Table of Content

.

# UNITED STATES
# SECURITIES AND EXCHANGE COMMISSION

**Washington, D.C. 20549**

# Form 10-K

**(Mark One)**

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the fiscal year ended December 31, 2023**

**Or**

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

**For the transition period from _____ to_____**

**Commission File Number: 001-36046**

# AXOGEN, INC.

(Exact name of registrant as specified in its charter)

| **Minnesota** | **41-1301878** |
|---|---|
| (State or other jurisdiction of incorporation or organization) | (I.R.S. Employer Identification No.) |
| **13631 Progress Blvd., Suite 400 Alachua, FL** | **32615** |
| (Address of principal executive offices) | (Zip Code) |

Registrant's telephone number, including area code: **(386) 462-6800**

Securities registered pursuant to Section 12(b) of the Act:

| Title of each class | Trading Symbol(s) | Name of exchange on which registered |
|---|---|---|
| Common Stock, $0.01 par value | AXGN | The Nasdaq Stock Market |

**Securities registered pursuant to Section 12(g) of the Act:**

None
(Title of class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes □ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes □ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No □

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No □

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer", "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

| | |
|---|---|
| Large accelerated filer □ | Accelerated filer x |
| Non-accelerated filer □ | Smaller reporting company □ |
| | 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. □

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☒

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. □

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b). Yes □ No ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes □ No ☒

As of June 30, 2023, the last day of the registrant's most recently completed second quarter, the aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant was approximately $314,414,758 based upon the last reported sale price of the common stock on the Nasdaq Capital Market.

The number of shares outstanding of the Registrant's common stock as of March 1, 2024, was 43,206,246 shares.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement to be filed pursuant to Regulation 14A within 120 days after the end of the Registrant's fiscal year are incorporated by reference into Part III of this Form 10-K.

**TABLE OF CONTENTS**

**FORWARD-LOOKING STATEMENTS**

From time to time, in reports filed with the U.S. Securities and Exchange Commission (the "SEC") (including this Annual Report on Form 10-K), in press releases, and in other communications to shareholders or the investment community, Axogen, Inc. (including Axogen, Inc.'s wholly owned subsidiaries, Axogen Corporation, Axogen Processing Corporation, Axogen Europe GmbH, and Axogen Germany GmbH, (the "Company," "Axogen," "we," "our," or "us") may provide forward-looking statements, as defined in the Private Securities Litigation Reform Act of 1995, concerning possible or anticipated future results of operations or business developments. These statements are based on management's current expectations or predictions of future conditions, events, or results based on various assumptions and management's estimates of trends and economic factors in the markets in which we are active, as well as its business plans. Words such as "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates," "projects," "forecasts," "continue," "may," "should," "will," "goals," and variations of such words and similar expressions are intended to identify such forward-looking statements.

The forward-looking statements in this Form 10-K include, but are not limited to the following:

- Our expectations regarding the timing of manufacturing of Avive+, our expectation to launch Avive+ in the second quarter of 2024, our ability to market Avive+, and our expectations that Avive+ will, and will continue to, be regulated solely under Section 361 of the Public Health Service Act;
- Statements regarding estimates of the total addressable market for our current portfolio, our belief that our total addressable market is comprised of four categories: (1) trauma, (2) oral maxillofacial, (3) breast reconstruction neurotization, and (4) Upper Extremity Compression, and statements regarding estimates of the market for our current portfolio in each of the four categories;
- Statements regarding our belief that there is an additional 10-15% of the breast reconstructions done with implants that can also be neurotized and thus offer us expanded revenue opportunities;
- Statements regarding our beliefs that expanding our products into lower extremity surgery, head and neck surgery, urology, and the surgical treatment of pain could offer us expanded revenue opportunities;
- Our belief that we have enough Axotouch Two-Point Discriminator inventory on hand to support sales through the end of 2024;
- Our expectation that the rolling BLA submission for Avance Nerve Graft will be completed in the third quarter of 2024;
- Our expectation that the BLA will be approved in mid- 2025;
- Our belief that we met the clinical end point required for our pivotal study to support the BLA and that only one study is sufficient to support the BLA;
- Our belief that further innovation and product development is needed to maintain our leadership position and provide expansion opportunities;
- Our belief that additional opportunities exist to develop or acquire complementary products in peripheral nerve repair as well as opportunities to expand our existing portfolio of products in new applications of peripheral nerve repair;
- Our belief that there is a global need for surgical repair of damaged or transected nerves and that a global market exists for our product;
- Statements regarding our ability to monitor product utilization within accounts and generate improved estimated of our revenue by application;
- Our expectation that Scheduled procedure growth will continue to outpace Emergent procedure growth and continue to become a larger mix of our revenue over time;
- Our belief that our existing cash and cash equivalents and investments, as well as cash provided by sales of our products will allow us to fund our operations through at least the next 12 months;
- Statements regarding our belief that following the completion of the Axogen Processing Center facility ("APC Facility") renovation, we expect a decrease in capital expenditures, and thus in the cash used in investing activities; and
- Our belief that the Cost of Goods Sold ("COGS") in the APC Facility will not materially differ from our former processing facility.

The forward-looking statements are and will be subject to risks and uncertainties, which may cause actual results to differ materially from those expressed or implied in such forward-looking statements. Forward-looking statements contained in this

Form 10-K should be evaluated together with the many uncertainties that affect our business and its market, particularly those discussed in the risk factors and cautionary statements set forth in our filings with the SEC, including as described in “Risk Factors” included in Item 1A of this Form 10-K and “Risk Factor Summary” included in this Form 10-K. Forward-looking statements are not guarantees of future performance, and actual results may differ materially from those projected. The forward-looking statements contained in this report are based on information that is currently available to us and expectations and assumptions that we deem reasonable at the time the statements were made. The forward-looking statements are representative only as of the date they are made and, except as required by applicable law, we assume no responsibility to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changed circumstances or otherwise.

**PART I**

## ITEM 1. BUSINESS

### General

We are the leading company focused specifically on the science, development, and commercialization of technologies for peripheral nerve regeneration and repair. We are passionate about providing the opportunity to restore nerve function and quality of life for patients with peripheral nerve injuries. We provide innovative, clinically proven, and economically effective repair solutions for surgeons and healthcare providers. Peripheral nerves provide the pathways for both motor and sensory signals throughout the body. Every day, people suffer traumatic injuries or undergo surgical procedures that impact the function of their peripheral nerves. Physical damage to a peripheral nerve or the inability to properly reconnect peripheral nerves can result in the loss of muscle or organ function, the loss of sensory feeling, or the initiation of pain.

Our platform for peripheral nerve repair features a comprehensive portfolio of products, including:

- Avance® Nerve Graft, a biologically active off-the-shelf processed human nerve allograft for bridging severed peripheral nerves without the comorbidities associated with a second surgical site;
- Axoguard Nerve Connector®, a porcine (pig) submucosa extracellular matrix ("ECM") coaptation aid for tensionless repair of severed peripheral nerves;
- Axoguard Nerve Protector®, a porcine submucosa ECM product used to wrap and protect damaged peripheral nerves and reinforce the nerve reconstruction while minimizing soft tissue attachments;
- Axoguard HA+ Nerve Protector™, a porcine submucosa ECM base layer coated with a proprietary hyaluronate-alginate gel, a next-generation technology designed to enhance nerve gliding and provide short- and long-term protection for peripheral nerve injuries.
- Axoguard Nerve Cap®, a porcine submucosa ECM product used to protect a peripheral nerve end and separate the nerve from the surrounding environment to reduce the development of symptomatic or painful neuroma; and
- Axotouch® Two-Point Discriminator, used to measure the innervation density of any surface area of the skin.

As previously announced, we suspended the market availability of Avive® Soft Tissue Membrane ("Avive") on June 1, 2021, to fully engage in a pre-Request for Designation (pre-RFD) process with the FDA. The suspension was not based on any known or reported safety or product performance issues or concerns with Avive. Based on preliminary feedback from FDA on the product classification and regulatory pathway, we have decided not to continue discussions with FDA and will not pursue regulatory approval for Avive. Therefore, we will not seek to return Avive to the market. We are working on developing a replacement product called Avive+ that we believe would not require a BLA regulatory approval and would fall under the criteria set forth in 21 CFR 1271.10(a) for regulation solely under Section 361 of the Public Health Service Act and the regulations in 21 CFR Part 1271. We seek to launch Avive+ in the second quarter of 2024.

Our portfolio of products is currently available in the United States ("U.S."), and 19 other countries including Canada, Germany, United Kingdom ("UK"), Spain, and several other European, Asian, and Latin American countries.

Revenue from the distribution of our nerve repair products, Avance® Nerve Graft, Axoguard Nerve Connector®, Axoguard Nerve Protector®, Axoguard HA+ Nerve Protector™, and Axoguard Nerve Cap®, in the U.S. is the main contributor to our total reported sales and have been the key component of our growth to date.

Nerves can be damaged in several ways. When a nerve is cut due to a traumatic injury or inadvertently during a surgical procedure, functionality of the nerve may be compromised, causing the nerve to no longer carry the signals to and from the brain to the muscles and skin thereby reducing or eliminating functionality. The loss of function can impact a person’s ability to work and perform daily tasks, to properly be aware and respond to their environment (e.g., heat, cold or other dangers), and could negatively impact their ability to experience and enjoy life.

Nerve damage or transection of the type described above generally requires a surgical repair. Traditionally, the standard has been to either suture the nerve ends together directly without tension or to bridge the gap between the nerve ends with a less important nerve surgically removed from elsewhere in the patient’s own body, referred to as a nerve autograft. More recently, synthetic or collagen conduits have been used for the repair of short gaps. Nerves that are not repaired or heal abnormally may result in a permanent loss of motor and/or sensory function. Additionally, abnormal healing can form a neuroma that may send altered signals to the brain resulting in the sensation of pain. This abnormal section of the nerve can, under certain circumstances, be surgically removed and the nerve managed by capping, burying, or surgically repairing the nerve.

In addition, compression on a nerve, blunt force trauma or other physical irritations to a nerve can cause nerve damage that may alter the signal conduction of the nerve, result in pain, and may, in some instances, require surgical intervention to address the resulting nerve compression. Finally, when a patient undergoes a mastectomy due to breast cancer or prophylactically due to a genetic predisposition for breast cancer, the nerves are cut to allow the removal of the breast tissue. This can result in a loss of sensation, the potential risk of a symptomatic neuroma, and could negatively impact the patient's quality of life. When a patient chooses a breast reconstruction after a mastectomy, sensation and quality of life can, in certain cases, be returned through surgical nerve repair.

To improve the options available for the surgical repair and regeneration of peripheral nerves, we have developed and licensed regenerative medicine technologies. Our innovative approach to regenerative medicine has resulted in first-in-class products that we believe are redefining the peripheral nerve repair market. Our products are used by surgeons during surgical interventions to repair a wide variety of physical nerve damage throughout the body, which can range from a simple laceration of a finger to a complex brachial plexus injury (an injury to the network of nerves that control the movement and sensation of the shoulder, arm, and hand) as well as nerve injuries caused by dental, orthopedic, and other surgical procedures.

**Peripheral Nerve Regeneration Market Overview**

Peripheral nerve injury ("PNI") through damage or transection is a major source of physical disability impairing the ability to move muscles or to feel normal sensations. Patients suffer traumatic bodily injuries every day that may result in damage or transection to peripheral nerves severe enough to require surgical treatment. We break our total addressable market into four categories: (1) trauma ("Trauma"), (2) oral maxillofacial ("OMF"), (3) breast reconstruction neurotization ("Breast") and (4) Upper Extremity Compression (together, the "Total Addressable Market").

We previously estimated that U.S. PNI has a potential Total Addressable Market for our current product portfolio and believe it is presently at least $2.7 billion. Estimating the Total Addressable Market for nerve repair is challenging as there is not a simple data source for the incidence of peripheral nerve issues. This is further complicated by the fact that nerves can be injured through a variety of traumatic and surgical injuries and can impact a patient from head to toe. In addition, we believe nerves are often one of many structures injured in a trauma (i.e., amputation) or in surgery and the incidence of these nerve injuries are often not coded or tracked. Quantifying the procedures involving nerve repair may also be challenging. While selected trauma and surgical procedures are dedicated to the repair of nerves, most of the incidence of nerve repair is a step in a larger trauma or surgical procedure. Current Procedural Terminology ("CPT") codes exist for surgeons to code for nerve repair; however, we believe the data substantially underestimates the total number of nerves repaired. Physicians are encouraged to document all steps of procedures, but open trauma often involves many surgical steps, and CPT codes may be inclusive of each other or may not be documented or reported in billing records. As a result, we believe CPT coding underrepresents the total number of nerve repairs performed in trauma. Because we believe CPT claims are not fully representative of the true volumes of nerve repair surgery, we follow an "empirical" methodology to estimate the Total Addressable Market – using published clinical literature and procedure databases to make what we believe are the most objective assumptions.

***Trauma***

The Trauma portion of the Total Addressable Market encompasses traumatic PNI throughout the body, with approximately 95% of injuries affecting upper and lower extremity nerves. We previously estimated that the Trauma portion of the Total Addressable Market and presently believe it is at least $1.9 billion based upon epidemiological studies regarding the general number of trauma patients, clinical literature review reporting PNI incidence, and physician interviews. We have estimated the portion of these nerve repair procedures due to trauma that would require gap repair, primary repair and/or nerve protection and applied, as we believed was appropriate in each procedure segment, the number of units and average sales price of Avance Nerve

Graft and the average market price for nerve connectors, and nerve protectors to determine the probable Total Addressable Market.

***OMF***

We previously estimated the OMF portion of the Total Addressable Market and presently believe it is at least $300 million annually, based upon research indicating that approximately 56,000 PNI occur in the U.S. each year related to third molar surgeries, anesthetic injections, dental implants, orthognathic surgery, and mandibular resection procedures. We have applied the average sales price of the Avance Nerve Graft, Axoguard Nerve Connector, and Axoguard Nerve Protector that address such PNI to derive the OMF portion of the estimated Total Addressable Market.

***Breast***

We previously estimated the Breast portion due to autologous flap reconstructions (i.e. DIEP flaps) of the Total Addressable Market and presently believe it is at least $250 million annually. We estimate that there is an additional 10-15% of the breast reconstructions done with implants that can also be neurotized which provides an upside to the current Total Addressable Market. Currently, when a patient undergoes autologous breast reconstruction after a mastectomy, the patient receives the shape of a natural breast, but often times experiences little to no return of sensory feeling. In certain cases, sensation can be returned to the breast area with the use of our products through an innovative surgical technique called Resensation®. We believe that the ideal breast reconstruction should restore breast size, shape, symmetry, and softness, as well as sensation, without the potential risks and comorbidity associated with autograft. We believe the Resensation technique incorporates a patient's desire for the opportunity to return sensation to their breasts with a reproducible and efficient surgical approach for reconstructive plastic surgeons.

***Upper Extremity Compression***

PNI caused by recurrent carpal tunnel syndrome and cubital tunnel syndrome constitutes the "Upper Extremity Compression" portion of the Total Addressable Market. We previously estimated that the Upper Extremity Compression portion of the Total Addressable Market and presently believe it is approximately $270 million annually, or 130,000 procedures. We estimate there are approximately 488,000 primary carpal tunnel and 95,000 primary cubital tunnel relief surgeries performed annually in the U.S. We estimate that approximately 97,500 carpal tunnel revision surgeries and 32,400 total cubital tunnel procedures are addressable each year in the U.S. to mitigate the recurrence of symptoms. These revision and primary surgeries are required due to compression of the peripheral nerve associated with soft tissue attachments from the surrounding tissue or tissue infiltration entrapping the nerve. To prevent additional recurrences, surgeons will opt for a Nerve Protection which includes a product such as the Axoguard Nerve Protector. To derive the carpal and cubital tunnel revision portion of the Total Addressable Market, we multiplied the average market sales price of Axoguard Nerve Protectors by the number of estimated procedures.

Although distribution and sales of products in the Trauma, OMF, Breast and Upper Extremity Compression portions of the Total Addressable Market constitute our primary revenue sources today, market expansion opportunities in lower extremity surgery, head and neck surgery, urology, and the surgical treatment of pain could offer us expanded revenue opportunities. We have begun an expansion into the surgical treatment of pain with an initial focus in the treatment of neuroma in our existing call points. The size of the pain market opportunity is challenging to identify as the cause of the chronic pain is often not diagnosed and there has not historically been a surgical treatment to resolve the cause of the pain. We believe the market opportunity is sufficient to apply selected resources to the opportunity and there is a significant patient and societal need to reduce the use of pharmacologic solutions, including opioids.

**Our Product Portfolio**

***Avance Nerve Graft***

Avance Nerve Graft is a biologically active nerve implant with more than fifteen years of comprehensive clinical evidence and more than 100,000 implants since launch. Avance Nerve Graft is processed nerve allograft intended for the surgical repair of peripheral nerve discontinuities to support regeneration across the defect. It is intended to act as a structural bridge in order to guide and support axonal regeneration across a peripheral nerve gap caused by traumatic injury or surgical intervention. Avance Nerve Graft is decellularized and sterile processed human peripheral nerve tissue. We developed Avance Nerve Graft by following the guiding principle that the human body created the optimal peripheral nerve structure. We, through our licensing efforts and research, developed the Avance Method®, a proprietary method for processing recovered human peripheral nerve tissue in a manner that preserves the essential structure of the extracellular matrix (ECM) while cleansing away cellular and noncellular debris. Avance Nerve Graft provides the natural peripheral nerve structure of a nerve, including the native laminin, to

guide the regenerating nerve fibers. The nerve ECM is additionally processed to remove a natural inhibitor to regeneration called chondroitin sulphate proteoglycan.

We believe that Avance Nerve Graft is the first off-the-shelf nerve allograft for bridging nerve transections. Avance Nerve Graft is comprised of bundles of small diameter endoneurial tubes that are held together by an outer sheath called the epineurium. Avance Nerve Graft has been processed to remove cellular and noncellular factors such as cells, fat, blood, and axonal debris, while preserving the three-dimensional laminin lined tubular bioscaffold (i.e., microarchitecture), epineurium, and microvasculature of the peripheral nerve. After processing, Avance Nerve Graft is flexible and pliable, and its epineurium can be sutured in place allowing for a tension-free approximation of the proximal and distal peripheral nerve stumps. During the healing process, the body revascularizes and gradually remodels the graft into the patient's own tissue while allowing the processed peripheral nerve allograft to physically support axonal regeneration across the peripheral nerve discontinuities. Avance Nerve Graft does not require immunosuppression for use.

With lengths up to 70 mm and diameters up to 5 mm, Avance Nerve Graft allows surgeons to choose and trim the implant to the correct length for reconstructing the relevant peripheral nerve gap, as well as to match the diameter to the proximal and distal end of the severed peripheral nerve. Avance Nerve Graft is stored frozen and utilizes packaging that maintains the implant in a sterile condition. The packaging is typical for medical products, so the surgical staff is familiar with opening the package for transfer of Avance Nerve Graft into the sterile surgical field. The packaging also provides protection during shipment and storage and a reservoir for the addition of sterile fluid to aid in thawing the product. Avance Nerve Graft thaws in less than 10 minutes, and once thawed, it is ready for implantation.

Avance Nerve Graft provides the following key advantages:

- A three-dimensional bioscaffold for bridging a peripheral nerve gap;
- A biologically active nerve therapy with more than 10 years of comprehensive clinical evidence;
- No patient donor-nerve surgery, therefore no comorbidities associated with a secondary surgical site;
- Available in a variety of diameters up to 5mm to meet a range of anatomical needs;
- Available in a variety of lengths up to 70mm to meet a range of gap lengths;
- Decellularized and cleansed ECM;
- Implanted without the need for immunosuppression, remodels into patient's own tissue;
- Structurally supports the body's own regeneration process;
- Handles similar to an autograft, and is flexible and pliable;
- Alleviates tension at the repair site;
- Three-year shelf life; and
- Supplied sterile.

***Axoguard Nerve Connector***

Axoguard Nerve Connector is a coaptation aid used to align and connect severed peripheral nerve ends in a tensionless repair. The product is in a tubular shape with an open lumen on each end where the severed peripheral nerve ends are inserted. It is typically used when the gap between the peripheral nerve ends is 5mm or less in length. Axoguard Nerve Connector is made from a processed porcine ECM that allows the body's natural healing process to repair the peripheral nerve while its tube shape isolates and protects the transected nerves during the healing process. During healing, the patient's own cells incorporate into the ECM product to remodel and form a tissue similar to the outermost layer of the peripheral nerve (nerve epineurium). Axoguard Nerve Connector is provided sterile, for single use only, and in a variety of sizes to meet the surgeon's needs.

Axoguard Nerve Connector can be used:

- As an alternative to direct suture repair;
- As a peripheral nerve coaptation; Connector-Assisted Repair®;

- To aid coaptation in direct repair, grafting, or cable grafting repairs; and
- To reinforce the coaptation site.

Axoguard Nerve Connector has the following advantages:

- Processed intact porcine ECM with an open, porous structure that allows for cell infiltration and remodeling;
- Designed as a coaptation aid for tensionless repair of transected or severed peripheral nerves;
- Alleviates tension at the repair site;
- Remodels into the patient's own tissue;
- Reduces the number of required sutures (versus direct repair with suture);
- Allows surgeon to move sutures away from the repair site which may minimize inflammation and aid nerve regeneration;
- Reduces potential for fascicular mismatch;
- Allows visualization of underlying peripheral nerve ends;
- Available in seven different diameters and two different lengths to address a variety of nerve repair situations;
- Strong and flexible, easy to suture; and
- Stored at room temperature with a minimum of 18-month shelf life for the sizes with 6-layers and 24-month shelf life for those with 5-layers.

***Axoguard Nerve Protector***

Axoguard Nerve Protector is a product used to protect and wrap damaged peripheral nerves and reinforce reconstructed nerve gaps while minimizing soft tissue attachments. It is designed to protect and isolate the peripheral nerve during the healing process after surgery by creating a barrier between the nerve tissue and the surrounding tissue bed. The product is delivered in a slit tube format allowing it to be wrapped around peripheral nerve structures. Axoguard Nerve Protector is made from a processed porcine ECM. During healing, the ECM remodels allowing the protector to separate the peripheral nerve from the surrounding tissue. Axoguard Nerve Protector competes against off-the-shelf biomaterials such as reconstituted bovine collagen as well as the use of the patient's own tissue such as vein and hypothenar fat pad wrapping. Axoguard Nerve Protector is provided sterile, for single use only, and in a variety of sizes to meet the surgeon's needs.

Axoguard Nerve Protector can be used to:

- Separate and protect the nerve from the surrounding tissue during the healing process;
- Minimize risk of soft tissue attachments and entrapment in compressed peripheral nerves;
- Protect peripheral nerves in a traumatized wound bed; and
- Reinforce a coaptation site.

Axoguard Nerve Protector has the following advantages:

- Processed porcine submucosa ECM used to reinforce a coaptation site, wrap a partially severed peripheral nerve or protect peripheral nerve tissue;
- Creates a protective layer that isolates and protects the peripheral nerve in a traumatized wound bed;
- Remodels to form a new soft tissue layer;

- Easily conforms and provides 360-degree wrapping of damaged peripheral nerve tissue;
- Allows the body's natural healing process to repair the nerve;
- Minimizes the potential for soft tissue attachments and peripheral nerve entrapment by physically isolating the nerve during the healing process;
- Allows peripheral nerve gliding;
- Strong and flexible, plus easy to suture;
- Is available in five different widths and two different lengths to address a variety of peripheral nerve repair situations; and
- Stored at room temperature with a minimum of 24-month shelf life.

***Axoguard HA+ Nerve Protector***

The Axoguard HA+ Nerve Protector is a surgical implant that provides non-constricting protection for peripheral nerves. Axoguard HA+ Nerve Protector is designed to be an interface between the nerve and the surrounding tissue. Axoguard HA+ Nerve Protector is comprised of an ECM and is fully remodeled during the healing process. The lubricant coating on Axoguard HA+ Nerve Protector is composed of sodium hyaluronate and sodium alginate. When hydrated, the lubricant coating reduces friction between the nerve and the surrounding tissue. Axoguard HA+ Nerve Protector is flexible to accommodate movement of the joint and associated tendons and has sufficient mechanical strength to hold sutures. Axoguard HA+ Nerve Protector is provided sterile, for single use only, and in a variety of sizes to meet surgeons' needs.

Axoguard HA+ Nerve Protector can be used to:

- Separate and protect the nerve from the surrounding tissue during the healing process;
- Minimize risk of soft tissue attachments and entrapment in compressed peripheral nerves;
- Protect peripheral nerves in a traumatized wound bed;
- Separate a nerve from metal plating used to repair fractures, and
- Provides tension relief when used in aiding a coaptation.

Axoguard HA+ Nerve Protector has the following advantages:

- Processed porcine submucosa ECM layer is vascularized and remodeled by the patient into new site-specific tissue;
- Double-sided HA+ gel coating to reduce friction and enhance nerve gliding through traumatic tissue beds;
- Formulated for optimized handling and flexibility of surgical application—quick hydration, flat sheet configuration and is easy to suture if needed;
- Allows the body's natural healing process to repair the nerve;
- Minimizes the potential for soft tissue attachments and peripheral nerve entrapment by physically isolating the nerve during the healing process;
- Allows peripheral nerve gliding;
- Is available in five different sizes up to 4cm x 8cm to address a variety of peripheral nerve repair situations; and
- Stored at room temperature with a minimum of 24-month shelf life.

***Axoguard Nerve Cap***

Axoguard Nerve Cap is a proprietary porcine submucosa ECM product used to protect a peripheral nerve end and separate the nerve from the surrounding environment to reduce the development of symptomatic or painful neuroma.

Nerves are often cut in a variety of surgeries and a nerve that is cut and not reconstructed may form an entangled mass of disorganized nerve and fibrous tissue that could cause debilitating pain called a symptomatic neuroma. Neuromas are a potential cause of pain for those patients who complain of chronic post-surgical pain, including in amputees, which may lead to an inability to use their prosthesis. Despite more than 30 different treatment methods, it is our belief that neuromas continue to be an unresolved problem in microsurgery. We believe the Axoguard Nerve Cap can address these painful neuromas and address nerve pain without the complications of traditional methods, including pharmacotherapy and chemical injections, among others. Axoguard Nerve Cap can be used to reduce the development of symptomatic or painful neuroma formation.

Axoguard Nerve Cap has the following advantages:

- Separates the nerve end from surrounding tissue, neurotrophic factors and mechanical stimulation;
- Reduces painful neuroma formation;
- Allows for anchoring of a nerve end or stump to nearby tissue structure;
- Material gradually remodels into the patient’s own tissue to protect the nerve end; and
- Semi-translucence allows for visualization of nerve ends or stumps and easy visualization for suture placement.
- Is available in six different sizes to address a variety of situations.
- Stored at room temperature with a minimum of 18-month shelf life.

***Axotouch Two-Point Discriminator***

The Axotouch Two-Point Discriminator tool can be used to measure the innervation density of any surface area of the skin. The tool is a set of two aluminum discs each containing a series of prongs spaced between two to 15 millimeters apart. Additionally, 20 and 25 millimeter spacing is provided. A circular depression on either side of the disc allows ease of rotation. The discs can be rotated between a single prong for testing one-point and any of the other spaced prongs for testing two-point intervals. The discs are useful for determining sensation after damage to a peripheral nerve, following the progression of a repaired peripheral nerve, and during the evaluation of a person with possible peripheral nerve damage, such as compression. The Axotouch Two-Point Discriminator is a Class I 510(k) exempt medical device.

Axotouch Two-Point Discriminator has the following advantages:

- Capable of measuring the innervation density of any skin surface;
- Portable and easy to use;
- Strong aluminum design is resistant to bending;
- Bright colors allow for clear discrimination between discs;
- Clear numbering allows users to interpret results; and
- Reusable carry case protects discs.

***Avive Soft Tissue Membrane***

As previously announced, we suspended the market availability of Avive® Soft Tissue Membrane ("Avive") on June 1, 2021, to fully engage in a pre-Request for Designation (pre-RFD) process with the FDA. The Office of Combination Products has completed its preliminary product classification and jurisdictional assessment of the Avive Soft Tissue Membrane product, with the opinion that Avive is not eligible for regulation solely under section 361 of the PHS Act and the regulations in 21 CFR Part 1271. An HCT/P that does not meet all of the criteria in 1271.1 (a) is regulated as a drug, device, or biological product. As such we have concluded our discussions with the FDA and while the FDA's pre-RFD response does not constitute final agency action, we will not return Avive to the market. We plan to move forward with the introduction of Avive+ Soft Tissue Matrix in

the second quarter of 2024. Through our engagement with the FDA's Tissue Reference Group (TRG) Rapid Inquiry Program (TRIP), we believe that Avive+ appears to be regulated solely under section 361 of the Public Health Service Act and the regulations in 21 CFR part 1271.

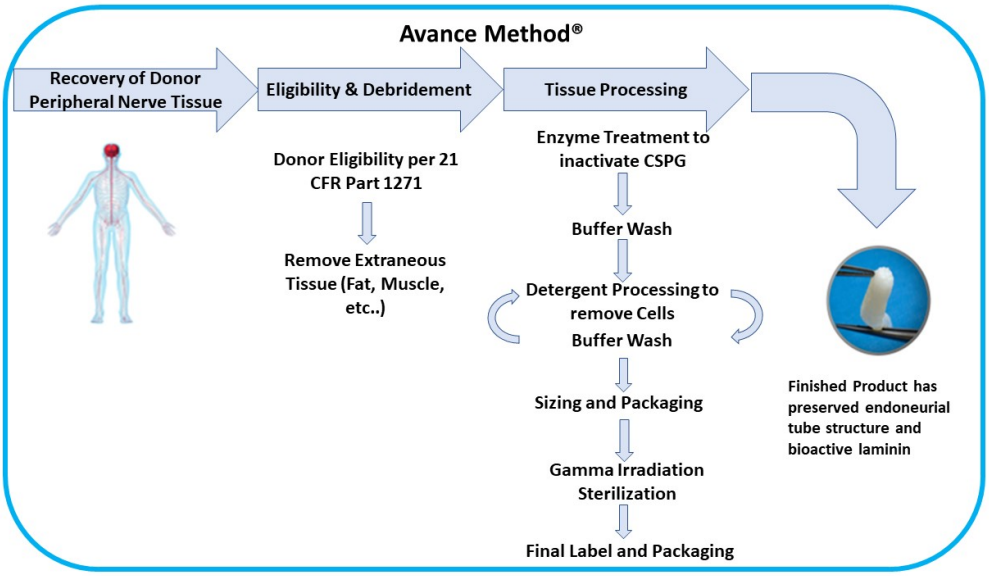
***Acroval Neurosensory and Motor Testing System***

Effective November 2019, we discontinued all sales of the Acroval Neurosensory and Motor Testing System. We continue to provide service and support for the existing systems in the marketplace.

**Tissue Recovery and Processing**

***Avance Nerve Graft Processing Overview***

We developed the Avance Method, an advanced and proprietary technique to process Avance Nerve Graft from donated human peripheral nerve tissue. The Avance Method requires special training over several months for each manufacturing associate who processes Avance Nerve Grafts. The processing and manufacturing system for Avance Nerve Graft has required significant capital investment, and we seek to continually improve our manufacturing and quality assurance processes and systems. Our Avance Method is depicted as follows:




***Tissue Processing***

Our Avance Method® comprises peripheral nerve tissue recovery/acquisition and testing, donor medical review and release, debridement and other processing steps, packaging, and sterilization to meet or exceed all applicable FDA, state, and international regulations and the American Association of Tissue Banks ("AATB") standards. Our supply agreements with recovery and acquisition agencies for peripheral nerve tissue and our ability to enter into additional supply contracts, as necessary will provide us with the tissue volumes we require to meet the demand for our Avance® implants. As an FDA registered tissue establishment, we use both our own personnel and subcontractors for recovery/acquisition, storage, testing, processing, and sterilization of the donated peripheral nerve tissue and placental tissues. Additionally, we and our subcontractors, have contracted with independent Good Manufacturing Practice ("GMP") and Good Laboratory Practice ("GLP") compliant laboratories to perform testing for product release. The safety of Avance Nerve Graft is supported by donor screening, process validation, process controls, and validated terminal sterilization methods. The Axogen Quality System has built in redundancies that are meant to ensure product release only after such product meets our quality control and product requirements.

***Tissue Recovery and Processing Facility***

We partner with other FDA registered tissue establishments and AATB accredited recovery agencies or recovery agencies in compliance with FDA, state and international regulations and AATB standards for human tissue recovery. After consent for donation is obtained, donations are screened and tested in detail for safety in compliance with FDA, state and international regulations and AATB standards on communicable disease transmission. We process and package Avance Nerve Graft using our employees and equipment pursuant to a License and Services Agreement, as amended (the "CTS Agreement") with Community Blood Center ("CTS") (doing business as Solvita), in Dayton, Ohio; however, we ended our utilization of CTS for Avance in the fourth quarter of 2023 and will continue to utilize CTS in 2024 for processing and packaging of Avive+. CTS is an FDA registered tissue establishment and an AATB accredited organization.

The current CTS Agreement was amended in August 2022, and further amended on December 27, 2023, to extend it through December 31, 2026. Under the CTS Agreement, we pay CTS a facility fee for clean room/manufacturing, storage, and office space. CTS also provided services in support of our manufacturing such as routine sterilization of daily supplies, providing disposable supplies and microbial services, and office support. The service fee was based on a per donor batch rate. The CTS facility provides a cost effective, quality controlled and licensed facility. Our processing methods and process controls have been developed and validated to ensure product uniformity and quality. Pursuant to the CTS Agreement, we pay license fees on a monthly basis to CTS. See "Item 8. Financial Statements and Supplementary Data – Notes to Consolidated Financial Statements - Note 14 - Commitments and Contingencies - Service Agreements."

We have completed renovation of the Axogen Processing Center facility (the "APC Facility") which is comprised of a 107,000 square foot building on approximately 8.6 acres of land. In 2023, we successfully transferred Avance Nerve Graft tissue processing and packaging to the APC Facility. It is expected that the APC Facility, along with the ability for expansion, will provide processing capabilities that will meet our intended sales growth, but we expect to continue to rely on the CTS facility for the processing of Avive+. Additionally, as we move to submission of the Biologic License Application ("BLA") for Avance Nerve Graft in 2024, the APC Facility is expected to allow us to meet the current Good Manufacturing Practices ("cGMPs") required for processing a biologic product. Biologics manufacturing is highly regulated and subject to scrutiny and inspection by the FDA. Any quality or compliance issues, or manufacturing disruptions for any other reasons, may delay approval of the BLA.

We have obtained certain economic development grants from state and local authorities totaling $2.7 million including $1.3 million of cash grants to offset costs to acquire and develop the APC Facility. We have received approximately $1.2 million from these grants through December 31, 2023. The economic development grants were subject to the achievement of certain job creation milestones by December 31, 2023, and related contingencies We requested and received an extension from the grant authorities to extend the job creation milestones evaluation date to December 31, 2024, and the expiration date to December 31, 2026. See "Part II, Item 8. Financial Statements and Supplementary Data – Notes to Consolidated Financial Statements - Note 14 - Commitments and Contingencies - Service Agreements."

***Tissue Packaging***

After processing, the packaging operation is performed in a controlled environment at the APC Facility or the CTS facility. Each Avance Nerve Graft is visually inspected and organized by size into finished product codes. The tissue implant is then packaged in primary packaging. The outer pouch acts as the primary sterility and moisture barrier.

***Tissue Sterilization and Labeling***

After being processed and packaged, Avance Nerve Graft is then terminally sterilized at a contract sterilization facility. After sterilization, Avance Nerve Graft is shipped back to Axogen where the product lot will undergo quality review to ensure the lot meets specifications and then final packaging and labeling. Orders for Avance Nerve Graft are placed with our customer care team, and the products are packaged and shipped from our distribution facilities.

***Tissue Product Release***

We have established quality procedures for review of tissue recovery, relevant donor medical record review, and release to processing that meet or exceed FDA requirements as defined in the Code of Federal Regulations ("CFR") 21 CFR Part 1271, state regulations, international regulations, and AATB standards. The Axogen Quality System meets the requirements set forth under 21 CFR Part 1271 for Human Cells, Tissues and Cellular and Tissue-Based Products, including Good Tissue Practices ("GTP") and is compliant with the 21 CFR Part 820 Quality System Regulations ("QSR"). Furthermore, we utilize validated processes for the handling of raw material components, environmental control, processing, packaging, and terminal sterilization. In addition to ongoing monitoring activities for product conformity to specifications and sterility, shipping methods have been validated in accordance with applicable industry standards.

**Manufacturing of Our Medical Device Classified Products**

***Manufacturing for the Axoguard Product Line***

The Axoguard product line is manufactured by Cook Biotech Incorporated, in West Lafayette, Indiana ("Cook Biotech"), which was established in 1995 to develop and manufacture implants utilizing porcine ECM. . On January 31, 2024, RTI Surgical, Inc. announced the acquisition of Cook Biotech; we do not expect this acquisition to have a material impact on our relationship with Cook Biotech or our operations. We decided to expand our portfolio of products and felt that the unique ECM material offered by Cook Biotech provided the combination of properties needed in nerve reconstruction. Cook Biotech's ECM material is pliable, capable of being sutured, and translucent and allows the patient's own cells to incorporate into the ECM to remodel and form a tissue similar to the nerve's epineurium. Cook Biotech has its own source of the raw material for the ECM material and manufactures Axoguard products from such sources.

*Axoguard Nerve Connector and Nerve Protector*

In August 2008, we entered into an agreement with Cook Biotech, amended in February 2012, October 10, 2014, and February 26, 2018, and August 4, 2023 (the "Distribution Agreement"), to distribute its ECM technology in the form of the Surgisis® Nerve Cuff, the form of a nerve wrap or patch, or any other mutually agreed to configuration. The Surgisis products were rebranded under our Axoguard name and consist of the Axoguard Nerve Connector and Axoguard Nerve Protector. Our distribution rights are worldwide in the field of the peripheral and central nervous system but excluding use of the products in the oral cavity for endodontic and periodontal applications and OMF surgery solely as they relate to dental, soft or hard tissue repair, or reconstruction. We believe the exclusion does not limit our identified OMF market, but expansion into certain additional OMF market areas could be limited to our other products not subject to the Distribution Agreement.

*Axoguard Nerve Cap and Axoguard HA+ Nerve Protector*

We developed, filed several patent applications, and, on August 8, 2017, obtained FDA 510K regulatory clearance for the Axoguard Nerve Cap. We developed, filed several patent application, and, on April 7, 2023, obtained FDA 510K regulatory clearance for the Axoguard HA+ Nerve Protector and a second 510K regulatory clearance expanding the indication for use of Axoguard HA+ on October 12, 2023. These devices are made with Cook Biotech's ECM material. Pursuant to the Nerve End Cap Supply Agreement dated June 27, 2017 (the "Supply Agreement"), as amended on April 6, 2020, and August 4, 2023, (the "Amended Supply Agreement"), Cook Biotech is the exclusive contract manufacturer of the Axoguard Nerve Cap and both parties have provided the other party the necessary licenses to their technologies for operation of the Amended Supply Agreement. Pursuant to the Axoguard HA+ Nerve Protector Supply Agreement dated May 2, 2023, Cook Biotech is the exclusive contract manufacturer of Axoguard HA+ Nerve Protector and both parties have provided the other party with the necessary licenses to their technologies for operation under the agreement Consistent with Axoguard Connectors and Axoguard Protectors, we are able to sell the Axoguard Nerve Cap and Axoguard HA+ Nerve Protector worldwide in the field of the peripheral and central nervous system, but subject to the same exclusions as Axoguard Nerve Connector and Axoguard Nerve Protector.

The Distribution Agreement terminates on December 31, 2030. Although the agreement requires certain minimum purchases, through mutual agreement, the parties have not established such minimums and to date have not enforced such provision. The Distribution Agreement also establishes a formula for the transfer cost of the Axoguard Nerve Connector and Axoguard Nerve Protector. The Amended Supply Agreement has a term through December 31, 2030.

***Manufacturing for the Axotouch Two-Point Discriminator***

The Axotouch Two-Point Discriminator was contract manufactured by Viron Technologies, doing business as Cybernetics Research Laboratories ("CRL"), in Tucson, Arizona. CRL supplied the Axotouch unpackaged, and they are packaged at our distribution facility in Burleson, Texas. We believe we have enough inventory on hand to support sales through the end of 2024.

**Sales and Marketing**

***Overview***

We are focused on developing the peripheral nerve repair and regeneration market, committed to improving awareness of new surgical peripheral nerve repair options and building additional scientific and clinical data to assist surgeons and patients in making informed choices with respect to the repair of peripheral nerve injuries. We believe that there is an opportunity to

improve current approaches to peripheral nerve repair and that our approach will solidify our position as a leader in the field of peripheral nerve repair products. The following provides the key elements of our sales and marketing strategy.

***Increase Awareness of Our Products***

Prior to the introduction of our portfolio of peripheral nerve repair products, surgeons had a limited number of options available to surgically repair damaged or transected peripheral nerves. We entered the market to improve the standard of care for nerve injury patients. We intend to increase market penetration and share by increasing awareness of the impact of nerve damage on quality of life and improving the adoption of nerve repair techniques and our products through the continued use of educational conferences and presentations, surgical resident and fellow training, scientific publications, digital communication, and a knowledgeable and professional sales team. We work to increase the use of our products within active accounts as well as expand the overall customer base by adding new active accounts. We define an active account as an account that has typically gone through the committee approval process, has at least one surgeon who has converted a portion of his or her treatment algorithms for peripheral nerve repair to our portfolio and have ordered our products at least six times in the last 12 months. As our business continues to grow, we have transitioned to reporting a new account metric that we believe demonstrates the strength of adoption and potential revenue growth in accounts that have developed a more consistent use of our products in their nerve repair algorithm. We refer to these as core accounts which are defined as accounts that have purchased at least $100,000 in the past 12 months. We are focused on plastic reconstructive surgeons and orthopedic and plastic hand surgeons who perform surgeries on patients suffering traumatic nerve damage or transection, on oral and maxillofacial surgeons who repair damaged oral nerves, and on plastic reconstructive surgeons who perform breast neurotization.

***Expand Clinical and Scientific Data Regarding the Performance of Our Products***

Generating clinical data is an important component of our marketing strategy. As of December 31, 2023, there have been over two hundred peer reviewed clinical publications related to our products. Certain of these publications contain data on multiple products. There are more than 2,800 Avance Nerve Graft repairs enrolled to date in our RANGER® clinical study (defined below in "Government Regulations"), a utilization registry of Avance Nerve Graft. Enrollment and follow-up in the Avance Nerve Graft arm of RANGER was completed in December 2023 along with the RANGER Addendum 1 arm, MATCH, evaluating autograft and conduit nerve repair treatment options. Ongoing analyses from these studies are underway. An additional arm of the RANGER study has been initiated and continues to enroll, tracking neurotization outcomes in breast reconstruction (Sensation-NOW®). Eleven of the above-mentioned publications and more than 70 scientific conference presentations have been generated to date from the registry. Enrollment is being discontinued in Rethink Pain™, a multicenter observational registry in the area of nerve pain and the surgical treatment of pain due to the challenges of patient enrollment, and emerging evidence in the chronic pain space. Enrollment was initiated in COVERED, a multi-center series of protection with Axoguard HA+ Nerve Protector. A number of additional investigator-initiated case reports, studies, and publications have been completed, including breast neurotization, mandible reconstruction, compressive neuropathies, and the surgical treatment of pain. Case series in brachial plexus, neurotization of breast reconstruction, compression injuries and the surgical treatment of pain are also being developed. We also support outside research and will continue to work with investigators on grants with a translational focus.

RECON, a phase 3, pivotal, multicenter, prospective, randomized, comparative study of hollow tube conduits and Avance Nerve Graft to support the transition of Avance Nerve Graft to a biological product has completed enrollment, follow-up, and analysis with the first peer reviewed publication from this study. See "Government Regulations – Clinical Trials." The pilot phase of REPOSE, a multicenter, prospective, randomized, and subject blinded study of Axoguard Nerve Cap as compared to neurectomy alone for the treatment of symptomatic neuroma, has published and the comparative phase has completed enrollment and follow-up. Enrollment is underway in REPOSE XL, a study titled, Tolerability and Feasibility Pilot Clinical Study of a Large-Diameter Nerve Cap for Protecting and Preserving Terminated Nerve Ends.

***Commitment to the Education of Best Practices in Peripheral Nerve Repair***

We have established educational conferences and presentations and surgical resident and fellow training that we believe have positioned us as a leader in providing peripheral nerve repair best practices. In 2023, we trained more than three-quarters of hand and microsurgery surgeon fellows in the U.S. through such courses and training. We have historically provided education on peripheral nerve repair through in-person national programs, including its "Advances and Best Practices in Nerve Repair" as well as local and regional educational events. In 2023, we offered multiple educational programs including virtual and in-person surgeon education programs.

***Focused on developing deeper penetration with our existing accounts through development of long-term users of our algorithm in our largest market opportunity of extremity trauma***

We provide full sales and distribution services. As of December 31, 2023, we had 115 direct sales professionals in the U.S. Our direct sales force continues to be supplemented by independent sales agencies that represent approximately 10% of our total revenue. We believe that near-term growth can be supported first through expanded productivity of our existing sales force as they go into more depth with existing accounts and then by adding additional accounts. We expect the number of direct sales professionals to increase over time. Additionally, we have successfully utilized a hybrid commercial approach that includes the use of independent agencies in more remote geographies to provide appropriate local support for surgeons, without the travel time required of a direct sales representative.

Our products are available and sold in 19 countries outside the U.S. through a number of independent in-country distributors. We provide support and resources for independent agencies and distributors both within and outside the U.S. We provide our products to hospitals, surgery centers and military hospitals, calling on surgeons, including plastic reconstructive surgeons, orthopedic and plastic hand surgeons, and certain oral and maxillofacial surgeons to review the benefits of our products. While surgeons make the decision to implant our products in appropriate patients, hospitals make the decision to purchase the products from us. In today's budget constrained environment, hospital committees review new technologies for cost effectiveness as well as quality. We believe that we have been successful in meeting the needs of these hospital committees by demonstrating the cost/benefit of our products and providing a fair value to the hospital.

***Expand the Product Pipeline and Applications in Peripheral Nerve Repair***

We have developed and continue to develop new and next generation products to support surgeons in their needs for repairing damaged or transected peripheral nerves. We believe additional opportunities exist to develop or acquire complementary products in peripheral nerve repair. In addition, there are opportunities to expand the existing portfolio of products in new applications of peripheral nerve repair in applications such as lower extremity surgery, head and neck surgery, urology, and the surgical treatment of pain.

***Avance Nerve Graft Performance***

We have worked with leading institutions, researchers, and surgeons to support innovation in the field of surgical peripheral nerve repair. We believe our RANGER study (defined below in "Government Regulations") is the largest multi-center clinical study conducted in peripheral nerve gap repair with over 2,800 enrolled repairs. We have completed the RECON study (defined below in "Axogen Clinical Trials"). This study is a phase 3 trial to support our BLA for the Avance Nerve Graft. See "Government Regulations - Clinical Trials - Axogen Clinical Trials."

