

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

In re

Orexigen Therapeutics, Inc.

Debtor.¹

Chapter 11

Case No. 18-10518 (___)

**DEBTOR’S MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I)
AUTHORIZING DEBTOR TO (A) CONTINUE PREPETITION INSURANCE
PROGRAM; (B) PAY ANY PREPETITION PREMIUMS AND RELATED
OBLIGATIONS; AND (C) RENEW OR ENTER INTO NEW INSURANCE
ARRANGEMENTS; AND (II) GRANTING RELATED RELIEF**

The debtor and debtor in possession in the above-captioned case (the “Debtor”), hereby moves this Court for entry of interim and final orders (the “Motion”), substantially in the forms attached hereto as **Exhibit B** (the “Proposed Interim Order”) and **Exhibit C** (the “Proposed Final Order”) (i) authorizing the Debtor to (a) continue its prepetition insurance program; (b) pay any prepetition premiums and related obligations; and (c) renew or enter into new insurance arrangements; and (ii) granting related relief. In support of this Motion, the Debtor incorporates by reference the *Declaration of Michael A. Narachi in Support of First Day Relief* (the “First Day Declaration”), filed contemporaneously herewith, and respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has 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

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.



Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Debtor confirms its consent pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”) to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are sections 105 and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

GENERAL BACKGROUND

4. On the date hereof (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.

5. 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 First Day Declaration, which was filed contemporaneously with this Motion and is incorporated by reference.

THE DEBTOR'S INSURANCE PROGRAM

6. In the ordinary course of its business, the Debtor maintains an insurance program (the "Insurance Program") that provides coverage for, among other things: commercial general liability; property and casualty; automobile liability; employers responsibility; accidental death and dismemberment; commercial property; international operations; crime and theft; directors, officers, and organizational liability; insurance company professional liability; workers compensation; and umbrella liability (collectively, the "Policies").

7. All of the Policies are annual policies and premiums are paid annually, typically in full, and in advance. A majority of the Policies are managed through Aon plc ("Aon"), as broker. Aon assists the Debtor in determining the appropriate type and amount of insurance coverage and then negotiates with insurance companies to procure the optimal policies. The premiums for Aon-brokered policies are generally paid to Aon who then remits such payments to the insurance carriers. Aon's fees are typically a percentage of the Policy premiums and are paid directly by the Debtor upon commencement of the policies. Consequently, the Debtor does not owe Aon any brokerage fees. Premiums for the remaining Policies are paid directly to the carrier. The Debtor financed the payment of certain premiums at 2.824% Annual Percentage Rate of interest through an agreement with AFCO Insurance Premium Finance ("AFCO"). The interest and financed amounts are to be paid to AFCO over 10 equal monthly payments beginning on September 1, 2017.

8. Attached as **Exhibit A** is a comprehensive list of the Policies, including the type of coverage, Policy number, Policy effective dates, Policy expiration dates, Policy limits, Policy carrier, Policy premium, and whether the premium was financed through AFCO.

9. As of the Petition Date, the Debtor believes that they were substantially current on amounts owed under the Policies and the AFCO financing arrangement. Out of an

abundance of caution, however, the Debtor seeks authorization to make payments attributable to the prepetition period (plus any unforeseen deductible payment amounts for prepetition claims). The Debtor also seeks authorization to make monthly payments in accordance with the AFCO financing arrangement as each payment comes due. The payment is \$76,000 per month.

10. Adequate insurance coverage is essential to operating the Debtor's business, maintaining and protecting the value of its assets for the benefit of creditors, and guarding against risk of loss. Moreover, in many cases, the coverage provided by the Policies is required by regulations, laws, or contracts that govern the conduct of the Debtor's business under applicable nonbankruptcy law. Likewise, the U.S. Trustee Guidelines for debtors in possession operating in chapter 11 cases in this Bankruptcy Court require the Debtor to maintain adequate insurance coverage. This coverage could not be provided without continuing the Insurance Program.

