller Company is contingent upon maintaining the confidentiality thereof and no such Intellectual Property has been disclosed other than to employees, representatives and agents of such Seller Company, all of whom are bound by written confidentiality agreements, or to third parties who are subject to customary written non-disclosure agreements.

Section 3.10 Taxes. (a) The Seller (with respect to the Purchased Assets) and each Purchased Subsidiary has filed or caused to be filed on a timely basis all Tax Returns that are or were required to be filed; (b) all such Tax Returns accurately reflect all Liabilities required to be reflected thereon; (c) all Taxes due and payable by the Purchased Subsidiaries or the Seller have been paid, other than those Taxes which have been stayed by the filing of the Petition and, in the case of the Seller, Taxes that do not relate to the Purchased Assets; (d) none of the Seller (with respect to the Purchased Assets) nor any Purchased Subsidiary has requested or consented to extend to a date later than the Closing Date the time in which any Tax may be assessed or collected by any Governmental Authority; (e) no deficiency or proposed adjustment which has not been settled or otherwise resolved for any amount of Tax has been proposed, asserted or assessed by any Governmental Authority against the Seller with respect to the Purchased Assets or any of the Purchased Subsidiaries, and there is no action, suit, taxing authority Proceeding or audit now in progress, pending or, to the Knowledge of the Seller, threatened against or relating to the Seller with respect to the Purchased Assets or the Purchased Subsidiaries; (f) there are no Liens for Taxes (other than for current Taxes not yet due and payable or Liens for Taxes filed as a result of the Chapter 11 Case) upon the Purchased Assets or the assets of any Purchased Subsidiary; (g) neither of the Purchased Subsidiaries is party to any tax allocation or sharing or similar agreement or arrangement, whether or not written; (h) the taxable year of each Purchased Subsidiary that is a controlled foreign corporation for U.S. Tax purposes ends on December 31 for purposes of Section 951 of the Code; and (i) none of the assets held by the Purchased Subsidiaries constitutes a United States real property interest within the meaning of Section 897 of the Code, and no withholding is required under Section 1445 of the Code with respect to any amount payable to the Seller under this Agreement.

Section 3.11 Real Property. Schedule 3.11 of the Seller Disclosure Schedule sets forth a true and complete list of all material leased real property of each Seller Company or used in the Business, and the leases related thereto, and true and complete copies of such leases have been

made available by the Seller to the Purchaser prior to the date hereof. The Seller has a valid leasehold interest in each of the Leased Real Property and each Purchased Subsidiary has a valid leasehold interest in each of its material leased real property, and the leases granting such interests are in full force and effect in all material respects. None of the Leased Real Property or material leased real property of any Purchased Subsidiary is subject to any sublease or grant to any Third Party of any right to the use, occupancy or enjoyment of the Leased Real Property or such material leased real property that would materially impair the use of the Leased Real Property in the operation of the Business. No Seller Company has received written notice of any pending or threatened condemnation relating to the Leased Real Property or any material leased real property of any Purchased Subsidiary. No Seller Company owns any real property.

Section 3.12 Financial Statements. The audited balance sheets as of December 31, 2016, 2015 and 2014 and the related audited statements of operations, comprehensive income, stockholders' equity and cash flows for each of the years ended December 31, 2016, 2015 and 2014 and the unaudited balance sheet as of December 31, 2017 (the "Balance Sheet") and the related unaudited statements of operations, comprehensive income, stockholders' equity and cash flows for the year ended December 31, 2017 for the Business fairly present, in conformity with U.S. generally accepted accounting principles applied on a consistent basis (except as may be indicated in the notes thereto), the financial position of the Business as of the dates thereof and its results of operations and cash flows for the periods then ended.

Section 3.13 Products. Except as would not be material to the Business: (a) each of the products produced, marketed or sold by the Business is, and at all times up to and including the sale thereof has been, (i) in compliance in all respects with all Laws and the specifications and standards contained in the applicable Governmental Authorization under which such products are sold and (ii) fit for the ordinary purposes for which it is intended to be used; and (b) there is no design defect with respect to any of such products and each of such products contains adequate warnings, presented in a reasonably prominent manner, in accordance with Laws and current industry practice with respect to its contents and use. Since January 1, 2015, no Seller Company has issued or received written notice of any material recalls, field notifications, investigator notices, safety alerts, serious adverse event reports or other notices of action relating to an alleged lack of safety or regulatory compliance with respect to any such products.

Section 3.14 Inventory. Except as would not be material to the conduct of the Business: (a) the Purchased Inventory consists of a quality and quantity usable and salable in the ordinary course of business consistent with past practice; (b) the quantities of Purchased Inventory, taken as a whole, are consistent with past practice of the Seller; (c) to the Knowledge of the Seller, no previously sold inventory is subject to returns in excess of those historically experienced by any Seller Company; and (d) the Purchased Inventory is not damaged (due to failure to store at the requisite temperature or otherwise), recalled or incorrectly packaged or labeled.

Section 3.15 Employee Benefits and Labor Matters.

(a) Schedule 3.15(a) of the Seller Disclosure Schedule sets forth a true and complete list of all Employee Plans. For each Employee Plan in which any Service Provider participates, the Seller has provided to the Purchaser prior to the date hereof (i) a description of such plan and (ii) copies of all current employee handbooks, manuals and policies.

(b) No Employee Plan provides or promises any post-employment or postretirement medical, dental, disability, hospitalization or life benefits (whether insured or self-insured) to any current or former Service Provider (other than coverage mandated by applicable Law, including COBRA). Each Employee Plan has been maintained in all material respects in compliance with its terms and all applicable Law, including ERISA and the Code. No action, suit, investigation, audit, Proceeding or claim (other than routine claims for benefits) is pending against or involves or, to the Seller's Knowledge, is threatened against or threatened to involve, any Employee Plan before any arbitrator or any Governmental Authority.

(c) Except as set forth on Schedule 3.15(c), neither the execution of this Agreement nor the consummation of the transactions contemplated hereby (either alone or together with any other event) will (i) entitle any Service Provider to any payment or benefit, including any bonus, retention, severance, retirement or job security payment or benefit, (ii) with respect to any Service Provider, accelerate the time of payment or vesting or trigger any payment or funding (through a grantor trust or otherwise) of compensation or benefits under, or increase the amount payable or trigger any other obligation under, any Employee Plan, or (iii) result in the payment to any Service Provider of any amount that would result in an excise tax under Section 4999 of the Code. No Seller Company has any obligation to gross up, indemnify or otherwise reimburse any Service Provider for any Tax incurred by such Service Provider, including under Section 409A or 4999 of the Code.

(d) The Seller has provided to the Purchaser prior to the date hereof a list (the "Employee Information Document") setting forth: (i) for each Service Provider other than an independent contractor, such Service Provider's name, employer, title, location, whether full- or part-time, whether active or on leave (and the expected return date if on leave and the nature of leave), whether exempt or non-exempt for overtime pay, current rate of compensation, most recent annual bonus received and current annual bonus opportunity, and accrued paid time off; and (ii) for each Service Provider that is an independent contractor, such Service Provider's name, employer, 2017 and 2018 annual compensation rate and a description of services provided in connection with the Business.

(e) Each Seller Company is, and has been since January 1, 2015, in compliance in all material respects with all applicable Laws relating to labor and employment, including those relating to labor management relations, wages, hours, overtime, employee classification, discrimination, sexual harassment, civil rights, affirmative action, work authorization, immigration, safety and health, information privacy and security, workers compensation, continuation coverage under group health plans, wage payment and the payment and withholding of Taxes.

(f) Each Seller Company is not and has not been a party to or subject to, or is currently negotiating in connection with entering into, any Collective Bargaining Agreement, and, to the Seller's Knowledge, there has not been any organizational campaign, petition or other unionization activity seeking recognition of a collective bargaining unit relating to any Service

Provider. There is no labor strike, slowdown, stoppage, picketing, interruption of work or lockout pending or, to the Seller's Knowledge, threatened against or affecting any Seller Company.

Section 3.16 Absence of Certain Changes. Since the Petition Date, except for the Chapter 11 Case, the Business has been conducted in the ordinary course consistent with past practices and there has not been any event, occurrence, development or state of circumstances or facts that has had, or would reasonably be expected to have, a Material Adverse Effect. Since the Petition Date, except as set forth on Schedule 3.16 of the Seller Disclosure Schedule, no Seller Company has entered into any Contract relating to licensing, distribution or supply that is material in any respect to any Seller Company.

Section 3.17 Orexigen Ireland.

(a) Orexigen Ireland has an authorized share capital of US$1,000,000 divided in 1,000,000 ordinary shares of US$1.00 each. There are 100 ordinary shares of Orexigen Ireland in issue, all of which are held by the Seller.

(b) All outstanding equity interests of Orexigen Ireland have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth in this Section 3.17, there are no outstanding (i) shares of capital stock or voting securities of Orexigen Ireland, (ii) securities of Orexigen Ireland convertible into or exchangeable for shares of capital stock or voting securities of Orexigen Ireland or (iii) options or other rights to acquire from Orexigen Ireland, or other obligation of Orexigen Ireland to issue, any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of Orexigen Ireland (the items in clauses (i), (ii) and (iii) being referred to collectively as the "Orexigen Ireland Securities"). There are no outstanding obligations of the Seller to repurchase, redeem or otherwise acquire any Orexigen Ireland Securities.

(c) Other than with respect to the pledge by the Seller of 65% of the Orexigen Ireland Shares to U.S. Bank National Association, as indenture trustee, pursuant to that certain Security Agreement dated as of March 21, 2016, which pledge will be terminated and released in full at the Closing, the Seller is the record and beneficial owner of the Orexigen Ireland Shares, free and clear of any Lien or Claim and any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of the Orexigen Ireland Shares), and will transfer and deliver to the Purchaser at the Closing valid title to the Orexigen Ireland Shares free and clear of any Lien or Claim and any such limitation or restriction.

(d) All of the outstanding capital stock or other voting securities of each Subsidiary of Orexigen Ireland is owned by Orexigen Ireland, directly or indirectly, free and clear of any Lien or Claim and free of any other limitation or restriction (including any restriction on the right to vote, sell or otherwise dispose of such capital stock or other voting securities). There are no outstanding (i) securities of Orexigen Ireland or any Subsidiary thereof convertible into or exchangeable for shares of capital stock or voting securities of any Subsidiary of Orexigen Ireland or (ii) options or other rights to acquire from Orexigen Ireland or any Subsidiary thereof, or other obligation of Orexigen Ireland or any Subsidiary thereof to issue,

any capital stock, voting securities or securities convertible into or exchangeable for capital stock or voting securities of any Subsidiary of Orexigen Ireland (the items in clauses (i) and (ii) being referred to collectively as the "Orexigen Ireland Subsidiary Securities"). There are no outstanding obligations of Orexigen Ireland to repurchase, redeem or otherwise acquire any outstanding Orexigen Ireland Subsidiary Securities.

Section 3.18 No Undisclosed Liabilities. There are no liabilities of Orexigen Ireland or any Subsidiary thereof of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than: (a) liabilities provided for in the unaudited balance sheet as of December 31, 2017 for the Business or disclosed in the notes thereto; and (b) liabilities which have been incurred in the ordinary course of business consistent with past practice since December 31, 2017 and which are not material in amount.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Seller as of the date hereof and as of the Closing Date as follows:

Section 4.1 Organization and Good Standing. The Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware and has all requisite corporate power and authority to conduct its business as it is presently conducted.

Section 4.2 Authority and Enforceability. The Purchaser has all requisite company power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action on the part of the Purchaser. The Purchaser has duly and validly executed and delivered this Agreement. Assuming the due authorization, execution and delivery of this Agreement by the Seller and subject to the entry of the Sale Order, this Agreement constitutes the valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, subject to: (a) Laws of general application relating to bankruptcy, insolvency and the relief of debtors; and (b) Laws governing specific performance, injunctive relief and other equitable remedies.

Section 4.3 No Conflict. Neither the Purchaser's execution, delivery and performance of this Agreement, nor the consummation by the Purchaser of the transactions contemplated by this Agreement, will: (a) conflict with or violate the Purchaser's organizational documents; (b) result in a breach or default under or create in any Person the right to terminate, cancel, accelerate or modify, or require any notice, consent or waiver under, any Contract to which the Purchaser is a party or by which the Purchaser is bound, in any case with or without due notice or lapse of time or both; (c) result in the imposition of any Lien or other encumbrance on any of the assets of the Purchaser; (d) violate any Law or Judgment applicable to the Purchaser; or (e) require the Purchaser to obtain any Governmental Authorization or make any filing with any Governmental Authority.

Section 4.4 Legal Proceedings. There is no Proceeding pending or, to the Purchaser's knowledge, threatened against the Purchaser that questions or challenges the validity of this Agreement or that may prevent, delay, make illegal or otherwise interfere with the ability of the Purchaser to consummate any of the transactions contemplated by this Agreement.

Section 4.5 Financial Capacity. The Purchaser has received commitment letters (each, an "Equity Commitment Letter") from each of 1992 Co-Invest Fund, 1992 Tactical Fund, 1992 Multi-Strategy Fund, Whitebox Caja Blanca Fund, LP, Whitebox Multi-Strategy Partners, L.P., Whitebox Asymmetric Partners and Pernix Ireland Pain Designated Activity Company, confirming each such Person's commitment to provide the Purchaser with equity financing in connection with the transactions contemplated by this Agreement in the amount set forth in each such Equity Commitment Letter (the "Equity Financing"). Each Equity Commitment Letter is in full force and effect and is a valid and binding obligation of the Purchaser and the other parties thereto. Subject to the terms and conditions of the Equity Commitment Letters, the aggregate proceeds of the Equity Financing are in an amount sufficient to allow the Purchaser to perform all of its obligations under this Agreement.

Section 4.6 Independent Investigation. The Purchaser has conducted its own independent investigation, review and analysis of the business, operations, assets, liabilities, results of operations, financial condition and prospects of the Business as it has deemed appropriate, which investigation, review and analysis was done by the Purchaser and its representatives. The Purchaser acknowledges that it and its representatives have been provided adequate access to the personnel, properties, premises and records of the Business for such purpose. In entering into this Agreement, the Purchaser acknowledges that it has relied solely upon the aforementioned investigation, review and analysis and not on any factual representations or opinions of the Seller or its representatives (except the representations and warranties set forth in Article 3). The Purchaser hereby acknowledges and agrees that: (a) the Purchaser is purchasing the Purchased Assets from the Seller "as is" and "where is" and, other than the representations and warranties set forth in Article 3, none of the Seller, any of its Affiliates, or any of their respective officers, directors, employees, agents, representatives or stockholders make or have made any representation or warranty, express or implied, at law or in equity, as to any matter whatsoever relating to the Business, the Purchased Assets, the Assumed Liabilities or any other matter relating to the transactions contemplated by this Agreement including as to: (i) merchantability or fitness for any particular use or purpose; (ii) the operation of the Business by the Purchaser after the Closing in any manner; or (iii) the probable success or profitability of the Business after the Closing; and (b) except as expressly set forth in the representations and warranties set forth in Article 3, none of the Seller, any of its Affiliates, or any of their respective officers, directors, employees, agents, representatives or stockholders will have or will be subject to any Liability or indemnification obligation to the Purchaser or any other Person resulting from the distribution to the Purchaser or its Affiliates or representatives of, or the Purchaser's use of, any information relating to the Business or any other matter relating to the transactions contemplated by this Agreement, including any descriptive memoranda, summary business descriptions or any information, documents or material made available to the Purchaser or its Affiliates or representatives, whether orally or in writing, in certain "data rooms," management presentations, functional "break-out" discussions, responses to questions

submitted on behalf of the Purchaser or in any other form in expectation of the transactions contemplated by this Agreement. Nothing in this Section 4.6 shall be deemed to constitute a waiver of fraud.

ARTICLE 5
COVENANTS

Section 5.1 Access and Investigation. Until the Closing, subject to existing confidentiality agreements and upon reasonable advance notice from the Purchaser, the Seller will allow the Purchaser and its representatives reasonable access during normal business hours and without unreasonable interference with the operation of the Business to: (a) such materials and information about the Business as the Purchaser may reasonably request; and (b) specified members of management of the Business as the Purchaser may reasonably request.

Section 5.2 Operation of the Business.

(a) Until the Closing, except: (i) as required by Law, including in connection with the Chapter 11 Case (it being understood that no provision of this Section 5.2 will require the Seller to make any payment to any of its creditors with respect to any amount owed to such creditors on the Petition Date or which would otherwise violate the Bankruptcy Code); (ii) as expressly set forth in this Agreement or Schedule 5.2 of the Seller Disclosure Schedule; or (iii) as otherwise consented to by the Purchaser (which consent will not be unreasonably withheld, conditioned or delayed), the Seller will and will cause each Seller Company to (w) pay all administrative claims, including, without limitation, Customer Financial Incentives, in the ordinary course of business consistent with past practice and in accordance with the Budget, (x) operate and conduct the Business in the ordinary course of business in all material respects, including purchasing and maintaining appropriate levels of inventory, managing wholesaler and retailer inventory and Receivables, maintaining levels of insurance and performing maintenance and repairs, in each case in the ordinary course of business consistent with past practice, (y) maintain in effect all Governmental Authorizations and (z) use its commercially reasonable efforts to preserve the Business' relationships with its suppliers, customers and others doing business with it, subject to the limitation that any payments necessary for the forgoing shall be provided for and within the amounts in the Budget approved from time to time.

(b) Until the Closing, except: (i) as required by Law, including in connection with the Chapter 11 Case (it being understood that no provision of this Section 5.2 will require the Seller to make any payment to any of its creditors with respect to any amount owed to such creditors on the Petition Date or which would otherwise violate the Bankruptcy Code); (ii) as expressly set forth in this Agreement or Schedule 5.2 of the Seller Disclosure Schedule; (iii) as otherwise consented to by the Purchaser (which consent will not be unreasonably withheld, conditioned or delayed); or (iv) pursuant to any orders approving debtor in possession financing and/or use of cash collateral entered by the Bankruptcy Court in the Chapter 11 Case, the Seller will not (and shall ensure that its Subsidiaries do not):

(i) amend the articles of incorporation, bylaws or other similar organizational documents (whether by merger, consolidation or otherwise) of Orexigen Ireland or any Subsidiary thereof;

(ii) split, combine or reclassify any shares of capital stock of Orexigen Ireland or any Subsidiary thereof or declare, set aside or pay any dividend or other distribution (whether in cash, stock or property or any combination thereof) in respect of the capital stock of Orexigen Ireland or any Subsidiary thereof, or redeem, repurchase or otherwise acquire or offer to redeem, repurchase, or otherwise acquire any Orexigen Ireland Securities or any Orexigen Ireland Subsidiary Securities;

(iii) issue, deliver or sell, or authorize the issuance, delivery or sale of, any shares of any Orexigen Ireland Securities or Orexigen Ireland Subsidiary Securities, or amend any term of any Orexigen Ireland Security or any Orexigen Ireland Subsidiary Security (in each case, whether by merger, consolidation or otherwise);

(iv) in the case of Orexigen Ireland or any Subsidiary thereof, incur any capital expenditures or any obligations or liabilities in respect thereof;

(v) in the case of Orexigen Ireland or any Subsidiary thereof, make any loans, advances or capital contributions to, or investments in, any other Person;

(vi) in the case of Orexigen Ireland or any Subsidiary thereof, enter into, amend or modify in any material respect or terminate any material Contract;

(vii) in the case of Orexigen Ireland or any Subsidiary thereof, change its methods of accounting, except as required by concurrent changes in GAAP;

(viii) in the case of Orexigen Ireland or any Subsidiary thereof, settle, or offer or propose to settle, any material litigation, investigation, arbitration, proceeding or other claim;

(ix) in the case of Orexigen Ireland or any Subsidiary thereof, (A) make or change any Tax election, change any Tax accounting period, or adopt or change any method of Tax accounting, (B) file any amended Tax Returns, (C) settle any Tax claim, assessment audit, contest or other similar proceeding, (D) surrender any right to claim a Tax refund, offset or other reduction in Tax liability, (E) consent to any extension or waiver of the limitations period applicable to any Tax claim or assessment, (F) obtain any Tax ruling or (G) enter into any closing or similar agreement;

(x) amend in any material respect or terminate or reject any Contract;

(xi) waive or release any material right or claim of the Business (other than any right or claim to the extent relating to any Excluded Assets or Excluded Liabilities), other than in the ordinary course of business consistent with past practice;

(xii) sell, lease, transfer, license or otherwise dispose of, abandon or permit to lapse, fail to take any action necessary to maintain, enforce or protect, or permit or create any Lien or Claim on, any assets or properties (other than Excluded Assets), other than (A) granting non-exclusive licenses of Intellectual Property, (B) the sale of inventory or (C) the disposition of obsolete equipment, in each case of clauses (A), (B) and (C) in the ordinary course of business consistent with past practice;

(xiii) incur or suffer to exist any indebtedness for borrowed money except any such indebtedness that is an Excluded Liability;

(xiv) acquire, by merger or consolidation with, or by purchase of all or a substantial portion of the assets or stock of, or by any other manner, any business or entity, make any investment in any Person or enter into any joint venture, partnership or other similar arrangement for the conduct of the Business;

(xv) except as required by applicable Law or an Employee Plan, (A) grant any severance, retention or termination pay to, or enter into or amend any severance, retention, termination, employment, consulting, bonus, change in control or severance agreement with, any Service Provider, (B) increase the compensation or benefits provided to any Service Provider, (C) grant any incentive awards to, or discretionarily accelerate the vesting or payment of any such awards held by, any Service Provider, (D) establish, adopt, enter into or amend any Employee Plan or Collective Bargaining Agreement or (E) terminate the employment of any Service Provider other than for cause;

(xvi) fail to pay any material Tax on or before the date when it becomes due and payable; or

(xvii) agree in writing to take any of the foregoing actions.