***International Opportunity for Revenue***

We currently focus primarily on the U.S. market, with additional foreign distribution and sales in Canada, Germany, UK, Spain, and several other European, Asian and Latin American countries. The need for the surgical repair of damaged or transected nerves is a global opportunity. Through our revenue outside the U.S., we have demonstrated the capability to take our current peripheral nerve repair surgical portfolio into new geographical markets. We currently have European Union ("E.U.") wide registration only for Axoguard Nerve Connector and Axoguard Nerve Protector as approval/registration for Avance Nerve Graft as human tissue is required in each individual country. Avance Nerve Graft has been granted marketing authorization in Germany and direct commercial operations began in 2022. Currently, Axoguard Nerve Cap is available in the US and New Zealand while Axotouch Two-Point Discriminator is available in the U.S. and Canada. Introduction of our products into foreign markets is subject to meeting the appropriate regulatory standards of particular countries and any appropriate regional regulation or directive. In addition to regulatory approval, reimbursement approval is necessary to achieve material product adoption in most countries. Avance Nerve graft has achieved NICE approval in the UK for digital nerve repair and reimbursement approval in South Korea for repairs up to 50mm in length for sensory nerves when an autograft is not possible. To date, revenue from international distribution and sales have not been material, there are no material risks associated with foreign operations, and we do not have dependencies as to international revenue. See " Item 1A. Risk Factors – Our operations must comply with FDA and other governmental requirements."

**Research and Development**

We believe that we provide the most extensive product portfolio for peripheral nerve injuries available. Our current development focus is to expand clinical data in peripheral nerve repair surgical applications, to develop product line extensions of the Avance and Axoguard products, and to develop new technologies/products for peripheral nerve repair.

We work with academic institutions in the expansion of treatments for peripheral nerve and are involved in a number of grants from government agencies related to nerve repair or use of our products and/or technologies. For the year ended December 31, 2023, we spent approximately $28.3 million on total research and development expenses for product and clinical development, including expenses related to the transition of Avance Nerve Graft to a biological product.

**Competition**

The medical device and biotechnology industries are characterized by rapidly advancing technologies, intense competition, and a strong emphasis on proprietary products. As such, we cannot predict what products may be offered in the future that may compete with our products. In the peripheral nerve repair market, we compete primarily against all transected and non-transected peripheral nerve repair approaches, including direct suture repair, autograft, and hollow-tube nerve conduits and materials used to wrap and protect damaged peripheral nerve tissue.

Because the requirements of the biomaterials used in peripheral nerve repair can vary based on the severity and location of the damaged nerve, the size and function of the nerve, surgical technique, and patient preference, our peripheral nerve repair products compete against both autograft materials (nerve in the case of a bridging repair and vein or fat in the case of a nerve protection repair), and a limited number of off-the-shelf alternatives for repairing and protecting. Competitive aspects of our products focus on their overall value proposition and suitability for specific applications and can include composition and structure of the material, ease of use, clinical evidence, handling, and price. Our major competitors for off-the-shelf repair options in hollow-tube conduits and bio-absorbable wraps are Integra LifeSciences Holding Corporation, Baxter International, Inc., and Stryker Corporation.

We believe any current or future competitors face the following important barriers to market entry as it relates to its peripheral nerve repair products. Our intellectual property (“IP”), and that of our partners, including patents, patents-pending, trade secrets, and unique, internal subject matter expertise, is believed to be an important barrier for our Avance Nerve Graft and Axoguard products. We have developed knowledge and experience in understanding and meeting FDA regulatory requirements for Avance Nerve Graft, including having made a substantial investment in conducting the pre-clinical and clinical testing necessary to support a submission for an FDA BLA. Additionally, we believe our ability to offer a portfolio of products focused on peripheral nerve repair and the breadth of clinical data associated with the products provides a unique competitive position versus other entities that do not have this breadth of product offering. However, due to our limited resources, our smaller size, and our relatively early stage, we believe we may face competitive challenges from larger entities and market factors that could negatively impact our growth, including competitors’ introduction of new products and competitors’ bundling of products to achieve pricing benefits. (See “Item 1A. Risk Factors – Technological change and competition for newly developed products could reduce demand for our products”; “Risk Factors — Our operating results could be adversely impacted if we are unable to effectively manage and sustain our future growth or scale our operations”).

**Intellectual Property**

***Overview***

We protect our IP through a combination of patents, trademarks, trade secrets, and copyrights. In addition, we safeguard our trade secrets and other confidential know-how, and carefully protect these and other IP rights when engaging with third parties. For example, we require vendors, contract organizations, consultants, advisors, and employees to execute confidentiality and nondisclosure agreements, and to appropriately protect any information disclosed to them by us so as to preserve confidential and/or trade secret status. We also require consultants, advisors, and employees to assign their rights to any IP arising out of their relationship with us to us.

***License Agreements***

We have entered into license agreements with the University of Florida Research Foundation (the "UFRF") and the University of Texas at Austin ("UTA"). Under the terms of these license agreements, we hold exclusive worldwide licenses to underlying technologies used by us in our Avance Nerve Graft. The license agreements include the right to certain patents and patents pending in the US and international markets. The effective term of the license agreements extends through the term of the related patents. The patents for which royalty obligations exist under the UFRF license agreement expired in December 2023, and the UTA license agreement expired when the last patents licensed thereunder expired in September 2023.

***Patents***

As of the date of this Annual Report on Form 10-K, we own about twenty-five issued U.S. patents, more than forty-five pending U.S. patent applications (including those for which we have received a notice of allowance) and nearly two hundred and fifty international patents and patent applications with regard to our peripheral nerve products and other related technologies.

In connection with our Avance Nerve Graft, per Section 351(k)(7) and 351(i)(4) of the Public Health Service (PHS) Act, from the date of BLA approval, Avance Nerve Graft we believe we will have a period of 12 years of exclusivity in the U.S. from commercial competition from biosimilars using Avance as the reference product. Finally, we have Enforcement Discretion from the FDA regarding continued distribution under controls applicable to Human Cellular and Tissue-based Products ("HCT/Ps") with an agreed transition plan to a BLA. We believe a competitive processed peripheral nerve allograft (non-biosimilar) would need to successfully complete BLA Phase I, II and III clinical studies prior to clinical release, the completion of which we believe would take at least eight years.

Each of Axogen's other products in the United States and abroad, is also protected by multiple patents and local laws providing protection for intellectual property, which provides further barriers to entry for potentially competitive products. Axogen's Axoguard Nerve Cap is protected by numerous issued Axogen patents in the United States and globally. Additional allowed Axogen patent applications, as well as other pending Axogen patent applications that are expected to issue in the United States and abroad, will provide further protection of Axoguard Nerve Cap and thus act as additional obstacles to the commercial introduction of competitive products. Our Axoguard HA+ Nerve Protector, is also the subject of numerous allowed and pending Axogen patent applications in the United States and abroad. The potential for products competitive with Axogen's Axoguard line of products, including our Axoguard Nerve Connector and Nerve Protector, is further encumbered by the additional intellectual property protections related to their methods of manufacture, as discussed further below in the Trade Secrets section. Axogen's Axotouch Two-Point Discriminator is protected by a design patent.

Our policy is to seek patent protection for, or where strategically preferable, maintain as trade secret, the inventions that we consider important to our products and the development of our business. We have sought, and will continue to seek, patent protection for select proprietary technologies and other inventions emanating from our research and development ("R&D"), including with respect to uses, methods, and compositions, in an effort to further fortify our IP stronghold in areas of importance to us and our growing product portfolio. In instances that patent protection is not possible, product value to our portfolio can still be derived.

***Trademarks, Trade Secrets and Copyrights***

We hold a significant portfolio of hundreds of registered and applied-for trademarks in the U.S. and worldwide. Protection of our trademarks allows us to prevent competitors from, for example, using the same or a confusingly similar company name, or the same or confusingly similar product names within identified classes of goods that could otherwise wrongfully allow such competitors to capitalize on our brand, reputation, and goodwill, and thereby improperly bolster their sales or reputations through, for example, consumer confusion, a false indication of our endorsement, or of a false indication of corporate or contractual relationship with us. We police and enforce our marks.

We possess trade secrets and material know-how in the following general subject matters: nerve and tissue processing, nerve repair, product testing methods, and pre-clinical and clinical expertise. We have registered copyrights for training tools and artistic renderings. Additionally, we entered into the Distribution Agreement and Supply Agreement with Cook Biotech for the Axoguard products. Cook Biotech believes it has know-how and trade secrets with respect to its ECM technology that provides certain additional competitive obstacles to third parties, in addition to those obstacles existing in view of Axogen-owned IP.

**Government Regulations**

***U.S. Government Regulation Overview***

Our products are subject to regulation throughout their lifecycle by the FDA, as well as other federal and state regulatory bodies in the U.S. and comparable authorities in other countries. In addition, our Avance Nerve Graft must comply with the standards of the tissue bank industry's accrediting organization, the AATB.

We distribute Axoguard Nerve Connector and Axoguard Nerve Protector products for Cook Biotech, and Cook Biotech is responsible for the regulatory compliance of these products. These Axoguard products are regulated as medical devices and subject to pre-market notification requirements under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the "FD&C Act"), 21 CFR Part 820 ("Quality System Regulation"), and related laws and regulations. Cook Biotech has obtained a 510(k) pre-market clearance for Axoguard Nerve Connector from the FDA for the use of porcine small intestine submucosa for

the repair of peripheral nerve transections where gap closure can be achieved by flexion of the extremity. Cook Biotech has also obtained a 510(k) pre-market clearance for Axoguard Nerve Protector for the repair of peripheral nerve damage in which there is no gap or where a gap closure is achieved by flexion of the extremity. We sell the 510(k) cleared devices under the trade names Axoguard Nerve Protector and Axoguard Nerve Connector.

We are the specification developer and authorization holder of the Axoguard Nerve Cap product, which is classified by the FDA as a Class II device. The Axoguard Nerve Cap was cleared for market under 510(k) K163446. It is classified by FDA under 21 CFR 882.5275 (Nerve Cuff, product code: JXI). Cook Biotech is the contract manufacturer for our Axoguard Nerve Cap product, and we are responsible for the regulatory compliance, distribution, and sale of this product.

We are the specification developer and authorization holder of the Axoguard HA+ Nerve Protector (HA+) product, which is classified by the FDA as a Class II device. HA+ was cleared for market under 510(k) K223640 on April 7, 2023, and a second 510(k) K231708 regulatory clearance was obtained on October 12th expanding the indication for use of HA+. The products are classified by FDA under 21 CFR 882.5275 (Nerve Cuff, product code: JXI). Cook Biotech is the contract manufacturer, and we are responsible for the regulatory compliance, distribution, and sale of this product. On January 31, 2024, RTI Surgical, Inc. announced the acquisition of Cook Biotech; we do not expect the acquisition of Cook Biotech to have a material impact on our relationship with Cook Biotech or our operations.

We also distribute the Axotouch Two-Point Discriminator. This device is manufactured for us and distributed from the Burleson Facility. It is a Class I device (general controls) that is exempt from pre-market notification and the Quality System Regulation requirements except for the Recordkeeping and Complaint file requirements. It is classified by FDA under 21 CFR 882.1200 (Two-point discriminator, product code: GWI).

**Avive**

The FDA's Office of Combination Product completed its preliminary product classification and jurisdictional assessment of the Avive Soft Tissue Membrane product as part of a pre-RFD process in August 2023 and provided their feedback that Avive is not eligible for regulation solely under section 361 of the PHS Act and the regulations in 21 CFR Part 1271. An HCT/P that does not meet all of the criteria in 1271.1 0(a) is regulated as a drug, device, or biological product. As such we have concluded our discussions with the FDA and while the FDA's pre-RFD response does not constitute final agency action, we will not return Avive to the market. However, we are excited to move forward with introduction a new HCT/Product Avive+ in the second quarter of 2024. Our preliminary engagement with the FDA through the TRG Rapid Inquiry Program (TRIP) resulted in feedback that the product appears to be regulated solely under section 361 of the Public Health Service Act and the regulations in 21 CFR part 1271. Products regulated solely under Section 361 of the Public Health Service Act are a product category under close scrutiny by FDA for compliance with the regulatory requirements and potentially subject to regulatory change in the future. Failure to comply with applicable regulatory requirements could expose us to potential compliance actions by FDA or state regulators and could risk the commercial availability of the product.

***FDA — General***

FDA regulations govern nearly all the activities that we perform, or that are performed on our behalf, to ensure that medical products distributed domestically or exported internationally are safe and effective for their intended uses. The activities the FDA regulates include the following:

- Product design, development, and manufacture;
- Product safety, testing, labeling, and storage;
- Pre-clinical testing in animals and in the laboratory;
- Clinical investigations in humans;
- Pre-marketing clearance, approval, or licensing;
- Record-keeping and document-retention procedures;
- Advertising and promotion;
- The import and export of products;
- Product marketing, sales, and distribution;

- Post-marketing vigilance, surveillance and medical device reporting, including reporting of deaths, serious injuries, communicable diseases, device malfunctions, or other adverse events; and
- Corrective actions, removals and recalls.

Failure to comply with applicable FDA regulatory requirements may subject us to a variety of administrative or judicially imposed penalties or sanctions and/or prevent us from obtaining or maintaining required approvals, clearances, or licenses to manufacture and market our products. It could also subject us to enforcement actions or sanctions, such as agency refusal to approve pending applications, warning letters, product recalls, product seizures, total or partial suspension of production or distribution of products, injunctions, consent decrees or civil monetary penalties or criminal prosecution.

***FDA's Pre-market Clearance and Approval Requirements - Medical Devices***

Unless an exemption applies, each medical device distributed commercially in the U.S. requires either a 510(k) pre-market notification submission or a Pre-Market Approval ("PMA") Application to the FDA, or other FDA regulatory authorization. Medical devices are classified into one of three classes—Class I, Class II, or Class III—depending on the degree of risk, the level of control necessary to assure the safety and effectiveness of each medical device and how much is known about the type of device. For devices first intended for marketing after May 28, 1976, pre-market review and clearance by the FDA for Class I and II medical devices is accomplished through the 510(k) pre-market notification procedure by finding a device substantially equivalent to a legally marketed Class I or II device, unless the device is exempt. The majority of Class I medical devices are exempt from the 510(k) pre-market notification requirement. Devices deemed by the FDA to pose the greatest risk, such as life-sustaining, life-supporting, or implantable devices for which Class II controls are inadequate to assure safety or effectiveness, and novel devices, including devices deemed not substantially equivalent to a previously cleared 510(k) device, are placed in Class III. Class III devices generally require an approved PMA prior to marketing, unless classified into Class I or Class II through a De Novo request.

A PMA must be supported by extensive data, including, but not limited to, technical, pre-clinical, clinical trials, manufacturing and labeling to demonstrate to the FDA's satisfaction, and the safety and effectiveness of the device.

***Investigational New Drug (IND) Application for Drugs and Biologics***

Federal law requires that a new drug be the subject of an approved marketing application and that a biological product be properly licensed before each is introduced or delivered for introduction into interstate commerce. Because a sponsor often needs to ship an investigational drug or biological product to clinical investigators in many states, it must seek an exemption from that legal requirement. The IND is the means through which the sponsor obtains this exemption from the FDA. It is additionally the request from a clinical study sponsor to obtain authorization from the FDA to administer an investigational drug or biological product to humans.

There are two IND categories: Commercial and Research (non-commercial). The IND application must contain information in three broad areas:

- Animal Pharmacology and Toxicology Studies - Preclinical data to permit an assessment as to whether the product is reasonably safe for initial testing in humans. Also included are any previous experience with the drug in humans (often foreign use).
- Manufacturing Information - Information pertaining to the composition, manufacturer, stability, and controls used for manufacturing the drug substance and the drug product. This information is assessed to ensure that the company can adequately produce and supply consistent batches of the drug.
- Clinical Protocols and Investigator Information - Detailed protocols for proposed clinical studies to assess whether the initial-phase trials will expose subjects to unnecessary risks. Also, information on the qualifications of clinical investigators--professionals (generally physicians) who oversee the administration of the experimental compound--to assess whether they are qualified to fulfill their clinical trial duties. Finally, commitments to obtain informed consent from the research subjects, to obtain review of the study by an institutional review board (IRB), and to adhere to the investigational new drug regulations.

Once the IND is submitted, the sponsor must wait 30 calendar days before initiating any clinical trials. During this time, the FDA has an opportunity to review the IND for safety to assure that research subjects will not be subjected to unreasonable risk. An IND will automatically become effective 30 days after receipt by the FDA, unless before that time the FDA raises concerns or questions about issues such as the conduct of the trials and or supporting pre-clinical data as outlined in the IND. In that case,

the IND sponsor and the FDA must resolve any outstanding FDA concerns or questions before clinical trials can proceed. Therefore, submission of an IND may not result in the FDA allowing clinical trials to commence.

The following regulations apply to the IND application process:

- 21CFR Part 201 Drug Labeling
- 21CFR Part 312 Investigational New Drug Application
- 21CFR Part 314 IND and NDA Applications for FDA Approval to Market a New Drug (New Drug Approval)
- 21CFR Part 316 Orphan Drugs
- 21CFR Part 50 Protection of Human Subjects
- 21CFR Part 54 Financial Disclosure by Clinical Investigators
- 21CFR Part 56 Institutional Review Boards
- 21CFR Part 58 Good Lab Practice for Nonclinical Laboratory Studies

***Biological Product License Application ("BLA") Pathway***

The BLA is a request for permission to introduce, or deliver for introduction, a biological product into interstate commerce (21 CFR 601.2). Form 356h specifies the requirements for a BLA. Biological products require FDA approval of a BLA to be marketed. The application must demonstrate the safety, purity, and potency of the product candidate based on results of pre-clinical studies and clinical trials. A BLA must also contain extensive Chemistry, Manufacturing and Controls ("CMC") and other manufacturing information, as well as Labeling information. The applicant must pass an FDA pre-approval inspection of the manufacturing facility or facilities at which the biological product is produced to assess compliance with the FDA's current Good Manufacturing Practice ("cGMP") requirements. Satisfaction of FDA approval requirements for biologics typically takes several years and the actual time required may vary substantially based on the type, complexity, and novelty of the product. We cannot be certain that any BLA approvals for our products will be granted on a timely basis, or at all.

The steps for obtaining FDA approval of a BLA to market a biological product in the U.S. include:

- Completion of pre-clinical laboratory tests, animal studies, and formulation studies under the FDA's good laboratory practices regulations;
- Submission to the FDA of an IND for human clinical testing, which must become effective before human clinical trials may begin and which must include independent Institutional Review Board, ("IRB"), approval at each clinical site before the trials may be initiated;
- Performance of an adequate and well-controlled clinical trial in accordance with Good Clinical Practices to establish the safety and efficacy of the product for each indication;
- Submission to the FDA of a BLA, which contains detailed information about the CMC for the product, reports of the outcomes and full data sets from the clinical trials, and proposed labeling and packaging for the product. With agreement from the FDA, sponsors can qualify to submit portions of an application as the information becomes available ("rolling submission") as an alternative to providing all information in a single submission when it is available;
- Satisfactory review of the contents of the BLA by the FDA, including the satisfactory resolution of any questions raised during the review;
- Satisfactory completion of an FDA Advisory Committee review, if applicable;
- Satisfactory completion of an FDA inspection of the manufacturing facility or facilities at which the product is produced to assess compliance with cGMP regulations, to assure that the facilities, methods, and controls are adequate to ensure the product's identity, strength, quality, and purity; and
- FDA approval of the BLA, including agreement on post-marketing commitments, if applicable.

***Avance Nerve Graft Regulatory Classification and Regulatory Pathway***

Avance Nerve Graft has been marketed domestically and internationally since 2007. In 2010, the FDA provided us with an enforcement discretion letter, regarding the marketing of Avance so long as we complied with certain terms that focused us on taking the necessary steps to support a BLA submission for the product. The FDA enforcement discretion letter states the FDA will end the period of enforcement discretion upon a final determination of our future BLA submission or if prior to the BLA submission, the FDA finds that we do not meet the conditions for the enforcement discretion terms or are not exercising due diligence in executing the transition plan. If final action on the BLA is negative or we are found to not meet the conditions for the transition plan or its execution, or if FDA were to revoke the enforcement discretion for any other reason, we may not be able to continue to distribute Avance Nerve Graft. We continue to work diligently to execute the transition plan, including maintaining regular communication with the FDA, and, in this context, continue to distribute Avance Nerve Graft.

We met with the FDA Center for Biologics Evaluation and Research ("CBER") in July 2010 and, between July 2010 and November 2010, provided information to CBER that resulted in the FDA issuing a letter stating the agency's intent to exercise enforcement discretion with respect to the continued introduction or delivery for introduction into interstate commerce of Avance Nerve Graft assuming that certain conditions are met relating to the transition of Avance Nerve Graft from regulation as an HCT/P under Section 361 to a biological product under Section 351 of the Public Health Service Act. Specifically, the FDA transition plan outlined that:

- We transition to compliance with Section 501(a)(2)(B) of the FD&C Act, the current cGMP regulations in 21 CFR Parts 210 and 211 and the applicable regulations and standards in 21 CFR Parts 600-610 prior to initiation of a phase 3 clinical trial designed to demonstrate the safety, purity, and potency of Avance Nerve Graft.
    - We have performed several gap analyses of our quality system for compliance with 21 CFR Parts 210 and 211 and 600-610 regulations. The gap analyses have identified areas in which our quality system could improve with respect to compliance with the regulations. We have created and implemented appropriate changes, including new quality procedures. Through our internal auditing process, we have assessed our compliance to the regulations. We have also retained an external former FDA consultant with experience in auditing to 21 CFR Parts 210 and 211 and 600-610 regulations to verify quality system compliance with the regulations.
- We conduct a phase 3 clinical trial to demonstrate safety, purity and potency of Avance Nerve Graft under a Special Protocol Assessment ("SPA"). We and the FDA agreed to the SPA in August 2011.
    - In accordance with FDA regulations in 21 CFR §Part 312, we submitted IND #15419 to the FDA, and it became effective in March 2015.
    - The phase 3 clinical trial was initiated in the second quarter of 2015. The study completed initial enrollment in January 2019. As required by the SPA and agreed to by FDA and us, an independent statistical analysis was conducted to determine if greater study enrollment was appropriate to maintain the planned statistical power of the trial. As part of that review, the targeted enrollment was increased to 220 subjects, and the number of participating centers was increased to up to 25. The study completed subject enrollment in July 2020. Subject follow-up was completed in August 2021 with topline study data read-out completed during the second quarter of 2022. Topline results showed that this pivotal study met its primary endpoint for the return of nerve function as measured by static two-point discrimination. It also demonstrated that the safety profile was consistent with previously published data. RECON results demonstrated statistical superiority for return of sensory function, as measured by static two-point discrimination, as compared to conduits in gaps greater than 12 mm (p-value <0.05). Avance demonstrated statistical superiority for time to recover of static two-point discrimination over conduits in nerve gaps greater than 10mm (p-value <0.05).
- We continue to comply with the regulations and standards under 21 CFR Part 1271.
    - We were audited by the FDA at the Avance Processing Facility in March 2013, March 2015, October 2016 and September 2022 and at the Avance Distribution Facility in October 2015 with respect to its Human Tissue Quality System under 21 CFR Part 1271 and in July 2022 with respect to Level 1 Quality System Inspection Technique ("QSIT") Medical Device Inspection under 21 CFR 820. At each inspection, the quality systems were found to be in compliance with 21 CFR Part 1271 and no FDA Form 483 observations were issued.
    - In February 2018, we were audited by the FDA with respect to its Medical Device Quality System under 21 CFR Part 820 and its Human Tissue Quality System under 21 CFR Part 1271. Such audit resulted in two Form

483 observations on general procedures on our Medical Device Quality System and no Form 483 observations on our Human Tissue Quality System. We took corrective action to correct these observations and the FDA accepted the corrective action plan.

- In November 2018, we were inspected by the FDA at our Texas Distribution Facility with respect to our Human Tissue Quality System under 21 CFR Part 1271. Such inspection resulted in one Form 483 observation on tissue tracking. We took corrective action to correct this observation and the FDA accepted the corrective action plan.
- In July 2022, we were inspected by the FDA at our Texas Distribution Facility with respect to our Medical Device Quality System under 21 CFR Part 820. No FDA Form 483 observations were received.
- In September 2022 we were inspected by the FDA at the CTS Facility with respect to our Human Tissue Quality System under 21 CFR Part 1271. No FDA Form 483 observations were received.
- In August 2023 we were inspected by the FDA at our Alachua, FL Human Tissue Establishment with respect to our Human Tissue Quality System under 21 CFR Part 1271. No FDA Form 483 observations were received.

We are working on preparing our BLA submission and engage in regular communication with the FDA for BLA approval. Most recently, we completed a pre-BLA meeting in the first quarter of 2024 and following that meeting our BLA submission plans remain on track. The FDA will review our regulatory compliance during the pre-license inspection as part of the BLA review. If the FDA does not find us to be in compliance, the BLA might not be approved or could be delayed. Additionally, the FDA reserves its review of the complete evidence package supporting a BLA for the review process. If the FDA does not find the evidence submitted in the BLA supportive, the BLA might not be approved or could be delayed, or the FDA may approve a narrower indication than the present use of Avance Nerve Graft.

In September 2018, the FDA granted a Regenerative Medicine Advanced Therapy ("RMAT") designation for Avance Nerve Graft. A regenerative medicine therapy is eligible for the RMAT designation if it is intended to treat, modify, reverse, or cure a serious or life-threatening disease or condition, and preliminary clinical evidence indicates that the product has the potential to address unmet medical needs for such a disease or condition. The RMAT designation provides access to a streamlined approval process for regenerative medicine technologies and informal meetings with the FDA in support of the BLA for Avance Nerve Graft, as appropriate. FDA can withdraw the RMAT designation if the designation criteria are no longer met.

Section 505(d) of the FDCA requires FDA to find "substantial evidence" of a new biologic product effectiveness before it can be marketed. The FDA normally requires two adequately designed and well-controlled clinical investigations for the new biologic product. However, through a series of FDA Guidance for Industry documents including the July 1998 Guidance "Guideline for the Format and Content of the Clinical and Statistical Sections of an Application" and, more recently, the September 2023 Guidance "Demonstrating Substantial Evidence of Effectiveness with One Adequate and Well-Controlled Clinical Investigation and Confirmatory Evidence", FDA has accepted a single adequate and well-controlled clinical investigation with supporting evidence through preclinical studies and literature to approve a new biologic products. For Avance Nerve Graft, in the 2010 Enforcement Discretion letter, FDA only required Axogen to perform a single Phase 3 Clinical Study. It is Axogen's belief from the guidance documents and communications with FDA, the Phase 3 RECON clinical study as a single adequate and well-controlled clinical investigation with preclinical data, literature and confirmatory data from the RANGER Registry will support Avance Nerve Graft' approval as a biologic product.

We have maintained a collaborative dialogue with the FDA and will continue to work with the FDA as we progress towards our BLA submission. We believe we will complete the rolling BLA submission in the third quarter of 2024.

We believe that biologic licensing, which typically entails multiple clinical trials and takes many years, would be required for any future competitive peripheral nerve allograft. The FDA provided updated guidance, "Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use" in November 2017, which it revised in July 2020. The guidance clarified the FDA's position that any processing that alters the biological characteristics of peripheral nerve tissue would be considered more than minimal manipulation, and therefore require a BLA prior to marketing.

***linical Trials***

Clinical trials are a category of clinical research designed to evaluate and test new interventions, medications, or procedures. Clinical trials are often conducted in four phases. The trials at each phase have a different purpose and help answer different questions.

- Phase I trials test an experimental drug or treatment in a small group of people for the first time. The researchers evaluate the treatment's safety, determine a safe dosage range, and identify side effects.
- In Phase II trials, the experimental drug or treatment is given to a larger group of people to see if it is effective and to further evaluate its safety.
- In Phase III trials, the experimental study drug or treatment is given to large groups of people. Researchers aim to confirm its effectiveness, monitor side effects, compare it to commonly used treatments, and collect information that will allow the experimental drug or treatment to be used safely.
- Phase IV trials, also known as Post-marketing studies, are conducted after a treatment is approved for use by the FDA and provide additional information including the treatment or drug's risks, benefits, and best use.

Clinical trials are required to support a BLA or PMA and are sometimes required for 510(k) clearance or de novo classification. Clinical trials involve the administration of the investigational product to human subjects under the supervision of qualified investigators. Clinical trials are conducted under strict requirements to ensure the protection of human subjects participating in the trial and under protocols detailing, among other things, the objectives of the study, the parameters to be used in monitoring and safety, and the effectiveness criteria to be evaluated. Clinical trials for biological products require the submission and FDA acceptance of an IND and clinical trials for medical devices require the submission and FDA approval of an Investigational Device Exemption ("IDE") application unless the device regulations provide for an exemption from the IDE requirement. Clinical trials for significant risk devices may not begin until the IDE is approved by the FDA and the IRB overseeing the particular clinical trial. If the product is considered a non-significant risk device under FDA regulations, the trial must only be approved by an IRB prior to its initiation. A protocol for each clinical trial and any subsequent protocol amendments must be submitted to the FDA as part of the IND or IDE, for significant risk devices. In addition, for these studies, an IRB at each site at which the study is conducted must approve the protocol, subject consent form and any amendments for each site at which the study is conducted. All research subjects must be informed, among other things, about the risks and benefits of the investigational product and provide their informed consent in writing.

Clinical trials under an IND typically are conducted in three sequential phases, but the phases may overlap or be combined. In our case, we believe that the phase 3 clinical trial study for Avance Nerve Graft represents the only prospective clinical data that will be required to evaluate safety and effectiveness. Phase 3 clinical trials usually further evaluate clinical efficacy and test further for safety in an expanded patient population. Phase 3 clinical trials usually involve comparison with placebo, standard treatments, or other comparators. Usually, multiple well-controlled large phase 3 or pivotal clinical trials demonstrating safety and efficacy are required to support a BLA. These trials are intended to establish the overall risk-benefit profile of the product and provide an adequate basis for physician labeling. Clinical testing may not be completed successfully within any specified period, if at all. Furthermore, we or the FDA may suspend or terminate a clinical trial at any time on various grounds, including a finding that the subjects are exposed to an unacceptable health risk, have experienced a serious and unexpected adverse event, or that continued use in an investigational setting may be unethical. Similarly, an IRB can suspend or terminate approval of research, for example, if the research is not being conducted in accordance with the IRB's requirements or if the research has been associated with unexpected serious harm to patients. Additionally clinical data obtained from the observational study, RANGER, will be provided as supportive safety data and confirmatory data for Avance Nerve Graft.

***ur Clinical Trials***

We have an active clinical research program to gather data on our product portfolio. We have completed five clinical studies, are performing six ongoing clinical studies, and have plans to initiate further clinical studies. The ongoing studies are:

- "A Multicenter Retrospective Study of Avance Nerve Graft Utilization, Evaluations, and Outcomes in Peripheral Nerve Injury Repair ("RANGER") - enrollment complete in parent protocol with analysis ongoing,"
- "A Matched Autograft and Tube Conduit Case Control Cohort Arm of RANGER ("MATCH"), - enrollment in Addendum 1 complete with analysis ongoing"
- "Breast Neurotization Outcomes for Women: A Registry Study of Recovery Outcomes, Quality of Life and Patient Satisfaction in Post-Mastectomy Autologous Breast Reconstruction ("Sensation-NOW"), - enrollment ongoing"

- "Nerve Protection Evaluation: Revision Cubital Tunnel Syndrome Decompression ("COVERED"), - enrollment ongoing"
- "Tolerability and Feasibility Pilot Clinical Study of a Large-Diameter Nerve Cap for Protecting and Preserving Terminated Nerve Ends ("REPOSE-XL"), - enrollment ongoing" and
- "An Ambispective, Multicenter, Observational Registry Study of Patients Considering Surgical Treatment for Chronic Neuropathic Pain ("Rethink Pain"). - enrollment ongoing."

Our completed studies are "A Multicenter, Prospective and Subject Blinded Comparative Study of Axoguard Nerve Cap and Neurectomy for the Treatment of Symptomatic Neuroma and Prevention of Recurrent End-Neuroma Pain ("REPOSE")," "A Multicenter, Prospective, Randomized, Patient and Evaluator Blinded Comparative Study of Nerve Cuffs and Avance Nerve Graft Evaluating Recovery Outcomes for the Repair of Nerve Discontinuities ("RECON")," "A Multicenter, Prospective, Randomized, Comparative Study of Hollow Nerve Conduit and Avance Nerve Graft Evaluation Recovery Outcomes of the Nerve Repair in the Hand ("CHANGE")" published by Means et al, pilot study to evaluate the use of Avance Nerve Graft in the reconstruction of nerves following prostatectomy, and "Registry of Avive Soft Tissue Membrane Utilization in Selected Applications of Acute Trauma of the Upper Extremity ("ASSIST"), As Avive Soft Tissue Membrane is no longer on the market, the registry closed with no planned analysis.

In addition to these clinical research programs, we are developing additional clinical trials in peripheral nerve repair, including mixed and motor nerve repair, breast neurotization, protection, and pain.

Clinical trials are subject to extensive recordkeeping and reporting requirements. Our clinical trials must be conducted under the oversight of an IRB for the relevant clinical trial sites and must comply with FDA regulations, including but not limited to, those relating to Good Clinical Practices. We are also required to obtain the patients' written, informed consent in a form and substance that complies with both FDA requirements and state and federal privacy and human subject protection regulations. We, the FDA or the IRB may suspend a clinical trial at any time for various reasons, including a belief that the risks to study subjects outweigh the anticipated benefits. Even if a trial is completed, the results of clinical testing may not adequately demonstrate the safety and efficacy of the biological product or device, or may otherwise not be sufficient to obtain FDA approval to market the product in the U.S. Similarly, in the E.U., the clinical study for a medicine product must be authorized by the Competent Authority in each Member State where the clinical trial is to be conducted and must receive a favorable opinion from an ethics committee. See "Risk Factors - Clinical trials can be long, expensive and results are ultimately uncertain, which could jeopardize our ability to obtain regulatory approval and continue to market our Avance Nerve Graft product."

RANGER

The RANGER study is an observational study and is a utilization registry of Avance Nerve Graft. As of December 31, 2023, eleven publications and more than 70 scientific conference presentations have been generated to date from the study. RANGER is designed to allow up to 2,500 subjects. An additional 500 subjects are allowed to be enrolled in Addendum 1, MATCH, and 2,000 enrolled in Addendum 2, Sensation-NOW. Sensation-NOW is a clinical study cohort, currently enrolling, designed to assess breast sensation following reconstruction with or without neurotization. We resumed enrollment in 2021 at select centers after pausing enrollment due to COVID-19 in 2020. The follow-up for the RANGER study is standard of care with a target of up to 36 months post peripheral nerve repair. At the time of BLA submission for Avance Nerve Graft, we will provide to the FDA confirmatory evidence based primarily on real world evidence from the RANGER study data.

The RANGER study database is also utilized to monitor different nerve repair techniques. As part of this, we utilize the database to support additional regulatory submissions for the Axoguard products.

We have worked with leading institutions, researchers, and surgeons to support innovation in the field of surgical peripheral nerve repair. We believe that RANGER is currently the largest multi-center observational clinical study conducted in peripheral nerve gap repair. Various reviewers of the RANGER study have found Avance Nerve Graft nerve repairs resulted in meaningful motor and sensory recovery and reduced pain following neuroma excision and reconstruction with no safety concerns identified.

RECON

The RECON study is a prospective, randomized, controlled, patient and evaluator blinded, comparative study of Avance Nerve Graft and Collagen Nerve Cuffs (manufactured conduits) in the repair of peripheral nerve transections in digital nerves with gaps of 5 to 25mm. The study is designed to assess the outcomes of peripheral nerve repair in approximately 170 subjects in up to 20 centers. Subjects were intraoperatively randomized in a 1:1 ratio after stratification by length of the nerve injury by gap length into short gap (5-14mm) and long gap (15-25mm) categories. The primary objective of the study is to evaluate the safety

and efficacy of Avance Nerve Graft for non-inferiority and if met, superiority, of static two-point discrimination, a measure of sensory function, at twelve months as compared to nerve cuffs. Given the pooled standard deviation assumptions and a non-inferiority margin of 2mm, approximately 88 patients per treatment group are required to assess non-inferiority with at least 83% power. In addition to non-inferiority, a minimum treatment effect is required to be demonstrated. Based on an agreement with the FDA in the original protocol and an independent statistical analysis of the pooled standard deviation, the number of subjects was increased to 220 in up to 25 centers. Subjects were followed over the course of 12 months (based on the agreed-upon protocol, subjects have up to an additional three months to complete trial requirements) to assess safety and efficacy outcomes with assessments performed at various defined intervals up to 12 months. The study completed subject enrollment in July 2020. Subject follow-up was completed in August 2021 with topline study data read-out completed during the second quarter of 2022. Topline results showed that this pivotal study met its primary endpoint for the return of nerve function as measured by static two-point discrimination. It also demonstrated that the safety profile was consistent with previously published data. RECON results demonstrated statistical superiority for return of sensory function, as measured by static two-point discrimination, as compared to conduits in gaps greater than 12 mm (p-value <0.05). Avance demonstrated statistical superiority for time to recover of static two-point discrimination over conduits in nerve gaps greater than 10mm (p-value <0.05). The data in this study will support our rolling BLA submission, which we expect to complete in the third quarter of 2024.

REPOSE

We are conducting a multicenter, prospective, randomized, and subject blinded study of Axoguard Nerve Cap as compared to neurectomy for the treatment of systematic neuroma ("REPOSE"). REPOSE is a two-phase study comparing standard neurectomy to Axoguard Nerve Cap, which leverages our chambered technology to aid in the management of symptomatic neuromas. The first phase, a non-randomized pilot has completed enrollment and one-year follow-up. The second phase, a prospective, randomized controlled study, completed enrollment in 2022. Overall enrollment is designed to target 101 subjects with 15 in the first pilot phase followed by up to 86 in the randomized, comparative phase. The study will assess pain scores, quality of life, neuroma recurrence, and health outcomes over a 12-month follow-up period. Subject follow-up was completed in the third quarter of 2023 with Topline analysis reported in January 2024.

REPOSE XL

REPOSE-XL is a prospective, multi-center clinical pilot study evaluating the tolerability and feasibility of the Axoguard Large-Diameter Nerve Cap (sizes 5-7 mm) for protecting and preserving terminated nerve endings after limb trauma or amputation when immediate attention to the nerve injuries is not possible. Enrollment in REPOSE-XL started in 2022 and is underway.

COVERED

COVERED is a prospective, multi-center clinical case series evaluating Axoguard HA+ Nerve Protector in first revision cubital tunnel decompression. Enrollment in COVERED started in the fourth quarter of 2023.

Rethink Pain

Rethink Pain is a prospective and retrospective, multicenter, observational clinical study of patients considering surgical treatment for chronic neuropathic pain. Enrollment resumed in 2021 after pausing in 2020 due to COVID-19. Rethink Pain evaluates a patient's healthcare journey and pain history through detailed medical history and record review. For patients who undergo surgical treatment for pain, standardized outcome measures such as post-operative pain, pain medication usage, quality of life outcomes, and functional outcome of associated nerves as compared to pre-operative levels will be assessed.

***Post-Market Regulatory Requirements***

There are numerous regulatory requirements that apply after a product is cleared or approved. For medical devices, these include, but are not limited to the FDA's regulations for device labeling (21 CFR Part 801), medical device reporting (21 CFR Part 803), reporting of corrections and removals (21 CFR Part 806), establishment of registration and device listing requirements (21 CFR Part 807), and compliance with the QSR per 21 CFR Part 820. Distribution of medical devices is also subject to license/registration requirements in some states. For tissue and biological products, the regulatory requirements include: the FDA's registration and listing requirements, donor eligibility requirements and compliance with GTP in 21 CFR Part 1271 for human tissue products, compliance with the FDA's cGMP in 21 CFR Parts 210, 211, and 600 for licensed biological products, and post-

market BLA requirements (21 CFR Part 601), including The Drug Supply Chain Security Act (DSCSA). Among other things, these regulations require manufacturers, including third party manufacturers to:

- Follow stringent design, testing, control, documentation, and other quality assurance procedures during all aspects of the manufacturing process;
- Comply with labeling regulations and FDA prohibitions against the false or misleading promotion or the promotion of products for uncleared, unapproved or off-label uses, or indications;
- Comply with requirements to obtain clearance or approval for certain changes affecting the product, including changes to the product's manufacturing, labeling, or intended use;
- Report to the FDA certain adverse events, adverse reactions, and deviations;
- Comply with post-approval restrictions or conditions, including post-approval study commitments and post-market safety and annual reporting requirements;
- Follow post-market surveillance regulations that may apply when necessary to protect the public health or to provide additional safety and effectiveness data for the device; and
- Follow requirements to issue notices of correction or removal, or conduct market withdrawals, or recalls where quality or other issues arise.

Safety Reporting and other Periodic Reporting

We have not received any reports of adverse events where the event was determined to be product related for Avance Nerve Graft. Nine adverse events have been reported by Cook Biotech for the Axoguard products (one each in 2013, 2014, 2015, 2016, and 2020; and two each in 2017 and 2019).

We reported three biological deviations (two in 2018 and one in 2019) for quality system issues related to human tissue distribution (no patient safety issues were involved). In December 2020, a user facility presented a Medwatch report for Avance Nerve Graft for a sizing issue and potential delay in procedure. Our follow-up indicated that there was no delay in procedure, and we filed information with the FDA and no further action is required. We have not had to submit any tissue adverse reaction reports to the FDA. There has been one Medical Device Report (MDR) submitted to the FDA in 2023 for an Axoguard HA+ Nerve Protector that was explanted after redness and pain developed at the surgical site. Although the Axoguard Connector, Protector, Cap, and HA+ product lines have had just ten adverse events reported to date, there may have been other incidents, including patient deaths, that may have occurred during procedures utilizing our products without us being aware of any such incidents. In addition, there can be no assurance that in the future our products will not cause or contribute to an adverse event that would require us to submit MDRs, biological deviation reports, or tissue adverse reaction reports to the FDA. IND annual reporting remains in compliance.

In addition to the FDA, the advertising and promotion of medical products are also regulated by the Federal Trade Commission and in some instances by state regulatory and enforcement authorities. Recently, some promotional activities for FDA-regulated products have been the subject of enforcement action brought under healthcare reimbursement laws and consumer protection statutes. In addition, under the Federal Lanham Act and similar state laws, competitors, and others can initiate litigation relating to advertising claims.

Facilities Listing and Registrations

All of our facilities are properly registered with the FDA as tissue or medical device establishments. The FDA has broad post-market and regulatory enforcement powers. We are subject to unannounced inspections by the FDA to determine compliance with the GTP, cGMP, and other regulations, and these inspections may also include suppliers' manufacturing facilities.

Failure by us or our suppliers to comply with applicable regulatory requirements can result in enforcement action by the FDA or other federal or state authorities, which may include any of the following sanctions, among others:

- Warning letters, fines, injunctions, consent decrees and civil penalties;
- Customer notifications, repair, replacement, refunds, recall or seizure of our products;

- Operating restrictions, partial suspension, or total shutdown of production;
- Suspension or termination of our clinical trials;
- Refusing our 501(k), de novo classification request, PMA or BLA for new products, new intended uses, or modifications to existing products;
- Withdrawing or suspending pre-market approvals that have already been granted; and
- Criminal prosecution.

***Education Grants, U.S. Anti-kickback, False Claims and Other Healthcare Fraud and Abuse Laws***

Educational Grants

A medical product manufacturer may provide financial or in-kind support, including support by way of grants, to third parties for the purpose of conducting medical educational activities. If these supported activities are considered by the FDA to be independent of the manufacturer, then the activities fall outside the FDA restrictions on promotion to which the manufacturer is subject.

We seek to ensure that the educational activities we support through our grants program are in accordance with the appropriate criteria for independent educational activities. However, we cannot provide assurance that the FDA or other government authorities would view the programs supported as being independent.

Fraud, Abuse and False Claims

We are directly and indirectly subject to various federal and state laws governing relationships with healthcare providers and pertaining to healthcare fraud and abuse, including anti-kickback laws. In particular, the U.S. Anti-Kickback Statute prohibits persons from knowingly and willfully soliciting, offering, receiving, or providing remuneration, directly or indirectly, in exchange for or to induce either the referral of an individual, or the furnishing, arranging for or recommending a good or service for which payment may be made in whole or part under federal healthcare programs, such as the Medicare and Medicaid programs. Penalties for violations could include criminal penalties and civil sanctions such as fines, imprisonment and possible exclusion from Medicare, Medicaid, and other federal healthcare programs. In implementing the statute, the Office of Inspector General of the U.S. Department of Health and Human Services (“OIG”) has issued a series of regulations, known as “safe harbors.” These safe harbors set forth provisions that, if all their applicable requirements are met, will assure healthcare providers and other parties that they will not be prosecuted under the Anti-Kickback Statute for activities that fit within a safe harbor. The failure of a transaction or arrangement to fit precisely within one or more safe harbors does not necessarily mean that it is illegal or that prosecution will be pursued. However, conduct and business arrangements that do not fully satisfy each applicable element of a safe harbor may result in increased scrutiny by government enforcement authorities, such as the OIG, and may be “at risk” activities unless a favorable advisory opinion is obtained from the OIG.

The federal False Claims Act (“FCA”) imposes civil liability on any person or entity that submits, or causes the submission of, a false or fraudulent claim to the U.S. government. Damages under the FCA can be significant and consist of the imposition of fines and penalties. The FCA also allows a private individual or entity with knowledge of past or present fraud against the federal government to sue on behalf of the government to recover the civil penalties and treble damages. The U.S. Department of Justice ("DOJ") has previously alleged that the marketing and promotional practices of pharmaceutical and medical device manufacturers including the off-label promotion of products or the payment of prohibited kickbacks to doctors violated the FCA resulting in the submission of improper claims to federal and state healthcare entitlement programs such as Medicaid.

AdvaMed is one of the primary voluntary U.S. trade associations for medical device manufacturers. PhRMA is another trade association focused on the pharmaceutical industry. These associations have established guidelines and protocols for medical device and pharmaceutical manufacturers, respectively, in their relationships with healthcare professionals on matters, including research and development, product training and education, grants and charitable contributions, support of third-party educational conferences, and consulting arrangements. Adoption of the AdvaMed or PhRMA Codes by a medical device manufacturer is voluntary, and while the OIG and other federal and state healthcare regulatory agencies encourage its adoption, they do not view adoption of these codes as proof of compliance with applicable laws. Key to the underlying principles of the AdvaMed and PhRMA Codes is the need to focus the relationships between manufacturers and healthcare professionals on matters of training, education and scientific research, and limit payments between manufacturers and healthcare professionals to fair market value for legitimate services provided and payment of modest meal, travel, and other expenses for a healthcare professional under limited circumstances. We have incorporated these principles into our relationships with healthcare professionals under our consulting agreements, payment of travel and lodging expenses, research and educational grant procedures and sponsorship of

third-party conferences. In addition, we have conducted and will continue to conduct training sessions on these principles. Finally, the Sunshine Act, as defined below, imposes additional reporting and disclosure requirements on us for any "transfer of value" made or distributed to physicians and teaching hospitals, as well as reporting of certain physician ownership interests. We cannot provide any assurance that regulatory, or enforcement authorities will view our relationships with physicians or policies as being in compliance with applicable regulations and laws.