RELIEF REQUESTED

11. By this Motion, the Debtor seeks authority, but not direction, to continue its Insurance Program, including by (i) continuing to pay monthly financing payments to AFCO and (ii) renewing or replacing insurance arrangements in the ordinary course of business without further order of the Court. Though the Debtor believes that it does not owe any prepetition Policy premiums or other obligations on the Policies, the Debtor also requests, out of an abundance of caution, permission to make all payments required to continue its Insurance Program, including payment of any prepetition premiums, deductibles, or other obligations under the Policies and, to the extent applicable, engage and pay insurance brokers in the ordinary course of business. The Debtor wishes to pay the appropriate parties up to \$250,000, and

\$100,000 on an interim basis, to be allocated at the Debtor's discretion without prejudice to seek additional relief on an emergency basis.

12. Further, if the Court grants the relief sought in this Motion, the Debtor requests that all applicable banks and other financial institutions be authorized, when requested by the Debtor in its discretion, without any duty of inquiry or liability to any party for following the Debtor's instructions, to receive, process, honor, and pay any and all checks drawn on the Debtor's accounts to pay amounts owed under the Insurance Program, whether those checks are presented prior to or after the Petition Date, and to make other transfers, provided that sufficient funds are available in the applicable accounts to make the payments.

BASIS FOR RELIEF

13. This Court has authority to grant the relief requested herein pursuant to sections 105(a) and 363(b) of the Bankruptcy Code. Section 363(b)(1) of the Bankruptcy Code provides 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). Moreover, section 105(a) of the Bankruptcy Code allows the Court to authorize payments on account of certain prepetition claims when necessary. Section 105(a) of the Bankruptcy Code provides, in relevant part, that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]." 11 U.S.C. § 105(a). This is generally referred to as the "necessity of payment rule" or the "doctrine of necessity." See *In re NVR, L.P.*, 147 B.R. 126, 128 (Bankr. E.D. Va. 1992); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 177 (Bankr. S.D.N.Y. 1989), accord *In re Financial News Network, Inc.*, 134 B.R. 732, 736 (Bankr. S.D.N.Y. 1991) (prepetition claims may be paid when so doing is "critical to the debtor's reorganization"); *In re Eagle-Pitcher Indus.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991)

(payment must be “necessary to avert a serious threat to the Chapter 11 process”); *In re Structurlite Plastics Corp.*, 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (payment necessary to “permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately”) (quoting *In re Chateaugay Corp.*, 80 B.R. 279, 287 (S.D.N.Y. 1987)).

14. Courts have recognized that the “necessity of payment rule” is “well-established in bankruptcy common law.” *In re NVR, L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (also stating that, under Section 105(a), a court “can permit pre-plan payment of a prepetition obligation when essential to the continued operation of the debtor”); *see also In re Motor Coach Indus. Int’l Inc.*, 2009 WL 330993, at *2 n.5 (Bankr. D. Del. Feb. 10, 2009) (“The ‘doctrine of necessity’ or ‘necessity of payment’ doctrine is a general rubric for the proposition that a court can authorize the payment of prepetition claims if such payment is essential to the continued operation of the debtor.”); *In re Just for Feet, Inc.*, 242 B.R. 821, 824-25 (D. Del. 1999) (holding that Bankruptcy Code section 105(a) provides a statutory basis for the payment of prepetition claims under the doctrine of necessity and noting that “[t]he Supreme Court, the Third Circuit and the District of Delaware all recognize the court’s power to authorize payment of prepetition claims when such payment is necessary for the debtor’s survival during chapter 11”); *In re Columbia Gas Sys., Inc.*, 171 B.R. 189, 191-92 (Bankr. D. Del. 1994) (confirming that the doctrine of necessity, i.e., whether the payment is essential to the continued operation of the business, is the standard in the Third Circuit for enabling a court to authorize the payment of prepetition claims prior to the confirmation of a reorganization plan); *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (stating that a bankruptcy court’s use of its equitable powers to “authorize the payment of prepetition debt when such payment is needed to

facilitate the rehabilitation of the debtor is not a novel concept”) (citing *NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 528 (1984)).