(c) From the date hereof until the Closing, the Seller shall (i) not take, or fail to take, any material action in connection with the matter set forth as Item 3 on Schedule 3.5 of the Seller Disclosure Schedule (the "Litigation") without, prior to taking or failing to take such material action, conferring with the Purchaser and considering the reasonable recommendations of the Purchaser, (ii) as soon as practicable after the date hereof and in any event prior to April 25, 2018, the Seller shall use reasonable best efforts to obtain a stay of the currently pending appeal with respect to the Litigation (the "Appeal") and the Seller shall file a request for and use reasonable best efforts to obtain an extension of the deadline to file a responsive brief to the Appeal ("Responsive Brief") to a date no earlier than September 1, 2018, and (iii) comply with all other court deadlines and file all other required documents in order to preserve and defend its rights with respect to the Litigation and any related appeal, including, but not limited to, ensuring that a response to the Appeal is timely filed (taking into account any extension granted). To the extent that the Seller does not request an extension of the deadline to file the Responsive Brief prior to April 25, 2018 but nonetheless obtains an extension of the deadline to file the Responsive Brief, Seller's failure to request the extension prior to April 25, 2018 will not be considered a material breach of this Agreement. To the extent that the Seller does not obtain an extension of the deadline to file the Responsive Brief to a date no earlier than September 1, 2018,

the Seller will instruct its outside counsel in the Appeal to draft a responsive brief (and file the responsive brief if the deadline is prior to the Closing), and will provide the Purchaser reasonable time to review and provide recommendations on the Responsive Brief..

Section 5.3 Employee Matters.

(a) On or before the Closing, the Purchaser will extend a written offer of at will employment to the employees listed in a schedule to be provided to the Seller on or prior to May 31, 2018, and who are not on long-term disability or other long-term (in excess of six (6) months) leave of absence as of immediately prior to the Closing Date (collectively, the "Employees") (which schedule will be updated by the Seller prior to the Closing Date by deleting those individuals no longer employed in connection with the Business). Effective as of the Closing Date, the Purchaser will hire each Employee who timely accepts an offer of employment extended by the Purchaser (such Employees, the "Transferred Employees"). To the extent that length of service is relevant for purposes of eligibility, vesting or calculation of severance or vacation benefits under any employee benefit plan, program or arrangement established or maintained by the Purchaser or any of its Affiliates for the benefit of Transferred Employees, such plan, program or arrangement will credit such employees or former employees for service on or prior to the Closing with the applicable Seller Company.

(b) To the extent that any medical, dental, hospitalization or life insurance benefits are provided to Transferred Employees and their dependents through one or more of the Employee Plans listed on Schedule 3.15(a) of the Seller Disclosure Schedule (the "Welfare Plans"), the Purchaser agrees to designate or establish, effective as of the Closing, one or more benefit plans, programs or arrangements for the purpose of providing medical, dental, hospitalization or life insurance benefits, as applicable, to Transferred Employees and their dependents. The Purchaser will (i) cause such benefit plans, programs or arrangements to: waive any preexisting condition limitations for conditions covered under a comparable Welfare Plan in which the Transferred Employees participate immediately prior to the Closing and any applicable waiting periods to the extent such waiting periods were waived under a comparable Welfare Plan in which the Transferred Employees participate immediately prior to the Closing; and (ii) use reasonable best efforts to credit Transferred Employees with any deductible and out-of-pocket expenses incurred by such employees and their dependents under the Welfare Plans during the portion of 2018 preceding the Closing Date for purposes of satisfying any applicable deductible or out-of-pocket requirements under any similar plan, program or arrangement in which Transferred Employees may be eligible to participate after the Closing Date.

(c) Without limiting the generality of Section 10.5, nothing in this Section 5.3, express or implied, (i) is intended to or shall confer upon any Person other than the parties hereto and their respective successors and assigns, including any current or former Service Provider, any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement, (ii) shall establish or constitute an amendment, termination or modification of, or an undertaking to establish, amend, terminate or modify, any benefit plan, program, agreement or arrangement, or (iii) shall alter or limit the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit plan, program, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them.

(d) Three (3) Business Days prior to the Closing Date, the Seller shall provide the Purchaser with a revised version of the Employee Information Document updated as of the most recent date practicable.

(e) Solely to the extent not resulting in or requiring any out-of-pocket expenses or costs of the Purchaser or any of its Affiliates, the Purchaser will offer and provide continuation coverage for all "M&A Qualified Beneficiaries" as that term is defined in section 54.4980B-9 of the COBRA regulations, including coverage for employees or former employees of the Seller who are not Transferred Employees and their respective spouses and dependents, and for former employees of the Seller or their dependents whose COBRA qualifying events occurred prior to the Closing Date and whose COBRA coverage is in effect as of the Closing Date, or whose election period for choosing such COBRA coverage has not ended as of the Closing Date.

(f) For the avoidance of doubt, nothing herein shall affect any obligations of the Seller arising under any KEIP/KERP orders entered into by the Bankruptcy Court in the Chapter 11 Case.

Section 5.4 Consents and Filings; Commercially Reasonable Efforts.

(a) Subject to the terms and conditions of this Agreement, each of the parties will use their respective commercially reasonable efforts: (i) to take promptly, or cause to be taken, all actions, and to do promptly, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement; and (ii) as promptly as practicable after the date of this Agreement, to obtain all Governmental Authorizations from, and make all filings with, all Governmental Authorities, and to obtain all other consents, waivers, approvals and other authorizations from, all other Third Parties, that are necessary or advisable in connection with the authorization, execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement. Without limiting the foregoing, prior to or at the Closing, the Seller shall prepare and deliver to the Purchaser executed versions of any and all instruments reasonably requested by the Purchaser in connection with the transfer of any Governmental Authorization relating to any Purchased Asset in accordance with 21 C.F.R. §314.72 and similar instruments as required by applicable Law in the United States or any other country where the Seller is the owner of or has submitted a request for a Governmental Authorization relating to a Purchased Asset, each in form and substance reasonably satisfactory to the Purchaser.

(b) The Seller, on the one hand, and the Purchaser, on the other hand, will promptly notify the other of any communication it or any of its Affiliates receives from any Governmental Authority relating to the transactions contemplated by this Agreement, and will permit the other party to review in advance any proposed communication by such party to any Governmental Authority. Neither the Seller, on the one hand, nor the Purchaser, on the other hand, will agree to participate in any meeting with any Governmental Authority in respect of any filings, investigation or other inquiry relating to the transactions contemplated by this Agreement unless it consults with the other party in advance and, to the extent permitted by such Governmental Authority, gives the other party the opportunity to attend and participate at such

meeting. The Seller, on the one hand, and the Purchaser, on the other hand, will coordinate and cooperate fully with each other in exchanging such information and providing such assistance as the other party may reasonably request in connection with the foregoing. The Seller, on the one hand, and the Purchaser, on the other hand, will provide each other with copies of all correspondence, filings or communications between them or any of their representatives, on the one hand, and any Governmental Authority or members of its staff, on the other hand, with respect to this Agreement and the transactions contemplated by this Agreement.

(c) The Seller will promptly notify the Purchaser of any written communication it or any of its Affiliates receives from any Person (other than a Governmental Authority) alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement.

Section 5.5 Supplements to Disclosure Schedules. The Seller may, from time to time prior to the Closing by written notice to the Purchaser, supplement the Seller Disclosure Schedule or add a schedule to the Seller Disclosure Schedule (such added schedule to be deemed a supplement hereunder) in order to disclose any matter which, if occurring prior to the date of this Agreement, would have been required to be set forth or described in the Seller Disclosure Schedule or to correct any inaccuracy or breach in the representations and warranties made by the Seller in this Agreement. Subject to this Section 5.5, none of such supplements to the Seller Disclosure Schedule will be deemed to cure the representations and warranties to which such matters relate with respect to the satisfaction of the conditions set forth in Section 6.1(a) or otherwise affect any other term or condition contained in this Agreement; provided, however, that, unless the Purchaser delivers a notice of termination with respect to such matter as contemplated by Section 7.1(a)(ii) (to the extent the Purchaser is entitled to deliver such notice pursuant to Section 7.1(a)(ii)) within ten (10) Business Days of the receipt by the Purchaser of any supplement to the Seller Disclosure Schedule pursuant to this Section 5.5, the Purchaser will be deemed to have waived any and all rights to terminate this Agreement pursuant to Section 7.1(a)(ii) or otherwise arising out of or relating to the contents of such supplement and the resulting breach or breaches of the representations and warranties and the Purchaser will be deemed to have accepted the contents of such supplement for all purposes of this Agreement; and provided, further, that from and after the Closing, the Seller will have no Liability for any inaccuracy or breach in the representations and warranties made by the Seller in this Agreement for any matters disclosed on the Seller Disclosure Schedule, as supplemented or amended by the Seller prior to the Closing.

Section 5.6 Confidentiality.

(a) Effective upon the Closing, the Confidentiality Agreement dated as of January 31, 2018 between the Seller and Pernix Therapeutics, LLC shall terminate.

(b) Following the Closing, the Seller will, and will instruct its directors, officers, employees and advisors to, hold in confidence, unless compelled to disclose by judicial or administrative process or by other requirements of Law, all Confidential Information, except to the extent that such Confidential Information: (a) must be disclosed in connection with the obligations of the Seller pursuant to this Agreement; (b) can be shown to have been in the public

domain through no fault of the Seller, any of its Affiliates or any of their respective representatives; (c) becomes a matter of public record as required by the Chapter 11 Case and filings made with the Bankruptcy Court with respect thereto; or (d) was later lawfully acquired by the Seller from sources other than those related to its prior ownership of the Business. Notwithstanding the foregoing, in no event will this Section 5.6 limit or otherwise restrict the right of the Seller to disclose such Confidential Information: (i) to its and its Affiliates' respective directors, officers, employees, agents and advisors to the extent reasonably required to facilitate any delivery or performance of this Agreement; (ii) to any Governmental Authority or arbitrator to the extent reasonably required in connection with any Proceeding relating to the enforcement of this Agreement; or (iii) as otherwise required by applicable Law.

Section 5.7 Public Announcements. Prior to the Closing, neither the Purchaser, on the one hand, nor the Seller, on the other hand, will issue any press release or make any other public announcement relating to this Agreement or the transactions contemplated hereby without the prior written approval of the other party (which approval will not be unreasonably withheld, conditioned or delayed), unless required by applicable Law or by any listing agreement with any national securities exchange. Prior to issuing any such press release or making any such other public announcement as required by applicable Law or listing agreement with any national securities exchange and without the other party's prior written approval, the disclosing party will give the other party a copy of the proposed press release or other public announcement and reasonable opportunity to comment on the same.

Section 5.8 Further Actions. Subject to the other express provisions of this Agreement, upon the request of either the Purchaser, on the one hand, or the Seller, on the other hand, the other party will execute and deliver such other documents, instruments and agreements as the requesting party may reasonably require for the purpose of carrying out the intent of this Agreement and the transactions contemplated by this Agreement.

Section 5.9 Bulk Transfer Laws. The Seller shall ensure that the Sale Order shall provide either that (a) the Seller has complied with any applicable bulk sale or bulk transfer Laws of any jurisdiction in connection with the transactions contemplated by this Agreement or (b) compliance with such Laws described in clause (a) is not necessary or appropriate under the circumstances.

Section 5.10 Bankruptcy Court Matters.

(a) The Purchaser and the Seller will use their respective good faith and commercially reasonable efforts to cause the Sale Order to become a Final Order as soon as practicable after its entry.

(b) The Seller shall:

(i) cause the Bankruptcy Court to hold the Sale Hearing and enter the Sale Order by 11:59 p.m. prevailing Eastern time on or before June 28, 2018; and

(ii) consummate the Closing as promptly as practicable after entry of the Sale Order, but in no event later than 11:59 p.m. prevailing Eastern time on or before July 13, 2018 (the "Outside Date").

(c) The Seller will provide the Purchaser with a reasonable opportunity to review and comment upon all motions, applications, petitions, schedules and supporting papers relating to the transactions contemplated by this Agreement prepared by the Seller (including forms of Orders and notices to interested parties) prior to the filing thereof in the Chapter 11 Case. All motions, applications, petitions, schedules and supporting papers prepared by the Seller and relating to the transactions contemplated by this Agreement to be filed on behalf of the Seller after the date hereof must be reasonably satisfactory in form and substance to the Purchaser. The Seller shall use commercially reasonable efforts to obtain entry of the Sale Order. From and after the date hereof, the Seller shall not take any action that is intended to result in, or fail to take any action the intent of which failure to act would result in, the reversal, voiding, modification or staying of the Sale Order.

(d) The Seller will promptly take such actions as are reasonably requested by the Purchaser to assist in obtaining entry of the Sale Order, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for purposes, among others, of providing necessary assurances of performance by the Seller of its obligations under this Agreement and all other agreements, instruments, certificates and other documents to be entered into or delivered in connection with the transactions contemplated by this Agreement and demonstrating that the Purchaser is a good faith buyer under section 363(m) of the Bankruptcy Code.

(e) If an appeal is taken, or petition for certiorari or motion for rehearing or re-argument filed, or a stay pending appeal is requested from either the Bidding Procedures Order or the Sale Order, the Seller will promptly notify the Purchaser of such appeal, petition, motion or stay request and the Seller, with input from the Purchaser, will take all reasonable steps to defend against such appeal, petition, motion or stay request. Notwithstanding the foregoing, nothing in this Agreement precludes the parties from consummating the transactions contemplated by this Agreement if the Sale Order has been entered and has not been stayed and the Purchaser, in its sole discretion, waives in writing the condition set forth in Section 6.1(d) that the Sale Order be a Final Order.

(f) The Seller and the Purchaser shall comply with all of their respective obligations under the Bidding Procedures Order and Sale Order (after the entry of such order by the Bankruptcy Court).

(g) The Seller shall comply (or obtain an order waiving compliance) with all requirements under the Bankruptcy Code and Bankruptcy Rules in connection with obtaining approval of the transactions contemplated by this Agreement. The Seller shall serve on all required Persons, including: (i) all Persons who are known to possess or assert a Claim or Lien against or interest in the Purchased Assets; (ii) all applicable Governmental Authorities; (iii) all other Persons required by any order of the Bankruptcy Court, the Bankruptcy Code or the Bankruptcy Rules; and (iv) using commercially reasonable efforts to serve any other Persons that

the Purchaser reasonably may request, any notice of the motions, hearings, or orders necessary to comply with its obligations under this Section 5.10 and to consummate the transactions contemplated hereby.

(h) At any time prior to the Closing, subject to the consent of the Seller, such consent not to be unreasonably withheld, conditioned or delayed, the Purchaser may elect for the transfer and sale of the Purchased Subsidiaries' assets to the Purchaser, together with amendments to this Agreement to reflect such transfer and sale (including the addition of the Purchased Subsidiaries as parties hereunder), in lieu of the Purchaser acquiring the Orexigen Ireland Shares from the Seller hereunder (the "Asset Option"); provided that it shall be deemed unreasonable for the Seller to withhold, condition or delay such consent unless the exercise of the Asset Option would result in (i) any non-*de minimis* economic impact to the Seller as a result of the Purchaser exercising the Asset Option compared to the Purchaser not exercising the Asset Option, or (ii) a delay to the consummation of the transactions contemplated by this Agreement beyond ten (10) Business Days. Nothing contained in this Section 5.10(h) shall be deemed to require the Seller or Orexigen Ireland to take any action in violation of that certain letter, dated March 12, 2018, from the Seller to Orexigen Ireland, relating to the DIP Loan Agreement and the sale of assets of Orexigen Ireland, or the DIP Loan Agreement, including the requirement that the Seller obtain the prior written consent of the Required DIP Lenders prior to selling any of Orexigen Ireland's assets outside the ordinary course of business.

Section 5.11 Bankruptcy Court Approval; Break-Up Fee and Expense Reimbursement.

(a) The Purchaser and the Seller acknowledge that, under the Bankruptcy Code, the sale of Purchased Assets is subject to approval of the Bankruptcy Court. The Purchaser and the Seller acknowledge that to obtain such approval, the Seller must demonstrate that it has taken reasonable steps to obtain the highest or best value possible for the Purchased Assets, including giving notice of the transactions contemplated by this Agreement to creditors and other interested parties as ordered by the Bankruptcy Court, providing information about the Purchased Assets to prospective bidders, entertaining higher or better offers from qualified bidders and, if necessary, conducting an Auction and selling the Purchased Assets to another qualified bidder.

(b) As consideration for substantial expenditures of time, effort and expense undertaken and continuing by the Purchaser (solely in its capacity as such) in connection with the completion of its due diligence review of the Business and the preparation, negotiation, and execution of this Agreement, the Seller acknowledges and agrees that: (i) subject to the entry of the Bidding Procedures Order, the Purchaser will be the stalking horse bidder at the Auction; (ii) the Seller will not participate in any negotiations for the purpose of naming any Person other than the Purchaser as the stalking horse bidder in the Auction, and subject to the entry of the Bidding Procedures Order, no Person other than the Purchaser will be the stalking horse bidder at the Auction; and (iii) the Seller will actively oppose any effort by any other Person to be the stalking horse bidder; provided, however, that consistent with its fiduciary duties to elicit the highest and best offer for the Purchased Assets and to conduct the Auction, notwithstanding any provision in this Agreement to the contrary, the Seller and its representatives and Affiliates may, following the entry of the Bidding Procedures Order, solicit, encourage and negotiate higher or better offers for the Purchased Assets under the terms of the Bidding Procedures Order.