***Regulation Outside of the U.S.***

Distribution and sales of medical products outside of the U.S. are subject to foreign governmental regulations that vary substantially from country to country.

There are restrictions under U.S. law on the export of medical devices and biological products that cannot be legally distributed in the U.S. The FDA has set forth certain requirements for the export of devices outside of the U.S. depending on the class of device and its FDA approval. We currently believe we comply with applicable regulations when exporting our products and we intend to continue such compliance in the event there are any regulatory changes regarding its products in the U.S.

The European Medicines Agency (EMA) is the decentralized body of the European Union, located in Amsterdam in the Netherlands. It is responsible for the scientific evaluation, supervision, and safety monitoring of medicines for human and veterinary use in the EU. The EMA serves the EU and three countries from the European Economic Area (EEA)—Iceland, Norway, and Liechtenstein. The EU has adopted numerous directives, regulations, and promulgated voluntary standards regulating the design, manufacture and labeling of, and clinical trials and adverse event reporting for medicinal products including medical devices. Devices that comply with the requirements of a relevant regulation or directive will be entitled to bear CE marking, indicating that the device conforms to the essential requirements of the applicable regulation and directives and can be commercially distributed throughout the member states of the E.U. and other countries that comply. The method for assessing conformity varies depending on the type and class of the device, but normally involves an assessment by the manufacturer and a third-party assessment by a notified body, an independent and neutral institution appointed by a country to conduct the conformity assessment. This third-party assessment may consist of an audit of the manufacturer's quality system and specific testing of the manufacturer's device. Such an assessment is required for a manufacturer to commercially distribute the product throughout these countries. In the second quarter of 2014, Axogen's Quality System became registered to ISO 13485 for Receipt, Handling, Storage and Distribution of Axoguard Nerve Connector and Axoguard Nerve Protector and we will maintain the registration through 2024.

Cook Biotech is responsible for all regulatory filings for the Axoguard Nerve Connector and Axoguard Nerve Protector products, including international registrations. We provide the countries for Cook Biotech to register with, and Cook Biotech prepares and submits the product filing documentation to the Ministry of Health ("MOH") for the country. Each country or region has its own regulations and the documentation required for submission varies. It typically takes less than nine months from the initiation of the project to obtain clearance in a given country or region. To date, the Axoguard Nerve Connector and Axoguard Nerve Protector product lines were registered in May 2013 in Canada for distribution and in April 2013 the product lines were awarded the CE Mark allowing distribution into the E.U. and other countries that accept the CE Mark. Cook Biotech received the renewal of the CE Mark for Axoguard Nerve Connector and Axoguard Nerve Protector in May 2021.

In addition, the new European Medical Device Regulation ("E.U. MDR") passed in the European Parliament on April 5, 2017, and went into effect on May 25, 2017. The E.U. MDR is an extensive reform of the rules governing the medical device industry in Europe. Under this regulation, manufacturers had through May 2021 to comply with a broad set of new rules for almost every kind of medical device. The E.U. MDR requires changes in the clinical evidence required for medical devices, post-market clinical follow-up evidence, annual reporting of safety information for Class III products, and bi-annual reporting for Class II products, Unique Device Identification ("UDI") for all products, submission of core data elements to a European UDI database prior to placement of a device on the market, reclassification of medical devices, and multiple other labeling changes.

While 6 years has passed since the adoption of MDR, The Regulations' transitional provisions have been amended in 2022 to give manufacturers and notified bodies more time to conduct the necessary conformity assessment procedures and to avert shortages of devices needed for the EU healthcare systems. Regulation (EU) 2023/607 extended the transitional period according to the risk class of the legacy device until December 2027 or December 2028 and Regulation (EU) 2022/112 extending the transitional period according to the risk class of the legacy device until May 2025 for devices already certified by a notified body under the Directive and class D devices), until May 2026 for class C devices and until May 2027 for class B and A sterile devices). Overall, medical device companies can continue to expect longer lead times to obtain product conformity assessments and registrations (i.e., CE Mark Certification) in the E.U. and a substantially costlier pathway to compliance in the E.U.

Cook Biotech is responsible for registering and attaining MDR conformity for Axoguard Nerve Connector and Axoguard Nerve Protector in the EU. As distributor of these two products in the EU, we are not yet able to fully determine the costs of complying with these regulations, how the E.U. will continue interpreting and enforcing them, what the timelines for approvals of products will be and the overall effect of the E.U. MDR on the marketplace. Given the significant additional pre-market and post-market requirements imposed by the E.U. MDR, the overall impact of these new rules could have a material, adverse effect on our international revenue and expenses.

The UK left the E.U. in January 2020. We register our human tissue products in each individual E.U. country and our distributor in the UK has import authority for our human tissue product. It is expected that licensed UK establishments that import or export tissues or cells will need written agreements with the relevant E.U. licensed establishments to continue importing and exporting with the E.U. As we ship directly to the UK from the U.S., we did not experience and do not expect delays in shipment of human tissue products into the UK. Further, the RANGER clinical trial being performed at select hospitals in the UK was not affected by Brexit (defined below in "Risk Factors - Regulation Outside of the U.S.") as long as the products continue to come directly from the U.S. Beginning in January 2021, new changes became effective as the transition period for the UK's exit from the E.U. ended. Specifically, all medical devices placed into the UK market had to be registered, subject to applicable grace periods, with the Medicines and Healthcare products Regulatory Agency ("MHRA"), will need to appoint a UK Responsible Person, and comply with additional product marking and conformity assessment requirements. Medical devices must be registered with the MHRA if they are being placed in the UK market after May 1, 2021. Cook Biotech is responsible for appointing the UK Responsible Person and registering Axoguard Nerve Connector and Axoguard Nerve Protector in the UK.

***Tissue products are not currently regulated under the CE Mark***

We are responsible for all regulatory filings for Avance Nerve Graft. To obtain international approvals, we prepare the product filing documentation and submit this documentation to the MOH for a country.

Although some standards of harmonization exist, each country in which we conduct business has its own specific regulatory requirements, which are dynamic in nature and continually changing. We procure and process our tissue for the Avance Nerve Graft in the U.S. and market the Avance Nerve Graft in Canada, the UK, and certain other countries under compliance with the individual country regulations. We conduct a regulatory review at the time of submission of the product dossier. This involves reviewing the appropriate MOH regulations, discussion with in-country distributors and use of consultants. It typically takes less than nine months from the initiation of the product to develop a product dossier (specific for that country), submission of the documentation and MOH review of the product filing. While we believe that we are in compliance with all existing pertinent international and domestic laws and regulations, there can be no assurance that changes in governmental administrations and regulations will not negatively impact our operations. The FDA and international regulatory bodies conduct periodic compliance inspections of our U.S. processing facilities. Axogen's processing and distribution locations are properly registered with CBER as tissue establishments. In 2023, AATB re-accredited Axogen for compliance to the AATB standards for tissue banking for all our facilities. Additionally, our facilities are appropriately licensed in the states of Florida, New York, California, Maryland, Delaware, Oregon, and Illinois as tissue establishments. We believe that worldwide regulation of tissue products is likely to intensify as the international regulatory community focuses on the growing demand for these implant products and the attendant safety and efficacy issues of recipients. Changes in governing laws and regulations could have a material adverse effect on our financial condition and results of operations. Our management further believes that it can help to mitigate this exposure by continuing to work closely with government and industry regulators.

**Environmental**

As a biotech company of our size, we believe our impact on the environment is modest. However, we are continuously evaluating how we can be the best possible stewards of the environment, and follow local, state, and federal environmental regulations. We are taking steps in our operations and facilities to positively impact the environment wherever possible.

Our products, as well as the chemicals used in processing these products, are handled and disposed of in accordance with country-specific, federal, state, and local environmental regulations. Since 2007, we have used outside third parties to perform all biohazard waste disposal.

We contract with independent, third parties to perform sterilization of our allografts. Because of the engagement of a third party to perform irradiation services, the requirements for compliance with radiation hazardous waste do not apply, and therefore we do not anticipate that this engagement will have any material adverse effect upon our capital expenditures, results of operations or financial condition. However, we are responsible for assuring that the service is performed in accordance with applicable regulations. Although we believe we are in compliance with all applicable environmental regulations, the failure to fully comply with any such regulations could result in the imposition of penalties, fines or sanctions that could have a material adverse effect on our business.

**Human Capital**

As of December 31, 2023, we had 428 total employees, including approximately 2 part-time employees and 426 full-time employees. Of these employees, 216 work in sales and marketing, 90 work in corporate, 47 work in research and development

and 75 work in operations. Approximately 45% of our employees were female and 55% were male. As of the date of this Annual Report on Form 10-K we have not had a work stoppage and no employees are represented by a labor union.

We believe in creating and maintaining a culture that encourages and rewards honesty, openness, and passionate debate among our employees, respect is the foundation for communication and action, and patient safety is our first priority We are committed to fostering a culture of diversity, equity, and inclusion. Our corporate values support honest and open communication, mutual support, collaboration, passionate debate, empowerment, and respect. Our Equal Employment Policy includes specific training on preventing discrimination and harassment and encourages diversity, equity, and inclusion. We also have an annual Affirmative Action Plan, which is actively implemented and reviewed with management and our Board of Directors and. following such review, adjusted as needed to meet changing conditions. We are committed to advertising our opportunities on each state's job boards in order to reach an increasingly diverse population of candidates, and we conduct routine audits of our existing job postings, advertisements and candidate communications for gender coding, and update any gender specific language to gender neutral language. Additionally, we have a policy that supports employees who are veterans that participate in Honors Guards, who are selected from partnerships with veteran organizations and participating companies and attend by invitation, and military funerals, the Honor Guards. Further, some of our recruitment efforts are to engage with the next generation of scientists and engineers through targeted awareness and internship programs. We work with Women in Life Sciences, Society for Asian Scientists and Engineers, Society of Women Engineers, and BioFlorida to educate students and professionals about career opportunities available at our Company.

We strive to offer benefits plans that are viewed as attractive and beneficial to employees. In 2023 we updated and expanded our offerings to include a Consumer Drive Health Plan (CDHP) with an HSA Account and the option of a Limited FSA for qualifying dental and vision expenses for those employees who select the CDHP. Other additions in 2023 include options for Dental (high or low PPO) plans and options for employees to select from two different Vision plan providers, enabling employees to select the option that best fits their needs and includes their preferred physicians. The Short-Term Disability (STD) offering was updated to pay 100% of the employee’s bi-weekly earnings for the first eight weeks of disability and 66.67% for the remaining disability period, up to twelve weeks. And finally, new in 2023 Axogen now offers supplement benefits in the form of Accidental insurance and Critical Illness insurance, designed to help provide financial protection against expenses associated with accidents or illness not covered by medical insurance.

Employee safety is critical to our operations, and we follow Occupational Safety and Health Administration (OSHA) 29 CFR 1910, and use a series of company-wide policies, trainings, and procedures to protect all employees’ health and safety. We utilize an Environmental Health and Safety committee that meets monthly to analyze potential issues, review any incident data, and implement necessary process or procedural changes that can minimize the work-related injuries and occupational exposure to chemicals, biohazards, or illnesses, and eliminate any potential from serious injuries and fatalities.

The Compensation Committee of our board of directors (the "Board of Directors") has oversight of our culture and human capital management, including diversity, equity, and inclusion with respect to our employees.

**Available Information**

Our website address is http://www.axogeninc.com. We have included our website address as an inactive textual reference only. We make available, free of charge through our website, our annual reports on Form 10-K, our quarterly reports on Form 10-Q, our current reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file, or furnish such material to the SEC. We also similarly make available, free of charge on our website, the reports filed with the SEC by our executive officers, directors and 10% shareholders pursuant to Section 16 under the Exchange Act as soon as reasonably practicable after copies of those filings are provided to us by those persons. Reference to our website, or any other website, does not constitute incorporation by reference of the information contained on the site and should not be considered part of this Annual Report on Form 10-K.

**Item 1A. RISK FACTOR SUMMARY**

Below is a summary of our risk factors. Additional discussion of the risks summarized in this risk factor summary, and other risks that we face, can be found below under the heading "Risk Factors" and should be carefully considered, together with other information in this Form 10-K and our other filings with the SEC before making an investment decision regarding our common stock.

**Risks Related to Our Business and Strategy**

- *Our revenue growth depends on our ability to increase distribution and sales to existing customers and develop new customers, domestically and abroad, and there can be no assurance that these efforts will result in significant increases in sales.*
- *Our revenue depends primarily on five products, which is dependent on the continued acceptance of our products by the medical community.*
- *Macroeconomic trends, such as the inflationary pressures and political instability, could continue to have a material adverse effect on our ability to operate, results of operations, financial condition, liquidity, and capital investments.*
- *Our operating results could be adversely impacted if we are unable to effectively manage and sustain our future growth or scale our operations.*
- *We have a history of net losses and have not consistently experienced positive cash flow from operations, and our ability to achieve consistent positive cash flow will depend on increasing revenue from distribution of our products, which may not be achievable.*
- *There may be significant fluctuations in our operating results.*
- *Failure to successfully manage the transition associated with the recent management changes and the search and appointment of a permanent CEO could have an adverse impact on our business.*
- *We may not experience the operating efficiencies anticipated with the transition to our APC Facility. We are highly dependent on the continued availability of our facilities and could be harmed if the facilities are unavailable for any prolonged period of time.*
- *Delays, interruptions, or the cessation of production by our third-party suppliers, including products supplied by single suppliers, of important materials may prevent or delay our ability to manufacture or process the final products.*
- *Surgical technique evolution, technological change and competition could reduce demand for our products.*
- *We must maintain high quality processing of our products.*
- *Our revenue depends upon prompt and adequate reimbursement from public and private insurers and national health systems.*
- *Negative publicity concerning methods of donating human tissue and screening of donated tissue may reduce demand for our products and negatively impact the supply of available donor tissue.*
- *The failure of third parties to perform many necessary services for the commercialization of our products, including services related to recovery/acquisition, distribution and transportation, would impair our ability to meet commercial demand.*
- *We are dependent on our relationships with independent agencies to generate a material portion of our revenue.*
- *If we do not manage product inventory in an effective and efficient manner, it could adversely affect profitability resulting in significant fluctuations in our operating results.*
- *We may be unsuccessful in commercializing our products outside the U.S.*

**Risks Related to the Regulatory Environment in which We Operate**

- *Our Avance Nerve Graft product is currently distributed pursuant to enforcement discretion and a transition plan with the FDA and w*e expect to complete the rolling BLA submission for the Avance Nerve Graft in the third quarter of 2024. *If our BLA is not approved by the FDA if the FDA approves a narrower indication than Avance Nerve Graft's current use, or if the use of Avance Nerve Graft is otherwise curtailed, our revenues would significantly decrease which would have a material adverse effect on our operations.*

- *Our operations must comply with, and our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly and could result in negative effects on our business.*
- *Our products are subject to FDA and international regulatory requirements.*
- *The use, misuse or off-label use of our products may harm our reputation or the image of our products and could result in injuries leading to product liability suits, which could be costly to our business, or result in FDA sanctions.*
- *Our business is subject to continuing compliance to standards by various accreditation and registration bodies, which is costly, and loss of accreditation or registration could result in negative effects on our business.*
- *Defective products could lead to recall or other negative business conditions.*
- *Clinical trials can be long and expensive, and results are ultimately uncertain which could jeopardize our ability to generate data to support marketing of our products or obtain regulatory approval of our Avance Nerve Graft product.*
- *We rely on third parties to conduct our clinical trials, and they may not perform as contractually required or expected.*
- *U.S. governmental regulation could restrict the use of our Avance Nerve Graft product, restrict our procurement of tissue or increase costs.*
- *Healthcare law and policy changes may have a material adverse effect on us.*
- *We could be subject to civil or criminal penalties if we are found to have violated laws protecting the confidentiality of health information, which could increase our liabilities and harm our reputation or our business.*

**Risks Related to Our IP**

- *Failure to protect our IP-rights could result in costly and time-consuming litigation and our loss of any potential competitive advantage.*
- *Future protection for our proprietary rights is uncertain and may impact our ability to successfully compete in our industry.*
- *The patent protection for our products may expire before we are able to maximize their commercial value, which may subject us to increased competition and reduce or eliminate our opportunity to generate product revenue.*
- *Others may claim an ownership interest in our IP which could expose us to litigation and have a significant adverse effect on our prospects.*
- *We depend on the maintenance of exclusive licenses.*
- *Our trademarks are valuable, and our business may be adversely affected if trademarks are not adequately protected.*

**Risks Related to Financing Our Business**

- *Our credit facility and payment obligations under the Revenue Participation Agreement with TPC Investments II LP and Argo SA LLC, each affiliates of Oberland Capital (collectively, "Oberland Capital"), contains operating and financial covenants that restrict our business and financing activities, require cash payments over an extended period of time and are subject to acceleration in specified circumstances, which may result in Oberland Capital taking possession and disposing of any collateral.*
- *We may need to raise additional funds to finance our future capital or operating needs, which could have adverse impacts on our business, results of operations, and the interests of our shareholders.*

## ITEM 1A. RISK FACTORS

Our business involves a number of risks, some of which are beyond our control. The risk and uncertainties described below are not the only ones we face. Set forth below is a discussion of the risks and uncertainties that management believes to be material to us and could adversely affect our business, financial condition, results of operations, cash flows, growth prospects and the trading price of our common stock.

**Risks Related to Our Business and Strategy**

***Our revenue growth depends on our ability to increase distribution and sales to existing customers and develop new customers, domestically and abroad, and there can be no assurance that these efforts will result in significant increases in sales.***

Beginning in 2020, we adjusted our commercial strategy to focus on deeper penetration of our existing surgeon customers through the development of long-term users of our algorithm of nerve repair in our largest market opportunity of extremity trauma. We believe that near-term growth can be supported first through expanded productivity of our existing sales force with existing accounts and second by adding additional customers. We expect the number of direct sales professionals to increase

over time. Additionally, we believe that we have successfully utilized a hybrid commercial approach that includes the use of independent agencies in more remote geographies to provide appropriate local support for customers, without the travel time required of a direct sales representative. We anticipate that we will continue to add to the number of independent sales agencies as it continues to drive higher productivity and efficiency with our direct sales force. We may also need to establish a regional distribution center or centers at some point in the future to account for growth. The incurrence of these expenses may impact our operating results, and there can be no assurance of their effectiveness. If we are unable to increase sales to existing customers and attract new customers, and develop our sales force, there could be a material adverse impact on our business, results of operations, financial condition, and prospects. Additionally, our growth margin is dependent on maintaining a diversified demand mix. If demand only grows in one use application it could negatively impact gross margin. We are focusing on creating balanced revenue growth and yield improvements in product processing, but we may be unable to do so.

***Our revenue depends primarily on five products.***

Substantially all of our revenue is currently derived from five products, Avance Nerve Graft, Axoguard Nerve Protector, Axoguard Nerve Connector, Axoguard HA + Nerve Protector, and Axoguard Nerve Cap for the treatment of peripheral nerve damage. Of these five products, Avance Nerve Graft represents approximately 60% of our total revenue. Any disruption in our ability to generate revenue from the processing, distribution, and sale of products, especially Avance Nerve Graft, will have a material adverse impact on our business, results of operations, financial condition, and prospects.

Axoguard Nerve Connector and Axoguard Nerve Protector are only available through the Cook Biotech Distribution Agreement. The Distribution Agreement was amended February 26, 2018, to extend the termination date to June 30, 2027 and on August 4, 2023, to extend the termination date to December 31, 2030. However, there are conditions for continuation of the agreement, including payment terms and minimum purchase requirements, that if breached could result in an earlier termination of the agreement. Through mutual agreement, the parties have not established such minimums and to date have not enforced such minimum purchase provision. Additionally, in the event that Cook Biotech were to enforce minimum purchase quantities and we fail to reach an agreement as to such minimums, Cook Biotech could terminate the agreement if we fail to generate commercially reasonable sales of Axoguard as measured by sales similar to a competitive product at the same stage in its commercial launch as verified by a mutually acceptable third party. We distribute the Axoguard Nerve Connector and Axoguard Nerve Protector for Cook Biotech, and Cook Biotech is the contract manufacturer for our Axoguard HA+ Nerve Protector and Axoguard Nerve Cap. Although we believe we could develop or obtain products that would replace the Axoguard products obtained through the Cook Biotech agreements, the loss of the ability to sell the Axoguard products could have a material adverse effect on our business, results of operations, financial condition, and prospects. Further, on January 31, 2024, RTI Surgical, Inc. announced the acquisition of Cook Biotech. While do not expect the acquisition of Cook Biotech to have a material impact on our relationship with Cook Biotech or our operations, it is possible that due to the change in control Cook Biotech elects to enforce the minimum purchase requirements and/or elect not to renew the Distribution Agreement further.

***Approximately 60% of our total revenues are from sales of Avance Nerve Graft.***

Approximately 60% of our total revenues are from sales of Avance Nerve Graft, which the FDA considers to be a biological product subject to BLA approval requirements. The product is currently distributed pursuant to a transition plan with the FDA. Any change in position by the FDA regarding its use of enforcement discretion regarding the sale of Avance Nerve Graft, or if the BLA we intend to submit is not approved, if our indications are narrowed, or use of Avance Nerve is curtailed in any other way, it will have a material negative impact on our revenues and our operations. For additional information see: “Risk Factors – Our Avance Nerve Graft product is currently distributed pursuant to a transition plan with the FDA; however, we expect to complete the rolling BLA submission for the Avance Nerve Graft in the third quarter of 2024, and if the FDA does not approve our BLA or otherwise limits on use of our Avance Nerve Graft product it would have a significant impact on our revenues and thus would have a material adverse effect on us.”

***Macroeconomic trends, such as the inflationary pressure, and political instability could continue to have a material adverse effect on our ability to operate, results of operations, financial condition, liquidity, and capital investments.***

We continue to actively monitor the impact of various macroeconomic trends, including high rates of inflation, increasing interest rates, increasing labor costs, supply chain disruptions, labor shortages and, geopolitical instability on our business. We have experienced increased costs consistent with rising interest rates, and inflationary pressures. At this time, we cannot predict the specific extent, duration or full impact of inflationary conditions, supply chain disruptions, geopolitical instability will have on our ongoing and planned clinical trials, our ability to operate, results of operations, financial condition, liquidity, and capital investments.

Economic conditions, such as rising inflation, higher interest rates, increasing labor costs, supply chain pressures, changes in regulatory laws and monetary exchange rates, and government fiscal policies, can also have a significant effect on the cost of

operations including the cost of materials and labor, as well as the interest on our debt. Moreover, negative macroeconomic conditions could adversely impact our ability to obtain financing in the future on terms acceptable to us, or at all. In addition, the geopolitical instability and related sanctions could continue to have significant ramifications including volatility in the U.S. and global financial markets.

***Our operating results could be adversely impacted if we are unable to effectively manage and sustain our future growth or scale our operations.***

There can be no assurance that we will be able to manage our future growth efficiently or profitably. Our business is unproven on a large scale, and actual revenue and operating margins, or revenue and margin growth, may be less than expected. If we are unable to scale our production capabilities efficiently or maintain pricing without significant discounting, we may fail to achieve expected operating margins, which would have a material and adverse effect on our operating results. Growth may also stress our ability to adequately manage our operations, quality of products, safety, and regulatory compliance. Failure to implement necessary procedures, equipment, or processes or to hire the necessary personnel in a timely and effective manner could result in higher costs or an inability to meet market demand and could have a material adverse impact on our business, results of operations, financial condition, and prospects. Additionally, our future growth will increase the demands placed on our third-party suppliers, and there is no guarantee that our suppliers will be able to support our anticipated growth. If growth significantly decreases, it will negatively impact our cash reserves, and we may be required to obtain additional financing, which may increase indebtedness or result in dilution to shareholders. Further, there can be no assurance that we would be able to obtain additional financing on acceptable terms, if at all.

***We have a history of net losses and have not consistently experienced positive cash flow from operations, and our ability to achieve consistent positive cash flow will depend on increasing revenue from distribution of our products, which may not be achievable.***

We have historically incurred net losses and operated with negative cash flow from our operations and may continue to incur losses and operate with negative cash flow from operations for the foreseeable future. We have incurred net losses of $21.7 million, $28.9 million and $27.0 million for the years ended December 31, 2023, 2022 and 2021, respectively. As of December 31, 2023, we had an accumulated deficit of approximately $281.3 million. If revenue does not increase as anticipated, then we will continue to incur net losses and experience negative cash flows and adverse operating conditions. In June 2020, we entered into a seven-year $75 million credit facility (the "Credit Facility") with Oberland Capital, from which we drew proceeds of $50 million, which were used and will continue to be used for working capital, capital expenditures and general corporate purposes. As our debt obligations mature or if our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay investments and capital expenditures, sell assets, seek additional capital, or restructure or refinance our indebtedness. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations. If we raise funds by selling additional equity, such sale would result in dilution to our shareholders. There is no assurance that if we are required to secure funding, we can do so on terms acceptable to us, or at all.

***Failure to successfully manage the transition associated with the recent management changes and the search and appointment of a permanent CEO could have an adverse impact on our business.***

Karen Zaderej informed the Company’s board of directors of her intention to retire from her role as the Chief Executive Officer in January 2025.The Board has begun the search for a permanent CEO. In addition, on December 6, 2023, Peter Mariani was replaced by Nir Naor as the Company’s Chief Financial Officer. Moreover, Mike Donovan, our VP of Operations announced his intention to retire from his role in March 2024. Mr. Donovan’s duties will be transitioned to Todd Puckett in March 2024. Leadership transitions can be inherently difficult to manage and competition for qualified executives can be intense, and there are a limited number of people with the requisite knowledge and experience. The transition to a permanent CEO may cause disruption to our business due to, among other things, diverting management’s attention away from the Company’s financial and operational goals or causing a deterioration in morale. During the transition period there may be uncertainty among investors, customers, and other third parties, concerning our future direction and performance. It may also be more difficult for us to recruit and retain other personnel until a permanent CEO is identified.

***Our success will be dependent on continued acceptance of our products by the medical community.***

Our success is dependent on continued acceptance of our products by the medical community, which will depend on our ability to demonstrate that our products are an attractive alternative to existing or new nerve reconstruction treatment options, including both surgical techniques and products. Our ability to do so will depend on surgeons’ evaluations of clinical safety, efficacy, ease of use, reliability, and cost-effectiveness, including insurance reimbursement, of our nerve repair products. For

example, although our Avance Nerve Graft follows stringent safety standards, including sterilization by gamma irradiation, we believe that a small portion of the medical community has lingering concerns over the risk of disease transmission through the use of allografts in general. If the medical community and patients do not ultimately accept our products as safe and effective or we are unable to raise awareness of our products and processes, our ability to sell the products may be materially and adversely affected, and our business, results of operations, financial condition, and prospects may be adversely affected.

***We are highly dependent on the continued availability of our facilities and could be harmed if the facilities are unavailable for any prolonged period of time and we may not experience the operating efficiencies anticipated with the transition to our APC Facility.***

We have completed renovation of our APC Facility and transferred the Avance Nerve Graft tissue processing and packaging to the APC Facility but expect to continue to rely on the CTS facility for the processing of Avive+. We may not experience the anticipated operating efficiencies as we commence processing operations at the APC Facility. It could cause a significant disruption in service to our customers if we were to lose, even temporarily, the availability of our production or distribution facilities. If we are not able to comply with the applicable regulatory requirements or produce product that meets our requirements and specifications, it could delay or disrupt our BLA approval and we will be subject to the same risks that we would be subject to should third parties be unable to comply with the applicable regulatory requirements or produce product meeting our requirements or specifications, as described above. If we fail to achieve the operating efficiencies that we anticipate, our business, results of operations, financial condition, and prospects could be adversely impacted.

In operating our new processing facility, we may be forced to devote greater resources and management time than anticipated, particularly in areas relating to operations, quality, raw material supply, regulatory, facilities and information technology. If we experience unanticipated employee turnover in any of these areas, we may not be able to effectively manage our ongoing processing operations and we may not achieve the operating efficiencies that we anticipate from the APC Facility, which may negatively affect our business, results of operations, financial condition, and prospects.

Any failure in the physical infrastructure of our facilities, including the APC Facility and the facility we license from CTS, could lead to significant costs and disruptions that could reduce our revenue and harm both our business reputation and financial results. Any natural or man-made event that impacts our ability to utilize our facilities could have a material impact on our business, results of operations, financial condition, and prospects. Although we have business interruption insurance that would cover certain costs in instances other than service agreement termination, it may not cover all costs nor help to regain our standing in the market. In addition, we may plan to expand the APC facility or open additional office, lab or distributions space in the future, and our ability to license, renovate, rebuild, or find acceptable service facilities takes a considerable amount of time and expense.

***Delays, interruptions, or the cessation of production by our third-party suppliers, including products supplied by single suppliers, of important materials may prevent or delay our ability to manufacture or process the final products.***

Most of the raw materials used in the process for Avance Nerve Graft are available from more than one supplier. However, there are materials within the manufacturing and production process that come from single suppliers, some of which are outside of the U.S., or certain supplies may be difficult to procure due to supply chain shortages or changes in global trade regulations. Macroeconomic factors could cause disruptions in the supply chain and impair our ability to obtain the materials needed for our product line.

We do not have written contracts that guarantee supply with any of our suppliers, and at any time they could stop supplying our orders. FDA review of a new supplier may be required if these materials become unavailable from our current suppliers. Although there may be other suppliers that have equivalent materials that would be available to us, if FDA review is required, it could take several months or years to obtain, if approval is able to be obtained at all. Any delay, interruption, or cessation of production by our third-party suppliers of important materials, or any delay in qualifying new materials, if necessary, would prevent or delay our ability to manufacture products. We are working on identifying and contracting with additional suppliers to reduce our dependence on single source suppliers and service providers.

In addition, an uncorrected impurity, a supplier’s variation in a raw material or testing, either unknown to us or incompatible with our manufacturing process, or any other problem with our materials, testing or components, would prevent or delay our ability to process tissue. These delays may limit our ability to meet demand for our products and delay our clinical trials, which would have a material adverse impact on our business, results of operations, financial condition, and prospects.

***Technological change and competition for newly developed products could reduce demand for our products.***

The medical technology industry is intensely competitive. We compete with both U.S. and international entities that engage in the development and production of medical technologies and processes, including:

- biotechnology, orthopedic, pharmaceutical, biomaterial, chemical, and other companies;
- academic and scientific institutions; and
- public and private research organizations.

Our products compete with autograft, hollow-tube conduits, commercially available wraps, and amnion products, as well as with alternative medical procedures. For the foreseeable future, we believe a significant number of surgeons will continue to choose to perform autograft procedures when feasible, despite the necessity of performing a second operation and its drawbacks. In addition, many members of the medical community will continue to prefer the use of hollow-tube conduits due in part to their familiarity with these products and the procedures required for their use. Also, steady improvements have been made in synthetic human tissue substitutes, which could compete with our products in the future. Unlike allografts, synthetic tissue technologies are not dependent on the availability of human or animal tissue. Although our growth strategy contemplates the introduction of new technologies, the development of these technologies is a complex and uncertain process, which require a high level of innovation, as well as the ability to accurately predict future technology and market trends. We may not be able to respond effectively to technological changes and emerging industry standards, or to successfully identify, develop or support new technologies or enhancements to existing products in a timely and cost-effective manner, if at all. There can be no assurance that in the future our competitors will not develop products that have superior performance or are less expensive relative to our products, rendering our products obsolete or noncompetitive. In this regard, Integra and Baxter each have or will commercialize a product consisting of a hollow tube conduit filled with material which they suggest is superior to their current hollow conduit products. Additionally, in 2022, Biocircuit received 510(k) clearance for a SIS-based nerve wrap with integrated microhooks that enable suture-free coaptation of peripheral nerves potentially allowing for simpler, consistent quick repairs compared to using typical hollow tube conduits and nerve wraps. Also in 2022, L&C Bio Co. LTD from South Korea registered as a human nerve allograft processor and distributor with the FDA, however, such a product is not currently sold in the U.S. market, and we believe such product would require a biologics license for commercialization. Moreover, a Chinese company provides a human peripheral nerve allograft in China; however, such product is not sold in our markets of interest because of the protection afforded by our IP. Due to our resource allocation, size, and relatively early stage, we may face competitive challenges from these new products or existing products and barriers that are difficult to overcome and could negatively impact our growth.

***We must maintain high quality processing of our products.***

Our Avance Nerve Graft is processed through our Avance Method, which requires careful calibration and precise, high-quality processing and manufacturing. Achieving precision and quality control requires skill and diligence by our personnel. If we fail to achieve and maintain these high levels of quality control and processing standards, including avoidance of processing errors, defects, or product failures, we could experience recalls or withdrawals of our product, delays in delivery, cost overruns or other problems that would adversely affect our business. We cannot completely eliminate the risk of errors, defects or failures and could experience quality system issues where corrective actions must be taken. In addition, we may experience difficulties in scaling-up processing of our Avance products, including problems related to yields, quality control and assurance, tissue availability, adequacy of control policies and procedures, and lack of skilled personnel. If we are unable to process and produce our human tissue products on a timely basis, at acceptable quality and costs, and in sufficient quantities, or if we experience unanticipated technological problems or delays in production, our business, results of operations, financial condition, and prospects would be adversely affected.

***Our revenue depends upon prompt and adequate reimbursement from public and private insurers and national health systems.***

Political, societal, economic, and regulatory influences are fundamentally changing the U.S. healthcare industry. The ability of a hospital or an ambulatory surgery center to pay fees for our products depends in part on the availability of adequate coverage and reimbursement from third-party payors for our products specifically, the procedures associated with the use of our products, or both. Providers that purchase our products generally rely on third-party payors to reimburse all or part of the costs and fees associated with the procedures performed with our products or the products themselves. Therefore, adequate coverage and reimbursement from third-party payors, including government payors such as Medicare and Medicaid, are important for obtaining product acceptance and widespread adoption in the marketplace.

When our products are used in the operating room of a hospital, they are commonly treated as general supplies utilized in surgery, and the cost is included in payment to the facility for the procedure. When Avance Nerve Graft and Axoguard

Connector are used in an outpatient setting where the nerve repair is the primary reason for the procedure, facilities may use a Category I CPT code to facilitate payment.

In January 2018, the American Medical Association created a Category I CPT code (64912) specific to nerve repair with nerve allograft (Avance Nerve Graft) and a separate code (+64913) for each additional strand of allograft used in a procedure. Category I CPT codes are used by providers to facilitate payment to the provider (either hospital or ambulatory surgery center) for outpatient procedures. Additionally, Category I CPT codes are used to facilitate payment to the surgeon, for both time spent in outpatient and inpatient procedures. Prior to January 2018, there was no designated Category I CPT code for nerve repair cases that included nerve allograft. The Category I CPT code specific to nerve repair with nerve allograft, has allowed for nerve allograft repair cases to be uniquely identified in the Medicare claims data. This in turn allowed CMS visibility to nerve allograft nerve procedure costs, and thereby confirm that nerve allograft qualified as a device intensive procedure.

Another important change in nerve repair reimbursement occurred in January 2020, when most direct repair procedures were moved from the higher paying level 2 nerve repair Ambulatory Payment Category 5432 to the lower paying level 1 Ambulatory Payment Category 5431, thus aligning payment rates more consistently with the lesser costs of a direct repair.

As a result of the allograft device intensive status and direct repair Ambulatory Payment Category realignment, CMS reimbursement rates for nerve repair in the outpatient setting have changed significantly during the last two years. With the new 2023 CMS reimbursement rates for nerve repair in the outpatient setting that became effective January 1st, reimbursement for procedures using Avance have increased 35% in hospital outpatient centers and 115% in ambulatory surgery centers since 2019. During this same timeframe, reimbursement rates for procedures involving conduits and connectors also increased 35% in hospital outpatient centers and 49% in ambulatory surgery centers. While Medicare patients represent a relatively small percentage of trauma cases, CMS' direction often influences commercial payor policies and payments.

The process for securing coding for a product or procedure is separate from the process of securing coverage and establishing a reimbursement payment rate. In the U.S., coverage and reimbursement for medical devices varies among payors. In addition, payors review coverage policies on an ongoing basis and can change or deny coverage for these new products and procedures without notice. We estimate that commercial payors covering a significant number of U.S. covered lives have legacy non-coverage policies relating to our Avance Nerve Graft and our Axoguard product lines, designating these products investigational or experimental. Some commercial payors do not currently cover or reimburse our products because they have determined insufficient evidence of favorable clinical outcomes is available. Although some payors consider Avance Nerve Graft and our Axoguard product lines investigational or experimental at this time, these payors may in the future determine sufficient evidence has been developed to cover and reimburse our products and related procedures. In partnership with healthcare providers, we are working actively to reverse these non-coverage decisions and have been successful with several regional plans. However, we cannot provide assurance that we will continue to be successful in these efforts. If we are not successful in reversing existing non-coverage policies, or if other third-party payors issue similar policies, this could have a material adverse effect on our business and operations. Further, third-party payors who currently cover and reimburse customers for procedures using our products may in the future choose to decrease current levels of reimbursement or eliminate reimbursement altogether, which would cause our business to suffer.

The amount of reimbursement received by our customers from third-party payors is dependent generally on fee schedules established by these payors for the existing CPT codes. For governmental payors, such as Medicare and Medicaid, the fee schedule amount is determined by statutory and regulatory formulas as previously discussed. For commercial payors, the reimbursement amount generally is dependent upon the specific contract terms between the provider and payor. We cannot provide assurance that government or commercial payors will continue to reimburse for procedures with our products using the existing codes, nor can we provide assurance that the payment rates will be adequate. If providers and physicians are unable to obtain reimbursement for the procedure at adequate levels when use of our products is included, this could have a material adverse effect on our business and operations. Hospitals and ambulatory surgery centers may not purchase our products if they do not receive payment sufficient to cover the cost of our products and related procedures. In addition, in the event that the current coding and/or payment methodology for these procedures changes, this could have a material effect on our business, results of operations, financial condition, and prospects.

Additionally, healthcare law and policy changes may have a material adverse effect on our revenues. See: "Risk Factors – Healthcare law and policy changes may have a material adverse effect on us."

***Negative publicity concerning methods of donating human tissue and screening of donated tissue may reduce demand for our products and negatively impact the supply of available donor tissue.***

We are highly dependent on our ability to recover human peripheral nerve tissue from tissue donors for our Avance Nerve Graft product. The availability of acceptable donors is relatively limited, and this availability is impacted by regulatory changes,

general public opinion of the donation process, and our reputation for handling the donation process. Media reports or other negative publicity concerning both improper methods of tissue recovery from donors and disease transmission from donated tissue, including bones and tendons, may limit widespread acceptance of our Avance Nerve Graft. Unfavorable reports of improper or illegal tissue recovery practices, both in the U.S. and internationally, as well as incidents of improperly processed tissue leading to transmission of disease, may broadly affect the rate of future tissue donation and market acceptance of allograft technologies and donated tissue use. Potential patients may not be able to distinguish our products, technologies, and tissue recovery and processing procedures from others engaged in tissue recovery. In addition, unfavorable reports could make families of our potential donors or donors themselves from whom we are required to obtain consent before processing tissue reluctant to agree to donate tissue to for-profit tissue processors. Any disruption in the supply caused by these publicity issues could have a material impact for our business, results of operations, financial condition, and prospects.

***The failure of third parties to perform many necessary services for the commercialization of our products, including services related to recovery/acquisition, sterilization, distribution, and transportation, would impair our ability to meet commercial demand.***

We rely upon third parties for certain recovery/acquisition, sterilization, distribution, and transportation services for our products. For example, the Avance Nerve Graft processing consists of several steps, and we use a number of recovery and/or acquisition agencies to supply the human tissue needed for these products. While we believe our current contracts and the ability to enter into future contracts will provide us with the tissues required for the products, we cannot be sure that we will be able to obtain the tissue that we need in the future. Disruptions in the tissue supply may adversely impact both tissue products and our overall business. If any of the third parties that we rely upon in our recovery/acquisition, distribution or transportation process fail to comply with applicable laws and regulations, fail to meet expected deadlines, or otherwise do not carry out their contractual duties, experience delays due to macroeconomic factors, or encounter physical damage or natural disaster at their facilities, our ability to deliver product to meet commercial demand may be significantly impaired, which could have a material adverse impact on our business, results of operations, financial condition or prospects.

***We are dependent on our relationships with independent agencies to generate a material portion of our revenue.***

We derive material revenue through our relationships with independent agencies. In 2023, approximately 10% of global product revenue was generated through independent agencies. If certain agency relationships were terminated or discontinued for any reason, it could adversely affect our ability to generate revenue and profit. If we require additional agencies, we may not be able to find additional agencies who will agree to market and distribute our products on commercially reasonable terms, if at all. If we are unable to establish new agency relationships or renew certain current distribution agreements on commercially acceptable terms, our business, results of operations, financial condition, and prospects could be materially and adversely impacted.

***If we do not manage product inventory in an effective and efficient manner, it could adversely affect profitability.***

Many factors affect the efficient use and planning of product inventory, such as our ability to predict demand for donor tissue, prepare manufacturing to meet that demand and product mix and handle product expiration. We may be unable to manage our inventory efficiently, keep inventory within expected budget goals, keep our work-in-process inventory on hand or manage it efficiently, control expired product or keep sufficient product on hand to meet demand. Finally, we can provide no assurance that we can keep inventory costs within our target levels, particularly in light of overall cost increases due to global inflation. Failure to do so may materially and adversely impact our business, results of operations, financial condition, and prospects.

***There may be significant fluctuations in our operating results.***

Significant quarterly fluctuations in our results of operations may be caused by, among other factors, our volume of revenue, seasonal changes in nerve repair activity, timing of sales force expansion, unforeseen restrictions on our ability to access healthcare providers such as inflationary pressures, competitive factors and general economic conditions. There can be no assurance that the level of revenue and profit, if any, we achieve in any particular fiscal period, will not be significantly lower than in other comparable fiscal periods. Our expense levels are based, in part, on our expectations as to future revenue. As a result, if future revenue is below expectations, net income or loss may be disproportionately affected by a reduction in revenue, as any corresponding reduction in expenses may not be proportionate to the reduction in revenue.

***We may not be successful in our efforts to build a pipeline of additional product candidates.***

We may not be able to continue to identify and develop new product candidates in addition to our current pipeline. Even if we are successful in continuing to build our pipeline, the potential product candidates that we identify may not be suitable for

clinical development or achieve market acceptance. If we do not successfully develop and commercialize product candidates based upon our approach, we will not be able to obtain product revenue in future periods, which likely would result in significant harm to our financial position and adversely affect our stock price.

***We may be unsuccessful in commercializing our products outside the U.S.***

To date, we have focused our commercialization efforts in the U.S., except for minor revenue in certain foreign countries. We intend to expand distribution and sales outside the U.S. and will need to comply with applicable foreign regulatory requirements, including obtaining the requisite approvals to do so. The regulatory environment for our portfolio of products is complex. Avance Nerve Graft is distributed in Canada, the UK, and certain other countries. We received approval to distribute Avance Nerve Graft in Germany in December 2019. Avance use in Spain currently requires approval for each case to be approved by tissue authorities under an alternative therapies designation. The Axoguard Nerve Connector and Nerve Protector CE Mark has been renewed as of May 2021 by Cook Biotech.

Further, we will need to either enter into distribution agreements with third parties or develop a direct sales force in foreign markets. If we do not obtain adequate levels of reimbursement from third-party payers outside of the U.S., we may be unable to develop and grow our revenue internationally. Outside of the U.S., reimbursement systems vary significantly by country. Many ex-U.S. markets have government-managed healthcare systems that govern reimbursement for medical devices, implants, and procedures. Some ex-U.S. reimbursement systems provide for limited payments in a given period and therefore result in extended payment periods. If we are unable to successfully commercialize our products internationally, our long-term growth prospects may be limited.

***We incur costs as a result of operating as a public company, and our management is required to devote substantial time to compliance initiatives.***

As a public company, we incur legal, accounting, and other expenses to comply with relevant securities laws and regulations, including without limitation, the requirement of establishment and maintenance of effective disclosure and financial controls and corporate governance practices. Our management devotes substantial time and financial resources to these compliance initiatives. Failure to comply with public company requirements could have a material adverse effect on our business. In addition, activity by shareholders or others that bring into question aspects of our business, financial reporting, or management's integrity, whether based on facts, beliefs or baseless and contrived for individual economic gain, can have a negative impact on the price of our stock and can result in substantial time and financial resources being expended to address the situation.

***Changes in the tax code could have a material adverse effect on our results of operations, financial condition, liquidity, and capital investments.***

In recent years, political discourse has centered on potential changes in tax laws or tax rulings. Certain of these changes could negatively affect our financial condition. In addition, our ability to use net operating loss and tax credit carryforwards and certain built-in losses to reduce future tax payments may be limited by provisions of the Internal Revenue Code, and it is possible that certain transactions or a combination of certain transactions may result in material additional limitations on our ability to use our net operating loss and tax credit carryforwards.

**Risks Related to the Regulatory Environment in which We Operate**

***Our Avance Nerve Graft product is currently distributed pursuant to enforcement discretion and a transition plan with the FDA, however we expect to complete the rolling BLA submission for the Avance Nerve Graft in the third quarter of 2024. If the FDA does not approve our BLA, approves a narrower indication than Avance Nerve Graft's current use or otherwise limits use of our Avance Nerve Graft product it would have a significant impact on our revenues and thus would have a material adverse effect on us.***

The FDA considers our Avance Nerve Graft product to be a biological product, subject to BLA approval requirements. Although the Avance Nerve Graft product has not yet been approved by the FDA through a BLA, it is currently distributed under the controls applicable to an HCT/P regulated under section 361 of the Public Health Service Act and 21 CFR Part 1271 of FDA's regulations, subject to FDA's enforcement discretion and our compliance with a transition plan established by the FDA. See "Business — Government Regulations — U.S. Government Regulation Overview." We have continued to communicate with CBER since the acceptance of the transition plan on clinical trial design, pre-clinical studies, CMC for Avance Nerve Graft, and other issues related to the effective IND. Subject to the FDA's enforcement discretion, we can commercially distribute Avance Nerve Graft until the FDA makes a final determination on an Avance Nerve Graft BLA submission, assuming we remain in compliance with the transition plan and exercise due diligence in executing the transition

plan. In the event that the FDA becomes dissatisfied with our progress or actions with respect to the transition plan or the FDA changes its position for any reason regarding its use of enforcement discretion to permit us to distribute the Avance Nerve Graft product in accordance with the transition plan, we would no longer be able to distribute Avance Nerve Graft, which would have a material adverse effect on our operations and financial viability. In addition, if we do not meet the conditions of the transition plan, or fail to comply with applicable regulatory requirements, the FDA could impose civil penalties, including fines, product seizures, injunctions, or product recalls and, in certain cases, criminal sanctions. We expect to complete the rolling BLA submission for the Avance Nerve Graft in the third quarter of 2024, and if the FDA does not approve the BLA, narrows the Avance Nerve Graft indication, takes negative action on the BLA, or limits the use of our Avance Nerve Graft product for any other reason, our operations and financial viability would be significantly negatively impacted as we may no longer be able to distribute our Avance Nerve Graft product or the demand for the Avance Nerve Graft product could drop due to limitations on use.