15. For the reasons described above, and in view of the Debtor’s need to maintain insurance to operate its businesses and prudently manage and preserve cash flow, authorizing the Debtor to maintain the Insurance Program, including utilizing the services of any insurance agents or brokers that the Debtor employs in the ordinary course of maintaining the Insurance Program and making any payments required by the Policies, is in the best interests of all parties in interest in this case. Thus, the Debtor respectfully requests authorization (but not direction) to fully retain in place the existing Insurance Program and honor the obligations described herein.

16. The Debtor also seeks authorization (but not direction) to renew or replace Policies or to enter into new insurance arrangements as may be required as the annual terms of existing Policies and arrangements expire, in the ordinary course of business, without further order of the Court. It is essential to the continued operation of the Debtor’s business and reorganization that the Insurance Program be maintained on an ongoing and uninterrupted basis.

17. This Court has granted similar relief in other complex chapter 11 cases. Given the crucial nature of the Debtor’s various coverage requirements, similar relief is appropriate here.

18. The Debtor also requests that, if the Court grants the relief sought in this Motion, all applicable banks and other financial institutions be authorized, when requested by the Debtor in its discretion, without any duty of inquiry or liability to any party for following the Debtor’s instructions, to receive, process, honor, and pay any and all checks drawn on the Debtor’s accounts to pay amounts owed under the Insurance Program, whether those checks are

presented prior to or after the Petition Date, and to make other transfers, provided that sufficient funds are available in the applicable accounts to make the payments.

19. Based on the foregoing, the relief requested is necessary and appropriate, in the best interests of the Debtor's estate and creditors, and should be granted in all respects.

THE REQUIREMENTS OF BANKRUPTCY RULE 6003 ARE SATISFIED

20. Under Bankruptcy Rule 6003, the Court may grant relief regarding a motion to pay all or part of a prepetition claim within 21 days after the Petition Date if the relief is necessary to avoid immediate and irreparable harm. Immediate and irreparable harm exists where the absence of relief would impair a debtor's ability to reorganize or threaten the debtor's future as a going concern. *See In re Ames Dep't Stores, Inc.*, 115 B.R. 34, 36 n.2 (Bankr. S.D.N.Y. 1990) (discussing the elements of "immediate and irreparable harm" in relation to Bankruptcy Rule 4001).

21. Absent the relief requested herein, the Debtor would suffer immediate and irreparable harm because preservation of the Insurance Program is immediately necessary to ensure the continuation of the Debtor's business and a transition to operating in chapter 11. Accordingly, the Debtor submits that they have satisfied the standard of Bankruptcy Rule 6003.

WAIVER OF BANKRUPTCY RULE 6004(A) AND 6004(H)

22. To implement the relief requested, the Debtor seeks a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

RESERVATION OF RIGHTS

23. Nothing in this Motion is intended or should be construed as an admission of the validity of any lien or claim against the Debtor, a waiver of the Debtor's rights to dispute

any lien or claim, or an approval or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code. The Debtor expressly reserves its right to contest any assertion to the contrary and any objection to the relief sought in this Motion under any grounds available to the Debtor in accordance with applicable nonbankruptcy law.

NOTICE

24. Notice of this Motion is being provided to: (i) the United States Trustee; (ii) the Debtor's top 30 unsecured creditors as identified in its chapter 11 petition; (iii) counsel to the DIP Administrative Agent, DIP Lenders, Prepetition Indenture Trustee and Secured Noteholders (each as defined in the First Day Declaration) (iv) Aon and the insurance carriers identified on the attached **Exhibit A**; (v) the Internal Revenue Service; (vi) the Securities and Exchange Commission; (vii) the Delaware Secretary of State; (viii) the Delaware Secretary of the Treasury; (ix) the Banks (as defined in the Debtor's Cash Management Motion); (x) any party that has requested notice pursuant to Bankruptcy Rule 2002; and (xi) any other party required to be provided notice under Local Rule 9013-1(m). As this Motion is seeking "first day" relief, within two business days after entry of an order on this Motion, the Debtor will serve copies of this Motion and any order entered in respect to this Motion as required by Local Rule 9013-1(m). The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

CONCLUSION

WHEREFORE, the Debtor respectfully requests that the Court enter interim and final orders, substantially in the forms annexed hereto, granting the relief requested in the Motion and such other and further relief as may be just and proper.