(c) The Seller's obligation to pay the Break-Up Fee and the Expense Reimbursement pursuant to Section 7.3 shall survive termination of this Agreement and shall constitute an administrative expense of the Seller under section 503(b) of the Bankruptcy Code.

Section 5.12 Assumption & Rejection of Executory Contracts.

(a) Schedule 3.8 of the Seller Disclosure Schedule sets forth a list of all Contracts to which the Seller is a party. Schedule 5.12(a)(ii) (the "Contract & Cure Schedule") sets forth a list of all Executory Contracts that the Purchaser has advised the Seller it wants the Seller to assume and assign to the Purchaser under section 365 of the Bankruptcy Code and in accordance with Section 5.12(b) below, which the Purchaser will provide to the Seller not later than May 31, 2018. The Cure Amounts in respect of each Executory Contract are also set forth in the Contract and Cure Schedule. From the date of this Agreement until the conclusion of the Auction, or if the Purchaser is designated as the Successful Bidder at the Auction, at any time prior to the Closing, the Purchaser, in its sole and absolute discretion, may amend the Contract & Cure Schedule to add or remove any Executory Contract in accordance with the conditions concerning notice and service to contract counterparties set forth in the Bidding Procedures and Bidding Procedures Order. Unless the Bankruptcy Court orders otherwise, each Executory Contract included on the Contract & Cure Schedule will be deemed to have been assigned to the Purchaser and become an Assumed Contract on the date (the "Assumption Effective Date") that is the later of: (i) the Closing Date, or (ii) contemporaneously with the resolution of any objections to the assumption and assignment of such Executory Contract or to a proposed Cure Amount.

(b) Subject to Section 5.19, each Executory Contract that is listed on Schedule 3.8 of the Seller Disclosure Schedule but not the Contract & Cure Schedule will be rejected by the Seller, subject to approval by the Bankruptcy Court. Each Executory Contract that is listed on Schedule 3.8 of the Seller Disclosure Schedule but not the Contract & Cure Schedule will be deemed to be an Excluded Contract under this Agreement.

(c) The Seller and the Purchaser will comply with the procedures set forth in the Assumption Procedures and the Bidding Procedures Order with respect to the assumption and assignment or rejection of any Executory Contract pursuant to, and in accordance with, this Section 5.12.

(d) No designation of any Executory Contract for assumption and assignment or rejection in accordance with this Section 5.12, the Bidding Procedures, the Bidding Procedures Order or the Sale Order will give rise to any right to any adjustment to the Purchase Price.

(e) If prior to the Closing, it is discovered that a Contract should have been listed on Schedule 3.8 of the Seller Disclosure Schedule but was not so listed (any such Contract, a "Previously Omitted Contract"), the Seller shall, promptly following the discovery thereof (but

in no event later than five (5) Business Days following the discovery thereof), notify the Purchaser in writing of such Previously Omitted Contract and provide the Purchaser with a copy of such Previously Omitted Contract and the Cure Amount (if any) in respect thereof. The Purchaser shall thereafter deliver written notice to the Seller, no later than five (5) Business Days following such notice of such Previously Omitted Contract from the Seller, if the Purchaser elects to so include such Previously Omitted Contract on the Contract & Cure Schedule.

(f) If the Purchaser includes a Previously Omitted Contract on the Contract & Cure Schedule in accordance with Section 5.12(f), the Seller shall file and serve a notice on the contract counterparties to such Previously Omitted Contract notifying such counterparties of the Seller's intention to assume and assign to the Purchaser such Previously Omitted Contract, including the proposed Cure Amount (if any). Such notice shall provide such contract counterparties with ten (10) Business Days to object, in writing, to the Seller and the Purchaser to the assumption of its Contract. If such counterparties, the Seller and the Purchaser are unable to reach a consensual resolution with respect to the objection, the Seller will seek an expedited hearing before the Bankruptcy Court to seek approval of the assumption and assignment of such Previously Omitted Contract. If no objection is timely served on the Seller and the Purchaser, then such Previously Omitted Contract shall be deemed assumed by the Seller and assigned to the Purchaser pursuant to the Sale Order. The Seller and the Purchaser shall execute, acknowledge and deliver such other instruments and take commercially reasonable efforts as are reasonably practicable for the Purchaser to assume the rights and obligations under such Previously Omitted Contract.

Section 5.13 Back-Up Bidder. If an Auction is conducted, and the Seller does not choose the Purchaser as the Successful Bidder, but instead chooses the Purchaser as the bidder as having submitted the next highest or otherwise best bid at the conclusion of such Auction (the "Back-Up Bidder"), the Purchaser shall be the Back-Up Bidder. If the Purchaser is chosen as the Back-Up Bidder, the Purchaser shall be required to keep its bid to consummate the transactions contemplated by this Agreement on the terms and conditions set forth in this Agreement (as the same may be improved upon by the Purchaser prior to or at the Auction) open and irrevocable until the earlier of: (i) the date of closing on the sale of the Purchased Assets to the Successful Bidder; and (ii) twenty-five (25) Business Days following the date the order approving the sale of the Purchased Assets to the Successful Bidder shall have become a Final Order (such date, the "Back-Up Period"); provided, however, that if the Successful Bidder shall fail to close on its purchase of the Purchased Assets within the period set forth above, the Back-Up Bidder shall be deemed to be the Successful Bidder and the Seller will be authorized, without further order of the Bankruptcy Court, to, and the Back-Up Bidder shall, consummate the transactions contemplated by this Agreement within ten (10) Business Days of becoming the Successful Bidder on the terms and conditions set forth in this Agreement (as the same may be improved upon by the Purchaser prior to or at the Auction).

Section 5.14 Post-Auction Supplement. Following the conclusion of the Auction, the Seller will promptly file with the Bankruptcy Court a supplement (the "Supplement") that will inform the Bankruptcy Court of the results of the Auction. The Supplement will identify, among other things: (a) the Successful Bidder as the proposed purchaser of the Purchased Assets; (b) the

amount and form of consideration to be paid by the Successful Bidder for the Purchased Assets; (c) the Assumed Liabilities to be assumed by the Successful Bidder; (d) the Executory Contracts to be assumed by the Seller and assigned to the Successful Bidder, or the Seller's rights and interests therein to be sold and transferred to the Successful Bidder, as the case may be; and (e) the Executory Contracts designated to be rejected by the Seller. The Supplement will also include similar information relating to the Back-Up Bidder and its bid. In addition, the Seller will attach to the Supplement: (i) the proposed or revised proposed Sale Order, with any revisions necessary to reflect the results of the Auction, approving the Sale to the Successful Bidder; (ii) a copy of this Agreement, with any amendments necessary to reflect the results of the Auction; and (iii) any additional information or documentation relevant to the Successful Bidder. The Seller will file the Supplement on the docket for the Chapter 11 Case as promptly as is reasonably practicable prior to the Sale Hearing, but will not be required to serve the same on any parties-in-interest in the Chapter 11 Case.

Section 5.15 Payments Received. The Seller, on the one hand, and the Purchaser, on the other hand, each agree that, after the Closing, each will hold and will promptly transfer and deliver to the other, from time to time as and when received by them, any cash, checks with appropriate endorsements (using commercially reasonable efforts not to convert such checks into cash) or other property that they may receive on or after the Closing which belongs to the other and will account to the other for all such receipts. Without limiting the generality of the foregoing, the Seller (prior to the entry by the Bankruptcy Court of an order confirming a Chapter 11 plan or dismissing the Chapter 11 Case, and at the sole cost of the Purchaser) agrees to cooperate with the Purchaser, at the sole cost of the Purchaser, to inform parties owing payments to the Business after the Closing that constitute Purchased Assets (the "Business Payments") of the accounts of the Purchaser that should receive such Business Payments following the Closing and otherwise reasonably assist the Purchaser to ensure that such Business Payments are made to such accounts. The Seller, on the one hand, and the Purchaser, on the other hand, hereto hereby agrees that any payments mistakenly received by it or its respective Affiliates shall be promptly transferred and delivered back to the other party or its Affiliate, as applicable.

Section 5.16 Cessation of Use of Acquired Intellectual Property. For the avoidance of doubt and notwithstanding anything in this Agreement to the contrary, (a) the Seller acknowledges and agrees that, from and after the Closing, the Seller shall not have any right, title or interest in or to any Acquired Intellectual Property (including any Seller Names and Marks) and (b) from and after the Closing, the Seller shall cease and discontinue any and all use or other exploitation of any and all Acquired Intellectual Property (including all Seller Names and Marks).

Section 5.17 Transfer of Permits and Governmental Authorizations. From and after the date hereof, the Seller, on the one hand (subject to the availability of funds for such purpose), and the Purchaser, on the other hand, shall, and shall cause their respective Affiliates to, reasonably cooperate to transfer to Purchaser as of the Closing (or as soon as reasonably practicable thereafter) all Governmental Authorizations included in the Purchased Assets necessary for the import, manufacture, distribution, marketing and sale by the Purchaser of the

products of the Business under applicable Law; provided that (a) any reasonable, documented out-of-pocket costs associated with such cooperation by the Seller after the Closing (including the *pro rata* portion of the costs of any employee directly providing such cooperation after the Closing, as determined by the amount of time dedicated by such employee to such cooperation as a proportion of all time dedicated by such employee to the Seller) shall be borne by the Purchaser and (b) nothing in this Section shall be deemed to require the Seller to remain a debtor in the Chapter 11 Case or maintain its corporate existence for any period of time beyond 30 days after the Closing Date; provided that the foregoing shall not be deemed to require the Seller to take any action in violation of the DIP Loan Agreement.

Section 5.18 Intercompany Accounts. Any intercompany Contract and account between the Seller, on the one hand, and Orexigen Ireland or any Subsidiary thereof, on the other hand, as of the Closing, may at the Purchaser's election be either: (a) terminated and settled in a manner reasonably satisfactory to the Purchaser (irrespective of the terms of payment of such intercompany accounts) prior to the Closing without any remaining Liability or obligation to the Purchaser or Orexigen Ireland or any of its Subsidiaries from and after the Closing, except for any such Contracts set forth on Schedule 5.18, which shall be provided to the Seller not later than three (3) Business Days prior to the Closing, including, if the Purchaser so elects in good faith, the Seller cooperating with the Purchaser to take any action in connection with any such account reasonably requested by the Purchaser for the purpose of reducing or eliminating any Liability to a Purchased Subsidiary or any of its Affiliates relating to the termination or settlement of such account; or (b) reinstated; provided, however, that (i) any additional out-of-pocket costs of the Seller incurred in connection with the Seller taking any such actions as compared to the Seller terminating such intercompany accounts payable to the Seller for no consideration shall be at the sole cost of the Purchaser and (ii) nothing in this Section shall be deemed to require the Seller to remain a debtor in the Chapter 11 Case or maintain its corporate existence for any period of time beyond 30 days after the Closing Date; provided that the foregoing shall not be deemed to require the Seller to take any action in violation of the DIP Loan Agreement.

Section 5.19 Excluded Contracts. From and after the Closing, the Purchaser may, at its sole discretion and at its sole expense, request for the Seller to maintain in effect any Excluded Contract for up to three (3) months after the Closing for the purposes of passing through the benefits of such Excluded Contract to the Purchaser, and (i) the Seller shall consider in good faith any such request and use commercially reasonable efforts to maintain in effect such Excluded Contract and not reject such Excluded Contract, (ii) the Purchaser and the Seller shall use commercially reasonable efforts to agree on arrangements for the purposes of passing through the benefits of such Excluded Contract to the Purchaser, and (iii) any such arrangements described in the foregoing shall be at the sole expense of the Purchaser (including all statutory and other costs required to be paid or otherwise incurred in the Chapter 11 Case, counsels' fees and expenses, to the extent such costs would not have been incurred but for this Section 5.19, and the *pro rata* portion of the costs of any employee directly involved in such arrangements after the Closing, as determined by the amount of time dedicated by such employee to such arrangements as a proportion of all time dedicated by such employee to the Seller); provided, however, nothing in this Section shall be deemed to require the Seller to remain a debtor in the

Chapter 11 Case or maintain its corporate existence for any period of time beyond 30 days after the Closing Date; provided that the foregoing shall not be deemed to require the Seller to take any action in violation of the DIP Loan Agreement.

Section 5.20 Annual Report. The Seller shall (i) cause Orexigen Ireland to file Orexigen Ireland's 2016 Annual Report with the Companies Registration Office in Ireland as promptly as reasonably practicable after the date hereof and in any case no later than five Business Days prior to the Closing Date, (ii) provide the Purchaser with evidence reasonably satisfactory to the Purchaser of such filing set forth in clause (i), and (iii) promptly notify the Purchaser of any correspondence received by any Seller Company from the Companies Registration Office in Ireland.

ARTICLE 6
CONDITIONS PRECEDENT TO OBLIGATION TO CLOSE

Section 6.1 Conditions to the Obligation of the Purchaser. The obligation of the Purchaser to consummate the transactions contemplated by this Agreement is subject to the Purchaser becoming the Successful Bidder (whether following the conclusion of the Auction or thereafter as a result of the Successful Bidder failing to close) and to the satisfaction, on or before the Closing Date, of each of the following conditions (any of which may be waived by the Purchaser, in whole or in part, in its sole and absolute discretion):

(a) Accuracy of Representations and Warranties. (i) Each of the Fundamental Representations (disregarding all materiality and "Material Adverse Effect" or similar qualifiers contained therein for this purpose) must be true and correct in all material respects as of the Closing (other than representations and warranties which by their terms are made as of a specific date, which shall have been true and correct in all material respects as of such date), and (ii) the representations and warranties of the Seller in Article 3 (other than the Fundamental Representations) must be true and correct in all respects as of the Closing (other than representations and warranties which by their terms are made as of a specific date, which shall have been true and correct in all respects as of such date), except in the case of this clause (ii) where the failure of such representations and warranties to be so true and correct (disregarding all materiality and "Material Adverse Effect" or similar qualifiers contained therein for this purpose) has not had, and would not reasonably be expected to have, a Material Adverse Effect;

(b) Performance of Covenants. All of the covenants and obligations that the Seller is required to perform or comply with under this Agreement on or before the Closing Date must have been duly performed and complied with in all material respects;

(c) No Action. There must not be in effect any Law or Judgment that would prohibit or make illegal the consummation of the transactions contemplated by this Agreement;

(d) Sale Order. The Sale Order must be a Final Order and must be in form and content satisfactory to the Purchaser;

(e) No Material Adverse Effect. There shall not have occurred any event or occurrence (regardless of whether such event or occurrence constitutes a breach of any representation, warranty, or covenant of the Seller under this Agreement) after the date of this Agreement which has had, or would reasonably be expected to have, a Material Adverse Effect; and

(f) Transaction Documents. The Seller must have delivered or caused to be delivered each document under Section 2.9(a).

Section 6.2 Conditions to the Obligations of the Seller. The obligation of the Seller to perform any obligations hereunder, including to consummate the transactions contemplated by this Agreement, is subject to the Purchaser becoming the Successful Bidder (whether following the conclusion of the Auction or thereafter as a result of the Successful Bidder failing to close) and to the satisfaction, on or before the Closing Date, of each of the following conditions (any of which may be waived by the Seller, in whole or in part):

(a) Accuracy of Representations and Warranties. The representations and warranties of the Purchaser in Article 4 must be true and correct in all respects as of the Closing (other than representations and warranties which by their terms are made as of a specific date, which shall have been true and correct in all respects as of such date), except where the failure of such representations and warranties to be so true and correct (disregarding all materiality qualifiers contained therein for this purpose) has not had, and would not reasonably be expected to have, a material adverse effect on the Purchaser's ability to timely complete the transactions contemplated by this Agreement;

(b) Performance of Covenants. All of the covenants and obligations that the Purchaser is required to perform or comply with under this Agreement on or before the Closing Date must have been duly performed and complied with in all material respects;

(c) No Action. There must not be in effect any Law or Judgment that would prohibit or make illegal the consummation of the transactions contemplated by this Agreement;

(d) Sale Order. The Sale Order must be a Final Order and must be in form and content satisfactory to the Seller; and

(e) Transaction Documents. The Purchaser must have delivered or caused to be delivered to the Seller each document that Section 2.9(b) requires it to deliver.

ARTICLE 7
TERMINATION

Section 7.1 Termination Events.

(a) This Agreement may, by written notice given before the Closing, be terminated:

(i) by mutual consent of the Purchaser and the Seller;

(ii) by the Purchaser (so long as the Purchaser is not then in material breach of any of its representations, warranties or covenants contained in this Agreement), if there has been a breach of any of the Seller's representations, warranties or covenants contained in this Agreement which would result in the failure of the condition set forth in Section 6.1(a) or Section 6.1(b), as applicable, to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Seller from the Purchaser or cannot be cured by the Outside Date;

(iii) by the Seller (so long as the Seller is not then in material breach of any of its representations, warranties or covenants contained in this Agreement), if there has been a breach of any of the Purchaser's representations, warranties or covenants contained in this Agreement which would result in the failure of a condition set forth in Section 6.2(a) or Section 6.2(b), as applicable, to be satisfied, and which breach has not been cured within ten (10) days after written notice of such breach has been delivered to the Purchaser from the Seller or cannot be cured by the Outside Date;

(iv) by either the Purchaser or the Seller, if there is in effect a nonappealable final Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement; provided, however, that the right to terminate this Agreement under this Section 7.1(a)(iv) will not be available to any party whose failure to fulfill any covenant or obligation under this Agreement is the cause of or resulted in the action or event described in this Section 7.1(a)(iv) occurring; or

(v) by the Purchaser if (a) the Chapter 11 Case is dismissed or converted into a case under chapter 7 of the Bankruptcy Code or (b) an examiner with expanded powers or trustee is appointed in the Chapter 11 Case.

(b) This Agreement shall terminate automatically in the event that (i) an Alternative Transaction has been consummated following approval by the Bankruptcy Court, (ii) the Purchaser is not chosen at the Auction to be the Successful Bidder or the Back-Up Bidder or (iii) the Purchaser is chosen at the Auction to be the Back-Up Bidder, upon the expiration of the Back-Up Period.

Section 7.2 Effect of Termination.

(a) If this Agreement is terminated pursuant to Section 7.1, this Agreement and all rights and obligations of the parties under this Agreement automatically end without Liability against any other party or its Affiliates, except that Section 5.7 (*Public Announcements*), Section 5.13 (*Back-Up Bidder*), Section 7.3 (*Termination Payment*), Article 10 (*General Provisions*) (except for Section 10.11 (*Specific Performance*)) and this Section 7.2 shall remain in full force and survive any termination of this Agreement. Notwithstanding the foregoing and subject to Section 7.3, in the event this Agreement is terminated by a party because of the knowing and intentional breach of this Agreement by the other party or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's knowing and intentional failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal rights and remedies hereunder and under applicable Law will survive such termination unimpaired.

Section 7.3 Termination Payment. Subject to approval of the Bankruptcy Court, in consideration of the substantial commitment of time and resources by the Purchaser to the preparation, negotiation, execution and performance of this Agreement, in the event that this Agreement is terminated or if the transactions hereby are not consummated for any reason except (x) a termination by the Purchaser and the Seller pursuant to Section 7.1(a)(i) or (y) by the Seller pursuant to Section 7.1(a)(iii), subject to the Purchaser having complied with its obligations as Back-Up Bidder under Section 5.13 (if applicable), the Seller shall promptly (but no event later than two (2) Business Days following such termination) pay to the Purchaser an amount equal to a breakup fee equal to $3,500,000 (the "Break-Up Fee") and all reasonable and documented costs and out of pocket expenses incurred by the Purchaser in connection with this Agreement up to $2,000,000 (the "Expense Reimbursement"). Subject to approval of the Bankruptcy Court in the Bidding Procedures Order, the Break-Up Fee and Expense Reimbursement shall have first priority administrative expense claim status without the need for any further application or motion of the Seller or the Purchaser, or the entry of any further order of the Bankruptcy Court. The parties agree that the amount of actual damages which the Purchaser would suffer as a result of a termination of this Agreement as contemplated by this Section 7.3 would be extremely difficult to determine and have agreed that the amount of the Break-Up Fee and Expense Reimbursement is a reasonable estimate of the Purchaser's damages and is intended to constitute a fixed amount of liquidated damages in lieu of other remedies available to the Purchaser and is not intended to constitute a penalty.