These consequences also would have a material adverse effect on our operations and financial viability. Additionally, approximately 60% of our total revenues are from sales of Avance Nerve Graft, any change in position by the FDA regarding its use of enforcement discretion to permit the sale of Avance Nerve Graft or a negative action on the BLA could have a material negative impact on our revenues and our operations. For additional information see: “Risk Factors - Approximately 60% of our total revenues are from sales of Avance Nerve Graft.”

***Our business is subject to continuing regulatory compliance by the FDA and other authorities, which is costly and could result in negative effects on our business.***

We are subject to extensive regulation by foreign and domestic government entities, including compliance with regulations governing appropriate relationships with healthcare professionals, such as physicians, hospitals, and those to whom and through whom we may market our products. We are subject to various federal, state, and territorial laws in the U.S. and other jurisdictions in which we conduct business. These include, for example, anti-kickback laws, false claims laws, healthcare fraud, waste, and abuse laws, and anti-bribery laws such as the U.S. Foreign Corrupt Practices Act. Violations of these laws can be punishable by criminal and/or civil sanctions, including, in some instances, fines, imprisonment and, within the U.S., exclusion from participation in government healthcare programs, including Medicare, Medicaid, and Veterans Administration health programs. These laws are administered and enforced by, among others, the DOJ, which issued new compliance guidance in 2020, the Office of Inspector General of the Department of Health and Human Services, state attorneys general, and their respective counterparts in the applicable foreign jurisdictions in which we conduct business. Many of these agencies have increased their enforcement activities with respect to drug and medical device manufacturers in recent years. There can also be changes to the regulations by foreign and domestic government entities that require us to update or upgrade business processes or to perform additional validation activities for product or processes. Compliance with such changes can be costly to implement or result in non-compliance, thus restricting the ability to distribute tissue or sell products, which could have a material adverse effect on our business, results of operations, financial condition, and prospects.

Our products are also subject to regulation by the FDA in the U.S. The FDA regulates the development, pre-clinical and clinical testing, requirements for commercial marketing and distribution, manufacturing and quality, safety, labeling, and promotion of medical products including human cells, tissues and cellular and tissue-based products (HCT/Ps), medical devices, and biological products. The FDA requires the pre-market approval of a biological product, like Avance Nerve Graft, through a BLA, prior to marketing. Although the Avance Nerve Graft product has not yet been approved by FDA through a BLA, FDA outlined a transition plan subject to FDA enforcement discretion, that we: (1) transition to compliance with section 501(a)(2)(B) of the FD&C Act, the cGMP regulations in 21 CFR Parts 210 and 211 and the applicable regulations and standards in 21 CFR Parts 600-610 prior to initiation of a phase 3 clinical trial designed to demonstrate the safety, purity, and potency of Avance Nerve Graft; (2) conduct a phase 3 clinical trial to demonstrate safety, purity, and potency of Avance Nerve Graft under an SPA; (3) continue to comply with the requirements of 21 CFR Part 1271; and (4) exercise due diligence in executing the transition plan. See “Business — Government Regulations — U.S. Government Regulation Overview.”

The FDA also regulates medical devices, for example the Axoguard products, and generally requires them to be cleared through the 510(k) pre-market notification process prior to marketing or through other pre-market approval processes. The FDA’s pre-market review process for new and modified existing devices that precedes product marketing can be time consuming and expensive. Some of the future products and enhancements to such products that we expect to develop, and market may require marketing clearance or approval from the FDA.

There can be no assurance, however, that clearance or approval will be granted with respect to any of our medical device products or enhancements of marketed products or that our Avance Nerve Graft will meet FDA’s requirements for continued marketing and transition to a BLA or ultimately an approved BLA. FDA review of our devices or biological products may encounter significant delays during FDA’s pre-market review process that would adversely affect our ability to market our

products or enhancements. In addition, there can be no assurance that our products, including the Avance Nerve Graft, or enhancements will not be subject to a lengthy and expensive approval process with the FDA. Moreover, the FDA could decide to revoke its enforcement discretion or change the terms of enforcement discretion for Avance Nerve Graft at any time. In addition, any products regulated solely under Section 361 of the Public Health Service Act are a product category under close scrutiny by FDA for compliance with the regulatory requirements and potentially subject to regulatory change in the future. Failure to comply with applicable regulatory requirements could expose us to potential compliance actions by FDA or other regulators and could risk the commercial availability of the product.

It is possible that if regulatory clearances or approvals to market a product are obtained from the FDA, the clearances or approvals may contain limitations on the indicated uses of such product and other uses may be prohibited. Product approvals by the FDA can also be withdrawn due to failure to comply with regulatory standards or the occurrence of unforeseen problems following initial approval. The FDA may require post marketing clinical studies or other activities that may add cost or limit marketing of the product. Furthermore, the FDA could limit or prevent the distribution of our products, and the FDA has the authority to require the recall of such products. FDA regulations depend heavily on administrative interpretation, and there can be no assurance that future interpretations made by the FDA or other regulatory bodies will not adversely affect our business, results of operations, financial condition, and prospects. We, and our facilities, may be inspected by the FDA from time to time to determine compliance with various regulations relating to specifications, development, documentation, validation, testing, manufacturing, quality control and product labeling. A determination that we are in violation of such regulations could lead to imposition of civil penalties, including fines, product recalls or product seizures and, in certain cases, criminal sanctions.

***Our Axoguard products are subject to FDA and international regulatory requirements.***

Our Axoguard product line is regulated as a medical device in the U.S. and international countries where we market Axoguard products. In the U.S., Axoguard product line is regulated under the FD&C Act and subject to pre-market notification and clearance requirements under section 510(k) of the FD&C Act, 21 CFR Part 820 (Quality System Regulation) and other FDA regulations. In the rest of the world, each region (such as the E.U.) or country has their independent international regulations such as the Medical Device Regulations (CE Mark) in Europe, UK Medicines and Healthcare products Regulatory Agency (MHRA), and Taiwan Pharmaceutical Affairs Act.

We distribute Axoguard Nerve Connector and Axoguard Nerve Protector products for Cook Biotech, and Cook Biotech is responsible for the regulatory compliance of these products. In the U.S., Cook Biotech has obtained a 510(k) pre-market clearance for Axoguard Nerve Connector from the FDA for porcine (pig) small intestine submucosa for the repair of peripheral nerve transections where gap closure can be achieved by flexion of the extremity. Cook Biotech has also obtained a 510(k) pre-market clearance for Axoguard Nerve Protector for the repair of peripheral nerve damage in which there is no gap or where a gap closure is achieved by flexion of the extremity. In countries where Axoguard is marketed, Cook Biotech has obtained regulatory clearance with the same indications except for Europe and the UK. For the CE Mark, the Axoguard Nerve Protector indication is the same; however, for Axoguard Nerve Connector, the indication is more specific - “The Axoguard Nerve Connector is indicated for the repair of peripheral nerve discontinuities with gaps up to 5 mm.”

We are the authorization holder of the Axoguard Nerve Cap and Axoguard HA+ Nerve Protector. We have obtained 510(k) pre-market clearance for Axoguard Nerve Cap, indicated to protect a peripheral nerve end and to separate the nerve from surrounding environment to reduce the development of symptomatic or painful neuroma. We have obtained two 510(k) pre-market clearances for Axoguard HA+ Nerve Protector, The first 510(k) K223640 was cleared on April 7, 2023, indicated for the management and protection of peripheral nerve injuries where there is no gap. The second 510(k) K231708 was cleared on October 12, 2023 expanding the indication to the management and protection of peripheral nerve injuries where there is no gap, or following closure of the gap.

If we or Cook Biotech fail to comply with applicable regulatory requirements, the regulatory bodies in each country could deny or withdraw regulatory clearance/approval for the Axoguard products, or impose civil penalties, including fines, product seizures or product recalls and, in certain cases, criminal sanctions.

***Our Axotouch product is subject to FDA and other regulatory requirements.***

Our Axotouch product is regulated as a Class I exempt medical device under the FD&C Act and not subject to pre-market notification and clearance requirements under section 510(k) of the FD&C Act, 21 CFR Part 820 (Quality System Regulation) and other FDA regulations. If we fail to comply with applicable regulatory requirements, the FDA could require a 510(k) for the product, or impose civil penalties, including fines, product seizures or product recalls and, in certain cases, criminal sanctions, which may adversely affect our business, results of operations, financial condition, and prospects.

***Our operations must comply with FDA and other governmental requirements.***

Our operations require us to comply with the FDA's and other governmental authorities' laws and regulations on topics including the manufacture and production and sales and marketing of medical products, and compliance efforts related to such laws is costly, and failure to comply could subject us to enforcement action. See "Business — Government Regulations — Education Grants, U.S. Anti-kickback, False Claims and Other Healthcare Fraud and Abuse Laws — Fraud, Abuse and False Claims." Enforcement actions could impair our ability to produce products in a cost-effective and timely manner to meet customer demands. We may also be required to bear other costs or take other actions that may have an adverse impact on our future revenue and our ability to generate profits. Furthermore, our key material suppliers, licensors and or other contractors may not continue to be in compliance with all applicable regulatory requirements, which could result in our failure to produce products on a timely basis and in the required quantities, if at all.

Healthcare providers and facilities, and third-party payors, often play a primary role in the recommendation and prescription of any currently marketed products and product candidates for which we may obtain marketing approval. Our current and future arrangements with healthcare providers and facilities, third-party payors and customers, and our sales, marketing, and educational activities, may expose us to broadly applicable fraud and abuse and other healthcare laws and regulations (at the federal and state level) that may constrain our business or financial arrangements and relationships through which we market, sell, and distribute our products for which we obtain marketing approval. In addition, our operations are also subject to various federal and state fraud and abuse, and payment transparency laws and regulations.

Payments made to physicians and other healthcare providers, and other financial interests, have been the subject of a range of federal and state laws. The federal physician payment transparency requirements, sometimes referred to as the Physician Payments Sunshine Act, or the Sunshine Act, was created under the Affordable Care Act ("ACA"). The Sunshine Act, among other things, imposes reporting requirements on drug manufacturers for payments or other transfers of value made by them to physicians and teaching hospitals, as well as ownership and investment interests held by physicians, other healthcare providers, including physician assistants, nurse practitioners, and other mid-level healthcare practitioners, and their immediate family members. Reporting relative to these mid-level practitioners began in 2022 for payments or other transfers of value in 2021, which could increase the likelihood of a mistake in submission or failure to submit the required information by that group. Failure to submit required information may result in civil monetary penalties of up to an aggregate of $150,000 per year and up to an additional aggregate of $1 million per year for "knowing failures," for all payments, transfers of value or ownership or investment interests that are not timely, accurately, and completely reported in an annual submission. Additionally, certain states also mandate implementation of compliance programs, impose restrictions on marketing practices and/or require the tracking and reporting of gifts, compensation and other remuneration to physicians and other HCPs.

In addition to the federal fraud, waste, and abuse laws noted, there are analogous state laws and regulations, such as state anti-kickback and false claims laws, and other state laws addressing the medical product and healthcare industries, which may apply to items or services reimbursed by any third-party payor, including commercial insurers, and in some cases may apply regardless of payor, i.e., even if reimbursement is not available. Some state laws require pharmaceutical or device companies to comply with the industry's voluntary compliance guidelines (the PhRMA Code and AdvaMed Code) and the relevant compliance program guidance promulgated by the federal government (HHS-OIG) in addition to other requirements, many of which differ from each other in significant ways and may not have the same effect, thus complicating compliance efforts.

Distribution of our human tissue products outside the U.S. are subject to foreign regulatory requirements that vary from country to country. In the E.U., human tissue regulations, if applicable, differ from one E.U. member state to the next. Because of the absence of a harmonized regulatory framework and the proposed regulation for advanced therapy medicinal products in the E.U., as well as for other countries, the approval process for human derived cell or tissue based medical products may be extensive, lengthy, expensive, and unpredictable. Our products are subject to E.U. member states' regulations that govern the donation, procurement, testing, coding, traceability, processing, preservation, storage, and distribution of human tissues and cells and cellular or tissue-based products. In addition, some E.U. member states have their own tissue banking regulations. The inability to meet foreign regulatory requirements could materially affect our future growth and compliance with such requirements could place a significant financial burden on us. As a result of Brexit, we cannot be sure what changes could occur or what the cost of regulatory compliance with the UK would be. Accordingly, the cost of regulatory compliance for sales outside the U.S. can be significant and time consuming.

Finally, regulatory expectations in both the U.S. and other countries are subject to constant change. There can be no assurance that we can meet the requirements of future regulations and guidance or that compliance with current regulations and guidance assures future capability to distribute and sell our products.

***The use, misuse or off-label use of our products may harm our reputation and the reputation of our products, which could result in injuries leading to product liability suits, and could be costly to our business, and/or result in FDA sanctions.***

If our products are misused or used for off-label purposes, our reputation and our product's reputation may suffer, injuries could occur, which may lead to product liability litigation, or we may be subject to FDA sanctions if we are deemed to have engaged in off-label promotion. We are seeking a biologics license through the BLA process for specific uses of Avance Nerve Graft. Our promotional materials and training methods must comply with FDA requirements and other applicable laws and regulations, including the prohibition against off-label promotion. Our promotion of the Axoguard products, which are regulated as medical devices, also must comply with FDA's requirements, and must only use labeling that is consistent with the specific indication(s) for use included in the FDA substantial equivalence order that results in marketing the devices. The FDA does not restrict or regulate a physician's use of a medical product within the practice of medicine, and we cannot prevent a physician from using our products for an off-label use. However, the FD&C Act and the FDA's regulations restrict the kind of promotional communications that may be made about our products, and if the FDA determines that our promotional or training materials constitute the unlawful promotion of an off-label use, it could request that we modify training or promotional materials and/or subject us to regulatory or enforcement actions, including the issuance of an untitled letter, a warning letter, civil money penalties, seizure, injunction or criminal fines, and penalties. Other federal, state, or foreign governmental authorities might also take action if they consider our promotion or training materials to constitute promotion of an uncleared or unapproved use, which could result in significant fines or penalties under other statutory authorities, such as laws prohibiting false claims for reimbursement, or exclusion from participation in federal health programs. In that event, our reputation could be damaged and our products' use in the marketplace could be impaired.

There may be increased risk of injury if physicians or others attempt to use our products off-label. Furthermore, the use of our product for indications other than those for which our products have been approved, cleared, or licensed by the FDA may not effectively treat the conditions not referenced in product indications, which could harm our reputation in the marketplace among physicians and patients. Physicians may also misuse our products or use improper techniques if they are not adequately trained in the particular use, potentially leading to injury and an increased risk of product liability litigation. Product liability claims are expensive to defend and could divert management's attention from our primary business and result in substantial damage awards against us. Any of these events could harm our business, results of operations, financial condition, and prospects.

***Our business is subject to continuing compliance with standards set by various accreditation and registration bodies, which is costly, and loss of accreditation or registration could result in negative effects on our business.***

We are subject to accreditation such as that by the AATB and as a National Association of Boards of Pharmacy (NABP) Accredited Drug Distributors. We have registration requirements such as that with ISO 13485 registration bodies. These accreditations and registration standards can affect distribution and sale of our products on a state-by-state basis, within the U.S. and also affects distribution and sale of our products outside of the U.S. The loss of accreditation or registration could keep us from selling and distributing our products, which may have negative effects on our business, results of operations, financial condition, and prospects.

***Defective products could lead to recall or other negative business conditions.***

If our products are defective or otherwise pose safety risks, the FDA could require their recall, or we may initiate a voluntary recall of our products. The FDA may require recall of a marketed medical device product, such as the Axoguard products, in the event that it determines the medical device presents a reasonable probability of serious adverse health consequences or death. However, most device recalls do not rise to this level of health significance and result from voluntary action. The FDA has authority to recall biological products when a batch, lot or other quantity of the product presents an imminent or substantial hazard to the public health. However, in such circumstances, the FDA usually initially requests voluntary recalls of biological products, such as the Avance Nerve Graft. If a company does not comply with an FDA request for a recall, the FDA can order one under the above-referenced circumstances or take other enforcement actions, such as product seizure. In addition, manufacturers may, on their own initiative, recall a product to remove or correct a deficiency or to remedy a violation of the FD&C Act that may pose a risk to health. A government-mandated, government-requested, or voluntary recall could occur as a result of an unacceptable risk to health, reports of safety issues, failures, manufacturing errors, design or labeling defects or other deficiencies, and issues. Recalls and other field corrections for any of our products would divert managerial and financial resources and have an adverse effect on our business, results of operations, financial condition, and prospects. A recall could adversely impact our reputation with customers and our sales. If the FDA were to disagree with our internal determinations and decision making relative to potential recalls (including corrections and removal), we could be subject to further regulatory or enforcement action against.

If our products cause or contribute to a death, a serious injury, or any adverse reaction involving a communicable disease, or malfunction in certain ways, we will be subject to reporting regulations, which can result in voluntary corrective actions or agency enforcement actions. See "Business — Regulation — Education Grants, U.S. Anti-kickback, False Claims and Other Healthcare Fraud and Abuse Laws." If we fail to report these events to the FDA within the required timeframes, or at all, the FDA could take regulatory or enforcement action against us. Any adverse event involving our products could result in future voluntary corrective actions, such as recalls or customer notifications, or agency action, such as inspection, mandatory recall, or other enforcement action. Any corrective action, whether voluntary or involuntary, as well as defending ourselves in a lawsuit, would require the dedication of time and capital, distract management from operating our business, and may adversely impact our reputation, business, results of operations, financial condition, and prospects.

***Clinical trials can be long and expensive, and results are ultimately uncertain.***

We are required to perform a clinical trial for our Avance Nerve Graft under FDA's statutory requirements to obtain approval of a BLA for the product. This trial is subject to FDA approval and there is a risk that the FDA may not agree that the data supports the conclusions of the study which could jeopardize our ability to obtain regulatory approval and continue to market our Avance Nerve Graft product.

The results of pre-clinical studies do not necessarily predict future clinical trial results and predecessor clinical trial results may not be repeated in subsequent clinical trials. Additionally, the FDA may disagree with our interpretation of the data from our pre-clinical studies and clinical trials and may require the company to pursue additional pre-clinical studies or clinical trials, or not approve our BLA. If we are unable to demonstrate the safety, purity and potency of our product through our clinical trials, we will be unable to obtain regulatory approval to market the Avance Nerve Graft, and we will not be able to continue to provide it.

We expect to complete the rolling BLA submission for the Avance Nerve Graft in the third quarter of 2024. We will provide the FDA with supportive clinical evidence based on published literature, preclinical data and the RANGER study data. The FDA could take negative action on the BLA or could approve the BLA but restrict the Avance Nerve Graft labeling if the FDA does not agree with the data is sufficiently supportive of the application. Restrictions to our labeling could have an adverse effect on Avance Nerve Graft commercialization.

***We rely on third parties to conduct our clinical trials, and they may not perform as contractually required or expected.***

We rely on third parties, such as contract research organizations ("CROs"), medical institutions, clinical investigators, and contract laboratories to conduct our clinical trials and certain nonclinical studies. We and our CROs are required to comply with all applicable regulations governing clinical research, including good clinical practice ("GCP"). The FDA enforces these regulations through periodic inspections of trial sponsors, principal investigators, CROs and trial sites. If we or our CROs fail to comply with applicable FDA regulations, the data generated in our clinical trials may be deemed unreliable and the FDA may require us to perform additional clinical trials before approving our applications. We cannot be certain that, upon inspection, the FDA and similar foreign regulatory authorities will determine that our clinical trial complies or complied with clinical trial regulations, including GCP. In addition, our clinical trial must be conducted with product produced under applicable GCP regulations. Failure to comply with the clinical trial regulations, including GCP, may require us to repeat clinical trials, which would delay the regulatory approval process. Further, if these third parties do not successfully carry out their contractual duties or regulatory obligations or meet expected deadlines, need to be replaced, or the quality or accuracy of the data they obtain is compromised due to the failure to adhere to our clinical protocols or regulatory requirements or for other reasons, our non-clinical development activities or clinical trials may be extended, delayed, suspended or terminated, and we would not be able to obtain regulatory approval for our products on a timely basis, if at all, and our business, results of operations, financial condition, and prospects would be adversely affected. Furthermore, our third-party clinical trial investigators may be delayed in conducting our clinical trials for reasons outside of their control.

***U.S. governmental regulation could restrict the use of our Avance Nerve Graft product, restrict our procurement of tissue or increase costs.***

In addition to the FDA requirements for biological products, Avance Nerve Graft will continue to be subject to various requirements for human tissue under 21 CFR Part 1271. Human tissues intended for transplantation have been regulated by the FDA since 1993. In May 2005, three new comprehensive regulations went into effect that address manufacturing activities associated with HCT/P. The first regulation requires that companies that produce and distribute HCT/Ps register with the FDA. The second regulation provides criteria that must be met for donors to be eligible to donate tissues and is referred to as the "Donor Eligibility" rule. The third regulation governs the processing and distribution of the tissues and is often referred to as the "Current Good Tissue Practices" rule. The Current Good Tissue Practices rule covers all stages of allograft processing, from procurement of tissue to distribution of final allografts. Together, the three basic requirements of 21 CFR Part 1271 are

designed to ensure that sound, high quality practices are followed to reduce the risk of tissue contamination and of communicable disease transmission to recipients. These regulations increased regulatory scrutiny within the industry in which we operate and have led to increased enforcement actions, which affects the conduct of our business. In addition, guidance was issued by the FDA in November 2017 and revised in July 2020 on Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use, which could have potential implications on future HCT/P products being evaluated by us.

Additional regulations or guidance documents may be implemented by the FDA in the future. These changes may impose new documentation requirements, process changes or testing that could increase costs, and regulatory burden. See "Business — Government Regulations." These regulations can also increase the cost of tissue recovery activities. Finally, Avance Nerve Graft is subject to certain state and local regulations, as well as compliance with the standards of the tissue bank industry's accrediting organization, the AATB.

The procurement and transplantation of allograft nerve tissue is also subject to federal law pursuant to the National Organ Transplant Act ("NOTA"), a criminal statute that prohibits the purchase and sale of human organs used in human transplantation, including nerve and related tissue, for "valuable consideration." NOTA only permits reasonable payments associated with the removal, transportation, processing, preservation, quality control, implantation, and storage of human nerve tissue. We make payments to certain of our clients and tissue banks for their services related to recovering allograft nerve and umbilical cord tissue on our behalf. If NOTA is interpreted or enforced in a manner that prevents us from receiving payment for services we render or prevents us from paying tissue banks or certain of our clients for the services they render for us, our business, results of operations, financial condition, and prospects could be materially and adversely affected.

We have engaged, through marketing employees, independent sales agents and sales representatives, in ongoing efforts designed to educate the medical community as to our products' benefits, and we intend to continue our educational activities. Although we believe that NOTA permits payments in connection with these educational efforts as reasonable payments associated with the processing, transportation and implantation of our products, payments in connection with such education efforts are not exempt from NOTA's restrictions and our inability to make such payments in connection with these education efforts may prevent us from paying our sales representatives and could adversely affect our business, results of operations, financial condition, and prospects. No federal agency or court has determined whether NOTA is, or will be, applicable to every allograft nerve tissue-based material that our processing technologies may generate. Assuming that NOTA applies to our processing of allograft nerve and umbilical cord tissue, we believe that we comply with NOTA, but there can be no assurance that more restrictive interpretations of, or amendments to, NOTA will not be adopted in the future, which would call into question one or more aspects of our method of operations.

Other regulatory entities include state agencies with statutes covering tissue banking. Regulations issued by Florida, New York, California, and Maryland, among other states, are particularly relevant to our business. Most states do not currently have tissue banking regulations. However, incidents of allograft related issues in the industry may stimulate the development of regulation in other states. It is possible that third parties may make allegations against us or against donor recovery groups or tissue banks about non-compliance with applicable FDA regulations or other relevant statutes or regulations. Allegations like these could cause regulators or other authorities to take investigative or other action or could cause negative publicity for our business and the industry in which we operate.

***Healthcare law and policy changes may have a material adverse effect on us.***

In the U.S. there have been a number of legislative and regulatory changes and proposed changes regarding the healthcare system that could prevent or delay marketing approval of our product candidates, restrict or regulate post-approval activities, and affect our ability, or the ability of our collaborators, to profitably sell any products for which we obtain marketing approval. We expect that current laws, as well as other healthcare reform measures that may be adopted in the future, may result in more rigorous coverage criteria and in additional downward pressure on the price that we, or our collaborators, may receive for any approved products.

In the future, there may continue to be additional proposals relating to the reform of the U.S. healthcare system. Future legislation, federal agency regulations and Presidential Executive Orders may impact the healthcare system in ways important to our business. Adoption of certain proposals could limit the prices we are able to charge for our products or the amounts of reimbursement available for our products and could also limit the acceptance and availability of our products. The adoption of some or all of these proposals could have a material adverse effect on our business, results of operations, financial condition, and prospects.

Additionally, initiatives sponsored by government agencies, legislative bodies, and the private sector in the U.S. and elsewhere to limit the growth of healthcare costs, especially for drugs and biologics, including price regulation and policies

regarding generic drugs and biosimilars, are ongoing in markets where we do business. For example, on August 16, 2022, the Inflation Reduction Act of 2022 ("IRA") was signed into law. The IRA includes several provisions to lower prescription drug costs for people with Medicare and reduce drug spending by the federal government, including allowing Medicare to negotiate prices for certain prescription drugs, requiring drug manufacturers to pay a rebate to the federal government if prices for single-source drugs and biologics covered under Medicare Part B and nearly all covered drugs under Part D increase faster than the rate of inflation (CPI-U), and limiting out of pocket spending for Medicare Part D enrollees. Implementation of the drug price negotiation provisions of the IRA began in 2023 and will continue to be implemented over the next several years. Multiple pharmaceutical manufacturers have challenged the law in court, largely on constitutional grounds. These suits will continue through 2024 and the ultimate effects of such legal challenges are unclear. At this time, we continue to evaluate the effect of the IRA on our business operations and financial condition and results as the full impact of the IRA remains uncertain. Additionally, on October 14, 2022, President Biden signed Executive Order 14087 on "Lowering Prescription Drug Costs for Americans." The Executive Order specifically requests that the Center for Medicare and Medicaid Innovation consider "models that may lead to lower cost sharing for commonly used drugs and support value-based payment that supports high-quality care." Continued government efforts to lower healthcare costs would affect our market materially. We could experience an adverse impact on operating results due to increased pricing pressure in the U.S. and in other markets. Governments, hospitals, pharmacy benefit managers, and other third-party payors could reduce the amount of approved reimbursement for our products, deny coverage altogether, or impose new requirements on manufacturers to justify their prices. Reductions in reimbursement levels or coverage or other cost-containment measures could unfavorably affect our future operating results.

***We could be subject to civil or criminal penalties if we are found to have violated laws protecting the confidentiality of health information, which could increase our liabilities and harm our reputation or our business.***

There are a number of federal and state laws protecting the confidentiality of certain health information and restricting the use and disclosure of that protected information. In particular, the U.S. Department of Health and Human Services promulgated privacy rules under the Health Insurance Portability and Accountability Act ("HIPAA"). These privacy rules protect medical records and other personal health information by limiting their use and disclosure, giving individuals the right to access, amend and seek accounting of their own health information and limiting most use and disclosures of health information to the minimum amount reasonably necessary to accomplish the intended purpose. If we are found to be in violation of the privacy rules under HIPAA, we could be subject to civil or criminal penalties, which could increase our liabilities, harm our reputation, and have a material adverse effect on our business, results of operations, financial condition, and prospects.

**Risks Related to Our IP**

***Failure to protect our IP rights could result in costly and time-consuming litigation and our loss of any potential competitive advantage.***

Our success will depend, to a large extent, on our ability to successfully obtain and maintain patents, prevent misappropriation or infringement of IP, maintain trade secret protection, and conduct operations without violating or infringing on the IP rights of third parties. See "Business — Intellectual Property." There can be no assurance that our patented and patent-pending technologies will provide us with a competitive advantage, that we will be able to develop or acquire additional technology that is patentable, or that third parties will not develop and offer technologies which are similar to ours. Moreover, we can provide no assurance that confidentiality agreements with our employees, consultants and other parties, agreements to protect trade secrets or similar agreements intended to protect unpatented technology or prevent unauthorized use, disclosure, or misappropriation will not be breached by those third parties. IP litigation is extremely expensive and time-consuming, and it is often difficult to predict the outcome of such litigation. A failure by us to protect our IP, or a breach by third parties of agreements aimed at protecting our IP, could have a materially adverse effect on our business, results of operations, financial condition, and prospects.

***Future protection for our proprietary rights is uncertain and may impact our ability to successfully compete in our industry.***

The degree of future protection for our proprietary rights is uncertain. We cannot ensure that:

- We, or our licensors, were the first to make the inventions covered by each of our patents;
- We, or our licensors, were the first to file patent applications for these inventions;
- Others will not independently develop similar or alternative technologies or duplicate any of our technologies;
- Any of our pending patent applications will result in issued patents;

- Any of our issued patents or those of our licensors are valid and enforceable;
- Any patents issued to us, or our collaborators will provide any competitive advantages or will not be challenged by third parties;
- We will develop additional proprietary technologies that are patentable;
- The patents of others will not have a material adverse effect on our business rights; or
- The measures we rely on to protect our IP underlying our products are adequate to prevent third parties from using, disclosing, or misappropriating that IP, all of which could harm our ability to compete in the market.

Our commercial success depends in part on our ability and the ability of our collaborators and licensors to avoid infringing patents and proprietary rights of third parties, which could expose us or our collaborators and licensors to litigation or commercially unfavorable licensing arrangements. Third parties may accuse us or collaborators and licensors of employing their proprietary technology without authorization in our products, or in the materials or processes used to make our products. Any legal action against our collaborators, licensors or those claiming damages and/or seeking to enjoin our commercial activities relating to the affected products, materials and processes could, in addition to subjecting us to potential liability for damages, require us or our collaborators and licensors to obtain a license to continue to utilize the affected materials or processes or to manufacture or market the affected products. We cannot predict whether we or our collaborators and licensors would prevail in any of these actions or whether any license required under any of these patents would be made available on commercially reasonable terms, if at all. If we were unable to obtain such a license, we and our collaborators and licensors may be unable to continue to utilize the affected materials or processes, or manufacture or market the affected products, or we may be obligated by a court to pay substantial royalties and/or other damages to the patent holder. Even if we were able to obtain such a license, the terms of such a license could substantially reduce the commercial value of the affected product or products and impair our prospects for profitability. Accordingly, we cannot predict whether, or to what extent, the commercial value of the affected product or products or our prospects for profitability may be harmed as a result of any of the liabilities discussed above. Furthermore, infringement and other IP claims, with or without merit, can be expensive and time-consuming to litigate and can divert management's attention from our core business. We and our collaborators and licensors may be unable to obtain and enforce IP rights to adequately protect our products and related IP, which could materially and adversely impact our business, results of operations, financial condition, or prospects.

***The patent protection for our products may expire before we are able to maximize their commercial value, which may subject us to increased competition and reduce or eliminate our opportunity to generate product revenue.***

The patents for our commercialized products and products in development have varying expiration dates and, when these patents expire, we may be subject to increased competition, and we may not be able to recover our development costs. For example, the material U.S. patents covering the formulations used in our Axoguard product line, which are held by Cook Biotech, have expired. Expiration of these patents could adversely affect our ability to successfully execute our business strategy to maximize the value of Axoguard products and could materially and adversely impact our business, results of operations, financial condition, and prospects.

***Others may claim an ownership interest in our IP or claim that we infringe on their IP rights, which could expose us to litigation and have a significant adverse effect on our prospects.***

A third party may claim an ownership interest in one or more of our patents or other IP. While we believe we own the right, title, and interest in the patents for which we or our licensors have applied and our other IP (including that which is licensed from third parties) and is presently unaware of any claims or assertions by third parties with respect to our patents or IP, we cannot guarantee that a third party will not assert a claim or an interest in any of such patents or IP.

Also, a third party may bring legal actions against us claiming we infringed their IP rights and seek monetary damages and/or enjoin clinical testing, manufacturing, and marketing of the affected product or products. There are many issued patents and pending patent applications in the U.S. and in other jurisdictions, owned by third parties, potentially covering various medical devices and biological products. There may be patents owned by third parties that we are currently unaware of, with issued claims that cover one or more of our current or future products or use or manufacture of those products. Since patents may take many years to issue, there may be pending patent applications owned by third parties that may lead to issued claims that cover one or more of our current or future products or use or manufacture of those products.

If we become involved in any litigation, it could consume a substantial portion of our resources and cause a significant diversion of effort by our technical and management personnel. If any of these actions were successful, in addition to any

potential liability for damages, we could be required to obtain a license to continue to manufacture or market the affected product, in which case we may be required to pay substantial royalties or grant cross-licenses to our patents. We cannot, however, assure that any such license will be available on acceptable terms, if at all. Ultimately, we could be prevented from commercializing a product or be forced to cease some aspect of our business operations as a result of claims of patent infringement or violation of other IP rights, which could have a material and adverse effect on our business, results of operations, financial condition, and prospects. Further, the outcome of IP litigation is subject to uncertainties that cannot be adequately quantified in advance, including the demeanor and credibility of witnesses and the identity of the adverse party. This is especially true in IP cases that may turn on the testimony of experts as to technical facts or the scope or meaning of patent claims upon which experts may reasonably disagree.

***Our trademarks are valuable, and our business may be adversely affected if trademarks are not adequately protected.***

In the U.S. and other countries, we currently hold trademark registrations and have trademark applications pending, any of which may be the subject of a governmental or third-party objection, which could prevent the maintenance or issuance of the same. As our products mature, our reliance on our trademarks to protect our brand, increase our name recognition and, in part, differentiate us from our competitors increases. As a result, if our trademark applications are not successful and if we are unable to prevent third parties from adopting, registering, or using trademarks, including trade dress, that infringe, dilute, or otherwise violate our trademark rights, our business, results of operations, financial condition, and prospects could be materially adversely affected.

***Patent reform legislation could increase the uncertainties and costs surrounding the prosecution of our patent applications and the enforcement or defense of our issued patents.***

New legislation or court precedent on patent law in the U.S. and in other jurisdictions may increase the uncertainties and costs for us to obtain and enforce patent claims broad enough to exclude others from making, using, or selling our current and future products. These changes in the patent law may also increase the uncertainties associated with the potential third party patent infringement claims against our current and future products. Depending on decisions by the U.S. Congress, the U.S. federal courts, the USPTO, or similar authorities in foreign jurisdictions, the laws and regulations governing patents could change in unpredictable ways to weaken our ability to obtain and enforce patent rights relevant to our products, and/or our ability to defend our business against third party infringement claims in the future.

**Risks Related to Financing Our Business**

***Our credit facility and payment obligations under the Revenue Participation Agreement with Oberland Capital contain operating and financial covenants that restrict our business and financing activities, require cash payments over an extended period of time and are subject to acceleration in specified circumstances, which may result in Oberland Capital taking possession and disposing of any collateral.***

Our credit facility with Oberland Capital contains restrictions that limit our flexibility in operating our business. Under the terms of the credit facility, we must maintain, and cause our subsidiaries to maintain, certain covenants, including with respect to limitations on new indebtedness, restrictions on the payment of dividends and maintenance of revenue levels. Our credit facility is collateralized by all of our assets including, among other things, our IP.

If we breach certain of our debt covenants and are unable to cure such breach, revert to the provided liquidity covenant or are not granted waivers in relation to such breach, it may constitute an event of default under the credit facility, giving Oberland Capital the right to require us to repay the then-outstanding debt immediately. If we are unable to pay the outstanding debt immediately, Oberland Capital could, among other things, foreclose on the collateral granted to them to collateralize such indebtedness. A breach of the covenants contained in the credit facility documents and the acceleration of its repayment obligations by Oberland Capital could have a material adverse effect on our business, financial condition, results of operations, and prospects.

In connection with the credit facility, we entered into a Revenue Participation Agreement ("RPA") with Oberland Capital. Pursuant to the RPA, we agreed to pay an additional quarterly royalty payment as a percentage of our net revenue, up to $70 million in any given fiscal year, subject to certain limitations set forth therein, during the period commencing on the later of (i) April 1, 2021 and (ii) the date of funding of a loan under the credit facility and ending on the date upon which all amounts owed under the Term Loan Agreement have been paid in full. Payments commenced on September 30, 2021, with the royalty structure resulting in approximately 1.5% per year of additional payments on the outstanding principal amount of the loans.

The credit facility and RPA could have important negative consequences to the holders of our securities. For example, a portion of our cash flow from operations will be needed to make payments to Oberland Capital and will not be available to fund

future operations. Additionally, we may have increased vulnerability to adverse general economic and industry conditions. Payment requirements under the credit facility and RPA will increase our cash outflows. Additionally, the credit facility and RPA contain complex provisions, which, if interpreted differently, could materially increase the amount of the payments due to Oberland Capital. Our future operating performance is subject to market conditions and business factors that are beyond our control. If our cash inflows and capital resources are insufficient to allow us to make required payments, we may have to reduce or delay capital expenditures, sell assets, or seek additional capital. If we raise funds by selling additional equity, such sale would result in dilution to our shareholders. There is no assurance that if we are required to secure funding, we can do so on terms acceptable to us, or at all.

***We may need to raise additional funds to finance our future capital or operating needs, which could have adverse impacts on our business, results of operations and the interests of our shareholders.***

We may need to seek to raise funds through the issuance of public or private debt or the sale of equity to achieve our business strategy. If we raise funds, this could dilute the interests of our shareholders. Moreover, the availability of additional capital, whether debt or equity from private capital sources (including banks) or the public capital markets, fluctuates as our financial condition and industry or market conditions in general change. There may be times when the private capital markets and the public debt or equity markets lack sufficient liquidity or when our securities cannot be sold at attractive prices, in which case we would not be able to access capital from these sources on favorable terms, if at all. We can give no assurance as to the terms or availability of additional capital.

**Risks Related to Our Common Stock**

***An active trading market in our common stock may not be maintained.***

The trading market in our common stock has been volatile. The quotation of our common stock on The Nasdaq Capital Market does not assure that a meaningful, consistent, and liquid trading market will exist. We cannot predict whether an active market for our common stock will be maintained in the future. An absence of an active trading market could adversely affect our shareholders' ability to sell our common stock at current market prices in short time periods, or possibly at all. Additionally, market visibility for our common stock may be limited and such lack of visibility may have a depressive effect on the market price for our common stock. As of December 31, 2023, approximately 28.1% of our outstanding shares of common stock was held by our officers, directors, beneficial owners of 5% or more of our securities and their respective affiliates, which adversely affects the liquidity of the trading market for our common stock, in as much as federal securities laws restrict sales of our shares by these shareholders. If our affiliates continue to hold their shares of common stock, there will be limited trading volume in our common stock, which may make it more difficult for investors to sell their shares or increase the volatility of our stock price.

***The price of our common stock could be volatile due to a number of factors, which could lead to losses by investors and costly securities litigation.***

Our common stock is listed on The Nasdaq Capital Market under the symbol "AXGN." The stock market in general, and the market for medical technology companies in particular, have experienced and could in the future experience volatility that has often been unrelated to the operating performance of particular companies. The trading price of our common stock has experienced volatility and is likely to continue to be volatile in response to a number of factors including, without limitation, the following:

- Fluctuations in price and volume due to investor speculation, including short sales, social media speculation and other factors that may not be tied to our financial performance;
- Our performance in the execution of our business plan;
- Financial viability;
- Actual or anticipated variations in our operating results;
- Announcements of developments by us or our competitors;
- Market conditions in our industry;
- Announcements by us or our competitors of significant acquisitions, strategic partnerships, joint ventures or capital commitments;

- Adoption of new accounting standards affecting our industry;
- Additions or departures of key personnel;
- Introduction of new products by us or our competitors;
- Sales of our common stock or other securities in the open market;
- Regulatory developments in both the U.S. and foreign countries;
- Performance of products sold and advertised by licensees in the marketplace;
- Economic and other external factors;
- Period-to-period fluctuations in financial results; and
- Other events or factors, including the other factors described in this "Risk Factors" section, many of which are beyond our control.

The stock market is subject to significant price and volume fluctuations. Such fluctuations have and could expose us to securities class action litigation, which could adversely impact our business, results of operations, financial condition, and prospects.

***We do not anticipate paying any cash dividends in the foreseeable future.***

The operation and expansion of our business will continue to require funding. We do not anticipate that we will pay any cash dividends on our common stock for the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our Board of Directors and will depend upon results of operations, financial condition, contractual restrictions, restrictions imposed by applicable law, and other factors our board of directors deems relevant. Accordingly, if any investor purchases shares of common stock, realization of a gain on such investment will depend on the appreciation of the price of our common stock, which may never occur.

***Anti-takeover provisions in Minnesota law may deter acquisition bids for us that you might consider favorable.***

We are governed by the provisions of Sections 302A.671, 302A.673 and 302A.675 of the Minnesota Business Corporation Act (the "MBCA"). These provisions may discourage a negotiated acquisition or unsolicited takeover of us and deprive our shareholders of an opportunity to sell their common stock at a premium over the market price.

In general, Section 302A.671 of the MBCA provides that a corporation's shares acquired in a control share acquisition have no voting rights unless voting rights are approved in a prescribed manner. A "control share acquisition" is a direct or indirect acquisition of beneficial ownership of shares that would, when added to all other shares beneficially owned by the acquiring person, entitle the acquiring person to have voting power of 20% or more in the election of directors.

In general, Section 302A.673 of the MBCA prohibits a public Minnesota corporation from engaging in a business combination with an interested shareholder for a period of four years after the date of the transaction in which the person became an interested shareholder, unless the business combination is approved in a prescribed manner. The term "business combination" includes mergers, asset sales, and other transactions resulting in a financial benefit to the interested shareholder. An "interested shareholder" is a person who is the beneficial owner, directly or indirectly, of 10% or more of a corporation's voting stock or who is an affiliate or associate of the corporation, and who, at any time within four years before the date in question, was the beneficial owner, directly or indirectly, of 10% or more of the corporation's voting stock. Section 302A.673 does not apply if a committee of our Board of Directors consisting of all of its disinterested directors (excluding current and former officers) approves the proposed transaction or the interested shareholder's acquisition of shares before the interested shareholder becomes an interested shareholder.

If a tender offer is made for our common stock, Section 302A.675 of the MBCA precludes the offeror from acquiring additional shares of stock (including in acquisitions pursuant to mergers, consolidations, or statutory share exchanges) within two years following the completion of the tender offer, unless shareholders selling their shares in the later acquisition are given the opportunity to sell their shares on terms that are substantially the same as those contained in the earlier tender offer. Section 302A.675 does not apply if a committee of our Board of Directors consisting of all of its disinterested directors (excluding its current and former officers) approves the proposed acquisition before any shares are acquired pursuant to the earlier tender offer.

We are subject to legal proceedings from time to time. Legal proceedings, if decided adversely to or settled by us, and not covered by insurance, could result in liability material to our financial condition, results of operations or cash flows. Likewise, regardless of outcome, legal proceedings could result in substantial costs and expenses, affect the availability or cost of some of our insurance coverage and significantly divert the attention of our management. There can be no assurance that we will be able to prevail in, or achieve a favorable settlement of, any pending or future legal proceedings to which we become subject. Even claims without merit could subject us to adverse publicity and require us to incur significant legal fees.

***We may seek to expand our business in ways that could result in diversion of resources and extra expenses.***

We may in the future pursue acquisitions of businesses, products and technologies, establish joint venture arrangements, or make minority equity investments to expand our business. We are unable to predict whether or when any prospective acquisition, equity investment or joint venture will be completed. The process of negotiating potential acquisitions, joint ventures or equity investments, as well as the integration of acquired or jointly developed businesses, technologies or products may be prolonged due to unforeseen difficulties and may require a disproportionate amount of our resources and management's attention. We cannot assure you that we will be able to successfully identify suitable acquisition or investment candidates, complete acquisitions or investments, or integrate acquired businesses or joint ventures with our operations. If we were to make any acquisition or investment or enter into a joint venture, we may not receive the intended benefits of the acquisition, investment or joint venture or such an acquisition, investment or joint venture may not achieve comparable levels of revenues, profitability or productivity as our existing business or otherwise perform as expected. The occurrence of any of these events could harm our business, financial condition or results of operations. Future acquisitions, investments or joint ventures may require substantial capital resources, which may require us to seek additional debt or equity financing.

Future acquisitions, joint ventures or minority equity investments by us could result in the following, any of which could seriously harm our results of operations or the price of our stock:

- issuance of equity securities that would dilute our current shareholders' percentages of ownership;
- large one-time write-offs or equity investment impairment write-offs;
- incurrence of debt and contingent liabilities;
- difficulties in the assimilation and integration of operations, personnel, technologies, products and information systems of the acquired companies;
- inability to realize cost efficiencies or synergies, thereby incurring higher operating expenditures as a result of the acquisition;
- diversion of management's attention from other business concerns;
- contractual disputes;
- risks of entering geographic and business markets in which we have no or only limited prior experience; and
- potential loss of key employees of acquired organizations.

***We may be subject to future product liability litigation, which could be expensive, and our insurance coverage may not be adequate.***

Although we are not currently subject to any product liability proceedings and have no provision for product liability disbursements, we may incur material liabilities relating to product liability claims in the future, including product liability claims arising out of the usage of our products. Although we currently carry product liability insurance in an amount, we believe is consistent with industry averages, our insurance coverage and any provision we may maintain in the future for product related liabilities may not be adequate and our business, results of operations, financial conditions, and prospects could suffer material adverse consequences.

***Loss of key members of management, who we need to succeed, could adversely affect our business.***

Our future success depends on the continued efforts of the members of our executive management team. Competition for experienced management personnel in the healthcare industry is intense. If one or more of our executives or other key personnel

are unable or unwilling to continue in their present positions, or if we are unable to attract and retain high quality executives or key personnel in the future, our business, results of operations, financial conditions, and prospects may be adversely affected.

***We may fail to meet our publicly announced guidance or other expectations about our business and future operating results, which could cause a decline in our stock price.***

We provide financial guidance about our business and future operating results. In developing this guidance, our management makes certain assumptions and judgments about our future operating performance, including projected hiring of sales professionals, continued increase of our market share, and continued stability of the macro-economic environment in our key markets. Furthermore, analysts and investors may develop and publish their own projections of our business, which may form a consensus about our future performance. Our business results may vary significantly from such guidance or that consensus due to a number of factors, many of which are outside of our control, and which could adversely affect our operations and operating results. Furthermore, if we make downward revisions of our previously announced guidance, or if our publicly announced guidance of future operating results fails to meet expectations of securities analysts, investors, or other interested parties, the market price of our common stock could decline. .