March 12, 2018
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jose F. Bibiloni
Robert J. Dehney (No. 3578)
Andrew R. Remming (No. 5120)
Jose F. Bibiloni (No. 6261)
1201 N. Market St., 16th Floor
P.O. Box 1347
Wilmington, DE 19899-1347
Telephone: (302) 658-9200
Facsimile: (302) 658-3989
rdehney@mnat.com
aremming@mnat.com
jbibiloni@mnat.com

- and -

Christopher R. Donoho, III
Christopher R. Bryant
John D. Beck
HOGAN LOVELLS US LLP
875 Third Avenue
New York, NY 10022
Telephone: (212) 918-3000
Facsimile: (212) 918-3100
chris.donoho@hoganlovells.com
christopher.bryant@hoganlovells.com
john.beck@hoganlovells.com

Proposed Counsel for Debtor and Debtor in Possession

Exhibit A

Schedule of Insurance Policies

COVERAGE	POLICY NUMBER	EFF DATE	EXP DATE	Aggregate Limits ¹	CARRIER	Premium	Broker or Direct Bill
Employment Practices Liability	EKS3229323	8/1/2017	8/1/2018	\$4,000,000	Scottsdale Ins. Co.	\$55,216.48	AFCO
Fiduciary Liability	17718315	8/1/2017	8/1/2018	\$3,000,000	National Union Fire Ins. Co. of Pittsburgh	\$4,121.00	Aon
Crime	17718302	8/1/2017	8/1/2018	\$1,000,000 Per Occurrence	National Union Fire Ins. Co. of Pittsburgh	\$3,173.05	AFCO
Cyber Liability	17723550	8/1/2017	8/1/2018	\$3,000,000 Each Claim	National Union Fire Ins. Co. of Pittsburgh	\$12139.70	AFCO
Marine Cargo	V135E617PNGF	8/1/2017	8/1/2018	Various limits based on occurrence from \$5,000 to \$12,000,000	Beazley Ins. Co., Inc.	\$49,600.00	AFCO
Primary Products Liability	3247900	8/1/2017	8/1/2018	\$5,000,000	Ironshore Specialty Ins. Co.	\$391,000.00	AFCO
Excess Products Liability	79899138	8/1/2017	8/1/2018	\$5,000,000	Federal Ins. Co.	\$131,363.25	AFCO
	OC17LEX0BEEJUNC	8/1/2017	8/1/2018	\$10,000,000	Navigators Specialty Ins. Co.	\$215,430.00	AFCO
Package International	WP 62 325 0050	8/1/2017	8/1/2018	Various limits based on occurrence from \$50,000 to \$2,000,000	The Continental Ins. Co.	\$2,376.00	AFCO
	WP 62 325 0050	8/1/2017	8/1/2018	Various limits based on occurrence from \$1,000,000 to \$13,000,000	C.N.A. Ins. Co. Ltd.	\$5,000.00	AFCO

¹ Aggregate limits represent the highest limit under the applicable policy without regard to various sub limits based on the nature and frequency of certain events. The Debtor will provide copies of the underlying policy upon reasonable request.