ARTICLE 8
NO SURVIVAL

Section 8.1 No Survival of Representations and Warranties and Certain Covenants. Each of the representations, warranties and covenants (other than covenants that, by their terms, survive the Closing or termination of this Agreement) in this Agreement or any agreement or certificate to be executed or delivered in connection with the transactions contemplated by this Agreement shall terminate at the Closing or upon termination of this Agreement pursuant to Section 7.1 and, following the Closing or the termination of this Agreement, as the case may be, no party shall make any claim whatsoever for any breach of any such representation, warranty or covenant hereunder, subject to Section 7.2.

ARTICLE 9
TAX MATTERS

Section 9.1 Transfer Taxes. Any sales, use, *ad valorem*, property, transfer, conveyance, documentary, recording, notarial, value added, excise, registration, stamp, gross receipts and similar Taxes and fees ("Transfer Taxes"), arising out of or in connection with or attributable to the transactions effected pursuant to this Agreement, including expenses and fees relating to registering Acquired Intellectual Property in the name of the Purchaser or its designee, regardless of whether such Transfer Taxes, expenses and fees are imposed by Law on the Purchaser, the Purchased Assets or the Seller, shall be borne 50% by the Seller and 50% by the

Purchaser. The amount of Transfer Taxes shall be estimated as of the Closing Date and if any Transfer Taxes are due, the party hereto not responsible for paying to the applicable Tax authorities such Transfer Taxes shall pay their share (as determined under the first sentence of this Section 9.1) to the other party hereto at the Closing, who shall in turn provide to the other party hereto evidence of timely payment of such Transfer Taxes; provided, however that final payments with respect to the Transfer Taxes that are not able to be calculated as of the Closing Date shall be calculated promptly after the Closing, and the party hereto not responsible for paying to the applicable Tax authorities such additional Transfer Taxes shall, as soon as practicable after such calculation has been determined, pay their share (as determined under the first sentence of this Section 9.1) to the other party hereto, who shall in turn provide to the other party hereto evidence of timely payment of such additional Transfer Taxes. Any Tax Returns that must be filed in connection with any Transfer Taxes will be prepared by the party that customarily has primary responsibility for filing such Tax Returns pursuant to the applicable Law under and according to which the respective Tax Returns are due to be filed; provided, however, that the preparing party will deliver such Tax Returns for the other party's review and approval (not to be unreasonably withheld, conditioned or delayed) at least ten (10) Business Days prior to the applicable due date. The parties will cooperate with each other in the provision of any information or preparation of any documentation that may be necessary or useful for obtaining any available mitigation, reduction or exemption from any such Transfer Taxes.

Section 9.2 Proration items. Personal property Taxes, real property Taxes and other similar Taxes (the "Proration Items") with respect to the Purchased Assets for any Taxable period beginning before the Closing Date and ending after the Closing Date shall be prorated on a per diem basis between the Purchaser and the Seller as of the Closing Date. The amount of the Proration Items attributable to the Seller shall be equal to the amount of Tax for the period multiplied by a fraction, the numerator of which shall be the number of days from the beginning of the period through and including the Closing Date and the denominator of which shall be the entire number of days in the period. For purposes of allocating all other Taxes (including income Taxes of the Purchased Subsidiaries) ("Non-Proration Items") with respect to the Purchased Assets for any Straddle Period, such Taxes shall be allocated between the pre-Closing portion of such Straddle Period and the post-Closing portion of such Straddle Period based on an interim closing of the books at the end of the day on the Closing Date. The Seller shall bear any Non-Proration Items allocable to the pre- Closing portion of any Straddle Period and any other unpaid Taxes with respect to the Purchased Assets for Tax periods ending on or prior to the Closing Date (such Non-Proration Items and other pre-Closing Date Taxes, "Other Seller Taxes"). The amount of all such Proration Items attributable to the Seller and the amount of any Other Seller Taxes shall be estimated as of the Closing Date and deducted from the Purchase Price at the Closing; provided, however that final payments with respect to the Proration Items or Other Seller Taxes that are not able to be calculated as of the Closing Date shall be calculated and the Seller (or any successor thereof or any estate) shall pay over any additional amount as soon as practicable after the Closing Date, but no later than five (5) Business Days after determination of such additional amounts.

Section 9.3 Tax Sharing Agreements. Any tax allocation or sharing agreement or arrangement, whether or not written, that may have been entered into by the Seller or any of its Affiliates, on the one hand, and the Purchased Subsidiaries, on the other hand, shall be terminated as to the Purchased Subsidiaries as of the Closing Date, and no payments which are owed by the Purchased Subsidiaries pursuant thereto shall be made thereunder. After the Closing Date, neither the Seller nor any of its Affiliates, on the one hand, or the Purchased Subsidiaries, on the other hand, shall have any further rights or liabilities thereunder with respect to the other party or parties.

Section 9.4 338(g) Election. The Purchaser shall be permitted, at its sole discretion, to make an election under Section 338(g) of the Code (or any analogous provision of state or local Law) with respect to the purchase of the stock of any Purchased Subsidiary that is classified as a corporation for U.S. federal income tax purposes.

ARTICLE 10
GENERAL PROVISIONS

Section 10.1 Notices. All notices and other communications under this Agreement must be in writing and are deemed duly delivered when: (a) delivered, if delivered personally or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment (or, the first Business Day following such transmission if the date of transmission is not a Business Day) or by email; or (c) received or rejected by the addressee, if sent by United States of America certified or registered mail, return receipt requested; in each case to the following addresses or facsimile numbers and marked to the attention of the individual (by name or title) designated below (or to such other address, facsimile number or individual as a party may designate by notice to the other party):

If to the **Seller**:

Orexigen Therapeutics, Inc.
3344 North Torrey Pines Court, Suite 200
La Jolla, CA, 92037
Attn: Tom Lynch
email: tlynch@orexigen.com

with a copy (which will not constitute notice) to:

Hogan Lovells US LLP
875 Third Avenue
New York, NY 10022
Attn: Christopher R. Donoho, III
Christopher R. Bryant
email: chris.donoho@hoganlovells.com
chris.bryant@hoganlovells.com

If to the **Purchaser**:

Nalpropion Pharmaceuticals, Inc.
10 North Park Place
Morristown, NJ 07960
Attn: Kenneth R. Piña
Email: kpina@pernixtx.com

with a copy (which will not constitute notice) to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017
Attn: Michael Davis
email: michael.davis@davispolk.com

Brown Rudnick, LLP
Seven Times Square
New York, NY 10036
Attn: Steven B. Levine
email: SLevine@brownrudnick.com

Section 10.2 Amendment. Except as otherwise expressly contemplated by this Agreement, this Agreement may not be amended, supplemented or otherwise modified except in a written document signed by each party hereto and that identifies itself as an amendment to this Agreement.

Section 10.3 Waiver and Remedies. The parties may, but are not required to: (a) extend the time for performance of any of the obligations or other acts of the other party to this Agreement; (b) waive any inaccuracies in the representations and warranties of the other party to this Agreement contained in this Agreement; or (c) waive compliance with any of the covenants or conditions for the benefit of such party contained in this Agreement. Subject to Section 5.5, (i) Any such extension or waiver by a party to this Agreement will be valid only if set forth in a written document signed on behalf of the party against whom the extension or waiver is to be effective; (ii) no extension or waiver will apply to any time for performance, inaccuracy in any representation or warranty, or noncompliance with any covenant or condition, as the case may be, other than that which is specified in the written extension or waiver; and (iii) no failure or delay by a party in exercising any right or remedy under this Agreement or any of the documents delivered pursuant to this Agreement, and no course of dealing between the parties, operates as a waiver of such right or remedy, and no single or partial exercise of any such right or remedy precludes any other or further exercise of such right or remedy or the exercise of any other right or remedy. Notwithstanding anything to the contrary herein, any deadline set forth in this Agreement that does not fall on a Business Day shall automatically be extended to the next Business Day.

Section 10.4 Entire Agreement. This Agreement (including the Schedules and Exhibits hereto and the documents and instruments referred to in this Agreement that are to be delivered at the Closing) constitutes the entire agreement between the parties and supersedes any prior understandings, agreements or representations by or between the parties, or either of them, written or oral, with respect to the subject matter of this Agreement.

Section 10.5 Assignment, Successors and No Third Party Rights. This Agreement binds and benefits the parties and their respective successors (including any trustee, receiver, receiver-manager, interim receiver or monitor or similar officer appointed in any respect of the Seller under chapter 11 or chapter 7 of the Bankruptcy Code and any entity appointed as a successor to the Seller pursuant to a confirmed chapter 11 plan). No party may delegate any performance of its obligations under this Agreement, except that the Purchaser may at any time delegate the performance of its obligations to any Affiliate of the Purchaser so long as the Purchaser remains fully responsible for the performance of the delegated obligation. The Purchaser may designate one or more Affiliates, including any special purpose entities that may be organized by the Purchaser for such purpose, to take title to the Purchased Assets or any portion thereof and operate the business going forward, and upon written notice to the Seller of any such designation by the Purchaser, the Seller agrees to execute and deliver all instruments of transfer with respect to the Purchased Assets directly to, and in the name of, the Purchaser's designees. Nothing expressed or referred to in this Agreement will be construed to give any Person, other than the parties to this Agreement, any legal or equitable right, remedy or claim under or with respect to this Agreement or any provision of this Agreement, except such rights as may inure to a successor or permitted assignee under this Section 10.5.

Section 10.6 Severability. In the event that any provision of this Agreement, or the application of any such provision to any Person or set of circumstances, shall be determined to be invalid, unlawful, void or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to Persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by applicable Law.

Section 10.7 Exhibits and Schedules. The Exhibits and Schedules to this Agreement are incorporated herein by reference and made a part of this Agreement. The Seller Disclosure Schedule is arranged in sections and paragraphs corresponding to the numbered and lettered sections and paragraphs of Article 3. The disclosure in any section or paragraph of the Seller Disclosure Schedule, and those in any amendment or supplement thereto, shall be deemed to relate to and to qualify only the particular representation or warranty set forth in the corresponding numbered or lettered section or paragraph of Article 3, except to the extent that: (a) such information is cross-referenced in another part of the Seller Disclosure Schedule; or (b) it is reasonably apparent on the face of the disclosure (without reference to any document referred to therein or any independent knowledge on the part of the reader regarding the matter disclosed) that such information qualifies another representation or warranty of the Seller in Article 3.

Section 10.8 Interpretation. In the negotiation of this Agreement, each party has received advice from its own attorney. The language used in this Agreement is the language chosen by the parties to express their mutual intent, and no provision of this Agreement will be interpreted for or against either party because that party or its attorney drafted the provision.

Section 10.9 Expenses. Except as otherwise provided herein, each party will pay its own direct and indirect expenses incurred in connection with the preparation and negotiation of this Agreement and the consummation of the transactions contemplated by this Agreement, including all fees and expenses of its advisors and representatives.

Section 10.10 Limitation on Liability. Notwithstanding any other provision of this Agreement to the contrary, in no event will any party or any of its Affiliates be liable for any special, incidental, indirect, exemplary, punitive or consequential damages (including lost profits, loss of revenue or lost sales) in connection with any claims, losses, damages or injuries arising out of the conduct of such party pursuant to this Agreement, regardless of whether the nonperforming party was advised of the possibility of such damages or not.

Section 10.11 Specific Performance. The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by either party in accordance with such party's specific terms or were otherwise breached by such party. The parties accordingly agree that, prior to the termination of this Agreement pursuant to Section 7.1, in addition to any other remedy to which a non-breaching party is entitled at law or in equity, the non-breaching party is entitled to injunctive relief to prevent breaches of this Agreement by the breaching party and otherwise to enforce specifically the provisions of this Agreement against the breaching party; provided that, the non-breaching party shall only be entitled to injunctive relief if such non-breaching party is not otherwise in breach of this Agreement or if the breaching party is not otherwise entitled to terminate this Agreement. Each party expressly waives any requirement that the other party obtains any bond or provides any indemnity in connection with any action seeking injunctive relief or specific enforcement of the provisions of this Agreement.

Section 10.12 Governing Law; Jurisdiction; Waiver of Jury Trial. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY CONFLICTS OF LAW PROVISIONS WHICH WOULD REQUIRE THE APPLICATION OF THE LAW OF ANY OTHER JURISDICTION. BY ITS EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE PARTIES HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ANY LEGAL ACTION, SUIT, DISPUTE OR PROCEEDING ARISING UNDER, OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL BE BROUGHT IN THE FEDERAL OR STATE COURTS OF COMPETENT JURISDICTION LOCATED IN THE COUNTY OF NEW YORK IN THE STATE OF NEW YORK OR IN THE BANKRUPTCY COURT (FOR SO LONG AS THE BANKRUPTCY COURT HAS JURISDICTION) AND EACH OF THE PARTIES HERETO IRREVOCABLY ACCEPTS AND SUBMITS ITSELF TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS, GENERALLY AND UNCONDITIONALLY, AND WAIVES ANY OBJECTIONS AS TO VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO

IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT HEREBY. NOTWITHSTANDING THE FOREGOING CONSENT TO JURISDICTION, FOLLOWING THE COMMENCEMENT OF THE CHAPTER 11 CASE AND SO LONG AS THE BANKRUPTCY COURT HAS JURISDICTION, EACH OF THE PARTIES AGREES THAT THE BANKRUPTCY COURT SHALL HAVE EXCLUSIVE JURISDICTION WITH RESPECT TO ANY MATTER UNDER OR ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, AND HEREBY SUBMITS TO THE JURISDICTION OF THE BANKRUPTCY COURT.

Section 10.13 No Joint Venture. Nothing in this Agreement creates a joint venture or partnership between the parties. This Agreement does not authorize any party hereto (a) to bind or commit, or to act as an agent, employee or legal representative of, any other party, except as may be specifically set forth in other provisions of this Agreement, or (b) to have the power to control the activities and operations of any other party. Each party agrees not to hold itself out as having any authority or relationship contrary to this Section 10.13.

Section 10.14 Counterparts; Signatures. The parties may execute this Agreement in multiple counterparts, each of which constitutes an original as against the party that signed it, and all of which together constitute one agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other party. The signatures of all parties need not appear on the same counterpart. The delivery of signed counterparts by facsimile or email transmission that includes a copy of the sending party's signature(s) is as effective as signing and delivering the counterpart in person.

Section 10.15 Preservation of Records; Post-Closing Access and Cooperation.

(a) For a period equal to the lesser of: (i) eighteen (18) months after the Closing Date; and (ii) the closing of the Chapter 11 Case by the Bankruptcy Court (the "Post-Closing Access and Cooperation Period"), the Purchaser shall preserve and retain, all corporate, accounting, legal, auditing, human resources and other books and records in its possession that are Purchased Assets (including any documents relating to any governmental or non-governmental claims, actions, suits, proceedings or investigations) relating to the operation of Business and the Purchased Assets prior to the Closing Date.

(b) During the Post-Closing Access and Cooperation Period, subject to existing confidentiality agreements and upon reasonable advance notice from the Seller (or its designee or successor), the Purchaser shall afford promptly to the Seller and its representatives (or its designee or successors, which may include the trustee of a liquidating trust) reasonable access during normal business hours to the offices, facilities, books, records, officers and employees of the Business as reasonably requested by the Seller for the purpose of winding-up its affairs and finalizing the administration of the Chapter 11 Case or in furtherance of the purposes set forth herein; provided, that such access does not unreasonably interfere with the Purchaser's business operations. During the Post-Closing Access and Cooperation Period, the Purchaser shall permit former employees of the Seller to cooperate with the Seller (or, its designee or successors) after the Closing, in furnishing information, testimony and other

reasonable assistance with respect to the Business or Purchased Assets for periods prior to the Closing Date in connection with any action or proceeding relating to the Chapter 11 Case or in furtherance of the purposes set forth herein; provided, that such access does not unreasonably interfere with the Purchaser's business operations.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

The parties have executed and delivered this Agreement as of the date indicated in the first sentence of this Agreement.

SELLER:

OREXIGEN THERAPEUTICS, INC.

By: /s/ Michael Narachi
Name: Michael Narachi
Title: Chief Executive Officer

The parties have executed and delivered this Agreement as of the date indicated in the first sentence of this Agreement.

PURCHASER:

NALPROPION PHARMACEUTICALS, INC.

By: /s/ Kenneth R. Pina
Name: Kenneth R. Pina
Title: President

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Orexigen Therapeutics, Inc.,	Case No. 18-10518 (KG)
Debtor.[1]	**Hearing Date: April 11, 2018 at 10:00 a.m. (ET)** **Objection Deadline: April 4, 2018 at 4:00 p.m. (ET)**

DEBTOR'S MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING IMPLEMENTATION OF A KEY EMPLOYEE INCENTIVE PLAN AND A KEY EMPLOYEE RETENTION PLAN, (II) APPROVING THE TERMS OF THE DEBTOR'S KEY EMPLOYEE INCENTIVE PLAN AND KEY EMPLOYEE RETENTION PLAN, AND (III) GRANTING RELATED RELIEF

The debtor and debtor in possession in the above-captioned case (the "Debtor"), hereby moves (this "Motion")[2] this Court for entry of an order, under sections 105, 363(b) and, to the extent applicable, 503(c)(3) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), authorizing, but not directing, the Debtor to implement a proposed key employee incentive plan (the "KEIP"), substantially in the form attached hereto as **Exhibit A**, and a key employee retention plan (the "KERP"), substantially in the form attached hereto as **Exhibit B**. In support of this Motion, the Debtor relies upon and incorporates by reference the *Declaration of Douglas J. Friske in Support of Debtor's Motion for Entry of an Order (i) Authorizing Implementation of a Key Employee Incentive Plan and a Key Employee Retention Plan, (ii) Approving the Terms of the Debtor's*

1 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.

2 Capitalized terms used but not defined herein have the meanings given to such terms in the Motion or Bidding Procedures (as defined below), as applicable.

Key Employee Incentive Plan and Key Employee Retention Plan, and (iii) Granting Related Relief (the "Friske Declaration").

PRELIMINARY STATEMENT

1. The Debtor has announced its intention to run a sale process under Section 363 of the Bankruptcy Code for the sale of substantially all of its assets. In furtherance of that process, the Debtor has created a form purchase agreement (the "Form Purchase Agreement") to be entered into with a "Successful Bidder" following the Auction. In the time leading up to the Debtor's bankruptcy filing, the Debtor's employees have been instrumental in maintaining the ongoing business of the Debtor and thereby maximizing value with respect to the sale of substantially all of the Debtor's assets. This process has required a substantial commitment of time and effort on the part of the Debtor's employees and a willingness to continue to work for the Debtor in the face of the uncertainty inherent in chapter 11 proceedings and the sale process. Despite the efforts to date, further efforts will be necessary to maximize value for all of the Debtor's creditors: the Debtor's employees will need to invest substantial time and energy interacting with potential bidders, responding to information requests, and working to increase value.