***Our business and financial performance could be adversely affected, directly or indirectly, by natural or man-made disasters or other similar events.***

Neither the occurrence nor the potential impact of risks such as earthquakes, hurricanes, floods and other natural disasters, fire, power shortages, geopolitical unrest, war, terrorist attacks and other hostile acts, epidemics or pandemics such as COVID-19 pandemic, outbreaks of RSV and the flu, nuclear disasters, international hostilities or other criminal activities and other events beyond our control and the control of the third parties on which we depend can be predicted. However, these occurrences could impact us directly as a result of damage to our facilities or by preventing us from conducting our business in the ordinary course, or indirectly as a result of their impact on our customers, suppliers, or other counterparties. We could also suffer adverse consequences to the extent that these disasters affect the financial markets or the economy in general or in any particular region.

Additionally, climate change could present immediate and long-term risks to our industry and our customers. The potential for increased severe weather events could have a material adverse effect on our operations and infrastructure or the operations and infrastructure of our suppliers. In addition, the effects of climate change could include long-term changes in temperature levels and water availability, increased energy costs, and increased supply costs impacted by those increasing energy costs.

Our ability to mitigate the adverse consequences of such occurrences is in part dependent on the quality of our resiliency planning, and our ability, if any, to anticipate the nature of any such event that occurs. The adverse impact of natural or man-made disasters also could be increased to the extent that there is a lack of preparedness on the part of national or regional emergency responders or on the part of other organizations and businesses that we deal with, particularly those that we depend upon but have no control over.

***Our business, results of operations, financial condition, and prospects could be adversely affected, directly or indirectly, by the effects of an increased focus on environmental, social and governance issues.***

Recently, shareholders have had an increased focus on environmental, social and governance ("ESG") issues, focusing on how companies are addressing climate change, diversity, and human rights, among other ESG-related issues. Our failure to comply with stakeholder expectations and standards regarding ESG issues, which are still evolving and can vary considerably, or the perception that we have not responded appropriately to ESG-related issues, could result in reputational harm, and could have an adverse effect on our business, results of operations, financial condition, and prospects.

The cost of mitigating or responding to ESG issues could be significant; however, these costs are too uncertain to predict. In addition, the approaches taken by the U.S. or foreign governments to regulate ESG issues, which may include legislative or regulatory changes, and new reporting requirements, could adversely impact our business, results of operations, financial condition, and prospects, and are too uncertain to predict.

***We are currently operating in a period of economic uncertainty and capital markets disruption, which has been significantly impacted by geopolitical instability and tensions, Russia's ongoing invasion of Ukraine and illegal annexation of Ukrainian territories, and record inflation and could materially and adversely affect our business, financial condition and results of operations.***

We are exposed to the risk of changes in social, geopolitical, legal, and economic conditions. The global economy has been, and may continue to be, negatively impacted by Russia’s invasion of Ukraine and illegal annexation of Ukrainian

territories. The negative impacts arising from the war and sanctions and export restrictions imposed by various countries, including those imposed by Russia, may include reduced consumer demand, supply chain disruptions, increased cybersecurity risks, and increased costs for transportation, energy, and raw materials. Additionally, further escalation of trade tensions between the U.S. and China, escalation of tensions between China and Taiwan, further escalation in the conflict between the State of Israel and Hamas, as well as further escalation of tensions between the State of Israel and various countries or terror organizations in the Middle East and North Africa, could result in a global economic slowdown and long-term changes to global trade. Although we do not have material operations in Russia, Ukraine, China, Taiwan, Israel, or other countries in the Middle East and North Africa, further escalation of geopolitical tensions could have a broader impact that expands into other markets where we have material operations, which may adversely affect our business, financial condition and results of operations.

Further, changes in domestic and global economic conditions, supply chain disruptions, labor shortages, as well as other stimulus and spending programs, have led to higher inflation, which is likely to lead to increased costs and may cause changes in fiscal and monetary policy. Additionally, our ability to access capital markets and other funding sources in the future may not be available on commercially reasonable terms, if at all. Impacts from inflationary pressures, such as increasing costs for research and development of our products, administrative and other costs of doing business, could adversely affect our business, financial condition and results of operations.

Additionally, our customers could experience financial and operational pressures as a result of labor shortages, the supply chain disruptions, and increased inflation, which could impact their ability to access capital markets and other funding sources, increase cost of funding, or impede their ability to comply with debt covenants, which in turn could impede their ability to provide patient care, conduct further research and development, marketing and commercialization efforts, or impact their profitability. To the extent that our customers continue to face such financial pressures, it could impact their willingness to spend on our products and services, which could adversely affect our business, financial condition and results of operations.

Although, to date, our business has not been materially impacted by Russia's ongoing invasion of Ukraine and illegal annexation of Ukrainian territories, geopolitical tensions between China and the U.S. geopolitical tensions between China and Taiwan, the escalation of the conflict between the State of Israel and Hamas, or record inflation, it is impossible to predict the extent to which our operations could be impacted in the short and long term, or the ways in which such matters may impact our business.

***Changes in U.S. trade policy, threats of international tariffs, and changes to the U.S. political landscape may adversely affect our business, results of operations, financial condition, and prospects.***

Rising threats of international tariffs, including tariffs applied to goods traded between the U.S. and China, could materially and adversely affect our business, results of operations, financial condition, and prospects. Over the past several years, legislative and executive action from U.S. and foreign leaders has led to both threats of and the imposition of tariffs on certain materials and products. The U.S. and China imposed tariffs or announced proposed tariffs to be applied in the future to certain of each other's exports. Changes in political conditions in China and changes in the state of China-U.S. relations, including the current trade tensions, are difficult to predict and could adversely affect our operations or financial condition. We cannot predict the extent to which the U.S. or other countries will impose quotas, duties, tariffs, taxes or other similar restrictions upon the import or export of our products in the future, nor can we predict future trade policy or the terms of any renegotiated trade agreements and their impact on our business. The adoption and expansion of trade restrictions, the occurrence of a trade war, or other governmental action related to tariffs or trade agreements or policies has the potential to adversely impact demand for our products, our costs, our customers, our suppliers, and the U.S. economy, which in turn could have a material adverse effect on our business, results of operations, financial condition, and prospects.

***Our results of operations could be negatively affected by potential fluctuations in foreign currency exchange rates.***

We are exposed to the effects of changes in foreign currency exchange rates. We are exposed to the risk of an increase or decrease in the value of the foreign currencies relative to the U.S. Dollar, which could increase the value of our expenses and decrease the value of our revenue when measured in U.S. Dollars. As a result, our results of operation may be influenced by the effects of future exchange rate fluctuations and such effects may have an adverse impact on our common stock price. Changes in the relative values of currencies occur regularly and, in some instances, could materially adversely affect our business, results of operations, financial condition or prospects.

***We may have exposure to additional tax liabilities as a result of our foreign operations.***

We are subject to income taxes in the United States and various foreign jurisdictions. We have operations in Canada, Germany, UK, Spain, and several other European, Asian, and Latin American countries. Significant judgment is required in

determining our worldwide provision for income taxes and other tax liabilities. In the ordinary course of a global business, there are many intercompany transactions and calculations where the ultimate tax determination is uncertain. We are regularly under audit by tax authorities. Our intercompany transfer pricing may be reviewed by the U.S. Internal Revenue Service and by foreign tax jurisdictions. Although we believe that our tax estimates are reasonable, due to the complexity of our corporate structure, the multiple intercompany transactions and the various tax regimes, we cannot assure you that a tax audit or tax dispute to which we may be subject will result in a favorable outcome for us. If taxing authorities do not accept our tax positions and impose higher tax rates on our foreign operations, our overall tax expenses could increase.

***Our failure to protect our technology systems and comply with data protection laws and regulations could lead to government enforcement actions and significant penalties against us, and adversely impact our business, results of operations, financial condition, and prospects.***

We rely on information technology systems, including technology from third-party vendors, to process, transmit and store electronic information in our day-to-day operations. Similar to other companies, the size and complexity of our information technology systems makes them vulnerable to a cyber-attack, malicious intrusion, breakdown, destruction, loss of data privacy, or other significant disruption. Our information systems require an ongoing commitment of resources to maintain, protect and enhance existing systems and develop new systems to keep pace with continuing changes in information processing technology, evolving systems and regulatory standards and the increasing need to protect patient and customer information. We expend significant resources to comply with applicable data privacy and security laws and regulations (together with applicable industry standards) and minimize the risk of security breaches, including deploying additional personnel and protection technologies, training employees annually, and engaging third-party experts and contractors. Significant and increasing investments of time and resources by management and Board have been, and will continue to be, required to anticipate and address cybersecurity risks and incidents. However, given that the techniques used to obtain unauthorized access or to sabotage systems change frequently, and often are not identified until they are launched against a target, we may be unable to anticipate these techniques or implement adequate preventative measures in time to stop a cyber incident. Any failure by us to maintain or protect our information technology systems and data integrity could result in the unauthorized access to patient data and personally identifiable information, theft of intellectual property or other misappropriation of assets, or otherwise compromise our confidential or proprietary information and disrupt our operations. Cyber-attacks, intrusions, or other breaches could adversely impact our business, results of operations, financial condition, and prospects and potentially subject us to fines and penalties.

In the U.S., federal and state privacy and security laws require certain of our operations to protect the confidentiality of personal information, including patient medical records and other health information. Limiting and/or restricting the use of certain personal data and information, as well as added transparency obligations to data subjects is becoming an increasing focus as evidenced by the implementation of the California Consumer Privacy Act (“CCPA”) which became effective on January 1, 2020. In Europe, E.U. member states and other foreign jurisdictions, including Switzerland, have adopted data protection laws and regulations which impose significant compliance obligations. Moreover, the collection and use of personal health data in the E.U. is governed by the European Union General Data Protection Regulation (“GDPR”). The GDPR imposes several requirements relating to the consent of the individuals to whom the personal data relates, the information provided to the individuals, the security and confidentiality of the personal data, data breach notification and the use of third-party processors in connection with the processing of personal data. The GDPR also imposes strict rules on the transfer of personal data out of the E.U. to the U.S., provides an enforcement authority and imposes large penalties for noncompliance, including the potential for fines of up to 4% of the annual global revenue of the noncompliant company. The recent implementation of the GDPR has increased our responsibility and liability in relation to personal data that we process, including in clinical trials, and we may in the future be required to put in place additional mechanisms to ensure compliance with the GDPR, which could divert management’s attention and increase our cost of doing business.

Additionally, we expect that there will be other proposed laws, regulations and industry standards relating to privacy and data protection in the U.S., the E.U. and other jurisdictions, and we cannot determine the impact such future laws, regulations and standards may have on our business results of operations, financial condition, and prospects.

***We are dependent on internal information and telecommunications systems, and any failure of these systems, including system security breaches, data protection breaches or other cybersecurity attacks, may negatively impact our business and results of operations.***

Cyber-attacks and other tactics designed to gain access to and exploit sensitive information by breaching mission critical systems of large organizations are constantly evolving and have been increasing in sophistication in recent years. High profile security breaches leading to unauthorized release of sensitive information have occurred with increasing frequency at a number of major U.S. companies, despite widespread recognition of the cyber-attack threat and improved data protection methods. While to date we have not experienced a significant data loss, significant compromise or any material financial losses related to

cybersecurity attacks, our systems, those of our customers, and those of our third-party service providers are under constant threat. Cybercrime, including phishing, social engineering, attempts to overload our servers with denial-of-service attacks, or similar disruptions from unauthorized access to our systems, could cause us critical data loss or the disclosure or use of personal or other confidential information. Outside parties may attempt to fraudulently induce employees to disclose personally identifiable information or other confidential information which could expose us to a risk of loss or misuse of this information. Although we incur significant expenses to minimize the risk of security breaches, given that the techniques used to obtain unauthorized access or to sabotage systems change frequently, and often are not identified until they are launched against a target, we may be unable to anticipate these techniques of implement adequate preventive measures in time to stop or effectively mitigate a cyber incident.

We are dependent on internal information and telecommunications systems, and we are vulnerable to failure of these systems, including through system security breaches, data protection breaches or other cybersecurity attacks. If these events occur, the unauthorized disclosure, loss or unavailability of data and disruption to our business may have a material adverse effect on our reputation and harm our relationships with vendors and customers. Additionally, these events may lead to financial losses from remedial actions, or potential liability from fines, including in relation to noncompliance with the GDPR, as well as possible litigation and punitive damages. Failures of our internal information or telecommunications systems may prevent us from taking customer orders, shipping products and billing customers. Sales may also be impacted if our customers are unable to access our pricing and product availability information. The occurrence of any of these events could have a material adverse impact on our business and results of operations.

***Our management has broad discretion in the use and placement of our cash and cash equivalents and, despite management's efforts, cash and cash equivalents may be used in a manner that does not increase the value of shareholders' investments or placed in otherwise reputable financial institutions that fail.***

Our management has broad discretion in the use and placement of our cash and cash equivalents, and investors must rely on the judgment of management regarding the use and placement of such cash and cash equivalents. Management may invest our cash and cash equivalents in short-term or long-term, investment-grade, interest-bearing securities. These investments may not yield favorable returns to shareholders. If we do not invest or apply our cash and cash equivalents in ways that enhance shareholder value, we may fail to achieve expected financial results, which could cause our stock price to decline. Furthermore, the most reputable financial institutions may fail. Despite the judgment of management regarding the placement of cash and cash equivalents in deemed reputable financial institutions, events outside of our control could occur, the result of which could result in us not having access to our cash and cash equivalents.

***Our business and stock price may be adversely affected if our internal controls are not effective.***

Section 404 of the Sarbanes-Oxley Act of 2002 requires that public companies conduct a comprehensive evaluation of their internal control over financial reporting. To comply with this statute, each year we are required to document and test our internal control over financial reporting and our management is required to assess and issue a report concerning it.

Although we have systems in place to strengthen our internal control over financial reporting, we cannot assure you that we will not discover material weaknesses in the future or that no material weakness will result from any difficulties, errors, delays, or disruptions while we implement and transition to new internal systems. The existence of one or more material weaknesses could result in errors in our financial statements, and substantial costs and resources may be required to rectify these or other internal control deficiencies. If we cannot produce reliable financial reports, investors could lose confidence in our reported financial information, the market price of our common stock could decline significantly, we may be unable to obtain additional financing to operate and expand our business and our business, results of operations, financial condition, and prospects could be adversely impacted.

## ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

## ITEM 1C. CYBERSECURITY

Cybersecurity represents an important component of the Company's overall approach to risk management. The Company's cybersecurity policies, standards and practices are integrated into the Company's enterprise risk management approach, and cybersecurity risks are one of the enterprise risks that are subject to oversight by the Company's Board of Directors (the "Board"). The Company's cybersecurity standards and practices follow industry trends, which align with frameworks established by the Center for Internet Security ("CIS"). The Company approaches cybersecurity threats through a cross-functional approach which endeavors to: (i) identify, prevent and mitigate cybersecurity threats to the Company; (ii) preserve

the confidentiality, security and availability of the information that we collect and store to use in our business; (iii) protecting the Company's intellectual property; (iv) maintaining the confidence of our customers, clients and business partners; and (v) providing appropriate public disclosure of cybersecurity risks and incidents when required.

*Risk Management and Strategy*

The Company's cybersecurity program focuses on the following areas:

a. **Vigilance:** The Company maintains cybersecurity threat operations with the goal of identifying, preventing and mitigating cybersecurity threats and responding to cybersecurity incidents in accordance with our established incident response and recovery plans.

b. **Systems Safeguards:** The Company deploys system safeguards that are designed to protect the Company's information systems from cybersecurity threats, including firewalls, intrusion prevention and detection systems, anti-malware functionality and access controls, which are evaluated and improved through ongoing vulnerability assessments and cybersecurity threat intelligence.

c. **Collaboration:** The Company utilizes collaboration mechanisms established with public and private entities, including intelligence and enforcement agencies, industry groups and third-party service providers, to identify, assess and respond to cybersecurity risks.

d. **Third-Party Risk Management:** The Company endeavors to identify and oversee cybersecurity risks presented by third parties, as well as the systems of third parties that could adversely impact our business in the event of a cybersecurity incident affecting those third-party systems.

e. **Training:** The Company provides periodic training for personnel regarding cybersecurity threats, which reinforces the Company's information security policies, standards and practices.

f. **Incident Response and Recovery Planning:** The Company has established and maintains incident response and recovery plans that address the Company's response to a cybersecurity incident and the recovery from a cybersecurity incident, and such plans are tested and evaluated periodically.

g. **Communication, Coordination and Disclosure:** The Company utilizes a cross-functional approach to address the risk from cybersecurity threats, involving management personnel from the Company's technology, operations, legal, risk management and other key business functions, as well as the members of the Board and the Audit Committee of the Board in an ongoing dialogue regarding cybersecurity threats and incidents, while also implementing controls and procedures for the escalation of cybersecurity incidents pursuant to established thresholds so that decisions regarding the disclosure and reporting of such incidents can be made by management in a timely manner.

h. **Governance:** The Board's oversight of cybersecurity risk management is supported by the Audit Committee, which regularly interacts with the the Company's VP of Information Technology, Security and Business Intelligence and other members of the cyber team and management.

The Company manages risks from cybersecurity threats through the assessment and testing of the Company's processes and practices focused on evaluating the effectiveness of our cybersecurity measures. The Company engages third parties as appropriate to perform assessments of our cybersecurity measures. The results of such assessments and reviews are reported to the Audit Committee and the Board, and the Company adjusts its cybersecurity policies, standards, processes and practices as necessary based on the information provided by the assessments, audits and reviews.

*Governance*

The Board, in coordination with the Audit Committee, oversees the management of risks from cybersecurity threats, including the policies, standards, processes and practices that the Company's management implements to address risks from cybersecurity threats. The Board and the Audit Committee each receive regular presentations and reports on cybersecurity risks, which address a wide range of topics including, for example, recent developments, evolving standards, vulnerability assessments, third-party reviews, the threat environment, technological trends and information security considerations arising with respect to the Company's peers. The Board and the Audit Committee also receive prompt and timely information regarding any cybersecurity incident that meets established reporting thresholds, as well as ongoing updates regarding such incident until it has been addressed. On a regular basis, the Board and the Audit Committee discuss the Company's approach to cybersecurity risk management with the Company's cyber team and senior leadership team.

The Company's VP of Information Technology, Security and Business Intelligence is the member of the Company's management that is principally responsible for overseeing the Company's cybersecurity risk management program, in partnership with other business leaders across the Company. The VP of Information Technology, Security and Business Intelligence works in coordination with senior leadership, which includes our Chief Executive Officer, Chief Financial Officer, and General Counsel. The Company's VP of Information Technology, Security and Business Intelligence has served in various roles in information technology and information security for over 18 years, including Biogen, AstraZeneca, Iron Mountain, and consulting roles at Charles River Labs, Sunovion Pharmaceuticals, Agero and DentaQuest. The VP of Information Technology, Security and Business Intelligence holds a MBA from Boston University, a Master's degree in Electrical and Computer Engineering from Utah State University, and a Bachelor's degree in Electronics Engineering from Mumbai University. The Company's Information Technology team has specific professional certifications, and has over 10 years of experience with managing risks arising from cybersecurity threats.

The Company's VP of Information Technology, Security and Business Intelligence, in coordination with senior leadership, works collaboratively across the Company to implement a program designed to protect the Company's information systems from cybersecurity threats and to promptly respond to any cybersecurity incidents. To facilitate the success of this program, multidisciplinary teams throughout the Company are deployed to address cybersecurity threats and to respond to cybersecurity incidents in accordance with the Company's policy as it relates to the incident, management response and recovery plan. Through the ongoing communications from these teams, the VP of Information Technology, Security and Business Intelligence and senior leadership monitor the prevention, detection, mitigation and remediation of cybersecurity incidents in real time, and report such incidents to the Audit Committee when appropriate.

Cybersecurity threats, resulting from any previous cybersecurity incidents, have not materially affected or are not reasonably likely to affect the Company, including its business strategy, results of operations, or financial condition.

## ITEM 2. PROPERTIES

Our material physical properties consisted of the following as of December 31, 2023

| Location | General Character | Total Square Feet | Square Feet Utilized | Expiration |
|---|---|---|---|---|
| Alachua, Florida [1] | Headquarters - General office, warehousing and distribution | 19,000 | 19,000 | 10/31/2026 |
| Tampa, Florida [1] | Headquarters - General office, medical laboratory, and meeting space | 75,000 | 62,500 | 10/31/2034 |
| Burleson, Texas [1] | Facility - Raw material and finished goods warehousing and distribution | 15,000 | 15,000 | 4/30/2027 |
| | | 10,000 | 5,000 | 9/30/2027 |
| Vandalia, Ohio [2] | Facility - Clean-room, manufacturing, warehousing, and office space. | 107,000 | 82,500 | N/A |
| Dayton, Ohio [3][4] | Facility - Clean-room/manufacturing, warehousing, and office space | Varies | Varies | 12/31/2026 |

[1] Property is encumbered by a lease agreement and is collateral to our Credit Facility.

[2] Property is collateral to our Credit Facility.

[3] Property is encumbered by our CTS Agreement as an embedded lease.

[4] Total square feet and utilization varies each month for the use of CTS's clean room/manufacturing, warehousing, and office space in accordance with the CTS Agreement.

We believe that our facilities will be sufficient to operate our business for the next 12 months and that current lease obligations will not change materially.

## ITEM 3. LEGAL PROCEEDINGS

Information required by this item is set forth in Note 14 - Commitments and Contingencies of the Notes to Consolidated Financial Statements in this Annual Report on Form 10-K and is incorporated herein by reference.

## ITEM 4. MINE SAFETY DISCLOSURES

None.

## PART II

## ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Our common stock is traded on the Nasdaq Capital Market under the symbol "AXGN." On March 1, 2024, the last reported closing sale price of our common stock on the Nasdaq Capital Market was $10.69 per share.

**Shareholders**

As of March 1, 2024, we had 43,206,246 shares of common stock outstanding, and approximately 226 common shareholders of record, based upon information received from our stock transfer agent. However, this number does not include beneficial owners whose shares were held of record by nominees or broker dealers. We estimate that there are approximately 11,343 individual owners. Additional information called for by this item is incorporated herein by reference to the following sections of this Report: Note 11 - Stock-Based Compensation of the Notes to Consolidated Financial Statements included in Item 8; and Part III, Item 12 "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters – Equity Compensation Plan Information".

**Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

We did not repurchase any of our securities in the fourth quarter of 2023.

**Recent Sales of Unregistered Securities**

We had no sales of unregistered securities in 2023.

**Securities Authorized for Issuance Under Equity Compensation Plans**

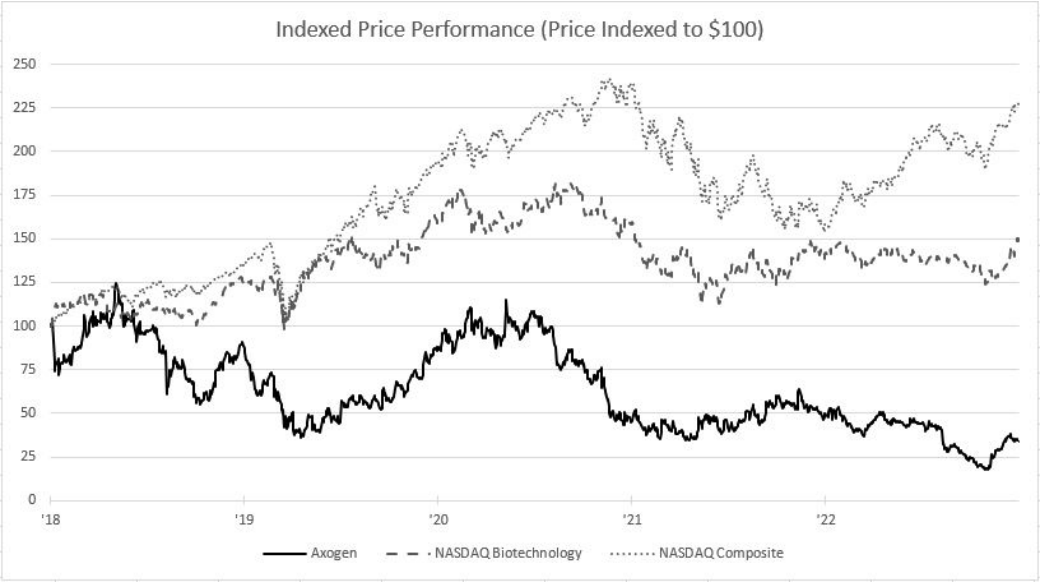
See Part III, Item 12 "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters."

**Dividends**

We have never declared or paid and do not anticipate paying or declaring a cash dividend on our common stock. We intend to retain any earnings to finance the growth and development of our business. Our Board of Directors may declare dividends at its discretion.

**Performance Graph**

The following graph compares the cumulative total shareholder return on our common stock for the period from December 31, 2018, to December 31, 2023 with (i) the Nasdaq Stock Market Biotechnology Index and (ii) the Nasdaq Stock Market Composite Index. The graph assumes an investment of $100 in our common stock and the respective indices for the period of December 31, 2018, to December 31, 2023. The comparisons set forth in the graph are provided pursuant to SEC rules and are not intended to forecast or be indicative of the future performance of our common stock or either of the included indices. The performance graph shall not be deemed incorporated by reference by any general statement incorporating by reference this annual report into any filing under the Securities Act of 1933, as amended, or the Exchange Act of 1934, as amended, except to the extent we specifically incorporate this information by reference and shall not otherwise be deemed filed under such acts.




**ITEM 6. [RESERVED]**

Not applicable.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

*The following information should be read in conjunction with our consolidated financial statements and the notes thereto contained in Item 8 of Part II in this Form 10-K, "Forward-Looking Statements" contained in Part 1 of this Form 10-K, "Risk Factors" contained in Item 1A of this Form 10-K, and the other information appearing elsewhere in, or incorporated by reference into, this Form 10-K. Dollar amounts referenced in this Item 7 are in thousands, except per share amounts.*

Unless the context otherwise requires, all references in this report to "Axogen," the "Company," "we," "us" and "our" refer to Axogen, Inc., and its wholly owned subsidiaries Axogen Corporation ("AC"), Axogen Processing Corporation, Axogen Europe GmbH and Axogen Germany GmbH.

**Overview**

We are the leading company focused specifically on the science, development, and commercialization of technologies for peripheral nerve regeneration and repair. We are passionate about providing the opportunity to restore nerve function and quality of life for patients with peripheral nerve injuries. We provide innovative, clinically proven, and economically effective repair solutions for surgeons and healthcare providers. Peripheral nerves provide the pathways for both motor and sensory signals throughout the body. Every day, people suffer traumatic injuries or undergo surgical procedures that impact the function of their peripheral nerves. Physical damage to a peripheral nerve or the inability to properly reconnect peripheral nerves can result in the loss of muscle or organ function, the loss of sensory feeling, or the initiation of pain.

**Product Portfolio**

- Avance® Nerve Graft, a biologically active off-the-shelf processed human nerve allograft for bridging severed peripheral nerves without the comorbidities associated with a second surgical site;
- Axoguard Nerve Connector®, a porcine (pig) submucosa extracellular matrix ("ECM") coaptation aid for tensionless repair of severed peripheral nerves;
- Axoguard Nerve Protector®, a porcine submucosa ECM product used to wrap and protect damaged peripheral nerves and reinforce the nerve reconstruction while preventing soft tissue attachments;
- Axoguard HA+ Nerve Protector™, is comprised of a processed porcine submucosa ECM base layer with a hyaluronate-alginate gel coating designed to provide short- and long-term protection for peripheral nerve injuries. The gel layer facilitates enhanced nerve gliding to aid in minimizing soft tissue attachments, while the base layer is remodeled into a long-term protective tissue layer.
- Axoguard Nerve Cap®, a porcine submucosa ECM product used to protect a peripheral nerve end and separate the nerve from the surrounding environment to reduce the development of symptomatic or painful neuroma;
- Axotouch® Two-Point Discriminator, used to measure the innervation density of any surface area of the skin.

Our portfolio of products is currently available in the United States "(U.S."), Canada, Germany, United Kingdom, Spain and several other European, Asian and Latin American countries.

Revenue from the distribution of our nerve repair products, Avance® Nerve Graft, Axoguard Nerve Connector®, Axoguard Nerve Protector®, Axoguard HA+ Nerve Protector™, and Axoguard Nerve Cap®, in the U.S. is the main contributor to our total reported sales and have been the key component of our growth to date.

As previously announced, we suspended the market availability of Avive® Soft Tissue Membrane ("Avive") on June 1, 2021, to have discussions with the U.S. Food and Drug Administration ("FDA") about the appropriate regulatory classification and requirements for Avive. The reported safety or product performance issues or concerns with Avive. Based on preliminary feedback from FDA on the product classification and regulatory pathway, we have decided not to continue discussions with FDA and will not pursue regulatory approval for Avive. Therefore, we will not seek to return Avive to the market. We are working on developing a replacement product called Avive + that we believe would not require a BLA and would fall under the criteria set forth in 21 CFR 1271.10(a) for regulation solely under Section 361 of the Public Health Service Act and the regulations in 21 CFR Part 1271. We seek to launch Avive+ in the second quarter of 2024.

We have observed that surgeons initially are cautious adopters for peripheral nerve repair products. Surgeons typically start with a few cases and then wait and review the results of these initial cases. Active accounts are usually past this wait period and

have developed some level of product reorder. These active accounts have typically gone through the Value Analysis Committee approval process, have at least one surgeon who has converted a portion of his or her treatment algorithms of peripheral nerve repair to our portfolio and have ordered our products at least six times in the last twelve months. As of December 31, 2023, we had 1,006 active accounts, an increase of 3.9% from 968 one year ago. Active accounts are approximately 87% of our revenue. The top 10% of these active accounts continue to represent approximately 40% of our revenue.

Core accounts are defined as accounts that have purchased at least $100 in the past twelve months. As of December 31, 2023, we had 376 core accounts, an increase of 13.3% from 332 one year ago. These core accounts represented approximately 65% our revenue in 2023, which increased approximately 60% over the past two years.

Our business was originally anchored in emergent trauma and over the past several years we have introduced a number of new nerve repair applications that utilize our Avance and Axoguard product lines. These new applications share common characteristics that now lead us to think about our business along two primary categories, scheduled non-trauma (“Scheduled”) procedures, and emergent trauma (“Emergent”) procedures.

Scheduled procedures are generally characterized as procedures where a patient is seeking relief of a condition caused by a nerve defect or surgical procedure. These include breast reconstruction following a mastectomy, nerve reconstruction following the surgical removal of painful neuromas, oral and maxillofacial procedures, and nerve decompression.

The nature of Scheduled procedures affords patients the opportunity to actively search for treatment options and advocate for solutions that may improve quality of life following the procedure. For example, in breast reconstruction, this may include prioritizing neurotization as a part of their treatment plan. These procedures lend themselves to standardization of surgical techniques and more consistent nerve repair algorithms. In addition, these patients are likely to engage in extended follow-up evaluations with their physicians.

Emergent procedures generally result from injuries that initially present in an emergency room. These procedures are typically referred to and completed by a specialist either immediately or within a few days following the initial injury. Given the emergent and diverse nature of traumatic injuries, the required repair algorithm and procedure scheduling can be highly variable, and follow-up evaluations are generally inconsistent.

While the various applications can have unique surgeon customers, the procedures are often performed in the same accounts and use the same family of Axogen products. Scheduled procedures typically have a higher value of Axogen products used per procedure as compared to routine trauma; and, given the planned nature of these procedures, there is a higher level of predictability and are generally additive to our sales rep productivity.

Reporting by application has historically been challenging. However, we have recently developed improved analytical tools that we believe allow us to better monitor product utilization data within accounts and generate improved estimates of our revenue by application. We estimate revenue by application using the information received from hospitals and sales representatives based on assumptions regarding specific surgeon practice and account information. Accordingly, the accuracy of our estimates is subject to the limited data we receive and the accuracy of those assumptions.

We estimate that revenues from emergent trauma procedures represented approximately half of total revenues during the year ended December 31, 2023 and grew mid-single digits versus the year ended December 31, 2022.

**Summary of Operational and Business Highlights**

- Net revenue was $159,012 for the year ended December 31, 2023, an increase of $20,428 or 14.7% compared to the year ended December 31, 2022.
- Gross profit was $127,874 for the year ended December 31, 2023, an increase of $13,437 or 11.7% compared to the year ended December 31, 2022.
- In August 2023, we began processing tissue in the new, state-of-the-art APC facility, which provides for up to 3x the previous capacity and was designed for long-term growth and expansion.
- During 2023, we surpassed 100,000 Avance Nerve Graft implants since launch.
- We are continuing to expand our offering in the nerve protection market with the national launch of Axoguard HA+ Nerve Protector™ during 2023 and expect to launch Avive+ Soft Tissue Matrix™ second quarter of 2024.

- We completed a Pre-BLA meeting with the FDA during the first quarter of 2024 where we aligned with the FDA on a rolling submission process and the content of the modules for the BLA submission for Avance® Nerve Graft. We anticipate completing the submission in the third quarter of 2024. Subject to ongoing engagement with the FDA, we believe this submission timetable will allow for a potential BLA approval in the middle of 2025.
- We have exceeded our initial goal of training 25 additional surgical teams on techniques in implant-based Resensation® and have more than 39 teams trained during the year ended December 31, 2023.
- Ended the year with 245 peer-reviewed clinical publications featuring Axogen's nerve repair product portfolio.
- Ended the year with 116 direct sales representatives as compared to 115 for the year ended 2022.

**Results of Operations**

**Comparison of the Years Ended December 31, 2023, and 2022**

The following table sets forth, for the periods indicated, our results of operations expressed as dollar amounts and as percentages of total revenue:

| | Year Ended December 31, | | | |
|---|---|---|---|---|
| | 2023 | | 2022 | |
| | Amount | % of Revenue | Amount | % of Revenue |
| | (dollars in thousands) | | | |
| Revenues | $ 159,012 | 100.0 % | $ 138,584 | 100.0 % |
| Cost of goods sold | 31,138 | 19.6 % | 24,147 | 17.4 % |
| Gross profit | 127,874 | 80.4 % | 114,437 | 82.6 % |
| Costs and expenses: | | | | |
| Sales and marketing | 86,060 | 54.1 % | 80,228 | 57.9 % |
| Research and development | 28,333 | 17.8 % | 27,158 | 19.6 % |
| General and administrative | 34,943 | 22.0 % | 36,758 | 26.5 % |
| Total costs and expenses | 149,336 | 93.9 % | 144,144 | 104.0 % |
| Loss from operations | (21,462) | (13.5)% | (29,707) | (21.4)% |
| Other (expense) income: | | | | |
| Investment income | 1,487 | 0.9 % | 569 | 0.4 % |
| Interest expense | (2,835) | (1.8)% | (624) | (0.5)% |
| Change in fair value of derivatives | 1,531 | 1.0 % | 1,044 | 0.8 % |
| Other expense | (437) | (0.3)% | (230) | (0.2)% |
| Total other (expense) income, net | (254) | (0.2)% | 759 | 0.5 % |
| Net loss | $ (21,716) | (13.7)% | $ (28,948) | (20.9)% |

Revenues

Revenues for the year ended December 31, 2023, increased, $20,428 or 14.7%, to $159,012 as compared to $138,584 for the year ended December 31, 2022. Revenue growth was driven by an increase in unit volume of approximately 8.6%, as well as the net impact of changes in price and product mix of approximately 3.7% and 2.5%, respectively. The unit volume increase was attributed to growth in our core and active accounts. As of December 31, 2023, we had 1,006 active accounts, an increase of 3.9% from 968 from the prior year and 376 core accounts, an increase of 13.3% from 332 at December 31, 2022.

Gross Profit

Gross profit for the year ended December 31, 2023, increased $13,437 or 11.7% to $127,874 as compared to $114,437 for the year ended December 31, 2022. Gross margin as a percentage of revenue decreased to 80.4% for the year ended December 31, 2023, as compared to 82.6% for the year ended December 31, 2022.

Costs and Expenses

Total costs and expenses increased, $5,192 or 3.6%, to $149,336 for the year ended December 31, 2023, as compared to $144,144 for the year ended December 31, 2022. The increase in total operating costs was primarily attributable to the following (i) $5,083 in compensation costs; (ii) $1,277 in professional services; (iii) $1,243 in marketing programs costs; (iv) $852 in travel; (v) $185 in occupancy related costs partially offset by decreases of (i) $1,190 in research and development projects; (ii) $2,257 of other general business costs including insurance expenses of $1,033, bad debt recovery of $883, merchant fees of $727, other items administrative in nature of $355 offset by increased packaging, shipping and handling expenses of $741.

Sales and marketing expenses increased $5,833, or 7.3%, to $86,060 for the year ended December 31, 2023, as compared to $80,228 for the year ended December 31, 2022. The increase in sales and marketing was due to the following: (i) compensation costs of $1,969; (ii) $1,243 in marketing programs;(iii) $831 in travel costs; (iv) $745 in professional services, and (v) $1,034 of other costs which included packing, shipping and handling costs of $741 and other items administrative in nature of $293.

Research and development expenses increased $1,175, or 4.3%, to $28,333 for the year ended December 31, 2023, as compared to $27,158 for the year ended December 31, 2022. The increase was primarily due to product development and clinical expenses. Product development costs include spending for a number of specific programs including the non-clinical expenses related to the BLA for Avance Nerve Graft. Product development expenses represented approximately 60% and 52% of total research and development expense for the years ended December 31, 2023, and 2022, respectively. Clinical trial expenses represented approximately 40% and 48% of total research and development expense for the years ended December 31, 2023, and 2022, respectively. The increase in research and development included increases in compensation costs of $1,635; $331 in professional fees; $287 in occupancy costs; and $98 in travel costs to support these clinical and non-clinical expenses.

General and administrative expenses decreased $1,816, or 4.9%, to $34,943 for the year ended December 31, 2023, as compared to $36,758 for the year ended December 31, 2022. The decrease was primarily due to $1,033 in insurance costs, $833 in bad debt recovery, $727 in merchant fees, $330 in other services, and $205 in licenses and fees partially offset by an increase in compensation costs of $1,479.

Other Income and Expense

Total other (expense) income decreased $1,013, or 133.5% to expense of $254 for the year ended December 31, 2023, as compared to income of $759 for the year ended December 31, 2022. The change was primarily due to the increase in interest expense of $2,211 and other expenses of $208, partially offset by the increase in investment income of $918 and the fair value of the derivative liability of $488. In connection with the Credit Facility, we recognized total interest charges of $8,083 and $6,721 for the years ended December 31, 2023, and 2022, respectively, and of this interest we capitalized to the construction of the APC Facility, interest charges of $5,285 and $6,155 for the years ended December 31, 2023, and 2022, respectively. The increase in investment income was primarily related to the Federal Reserve raising interest rates 100 basis points throughout 2023.

Income Taxes

We had no federal income tax expense or benefit for the years ended December 31, 2023, and 2022, due to the incurrence of net operating losses in both years, the benefits of which have been fully reserved. We do not believe that there are any additional tax expenses or benefits currently available.

**Liquidity and Capital Resources**

As of December 31, 2023, our principal sources of liquidity were our cash and cash equivalents totaling $31,024. Our cash equivalents are comprised of a money market mutual fund and during the year ended December 31, 2022, we had investments comprised of short-term commercial paper and U.S. Treasuries. Our cash and cash equivalents and investments decreased $17,766 from $48,790 at December 31, 2022, primarily as a result of the renovations of our APC Facility, and general operating activities. On December 31, 2023,and 2022, our current assets exceeded our current assets liabilities by $57,574 and $74,322, respectively. Based on current estimates, we believe that our existing cash and cash equivalents and investments, as well as cash provided by sales of our products will allow us to fund our operations through at least through the next 12 months from the issuance of these financial statements.

***Cash Flow Information***

The following table presents a summary of our cash flows from operating, investing and financing activities:

| | Year Ended December 31, | |
|---|---|---|
| (in thousands) | **2023** | **2022** |
| Net cash (used in) provided by: | | |
| Operating activities | $ (5,716) | $ (16,066) |
| Investing activities | 19,253 | (3,200) |
| Financing activities | 1,954 | 1,794 |
| Net increase (decrease) in cash and cash equivalent | $ 15,491 | $ (17,472) |

Net Cash Used in Operating Activities

Net cash used in operating activities was $5,716 and $16,066 during the years ended December 31, 2023, and 2022, respectively. The favorable change in net cash used in operating activities of $10,350 or 64.4% was due to the following: (i) the net favorable change of $5,172 in working capital accounts and (ii) the decrease in net loss of $7,232.

A discussion of net cash used in operating activities during the year ended December 31, 2021, can be found in Item 7 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed on March 14, 2023.

Net Cash Provided by Investing Activities

Net cash provided by investing activities was $19,253 as compared to cash used in investing activities of $3,200 for the years ended December 31, 2023, and 2022, respectively, an increase of $22,453 or 702%. The change in net cash used in investing activities was due to the increase in the net purchase and proceeds of the sale of investments totaling $16,118 and net decrease in the capital expenditures, primarily related to the renovation of the APC Facility, of $6,206.

A discussion of net cash provided by investing activities during the year ended December 31, 2021, can be found in Item 7 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed on March 14, 2023.

Net Cash Provided by Financing Activities

Net cash provided by financing activities was $1,954 as compared to $1,794 for the years ended December 31, 2023, and 2022, respectively, an increase of $161 or 9%. The change in net cash provided by financing activities was primarily due to an increase of $159 in proceeds from the exercise of stock options and ESPP purchases year-over-year.

A discussion of net cash provided by financing activities during the year ended December 31, 2021, can be found in Item 7 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed on March 14, 2023.

***Liquidity and Capital Resources***

Our expected future capital requirements may depend on many factors including expanding our customer base and sales force and timing and extent of spending in obtaining regulatory approval and introduction of new products. Additional sources of liquidity available to us include issuance of additional equity securities through public or private equity offerings, debt financings or from other sources. The sale of additional equity may result in dilution to our shareholders. There is no assurance that we will be able to secure funding on terms acceptable to us, or at all. The increasing need for capital could also make it more difficult to obtain funding through either equity or debt. Should additional capital not become available to us as needed,

we may be required to take certain actions, such as slowing sales and marketing expansion, delaying regulatory approvals, or reducing headcount.

***Credit Facilities***

As of December 31, 2023, we had $50,000 outstanding in indebtedness under a credit facility; $35,000 maturing on June 30, 2027, and 15,000 maturing on June 30, 2028. Quarterly interest only and revenue participation payments are due through each of the maturity dates. Interest is calculated as 7.5% plus the greater of the Adjusted SOFR or 2.0% (12.99% as of December 31, 2023). Revenue participation payments are calculated as a percentage of our net revenues, up to $70,000 in any given year, adding approximately 1.5% per year of additional interest payments on the outstanding indebtedness. Upon each maturity date or upon such date earlier repayment occurs, we will repay the principal balance and provide a make-whole payment calculated to generate an internal rate of return to the lender equal to 11.5%, less the total of all quarterly interest and revenue participation payments previously paid. See Note 9 - Long-Term Debt, Net of Debt Discount and Financing Fees and Note 14 - Commitments and Contingencies in the Notes to the Consolidated Financial Statements Part II, Item 8 of this Form 10-K.

**Contractual Obligations and Commitments**

| Contractual Obligations | 1 year | 1-3 years | 3-5 years | Thereafter | Total |
|---|---|---|---|---|---|
| Credit Facility Principal[1] | $ — | $ — | $ 50,000 | $ — | $ 50,000 |
| Credit Facility Interest[1][2] | 6,500 | 13,000 | 6,175 | — | 25,675 |
| Credit Facility Revenue Participation[1] | 756 | 1,512 | 987 | — | 3,255 |
| Credit Facility Make-Whole Payment[1] | — | — | — | — | — |
| Operating and financing lease obligations[3] | 3,925 | 8,403 | 6,210 | 18,566 | 37,104 |
| Severance obligations to former employees | 755 | — | — | — | 755 |
| Consulting fee obligation to former executives | 300 | — | — | — | 300 |
| Transition and separation obligations to current CEO[4] | 1,538 | 1,646 | — | — | 3,184 |
| | $ 13,774 | $ 24,561 | $ 63,372 | $ 18,566 | $ 120,273 |

[1] See Note 9. Long-term Debt and Note 14. Commitments and Contingencies in Part II, Item 8 of this Form 10-K.

[2] Calculated at 13.0%; the interest rate as of December 31, 2023.

[3] See Note 8. Leases in Part II, Item 8 of this Form 10-K.

[4] Includes CEO's 2023 bonus to be paid in March 2024, 2024 Salary, 2024 bonus to paid in March of 2025, accrued PTO through January 4, 2025, nine months of senior advisory fees, and eighteen months of COBRA payments. Actual timing of payments are subject to the determination of the end of CEO Term per the Transition and Separation Agreement. See Note 14 - Commitments and Contingencies in Part II, Item 8 of this Form 10-K.

See Note 8 - Leases and Note 14 - Commitments and Contingencies in the Notes to the Consolidated Financial Statements Part II, Item 8 of this Form 10-K, for further information.

**Critical Accounting Estimates**

In preparing our financial statements in accordance with generally accepted accounting principles, there are certain accounting policies, which may require substantial judgment or estimation in their application. We believe these accounting policies and the others set forth in Note 2 - Summary of Significant Accounting Policies in the Notes to the Consolidated Financial Statements Part II Item 8 of this Form 10-K are critical to understanding our results of operations and financial condition. Actual results could differ from our estimates and assumptions, and any such differences could be material to our results of operations and financial condition.

***Inventories***

*Description*

Inventories consist of purchased materials, direct labor and manufacturing overhead, are stated at the lower of cost or net realizable value, as determined by the first-in, first-out method.

*Judgments and Uncertainties*

We maintain reserves for excess and obsolete inventory resulting from the potential inability to sell certain products in excess of current carrying cost. We make estimates regarding the future recoverability of the costs of these products and record provisions based on historical experience, expiration dates and expected future trends.

*Sensitivity of Estimate to Change*

As of December 31, 2023, we have reserved $1,342 for potential losses relating to inventory. If our actual product life cycles, product demand or acceptance of new product introductions are less favorable than projected by management, additional inventory write downs may be required, which could unfavorably affect future operating results.

***Derivative Instruments***

*Description*

We review debt instruments to determine whether there are embedded derivative instruments, which are required to be bifurcated and accounted for separately as a derivative financial instrument. Embedded derivatives that are not clearly and closely related to the debt host are bifurcated and are recognized at fair value on the consolidated balance sheet with changes in fair value recognized as either a gain or loss on the consolidated statement of operations each reporting period.

*Judgements and Uncertainties*

The fair value of embedded derivatives are measured based on equity markets and interest rates, as well as an estimate of our nonperformance risk adjustment. This estimate includes an option adjusted spread and an estimate of our discount rate.

*Sensitivity of Estimate to Change*

As of December 31, 2023, we recorded a derivative liability of $2,987. However, if the discount rate were to change by 1%, it would have a less than $50 effect on our derivative liability.