Package Domestic	52 UUN HB 1880	8/1/2017	8/1/2018	Property: \$3,500,000 General Liability: \$2,000,000 Commercial Auto: \$1,000,000	Multiple Hartford Companies	\$62,460.12	AFCO
Workers Compensation	52 WE AB4288	8/1/2017	8/1/2018	\$1,000,000	Multiple Hartford Companies	\$38,040.00	AFCO
Umbrella Liability	52R RHU HB1043	8/1/2017	8/1/2018	\$10,000,000	Hartford Casualty Ins. Co.	\$8,077.79	AFCO
Primary Directors & Officers Liability	17718063	8/1/2017	8/1/2018	\$10,000,000	National Union Fire Ins. Co. of Pittsburgh	\$400,000.00	Aon
Excess Directors & Officers Liability	ELU15140217	8/1/2017	8/1/2018	\$10,000,000 excess of \$10M	XL Specialty Ins. Co.	\$211,400.00	Aon
	ORPRO39808	8/1/2017	8/1/2018	\$5,000,000 excess of \$20M	Old Republic Ins. Co.	\$60,400.00	Aon
	MLX60273300	8/1/2017	8/1/2018	\$5,000,000 excess of \$25M	Argonaut Ins. Co.	\$35,000.00	Aon
Side A Directors & Officers Liability	HN03032096080117	8/1/2017	8/1/2018	\$5,000,000 excess of \$30M	Hudson Ins. Co.	\$25,300.00	Aon
	017718070	8/1/2017	8/1/2018	\$5,000,000 excess of \$35M	National Union Fire Ins. Co. of Pittsburgh	\$38,875.00	Aon
Directors & Officers Run-off	Endorsement under existing D&O policies	Asset sale closing date	Six years from effective date	Same limits as original coverage	National Union Fire Ins. Co. of Pittsburgh XL Specialty Ins. Co. Old Republic Ins. Co. Argonaut Ins. Co. Hudson Ins. Co.	\$1,541,950	Aon

Exhibit B

Proposed Interim Order

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

In re

Orexigen Therapeutics, Inc.

Debtor.¹

Chapter 11

Case No. 18-10518 (___)

Re: D.I. ___

INTERIM ORDER (I) AUTHORIZING DEBTOR TO (A) CONTINUE PREPETITION INSURANCE PROGRAM; (B) PAY ANY PREPETITION PREMIUMS AND RELATED OBLIGATIONS; AND (C) RENEW OR ENTER INTO NEW INSURANCE ARRANGEMENTS; AND (II) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”), for entry of interim and final orders (i) authorizing the Debtor to (a) continue its prepetition insurance program; (b) pay any prepetition premiums and related obligations; and (c) renew or enter into new insurance arrangements; and (ii) granting related relief; and upon the *Declaration of Michael A. Narachi in Support of First Day Relief* (the “First Day Declaration”); and the Court having jurisdiction to consider the Motion and the relief requested therein 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 February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this 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 due and proper notice of the Motion having been provided under the circumstances; and the relief requested being in the best

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 defined in this Order are defined in the Motion.

interests of the Debtor and its estate and creditors; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, on an interim basis, as set forth herein.
2. Until such time as the Final Order is entered, the Debtor is authorized, but not required, to maintain, at its discretion, the Insurance Program including, but not limited to, the employment and compensation in the ordinary course of any agents and brokers that Debtor relies upon to maintain the Insurance Program.
3. Until such time as the Final Order is entered, the Debtor is authorized, but not required, to pay all amounts necessary to maintain the Insurance Program, including, but not limited to, any prepetition premium, deductible or financing payments, or other amount that is due in respect of any of the Policies and any fees or other amounts due to brokers and agents engaged by the Debtor, in an amount not to exceed \$100,000, without prejudice to the Debtor's ability to request to increase the foregoing amount or seek additional relief.
4. Subject to the availability of funds, the Debtor's banks and financial institutions (collectively, the "Banks") are authorized and directed to process, honor, and pay any and all checks or electronic transfers issued in connection with the Insurance Program.

5. All Banks that process, honor, and pay any and all checks or electronic transfers on account of the Insurance Program may rely on the representations of the Debtor as to which checks or electronic transfers are issued and authorized to be paid in accordance with this Order without any duty of further inquiry and without liability for following the Debtor's instructions.

6. Authorization of the payments shall not be deemed to constitute the postpetition assumption of any executory contract pursuant to Section 365 of the Bankruptcy Code.

7. Nothing in this Order shall affect the Debtor's right to contest the amount or validity of any amounts claimed to be due by the Debtor under, or with respect to, any aspect of the Insurance Program, in whole or in part.

8. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Order shall create any rights in favor of, or enhance the status of any claim held by, any of the Debtor's insurance carriers, any other agents or brokers employed by the Debtor, or any other third party relating to the Insurance Program.

9. Notwithstanding Rule 6004 of the Federal Rules of Bankruptcy Procedure, this Order shall be effective immediately upon its entry.

10. The hearing to consider entry of an order granting the relief requested in the Motion on a final basis shall be held on _____, 2018 at _____ (Eastern Time); and any objections to entry of such order shall be in writing, filed with the Court, and served upon (i) counsel to the Debtor, (ii) the United States Trustee, and (iii) counsel for any statutory committee appointed in this Chapter 11 Case so as to be received no later than 4:00 p.m. (Eastern Time) on _____, 2018.

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

_____, 2018
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE

Exhibit C

Proposed Final Order

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

In re

Orexigen Therapeutics, Inc.

Debtor.¹

Chapter 11

Case No. 18-10518 (___)

Re: D.I. ___

FINAL ORDER (I) AUTHORIZING DEBTOR TO (A) CONTINUE PREPETITION INSURANCE PROGRAM; (B) PAY ANY PREPETITION PREMIUMS AND RELATED OBLIGATIONS; AND (C) RENEW OR ENTER INTO NEW INSURANCE ARRANGEMENTS; AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")² of the above-captioned debtor and debtor in possession (the "Debtor"), for entry of interim and final orders (i) authorizing the Debtor to (a) continue its prepetition insurance program; (b) pay any prepetition premiums and related obligations; and (c) renew or enter into new insurance arrangements; and (ii) granting related relief; and upon the *Declaration of Michael A. Narachi in Support of First Day Relief* (the "First Day Declaration"); and the Court having jurisdiction to consider the Motion and the relief requested therein 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 February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this 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 due and proper notice of 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.

² Capitalized terms not defined in this Order are defined in the Motion.

Motion having been provided under the circumstances; and the relief requested being in the best interests of the Debtor and its estates and creditors; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, **IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED, on a final basis, as set forth herein.
2. The Debtor is authorized, but not required, to maintain, at its discretion, the Insurance Program including, but not limited to, the employment and compensation in the ordinary course of any agents and brokers that Debtor relies upon to maintain the Insurance Program.
3. The Debtor is authorized, but not required, to pay all amounts necessary to maintain the Insurance Program, including, but not limited to, any prepetition premium, deductible or financing payments, or other amount that is due in respect of any of the Policies and any fees or other amounts due to brokers and agents engaged by the Debtor, in an amount not to exceed \$250,000, without prejudice to the Debtor's ability to request to increase the foregoing amount or seek additional relief.
4. The Debtor is authorized, but not required, to renew Policies or to enter into new insurance arrangements as may be required as the annual terms of existing Policies and arrangements expire, in the ordinary course of business, without further order of the Court.

5. Subject to the availability of funds, the Debtor's banks and financial institutions (collectively, the "Banks") are authorized and directed to process, honor, and pay any and all checks or electronic transfers issued in connection with the Insurance Program.

6. All Banks that process, honor, and pay any and all checks or electronic transfers on account of the Insurance Program may rely on the representations of the Debtor as to which checks or electronic transfers are issued and authorized to be paid in accordance with this Order without any duty of further inquiry and without liability for following the Debtor's instructions.

7. Authorization of the payments shall not be deemed to constitute the postpetition assumption of any executory contract pursuant to Section 365 of the Bankruptcy Code.

8. Nothing in this Order shall affect the Debtor's rights to contest the amount or validity of any amounts claimed to be due by the Debtor under, or with respect to, any aspect of the Insurance Program, in whole or in part.

9. Notwithstanding the relief granted herein or any actions taken hereunder, nothing contained in this Order shall create any rights in favor of, or enhance the status of any claim held by, any of the Debtor's insurance carriers, any other agents or brokers employed by the Debtor, or any other third party relating to the Insurance Program.

10. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

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

_____, 2018
Wilmington, Delaware

UNITED STATES BANKRUPTCY JUDGE