2. Additionally, on the eve of its bankruptcy filing, the Debtor's Chief Financial Officer resigned further underscoring the necessity of the Debtor's proposed KEIP. Without approval of the Debtor's proposed KEIP and KERP, there is a very real concern that other senior executives and key employees will do the same. It is therefore critical to the success of the sale process that the Debtor's employees have the incentive to continue their extraordinary efforts, to remain in the Debtor's employ through the sale, and to work enthusiastically to increase the value achieved at that sale. Accordingly, the Debtor is seeking

approval of the KERP for non-insider employees and the KEIP for identified members of the Debtor's management. The KERP and KEIP are collectively referred to herein as the "Employee Compensation Plans".

JURISDICTION AND VENUE

3. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

4. The statutory predicates for the relief requested herein are sections 105(a) and 363 of the Bankruptcy Code. The relief is further warranted under Bankruptcy Rule 6004.

5. Pursuant to Rule 9013-1(f) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Bankruptcy Rules"), the Debtor consents to the entry of a final judgment or order with respect to this Motion if it is determined that this Court would lack Article III jurisdiction to enter such final order or judgment absent the consent of the parties.

RELEVANT FACTUAL BACKGROUND

6. On March 12, 2018 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (this "Chapter 11 Case"). The Debtor continues to operate its business as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No party has requested the appointment of a trustee or examiner and no committee has been appointed in this Chapter 11 Case.

7. The Debtor is a biopharmaceutical company focused on the treatment of obesity and the commercialization of a single pharmaceutical drug for chronic weight management. Additional details regarding the Debtor's business and the facts and circumstances

supporting the relief requested herein are set forth in *the Declaration of Michael A. Narachi in Support of First Day Relief* [D.I. 3] (the "First Day Declaration") and incorporated herein by reference.

8. The Debtor and its professionals have engaged in an extensive prepetition marketing process for the sale of all or substantially all of the Debtor's assets. After speaking with several potentially interested parties but being unable to secure a stalking horse bidder, the Debtor ultimately determined to proceed with an auction process without the benefit of a stalking horse purchaser. The Debtor has created a Form Purchase Agreement for a transaction to be entered into by the Successful Bidder following the Auction. As described in greater detail in the Debtor's motion to, among other things, establish bidding procedures relating to the sale of the Debtor's assets, the Form Purchase Agreement contemplates an open auction process and sale of substantially all of the Debtor's assets and includes the sale notice and assumption of certain specified liabilities.

RELIEF REQUESTED

9. By this Motion, the Debtor seeks entry of an order under Bankruptcy Code sections 105, 363(b) and, to the extent applicable, section 503(c)(3): (i) authorizing the implementation of the Debtor's proposed KEIP with respect to payments to certain key insider employees and KERP with respect to retention payments to certain key non-insider employees who are not included in the KEIP; (ii) approving the terms of the Debtor's proposed KEIP and KERP; and (iii) granting related relief, including allowing all payments under the KEIP and the KERP as administrative expenses of these estates.

BASIS FOR RELIEF

A. The Key Employee Incentive Plan

i. Overview of the KEIP

10. The Debtor has recognized a need to address the concerns of its employees and its creditors and to align the interests of these respective constituencies. In order to effectively and efficiently accomplish an orderly sale process that maximizes value for all stakeholders, the Debtor has determined that formulating the KEIP was in the best interest of its estate and all parties in interest. The KEIP will help ensure that key employees who are essential to the chapter 11 and sale processes are properly motivated to maximize value for the Debtor, its estate, its creditors and other parties in interest. With these objectives in mind, the Debtor, after extensive consultation with, and benchmarking analysis by, Willis Towers Watson (" WTW"), developed the KEIP to properly incentivize certain key insider employees identified by the Debtor.

11. The KEIP is designed to provide incentives to six eligible employees (the "KEIP Participants") to achieve a successful sale process for the benefit of all of the Debtor's stakeholders. The KEIP Participants are all insiders and consist of the Chief Executive Officer, the Chief Operating Officer, the Acting Chief Financial Officer, the Head of Global Development, the Chief Administrative Officer and the Chief Accounting Officer. The KEIP, which will cover the period up to the sale of the Debtor's assets, will replace the Debtor's pre-petition Q1-Q2 Retention Plan for KEIP Participants, as well as replace the normal 2018 annual bonus, severance arrangements, and long-term incentives, including stock options and restricted common stock (the "RSU Grants").

12. Each of the KEIP Participants is playing a central role in the chapter 11 process and, in particular, the Debtor's ongoing marketing and sale efforts. Incentivizing the KEIP Participants is critical in order to ensure that these key employees remain focused on their efforts to successfully guide the Debtor through the bankruptcy process and maximize value for the benefit of all of the Debtor's stakeholders.

13. As the Debtor continues its marketing efforts to solicit the highest and best offer from interested market participants, it is imperative that the Debtor's key personnel is appropriately incentivized to maximize the sale price to ensure optimum recovery for all stakeholders. Not only have the KEIP Participants continued to fulfill the normal tasks and projects required by the ordinary demands of their employment, but they have been, and will continue to be, required to expend substantial additional time and resources on tasks relating to the implementation of the proposed restructuring, the day-to-day reporting and operational requirements of this Chapter 11 Case, and the ongoing marketing and sales process.

14. Awards under the KEIP will be paid out in accordance with the KEIP term sheet (the "KEIP Term Sheet") attached hereto as **Exhibit A**. All of the KEIP Participants will be eligible to obtain asset sale incentives (the "Asset Sale Incentives"). The KEIP Participants shall receive payouts only upon the occurrence of a sale of the Debtor's assets (held by Debtor or non-Debtor subsidiaries) or a fully-paid license (in one or a series of transactions), in which the total value received in the transaction (the "Asset Sale Proceeds") is more than $40 million. However, two of the KEIP Participants (the Acting Chief Financial Officer and the Chief Accounting Officer, collectively the "Participating Finance Employees") will also be eligible to obtain operational incentive payments (the "Operational Incentives") based on operating disbursements from the cumulative budget through the completion of the bankruptcy

process. The Participating Finance Employees shall receive a one-time payout equal to three-months of their base salary if operating disbursements during the bankruptcy process are no more than 115% of the cumulative budget through the completion of the bankruptcy process.

15. The Asset Sale Incentives will be based on a percentage of the Asset Sale Proceeds as shown in Table 1 below. Collectively, the KEIP Participants will receive an allocated portion of an aggregate payout equal to a percentage of Asset Sale Proceeds (the "Incentive Payout"). However, if the Debtor's assets are sold (or licensed) on a piecemeal basis rather than in a single transaction, Incentive Payouts will still be determined and distributed based on the total aggregate value of the Debtor's sold assets. Allocation of the Incentive Payout to individual KEIP Participants has been determined by the Debtor's Board of Directors (the "Board") as shown in Table 2 below; provided, however, if the Asset Sale Proceeds do not exceed $80 million, the Chief Executive Officer is not eligible to participate in the Incentive Payout, and such Incentive Payout shall be reallocated amongst the other KEIP Participants, as determined by the Board. In the event of an asset sale funded in part or in whole by a "credit bid", the Asset Sale Proceeds will include the portion of the sale proceeds covered by such "credit bid".

Table 1

Asset Sale Proceeds[3]	Incentive Payout (as a % of Asset Sale Proceeds)
$0 - $39.9m	0%
$40m - $79.9m	1.0%
$80m - $119.9m	1.5%
$120m - $164.9m	2.0%
$165m and higher	2.5%

3 By way of example, if the Debtor's assets sell for $90m, the KEIP Participants will collectively receive Incentive Payouts totaling $1,350,000 ($90M x 1.5%).

Table 2

Name	Allocation
Monica Forbes	9.66%
Stephen Moglia	10.62%
Thomas Lynch	14.72%
Peter Flynn	13.93%
Thomas Cannell	19.52%
Michael Narachi	31.55%

16. For Operational Incentive payments, the KEIP sets a strict one-time payout equal to three-months of the Participating Finance Employees' base salary based upon the level of operating disbursements from the cumulative budget through the completion of the bankruptcy process. The KEIP Participants are eligible to receive Asset Sale Incentives upon the close of the asset sale (the "Incentive Bonus Payment Date") and the Participating Finance Employees are eligible to receive Operational Incentives at the completion of the bankruptcy process. For the Participating Finance Employees, their portion of the Asset Sale Incentives shall be reduced by any Operational Incentives they receive.

17. In the event that a KEIP Participant's employment is terminated by the Debtor for cause or voluntarily by the KEIP Participant for any reason, he or she will forfeit any right to a payment under the KEIP on the date of such employment termination. The amount of payout allocated for such departing KEIP Participant may be reallocated among the other KEIP Participants, as determined by the Board. If a Participating Finance Employee is terminated by the Debtor without cause, such Participating Finance Employee will be paid its pro-rata share of the Operation Incentives based on actual performance during the measurement period and for death and disability. If an asset sale occurs within twelve (12) weeks of a KEIP Participant's involuntary termination without cause, the KEIP Participant is eligible to receive what they

should have received if still employed at the time of the asset sale, with any Asset Sale Incentives received by Participating Finance Employees reduced by an amount already received on account of Operational Incentives.

18. It is important to note that the KEIP is not a "pay to stay" retention plan. Instead, the KEIP incentivizes KEIP Participants by tying payments directly to operating disbursements or the proceeds received from the Debtor's sale process. Accordingly, the KEIP is a true incentive plan that successfully aligns the interests of the Debtor, its employees, and its stakeholders, in that it motivates the KEIP Participants to strictly adhere to the established budget or achieve the highest sale price, which in turn will improve recoveries for the Debtor's creditors.

ii. The KEIP Design is Consistent with the Bankruptcy Market

19. As a general matter, the use of key employee incentive plans is common practice in chapter 11 cases. The structure of the plans varies based on the unique circumstances of each case but the general terms and conditions are consistent with the KEIP proposed by the Debtor, including the metrics and proposed payment amounts set forth therein. To ensure that the KEIP was commensurate with incentive plans developed by similarly–situated companies, WTW analyzed a set of chapter 11 cases that filed for bankruptcy protection, underwent a sale of their assets, and that implemented key employee incentive plans linked to the results of the sale process while in bankruptcy. WTW identified 13 such cases (the "All Companies Set") involving similarly–situated debtors where proceeds were of a comparable size range to the proceeds that may be realized in this Chapter 11 Case (the "Comparative Set"). In addition to the chapter 11 Asset Sale incentives, WTW reviewed 21 restructuring Operational KEIPs for comparison and additional market respective.

20. In order to define the relevant market for talent, WTW analyzed 13 public pharmaceutical or biotechnology company proxy statements for the purpose of obtaining benchmark compensation levels for the CEO and CFO positions. For the other four Debtor executive positions, WTW gathered benchmark compensation data from the Radford Global Life Sciences Survey (a leading publication on multinational life sciences that provides companies with total compensation and practices data) based on position title matches as there were not sufficient matches for these roles in the 13 public company proxy statements. WTW matched the Debtors executives' to competitive benchmark position matches and compiled market total direct compensation for use in our analysis.

21. In evaluating the Debtor's executives' total direct compensation opportunity, WTW compared such compensation to that of 13 similarly-situated companies to assess the Debtor's pay against the total annual market values to reflect fully competitive executive pay in the broader labor market. However, WTW noted that pharmaceutical and biotechnology industry executive compensation is typically twice the amount of general industry executives' total direct compensation levels for similarly-sized companies. WTW compared the Debtor executives' target total direct compensation with and without the proposed KEIP (base salary only and base salary plus an assumed target KEIP value) to the competitive benchmark total direct compensation (base salary plus annual target incentives plus annual long-term incentive grant values) for each position at target payout levels. WTW then calculated the Debtor executives' aggregate variance from the 25th and 50th percentiles of the market. The results were as follows:

- Compared to the market, the Debtor's executives' aggregate annual target total direct compensation without any Operational or Asset Sale Incentives (only the Debtor's base salaries since all annual incentives were cancelled as a

result of the Debtor filing this Chapter 11 Case) are 59% below the market 25th percentile and 67% below the market 50th percentile levels.

- The Debtor's executives' proposed aggregate target total direct compensation including any potential target Operational or Asset Sale Incentives (funded at a hypothetical sale price of $100 million), falls 34% below the 25th percentile and 47% below the 50th percentile of market target total direct compensation levels.

22. In addition, WTW calculated the aggregate cost of the KEIP program in isolation and compared it to the aggregate costs of bankruptcy operational and asset sale KEIPs at the 25th, 50th, and 75th percentile of the market. In comparing the KEIP against other bankruptcy companies, the target Operational Incentive payouts for the two Participating Finance Employees at a cost of $131,250 funding was significantly lower than the 25th percentile of the market target Operational Incentive costs of $1.3M. The Debtor's Asset Sale Incentives with an aggregate cost of $1.5M at target funding (assuming $100 million asset sale value) falls between the 25th percentile ($1.05M) and the 50th percentile ($1.74M) of the market Asset Sale target aggregate costs. Based on the Debtor's aggregate Operational Incentive target payouts falling below the 25th percentile of the market reference companies, and the Debtor's aggregate Asset Sale target payouts falling between the 25th and 50th percentile of the market reference companies, the Debtor's KEIP aggregate costs were found to be reasonable in comparison.

23. Given the above results, the Debtor's KEIP Plan is reasonable and in line with other plans designed for similarly-situated companies.

B. The Key Employee Retention Plan

i. Overview of the KERP

24. The Debtor seeks to implement the KERP for key non-management personnel who are not KEIP Participants, in order to ensure that the Debtor does not suffer

significant and costly turnover of essential employees during the chapter 11 process. To develop the KERP, the Debtor's Chief Executive Officer analyzed its workforce to determine which non-insiders were necessary to a successful restructuring and sale process.

25. The Debtor's management has identified sixty-six (66) likely employees to participate in the KERP (the "KERP Participants" and, together with the KEIP Participants, the "Participants"), based on their status as critical, hard to replace employees. None of the KERP Participants are insiders, as that term is defined in section 101(a)(31) of the Bankruptcy Code. Many of the KERP Participants have developed valuable institutional knowledge regarding the Debtor's ongoing business operations, and keeping such employees in their current roles over the near term will be key to the successful completion of the Debtor's sale process as well as the efficient administration of this Chapter 11 Case and the Debtor's estate.

26. Awards under the KERP will be paid out in accordance with the KERP term sheet (the "KERP Term Sheet") attached hereto as **Exhibit B**. The collective funds reserved for the KERP Participants will not exceed $3,115,000 (the "Collective Funds"). Of the Collective Funds, each KERP Participant will be able to obtain an amount equal to three-months of the KERP Participant's base salary. Payment under the KERP will be distributed if the KERP Participant is still employed until the earlier of (i) the consummation of the sale of all or substantially all of the Debtor's assets or (ii) the Debtor emerges from bankruptcy (the "Vesting Period").

27. Termination for cause of a KERP Participant by the Debtor or voluntary termination of a KERP Participant for any reason would result in forfeiture of award payments. In the event that a KERP Participant departs the Debtor, their portion of the Collective Funds may be reallocated to another KERP Participant or employee of the Debtor who is not a KERP

Participant at that time, in each case as determined by the Chief Executive Officer of the Debtor. In the event that a KERP Participant is terminated without cause during the Vesting Period, payments would be made in full at the same time as other KERP Participants receive their payment. KERP Participants whose employment is transferred to a purchaser of assets will receive payment in full at the earlier of either full transfer of employment or sale.

ii. The KERP Design is Consistent with the Bankruptcy Market

28. The KERP covers 66 non-insiders with target award amounts equal to three months base salary of each participant. The total cost of the program is $3,115,000. Given that restructuring KERP programs for non-insiders are common and given that there are no other compensation arrangements in place for the KERP participants other than base salary, the KERP design is reasonable.

29. Although certain of the KERP Participants may hold titles such as “director” or “vice president,” they do not serve on any Debtor’s board of directors and do not take part in the management of the Debtor; rather, they hold such titles in name only. The KERP Participants generally do not attend senior management meetings or participate in board meetings or corporate governance, and many of their duties are limited to particular divisions. Thus, none of the KERP Participants may be properly considered “officers” of the Debtor; rather, the KERP Participants are critical employees who have the knowledge and experience to carry out the decisions of management in an efficient and effective manner. The KERP Participants have, in addition to performing their normal job duties, undertaken significant additional tasks and responsibilities, including providing financial and operational information to fulfill the Debtor’s reporting requirements, assisting with marketing efforts and responding to diligence requests in connection with the ongoing sale process, and other tasks related to the

Chapter 11 Case and ongoing sale process. The KERP Participants will continue to perform these additional tasks during the pendency of this Chapter 11 Case.

30. The KERP Participants have, along with the Debtor's other employees, been faced with significant pressure to leave the Debtor's employ during the pendency of this Chapter 11 Case due to, among other things, the uncertainty inherent to the chapter 11 sale process.

31. In order to effectively and efficiently accomplish an orderly sale process that maximizes recovery for all stakeholders, the Debtor determined that formulating the KERP was in the best interest of its estate and all parties in interest. The KERP will help ensure that key employees who are essential to the chapter 11 and sale processes are properly motivated to maximize value for the Debtor, its estate, its creditors and other parties in interest.

32. The sale process that the Debtor has undertaken to maximize value for its stakeholders has a necessary byproduct of creating a great deal of uncertainty for the very company personnel charged with maximizing that value. As a result, it is entirely appropriate to provide benefits to such key personnel in order to counterbalance the distraction that such uncertainty necessarily engenders. The structure of other key employee retention plans previously approved by this and other courts varies based on the unique circumstances of each case but the general terms and conditions are consistent with the KERP proposed by the Debtor, including the conditions and proposed payment amounts set forth therein.

C. The Debtor's Need for the KEIP and the KERP

33. In order to effectively and efficiently accomplish the proposed restructuring and maximize recovery for all stakeholders, the Debtor determined that

formulating the KEIP and KERP was in the best interest of its estate and all parties in interest.

The Debtor's Board approved both the Debtor's KEIP and KERP on March 5, 2018.

34. The KEIP and KERP will help ensure that key executives who are essential to the chapter 11 and sale process are properly motivated to maximize value for the Debtor, its estate, its creditors and other parties in interest, and that other key employees of the Debtor remain with the Debtor during the restructuring process to manage the Debtor's ongoing operations and ensure that the Debtor emerges from the Chapter 11 Case with its operational capacities intact.

35. As a general matter, the use of KEIPs and KERPs is common practice in chapter 11 cases, and is justified here given the ongoing sale process and the associated uncertainty. The structure of plans approved in other cases varies based on the unique circumstances of each case, but the general terms and conditions are consistent with the KEIP and the KERP proposed by the Debtor. Furthermore, it is important to note that the DIP Lenders have agreed to support the KEIP and KERP in full according to Section 4.1(c) of the DIP Credit and Security Agreement.

APPLICABLE AUTHORITY

36. The Debtor seeks authority to implement and honor obligations to the KEIP Participants under the KEIP, and to implement and honor obligations to the KERP Participants under the KERP. The Debtor respectfully submits that the KEIP and KERP will provide the necessary incentives to the applicable Participants to promote an expeditious resolution of this Chapter 11 Case and maximize value for the Debtor's estate.

A. Authorization of the KEIP and KERP are Appropriate Pursuant to Bankruptcy Code Section 363(b)(1).

37. Bankruptcy Code section 363(b) provides, in relevant part, that "[t]he trustee, after notice and a hearing, may use, sell or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Under Bankruptcy Code section 363, this Court may approve a debtor's request for relief when the debtor demonstrates a sound business justification for seeking such relief. *See Dai-Ichi Kangyo Bank Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999) ("In determining whether to authorize the use, sale or lease of property of the estate under [section 363(b)], courts require the debtor to show that a sound business purpose justifies such actions").