***Share-Based Compensation***

*Description*

Share-based compensation is in the form of stock options, restricted stock units ("RSU") and performance stock units ("PSU"). The estimated grant date fair value of stock options held by employees is determined using a multiple-point Black-Scholes option valuation method. The fair value of RSUs and PSUs is determined based on the fair value of our common stock on the date of grant. The estimated fair value of the options related to the Employee Stock Purchase Plan are based on the Black-Scholes option pricing model.

*Judgments and Uncertainties*

We estimate the grant date fair value of each stock option award on the date of grant using a multiple-point Black-Scholes option-pricing model. In addition, we measure stock options granted to employees at a premium price based on market conditions, such as the trading price of our common stock, using a Monte Carlo Simulation option-pricing model in estimating the fair value at the grant date. Key assumptions in determining fair value include volatility, risk-free interest rate, dividend yield and expected term. As a result, if factors change and different assumptions are used, the stock-based compensation expense could be materially different in the future.

The fair value of the PSU grants is based on our closing stock price on the grant date. The number of PSU's that will ultimately be earned is based upon our performance as measured against specified targets over the measurement period. Expectations related to the achievement of performance goals associated with PSU grants is assessed at each reporting period and is used to determine whether PSU grants are expected to vest. If performance-based milestones related to PSU grants are not met or not expected to be met, any compensation expense recognized associated with such grants will be reversed.

We recognize compensation expense related to the Employee Stock Purchase Plan (“ESPP”) based on the estimated fair value of the options on the date of grant. We estimate the grant date fair value, and the resulting stock-based compensation expense, using the Black-Scholes option pricing model for each purchase period. The grant date fair value is expensed on a straight-line basis over the offering period.

*Sensitivity of Estimate of Change*

As of December 31, 2023, stock-based compensation expense for PSU's was $3,273, however, if we determined that the PSUs outstanding were 100% achievable, our stock-based compensation would have been $8,652.

**Recent Accounting Pronouncements**

See Note 2 - Summary of Significant Accounting Policies in the Notes to the Consolidated Financial Statements, Part II Item 8 of this Form 10-K for further information.

**Item 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

*Interest Rate Risk*

We are subject to market risk from exposure to changes in interest rates based upon our investing and cash management activities. For our cash equivalents and investments, a change in interest rates affects the amount of interest income that can be earned.

We have not entered into derivative transactions related to cash and cash equivalents. We do not expect changes in interest rates to have a material adverse effect on our income or our cash flows in 2024. However, we give no assurance that interest rates will not significantly change in the future.

We also have interest rate exposure as a result of the Credit Facility. As of December 31, 2023, the outstanding principal amount of our loans under the Credit Facility was $50,000. Interest on our loans under the Credit Facility is payable quarterly during the term of the loans and is calculated as 7.5% plus the greater of Adjusted SOFR or 2.0% (12.99% as of December 31, 2023); provided that the interest rate shall never be less than 9.5%. Changes in the Adjusted SOFR rate may therefore affect our interest expense associated with the loans. An increase of 100 basis points in interest rates would increase expense by approximately $500 annually based on the amounts currently outstanding and would not materially affect our results of operations.

*Credit Risk*

Financial instruments that potentially subject us to credit risk consist of cash and cash equivalent balances, investments in commercial paper and accounts receivable. Certain of our cash and cash equivalents balances exceed Federal Deposit Insurance Corporation ("FDIC") insured limits or are invested in money market accounts with investment banks that are not FDIC-insured. As of December 31, 2023, $30,524 of the cash and cash equivalents balance was in excess of FDIC limits.

We invest our cash primarily in commercial paper, money market accounts, and U.S. government securities. Although we believe our cash is invested in a conservative manner, with cash preservation being the primary investment objective, the value of the commercial paper held will fluctuate with changes in the financial markets, including, among other things, changes in interest rates, credit quality and general volatility. This risk is managed by investing in high quality investment grade commercial paper with short-term maturities.

With respect to accounts receivable, we perform credit evaluations of our customers and do not require collateral. There have been no material losses on accounts receivable. Concentrations of credit risk with respect to accounts receivable are limited because a large number of geographically diverse customers make up our customer base, thus spreading the trade credit risk. We also control credit risk through credit approvals and monitoring procedures.

*Foreign Currency Exchange Risk*

The value of the U.S. dollar compared to the foreign currencies of the countries where we distribute our products has little to no effect on our financial results. In our international markets, we distribute our products and services to independent distributors who, in turn, distribute and market to medical clinics. The revenue from the distribution of our products in our international markets through independent distributors is denominated in U.S. dollars. As a result, we have minimal exposure related to foreign exchange rate fluctuations. Our portfolio of products is currently available in the U.S., Canada, Germany, United Kingdom ("UK"), Spain and several other European, Asian and Latin American countries.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

**CONTENTS**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the shareholders and the Board of Directors of Axogen, Inc.

**Opinions on the Financial Statements and Internal Control over Financial Reporting**

We have audited the accompanying consolidated balance sheets of Axogen, Inc and subsidiaries (the "Company") as of December 31, 2023, and 2022, the related consolidated statements of operations, shareholders' equity, and cash flows, for each of the three years in the period ended December 31, 2023, and the related notes and the schedule listed in the Index at Item 15(a)(2) (collectively referred to as the "financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2023 and 2022 and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control — Integrated Framework (2013) issued by COSO.

**Basis for Opinions**

The Company's management is responsible for these financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on these financial statements and an opinion on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the financial statements included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures to respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

**Definition and Limitations of Internal Control over Financial Reporting**

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

**Critical Audit Matter**

The critical audit matter communicated below is a matter arising from the current-period audit of the financial statements that was communicated or required to be communicated to the audit committee and that (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

***Inventory – Valuation Associated with Excess and Obsolete (E&O) Inventory — Refer to Notes 2 and 3 to the financial statements***

*Critical Audit Matter Description*

Inventories, consisting of materials, direct labor and manufacturing overhead, are stated at the lower of cost or net realizable value. At each balance sheet date, the Company evaluates inventories for excess quantities, obsolescence or shelf-life.

The Company monitors the shelf life of its products and historical expiration and spoilage trends, and reserves for inventory based on the estimated amount of inventory that will not be distributed before expiration or spoilage. To estimate the amount of inventory that will expire or spoil prior to being distributed, the Company reviews inventory quantities on hand, historical and projected distribution levels, historical expiration trends, and historical spoilage trends. The Company's calculation of the amount of inventory that will expire prior to distribution has three components: 1) a spoilage-based component that compares historical spoilage rates to inventory quantities on hand 2) a demand or consumption-based component that compares projected distribution to inventory quantities on hand; and 3) an expiring inventory component that assesses the risk related to inventory that is near expiration. The Company's model assumes that inventory will be distributed on a first-in-first-out basis. Due to the nature of the inventory (surgical implants with expiration dates) and the fact that a significant portion of the Company's inventory is at medical facility consignment locations, estimating the amount of spoilage, the amount of inventory that will expire and the amount of inventory that should be reserved for involves significant judgments and estimates.

Given the significant judgments associated with evaluating the valuation of E&O inventory, auditing the reasonableness of management's estimates and assumptions involved especially subjective judgment and an increased extent of effort.

*How the Critical Audit Matter Was Addressed in the Audit*

Our audit procedures related to the Company's valuation of E&O inventory included the following, among others:

- We tested the design, implementation and operating effectiveness of controls over the E&O inventory valuation. The controls we tested included those over the calculation and accuracy and completeness of underlying data used in the calculation.
- We performed procedures to evaluate management's ability to accurately forecast by comparing the historical inventory reserve estimates to subsequent inventory destructions and expirations.
- We obtained the Company's E&O calculation and tested the mathematical accuracy.
- We tested the accuracy and completeness of the underlying data used in the calculation of the Company's expiring inventory and spoilage models.
- We made inquiries of the Company's employees outside of the accounting department and evaluated other areas of the audit to identify business, product, or industry changes that may impact the inputs in the inventory valuation calculation.

/s/ Deloitte & Touche LLP

Tampa, Florida
March 5, 2024
We have served as the Company's auditor since 2018.

**AXOGEN, INC.**
**CONSOLIDATED BALANCE SHEETS**
**December 31, 2023 and 2022**
**(In Thousands, Except Share and Per Share Amounts)**

| | 2023 | 2022 |
|---|---|---|
| **Assets** | | |
| **Current assets:** | | |
| Cash and cash equivalents | $ 31,024 | $ 15,284 |
| Restricted cash | 6,002 | 6,251 |
| Investments | — | 33,505 |
| Accounts receivable, net of allowance for doubtful accounts of $337 and $650, respectively | 25,147 | 22,186 |
| Inventory | 23,020 | 18,905 |
| Prepaid expenses and other | 2,811 | 1,944 |
| **Total current assets** | 88,004 | 98,075 |
| **Property and equipment, net** | 88,730 | 79,294 |
| **Operating lease right-of-use assets** | 15,562 | 14,369 |
| **Intangible assets, net** | 4,531 | 3,649 |
| **Total assets** | $ 196,827 | $ 195,387 |
| | | |
| **Liabilities and shareholders' equity** | | |
| **Current liabilities:** | | |
| Accounts payable and accrued expenses | $ 28,883 | $ 22,443 |
| Current maturities of long-term lease obligations | 1,547 | 1,310 |
| **Total current liabilities** | 30,430 | 23,753 |
| | | |
| **Long-term debt, net of debt discount and financing fees** | 46,603 | 45,712 |
| **Long-term lease obligations** | 21,142 | 20,405 |
| **Debt derivative liabilities** | 2,987 | 4,518 |
| **Total liabilities** | 101,162 | 94,388 |
| | | |
| **Commitments and contingencies - see Note 14** | | |
| | | |
| **Shareholders' equity:** | | |
| Common stock, $0.01 par value per share; 100,000,000 shares authorized; 43,124,496 and 42,445,517 shares issued and outstanding | 431 | 424 |
| Additional paid-in capital | 376,530 | 360,155 |
| Accumulated deficit | (281,296) | (259,580) |
| **Total shareholders' equity** | 95,665 | 100,999 |
| **Total liabilities and shareholders' equity** | $ 196,827 | $ 195,387 |

**The accompanying notes are an integral part of these consolidated financial statements.**

**AXOGEN, INC.**
**CONSOLIDATED STATEMENTS OF OPERATIONS**
**Years ended December 31, 2023, 2022 and 2021**
**(In Thousands, Except Share and Per Share Amounts)**

| | 2023 | 2022 | 2021 |
|---|---|---|---|
| **Revenues** | $ 159,012 | $ 138,584 | $ 127,358 |
| **Cost of goods sold** | 31,138 | 24,147 | 22,931 |
| **Gross profit** | 127,874 | 114,437 | 104,427 |
| **Costs and expenses:** | | | |
| Sales and marketing | 86,060 | 80,228 | 73,328 |
| Research and development | 28,333 | 27,158 | 24,177 |
| General and administrative | 34,943 | 36,758 | 32,338 |
| **Total costs and expenses** | 149,336 | 144,144 | 129,843 |
| **Loss from operations** | (21,462) | (29,707) | (25,416) |
| **Other (expense) income:** | | | |
| Investment income | 1,487 | 569 | 93 |
| Interest expense | (2,835) | (624) | (1,356) |
| Change in fair value of derivatives | 1,531 | 1,044 | (28) |
| Other expense | (437) | (230) | (278) |
| **Total other (expense) income, net** | (254) | 759 | (1,569) |
| **Net loss** | $ (21,716) | $ (28,948) | $ (26,985) |
| | | | |
| Weighted average common shares outstanding — basic and diluted | 42,878,543 | 42,083,125 | 41,214,889 |
| Loss per common share — basic and diluted | $ (0.51) | $ (0.69) | $ (0.65) |

**The accompanying notes are an integral part of these consolidated financial statements.**

**AXOGEN, INC.**
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**
**Years ended December 31, 2023, 2022 and 2021**
**(In Thousands)**

| | Common Stock | | Additional Paid-in Capital | Accumulated Deficit | Total Shareholders' Equity |
|---|---|---|---|---|---|
| | Shares | Amount | | | |
| **Balance, December 31, 2020** | 40,619 | $ 406 | $ 326,390 | $ (203,647) | $ 123,149 |
| Stock-based compensation | — | — | 10,919 | — | 10,919 |
| Issuance of restricted and performance stock units | 254 | 2 | (2) | — | — |
| Shares surrendered by employees to pay tax withholdings | — | — | — | — | — |
| Exercise of stock options and employee stock purchase plan | 864 | 9 | 5,458 | — | 5,467 |
| Net loss | — | — | — | (26,985) | (26,985) |
| **Balance, December 31, 2021** | 41,737 | 417 | 342,765 | (230,632) | 112,550 |
| Stock-based compensation | — | — | 15,591 | — | 15,591 |
| Issuance of restricted and performance stock units | 343 | 3 | (3) | — | — |
| Exercise of stock options and employee stock purchase plan | 365 | 4 | 1,802 | — | 1,806 |
| Net loss | — | — | — | (28,948) | (28,948) |
| **Balance, December 31, 2022** | 42,445 | 424 | 360,155 | (259,580) | 100,999 |
| Stock-based compensation | — | — | 14,418 | — | 14,418 |
| Issuance of restricted and performance stock units | 369 | 4 | (4) | — | — |
| Exercise of stock options and employee stock purchase plan | 310 | 3 | 1,961 | — | 1,964 |
| Net loss | — | — | | (21,716) | (21,716) |
| **Balance, December 31, 2023** | 43,124 | $ 431 | $ 376,530 | $ (281,296) | $ 95,665 |

**The accompanying notes are an integral part of these consolidated financial statements.**

**AXOGEN, INC.**
**CONSOLIDATED STATEMENTS OF CASH FLOWS**
**Years ended December 31, 2023, 2022 and 2021**
**(In Thousands)**

| | 2023 | 2022 | 2021 |
|---|---|---|---|
| **Cash flows from operating activities:** | | | |
| Net loss | $ (21,716) | $ (28,948) | $ (26,985) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | | |
| Depreciation | 4,218 | 2,827 | 2,744 |
| Amortization of right-of-use assets | 1,062 | 1,761 | 1,795 |
| Amortization of intangible assets | 273 | 265 | 202 |
| Amortization of debt discount and deferred financing fees | 891 | 891 | 831 |
| Loss on disposal of equipment | 56 | — | — |
| (Recovery of) provision for bad debt | (271) | 612 | (41) |
| Provision for inventory write-down | 1,939 | 1,769 | 3,314 |
| Investment losses (gains) | (666) | (228) | 68 |
| Change in fair value of derivatives | (1,531) | (1,044) | 28 |
| Stock-based compensation | 14,418 | 15,591 | 10,919 |
| Change in operating assets and liabilities: | | | |
| Accounts receivable | (2,691) | (4,639) | (499) |
| Inventory | (6,054) | (3,656) | (7,478) |
| Prepaid expenses and other | (867) | (84) | 2,435 |
| Accounts payable and accrued expenses | 6,509 | 660 | (270) |
| Operating lease obligations | (1,269) | (1,841) | (463) |
| Cash paid for interest portion of finance leases | (3) | (2) | (2) |
| Contract and other liabilities | (14) | — | (3) |
| **Net cash used in operating activities** | (5,716) | (16,066) | (13,405) |
| | | | |
| **Cash flows from investing activities:** | | | |
| Purchase of property and equipment | (13,872) | (20,078) | (27,811) |
| Economic development grant proceeds | — | — | 950 |
| Purchase of investments | (10,203) | (39,247) | (68,699) |
| Proceeds from sale of investments | 44,374 | 57,300 | 72,500 |
| Cash payments for intangible assets | (1,046) | (1,175) | (589) |
| **Net cash provided by (used in) investing activities** | 19,253 | (3,200) | (23,649) |
| | | | |
| **Cash flows from financing activities:** | | | |
| Proceeds from issuance of long-term debt | — | — | 15,000 |
| Cash paid for debt portion of finance leases | (10) | (12) | (15) |
| Proceeds from exercise of stock options and ESPP stock purchases | 1,964 | 1,806 | 5,467 |
| **Net cash provided by financing activities** | 1,954 | 1,794 | 20,452 |
| **Net increase (decrease) in cash, cash equivalents, and restricted cash** | 15,491 | (17,472) | (16,602) |
| **Cash, cash equivalents, and restricted cash, beginning of period** | 21,535 | 39,007 | 55,609 |
| **Cash, cash equivalents, and restricted cash, end of period** | $ 37,026 | $ 21,535 | $ 39,007 |
| | | | |
| **Supplemental disclosures of cash flow activity:** | | | |
| Cash paid for interest, net of capitalized interest | $ 1,944 | $ — | $ 495 |
| **Supplemental disclosure of non-cash investing and financing activities:** | | | |
| Acquisition of fixed assets in accounts payable and accrued expenses | $ 704 | $ 866 | $ 1,420 |
| Embedded derivative associated with the long-term debt | $ — | $ — | $ 3,037 |
| Obtaining a right-of-use asset in exchange for a lease liability | $ 2,298 | $ 1,018 | $ 1,375 |
| Acquisition of intangible assets in accounts payable and accrued expenses | $ 407 | $ 299 | $ 418 |

**The accompanying notes are an integral part of these consolidated financial statements.**

**AXOGEN, INC.**
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**
**December 31, 2023, 2022 and 2021**
**(In thousands. except shares and per share amounts)**

## 1. Nature of Business

Axogen, Inc. (together with its wholly-owned subsidiaries, the "Company") was incorporated in Minnesota. Our business is focused on the science, development and commercialization of the technologies used for the peripheral nerve regeneration and repair. The Company's products include Avance® Nerve Graft, Axoguard Nerve Connector®, Axoguard Nerve Protector®, Axoguard HA+ Nerve Protector™, Axoguard Nerve Cap® and Axotouch® Two-Point Discriminator. The Company is headquartered in Florida. The Company has processing, warehousing, and distribution facilities in Ohio and Texas.

The Company manages its operations as a single operating segment. Substantially all of the Company's assets are maintained in the United States. The Company derives substantially all of its revenues from sales to customers in the United States.

## 2. Summary of Significant Accounting Policies

***Basis of Presentation***

The accompanying consolidated financial statements of the Company are prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). All intercompany accounts and transactions have been eliminated in consolidation.

***Use of Estimates***

The preparation of consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. The significant estimates affecting the amounts reported or disclosed in the consolidated financial statements include the realizable value of inventories, the valuation of stock-based compensation and the valuation of derivative instruments and the fair value of debt instruments. Other estimates that affect the amounts reported or disclosed in the consolidated financial statements include the allowance for doubtful accounts, the useful life and recoverability of long-lived assets, incremental borrowing rates for operating leases, accounting for income taxes including the realizability of deferred tax assets and the related valuation allowance. The Company bases its estimates on historical and anticipated results, trends, and various other assumptions that management believes are reasonable under the circumstances, including assumptions as to future events. Actual results may differ from those estimates.

***Risk and Uncertainties***

The Company is dependent on its suppliers, including single source suppliers, some of which are outside of the U.S., and the inability of these suppliers to deliver necessary components of its products in a timely manner at prices, quality levels and volumes acceptable to the Company, or its inability to efficiently manage these components from these suppliers, could have a material adverse effect on its business, financial condition and operating results.

***Cash and Cash Equivalents***

Cash and cash equivalents consist of short-term, highly liquid investments with original maturities of three months or less from the date of acquisition. Certain of the Company's cash and cash equivalents balances exceed Federal Deposit Insurance Corporation ("FDIC") insured limits or are invested in money market accounts with investment banks that are not FDIC-insured. The Company places its cash and cash equivalents in what they believe to be credit-worthy financial institutions. As of December 31, 2023, $30,524 of the cash and cash equivalents balance was in excess of FDIC limits.

***Restricted Cash***

Amounts included in restricted cash represent those required to be set aside to meet contractual terms of a lease agreement held by the Company. See Note 9 - Long-Term Debt, Net of Debt Discount and Financing Fees- *Other Credit Facilities*.

The following table provides a reconciliation of cash and cash equivalents, and restricted cash reported in the consolidated balance sheets that sum to the total of the same reported in the consolidated statements of cash flows:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| Cash and cash equivalents | $ 31,024 | $ 15,284 |
| Restricted cash | 6,002 | 6,251 |
| Total cash and cash equivalents, and restricted cash shown in the consolidated statements of cash flows | 37,026 | $ 21,535 |

***Investments***

Investments consisted of commercial paper and U.S. government securities, were classified as available-for-sale and had maturities less than one year as of each balance sheet date. Investments were carried at fair value based upon quoted market prices. The Company elected the fair value option ("FVO") for all of its available-for-sale investments. The FVO election results in all changes in unrealized gains and losses being included in investment income in the consolidated statements of operations.

***Accounts Receivable and Allowance for Doubtful Accounts***

Account receivables are recorded at invoiced amounts and do not bear interest. The Company grants credit to customers in the normal course of business, but generally does not require collateral or other security to support its receivables.

An allowance for doubtful accounts is established for estimated uncollectible receivables based on the Company's assessment of the collectability of customer accounts and recognizes the provision in general and administrative on the consolidated statements of operations. In determining the amount of the allowance, the Company considers aging of account balances, historical credit losses, customer-specific information, the current economic environment, supportable forecasts, and other relevant factors. Uncollectible receivables are written off against the allowance for doubtful accounts when all attempts to collect the receivable have been exhausted.

***Concentration Risk***

*Credit Risk*

Financial instruments, which potentially subject the Company to concentrations of credit risk, consist principally of cash and cash equivalents, which are held at major financial institutions and trade receivables.

The Company's products are sold on an uncollateralized basis and on credit terms.

None of the Company's customers accounted for 10% or more of the consolidated revenues or accounts receivable during the years ended December 31, 2023, 2022, and 2021.

***Inventory***

Inventories, consisting of materials, direct labor and manufacturing overhead, are stated at the lower of cost or net realizable value. At each balance sheet date, the Company evaluates inventories for excess quantities, obsolescence or shelf-life.

The Company monitors the shelf life of its products and historical expiration and spoilage trends, and reserves for inventory based on the estimated amount of inventory that will not be distributed before expiration or spoilage. To estimate the amount of inventory that will expire or spoil prior to being distributed, the Company reviews inventory quantities on hand, historical and projected distribution levels, historical expiration trends, and historical spoilage trends. The Company’s calculation of the amount of inventory that will expire prior to distribution has three components: 1) a spoilage-based component that compares historical spoilage rates to inventory quantities on hand 2) a demand or consumption-based component that compares projected distribution to inventory quantities on hand; and 3) an expiring inventory component that assesses the risk related to inventory that is near expiration. The Company’s model assumes that inventory will be distributed on a first-in-first-out basis. Due to the nature of the inventory (surgical implants with expiration dates) and the fact that a significant portion of the Company’s inventory is at medical facility consignment locations, estimating the amount of spoilage,

the amount of inventory that will expire and the amount of inventory that should be reserved for involves significant judgments and estimates.

***Property and Equipment, Net***

Property and equipment, net are stated at historical cost less accumulated depreciation and amortization. Additions and improvements that extend the lives of the assets are capitalized, while expenditures for repairs and maintenance are expensed as incurred. Leasehold improvements are amortized on a straight-line basis over the shorter of the asset's estimated useful life or the remaining lease term. Depreciation is calculated on a straight-line basis over the estimated useful lives of the assets ranging from three to thirty-nine years.

Gains or losses on the disposition of property and equipment are recorded in the period incurred and recorded as general and administrative expenses on the consolidated statement of operations.

***Capitalized Interest***

The interest cost on capital projects, including facilities build-outs, is capitalized and included in the cost of the project. Capitalization begins with the first expenditure for the project and continues until the project is substantially complete and ready for its intended use. For the years ended December 31, 2023, and 2022, the Company capitalized $5,285 and $6,155, respectively, of interest expense into property and equipment.

***Impairment of Long-Lived Assets***

The Company analyzes long-lived assets (asset groups), including property and equipment and definite-lived intangible assets, for impairment whenever events or changes in circumstances indicate that the carrying amounts may not be recoverable. An impairment is recognized when the estimated undiscounted cash flows generated by those assets is less than the carrying amounts of such assets. If it is determined that long-live asset (asset groups) is not recoverable, an impairment loss would be calculated based on the excess of the carrying value of the long-lived asset (asset groups) over the fair value of the long-lived asset (asset groups). There have been no impairments of long-lived assets during the years ended December 31, 2023, 2022, and 2021.

Indefinite-lived intangible assets are not subject to amortization, however, annually in the third quarter or whenever an event occurs or circumstances indicate that the indefinite-lived intangible assets may be impaired, the Company evaluates qualitative factors to determine whether it is more likely or not that the fair value of the indefinite lived asset is less than its carrying amount. The Company's qualitative evaluation includes an assessment of factors, including specific operating results as well as industry, market and general economic conditions. The Company may elect to bypass this qualitative evaluation and perform a quantitative test.

***Intangible Assets, Net***

Intangible assets are recorded at cost and include patents and patent application costs, licenses, and trademarks. Intangible assets with finite lives are amortized on a straight-line basis over their estimated useful lives and reported net of accumulated amortization. Amortization expense is recorded in general and administrative expenses on the consolidated statements of operations. The useful lives of intangible assets are as follows:

- License agreements[(1)]: 17 to 20 years
- Patents: up to 20 years.
- Trademarks: indefinite lived

[(1)] The Company pays royalty fees based on net sales of the licensed products, which are recorded in sales and marketing on the consolidated statements of operation. The licenses expired during 2023. See Note 5 - Intangible Assets, Net.

***Global Nerve Foundation***

Periodically, the Company may make contributions to the Global Nerve Foundation ("GNF"), a related party, due to certain executives of the Company being members of GNF's board of directors. The GNF was incorporated in 2021 exclusively for charitable, educational, and scientific purposes and qualifies under IRC 501(c)(3) as an exempt private foundation. Under its charter, the GNF engages in activities that focus on improving the awareness and care of patients with peripheral nerve injuries

through grants, contributions and other appropriate means. The GNF is a separate legal entity and is not a subsidiary of the Company; therefore, its results are not included in the accompanying consolidated financial statements. The Company contributed $0 and $700 to the GNF during the year ended December 31, 2023, and 2022, no amounts were contributed previously. These contributions were recorded in sales and marketing expense on the consolidated statement of operations.

***Fair Value***

The Company uses fair value measurements to record fair value adjustments to certain assets and liabilities and to determine fair value disclosures. Cash equivalents, investments and derivative instruments are recorded at fair value on a recurring basis. Fair value is defined as the price that would be received upon the sale of an asset or paid to transfer a liability in an orderly transaction between market participants on the measurement date. Valuation techniques used to measure fair value maximize the use of observable inputs and minimize the use of unobservable inputs. The fair value hierarchy defines a three-level valuation hierarchy for classification and disclosure of fair value measurements as follows:

Level 1 – Quoted prices in active markets for identical assets or liabilities.

Level 2 – Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

***Derivative Instruments***

The Company reviews its debt instruments in determining whether there are embedded derivative instruments, which are required to be bifurcated and accounted for separately as a derivative financial instrument. Embedded derivatives that are not clearly and closely related to the debt host are bifurcated and are recognized at fair value on the consolidated balance sheet with changes in fair value recognized as either a gain or loss on the consolidated statement of operations each reporting period. The fair value of embedded derivatives are measured based on equity markets and interest rates, as well as an estimate of the Company's nonperformance risk adjustment. This estimate includes an option adjusted spread and an estimate of the Company's risk-free rate.

***Leases***

The Company determines if a contract contains a lease at the inception date and determines the lease classification, recognition, and measurement at commencement date. All operating lease commitments with a lease term greater than 12 months are recognized as right-of-use assets and obligations on a discounted basis on the balance sheet. Leases with an initial term of 12 months or less are not recorded on the consolidated balance sheet.

The Company classifies a lease based on whether the arrangement is effectively a purchase of the underlying asset. Leases that transfer the control of the underlying asset are classified as finance leases and all others are classified as operating leases. Interest and amortization expense are recognized for operating leases on a straight-line basis. If a change to the lease term leads to a reassessment of the lease classification and remeasurement, assumptions such as the discount rate and variable rents based on a rate or index will be updated as of the remeasurement date. If an arrangement is modified, the Company will reassess whether the arrangement contains a lease. Any subsequent changes in lease payments are recognized when incurred, unless the change requires a remeasurement of the lease liability.

Certain of the Company's leases include options for the Company to extend the lease term. The exercise of lease renewal option is generally at the Company's sole discretion. Certain of the Company's lease agreements include provisions for the Company to reimburse the lessor for common area maintenance, real estate taxes, and insurance, which the Company accounts for as variable lease costs. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants.

***Revenue Recognition***

The Company enters into contracts to sell and distribute products and services to hospitals and surgical facilities for use in caring for patients with peripheral nerve damage or transection. Revenue is recognized when the Company transfers control of the products and services to the Company’s customers when the product is shipped or when it is delivered to the customer depending on the agreement. Products are primarily transferred to customer at a point in time.

A portion of the Company's product revenue is generated from consigned inventory maintained at hospitals and independent sales agencies, and also from inventory physically held by field sales representatives. For these types of product sales, the Company retains control until the product has been used or implanted, at which time revenue is recognized.

In the case of products or services sold to a customer under a distribution or purchase agreement, the customers are granted exclusive distribution rights to sell the implants internationally in a territory defined by the contract. These international distributor agreements contain provisions that allow the Company to terminate the distribution agreement with the distributor, and upon termination, the right to repurchase inventory from the distributor at the distributor's cost. The Company has determined that its contractual rights to repurchase distributor inventory upon termination of the distributor agreement are not substantive and do not impact the timing of when control transfers; and therefore, the Company has determined it is appropriate to recognize revenue when: i) the product is shipped via common carrier; or ii) the product is delivered to the customer or distributor, depending on the terms of the agreement. Determining the timing of revenue recognition for such contracts is subject to judgment, because an evaluation must be made regarding the distributor's ability to direct the use of, and obtain substantially all of the remaining benefits from, the implants received from the Company. Changes in these assessments could have an impact on the timing of revenue recognition from sales to distributors. The Company accounts for shipping and handling activities as a fulfillment cost rather than a separate performance obligation. Amounts billed to customers for shipping and handling are included as part of the transaction price and recognized as revenue when control of the underlying products is transferred to the customer.

The Company operates in a single reportable segment of peripheral nerve repair, offers similar products to its customers, and enters into consistently structured arrangements with similar types of customers. As such, the Company does not disaggregate revenue from contracts with customers as the nature, amount, timing, and uncertainty of revenue and cash flows does not materially differ within and among the contracts with customers.

The contract with the customer states the final terms of the sale, including the description, quantity, and price of each implant distributed. The payment terms and conditions in the Company's contracts vary; however, as a common business practice, payment terms are typically due in full within 30 days of delivery. Since the customer agrees to a stated price in the contract that does not vary over the contract term, the contracts do not contain any material types of variable consideration, and contractual rights of return are not material. The Company has several contracts with distributors in international markets that include consideration paid to the customer in exchange for distinct marketing and other services. The Company records such consideration paid to the customer as a reduction to revenue from the contracts with those distributor customers, which totaled $1,056, $856 and $736 for the years ended December 31, 2023, 2022 and 2021, respectively.

***Government Assistance***

As there is no authoritative guidance under U.S. GAAP for accounting for grants to for-profit business entities, the Company accounts for the grants by analogy to International Accounting Standard ("IAS") 20 *Accounting for Government Grants and Disclosures of Government Assistance ("IAS 20")*. Government assistance and grants are recognized when there is reasonable assurance that the Company has met the requirements of the assistance and there is reasonable assurance that the grant will be received. The Company received government grants of $393, $158 and $1,164 during the years ended December 31, 2023, 2022, and 2021 respectively. See Research and Development Costs below and Note 14. Commitments and Contingencies.

***Costs of Goods Sold***

Cost of goods sold includes materials, direct labor and manufacturing overhead costs related to each product sold or produced, including processing, quality assurance labor and scrap, inbound freight costs, as well as facility, warehousing and overhead supporting the Company's manufacturing operations. All of the Company's manufacturing costs are included in cost of goods sold on the consolidated statements of operations.

***Research and Development Costs***

Research and development costs are charged to expense as incurred. Costs of research and development activities relate to product development, clinical trial expenses, and technical support of products. Costs primarily consist of salaries, wages, consulting and depreciation and maintenance of research facilities and equipment. The Company received certain government grants totaling $393, $158, and $214 which were recorded as an offset to research and development in the consolidated statement of operations during the years ended December 31, 2023, 2022, and 2021, respectively.

***Shipping and Handling***

All shipping and handling costs, including facility and warehousing overhead, directly related to bringing the Company's products to their final selling destination are included in sales and marketing expenses on the consolidated statements of operations totaling $5,048, $5,271, and $4,883 for the December 31, 2023, 2022, and 2021, respectively.

***Income Taxes***

The Company uses the asset and liability method to account for income taxes in accordance with the authoritative guidance for income taxes. Under this method, deferred tax assets and liabilities are determined based on future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, and tax loss and credit carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates applied to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance is established when necessary to reduce deferred tax assets to the amount expected to be realized.

The Company recognizes the effect of income tax positions only if those positions are more likely than not of being sustained. Recognized income tax positions are measured at the largest amount that has a greater than 50% likelihood of being realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs.

The Company identifies and evaluates uncertain tax positions, if any, and recognizes the impact of uncertain tax positions for which there is a less than more-likely-than-not probability of the position being upheld when reviewed by the relevant taxing authority. Such positions are deemed to be unrecognized tax benefits and a corresponding liability is established on the consolidated balance sheet. The Company has not recognized a liability for uncertain tax positions. If there were an unrecognized tax benefit, the Company would recognize interest accrued related to unrecognized tax benefits in interest expense and penalties in operating expenses.

***Share-Based Compensation***

Share-based compensation is in the form of stock options, restricted stock units ("RSU"), performance stock units ("PSU"), and recognized at, or above, the fair market value of the Company's common stock on the date of grant.

The Company estimates the fair value of each stock option award on the date of grant using a multiple-point Black-Scholes option-pricing model. In addition, the Company measures stock options granted to employees at a premium price based on market conditions, such as the trading price of the Company's common stock, using a Monte Carlo Simulation option-pricing model in estimating the fair value at the grant date.

The Company estimates the fair value of RSU grants based upon the grant date closing market price of the Company's common stock.

The fair value of the PSU grants is based on the Company's closing stock price on the grant date. The number of PSUs that will ultimately be earned is based upon the Company's performance as measured against specified targets over the measurement period. Expectations related to the achievement of performance goals associated with PSU grants is assessed as of each reporting period and is used to determine whether PSU grants are expected to vest. If performance-based milestones related to PSU grants are not met or not expected to be met, any compensation expense recognized associated with such grants will be reversed.

The Company recognizes expense for all stock-based compensation awards, including stock options, RSUs, and PSUs granted to employees eligible for retirement, as defined within the award notice and allowing for continued vesting post-retirement, over the retirement notice period and continuously updates its estimate of expense over the notice period each reporting period if a retirement notice has not been provided.

The Company recognizes compensation expense related to the Employee Stock Purchase Plan ("ESPP") based on the estimated fair value of the options on the date of grant. The Company estimates the grant date fair value, and the resulting stock-based compensation expense, using the Black-Scholes option pricing model for each purchase period. The grant date fair value is expensed on a straight-line basis over the offering period.

The determination of fair value using option-pricing models, as indicated above, is affected by the Company's stock price, as well as assumptions regarding several subjective variables. These variables include, but are not limited to, the Company's expected stock price volatility over the expected term of the awards. The Company determines the expected term of each award

giving consideration to the contractual terms, vesting schedules, and post-vesting forfeitures. The Company uses the risk-free interest rate on the implied yield available on U.S. Treasury issues with an equivalent remaining term approximately equal to the expected term of the award. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company's consolidated statements of operations. The expense is reduced for forfeitures as they occur.

***Net Loss Per Share***

Basic net loss per common share is computed by dividing reported net loss by the weighted average number of common shares outstanding during the period without consideration of potentially dilutive securities. Diluted net loss per share reflects the potential dilution that could occur if contracts to issue common stock were exercised or converted into common stock of the Company. Diluted net loss per share is the same as basic net loss per common share for all periods presented, since the effect of the potentially dilutive securities are anti-dilutive. Potential dilutive common share equivalents consist of the incremental common shares issuable upon exercise of vested stock options, RSUs, and PSUs.

***Recently Issued Accounting Pronouncements***

In December 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update 2023-09 — *Income Taxes (Topic 740) — Improvements to Income Tax Disclosures* ("ASU 2023-09"). The new guidance provides for disclosure on an annual basis of the following: (i) specific categories in the rate reconciliation, and (ii) additional information for reconciling items that meet a quantitative threshold of greater than 5% of the amount computed by multiplying pretax income (or loss) by the applicable statutory income tax rate. The amendment in ASU 2023-09 is effective for the annual periods beginning after December 15, 2025, early adoption is permitted. The Company expects to enhance annual income tax reporting disclosures based on the new requirements.

In November 2023, the FASB issued Accounting Standard Update 2023-07 — *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures* ("ASU 2023-07"). The new guidance requires disclosure on an annual and interim basis of the following: (i) significant segment expenses regularly provided to the chief operating decision maker ("CODM") and a measure of segment profit or loss; (ii) an amount for other segment items by reportable segment and a description of its composition; (iii) all annual disclosures about a reportable segment's profit and loss and assets as currently required by Topic 280; (iv) clarify if the CODM uses more than one measure of a segment's profit or loss in assessing segment performance and deciding how to allocate resources; and (v) disclose title and position of the CODM and how the CODM uses the reported measures. Public entities with a single reportable segment are required to provide all the disclosures required by this amendment. The amendment in ASU 2023-07 is effective for the annual periods beginning after December 15, 2023, and for the quarters in the years after December 15, 2024, early adoption is permitted. The Company expects to enhance annual segment reporting disclosures based on the new requirements.

***Recently Adopted Accounting Pronouncements***

In December 2022, the FASB issued ASU 2022-06 - *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848* ("ASU 2022-06"). ASU 2022-06 amended Accounting Standards Codification 848 Reference Rate Reform and ASU 2020 - 4, Reference Rate Reform. The amendment in ASU 2022-06 defers the sunset date of Topic 848 from December 31, 2022, to December 31, 2024, after which entities will no longer be permitted to apply the relief in Topic 848. The new guidance provides optional expedients and exceptions for applying U.S. GAAP to contracts, hedging relationships and other transactions affected by reference rate reform if certain criteria are met. The amendments apply only to contracts and hedging relationships that reference the London Interbank Offered Rate ("LIBOR"), or another reference rate expected to be discontinued due to reference rate reform. The Company early adopted ASU 2022-06 in the second quarter of 2023 and the adoption of this accounting standard did not have an impact on the Company's consolidated financial statements.

All other ASUs issued and not yet effective as of December 31, 2023, and through the date of this report, were assessed and determined to be either not applicable or are expected to have minimal impact on the Company's current or future financial position or results of operations.

## 3. Inventory

Inventory consists of the following:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| Finished goods | $ 13,545 | $ 12,651 |
| Work in process | 2,120 | 1,026 |
| Raw materials | 7,355 | 5,228 |
| **Inventory** | $ 23,020 | $ 18,905 |

The provision for inventory write-down for the years ended as follows:

| (in thousands) | December 31, 2023 | 2022 | 2021 |
|---|---|---|---|
| Provision for inventory write-down | $ 1,939 | $ 1,769 | $ 3,314 |

As of December 31, 2023, and 2022, we reserved $1,342 and $1,221, respectively, for potential losses relating to inventory.

## 4. Property and Equipment, Net

Property and equipment, net consist of the following:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| Furniture and equipment | $ 8,741 | $ 5,316 |
| Building | 60,679 | — |
| Leasehold improvements | 15,348 | 15,482 |
| Processing equipment | 13,116 | 4,227 |
| Land | 731 | 731 |
| Finance lease right-of-use assets | 138 | 131 |
| Projects in process | 3,674 | 63,703 |
| **Property and equipment, at cost** | 102,427 | 89,590 |
| Less: accumulated depreciation and amortization | (13,697) | (10,296) |
| **Property and equipment, net** | $ 88,730 | $ 79,294 |

Depreciation expense is as follows for the years ended:

| (in thousands) | December 31, 2023 | 2022 | 2021 |
|---|---|---|---|
| Depreciation expense | $ 4,218 | $ 2,827 | $ 2,744 |

## 5. Intangible Assets, Net

Intangible assets consist of the following:

| (in thousands) | December 31, 2023 | | | December 31, 2022 | | |
|---|---|---|---|---|---|---|
| | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount | Gross Carrying Amount | Accumulated Amortization | Net Carrying Amount |
| Amortizable intangible assets: | | | | | | |
| Patents | $ 4,905 | $ (820) | $ 4,085 | $ 3,792 | $ (621) | $ 3,170 |
| License agreements | 1,101 | (1,087) | 14 | 1,101 | (1,014) | 87 |
| **Total amortizable intangible assets** | 6,006 | (1,907) | 4,099 | 4,893 | (1,635) | 3,258 |
| | | | | | | |
| Unamortized intangible assets: | | | | | | |
| Trademarks | 432 | — | 432 | 391 | — | 391 |
| **Total intangible assets** | $ 6,438 | $ (1,907) | $ 4,531 | $ 5,284 | $ (1,635) | $ 3,649 |

The amortization expense is as follows for the years ended:

| (in thousands) | December 31, 2023 | 2022 | 2021 |
|---|---|---|---|
| Amortization expense | 273 | 265 | 202 |

As of December 31, 2023, future amortization of patents and license agreements are as follows:

| **Year Ending December 31,** | |
|---|---|
| 2024 | 236 |
| 2025 | 236 |
| 2026 | 235 |
| 2027 | 232 |
| 2028 | 232 |
| Thereafter | 2,928 |
| Total | 4,099 |

**License Agreements**

The Company has multiple license agreements with the University of Florida Research Foundation and the University of Texas at Austin (the "License Agreements") in which the Company acquired exclusive worldwide licenses for underlying technology used in repairing and regenerating nerves. The licensed technologies include the rights to issued patents and patents pending in the U.S. and international markets. The License Agreement with the University of Texas expired in September 2023 and the royalty obligations associated with the License Agreement with the University of Florida Research Foundation expired in December 2023.

The Company paid royalty fees ranging from 1% to 3% under the License Agreements based on net sales of licensed products. Also, when the Company paid royalties to more than one licensor for sales of the same product, a royalty stack cap applies, capping total royalties at 3.75%.

Royalty fees included in sales and marketing on the consolidated statement of operations are as follows for the years ended:

| (in thousands) | December 31, 2023 | 2022 | 2021 |
|---|---|---|---|
| Royalty fees | $ 3,110 | $ 3,103 | $ 2,715 |

## 6. Fair Value Measurement

The following tables represent the Company's fair value hierarchy for its financial assets and liabilities measured at fair value on a recurring basis as of December 31, 2023, and 2022:

| (in thousands) | Level 1 | Level 2 | Level 3 | Total |
|---|---|---|---|---|
| **December 31, 2023** | | | | |
| **Assets:** | | | | |
| Money market funds | $ 24,977 | $ — | $ — | $ 24,977 |
| Total assets | $ 24,977 | $ — | $ — | $ 24,977 |
| | | | | |
| **Liabilities:** | | | | |
| Debt derivative liabilities | $ — | $ — | $ 2,987 | $ 2,987 |
| Total liabilities | $ — | $ — | $ 2,987 | $ 2,987 |

| **December 31, 2022** | Level 1 | Level 2 | Level 3 | Total |
|---|---|---|---|---|
| **Assets:** | | | | |
| Money market funds | $ 10,354 | $ — | $ — | $ 10,354 |
| U.S. government securities | 12,316 | — | — | 12,316 |
| Commercial paper | — | 21,189 | — | 21,189 |
| Total assets | $ 22,669 | $ 21,189 | $ — | $ 43,859 |
| | | | | |
| **Liabilities:** | | | | |
| Debt derivative liability | $ — | $ — | $ 4,518 | $ 4,518 |
| Total liabilities | $ — | $ — | $ 4,518 | $ 4,518 |

The changes in Level 3 liabilities measured at fair value on a recurring basis were as follows:

| (in thousands) | Debt Derivative Liabilities |
|---|---|
| **Balance, December 31, 2021** | $ 5,562 |
| Change in fair value included in net loss | (1,044) |
| **Balance, December 31, 2022** | 4,518 |
| Change in fair value included in net loss | (1,531) |
| **Balance, December 31, 2023** | $ 2,987 |

There were no changes in the levels or methodology of the measurement of financial assets or liabilities during the years ended December 31, 2023, and 2022.

The fair value of cash, restricted cash, accounts receivable, accounts payable and accrued expenses approximates the carrying values because of the short-term nature of these instruments. The carrying value and fair value of the Credit Facility was $46,603 and $51,486 at December 31, 2023, respectively, and $45,712 and $50,293 at December 31, 2022, respectively. See Note 9 - Long-Term Debt, Net of Debt Discount and Financing Fees.

The debt derivative liabilities are measured using a 'with and without' valuation model to compare the fair value of each tranche of the Credit Facility including the identified embedded derivative feature and the fair value of a plain vanilla note with the same terms. The fair value of the Credit Facility including the embedded derivative features was determined using a probability-weighted expected return model based on four potential settlement scenarios for the Credit Facility included in the table below. The estimated settlement value of each scenario, which would include any required make-whole payment (see Note 9 - Long-Term Debt, Net of Debt Discount and Financing Fees), is then discounted to present value using a discount rate that is derived based on the initial terms of the Credit Facility at issuance and corroborated utilizing a synthetic credit rating analysis.

The significant inputs that are included in the valuation of the debt derivative liability - first tranche include:

| | December 31, 2023 | December 31, 2022 |
|---|---|---|
| **Input** | | |
| Remaining term (years) | 3.5 years | 4.5 years |
| Maturity date | June 30, 2027 | June 30, 2027 |
| Coupon rate | 9.5% - 13.2% | 9.5% - 12.7% |
| Revenue participation payments | Maximum each year | Maximum each year |
| Discount rate | 12.06% [1] | 13.90 % [1] |
| Probability of mandatory prepayment before 2024 | N/A [2] | 5.0% [1] |
| Estimated timing of mandatory prepayment event before 2024 | N/A [2] | December 31, 2023 [1] |
| Probability of mandatory prepayment 2024 or after | 15.0% [1] | 15.0% [1] |
| Estimated timing of mandatory prepayment event 2024 or after | March 31, 2026 [1] | March 31, 2026 [1] |
| Probability of optional prepayment event | 5.0% [1] | 5.0% [1] |
| Estimated timing of optional prepayment event | December 31, 2025 [1] | December 31, 2025 [1] |
| Probability of note held-to-maturity [3] | 80 % [1] | 75 % [1] |

[1] Represents a significant unobservable input.

[2] Scenario ended on December 31, 2023.