38. As set forth above, the Debtor has articulated valid business reasons for implementation of the KEIP and KERP. The Debtor has determined in its reasonable business judgment that implementation of the KEIP and KERP will enhance the value of the Debtor's estate and accordingly, is in the best interests of the Debtor's estate and the stakeholders in the Chapter 11 Case. In addition to its normal day-to-day responsibilities managing the Debtor's business and maintaining relationships with its employees, key customers, and key suppliers, the Participants serve as the driving force to bring the Chapter 11 Case to its ultimate resolution. The Participants are being asked to take on considerable additional responsibilities and expend significantly more hours during this Chapter 11 Case.

39. Additionally, as set forth above and more fully in the Friske Declaration, payment levels under the KEIP and the KERP are reasonable and were determined based on a thorough analysis of the Debtor's needs and benchmarks performed by WTW. Moreover, the overall costs of the KEIP and KERP are reasonable in light of the size of the Debtor's estate, the

nature of the Debtor's industry, and the benefit from a successful sale process resulting from the Participants' efforts. Accordingly, the Debtor believes that valid business reasons exist for the implementation of the Employee Compensation Plans and, thus, that their implementation should be approved.

40. Once a debtor articulates a valid business justification for a particular form of relief, the Court reviews the debtor's request under the "business judgment rule." The business judgment rule has vitality in chapter 11 cases and shields a debtor's management from judicial second-guessing. *Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992). "The business judgment rule 'is a presumption that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company.'" *See id.* (quoting *Smith v. Van Gorkom*, 488 A.2d 858, 872 (Del. 1985)).

41. In that regard, courts have found that a debtor's use of reasonable performance bonuses and other incentives for employees is a valid exercise of a debtor's business judgment. *See, e.g.*, *In re Glob. Home Prod., LLC*, 369 B.R. 778, 787 (Bankr. D. Del. 2007) (approving incentive plan as proper exercise of the debtors' business judgment); *In re Am. W. Airlines, Inc.*, 171 B.R. 674, 678 (Bankr. D. Ariz. 1994) (noting that it is the proper use of a debtor's business judgment to propose bonuses for employees who helped propel the debtor successfully through the bankruptcy process); *In re Interco Inc.*, 128 B.R. 229, 234 (Bankr. E.D. Mo. 1991) (stating that a debtor's business judgment was controlling in the approval of a "performance/retention program").

42. This and other courts have approved similar employee incentive and retention programs as valid exercises of business judgment. *See, e.g.*, *In re NJOY, Inc.*, No. 16-12076 (CSS) (Bankr. D. Del. Jan. 12, 2017) (approving incentive plan tied to sale process milestones); *In re Hipcricket, Inc.*, No. 15-10104 (LSS) (Bankr. D. Del. Feb. 18, 2015) (approving incentive plan tied to sale proceeds); *In re RadioShack Corp.*, No. 15-10197 (KJC) (Bankr. D. Del. Mar. 4, 2015) (approving key employee incentive plan tied to success of sale process and key employee retention program); *In re Dendreon Corp.*, No. 14-12515 (PJW) (Bankr. D. Del. Dec. 17, 2014) (approving key employee incentive plan with payments based on achieving certain transaction value thresholds); *In re Brookstone Holdings Corp.*, No. 14-10752 (BLS) (Bankr. D. Del. May 12, 2014) (approving key employee retention plan and key employee incentive plan); *In re Synagro Techs., Inc.*, No. 13-11041 (BLS) (Bankr. D. Del. May 13, 2013) (approving key employee incentive plan with payments based on achieving certain valuation thresholds); *In re KaloBios Pharmaceuticals, Inc.*, No. 15-12628 (LSS) (Bankr. D. Del. Feb. 17, 2016) (approving key employee retention plan).

43. In the present case, authorizing the Debtor to provide the KEIP and KERP to the Participants will accomplish a similarly sound business purpose. The Debtor has determined that the costs associated with additional postpetition compensation payments pursuant to the KEIP and KERP are more than justified by the benefits that the Debtor will realize (and have already realized) by creating appropriate incentives for the Participants, whose experience, skills and diligent efforts are critical for the Debtor to maximize the value of its business as they reorganize—and by the inevitable expense and disruption to the chapter 11 process if Participants were to terminate their employment, thereby necessitating replacement costs of more expensive professional services.

B. The KEIP is Incentivizing and Thus Not Governed by Bankruptcy Code Sections 503(c)(1) and 503(c)(2).

44. Bankruptcy Code section 503(c) governs retention, severance and other payments to insiders. By its plain language, section 503(c)(1) of the Bankruptcy Code pertains solely to retention payments to insiders, and section 503(c)(2) of the Bankruptcy Code pertains solely to severance payments to insiders. Neither of these sections apply to performance-based incentive plans such as the KEIP, which only allots payments based on the successful achievement of certain metrics and does not provide benefits to KEIP Participants upon termination of their employment with the Debtors. *See In re Velo Holdings Inc.*, 472 B.R. 201, 208 n.6 (Bankr. S.D.N.Y. 2012) (noting inapplicability of section 503(c)(1) to incentivizing plans); *In re Dana Corp.*, 358 B.R. 567, 576 (Bankr. S.D.N.Y. 2006) (applying section 503(c)(3) of the Bankruptcy Code to evaluate management incentive plan in absence of applicability of sections 503(c)(1) or 501(c)(2) of the Bankruptcy Code).

45. The KEIP is not intended to provide bonuses for retention. In particular, the KEIP comprises only targeted incentive payments to the Debtor's employees who are the most critical to maximizing the value of the Debtor's business as aligned with the restructuring and sale process, which payments require a far higher threshold than merely remaining employed by the Debtor. Although certain KEIP Participants are "insiders" within the meaning of the Bankruptcy Code, the KEIP has been crafted with great care to ensure the metrics directly incentivize and motivate participants to meet the objectives set forth therein.

46. Moreover, while the KEIP was not crafted with the goal of retaining the KEIP Participants, the fact that the KEIP may encourage the KEIP Participants to remain with the Debtor throughout the Chapter 11 Case should not bar implementation of the KEIP. Indeed, all successful incentive programs have the indirect benefit of incentivizing an employee to

remain with the company. *See In re Global Home Prods., LLC*, 369 B.R. 778, 786 (Bankr. D. Del. 2007). The primary purpose of the KEIP is to maximize value for the benefit of the Debtor's estate.

47. Accordingly, the Debtor respectfully submits that sections 503(c)(1) and 503(c)(2) of the Bankruptcy Code do not apply to the KEIP.

C. The KERP Does Not Provide for Payments to Insiders and Thus Is Not Governed by Bankruptcy Code Sections 503(c)(1) and 503(c)(2).

48. As noted above, sections 503(c)(1) and (c)(2) of the Bankruptcy Code mandate restrictions upon retention and severance plans for "insiders." The Bankruptcy Code elsewhere defines "insider" as a "(i) director of the debtor; (ii) officer of the debtor; (iii) person in control of the debtor; (iv) partnership in which the debtor is a general partner; (v) general partner of the debtor; or (vi) relative of a general partner, director, officer, or person in control of the debtor." 11 U.S.C. § 101(31)(B). While a person holding an officer's title is presumptively an officer and thus an insider, that presumption may be rebutted with "evidence sufficient to establish that the person holds the title of an officer in name only and, in fact, does not meet the substantive definition of the same, *i.e.*, he or she is not taking part in the management of the debtor." *In re Foothills Tex., Inc.*, 408 B.R. 573, 574-75 (Bankr. D. Del. 2009).

49. Certain of the KERP Participants hold titles such as "director" or "vice president," but they do not take part in the management of the Debtor and they hold such titles in name only, rebutting the presumption that such participants are "insiders" within the meaning of the Bankruptcy Code. The KERP Participants generally do not attend senior management meetings or participate in board meetings or corporate governance, and many of their duties are limited to particular divisions. Their respective scopes of authority are limited, and while their

titles reflect their individual roles and functions, the same titles do not confer officer or director status upon the KERP Participants. The KERP Participants are critical employees who have the knowledge and experience to carry out the decisions of management in an efficient and effective manner. In addition to performing their normal job duties, the KERP Participants have undertaken significant additional tasks and responsibilities in connection with this Chapter 11 Case, including providing financial and operational information to fulfill the Debtor's reporting requirements, assisting with marketing efforts and responding to diligence requests in connection with the ongoing sale process, and other tasks related to the proposed restructuring and ongoing sale process. As a consequence, the KERP Participants are not "insiders" as defined in the Bankruptcy Code, and the Debtor thus maintains that sections 501(c)(1) and (c)(2) do not apply here.

D. The Employee Compensation Plans are Justified by the Facts and Circumstances and Satisfy Bankruptcy Code Section 503(c)(3).

50. Finally, the KEIP and KERP components of the Employee Compensation Plans each also satisfy the standard set forth in Bankruptcy Code section 503(c)(3), which provides:

> Notwithstanding subsection (b), there shall neither be allowed, nor paid (3) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case, including transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition.

11 U.S.C. § 503(c)(3).

51. Courts have held that the requirement that transfers or obligations be "justified by the facts and circumstances of the case" is a reiteration of the business judgment test (or sound business judgment test) incorporated into Bankruptcy Code section 363(b) (and as

set forth above) and under which courts traditionally evaluated executive compensation programs prior to recent amendments to the Bankruptcy Code. *See In re Dana Corp.*, 358 B.R. at 576; *In re Nobex Corp.*, No. 05-20050 (MFW) (Bankr. D. Del. Jan. 12, 2006) (D.I. 194) ("So I do read (c)(3) to be the catch-all and the standard under (c)(3) for any transfers or obligations made outside the ordinary course of business are those that are justified by the facts and circumstances of the case. Nothing more — no further guidance being provided to the Court by Congress, I find it quite frankly nothing more than a reiteration of the standard under 363 . . . under which courts had previously authorized transfers outside the ordinary course of business and that is, based on the business judgment of the debtor, the court always considered the facts and circumstances of the case to determine whether it was justified."); 4 *Collier on Bankruptcy* 503.17[1] (16th rev. ed. 2017) (noting that non-insider "plans are reviewed under the much easier business judgment test in section 503(c)(3)").

52. In assessing a debtor's business judgment regarding the implementation of incentive programs, courts, including this one, have looked to the factors laid out by Judge Lifland in *Dana* for guidance to evaluate a proposed incentive or retention program under Bankruptcy Code section 503(c)(3).[4] *See, e.g.*, *In re Glob. Home Prod., LLC*, 369 B.R. 778, 785 (Bankr. D. Del. 2007) (applying the *Dana* factors).

53. First, in consultation with WTW, after an extensive analysis of the programs implemented in other similarly–situated companies, the Debtor designed and refined

4 The *Dana* factors are: (a) whether a reasonable relationship existed between the proposed plan and the desired results; (b) whether the cost of the plan was reasonable in light of the overall facts of the case; (c) whether the scope of the plan was fair and reasonable; (d) whether the plan was consistent with industry standards; (e) whether the debtor had put forth sufficient due diligence efforts in formulating the plan; and (f) whether the debtor received sufficient independent counsel in performing any due diligence and formulating the plan. *In re Dana Corp.*, 358 B.R. at 576-77.

the KEIP and KERP to motivate and reward Participants for their significant efforts, to ensure that key management personnel continue to manage the Debtor's day to day operations and affairs, and to compensate Participants for the increased demands placed upon them in connection with the chapter 11 process. Specifically, the KEIP and KERP will ensure that the Participants are motivated and that the Debtor has the appropriate staff on hand to facilitate a speedy exit of the Debtor from this Chapter 11 Case, thereby maximizing value for the Debtor's estate. Second, WTW engaged in an extensive benchmarking analysis in assisting the Debtor with the design of the KEIP and the KERP. The cost is reasonable and well-justified given the size of the Debtor's business, the nature of the Debtor's business and the value that maximization of the sale process would bring to the estate. Third, the scope of the KEIP and KERP is fair and reasonable; 72 out of approximately 96 employees are eligible to receive payments under the Employee Compensation Plans. Fourth, the KEIP and KERP are consistent with industry standards with respect to eligibility, total cost, metrics, and payout timing. Finally, consistent with past practice, the Debtor consulted with the Board and Chief Executive Officer in formulating the Employee Compensation Plans and received outside independent market advice from WTW to ensure the KEIP meets the Debtor's goal of incentivizing the Debtor's key employees and the KERP meets the Debtor's goal of retaining critical non-insider employees.

54. Accordingly, the Debtor respectfully submits that the KEIP and KERP are in the best interests of the Debtor, its creditors, and all parties-in-interest in the Chapter 11 Case.

RESERVATION OF RIGHTS

55. Nothing contained herein is or should be construed as: (a) an admission as to the validity of any claim against the Debtor; (b) a waiver of the Debtor's rights to dispute

any claim on any grounds; (c) a promise to pay any claim; (d) an assumption or rejection of any executor contract or unexpired lease pursuant to Bankruptcy Code section 365; or (e) otherwise affect the Debtor's rights under Bankruptcy Code section 365 to assume or reject any executory contract with any party subject to this Motion.

NOTICE

56. The Debtor will provide notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtor's list of its thirty (30) largest unsecured creditors, pursuant to Bankruptcy Rule 1007(d); (iii) counsel to the DIP Administrative Agent, the DIP Lenders, Prepetition Indentured Trustee and Secured Noteholders (each as defined in the First Day Declaration) and (iv) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the fact that no trustee, examiner or creditors' committee has been appointed in this case, the Debtor submits that no further notice need be given.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter an order, substantially in the form annexed hereto as **Exhibit C**, granting the relief set forth herein and such other and further relief as may be just and proper.

March 21, 2018
Wilmington, Delaware

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Proposed Counsel for Debtor and Debtor in Possession

EXHIBIT A

KEIP TERM SHEET

KEIP Objective	KEY EMPLOYEE INCENTIVE PLAN TERM SHEET The Orexigen Therapeutics, Inc. Key Employee Incentive Plan (the "**KEIP**") is designed to provide incentive payments to certain employees ("**KEIP Participants**") of Orexigen Therapeutics, Inc. (the "**Company**") to encourage the achievement of certain performance targets, and to maximize the value of the estate. This program, which will cover the period up to the sale of the Company's assets, is to replace the Company's pre-petition Q1- Q2 Retention Plan for KEIP Participants, as well as replace the normal 2018 annual bonus, severance arrangements and long-term incentives, including stock options and restricted common stock.
Participating Employees	The KEIP Participants are: • Michael Narachi, Chief Executive Officer • Thomas Cannell, Chief Operating Officer • Peter Flynn, Head of Global Development • Monica Forbes, Acting Chief Financial Officer • Thomas Lynch, Chief Administrative Officer • Stephen Moglia, Chief Accounting Officer
Incentives Payments	<u>Operational Incentives</u> Operational Incentive payments will be measured based on operating disbursements from the cumulative budget through the completion of the bankruptcy process. Only the Acting Chief Financial Officer and the Chief Accounting Officer ("**Participating Finance Employees**") are eligible for the Operational Incentives. <u>Asset Sale Incentives</u> Asset Sale Incentives will be paid in connection with the sale of the Company's assets or a fully-paid license (in one or a series of transactions) if such transaction takes place during Fiscal Year 2018. Such incentives may be offset based on the following: transaction value, asset sale/distribution of proceeds, stalking horse bid price (if applicable), milestones related to the Company's liquidation, the recovery rate of creditors, and wind down cash flows. All KEIP Participants will be eligible for Asset Sale Incentives.

However, for the Participating Finance Employees, any portion of the Asset Sale Incentives allocated to them will be reduced by any Operational Incentive they receive.

Structure of Payment

Operational Incentives

Participating Finance Employees will receive a one-time payout equal to three-months of their base salary if operating disbursements during the bankruptcy process are no more than 115% of the cumulative budget through the completion of the bankruptcy process.

Asset Sale Incentives

The Asset Sale Incentives will be based on a percentage of the proceeds from the sale of the Company's assets or fully-paid up license (whether in one or a series of asset sales) (the "**Asset Sale Proceeds**") as outlined in Table 1 below. Asset Sale Incentives will only be distributed if the Asset Sale Proceeds are more than $40m. Collectively, the KEIP Participants will receive an allocated portion of an aggregate payout equal to a percentage of Asset Sale Proceeds (the "**Incentive Payout**"). Even if the Company's assets are sold (or licensed) on a piecemeal basis rather than in a single transaction, Incentive Payouts will still be determined and distributed based on the total aggregate value of the Company's assets. Allocation of the Incentive Payout to individual KEIP Participants has been determined by the Company's Board of Directors (the "**Board**") as shown in Table 2 below; provided, however, if the Asset Sale Proceeds do not exceed $80 million, the Chief Executive Officer is not eligible to participate in the Incentive Payout, and such Incentive Payout shall be reallocated among the other KEIP Participants, as determined by the Board.

Asset Sale Incentives are uncapped to motivate achievement of maximum sale value.

Table 1

Asset Sale Proceeds[1]	Incentive Payout (as a % of Asset Sale Proceeds)
$0 - $39.9m	0%
$40m - $79.9m	1.0%
$80m - $119.9m	1.5%
$120m - $164.9m	2.0%
$165m and higher	2.5%

Table 2

Name	Allocation
Monica Forbes	9.66%
Stephen Moglia	10.62%
Thomas Lynch	14.72%
Peter Flynn	13.93%
Thomas Cannell	19.52%
Michael Narachi	31.55%

In the event of an asset sale funded in part or in whole by a "credit bid", the Asset Sale Proceeds will include the portion of the sale proceeds covered by such "credit bid".

Effect of Termination of Employment

Upon the involuntary termination of employment of a KEIP Participant by the Company for cause or voluntary termination of employment by a KEIP Participant for any reason, the right to any amounts under the KEIP that may be owed to such KEIP Participant will be forfeited on the date of such employment termination and such KEIP Participant will have no further rights under the KEIP. In the event of such termination by the Company, the amount of the Incentive Payout allocated for such departing KEIP Participant may be reallocated among the other KEIP Participants, as determined by the Board.

Upon the involuntary termination of employment of a KEIP Participant without cause, the KEIP Participant will be paid its pro-rata share of the Operational Incentives based on actual performance during the measurement period and for death and disability. If an asset sale is to occur within 12 weeks of the KEIP Participants's involuntary termination without cause, the

1 By way of example, if the Debtor's assets sell for $90m, the KEIP Participants will collectively receive Incentive Payouts totaling $1,350,000 ($90M x 1.5%).

	KEIP Participant is eligible to receive what they should have received if still employed at the time of the asset sale, with any Asset Sale Incentives received by Participating Finance Employees reduced by an amount already received on account of Operational Incentives.
Performance Measurement Period	Operational Incentive: Operational Incentive payments will be measured based on operating disbursements from the cumulative budget through the completion of the bankruptcy process. Asset Sale Incentive: Covers asset sale for period up to the sale of the Company's assets.
Payout Period	Operational Incentive is paid out upon the completion of the bankruptcy process. Asset Sale Incentive is paid out on close of the asset sale.