3 See Maturity date in table.

The significant inputs that are included in the valuation of the debt derivative liability - second tranche include:

| | December 31, 2023 | December 31, 2022 |
|---|---|---|
| **Input** | | |
| Remaining term (years) | 4.5 years | 5.5 years |
| Maturity date | June 30, 2028 | June 30, 2028 |
| Coupon rate | 9.5% - 13.2% | 9.5% - 12.7% |
| Revenue participation payments | Maximum each year | Maximum each year |
| Discount rate | 15.60 % [1] | 17.56 % [1] |
| Probability of mandatory prepayment before 2024 | N/A [2] | 5.0% [1] |
| Estimated timing of mandatory prepayment event before 2024 | N/A [2] | December 31, 2023 [1] |
| Probability of mandatory prepayment 2024 or after | 15.0% [1] | 15.0% [1] |
| Estimated timing of mandatory prepayment event 2024 or after | March 31, 2026 [1] | March 31, 2026 [1] |
| Probability of optional prepayment event | 5.0% [1] | 5.0% [1] |
| Estimated timing of optional prepayment event | December 31, 2025 [1] | December 31, 2025 [1] |
| Probability of note held-to-maturity[3] | 80 % [1] | 75 % [1] |

[1] Represents a significant unobservable input.

[2] Scenario ended on December 31, 2023.

[3] See Maturity date in table.

## 7. Accounts Payable and Accrued Expenses

Accounts payable and accrued expenses consist of the following:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| Accounts payable | $ 11,774 | $ 8,964 |
| Accrued expenses | 3,180 | 4,520 |
| Accrued compensation | 13,929 | 8,959 |
| **Accounts payable and accrued expenses** | $ 28,883 | $ 22,443 |

## 8. Leases

The Company leases administrative, manufacturing, research and distribution facilities through operating leases. Several leases include fixed payments including rent and non-lease components such as common-area or other maintenance costs.

The components of total lease expense for the years ended were as follows:

| (in thousands) | December 31, 2023 | 2022 | 2021 |
|---|---|---|---|
| **Finance lease costs** | | | |
| Amortization of right-of-use assets | $ 4 | $ 20 | $ 22 |
| Interest on lease obligations | 3 | 2 | 2 |
| **Operating lease costs** | | | |
| Operating lease costs | 3,316 | 4,077 | 4,326 |
| Short-term lease costs | 520 | 72 | 10 |
| Variable lease costs | 1,438 | 1,241 | 744 |
| Total lease expense | $ 5,282 | $ 5,412 | $ 5,104 |

Supplemental balance sheet information related to the operating and financing leases is as follows:

| (In thousands, except lease term and discount rate) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| **Operating Leases** | | |
| Right-of-use operating assets | $ 15,562 | $ 14,369 |
| Current maturities of long-term lease obligations | $ 1,541 | $ 1,303 |
| Long-term lease obligations | $ 21,123 | $ 20,387 |
| **Financing Leases** | | |
| Right-of-use financing leases [(1)] | $ 28 | $ 41 |
| Current maturities of long-term lease obligations | $ 6 | $ 7 |
| Long-term lease obligations | $ 19 | $ 18 |
| | | |
| Weighted average operating lease term (in years): | 9.6 | 11 |
| Weighted average financing term (in years): | 6.5 | 4 |
| | | |
| Weighted average discount rate operating leases | 10.99 % | 10.58 % |
| Weighted average discount rate financing leases | 13.22 % | 11.91 % |

[(1)] Financing leases are included in property and equipment, net on the consolidated balance sheets.

Future minimum lease payments under operating and financing leases as of December 31, 2023, were as follows:

| (In thousands) | | |
|---|---|---|
| **Year ending December 31,** | | |
| 2024 | $ | 3,925 |
| 2025 | | 4,134 |
| 2026 | | 4,269 |
| 2027 | | 3,106 |
| 2028 | | 3,104 |
| Thereafter | | 18,566 |
| Total | $ | 37,104 |
| Less: Imputed interest | | (14,415) |
| Total lease liability | | 22,689 |
| Less: Current lease liability | | (1,547) |
| Long-term lease liability | $ | 21,142 |

*New leases*

The Company accounts for new leases in accordance with ASC 842, *Leases.*

On May 9, 2023, the Company entered into a Commercial Lease with JA-Cole L.P., with an effective date of May 9, 2023 (the "2023 JA-Cole Lease"). The 2023 JA-Cole Lease is for an additional 2,500 square feet of office and warehouse facility located in Burleson, Texas. The Commercial Lease has a commencement date of September 1, 2023, and an expiration date of September 30, 2027. The Company valued the 2023 JA-Cole Lease using a 13.9% incremental borrowing rate and recorded a right-of-use asset and a lease liability of $98 on the commencement date.

On October 6, 2023, the Company entered into a Commercial Lease with JA-Cole L.P., with an effective date of September 27, 2023 (the "2023 JA-Cole Lease No. 2"). The 2023 JA-Cole Lease No. 2 is for an additional 2,500 square feet of office and warehouse facility located in Burleson, Texas. The Commercial Lease has a commencement date of October 6, 2023, and an expiration date of April 30, 20230. The Company valued the 2023 JA-Cole Lease No. 2 using a 14.2% incremental borrowing rate and recorded a right-of-use asset and a lease liability of $138 on the commencement date.

On December 27, 2023, the Company entered into the Ninth Amendment to License and Service Agreement ("Ninth Amendment") with Community Blood Center (d/b/a Community Tissue Services) with an effective date of December 21, 2023, pursuant to the original License and Services Agreement dated August 6, 2015. The Ninth Amendment has a commencement date of December 21, 2023, and an expiration date of December 31, 2026. The Company valued the Ninth Amendment using a 13.6% incremental borrowing rate and recorded a right-of-use asset and lease liability of $1,787 on the commencement date.

*Lease modifications*

The Company accounts for lease revisions as a lease modification in accordance with ASC 842, *Leases*, when the modification effectively terminates the existing lease and creates a new lease.

On January 27, 2022, the Company entered into a Commercial Lease Amendment ("Amendment") with JA-Cole L.P., with an effective date of February 1, 2022, pursuant to the original Commercial Lease dated April 21, 2015, as amended (the "2015 JA-Cole Lease"). The 2015 JA-Cole Lease is for the office and warehouse facility located in Burleson, Texas. The Amendment revised the commencement date to May 1, 2022, and the expiration date to April 30, 2027. The Company valued the 2015 JA-Cole Lease using a 11.3% incremental borrowing rate and recorded a right-of-use asset and a lease liability of $641 as a result of this amendment.

On August 22, 2022, the Company entered into the First Amendment to Lease Agreement (the “First Amendment”) with JA-Cole, L.P. with an effective date of October 1, 2022, pursuant to the original Commercial Lease dated October 1, 2020, as amended (the "2020 JA-Cole Lease"). The 2020 JA-Cole Lease is for the office and warehouse facility located in Burleson, Texas. The First Amendment adds an additional 2,500 square feet to the Leased Premises, for a total of 5,000 square feet and revises the expiration date of the 2020 JA-Cole Lease to mean September 30, 2027. The Company valued the 2020 JA Cole Lease using a 12.8% incremental borrowing rate and recorded a right-of-use asset and a lease liability of $221 as a result of this amendment.

## 9. Long-Term Debt, Net of Debt Discount and Financing Fees

Long-term debt, net of debt discount and financing fees consists of the following:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| Credit Facility - first tranche | $ 35,000 | $ 35,000 |
| Credit Facility - second tranche | 15,000 | 15,000 |
| Less - unamortized debt discount and deferred financing fees | (3,397) | (4,288) |
| **Long-term debt, net of debt discount and financing fees** | $ 46,603 | $ 45,712 |

*Credit Facility*

On June 29, 2023, the Company amended its Credit Facility with Oberland Capital and its affiliates TPC Investments II LP and Argo LLC (collectively, the "Lender"). The term loan agreement for the Credit Facility was amended to transition the base interest rate from three-month LIBOR to Adjusted SOFR. The Company obtained the first tranche of $35,000 at closing on June 30, 2020. On June 30, 2021, the second tranche of $15,000 was drawn down by the Company.

Each tranche under the Credit Facility requires quarterly interest payments for seven years. Interest is calculated as 7.5% plus the greater of Adjusted SOFR or 2.0% (12.99% as of December 31, 2023); provided that the interest rate shall never be less than 9.5%. Each tranche of the Credit Facility has a term of seven years from the date of issuance (with the first tranche issued on June 30, 2020, maturing on June 30, 2027, and the second tranche issued on June 30, 2021, maturing on June 30, 2028). In connection with the Credit Facility, the Company entered into a revenue participation agreement (the “Revenue Participation Agreement”) with the Lender, which provided that, among other things, a quarterly royalty payment as a percentage of the Company’s net revenues up to $70 million in any given year, after April 1, 2021, ending on the date upon which all amounts owed under the Credit Facility have been paid in full. This structure results in approximately 1.5% per year of additional interest payments on the outstanding loan amount. The Company recorded interest expense for this Revenue Participation Agreement of $756 for each of the years ended December 31, 2023, and 2022, respectively. The Company pays the quarterly debt interest on the last day of the quarter, and for the years ended December 31, 2023, and 2022, paid $6,436 and $5,074, respectively, to the Lender. The Company capitalized interest of $5,285 and $6,155 for the years ended December 31, 2023, and 2022, respectively, towards the costs to construct and retrofit its APC Facility in Vandalia, OH. See Note 14 - Commitments and Contingencies. To date, the Company has capitalized interest of $16,714 related to this project. The capitalized interest is recorded as part of property and equipment, net in the consolidated balance sheets.

The amounts outstanding under the Credit Facility may be accelerated upon certain events, including: (a) required mandatory prepayments upon an asset sale; (b) in the event the Company is subject to (i) any litigation brought by a Governmental Authority (as defined in the Credit Facility) including intervention after litigation is commenced by a Person (as defined in the Credit Facility), or (ii) any final administrative action by a Governmental Authority, in each case arising out of or in connection with any of the Company’s registry studies, payments made to doctors or training activities with respect to healthcare professionals (excluding certain final administrative actions that have been fully and finally resolved by the parties pursuant to a settlement agreement) or (c) upon the occurrence of an event of default (either automatically or at the option of the Lender depending on the nature of the event). In addition, the Company has the right to prepay any amounts outstanding under the Credit Facility. Upon maturity or upon such earlier repayment of the Credit Facility, the Company will repay the principal balance and provide a make-whole payment calculated to generate an internal rate of return to the Lender equal to 11.5%, less the total of all quarterly interest and royalty payments previously paid to the Lender. See Note 14 - Commitments and Contingencies for further information related to the make-whole payment calculation.

Upon the occurrence of an event of default, the interest rate incurred on amounts outstanding under the Credit Facility will be increased by 4%. The Credit Facility includes a financial covenant requiring the Company to achieve certain revenue targets each quarter. As of December 31, 2023, the Company was in compliance with all the covenants. In the event of a failure to meet such covenants the Company may avoid a default by electing to be subject to a liquidity covenant and meeting all of the obligations required by such covenant. The borrowings under the Credit Facility are secured by substantially all of the assets of the Company.

The debt derivative liabilities are recorded at fair value, with the change in fair value reported in change in the fair value of the derivative on the consolidated statements of operations at each reporting date. See Note 6 - Fair Value Measurement.

*Unamortized Debt Discount and Financing Fees*

The unamortized debt discount consists of the remaining initial fair values of the embedded derivatives related to the Credit Facility.

The financing fees for the Credit Facility were $642 and were recorded as a contra liability to long-term debt on the consolidated balance sheet.

Amortization of debt discount and deferred financing fees for the years ended December 31, 2023, 2022 and 2021, was $891, $891 and $831, respectively, and recorded in interest expense using the effective interest rate method.

*Other Credit Facilities*

The Company had restricted cash of $6,002 and $6,251 at December 31, 2023, and 2022, respectively. The December 31, 2023, and 2022 balances both include $6,000, which represents collateral for an irrevocable standby letter of credit. In March 2021, the Company entered into an agreement which required an additional irrevocable standby letter of credit in the amount of $250, which was terminated during the third quarter of 2023.

**10. Basic and Diluted Loss per Common Share**

The following reflects the net loss attributable to common shareholders and share data used in the basic and diluted earnings per share computations using the two-class method as of:

| | December 31, | | |
|---|---|---|---|
| (in thousands, except per share amounts) | **2023** | **2022** | **2021** |
| **Numerator:** | | | |
| Net loss | $ (21,716) | $ (28,948) | $ (26,985) |
| **Denominator:** | | | |
| Weighted-average common shares outstanding (Basic) | 42,878,543 | 42,083,125 | 41,214,889 |
| Weighted-average common shares outstanding (Diluted) | 42,878,543 | 42,083,125 | 41,214,889 |
| Net loss per common share (Basic and Diluted) | $ (0.51) | $ (0.69) | $ (0.65) |
| | | | |
| Anti-dilutive shares excluded from the calculation of diluted earnings per share [(1)] | | | |
| Stock options | 4,404,765 | 3,133,865 | 1,364,567 |
| Restricted stock units | 386,402 | 454,430 | 333,276 |

[(1)] These common equivalent shares are not included in the diluted per share calculations as they would be anti-dilutive if the Company was in a net income position.

**11. Stock-Based Compensation**

The Company maintains two stock-based incentive plans: the Axogen, Inc. 2019 Amended and Restated Long-Term Incentive Plan, as amended ("2019 Plan") approved by shareholders on May 25, 2022, which provides incentives through the grants of stock options, non-qualified stock options, PSUs and RSUs to employees, directors, and consultants which replaced the Company's 2010 Stock Incentive Plan ("2010 Plan") and the Axogen 2017 Employee Stock Purchase Plan (“2017 ESPP”).

At the August 15, 2023, Annual Shareholder Meeting, approval was received to increase the number of shares available under the 2017 ESPP Plan by 600,000 to 1,200,000.

As of December 31, 2023, there were 1,864,063 shares of common stock available for future grant under the 2019 Plan. Additionally, the Company issued 215,800 options and 112,500 restricted stock units as inducement grants to certain employees in accordance with Nasdaq Listing Rule 5635(c)(4).

Stock-based compensation expense is included in the following line items in the accompanying consolidated statements of operations for the years ended:

| | December 31, | | |
|---|---|---|---|
| (in thousands) | 2023 | 2022 | 2021 |
| Costs of goods sold | $ 796 | $ 215 | $ 157 |
| Sales and marketing | 2,982 | 2,341 | 2,905 |
| Research and development | 3,875 | 2,640 | 1,923 |
| General and administrative | 6,764 | 10,395 | 5,934 |
| Total stock-based compensation expense | $ 14,418 | $ 15,591 | $ 10,919 |

**Stock Options**

The options granted to employees prior to July 1, 2017, typically vest 25% one year after the grant date and 12.5% every six months thereafter for the remaining three-year period until fully vested after four years. The options granted to employees after July 1, 2017, typically vest 50% two years after the grant date and 12.5% every six months thereafter for the remaining two-year period until fully vested after four years. The options granted to directors and certain options granted from time to time to certain executive officers have vested ratably over three years or 25% per quarter over one year. Options typically have terms ranging from seven to ten years. The Company estimates the fair value of each option award on the date of grant using a multiple-point Black-Scholes model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company's consolidated statements of operations. The expense has been reduced for forfeitures as they occur.

The following weighted-average assumptions were used in the calculation of fair value for stock options granted for the following periods:

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2023 | 2022 | 2021 |
| Expected term (in years) | 5.40 | 6.01 | 5.88 |
| Expected volatility | 59.32 % | 61.17 % | 58.38 % |
| Risk free interest rate | 3.52 % | 2.31 % | 1.02 % |
| Expected dividends | — % | — % | — % |

The following table summarizes the Company's stock option activity for the year ended December 31, 2023:

| | Options | Weighted Average Exercise Price | Weighted Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value (in thousands) |
|---|---|---|---|---|
| Outstanding at December 31, 2022 | 3,894,856 | $ 14.38 | 6.78 | $ 2,783 |
| Granted [1] | 1,393,464 | $ 7.88 | | |
| Forfeited | (740,319) | $ 13.09 | | |
| Exercised | (175,758) | $ 5.94 | | |
| Outstanding at December 31, 2023 | 4,372,243 | $ 12.87 | 6.43 | $ 87 |
| Exercisable at December 31, 2023 | 2,281,681 | $ 16.33 | 4.26 | $ 0 |

[1] Options granted include 215,800 inducement shares. in accordance with Nasdaq Listing Rule 5635(c)(4).

The weighted-average grant-date fair value of stock options granted during the years ended December 31, 2023, 2022 and 2021 was $4.72, $4.65, $10.53, respectively.

The total intrinsic value of options exercised for the years ended December 31, 2023, 2022 and 2021 was $1,710, $2,643 and $14,167, respectively.

As of December 31, 2023, there was approximately $6,414 of total unrecognized compensation costs related to unvested stock options. These costs are expected to be recognized over a weighted-average period of 2.3 years.

**Restricted Stock Units**

RSUs granted to employees have a requisite service period of four years. The RSUs granted to directors and certain RSUs granted from time to time to certain executive officers have a requisite service period of three years, while certain of these RSUs have a requisite service period of one year. The Company expenses the fair value of RSUs on a straight-line basis over the requisite service period.

The following table summarizes the activity for restricted stock units for the indicated periods:

| | Outstanding Restricted Stock Units | | | |
|---|---|---|---|---|
| | Stock Units | Weighted Average Fair Value at Date of Grant per Share | Weighted Average Remaining Vesting Life (Years) | Aggregate Intrinsic Value (in thousands) |
| Unvested December 31, 2022 | 1,861,106 | $ 11.13 | 1.60 | $ 18,574 |
| Granted [1] | 1,359,500 | $ 8.10 | | |
| Released | (324,731) | $ 16.23 | | |
| Forfeited | (560,645) | $ 9.70 | | |
| Unvested December 31, 2023 | 2,335,230 | $ 9.00 | 1.39 | $ 15,950 |

[1] RSU granted include 112,500 inducements shares. in accordance with Nasdaq Listing Rule 5635(c)(4).

The weighted-average grant-date fair value of restricted stock units granted during the years ended December 31, 2023, 2022 and 2021 was $8.10, $8.40, $20.13, respectively.

As of December 31, 2023, there was approximately $12,530 of total unrecognized compensation costs related to unvested restricted stock. These costs are expected to be recognized over a weighted-average period of 2.51 years. The total fair market value of restricted stock vested during the years ended December 31, 2023, 2022 and 2021 was $2,685, $2,288 and $2,179, respectively.

**Performance Stock Units**

The Company estimates the fair value of the PSUs based on its closing stock price at the time of grant and its estimate of achieving such performance target and records compensation expense as the milestones are achieved. PSUs generally have a requisite service period of three years and are subject to graded vesting conditions based on revenue goals of the Company. The Company expenses their fair value over the requisite service period. Over the performance period, the number of shares of common stock that will ultimately vest and be issued and the related compensation expense will be adjusted based upon the Company's estimate of achieving such performance target. The number of shares delivered to recipients and the related compensation cost recognized as an expense will be based on the actual performance metrics as set forth in the applicable PSU award agreement. The amount actually awarded will be based upon achievement of the performance measures.

The following table summarizes the activity for performance stock units for the indicated periods:

| | Outstanding Performance Stock Units | | | |
|---|---|---|---|---|
| | Stock Units | Weighted Average Fair Value at Date of Grant per Share | Weighted Average Remaining Vesting Life (Years) | Aggregate Intrinsic Va (in thousands) |
| Unvested December 31, 2022 | 1,112,031 | $ 15.90 | 1.86 | $ 11,0 |
| Granted | 747,870 | 8.29 | | |
| Released | (41,833) | 12.00 | | |
| Forfeited | (560,656) | 15.46 | | |
| Unvested December 31, 2023 | 1,257,412 | $ 11.69 | 1.76 | $ 8,5 |

The weighted-average grant-date fair value of performance stock units during the years ended December 31, 2023, 2022 and 2021 was $8.29, $8.23 and $20.70, respectively.

As of December 31, 2023, there was approximately $2,423 of total unrecognized compensation costs related to unvested performance stock. These costs are expected to be recognized over a weighted-average period of 1.76 years. The total fair market value of performance stock vested during the years ended December 31, 2023, 2022 and 2021 was $374, $673 and $2,302, respectively.

***PSU Awards***

On December 18, 2017, December 27, 2018, and December 17, 2019, the Compensation Committee of the Board of Directors approved PSU awards to certain employees related to their work on the Company's Biologics License Application ("BLA"). As of December 31, 2023, 255,283 PSU awards were available to vest. The number of shares is allocated to certain milestones related to the BLA submission to and approval by the FDA. These awards are expected to begin vesting when the BLA is submitted to the FDA, which is not expected to be until the third quarter of 2024. The performance measure is based upon achieving each of the specific milestones and will vest 50% upon achieving each of the milestones and 50% one year later. No expense has been recognized on these awards.

On March 16, 2021, the Compensation Committee of the Board of Directors approved PSU awards of 332,200 shares tied to 2022 revenue, with a payout ranging from 0% to 200% upon achievement of specific revenue goals. In the fourth quarter of 2021, it was determined that the performance metrics tied to 2022 revenue were no longer probable; therefore, stock compensation expense related to these awards of $1,831 was reversed in 2021.

On March 16, 2022, the Compensation Committee of the Board of Directors approved PSU awards of 526,467 shares tied to revenue from 2022 to 2024 with a pay-out range from 0% to 150% upon achievement of specific revenue targets. At December 31, 2023, the total future stock compensation expense related to non-vested performance awards is expected to be $292 for those awards issued on March 16, 2022.

On March 16, 2023, the Compensation Committee of the Board of Directors approved PSU awards of 744,000 shares tied to revenue from 2023 to 2025 with a pay-out range from 0% to 150% upon achievement of specific revenue targets. At December 31, 2023, the total future stock compensation expense related to non-vested performance awards is expected to be $2,226 for those awards issued on March 16, 2023.

**2017 ESPP**

The 2017 ESPP allows eligible employees to acquire shares of the Company's common stock through payroll deductions at a discount to market price (currently 15.0%) of the lesser of the closing price of the Company's common stock on the first day or last day of the offering period. The offering period is currently 6 months. Participants may not purchase more than $25 or 3,000 shares of the Company's common stock in a calendar year through the ESPP. Stock-based compensation expense related to the 2017 ESPP, included in total stock-based compensation expense, was $333, $844 and $401 for the years ended December 31, 2023, 2022 and 2021, respectively.

The following are the weighted average assumptions used in the valuation of ESPP options for the years ended December 31:

| | December 31, | | |
|---|---|---|---|
| | **2023** | **2022** | **2021** |
| Expected term (in years) | 0.5 | 0.5 | 0.5 |
| Expected volatility | 53.6 % | 66.5 % | 48.0 % |
| Risk-free interest rate | 5.1 % | 1.1 % | 0.1 % |
| Expected dividends | — % | — % | — % |

The weighted-average grant-date fair value of ESPP options during the years ended December 31, 2023, 2022 and 2021 was $2.84, $2.87, $5.18 respectively.

**12. Income Taxes**

Deferred income taxes are accounted for using the balance sheet approach, which requires recognition of deferred tax assets and liabilities for the expected future consequences of temporary differences between the financial reporting basis and the tax basis of assets and liabilities, as measured by enacted state and federal tax rates. Deferred tax assets and deferred tax liabilities are as follows:

| (in thousands) | December 31, 2023 | December 31, 2022 |
|---|---|---|
| **Deferred tax assets:** | | |
| Net operating loss carryforwards | $ 41,454 | $ 42,716 |
| Inventory write-down | 347 | 503 |
| Allowance for doubtful accounts | 87 | 169 |
| Lease obligations | 5,867 | 5,643 |
| Stock-based compensation | 6,084 | 5,274 |
| Capitalized research and development costs | 11,530 | 6,357 |
| Debt derivative liability | 772 | 1,174 |
| Charitable contributions | 3 | 203 |
| Accrued compensation | 56 | 1,010 |
| Total deferred tax assets | 66,200 | 63,049 |
| **Deferred tax liabilities:** | | |
| Depreciation | (978) | (983) |
| Amortization | (51) | (17) |
| Right-of-use assets | (4,031) | (3,744) |
| Contract liabilities | — | 4 |
| Total deferred tax liabilities | (5,060) | (4,740) |
| Net deferred tax assets | 61,140 | 58,309 |
| Valuation allowance | $ (61,140) | $ (58,309) |

A valuation allowance is provided to reduce the deferred tax assets reported if, based on the weight of the evidence, it is more-likely-than-not that a portion or none of the deferred tax assets will be realized. As of December 31, 2023, and 2022, management assessed the realizability of deferred tax assets. After consideration of all the evidence, including reversal of deferred tax liabilities, future taxable income and other factors, management determined that a full valuation allowance was necessary as of December 31, 2023, and 2022. The valuation allowance increased by $2,831 and $5,058 during 2023 and 2022, respectively, primarily as a result of the increase in the capitalized research and development costs for tax purposes.

The Company adopted Section 174 of the Tax Cuts and Jobs Act of 2017 ("TCJA") which requires taxpayers to capitalize and amortize research and development expenditures for the tax years beginning after December 31, 2022. This rule became effective for the Company during 2022 and resulted in capitalized research and development costs of $11,530 being recorded to deferred tax assets as of December 31, 2023.

The difference between the financial statement income tax benefit and the income tax benefit using statutory rates is primarily due to a combination of items: valuation allowance; non-deductible permanent items such as meals, entertainment and equity compensation. The Company’s effective income tax rate differs from the statutory federal income tax rate as follows:

| | December 31, | | |
|---|---|---|---|
| | 2023 | 2022 | 2021 |
| Federal tax rate | 21.0 % | 21.0 % | 21.0 % |
| State taxes - net of Federal benefit | 1.5 % | 4.1 % | 5.1 % |
| Permanent items and other deductions | (8.7)% | (7.1)% | (1.6)% |
| Other | (0.8)% | (0.5)% | 0.2 % |
| Valuation allowance | (13.0)% | (17.5)% | (24.7)% |
| Effective income tax rate | — % | — % | — % |

As of December 31, 2023, the Company had tax-effected net operating loss carryforwards of $41,254 to offset future taxable income. The Tax Cuts & Job Act (TCJA) enacted significant changes to Net Operating Loss ("NOL") utilization. NOL's generated after January 1, 2018 limiting the NOL utilization to 80% of taxable income. The remaining 20% is carried forward to subsequent years. Net operating losses incurred in tax years beginning on or after January 1, 2018, are carried forward indefinitely. Net operating losses incurred in tax years prior to January 1, 2018, are subject to a twenty-year carryforward before expiring. A portion of the net operating loss carryforwards may expire due to limitations imposed by Section 382 of the Internal Revenue Code. Future utilization of the available net operating loss carryforward may be limited under Internal Revenue Code Section 382 as a result of changes in ownership.

The Company files U.S. federal and state income tax returns in jurisdictions with varying statutes of limitations. In the normal course of business, the Company is subject to examination by taxing authorities throughout the U.S. These examinations could include examining the timing and amount of deductions, the allocation of income among various tax jurisdictions and compliance with federal, state, and local laws. The Company's remaining open tax years subject to examination by federal tax authorities include the years ended December 31, 2020, through 2023. The Company's remaining open tax years subject to examination by state and foreign tax authorities include the years ended December 31, 2019, through 2023. However, for tax years 2004 through 2017, federal and state taxing authorities may examine and adjust loss carryforwards in the years in which those loss carryforwards are ultimately utilized.

Legislation enacted in 2018, titled the Tax Cuts and Jobs Act of 2017, subjects a U.S. shareholder to tax on global intangible low-taxed income ("GILTI") earned by certain foreign subsidiaries. The FASB Staff Q&A, Topic 740, No. 5, *Accounting for Global Intangible Low-Taxed Income*, states that an entity can make an accounting policy election to either recognize deferred taxes for temporary basis differences expected to reverse as GILTI in future years or to provide for the tax expense related to GILTI in the year the tax is incurred as a period expense only. The Company has elected to account for GILTI in the year the tax is incurred.

The Company has no recorded income tax expense or income tax benefit for the years ended December 31, 2023, 2022, and 2021 due to the generation of net operating losses. The Company is in a three year cumulative loss and net Deferred Tax Asset (DTA) position, the benefits of which have been fully reserved as of December 31, 2023. The Company does not believe there are any additional tax refund opportunities currently available

**13. Retirement Plan**

The Company sponsors the Axogen 401(k) plan (the "401(k) Plan"), a defined contribution plan covering substantially all employees of the Company. All full-time employees who have attained the age of 18 are eligible to participate in the 401(k) Plan. Eligibility is immediate upon employment and enrollment is available any time during employment. Participating employees may make annual pretax contributions to their accounts up to a maximum amount as limited by law. The 401(k) Plan requires the Company to make 100% matching contributions on up to 3% of the employee's annual salary and 50% matching contributions on up to the next 2% of the employee's annual salary as long as the employee participates in the 401(k) Plan. Both employee contributions and Company contributions vest immediately. Employer contributions to the 401(k) Plan were $1,612, $1,409, and $1,346 for the years ended December 31, 2023, 2022 and 2021, respectively.

**14. Commitments and Contingencies**

**Service Agreements**

The Company pays CTS a facility fee for the use of clean room/manufacturing, storage, and office space and for services in support of its product process including for routine sterilization of daily supplies, providing disposable supplies and microbial services, and office support. Pursuant to the CTS Agreement, the Company recorded expenses of $2,327, $2,278 and $2,466 for the years ended December 31, 2023, 2022, and 2021, respectively, and included in cost of goods sold. The CTS Agreement was

amended on December 31, 2023, extending the term through December 31, 2026. The CTS Agreement may be terminated by either party by providing an eighteen-month written notice. The Company reduced its utilization of CTS in the fourth quarter 2023 for Avance, however, will continue to utilize CTS beyond 2023 for the processing of Avive +.

In December 2011, the Company entered into a Master Services Agreement for Clinical Research and Related Services. The Company was required to pay $151 upon execution of this agreement and the remainder monthly based on activities associated with the execution of the Company's phase 3 pivotal clinical trial to support the biologics license application ("BLA") for Avance Nerve Graft. Payments made under this agreement were $191, $1,254 and $1,100 for the years ended December 31, 2023, 2022 and 2021, respectively.

**Distribution and Supply Agreements**

In August 2008, the Company entered into an exclusive distribution agreement with Cook Biotech Incorporated ("Cook Biotech") to distribute the Axoguard Nerve Connector and Axoguard Nerve Protector products worldwide and the parties subsequently amended the agreement on August 4, 2023. The distribution agreement expires on December 31, 2030. The Cook Biotech agreement establishes a formula for the transfer cost of the Axoguard products and requires certain minimum purchases by the Company, although, through mutual agreement, the parties have not established such minimums; and, to date, have not enforced such provision. Under the Cook Biotech agreement, the Company provides purchase orders to Cook Biotech, and Cook Biotech fulfills the purchase orders. The agreement allows for termination provisions for both parties. The loss of the ability to sell the Axoguard products could have a material adverse effect on the Company's business until other replacement products would be available.

In June 2017, the Company entered into the Nerve End Cap Supply Agreement (the "Supply Agreement") with Cook Biotech whereby Cook Biotech is the exclusive contract manufacturer of the Axoguard Nerve Cap, and the parties subsequently amended the agreement on August 4, 2023. The Supply Agreement expires on December 31, 2030. The agreement establishes the terms and conditions in which Cook Biotech will manufacture the product to the Company Under the Supply Agreement the Company provides purchase orders to Cook Biotech and Cook Biotech fulfills the purchase orders. The agreement allows for termination provisions for both parties The loss of the ability to sell the Axoguard Nerve Cap products could have a material adverse effect on the Company's business until other replacement products would be available.

In May 2023, the Company entered into a Supply and Manufacturing Agreement ("HA+ Supply Agreement") with Cook Biotech whereby Cook Biotech is the exclusive contract manufacturer of the Axoguard HA + Nerve Protector. The HA+ Supply Agreement expires on July 1, 2030. The Agreement establishes the terms and condition in which Cook Biotech will manufacture, package, label and deliver the product to the Company. Under the Cook Biotech agreement, the Company provides purchase orders to Cook Biotech, and Cook Biotech fulfills the purchase orders. The agreement allows for termination provisions for both parties The loss of the ability to sell the Axoguard products could have a material adverse effect on the Company's business until other replacement products would be available. On January 31, 2024, RTI Surgical, Inc. announced the acquisition of Cook Biotech. Although we do not expect the acquisition of Cook Biotech to have a material impact on our relationship with Cook Biotech or our operations.

**Processing Facilities**

The Company is highly dependent on the continued availability of its processing facilities at CTS and APC in Dayton, Ohio and could be harmed if the physical infrastructure of this facility is unavailable for any prolonged period of time.

**Certain Economic Development Grants**

The Company obtained certain economic development grants from state and local authorities totaling up to $2,685 including $1,250 of cash grants to offset costs to acquire and develop the APC Facility. The economic development grants are subject to certain job creation milestones by December 31, 2023, and have clawback clauses if the Company does not meet the job creation milestones. The Company requested an extension from the grant authorities to extend the job creation milestones and received approval to extend the evaluation date to December 31, 2024, and the expiration date to December 31, 2026. As of December 31, 2023, the Company had received $1,188 in cash grants during the years ended 2021 and 2020.

**Fair Value of the Debt Derivative Liabilities**

The fair value of the debt derivative liabilities is $2,987 as of December 31, 2023. The fair value of the debt derivative liabilities was determined using a probability-weighted expected return model based upon the four potential settlement scenarios for the Credit Facility which are described in Note 2 - Summary of Significant Accounting Policies – Derivative Instruments. The estimated settlement value of each scenario, includes any required make-whole payment see Note 9 - Long-

Term Debt, Net of Debt Discount and Financing Fees, is then discounted to present value using a discount rate that is derived based upon the initial terms of the Credit Facility at issuance and corroborated utilizing a synthetic rating analysis. The calculated fair values under the four scenarios are then compared to the fair value of a plain vanilla note, with the difference reflecting the fair value of the debt derivative liabilities. The Company estimated the make-whole payments required under each scenario according to the terms of the Credit Facility to generate an internal rate of return equal to 11.5% through the scheduled maturity dates, less the total of all quarterly interest and royalty payments previously paid to the Lender. The calculation utilized the XIRR function in Microsoft Excel as required by the Credit Facility. If the debt is not prepaid but instead is held to its scheduled maturities, the Company's estimate of the make-whole payment for the first and second tranches of the Credit Facility due on June 30, 2027, and June 30, 2028, respectively, are approximately zero. The Company has consistently applied this approach since the inception of the debt agreement on June 30, 2020.

The Company has become aware that the Lender may have an alternative interpretation of the calculation of the make-whole payments that the Company believes does not properly utilize the same methodology utilized by the XIRR function in Microsoft Excel as described in the Credit Facility. The Company estimates the top end of the range of the make-whole payments if the debt is held to scheduled maturity under an alternative interpretation to be approximately $9,000 for the first tranche of the Credit Facility on June 30, 2027, and approximately $4,000 for the second tranche of the Credit Facility on June 30, 2028. Further, if the debt is prepaid prior to the scheduled maturity dates and subject to the alternative interpretation, the make-whole payment would be larger than the amounts herein.

**Other Commitments**

Certain executive officers of the Company are parties to employment contracts. Such contracts have severance payments for certain conditions including change of control. During 2023, the Company entered into certain severance agreements with former employees to pay $755 in severance and $300 in consulting fees in 2024, these amounts were included in accounts payable and accrued expenses on our consolidated balance sheet.

The Company also entered into a Transition and Separation Agreement with its CEO on January 4, 2024, which will result in potential payments of $1,538 and $1,646 in 2024 and 2025, respectively, which includes the CEO's 2023 bonus to be paid in March 2024, salary, 2024 bonus to paid in March of 2025, accrued PTO through January 5, 2025, nine months of senior advisory fees, and eighteen months of COBRA payments. Actual timing of payments are subject to the determination of the end of CEO Term per the Transition and Separation Agreement.

**Legal Proceedings**

The Company is and may be subject to various claims, lawsuits, and proceedings in the ordinary course of the Company's business. Such matters are subject to many uncertainties and outcomes are not predictable with assurance. While there can be no assurances as to the ultimate outcome of any legal proceeding or other loss contingency involving the Company. In the opinion of management, such claims are either adequately covered by insurance or otherwise indemnified, or are not expected, individually or in the aggregate, to result in a material, adverse effect on the Company's financial condition, results of operations or cash flows. However, it is possible that the Company's results of operations, financial position and cash flows in a particular period could be materially affected by these contingencies.

## 15. Subsequent Event

On January 4, 2024, Karen Zaderej, the Chief Executive Officer (the "CEO") and President of the Company informed the Company of her intention to retire in January 2025.Ms. Zaderej's retirement will qualify as a Qualified Retirement under the terms of Ms. Zaderej's equity award agreements, which allow for continuation of vesting of certain equity awards (the "Retirement Vesting") following retirement pursuant to the terms of the retirement program the Compensation Committee of the Board approved in March 2022.

Pursuant to the terms of the Transition and Separation Agreement, dated January 4, 2024, between the Company and Ms. Zaderej (the "Transition Agreement"), Ms. Zaderej will remain the Company's CEO until the earlier of (i) January 4, 2025, (ii) the date the Board identifies a new CEO, or (iii) she is terminated with or without substantial cause (the "CEO Term"). During the CEO Term, Ms. Zaderej will continue to receive her base salary and benefits, as well as continued vesting of all unvested equity awards previously granted to Ms. Zaderej. At the conclusion of the CEO Term, Ms. Zaderej will cease vesting in all prior equity awards except for awards subject to Qualified Retirement (as defined below) treatment. Post the CEO Term, Ms. Zaderej would resign from all board and officer positions she holds with the Company and its affiliates.

Following the CEO Term, she will provide transition services for nine months following the end of the CEO Term, unless such period is earlier terminated by the Board of Directors (the “Transition Period”). During the Transition Period, Ms. Zaderej will be employed as a senior advisor and will receive $112,500 per month for the first six months for 40 hours of work per week and $75,000 per month for the final three months for 20 hours of work per week to provide transition services as determined by the Board. Following the CEO Term and the first six months of the Transition Period, Ms. Zaderej will be reimbursed for continuation coverage under the Company’s medical plan through COBRA until the earlier of (i) 18 months, (ii) the date she becomes eligible for coverage under another employer’s medical plan, or (iii) she is no longer eligible for coverage through COBRA. Additionally, Ms. Zaderej will be entitled to receive her 2023 bonus, as well as a prorated bonus earned in 2024 during the CEO Term.

On January 5, 2024, the Company and Peter J. Mariani, the Company's former CFO, entered into a Separation, Waiver and Release of Claims Agreement ("Separation Agreement") providing for the terms of his separation of employment with the Company. The separation was effective December 22, 2023, and provided for certain lump sum payments totaling $755 and $300 in a consulting agreement which extends through 2024 .

## ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

## ITEM 9A. CONTROLS AND PROCEDURES

**Evaluation of Disclosure Controls and Procedures**

We maintain "disclosure controls and procedures" as defined in Rules 13a-15€ and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that are designed to ensure that information required to be disclosed by us in reports we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including our principal executive officer and principal financial officer, and Board of Directors, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognizes that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable assurance of achieving the desired objectives, and we necessarily are required to apply our judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures.

Our management, including our principal executive officer and principal financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2023, and concluded that our disclosure controls and procedures were effective.

**Changes in Internal Control Over Financial Reporting**

There were no changes in our internal control over financial reporting during the three months ended December 31, 2023, that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting (as defined in Rules 13a-15(d) or 15d-15(f) of the Exchange Act).

**Management's Annual Report on Internal Control Over Financial Reporting**

Our management is responsible for establishing and maintaining internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act. Our internal control system is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with US GAAP and includes those policies and procedures that:

- Pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets;
- Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
- Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the consolidated financial statements.

Because of inherent limitations, a system of internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate due to a change in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management, including our principal executive officer and principal financial officer, evaluated the effectiveness of the design and operation of our internal control over financial reporting as of December 31, 2023. In making this assessment, our management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control-Integrated Framework (2013). Based on their evaluation, the principal executive officer and principal financial officer concluded that our internal controls over financial reporting were effective.

Our independent registered public accounting firm, Deloitte & Touche LLP, who audited the consolidated financial statements included in this Annual Report on Form 10-K, has issued an attestation report on the effectiveness of management's internal control over financial reporting as of December 31, 2023.

**ITEM 9B. OTHER INFORMATION**

On March 4, 2024, our board of directors established June 5, 2024 as the date of our 2024 annual meeting of shareholders (the "2024 Annual Meeting"). The time and location of the 2024 Annual Meeting will be specified in the Company's proxy statement for the 2024 Annual Meeting. Because the date of the 2024 Annual Meeting is more than 30 days before the anniversary of our 2023 annual meeting of shareholders, the Company is informing shareholders of this change in accordance with Rule 14a-15(f) under the Exchange Act and is informing shareholders of the new dates described below for submitting shareholder proposals and other matters.

In accordance with Rule 14a-8 under the Exchange Act and our Bylaws, shareholder proposals or director nominations must be received by the Company's Secretary at the principal executive offices of the Company no later than 5:00 p.m., Eastern Time, on March 15, 2024

Any proposal or nomination must meet the requirements set forth in the Bylaws in order to be properly brought before the Annual Meeting.

**ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS**

Not applicable.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

Information required by this item concerning our directors will be set forth under the caption “Election of Directors” in our definitive proxy statement for our 2024 annual meeting, which will be filed no later than 120 days after December 31, 2023, and is incorporated herein by reference.

If applicable, information required by this item concerning compliance with Section 16(a) of the Exchange Act, as amended, will be set forth under the caption "Security Ownership of Certain Beneficial Owners and Management — Delinquent Section 16(a) Reports” in our definitive proxy statement for our 2024 annual meeting, and is incorporated herein by reference.

Information required by this item concerning our audit committee, our audit committee financial expert and any material changes to the way in which security holders may recommend nominees our Board of Directors will be set forth under the caption “Corporate Governance” in our definitive proxy statement for our 2024 annual meeting and is incorporated herein by reference.

The Board of Directors adopted a Code of Business Conduct and Ethics, which is posted on our website https://ir.axogeninc.com/governance-docs that is applicable to all employees and directors. We will provide copies of our Code of Business Conduct and Ethics without charge upon request. To obtain a copy, please visit our website or send your written request to Investors Relations, 13631 Progress Blvd., Suite 400, Alachua, FL 32615. With respect to any amendments or waivers of this Code of Business Conduct and Ethics (to the extent applicable to our chief executive officer, principal accounting officer or controller, or persons performing similar functions) we intend to either post such amendments or waivers on our website or disclose such amendments or waivers pursuant to a Current Report on Form 8-K.

### ITEM 11. EXECUTIVE COMPENSATION.

Information required by this item will be set forth under the caption “Executive Compensation” in our definitive proxy statement for our 2024 annual meeting, which will be filed no later than 120 days after December 31, 2023, and is incorporated herein by reference.

### ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.

Information required by this item concerning ownership will be set forth under the caption “Security Ownership of Certain Beneficial Owners and Management” and “Equity Compensation Plan Information” in our definitive proxy statement for our 2024 annual meeting, which will be filed no later than 120 days after December 31, 2023, and is incorporated herein by reference.

### ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.

Information required by this item concerning ownership will be set forth under the caption “Corporate Governance — Director Independence” and “Certain Relationships and Related Transactions” in our definitive proxy statement for our 2024 annual meeting, which will be filed no later than 120 days after December 31, 2023, and is incorporated herein by reference.

### ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES.

Information required by this item concerning ownership will be set forth under the caption “Ratification of Appointment of Independent Registered Public Accounting Firm” in our definitive proxy statement for our 2024 annual meeting, which will be filed no later than 120 days after December 31, 2023, and is incorporated herein by reference.

**PART IV**

**Schedule II – Valuation and Qualifying Accounts**

**AXOGEN, INC.**
**SCHEDULE II – VALUATION AND QUALIFYING ACCOUNTS**
**THREE YEARS ENDED DECEMBER 31, 2023, 2022 AND 2021**

| (in thousands) | Balance at Beginning of Year | Additions | Deductions (Charge-offs) | Balance at End of Year |
|---|---|---|---|---|
| Allowance for doubtful accounts | | | | |
| 2021 | $ 416 | $ — | $ (140) | $ 276 |
| 2022 | $ 276 | $ 612 | $ (238) | $ 650 |
| 2023 | $ 650 | $ — | $ (313) | $ 337 |
| | | | | |
| Valuation allowance for deferred tax assets | | | | |
| 2021 | $ 46,517 | $ 6,734 | | $ 53,251 |
| 2022 | $ 53,251 | $ 5,058 | $ — | $ 58,309 |
| 2023 | $ 58,309 | $ 2,831 | $ — | $ 61,140 |
| | | | | |
| Valuation for inventory reserves | | | | |
| 2021 | $ 1,553 | $ 3,314 | $ (2,291) | $ 2,576 |
| 2022 | 2,576 | 1,769 | (2,410) | 1,935 |
| 2023 | 1,935 | 1,939 | (2,533) | 1,342 |

**ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

(a) **Financial Statements and Financial Statement Schedules**

The financial statements required by Item 15(a) are filed in Part II Item 8 of this Annual Report on Form 10-K. Schedules not included have been omitted because they are not applicable or because the required information is included in the Consolidated Financial Statements and notes thereto.