EXHIBIT B

KERP TERM SHEET

KEY EMPLOYEE RETENTION PLAN TERM SHEET

KERP Objective	The Orexigen Therapeutics, Inc. Key Employee Retention Plan (the "**KERP**") is designed to retain key non-management employees (the "**KERP Participants**") of Orexigen Therapeutics, Inc. (the "**Company**") in their current roles over the near term while providing them with financial stability. Currently, the Company's pre-petition Q1-Q2 incentive plan will be cancelled, which would leave KERP Participants with a base salary as their only means of compensation. This program, which covers the Q1-Q4 Fiscal Year 2018 period, is designed to bring the KERP Participants' compensation closer to market by providing guaranteed pay contingent upon remaining employed through the vesting period.
Participating Employees	KERP Participants will include approximately 66 non-management, non-insider employees of the Company, as determined by the Company's Chief Executive Officer of the Company.
Timing of Payments	Payments will be distributed to KERP Participants if the KERP Participant is still employed until the earlier of (i) the consummation of the sale of all or substantially all of the Company's assets or (ii) the Company emerges from bankruptcy (the "**Vesting Period**").
Payments	The collective funds reserved for the KERP will not exceed $3,115,000 ("**Collective Funds**"). Of the Collective Funds, each KERP Participant will be able to obtain an amount equal to three-months of the KERP Participant's base salary.
Structure of Payment	The amount of payment received by each of the KERP Participants will be based solely on their employment with the Company. No other performance metrics will be included.
Effect of Termination of Employment	Award will be forfeited if a KERP Participant resigns voluntarily or is terminated for cause. In the event that a KERP Participant departs the Company, their portion of the Collective Funds may be reallocated to another KERP Participant or employee of the Company who is not a KERP Participant at that time, in each case as determined by the Chief Executive Officer of the Company. Awards would be 100% paid for involuntary termination without cause during the Vesting Period. KERP Participants whose employment is transferred to a purchaser of assets will receive payment in full at the earlier of either full transfer of employment or sale.

EXHIBIT C

PROPOSED ORDER

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Orexigen Therapeutics, Inc.,	Case No. 18-10518 (KG)
Debtor.[1]	**RE: D.I. ____**

ORDER (I) AUTHORIZING IMPLEMENTATION OF A KEY EMPLOYEE INCENTIVE PLAN AND A KEY EMPLOYEE RETENTION PLAN, (II) APPROVING THE TERMS OF THE DEBTOR'S KEY EMPLOYEE INCENTIVE PLAN AND KEY EMPLOYEE RETENTION PLAN, AND (III) GRANTING RELATED RELIEF

Upon consideration of the Debtor's motion (the "Motion")[2] for an order (this "Order"), under Bankruptcy Code sections 105(a), 363(b), and 503(c)(3) of title 11 of the United States Code (the "Bankruptcy Code"), authorizing, but not directing, the implementation of the Debtor's proposed key employee incentive plan and key employee retention plan (as described in the Motion, the "Employee Compensation Plans"), filed by Orexigen Therapeutics, Inc., debtor and debtor-in-possession (the "Debtor"), and upon the arguments of counsel and the entire record of this Chapter 11 Case and other matters of which this Court may properly take judicial notice; and upon the Friske Declaration and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. sections 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. sections 1408

1 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.

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

and 1409; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in this Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and good and sufficient cause appearing therefor, it is hereby,

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED as set forth herein.

2. Implementation of the Employee Compensation Plans is based on the Debtor's sound business judgment and is justified by the facts and circumstances of the Debtor's Chapter 11 Case.

3. Pursuant to Bankruptcy Code sections 105(a), 363(b), and 503(c)(3), the Debtor is authorized to take all necessary actions to implement the Employee Compensation Plans and to make all payments pursuant thereto.

4. The Debtor is hereby authorized to offer and pay eligible employees in accordance with the Employee Compensation Plans.

5. The Debtor is hereby authorized to implement and fund the Employee Compensation Plans in their entirety, and make payments thereunder.

6. The claims of the Participants under the Employee Compensation Plans are entitled to and shall be accorded administrative expense status and priority under Bankruptcy Code sections 503(b)(1)(A) and 507(a)(2).

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated:_____, 2018

Wilmington, Delaware

THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
OREXIGEN THERAPEUTICS, INC.,	Case No. 18-10518 (KG)
Debtor.[1]	**Objection Deadline:** **April 4, 2018 at 4:00 p.m. (ET)** **Hearing Date:** **April 11, 2018 at 10:00 a.m. (ET)**

NOTICE OF DEBTOR'S MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING IMPLEMENTATION OF A KEY EMPLOYEE INCENTIVE PLAN AND A KEY EMPLOYEE RETENTION PLAN, (II) APPROVING THE TERMS OF THE DEBTOR'S KEY EMPLOYEE INCENTIVE PLAN AND KEY EMPLOYEE RETENTION PLAN, AND (III) GRANTING RELATED RELIEF

PLEASE TAKE NOTICE that on March 21, 2018, the above-captioned debtor and debtor-in-possession (the "Debtor") filed the **Debtor's Motion For Entry Of An Order (I) Authorizing Implementation Of A Key Employee Incentive Plan And A Key Employee Retention Plan, (II) Approving The Terms Of The Debtor's Key Employee Incentive Plan And Key Employee Retention Plan, And (III) Granting Related Relief** (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the approval of the Motion must (a) be in writing; (b) be filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **April 4, 2018 at 4:00 p.m. (E.T.)** (the "Objection Deadline"); and (c) served so as to be received on or before the Objection Deadline by the undersigned counsel to the Debtor.

PLEASE TAKE FURTHER NOTICE THAT only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON **APRIL 11, 2018 AT 10:00 A.M. (E.T.)** BEFORE THE HONORABLE KEVIN GROSS AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 6TH FLOOR, COURTROOM #3, WILMINGTON, DELAWARE 19801.

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1 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.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE FINAL RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

March 21, 2018
Wilmington, Delaware

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Proposed Counsel for Debtor and Debtor in Possession

11754815.2

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Orexigen Therapeutics, Inc.,	Case No. 18-10518 (KG)
Debtor.[1]	**RE: D.I. 78**

ORDER (I) AUTHORIZING IMPLEMENTATION OF A KEY EMPLOYEE INCENTIVE PLAN AND A KEY EMPLOYEE RETENTION PLAN, (II) APPROVING THE TERMS OF THE DEBTOR'S KEY EMPLOYEE INCENTIVE PLAN AND KEY EMPLOYEE RETENTION PLAN, AND (III) GRANTING RELATED RELIEF

Upon consideration of the Debtor's motion (the "Motion")[2] for an order (this "Order"), under Bankruptcy Code sections 105(a), 363(b), and 503(c)(3) of title 11 of the United States Code (the "Bankruptcy Code"), authorizing, but not directing, the implementation of the Debtor's proposed key employee incentive plan (the "KEIP") and key employee retention plan (as described in the Motion, the "Employee Compensation Plans"), filed by Orexigen Therapeutics, Inc., debtor and debtor-in-possession (the "Debtor"), and upon the arguments of counsel and the record of the hearing on this Motion; and the entire record of this Chapter 11 Case and other matters of which this Court may properly take judicial notice; and due and sufficient notice of the Motion having been given under the particular circumstances; and it appearing that no other or further notice need be provided; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. sections 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. sections 1408 and 1409; and the Court having reviewed

1 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.

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

the Motion and having heard the evidence and statements in support of the relief requested therein at the hearing; and the Court having found and determined that the relief sought in this Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and good and sufficient cause appearing therefor, it is hereby,

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED as set forth herein.

2. Implementation of the Employee Compensation Plans is based on the Debtor's sound business judgment and is justified by the facts and circumstances of the Debtor's Chapter 11 Case.

3. Pursuant to Bankruptcy Code sections 105(a), 363(b), and 503(c)(3), the Debtor is authorized to take all necessary actions to implement the Employee Compensation Plans and to make all payments pursuant thereto.

4. The Debtor is hereby authorized to offer and pay eligible employees in accordance with the Employee Compensation Plans.

5. The Debtor is hereby authorized to implement and fund the Employee Compensation Plans in their entirety, and make payments thereunder, *provided, however,* the KEIP Participants shall only be entitled to receive up to 2.5% of the first $250 million of Asset Sale Proceeds notwithstanding a sales price in excess of $250 million.

6. The claims of the Participants under the Employee Compensation Plans are entitled to and shall be accorded administrative expense status and priority under Bankruptcy Code sections 503(b)(1)(A) and 507(a)(2).

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

9. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: April 23, 2018
Wilmington, Delaware

/s/ KEVIN GROSS
THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

Exhibit 99.1

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
Orexigen Therapeutics, Inc.,	Case No. 18-10518 (KG)
Debtor.[1]	

ORDER PURSUANT TO SECTIONS 105, 363, 364, 365 AND 541 OF THE BANKRUPTCY CODE, BANKRUPTCY RULES 2002, 6004, 6006 AND 9007 AND DEL. BANKR. L.R. 2002-1 AND 6004-1 (A) APPROVING BIDDING PROCEDURES AND BID PROTECTIONS FOR THE SALE OF SUBSTANTIALLY ALL ASSETS OF DEBTOR; (B) APPROVING PROCEDURES FOR THE ASSUMPTION AND ASSIGNMENT AND REJECTION OF DESIGNATED EXECUTORY CONTRACTS AND UNEXPIRED LEASES; (C) SCHEDULING THE AUCTION AND SALE HEARING; (D) APPROVING FORMS AND MANNER OF NOTICE OF RESPECTIVE DATES, TIMES, AND PLACES IN CONNECTION THEREWITH; AND (E) GRANTING RELATED RELIEF

Upon the *Debtor's Motion for (I) an Order Pursuant To Sections 105, 363, 364, 365 and 541 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006 and 9007 and Del. Bankr. L.R. 2002-1 and 6004-1 (A) Approving Bidding Procedures and Bid Protections for the Sale of Substantially All Assets of Debtor; (B) Approving Procedures for the Assumption and Assignment and Rejection of Designated Executory Contracts and Unexpired Leases; (C) Scheduling the Auction and Sale Hearing; (D) Approving Forms and Manner of Notice of Respective Dates, Times, and Places in Connection Therewith; and (E) Granting Related Relief; and (II) an Order (A) Approving the Sale of the Debtor's Assets Free and Clear of Claims, Liens and Encumbrances; and (B) Approving the Assumption and Assignment and Assignment or Rejection of Executory Contracts and Unexpired Leases; and (III) Certain other Relief* (the

[1] 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.

"Motion");[2] and the Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated as of February 29, 2012; and the Court having found this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court may enter an order consistent with Article III of the United States Constitution; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having considered the statements of counsel, the First Day Declaration, any objections raised, and the evidence presented at the Bidding Procedures Hearing; and it appearing that the relief requested in the Motion is reasonable and in the best interests of the Debtor's bankruptcy estate, its creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY FOUND AND DETERMINED THAT:

A. The Debtor has articulated good and sufficient reasons for, and the best interests of its estate, creditors, and other parties in interest will be served by the Court granting the relief requested in the Motion to be approved pursuant to this Bidding Procedures Order.

B. Under the circumstances, and particularly in light of the extensive marketing done by the Debtor and its advisors of the Purchased Assets prior to the date hereof, the Bidding Procedures are fair, reasonable and appropriate and constitute a reasonable, sufficient, adequate and proper means to provide potential competing bidders with an opportunity to submit, and are reasonably calculated to enable the Debtor to pursue, higher or otherwise better offers for the Purchased Assets.

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[2] Capitalized terms used but not defined herein have the meanings given to such terms in the Motion or Bidding Procedures (as defined below), as applicable.

C. A reasonable opportunity to be heard regarding the relief provided herein has been afforded to all interested parties.

D. The Debtor has demonstrated that, under the circumstances of this Chapter 11 Case, the Bidding Procedures attached as **Exhibit 1** hereto (the "Bidding Procedures"), including the Debtor's acceptance of the Stalking Horse Bid and grant to the Stalking Horse Bidder of the Break-Up Fee and Expense Reimbursement (as such terms are defined herein), are: (a) fair, reasonable, and provide an appropriate process and timetable for the Debtor to utilize for the solicitation and consideration of competing offers to purchase substantially all of the assets of the Debtor and (b) reasonably calculated to enable the Debtor to maximize the value of its assets by setting the floor for bids and contributing to a robust auction process for the benefit of the Debtor's estate, creditors and other parties in interest.

E. The Debtor's estate will suffer harm if the relief requested in the Motion to be approved by this Bidding Procedures Order is not granted.

F. The Debtor has articulated good and sufficient reasons for, and the best interests of its estate and stakeholders will be served by, the Court scheduling or fixing dates pursuant to this Bidding Procedures Order for (i) the Bid Deadline (as defined below), (ii) the Sale Objection Deadline (as defined below) to the Sale, (iii) the Auction, (iv) the Assignment Objection Deadline, and (v) the Sale Hearing.

G. The Sale Notice and Assignment and Rejection Notice are reasonably calculated to provide the Sale Notice Parties, the other Contract Counterparties, and other interested parties with proper notice of (i) the Bidding Procedures (ii) the Stalking Horse Bidder and Stalking Horse Bid (as each such term is defined below) (iii) the Bid Protections (as defined below), (iv) the Auction, (v) the Assignment and Rejection Procedures (including with respect to Cure

Costs and the Assignment Objection Deadline), (vi) the Sale Hearing, and (vii) the Sale; constitute adequate and sufficient notice under the circumstances of this Chapter 11 Case, and no other or further notice is required and afforded a reasonable opportunity to object or be heard regarding the relief requested in the Motion (including, without limitation, with respect to the Bidding Procedures, the Stalking Horse Bid and the Bid Protections).

H. The Debtor has demonstrated a compelling and sound justification for the Court to enter into this Bidding Procedures Order and thereby (i) approve the Bidding Procedures; (ii) authorize the Debtor to accept the stalking horse bid (the "Stalking Horse Bid") with Nalpropion Pharmaceuticals, Inc. (the "Stalking Horse Bidder") and enter into the asset purchase agreement (the "Stalking Horse Bidder Purchase Agreement") with the Stalking Horse Bidder dated April 23, 2018 (a copy of which is attached hereto as **Exhibit 4**) and (ii) grant the Stalking Horse Bidder the Bid Protections as an actual and necessary cost of preserving the Debtor's estate, within the meaning of sections 503(b) and 507(a) of the Bankruptcy Code.

I. The Motion and this Bidding Procedures Order comply with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the "Local Rules").

J. Due, sufficient and adequate notice of the relief granted herein has been given to all parties in interest.

K. 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 any of the findings of fact in this Bidding Procedures Order constitute 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.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted as set forth in this Bidding Procedures Order.

2. All objections filed to the Motion with respect to the relief granted herein that have not been withdrawn, waived, settled, or specifically addressed in this Bidding Procedures Order or Bidding Procedures, and all reservations of rights included in such objections, are overruled in all respects on the merits.

I. Approval of the Bidding Procedures

3. The Bidding Procedures, which are attached hereto as **Exhibit 1** and incorporated herein by reference, are hereby approved in all respects and shall govern all bidders and bids including those that may be submitted by Qualified Bidders at the Auction and other activities relating to the sale of the assets of the Debtor. The failure to specifically include or reference any particular provision of the Bidding Procedures in this Bidding Procedures Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Bidding Procedures be authorized and approved in their entirety.

4. The Debtor is authorized to (a) designate Nalpropion Pharmaceuticals, Inc.as the Stalking Horse Bidder and accept the Stalking Horse Bid, and (b) enter into the Stalking Horse Bidder Purchase Agreement.

5. The Stalking Horse Bidder is granted a break-up fee in the amount of $3,500,000 (the "Break-Up Fee") and reimbursement of its reasonable and documented out-of-pocket expenses and disbursements not to exceed $2,000,000 ("Expense Reimbursement" and, together with the Break-Up Fee, the "Bid Protections"), incurred in connection with its due diligence or

Stalking Horse Bid if the Stalking Horse Bidder does not become the Successful Bidder at the Auction or the Debtor otherwise breaches the Stalking Horse Bidder Purchase Agreement, as set forth in the Stalking Horse Purchase Agreement. The Bid Protections shall be allowed as administrative expense claims in the Chapter 11 Case under section 364(c)(1) of the Bankruptcy Code and shall be paid to the Stalking Horse Bidder in cash from the proceeds of a Successful Bid (other than from the Stalking Horse Bidder) within two (2) days of the date when the Debtor receives such proceeds, or from cash on hand as liquidated damages in the event of a breach by the Debtor of the terms of the Stalking Horse Bidder Purchase Agreement.

6. As further described in the Bidding Procedures, the deadline for all competing bidders to submit a Qualified Bid is June 21, 2018, at 4:00 p.m., prevailing Eastern time (the "Bid Deadline"), as further governed by the Bidding Procedures. Qualified Bidders seeking to submit bids for the Purchased Assets must do so in accordance with the terms of the Bidding Procedures and this Bidding Procedures Order.

7. The Assignment Objection Deadline is June 18, 2018, at 4:00 p.m. (prevailing Eastern Time). If a timely objection is filed and cannot be resolved consensually, such objection will be resolved at a hearing to be held prior to the Bid Deadline on June 21, 2018, or on such other date prior to or after the Sale Hearing as the Court may designate prior to or after the Sale Hearing.

8. As further governed by the Bidding Procedures, if the Debtor receives one or more Qualified Bids, in addition to the Stalking Horse Bid, by the Bid Deadline, the Debtor may hold the Auction on June 26, 2018, at 10:00 a.m. (prevailing Eastern Time) in accordance with the Bidding Procedures at the offices of Hogan Lovells US LLP, 875 Third Avenue, New York, NY 10022. Only a Qualified Bidder who has submitted a Qualified Bid, the DIP Administrative Agent, the DIP Lenders, the Committee, the Senior Notes Trustee, valid creditors of the Debtor, and the respective representatives and advisors of each of the foregoing shall be eligible to attend the Auction.

9. Each Qualified Bidder participating in the Auction must confirm that it has not engaged in any collusion with respect to its bid or the Sale.

10. Prior to the Auction, the Debtor will select the highest Qualified Bid it has received to serve as the opening bid at the Auction (the "Baseline Bid"). Thereafter, (i) the first overbid at the Auction shall be the amount of the Baseline Bid plus $500,000, (ii) thereafter, a Qualified Bidder may increase its Qualified Bid in any amount as long as each subsequent bid exceeds the previous highest bid by at least $500,000 of additional cash consideration and (iii) any Qualified Bids by the Stalking Horse Bidder made during the Auction will be entitled to a credit equal to $5,500,000, which is the maximum amount of the sum of (i) the Breakup Fee, and (ii) the Expense Reimbursement.

11. The Auction will conclude when the Debtor, in the Debtor's Permitted Discretion, and in accordance with the provisions of the Bidding Procedures, determines that it has received the highest or otherwise best offer from a Qualified Bidder (the "Successful Bid"). The next highest or otherwise best Qualified Bid submitted at the Auction, as determined by the Debtor, in the Debtor's Permitted Discretion, shall be the "Back-Up Bid". The Qualified Bidder submitting the Successful Bid shall be the "Successful Bidder" and the Qualified Bidder submitting the Back-Up Bid shall be the "Back-Up Bidder". The Committee and the Senior Notes Trustee reserve all of their respective rights with respect to the Debtor's determinations concerning the Successful Bidder and Back-Up Bidder.

12. Following the Auction, the Debtor shall promptly file with the Court the Supplement described in, and in accordance with, the provisions of the Bidding Procedures in the Bidding Procedures.

13. If the Debtor receives only one (1) Qualified Bid, the Debtor, in its Permitted Discretion, shall (i) notify all Potential Bidders and the Bankruptcy Court in writing that (a) the Auction is cancelled and (b) such Qualified Bid is the Successful Bid, and (ii) the Debtor shall seek authority at the Sale Hearing to consummate the Sale transactions with such Qualified Bidder contemplated by its Qualified Bidder Purchase Agreement.

14. The Court shall conduct the Sale Hearing on June 28, 2018, at 10:00 a.m. (prevailing Eastern Time), at which time the Court will consider approval of the Sale to the Successful Bidder. Following the conclusion of the Auction, with the consent of the Successful Bidder, or as otherwise directed by the Bankruptcy Court, the Sale Hearing may be adjourned or rescheduled without notice by an announcement of the adjourned date at the Sale Hearing or by filing a notice on the docket for this Chapter 11 Case. At the Sale Hearing, the Debtor shall present the Successful Bid to the Bankruptcy Court for approval.

15. The Debtor is hereby authorized to conduct the Sale without the necessity of complying with any state or local transfer laws or requirements.

16. The Debtor's granting and payment of the Bid Protections pursuant to this Bidding Procedures Order and the Stalking Horse Bidder Purchase Agreement are: (a) actual and necessary costs and expenses of preserving the Debtor's estate within the meaning of sections 503(b) and 507(a) of the Bankruptcy Code, (b) are of substantial benefit to the Debtor's estate and creditors and all parties in interest herein, (c) are fair, reasonable, and appropriate, including in light of the size and nature of the proposed transactions, including the sale of substantially all

of the assets of the Debtor, and the substantial efforts that have been and will be expended by the Stalking Horse Bidder (d) have been negotiated by the parties and their respective advisors at arm's-length and in good faith, and (e) are a material inducement for, and a condition necessary to ensure that, the Stalking Horse Bidder pursues the purchase of substantially all of the assets of the Debtor.

17. Except for the Stalking Horse Bidder, no other party submitting an offer or a competing Qualified Bid to purchase substantially all of the assets of the Debtor shall be entitled to any expense reimbursement, break-up, termination, or similar fee or payment.

18. The Bid Protections are necessary to maximize the value of the Debtor's estate. Without the Bid Protections, the Stalking Horse Bidder would not pursue the purchase of substantially all of the assets of the Debtor, likely resulting in the Debtor realizing a lower price for such assets.

II. Approval of the Sale and Assignment and Procedures Notices

19. The Sale Notice and Assignment and Rejection Notice substantially in the forms attached hereto as **Exhibit 2** and **Exhibit 3**, respectively, to this Bidding Procedures Order, are approved in all respects. No other or further notice of the Bidding Procedures, Assignment and Rejection Procedures, the Sale Hearing, relevant objection or other deadlines, or the Sale is required.

20. The Sale Notice and Assignment and Rejection Notice are reasonably calculated to provide the Sale Notice Parties, the other Contract Counterparties, and other interested parties with proper notice of (i) the Bidding Procedures (ii) the Stalking Horse Bid, (iii) the Bid Protections, (iv) the Auction, (v) the Assignment and Rejection Procedures (including with respect to Cure Costs and the Assignment Objection Deadline), (vi) the Sale Hearing, and

(vii) the Sale; constitute adequate and sufficient notice under the circumstances of this Chapter 11 Case, and no other or further notice is required and afforded a reasonable opportunity to object or be heard regarding the relief requested in the Motion approved by this Bidding Procedures Order.

21. To be considered, any objection to the Sale must (a) comply with the Bankruptcy Rules and the Local Rules, (b) be made in writing and filed with the Court, and (c) be filed on or before 4:00 p.m. (prevailing Eastern Time) on is June 11, 2018, at 4:00 p.m. (prevailing Eastern Time), except objections to the identity of the Successful Bidder and/or Back-Up Bidder and the final terms of their respective bids may be raised at the Sale Hearing;

22. The failure of any objecting person or entity to timely file its objection shall be a bar to the assertion at the Sale Hearing or thereafter of any objection to the relief requested by the Debtor to be approved at the Sale Hearing by entry of the Sale Order, or the consummation and performance of the Sale of the Purchased Assets to the Successful Bidder, including the transfer of the Purchased Assets free and clear of all liens, claims, interests and other encumbrances (with the same to attach to the cash proceeds of the Sale to the same extent and with the same order of priority, validity, force and effect which they previously had against the Purchased Assets, subject to the rights and defenses of the Debtor and the Debtor's estate with respect thereto), and the Debtor's assumption and assignment of the Transferred Contracts to the Successful Bidder.

23. The Assignment and Rejection Procedures, as described in the Motion, are hereby approved in all respects. The failure to specifically include or reference any particular provision of the Assignment and Rejection Procedures in this Bidding Procedures Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Assignment and Rejection Procedures be authorized and approved in their entirety.

24. As further governed by the Assignment and Rejection Procedures, the Assignment Objection Deadline is June 18, 2018, at 4:00 p.m. (prevailing Eastern Time). Any Contract Counterparty that fails to file an Assignment Objection by the Assignment Objection Deadline in accordance with the Assignment and Rejection Procedures (i) shall be deemed to have forever waived and released any right to assert an Assignment Objection, (ii) to have consented to the assumption and assignment, or assignment, as the case may be, of their Transferred Contract without the necessity of obtaining any further order of the Bankruptcy Court, and (iii) shall be forever barred and estopped from (a) objecting to the Cure Amount set forth on the Cure Schedule with respect to the Transferred Contract, (b) seeking additional amounts arising under the Transferred Contract prior to the closing from the Debtor or Successful Bidder, and (c) objecting to the assumption and assignment, or assignment, as the case may be, of its Transferred Contract to the Successful Bidder.

25. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h) or 6006(d), the terms and conditions of this Bidding Procedures Order shall be immediately effective and enforceable upon its entry.

26. The Debtor is authorized and empowered to take such steps, expend such sums of money and do such other things as may be necessary to implement and effectuate the terms and requirements established and relief granted in this Bidding Procedures Order.

27. To the extent of any inconsistences between the Bidding Procedures and this Bidding Procedures Order, this Bidding Procedures Order shall govern.

28. All time periods set forth in this Bidding Procedures Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

29. This Bidding Procedures Order shall be binding on all successors and assigns, including any trustee appointed in these Chapter 11 Cases.

30. The rights of the Committee, the Senior Notes Trustee and all other parties in interest with standing in the Chapter 11 Case, to seek an order of this Court extending the dates set forth herein and in the Bidding Procedures for the Bid Deadline, Auction and Sale Hearing, and the rights of the Debtor, Stalking Horse Bidder, DIP Administrative Agent and DIP Lenders to contest any such requests, are preserved.

31. The rights of the Committee, the Senior Notes Trustee and all other parties in interest with standing in the Chapter 11 Case, to object to any and all aspects of the Sale, including, without limitation, the identity of the Successful Bidder and/or Back-Up Bidder, the form of each such bidder's asset purchase agreement, including, for avoidance of doubt, the form of asset purchase agreement submitted by the Stalking Horse Bidder, the terms of their respective bids, and the allocation of the purchase price pursuant to each such asset purchase agreement, and the rights of the Debtor, and all other parties in interest with standing in the Chapter 11 Case, to contest any such objections, are preserved.

32. For the avoidance of doubt, Paragraphs 30 and 31 shall not be deemed to constitute consent of the Stalking Horse Bidder or any other Qualified Bidder to extend any of the deadlines contained in Section 5.10(a) or any other provision of the Stalking Horse Bidder Purchase Agreement or similar provisions of any Qualified Bidder Purchase Agreement or the waiver of any right or remedy of the Stalking Horse Bidder or any Qualified Bidder arising under such purchase agreement on account of a failure of the Debtor to meet any such deadline.

33. The Court shall retain jurisdiction over any matter or dispute arising from or relating to the Bidding Procedures or this Bidding Procedures Order.

Dated: April 23, 2018
Wilmington, Delaware

/s/ Kevin Gross
THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

Exhibit 99.2

Orexigen Therapeutics, Inc. Enters Agreement for Sale of Company

SAN DIEGO, April 23, 2018 /PRNewswire/ — Orexigen Therapeutics, Inc. (NASDAQ: OREX), a biopharmaceutical company focused on the treatment of obesity, announced today that it has entered into an asset purchase agreement with Nalpropion Pharmaceuticals, Inc. to sell substantially all of the assets of the company, subject to court approval. Under the terms of the agreement, Orexigen will sell the world-wide rights to Contrave® (naltrexone HCl / bupropion HCl extended release) /Mysimba™ (naltrexone HCl and bupropion HCl prolonged release) and certain other Orexigen assets for $75 million in cash. The deal is subject to higher and better offers.

Interested parties are encouraged to contact the company's financial advisor (Brian Silver at Perella Weinberg Partners, 212-287-3122). All qualified offers must be submitted by June 21 at 4:00 PM Eastern Time to Perella Weinberg Partners.

Nalpropion Pharmaceuticals is a newly formed special purpose entity capitalized by an investor group that includes Pernix Therapeutics Holdings, Inc., a specialty pharmaceutical company.

"We are encouraged that our work has culminated in this agreement to acquire Orexigen's global rights to Contrave/Mysimba," said Michael Narachi, President and CEO of Orexigen. "Our goal is to ensure Contrave/Mysimba will continue to be available world-wide to help improve the health and lives of patients struggling to lose weight. Through our interactions with the investor group and Pernix, we have seen that they recognize the value and the growth trajectory that Orexigen has created for Contrave and that we have a shared commitment to serve this patient population. Orexigen will continue to work with other prospective bidders and will accept offers through June 21 with a goal to complete a successful strategic acquisition of Orexigen in mid-July."

Since its launch in 2014, Contrave has grown to be the No. 1 prescribed weight loss brand in the U.S. with over 2.5 million prescriptions and over 100,000 unique prescribers since the U.S. launch.

Recent business highlights include:

- 23% year-over-year TRx growth in the U.S. in 2017
- 17% year-over-year TRx growth in the U.S. in 2018 to date
- All-time highs in weekly TRx volume (19,247), branded TRx market share (49.2%) achieved in the current 2018 season
- All time high in volume (2,756) via a first of its kind telemedicine and home delivery (ecommerce) channel (now over 10% of total volume)
- 2017 U.S. Contrave net sales of ~$75M compared to ~$47M[1] in 2016
- 2017 global supply revenue from international partners of ~$13M compared to ~$5M in 2016

- Recently reached agreement with the FDA on an innovative, Bayesian trial design for a required cardiovascular outcomes trial that dramatically reduces anticipated study costs
- Implemented streamlined and innovative U.S. commercial model, with expected annual savings of ~$40M in 2018, under the current plan, compared to 2017
- Launched in 25 of 68 partnered countries, with an additional 13 launches currently planned in 2018
- U.S. market exclusivity through 2030

1. Includes net sales as reported by our former partner pursuant to the terms of our former collaboration agreement for periods prior to the completed acquisition of Contrave, coupled with net sales as recorded by Orexigen after the completed acquisition of Contrave.

The full terms of the asset purchase agreement are included in the company's Current Report on Form 8-K filed with the Securities and Exchange Commission. Court documents and additional information are available at www.kccllc.net/orexigen.

About Contrave and Mysimba

Contrave, marketed as Mysimba in the European Union, is a prescription-only, FDA-approved weight-loss medication believed to work on two areas of the brain—the hunger center and the reward system—to reduce hunger and help control cravings. The exact neurochemical effects of Contrave/Mysimba leading to weight loss are not fully understood. Contrave/Mysimba contains two medicines, bupropion, a relatively weak inhibitor of the neuronal reuptake of dopamine and norepinephrine and naltrexone, an opioid antagonist.

Contrave, approved by the FDA in September 2014, is indicated for use as an adjunct to a reduced-calorie diet and increased physical activity for chronic weight management in adults with an initial body mass index (BMI) of 30 kg/m2 or greater (obese), or 27 kg/m2 or greater (overweight) in the presence of at least one weight-related comorbid condition (e.g., hypertension, type 2 diabetes mellitus or dyslipidemia). In the European Union, Mysimba was approved in March 2015.

Orexigen is committed to helping eligible patients learn about Contrave and recommends patients in the U.S. visit www.contrave.com for additional information.

For full U.S. prescribing information please visit www.contrave.com.

Important Safety Information for CONTRAVE and MYSIMBA (per U.S. prescribing information)

(naltrexone HCl and bupropion HCl) 8 mg/90 mg extended-release tablets

One of the ingredients in CONTRAVE, bupropion, may increase the risk of suicidal thinking in children, adolescents, and young adults. CONTRAVE patients should be monitored for suicidal thoughts and behaviors. In patients taking bupropion for smoking cessation, serious neuropsychiatric adverse events have been reported. CONTRAVE is not approved for use in children under the age of 18.

Stop taking CONTRAVE and call a healthcare provider right away if you have any of the following symptoms, especially if they are new, worse, or worry you: thoughts about suicide or dying; attempts to commit suicide; depression; anxiety; feeling agitated or restless; panic attacks; trouble sleeping (insomnia); irritability;

aggression, anger, or violence; acting on dangerous impulses; an extreme increase in activity and talking (mania); other unusual changes in behavior or mood.

Do not take CONTRAVE if you have uncontrolled high blood pressure; have or have had seizures; use other medicines that contain bupropion such as WELLBUTRIN, APLENZIN or ZYBAN; have or have had an eating disorder; are dependent on opioid pain medicines or use medicines to help stop taking opioids such as methadone or buprenorphine, or are in opiate withdrawal; drink a lot of alcohol and abruptly stop drinking; are allergic to any of the ingredients in CONTRAVE; or are pregnant or planning to become pregnant.

Before taking CONTRAVE, tell your healthcare provider about all the medicines you take, including prescription and over-the-counter medicines, vitamins, and herbal supplements. Do not take any other medicines while you are taking CONTRAVE unless your healthcare provider says it is okay.

Tell your healthcare provider about all of your medical conditions including if you have: depression or other mental illnesses; attempted suicide; seizures; head injury; tumor or infection of brain or spine; low blood sugar or low sodium; liver or kidney problems; high blood pressure; heart attack, heart problems, or stroke; eating disorder; drinking a lot of alcohol; prescription medicine or street drug abuse; are 65 or older; diabetes; pregnant; or breastfeeding.

CONTRAVE may cause serious side effects, including:

Seizures. There is a risk of having a seizure when you take CONTRAVE. If you have a seizure, stop taking CONTRAVE, tell your healthcare provider right away.

Risk of opioid overdose. Do not take large amounts of opioids, including opioid-containing medicines, such as heroin or prescription pain pills, to try to overcome the opioid-blocking effects of naltrexone.

Sudden opioid withdrawal. Do not use any type of opioid for at least 7 to 10 days before starting CONTRAVE.

Severe allergic reactions. Stop taking CONTRAVE and get medical help immediately if you have any signs and symptoms of severe allergic reactions: rash, itching, hives, fever, swollen lymph glands, painful sores in your mouth or around your eyes, swelling of your lips or tongue, chest pain, or trouble breathing.

Increases in blood pressure or heart rate.

Liver damage or hepatitis. Stop taking CONTRAVE if you have any symptoms of liver problems: stomach area pain lasting more than a few days, dark urine, yellowing of the whites of your eyes, or tiredness.

Manic episodes.

Visual problems (angle-closure glaucoma). Signs and symptoms may include: eye pain, changes in vision, swelling or redness in or around the eye.

Increased risk of low blood sugar (hypoglycemia) in people with type 2 diabetes mellitus who also take medicines to treat their diabetes (such as insulin or sulfonylureas).

The most common side effects of CONTRAVE include nausea, constipation, headache, vomiting, dizziness, trouble sleeping, dry mouth, and diarrhea.

These are not all the possible side effects of CONTRAVE. Tell your healthcare provider about any side effect that bothers you or does not go away.

Use of CONTRAVE

CONTRAVE is a prescription weight-loss medicine that may help some adults with a body mass index (BMI) of 30 kg/m2 or greater (obese), or adults with a BMI of 27 kg/m2 or greater (overweight) with at least one weight-related medical problem such as high blood pressure, high cholesterol, or type 2 diabetes, lose weight and keep the weight off.

CONTRAVE should be used with a reduced-calorie diet and increased physical activity

It is not known if CONTRAVE changes your risk of heart problems or stroke or of death due to heart problems or stroke

It is not known if CONTRAVE is safe and effective when taken with other prescription, over-the-counter, or herbal weight-loss products

CONTRAVE is not approved to treat depression or other mental illnesses, or to help people quit smoking (smoking cessation). One of the ingredients in CONTRAVE, bupropion, is the same ingredient in some other medicines used to treat depression and to help people quit smoking.

Ask your doctor or healthcare professional if CONTRAVE is right for you. Please see Full Prescribing Information, including Medication Guide, for CONTRAVE.

You are encouraged to report negative side effects of prescription drugs to the FDA. Visit www.fda.gov/medwatch or call 1-800-FDA-1088.

About Obesity & Weight Loss

Obesity is a serious and rising health epidemic and has been declared a disease by the American Medical Association. It is estimated that about 110 million adults are overweight or struggling with obesity; however, only 3% are treated with a prescription weight loss medicine. By 2030, the percentage of Americans who struggle

with obesity could reach 51 percent. Obesity can increase the risk of heart disease, type 2 diabetes, some types of cancer, sleep apnea, and a variety of other conditions. Weight loss is complex and for many people diet and exercise alone may not be enough. Two areas of the brain play an important role in weight loss. The hypothalamus, your hunger center, regulates hunger and the mesolimbic reward system can cause cravings even when you are not hungry. Other areas of the brain may be involved.

About Orexigen Therapeutics, Inc.

Orexigen Therapeutics, Inc. is a biopharmaceutical company focused on the treatment of weight loss and obesity. The company's mission is to help improve the health and lives of patients struggling to lose weight. Orexigen's first product, Contrave® (naltrexone HCl and bupropion HCl extended release), was approved in the U.S. in September 2014. In the European Union, the medicine has been approved under the brand name Mysimba™ (naltrexone HCl/ bupropion HCl prolonged release). Millions around the globe continue to face challenges of weight loss. Orexigen is undertaking a range of development and commercialization activities, both on its own and with strategic partners, to bring Contrave / Mysimba to patients around the world. As a patient-centric company, Orexigen continues to focus not only on innovating medicine for the treatment of obesity, but to also offer unique resources and healthcare delivery options to improve the patient experience. Further information about Orexigen can be found at www.orexigen.com.

Forward-Looking Statements

Orexigen cautions you that statements included in this press release that are not a description of historical facts are forward-looking statements. Words such as "believes," "anticipates," "plans," "expects," "indicates," "will," "should," "intends," "potential," "suggests," "assuming," "designed" and similar expressions are intended to identify forward-looking statements. These statements are based on the company's current beliefs and expectations. These forward-looking statements include statements regarding: the company's plans to sell substantially all of its assets pursuant to Chapter 11 of the U.S. Bankruptcy Code and its expectation that the auction process will enable the company to sell those assets in an orderly manner and maximize value for the company's stakeholders; the potential success of marketing and commercialization of Contrave/Mysimba in the United States and elsewhere; the continued supply of Contrave to distributors, wholesalers, global partners and patients; expectations regarding Orexigen's future sales and potential future growth; and other statements regarding the company's strategy and future operations, performance and prospects.

The inclusion of forward-looking statements should not be regarded as a representation by Orexigen that any of its plans will be achieved. Actual results may differ materially from those expressed or implied in this release due to various risks and uncertainties, including, without limitation: the potential adverse impact of the Chapter 11 filings on the company's liquidity and results of operations; changes in the company's ability to meet its financial obligations during the Chapter 11 process and to maintain contracts that are critical to its operations; the outcome and timing of the Chapter 11 process and the proposed auction and asset sale; the effect of the Chapter 11 filings and proposed asset sale on the company's relationships with vendors, regulatory authorities, employees and other third parties; possible proceedings that may be brought by third parties in connection with

the Chapter 11 process or the proposed asset sale; uncertainty regarding obtaining bankruptcy court approval of a sale of the company's assets or other conditions to the proposed asset sale; the timing or amount of any distributions to the company's stakeholders; and other risks described in the company's filings with the Securities and Exchange Commission.

You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof, and Orexigen undertakes no obligation to revise or update this news release to reflect events or circumstances after the date hereof. Further information regarding these and other risks impacting the company are included under the heading "Risk Factors" in Orexigen's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on November 14, 2017 and its other reports, which are available from the SEC's website (www.sec.gov) and on Orexigen's website (www.orexigen.com) under the heading "Investors." All forward-looking statements are qualified in their entirety by this cautionary statement. This caution is made under the safe harbor provisions of Section 21E of the Private Securities Litigation Reform Act of 1995.

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