(b) **Exhibits**

The following exhibits are included in this Annual Report on Form 10-K or incorporated by reference in the Form 10-K.

| Exhibit Number | Description |
|---|---|
| 3.1 | Amended and Restated Articles of Incorporation of Axogen, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on For 10-Q, filed on November 6, 2019). |
| +3.2 | Axogen, Inc. Amended and Restated Bylaws dated as of August 15, 2023. |
| 4.1 | Description of Securities of Axogen, Inc. (incorporated by reference to Exhibit 4.1 to the Company's Annual Report on Form 10-K for the year endec December 31, 2019, filed on February 24, 2020). |
| *10.2.1 | Amended and Restated Standard Exclusive License Agreement with Sublicensing Terms, dated as of February 21, 2006, by and between Axogen Corporation and the University of Florida Research Foundation, Inc. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on October 6, 2011). |
| 10.2.2 | Second Amendment to the Amended and Restated Standard Exclusive License Agreement No. A5140, effective as of July 5, 2016, by and between Axogen Corporation and the University of Florida Research Foundation, Inc. (incorporated by reference to Exhibit 10.2.1 to the Company's Current Report on Form 8-K filed on July 11, 2016). |
| 10.2.3 | Third Amendment to the Amended and Restated Standard Exclusive License Agreement No. A5140 effective as of October 19, 2021, by and betweer AxoGen, Inc.and the University of Florida Research Foundation, Inc. (incorporated by reference to Exhibit 10.2.3 to the Company's Annual Report o Form 10-K for the year ended December 31, 2022, file on March 14, 2023). |
| *10.3 | Sid Martin Biotechnology Development Institute Incubator License Agreement, dated as of September 26, 2006, by and between Axogen, Inc. and th University of Florida Research Foundation, Inc. (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on October 6, 2011). |
| *10.4.1 | Amended and Restated Nerve Tissue Processing Agreement, dated as of February 27, 2008, by and between Axogen Corporation and LifeNet Health (incorporated by reference to Exhibit 10.4.1 to the Company's Current Report on Form 8-K filed on October 6, 2011). |
| *10.4.2 | Second Amendment to Amended and Restated Nerve Tissue Processing Agreement, dated as of August 9, 2011, by and between Axogen Corporation and LifeNet Health (incorporated by reference to Exhibit 10.4.2 to the Company's Current Report on Form 8-K filed on October 6, 2011). |
| *10.5.1 | Distribution Agreement, dated as of August 27, 2008, by and between Axogen, Inc. and Cook Biotech Incorporated (incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed on October 6, 2011). |
| 10.5.2 | Amendment No. 1 to Distribution Agreement, dated as of February 24, 2012, by and between Axogen, Inc. and Cook Biotech Incorporated (incorporated by reference to Exhibit 10.5.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011, filed on March 1 2012). |
| 10.5.3 | Amendment No. 2 to Distribution Agreement, dated as of February 26, 2018, by and between Axogen, Inc. and Cook Biotech Incorporated (incorporated by reference to Exhibit 10.5.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 2016, filed on March 1 2017). |

| Exhibit Number | Description |
|---|---|
| 10.5.4 | Amendment No. 3 to Distribution Agreement, dated as of August 4, 2023, by and between Axogen, Inc. and Cook Biotech Incorporated (incorporate reference to Exhibit 10.3.3 to the Company's Quarterly Report on Form 10-Q, for the quarter ended June 30, 2023, filed August 8, 2023." |
| 10.6.1 | Lease dated as of February 6, 2007, by and between Axogen Corporation and WIGSHAW, LLC (incorporated by reference to Exhibit 10.10 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2011, filed on November 14, 2011). |
| 10.6.2 | Amendment dated February 27, 2012 to lease dated as of February 6, 2007, by and between Axogen Corporation and WIGSHAW, LLC, its successor and assigns (incorporated by reference to Exhibit 10.23 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011, filed March 15, 2012). |
| 10.6.3 | Second Amendment to Lease, dated as of February 27, 2013 to lease dated as of February 6, 2007, by and between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by reference to Exhibit 10.23 to the Company's Annual Report on Form 10-K for the year ended December 31, 2012, filed on March 12, 2013). |
| 10.6.4 | Third Amendment to Lease, dated November 12, 2013 to lease dated as of February 6, 2007, by and between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by reference to Exhibit 10.10.3 to the Company's Annual Report on Form 10-K for the year ended December 3 2013, filed on March 6, 2014). |
| 10.6.5 | Fourth Amendment to Lease, dated as of March 16, 2016, by and between Axogen Corporation and SNH Medical Office Properties Trust (incorporat by reference to Exhibit 10.10.4 to the Company's Current Report on Form 8-K filed on March 18, 2016). |
| 10.6.6 | Fifth Amendment to Lease, dated as of November 30, 2020, by and between AxoGen Corporation and SNH Medical Office Properties Trust (incorporated by reference to Exhibit 10.9.5 to the Company's Current Report on Form 8-K, filed on December 4, 2020). |
| 10.6.7 | Sixth Amendment to Lease, dated as of July 13, 2021, by and between Axogen Corporation and Ology Bioservices Holdings, LLC (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed on July 16, 2021). |
| 10.6.8 | Current Premises Election Notice, dated as of April 10, 2018, by and between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 13, 2018). |
| 10.6.9 | Letter Agreement effective September 20, 2018 by between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by referenc to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on September 21, 2018). |
| **10.7 | Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of March 23, 2016 (incorporated by reference to Appendix A to the Company's Proxy Statement filed on April 8, 2016). |
| **10.8.1 | Form of Employee Incentive Stock Option Agreement (incorporated by reference to Exhibit 99.2 to the Company's Current Report on Form 8-K filed on September 26, 2007). |
| **10.8.2 | Amended Form of Employee Incentive Stock Option Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as March 23, 2016 (incorporated by reference to Exhibit 10.10.2 to the Company's Annual Report on Form 10-K for the year ended December 31, 2016 filed on March 1, 2017). |

| Exhibit Number | Description |
|---|---|
| 10.9.1 | Commercial Lease, dated April 21, 2015, by and between Axogen Corporation and Ja-Cole, L.P. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 22, 2015). |
| 10.9.2 | Addendum to Commercial Lease, dated April 21, 2015 by and between Axogen Corporation and Ja-Cole, L.P. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on April 22, 2015). |
| 10.9.3 | Commercial Lease Amendment 2, dated as of October 25, 2016, by and between Axogen Corporation and Ja-Cole L.P. (incorporated by reference to Exhibit 10.2.1 to the Company's Current Report on Form 8-K filed on October 31, 2016). |
| 10.9.4 | Commercial Lease Amendment 3, dated November 21, 2018 by and between Ja-Cole L.P. and Axogen Corporation (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on November 26, 2018). |
| 10.9.5 | Commercial Lease Amendment 4, dated March 12, 2019, by and between Ja-Cole L.P. and Axogen Corporation (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2019, filed on May 8, 2019). |
| 10.9.6 | Commercial Lease Amendment, dated as of January 27, 2022, by and between Ja-Cole L.P. and Axogen Corporation (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on January 31, 2022). |
| +10.9.7 | Commercial Lease Amendment 6, dated March 10, 2023, by and between Ja-Cole L.P. and Axogen, Inc. |
| +10.9.8 | Commercial Lease Amendment, dated May 9, 2023, by and between Ja-Cole L.P. and Axogen, Inc. |
| 10.10.1 | License and Services Agreement, dated as of August 6, 2015, by and between Axogen Corporation and Community Blood Center (d/b/a Community Tissue Services) (incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2015, filed on November 5, 2015). |
| 10.10.2 | Fourth Amendment to License and Services Agreement, dated as of February 22, 2019, by and between Axogen Corporation and Community Blood Center (d/b/a Community Tissue Services). (incorporated by reference to Exhibit 10.13.1 to the Company's Annual Report on Form 10-K for the year ended December 31, 2018, filed on February 26, 2019) |
| 10.10.3 | Seventh Amendment to License and Services Agreement, dated as of February 22, 2021, by and between Axogen Corporation and Community Blood Center (d/b/a Community Tissue Services) (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on February 26, 2021). |
| 10.10.4 | Eighth Amendment to License and Services Agreement, dated as of August 22, 2022, by and between Axogen Corporation and Community Blood Center(d/b/a Community Tissue Services) (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed on August 25, 2022). |
| +10.10.5 | Ninth Amendment to License and Services Agreement, dated as of December 21, 2023, by and between Axogen Corporation and Community Blood Center (d/b/a Community Tissue Services). |

| Exhibit Number | Description |
|---|---|
| 10.11 | Form of Non-Incentive Stock Option Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of March 23, 2016 (incorporated by reference to Exhibit 10.22 to the Company's annual report on Form 10-K for the year ended December 31, 2016, filed on Marc 1, 2017). |
| *10.12 | Form of Performance Stock Unit Award Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of May 26, 2016 (incorporated by reference to Exhibit 10.23 to the Company's annual report on Form 10-K for the year ended December 31, 2016, filed on Marc 1, 2017). |
| **10.13 | Retention Stock Unit Award Agreement, dated December 29, 2016, by and between Axogen, Inc. and Karen Zaderej, pursuant to Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of March 23, 2016 (incorporated by reference to Exhibit 10.24 to the Company's annual report on Form 10-K for the year ended December 31, 2016, filed on March 1, 2017). |
| **10.16 | Form of 2018 Performance Stock Unit Award Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of Marc 23, 2016 (incorporated by reference to Exhibit 10.26 to the Company's Annual Report on Form 10-K for the year ended December 31, 2017, filed on March 1, 2018). |
| **10.17 | Form of Restricted Stock Unit Award Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of March 23, 2016 (incorporated by reference to Exhibit 10.28 to the Company's Annual Report on Form 10-K for the year ended December 31, 2016, filed on March 1, 2017). |
| 10.18 | Current Premises Election Notice, dated as of April 10, 2018, by and between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on April 13, 2018). |
| 10.19 | Letter Agreement effective September 20, 2018 by between Axogen Corporation and SNH Medical Office Properties Trust (incorporated by referenc to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on September 21, 2018). |
| 10.20.1 | Office Lease dated September 20, 2018 by and between Axogen, Inc., Axogen Corporation and Heights Union, LLC (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on September 21, 2018). |
| 10.20.2 | First Amendment to Office Lease, dated as of July 12, 2021, by and among Axogen, Inc., Axogen Corporation, and Heights Union I, LLC (incorporat by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on July 16, 2021). |
| **10.21 | Form of Incentive Stock Option Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of October 29, 2018 (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed on October 29, 2018). |
| **10.22 | Form of Restricted Stock Unit Award Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of October 29, 2018 (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed on October 29, 2018). |
| 10.23 | Axogen, Inc. 2017 Employee Stock Purchase Plan (incorporated by reference to Appendix B to the Company's Proxy Statement filed on April 7, 201 |

| Exhibit Number | Description |
|---|---|
| 10.25.1 | Lease, dated November 19, 2018 by and between SNH Medical Office Properties Trust and Axogen Corporation (incorporated by reference to Exhib 10.3 to the Company's Current Report on Form 8-K filed on November 26, 2018). |
| 10.25.2 | First Amendment to Lease dated as of November 19, 2018 by and between SNH Medical Office Properties Trust and Axogen Corporation (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed on November 26, 2018). |
| 10.25.3 | Second Amendment to Lease dated as of January 1, 2023 by and between SNH Medical Office Properties Trust and Axogen Corporation (incorporate by reference to Exhibit 10.25.3 to the Company's Annual Report on the Annual Report on Form 10-K for the year ended December 31, 2022, filed on March 14, 2023). |
| **10.26 | Form of Non-Qualified Stock Option Inducement Award Agreement to be granted by Axogen, Inc. to Eric Sandberg on January 22, 2019 (incorporate by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed on January 22, 2019). |
| **10.27 | Form of Performance Stock Unit Award Agreement pursuant to the Axogen, Inc. 2010 Stock Incentive Plan, as amended and restated as of April 5, 2017 (incorporated by reference to Exhibit 10.47 to the Company's Annual Report on Form 10-K for the year ended December 31, 2018, filed on February 26, 2019). |
| 10.28 | Standard Form of Agreement Between Owner and Design-Builder, dated as of July 9, 2019, by and between Axogen Corporation and CRB Builders, L.L.C. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on July 9, 2019). |
| **10.29 | Axogen Inc. 2019 Long-Term Incentive Plan and forms of award notices and agreements thereunder (incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2019, filed on November 6, 2019). |
| ***10.30 | Nerve End Cap Supply Agreement, dated June 27, 2017, by and between Cook Biotech Incorporated and Axogen Corporation (incorporated by reference to Exhibit 10.51 to the Company's Annual Report on Form 10-K, filed on February 24, 2020). |
| 10.30.1 | First Amendment to Nerve End Cap Supply Agreement, dated April 6, 2020, by and between Cook Biotech Incorporated, and AxoGen Corporation (incorporated by reference to Exhibit 10.25.3 to the Company's Annual Report on the Annual Report on Form 10-K for the year ended December 31, 2022, filed on March 14, 2023). |
| 10.30.2 | Second Amendment to Nerve End Cap Supply dated August 4, 2023, by and between Cook Biotech Incorporated and Axogen Corporation (incorporated by reference to Exhibit 10.2.2 to the Company's Form 10-Q for the quarter ended June, 30, 2023 filed on August 8, 2023). |
| 10.31 | Term Loan Agreement, dated June 30, 2020, among Axogen, Inc., Axogen Corporation, AxoGen Processing Corporation, TPC Investments II LP and Argo SA LLC. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on July 1, 2020). |
| 10.31.1 | Amendment No. 1 to the Term Loan Agreement, dated June 29, 2023, by and between Axogen, Inc., Axogen Corporation, AxoGen Processing Corporation, TPC Investments II LP, and Argo SA LLC (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K file on June 30, 2023). |

| Exhibit Number | Description |
|---|---|
| 10.32 | Security Agreement, dated June 30, 2020, among Axogen, Inc., Axogen Corporation, AxoGen Processing Corporation, and Argo SA LLC. (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed on July 1, 2020). |
| 10.33 | Revenue Participation Agreement, dated June 30, 2020, between Axogen, Inc. and Argo SA LLC. (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K, filed on July 1, 2020). |
| 10.34 | Option Agreement, dated June 30, 2020, between Axogen, Inc. and TPC Investments II LP. (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K, filed on July 1, 2020). |
| **10.35 | Amended and Restated Employment Agreement, dated November 1, 2020, by and between Axogen Corporation and Karen Zaderej (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on October 29, 2020). |
| **10.36 | Amended and Restated Employment Agreement, dated November 1, 2020, by and between Axogen Corporation and Peter Mariani (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed on October 29, 2020). |
| **10.44 | Employment Agreement, dated December 4, 2023, by and between Axogen Corporation and Nir Naor (incorporated by reference to Exhibit 10.1 to th Company's Current Report on Form 8-K, filed on December 6, 2023). |
| 10.42.2 | First Amendment to Lease Agreement dated as of August 22, 2022, by and between Axogen Corporation and Ja-Cole, L.P. (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on August 25, 2022) |
| **10.46 | Form of Performance-Based Restricted Stock Units Notice and Performance-Based Restricted Stock Units Agreement under the Axogen, Inc. Amend and Restated 2019 Long-Term Incentive Plan (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on Apr 1, 2022). |
| **10.47 | Form of Restricted Stock Units Notice and Restricted Stock Units Agreement under the Axogen, Inc. Amended and Restated 2019 Long-Term Incentive Plan (incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K, filed on April 1, 2022) |
| **10.48 | Form of Incentive Stock Options Notice and Incentive Stock Option Agreement under the Axogen, Inc. Amended and Restated 2019 Long-Term Incentive Plan (incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K, filed on April 1, 2022). |
| **10.49 | Form of Premium Incentive Stock Options Notice and Premium Incentive Stock Option Agreement under the Axogen, Inc. Amended and Restated 2019 Long-Term Incentive Plan (incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K, filed on April 1, 2022). |
| **10.50 | Axogen, Inc. Second Amended and Restated 2019 Long-Term Incentive Plan (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement on Schedule 14A filed with the Securities and Exchange Commission on April 14, 2022). |
| +10.51 | Axoguard HA+ Nerve Protector Supply and Manufacturing Agreement, dated May 2, 2023, by and between Cook Biotech Incorporated and Axogen Corporation |
| **+10.52 | Axogen, Inc. Inducement Equity Incentive Plan. |
| **+10.53 | Form of Restricted Stock Unit Agreement under the Axogen, Inc. Inducement Equity Incentive Plan. |

| Exhibit Number | Description |
|---|---|
| **†+10.54 | Form of Performance-Based Restricted Stock Units Notice Under the Axogen Inc. Amended and Restated 2019 Long-Term Incentive Plan (TSR). |
| **†+10.55 | Form of Performance-Based Restricted Stock Units Notice Under the Axogen Inc. Amended and Restated 2019 Long-Term Incentive Plan (Performance Goal). |
| **+10.56 | Employment Agreement, dated February 27, 2023, by and between Axogen Corporation and Marc Began. |
| **+10.57 | Amendment No. 1 to Executive Employment Agreement, dated February 27, 2024, by and between Axogen Corporation and Marc Began. |
| **+10.58 | Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement, dated February 27, 2024, by and between Axogen Corporation and Marc Began. |
| **+10.59 | Employment Agreement, dated February 13, 2023, by and between Axogen Corporation and Jens Kemp. |
| **+10.60 | Amendment No. 1 to Executive Employment Agreement, dated February 27, 2024, by and between Axogen Corporation and Jens Kemp |
| **+10.61 | Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement, dated February 27, 2024, by and between Axogen Corporation and Jens Kemp. |
| **+10.62 | Employment Agreement, dated February 27, 2024, by and between Axogen Corporation and Erick DeVinney. |
| **+10.63 | Amendment No. 1 to Executive Employment Agreement, dated February 27, 2024, by and between Axogen Corporation and Erick DeVinney. |
| **+10.64 | Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement, dated February 27, 2024, by and between Axogen Corporation and Erick DeVinney. |
| **10.62 | Separation, Waiver and Release of Claims Agreement, dated January 5, 2024, between the Company and Peter Mariani (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K/A filed on January 5, 2024). |
| **10.63 | Transition and Separation Agreement, dated January 4, 2024, between the Company and Karen Zaderej (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K, filed on January 4, 2024). |
| 21.1 | Subsidiaries of the Registrant. |
| 23.1 | Consent of Deloitte & Touche, LLP. |
| ++24.1 | Power of Attorney. |
| 31.1 | Certification of Principal Executive Officer. |

| Exhibit Number | Description |
|---|---|
| 31.2 | Certification of Principal Financial Officer. |
| +++32.1 | Chief Executive Officer and Chief Financial Officer Certifications pursuant to 18 U.S.C. 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002. |
| 97 | Axogen, Inc. Compensation Recoupment Policy. |
| 101 | Inline XBRL Document Set for the consolidated financial statements and accompanying notes in Part II, Item 8, "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K. |
| +101.INS | XBRL Instance Document – The instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inlı XBRL document. |
| +101.SCH | Inline XBRL Taxonomy Extension Schema Document. |
| +101.CAL | Inline XBRL Taxonomy Extension Calculation Linkbase Document. |
| +101.DEF | Inline XBRL Taxonomy Extension Definition Linkbase Document. |
| +101.LAB | Inline XBRL Extension Labels Linkbase. |
| +101.PRE | Inline XBRL Taxonomy Extension Presentation Linkbase Document. |
| 104 | Inline XBRL for the cover page of this Annual Report on Form 10-K, included in the Exhibit 101 Inline XBRL Document Set. |

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* Confidential treatment has been granted for portions of this Exhibit pursuant to Rule 24b-2 under the Securities Exchange Act of 1934 as amended. The confidential portions have been deleted and filed separately with the U.S. Securities and Exchange Commission.

** Management contract or compensatory plan or arrangement.

*** Confidential treatment has been requested as to certain portions, which portions have been omitted and filed separately with the Securities and Exchange Commission.

\+ Filed herewith.

++ Included on signature page.

+++ Furnished herewith.

† Portions of this exhibit have been omitted pursuant to Item 601(b)(10) of Regulation S-K because the information is not material and is the type of information that the Company treats as private or confidential. The Company agrees to furnish an unredacted copy of this exhibit on a supplemental basis to the SEC or its staff upon request.

**ITEM 16. Form 10-K Summary**

None.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AXOGEN, INC

/s/ Karen Zaderej
Karen Zaderej
Chief Executive Officer, President and Chairman of the Board
March 5, 2024

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Karen Zaderej (with full power to act alone), as his or her true and lawful attorney-in-fact and agent, with full powers of substitution and re-substitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to the Annual Report on Form 10-K of Axogen, Inc., and to file the same, with all exhibits thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or their substitute or substitutes, lawfully do or cause to be done by virtue hereof.

In accordance with the Exchange Act, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

| | |
|---|---|
| /s/ Karen Zaderej<br>Karen Zaderej, Chief Executive Officer, President and Chairman of the Board<br>(Principal Executive Officer) | March 5, 2024 |
| /s/ Nir Naor<br>Nir Naor, Chief Financial Officer<br>(Principal Financial and Accounting Officer) | March 5, 2024 |
| /s/ William P. Burke<br>William P. Burke<br>Director | March 5, 2024 |
| /s/ Gregory G. Freitag<br>Gregory G. Freitag<br>Director | March 5, 2024 |
| /s/ Joseph A. Tyndall<br>Joseph A. Tyndall<br>Director | March 5, 2024 |
| /s/ John H. Johnson<br>John H. Johnson<br>Director | March 5, 2024 |
| /s/ Adam M. Levine<br>Alan M. Levine<br>Director | March 5, 2024 |
| /s/ Guido J. Neels<br>Guido J. Neels<br>Director | March 5, 2024 |
| Paul G. Thomas<br>Paul G. Thomas<br>Director | March 5, 2024 |
| /s/ Amy Wendell | March 5, 2024 |

| | |
|---|---|
| Amy Wendell<br>Director | March 5, 2024 |
| /s/ Kathy Weiler | |
| Kathy Weiler<br>Director | March 5, 2024 |

# AXOGEN, INC.
# AMENDED AND RESTATED BYLAWS

August 15, 2023

Table of Contents

# AMENDED AND RESTATED BYLAWS OF AXOGEN, INC.

Adopted by the Board of Directors on August 15, 2023

## Article 1. Offices, Corporate Seal

1.1 Registered Office. The registered office of the corporation in the State of Minnesota shall be that set forth in the corporation's Articles of Incorporation or in the most recent amendment of the corporation's Articles of Incorporation or resolution of the directors filed with the Secretary of State of Minnesota changing the registered office.

1.2 Other Offices. The corporation may have such other offices, within or without the State of Minnesota, as the Board of Directors shall, from time to time, determine.

1.3 Corporate Seal. The corporation shall have no seal.

## Article 2. Meetings of Shareholders

2.1 Place and Time of Meetings. Except as provided otherwise by Minnesota Statutes Chapter 302A, meetings of the shareholders may be held at any place, within or without the State of Minnesota, as may from time to time be designated by the Board of Directors and, in the absence of such designation, shall be held at the registered office of the corporation in the State of Minnesota. The Board of Directors shall designate the time of day for each meeting and, in the absence of such designation, every meeting of shareholders shall be held at ten o'clock a.m.

2.2 Regular Meetings.

(a) A regular meeting of the shareholders shall be held on such date as the Board of Directors shall by resolution establish.

(b) At a regular meeting the shareholders, voting as provided in the corporation's Articles of Incorporation and these Bylaws, shall designate the number of directors to constitute the Board of Directors (subject to the authority of the Board of Directors thereafter to increase or decrease the number of directors as permitted by law), shall elect qualified successors for directors who serve for an indefinite term or whose terms have expired or are due to expire within six (6) months after the date of the meeting and shall transact such other business as may properly come before them.

2.3 Advance Notice of Other Business. Only business that has been properly brought before a regular meeting of the shareholders may be conducted. To be properly brought before a regular meeting, business must be:

(a) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors;
(b) otherwise properly brought before the regular meeting by or at the direction of the

Board of Directors; or

(c) a proper matter for shareholder action under the Minnesota Business Corporation Act that has been properly brought before the meeting by a shareholder: (i) who is a shareholder of record on the date of the giving of the notice provided for in this Section 2.3 and on the record date for the determination of shareholders entitled to vote at such annual meeting; and (ii) who complies with the notice procedures set forth in this Section 2.3.

For such business to be considered properly brought before the meeting by a shareholder such shareholder must, in addition to any other applicable requirements, have given timely notice in proper form of such shareholder's intent to bring such business before such meeting. To be timely, such shareholder's notice must:

(a) in the case of a proposal submitted for inclusion in the corporation's proxy statement and form of proxy pursuant to Rule 14a–8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), meet the deadline for proposals submitted under such rule; or

(b) in the case of all other matters, be delivered to or mailed and received by the secretary of the corporation at the corporation's principal executive offices not later than the close of business on the 90th day, nor earlier than the close of business on the 120th day, prior to the anniversary date of the immediately preceding regular meeting; provided, however, that in the event that no regular meeting was held in the previous year or the regular meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business on the 10th day following the day on which such notice of the date of the meeting was mailed or public disclosure of the date of the meeting was made, whichever occurs first.

To be in proper form, a shareholder's notice shall be in writing and shall set forth:

(a) the name and record address of the shareholder who intends to propose the business, the class or series and number of shares of capital stock of the corporation which are owned beneficially or of record by such shareholder or any Associated Person (as defined below) of such shareholder and any other direct or indirect positions, agreements or understandings to which such shareholder or any Associated Person of such shareholder is a party (including hedged positions, short positions, options, derivatives, convertible securities and any other stock appreciation or voting interests) which provide the opportunity to profit or share in any profit derived from any increase or decrease in the value of the shares of the corporation;

(b) a representation that the shareholder is a holder of record of stock of the corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to introduce the business specified in the notice;

(c) a complete description of the business desired to be brought before the regular meeting and the reasons for conducting such business at the regular meeting;

(d) any material interest of the shareholder or any Associated Person of such

shareholder in such business including any agreements the shareholder or any Associated Person of such shareholder may have with others in connection with such business; and

(e) any other information that is required to be provided by the shareholder pursuant to Regulation 14A under the Exchange Act.

If any of the foregoing information changes in any material respect from the date the notice is received through the date of the meeting, the shareholder shall promptly supplement such information to reflect such change by notice in writing and delivered to or mailed and received by the secretary of the corporation at the corporation's principal executive offices.

For purposes of this Section 2.3 and Section 2.4, "Associated Person" of any shareholder or proposed nominee shall mean: (i) any member of the immediate family of such shareholder or proposed nominee sharing the same household with such shareholder or proposed nominee; (ii) any person controlling, controlled by or under common control with, such shareholder or proposed nominee; (iii) any person acting in concert or as part of a group (within the meaning of the Exchange Act and the regulations promulgated thereunder) with such shareholder or proposed nominee; or (iv) any beneficial owner of shares of stock of the corporation owned of record or beneficially by such shareholder or proposed nominee.

In order to include information with respect to a shareholder proposal in the corporation's proxy statement and form of proxy for a shareholder's meeting, shareholders must provide notice as required by, and otherwise comply with the requirements of, the Exchange Act and their regulations promulgated thereunder in addition to the requirements of this Section 2.3.

No business shall be conducted at the regular meeting of the shareholder except business brought before the regular meeting in accordance with the procedures set forth in this Section 2.3. The chairperson of the regular meeting may refuse to acknowledge the proposal of any business not made in compliance with the foregoing procedures.

2.4 Advance Notice of Director Nominations. Only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. To be properly brought before a regular meeting of the shareholders, or any special meeting of the shareholders called for the purpose of electing directors, nominations for the election of a director must be: (i) specified in the notice of meeting (or any supplement thereto); (ii) made by or at the direction of the Board of Directors (or any duly authorized committee thereof); or
(iii) made by any shareholder of the corporation (a) who is a shareholder of record on the date of the giving of the notice provided for in this Section 2.4 and on the record date for the determination of shareholders entitled to vote at such meeting and (b) who complies with the notice procedures set forth in this Section 2.4.

In addition to any other applicable requirements, for a nomination to be made by a shareholder, such shareholder must have given timely notice thereof in proper written form to the secretary of the corporation. To be timely, a shareholder's notice to the secretary must be delivered to or mailed and received at the corporation's principal executive offices, in the case of a regular meeting, in accordance with the provisions set forth in Section 2.3, and, in the case of a special meeting of the shareholders called for the purpose of electing directors, not later than the close of business on the 10th day following the day on which notice of the date of the special meeting was mailed or public

disclosure of the date of the special meeting was made, whichever occurs first.

To be in proper form, a shareholder's notice shall be in writing and shall set forth:

(a) as to each person whom the shareholder proposes to nominate for election as a director: (i) the name, age, business address and residence address of the person; (ii) the principal occupation or employment of the person; (iii) the class or series and number of shares of capital stock of the corporation which are owned beneficially or of record by the person or any Associated Person of the person; (iv) any other direct or indirect positions, agreements or understandings to which such person or any Associated Person of such person is a party (including hedged positions, short positions, options, derivatives, convertible securities and any other stock appreciation or voting interests) which provide the opportunity to profit or share in any profit derived from any increase or decrease in the value of the shares of the corporation; (v) a description of all arrangements, understandings or material relationships between the shareholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the shareholder; (vi) any other information relating to such person that is required to be disclosed in solicitations of proxies for elections of directors, or is otherwise required, in each case pursuant to Regulation 14A under the Exchange Act (including, without limitation, such person's written consent to being named in the proxy statement, if any, as a nominee and to serving as a director if elected and a completed questionnaire concerning such person's business experience, beneficial ownership, relationships and transactions with the corporation, independence and other matters typically
contained in the corporation's questionnaire for directors and officers); and

(b) as to such shareholder giving notice, the information required to be provided pursuant to Section 2.3.

If any of the foregoing information changes in any material respect from the date the notice is received through the date of the meeting, the shareholder shall promptly supplement such information to reflect such change by notice in writing and delivered to or mailed and received by the secretary of the corporation at the corporation's principal executive offices.

No person shall be eligible for election as a director of the corporation unless nominated in accordance with the procedures set forth in this Section 2.4. If the chairperson of the meeting properly determines that a nomination was not made in accordance with the foregoing procedures, the chairperson shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

2.5 Special Meetings. Special meetings of the shareholders may be held at any time and for any purpose and may be called by the President, Treasurer, any two (2) or more directors or by one (1) or more shareholders holding ten percent (10%) or more of the shares entitled to vote on the matters to be presented at the meeting.

2.6 Quorum; Adjourned Meetings. The holders of a majority of the shares entitled to vote shall constitute a quorum for the transaction of business at any regular or special meeting. In case a quorum shall not be present at a meeting, those present may adjourn the meeting to such day

as they shall, by majority vote, agree upon, and a notice of such adjournment and the date and time at which such meeting shall be reconvened shall be mailed to each shareholder entitled to vote at least five (5) days before such reconvened meeting. If a quorum is present, a meeting may be adjourned from time to time without notice other than announcement at the meeting. At adjourned meetings at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed. If a quorum is present, the shareholders may continue to transact business until adjournment notwithstanding the withdrawal of enough shareholders to leave less than a quorum.

2.7 Voting. At each meeting of the shareholders every shareholder having the right to vote shall be entitled to vote either in person or by proxy. Each shareholder, unless the corporation's Articles of Incorporation or statute provide otherwise, shall have one (1) vote for each share having voting power registered in such shareholder's name on the books of the corporation. Jointly owned shares may be voted by any joint owner unless the corporation receives written notice from any one of them denying the authority of that person to vote those shares. Upon the demand of any shareholder, the vote upon any question before the meeting shall be by ballot. All questions shall be decided by a majority vote of the number of shares entitled to vote and represented at the meeting at the time of the vote except if otherwise required by statute, the corporation's Articles of Incorporation or these Bylaws.

2.8 Closing of Books. The Board of Directors may fix a time, not exceeding sixty (60) days preceding the date of any meeting of shareholders, as a record date for the determination of the shareholders entitled to notice of, and to vote at, such meeting, notwithstanding any transfer of shares on the books of the corporation after any record date so fixed. The Board of Directors may close the books of the corporation against the transfer of shares during the whole or any part of such period. If the Board of Directors fails to fix a record date for determination of the shareholders entitled to notice of, and to vote at, any meeting of shareholders, the record date shall be the twentieth (20th) day preceding the date of such meeting.

2.9 Notice of Meeting. There shall be mailed to each shareholder, shown by the books of the corporation to be a holder of record of voting shares, at his address as shown by the books of the corporation, a notice setting out the time and place of each regular meeting and each special meeting, except where the meeting is an adjourned meeting and the date, time and place of the meeting were announced at the time of adjournment, which notice shall be mailed to all shareholders of record, whether entitled to vote or not, at least fourteen (14) days prior thereto. Every notice of any special meeting called pursuant to Section 2.5 hereof shall state the purpose or purposes for which the meeting has been called, and the business transacted at all special meetings shall be confined to the purpose stated in the notice.

2.10 Waiver of Notice. Notice of any regular or special meeting may be waived by any shareholder either before, at or after such meeting orally or in writing signed by such shareholder or a representative entitled to vote the shares of such shareholder. A shareholder, by his attendance at any meeting of shareholders, shall be deemed to have waived notice of such meeting, except where the shareholder objects at the beginning of the meeting to the transaction of business because the time may not lawfully be considered at that meeting and does not participate in the consideration of the item at that meeting.

2.11 Written Action. Any action which might be taken at a meeting of the shareholders may be taken without a meeting if done in writing and signed by all of the shareholders entitled to vote on that action.

## Article 3. Directors

3.1 General Powers. The business and affairs of the corporation shall be managed by or under the authority of the Board of Directors, except as otherwise permitted by statute.

3.2 Number, Qualification and Terms of Office. The business and affairs of this corporation shall be managed by or under its Board of Directors which shall be comprised of no less than seven and no more than eleven members as determined from time to time by resolution of the directors serving at the time such action is taken. Directors need not be shareholders or residents of the State of Minnesota. Each of the directors shall hold office until the regular meeting of shareholders next held after such director's election and until such director's successor shall have been elected and shall qualify, or until the earlier death, resignation, removal or disqualification of such director; provided, however, that no director shall be elected to a term in excess of five (5) years.

3.3 Board of Director Meetings. Meetings of the Board of Directors may be held from time to time at such time and place within or without the State of Minnesota as may be designated in the notice of such meeting.

3.4 Calling Meetings; Notice. Meetings of the Board of Directors may be called by the Chairman of the Board of Directors by giving at least twenty–four (24) hours' notice, or by any other director by giving at least five (5) days' notice, of the date, time and place thereof to each director by mail, telephone, telegram or in person.

3.5 Waiver of Notice. Notice of any meeting of the Board of Directors may be waived by any director either before, at or after such meeting orally or in a writing signed by such director. A director, by his attendance at any meeting of the Board of Directors, shall be deemed to have waived notice of such meeting, except where the director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting.

3.6 Quorum. A majority of the directors holding office immediately prior to a meeting of the Board of Directors shall constitute a quorum for the transaction of business at such meeting.

3.7 Absent Directors. A director may give advance written consent or opposition to a proposal to be acted on at a meeting of the Board of Directors. If such director is not present at the meeting, consent or opposition to a proposal does not constitute presence for purposes of determining the existence of a quorum, but consent or opposition shall be counted as a vote in favor of or against the proposal and shall be entered in the minutes or other record of action at the meeting, if the proposal acted on at the meeting is substantially the same or has substantially the same effect as the proposal to which the director has consented or objected.

3.8 Conference Communications. Any or all directors may participate in any meeting of the Board of Directors, or of any duly constituted committee thereof, by any means of communication through which the directors may simultaneously hear each other during such meeting. For the purposes of establishing a quorum and taking any action at the meeting, such directors participating pursuant to this Section 3.8 shall be deemed present in person at the meeting and the place of the meeting shall be the place of origination of the conference telephone conversation or other comparable communication technique.

3.9 Vacancies; Newly Created Directorships. Vacancies in the Board of Directors of this corporation occurring by reason of death, resignation, removal or disqualification shall be filled for the unexpired term by a majority of the remaining directors although less than a quorum. Newly created directorships resulting from an increase in the authorized number of directors by action of the Board of Directors as permitted by Section 3.2 may be filled by a majority vote of the directors serving at the time of such increase. Each director elected pursuant to this Section 3.9 shall be a director until such director's successor is elected by the shareholders at their next regular or special meeting.

3.10 Removal. Any or all of the directors may be removed from office at any time, with or without cause, by the affirmative vote of the shareholders holding a majority of the shares entitled to vote at an election of directors except, as otherwise provided by Minnesota Statutes Section 302A.223, as amended, when the shareholders have the right to cumulate their votes. A director named by the Board of Directors to fill a vacancy may be removed from office at any time, with or without cause, by the affirmative vote of the remaining directors if the shareholders have not elected directors in the interim between the time of the appointment to fill such vacancy and the time of the removal. In the event that the entire Board of Directors or any one or more directors be so removed, new directors shall be elected at the same meeting. In addition to the foregoing, any director may be removed at any time by the affirmative vote of a majority of the remaining directors if (a) such director is convicted of a felony or (b) if the remaining directors determine that the director to be removed is engaged in an activity that is competitive with any business of the Company. A director may be determined to be engaged in an activity if he or she is an employee, director, partner, consultant, owner, representative, agent or shareholder (other than a shareholder beneficially owning less than one percent (1%) of the outstanding stock) of a company, partnership, sole proprietorship or other organization. An activity may be deemed to be competitive with the Company if the product or service created by the activity is the same as or an alternative to any of the products or services of the Company.

The Board of Directors shall determine whether a director is engaged in a competitive activity utilizing the guidelines described in the previous two sentences as well as any other guidelines it determines to be relevant. The Board of Director's decision shall not be overturned by any court unless the decision is shown to be clearly erroneous.

3.11 Committees. A resolution approved by the affirmative vote of a majority of the Board of Directors may establish committees having the authority of the Board of Directors in the management of the business of the corporation to the extent provided in the resolution. A committee shall consist of one (1) or more persons, who need not be directors, appointed by the affirmative vote of a majority of the directors present. Committees are subject to the direction and control of, and vacancies in the membership thereof shall be filled by, the Board of Directors, except as provided by Minnesota Statutes Section 302A.243. A majority of the members of the committee present at a meeting is a quorum for the transaction of business, unless a larger or small

proportion or number is provided in a resolution approved by the affirmative vote of a majority of the directors present.

3.12 Written Action. Any action which might be taken at a meeting of the Board of Directors, or any duly constituted committee thereof, may be taken without a meeting if done in writing and signed by all of the directors or committee members, unless the corporation's Articles of Incorporation provide otherwise and the action need not be approved by the shareholders.

3.13 Compensation. Directors who are not salaried officers of this corporation shall receive such fixed sum per meeting attended or such fixed annual sum as shall be determined, from time to time, by resolution of the Board of Directors. The Board of Directors may, by resolution, provide that all directors shall receive their expenses, if any, of attendance at meetings of the Board of Directors or any committee thereof. Nothing herein contained shall be construed to preclude any director from serving this corporation in any other capacity and receiving proper compensation therefor.

## Article 4. Officers

4.1 Number. The officers of the corporation shall consist of a Chairman of the Board of Directors (if one is elected by the Board of Directors), the President, one or more Vice Presidents (if desired by the Board of Directors), a Treasurer, a Secretary (if one is elected by the Board of Directors) and such other officers and agents as may, from time to time, be elected by the Board of Directors. Any number of offices may be held by the same person.

4.2 Election, Term of Office and Qualifications. The Board of Directors shall elect or appoint, by resolution approved by the affirmative vote of a majority of the directors present, from within or without their number, the President, Treasurer and such other officers as may be deemed advisable, each of whom shall have the powers, rights, duties, responsibilities and terms in office provided for in these Bylaws or a resolution of the Board of Directors not inconsistent therewith. The President and all other officers who may be directors shall continue to hold office until the election and qualification of their successors, notwithstanding an earlier termination of their directorship.

4.3 Removal and Vacancies. Any officer may be removed from his office by the Board of Directors at any time, with or without cause. Such removal, however, shall be without prejudice to the contract rights of the person so removed. If there be a vacancy among the officers of the corporation by reason of death, resignation or otherwise, such vacancy shall be filled for the unexpired term by the Board of Directors.

4.4 Chairman of the Board of Directors. The Chairman of the Board of Directors, if one is elected, shall preside at all meetings of the shareholders and directors and shall have such other duties as may be prescribed, from time to time, by the Board of Directors.

4.5 Lead Director. The Lead Directors, if one is elected, shall facilitate the functioning of the Board of Directors independently of management of the Company and provide independent leadership to the Board of Directors and shall have such other duties as may be prescribed, from time to time, by the Board of Directors.

4.6 President. The President shall be the chief executive officer and shall have general active management of the business of the corporation. In the absence of the Chairman of the Board of Directors, he shall preside at all meetings of the shareholders and directors. He shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall execute and deliver, in the name of the corporation, any deeds, mortgages, bonds, contracts or other instruments pertaining to the business of the corporation unless the authority to execute and deliver is required by law to be exercised by another person or is expressly delegated by the corporation's Articles of Incorporation, these Bylaws or by the Board of Directors to some other officer or agent of the corporation. He shall maintain records of and, whenever necessary, certify all proceedings of the Board of Directors and the shareholders, and in general, shall perform all duties usually incident to the office of the President. He shall have such other duties as may, from time to time, be prescribed by the Board of Directors.

4.7 Vice Presidents. Each Vice President, if one or more are elected, shall have such powers and shall perform such duties as prescribed by the Board of Directors or by the President. In the event of the absence or disability of the President, the Vice President(s) shall succeed to his power and duties in the order designed by the Board of Directors.

4.8 Secretary. The Secretary, if one is elected, shall be secretary of and shall attend all meetings of the shareholders and Board of Directors and shall record all proceedings of such meetings in the minute book of the corporation. He shall give proper notice of meetings of shareholders and directors. He shall perform such other duties as may, from time to time, be prescribed by the Board of Directors or by the President.

4.9 Treasurer. The Treasurer shall be the chief financial officer and shall keep accurate financial records for the corporation. He shall deposit all moneys, drafts and checks in the name of, and to the credit of, the corporation in such banks and depositaries as the Board of Directors shall, from time to time, designate. He shall have the power to endorse, for deposit, all notes, checks and drafts received by the corporation. He shall disburse the funds of the corporation, as ordered by the Board of Directors, making proper vouchers therefor. He shall render to the President and the directors, whenever requested, an account of all of his transactions as Treasurer and of the financial condition of the corporation, and shall perform such other duties as may, from time to time, be prescribed by the Board of Directors or by the President.

4.10 Compensation. The officers of this corporation shall receive such compensation for their services as may be determined, from time to time, by resolution of the Board of Directors.

## Article 5. Shares and Their Transfer

5.1 Certificated and Uncertificated Shares. Shares of the corporation's stock may be certificated or uncertificated, as provided under Minnesota law. Shares of stock represented by certificates shall be in such form as shall be prescribed by the Board of Directors. Share certificates shall include the number of shares of the corporation owned by the shareholder, shall be numbered in the order in which they shall be issued and shall be signed, in the name of the corporation, by the President and by the Secretary or an Assistant Secretary or by such officers as the Board of Directors may designate. If the certificate is signed by a transfer agent or registrar, such signatures of the corporate officers may be by facsimile if authorized by the Board of Directors. Every certificate surrendered to the corporation for exchange or transfer shall be canceled, and no new certificate or

certificates shall be issued in exchange for any existing certificate until such existing certificate shall have been so canceled, except in cases provided for in Section 5.4.

5.2 Issuance of Shares. The Board of Directors is authorized to cause to be issued shares of the corporation up to the full amount authorized by the corporation's Articles of Incorporation in such amounts as may be determined by the Board of Directors and as may be permitted by law. No shares shall be allotted except in consideration of cash or other property, tangible or intangible, received or to be received by the corporation under a written agreement, of services rendered or to be rendered to the corporation under a written agreement, or of an amount transferred from surplus to state capital upon a share dividend. At the time of such allotment of shares, the Board of Directors making such allotments shall state, by resolution, their determination of the fair value to the corporation in monetary terms of any consideration other than cash for which shares are allotted.

5.3 Transfer of Shares. Transfer of shares on the books of the corporation may be authorized only by the registered holder of such shares, or the shareholder's legal representative, or the shareholder's duly authorized attorney–in–fact, and, in the case of certificated shares, upon surrender of the certificate or the certificates for such shares. The corporation may treat as the absolute owner of shares of the corporation, the person or persons in whose name shares are registered on the books of the corporation.

5.4 Loss of Certificates. Except as otherwise provided by Minnesota Statutes Section 302A.419, any shareholder claiming a certificate for shares to be lost, stolen or destroyed shall make an affidavit of that fact in such form as the Board of Directors shall require and shall, if the Board of Directors so requires, give the corporation a bond of indemnity in form, in an amount, and with one or more sureties satisfactory to the Board of Directors, to indemnify the corporation against any claim which may be made against it on account of the reissue of such certificate, whereupon a new certificate may be issued in the same tenor and for the same number of shares as the one alleged to have been lost, stolen or destroyed.

## Article 6. Dividends; Record Date

6.1 Dividends. Subject to the provisions of the corporation's Articles of Incorporation, of these Bylaws and of law, the Board of Directors may declare dividends whenever, and in such amounts as, in its opinion, are deemed advisable.

6.2 Record Date. Subject to any provisions of the corporation's Articles of Incorporation, the Board of Directors may fix a date not exceeding one hundred twenty (120) days preceding the date fixed for the payment of any dividend as the record date for the determination of the shareholders entitled to receive payment of the dividend and, in such case, only shareholders of record on the date so fixed shall be entitled to receive payment of such dividend notwithstanding any transfer of shares on the books of the corporation after the record date. The Board of Directors may close the books of the corporation against the transfer of shares during the whole or any part of such period.

## Article 7. Books and Records; Fiscal Year

7.1 Share Register. The Board of Directors of the corporation shall cause to be kept at its principal executive office, or at another place or places within the United States determined by the Board of Directors:

(a) a share register not more than one year old, containing the names and addresses of the shareholders and the number and classes of shares held by each shareholder; and
(b) a record of the dates on which certificates or transaction statements representing shares were issued.

7.2 Other Books and Records. The Board of Directors shall cause to be kept at its principal executive office, or, if its principal executive office is not in the State of Minnesota, shall make available at its registered office within ten (10) days after receipt by an officer of the corporation of a written demand for them made by a shareholder or other person authorized by Minnesota Statutes section 302A.461, originals or copies of:

(a) records of all proceedings of shareholders for the last three (3) years;
(b) records of all proceedings of the Board of Directors for the last three (3) years;
(c) its Articles of Incorporation and all amendments currently in effect;
(d) its Bylaws and all amendments currently in effect;
(e) financial statements required by Minnesota Statutes Section 302A.463 and the financial statements for the most recent interim period prepared in the course of the operation of the corporation for distribution to the shareholders or to a governmental agency as a matter of public records;
(f) reports made to shareholders generally within the last three (3) years;
(g) a statement of the names and usual business addresses of its directors and principal officers;
(h) any shareholder voting or control agreements of which the corporation is aware; and
(i) such other records and books of account as shall be necessary and appropriate to the conduct of the corporate business.

7.3 Fiscal Year. The fiscal year of the corporation shall be determined by the Board of Directors.

## Article 8. Loans, Guarantees, Suretyship

8.1 Loans, Guarantees, Suretyship. The corporation may lend money to, guarantee an obligation of, become a surety for or otherwise financially assist a person if the transaction, or a class of transactions to which the transaction belongs, is approved by the affirmative vote of a majority of the directors present, and:

(a) is in the usual and regular course of business of the corporation;
(b) is with, or for the benefit of, a related corporation, an organization in which the corporation has a financial interest, an organization with which the corporation has a business relationship or an organization to which the corporation has the power

to make donations;

(c) is with, or for the benefit of, an officer or other employee of the corporation or a subsidiary, including an officer or employee who is a director of the corporation or a subsidiary, and may reasonably be expected, in the judgment of the Board of Directors, to benefit the corporation; or

(d) has been approved by (i) the holders of two-thirds of the voting power of the shares entitled to vote which are owned by persons other than the interested person or persons, or (ii) the unanimous affirmative vote of the holders of all outstanding shares, whether or not entitled to vote.

The loan, guarantee, surety contract or other financial assistance may be with or without interest, and may be unsecured, or may be secured in the manner as a majority of the directors approve, including, without limitation, a pledge of or other security interest in shares of the corporation.
Nothing in this section shall be deemed to deny, limit or restrict the power of guaranty or warranty of the corporation at common law or under a statute of the State of Minnesota.

## Article 9. Indemnification of Certain Persons

9.1 Indemnification of Certain Persons. The corporation shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances and to such extent as permitted by Minnesota Statutes Section 302A.521 as now enacted or hereafter amended.

## Article 10. Amendments

10.1 Amendments. These Bylaws may be amended or altered by a vote of the majority of the whole Board of Directors at any meeting, provided that notice of such proposed amendment shall have been given in the notice given to the directors of such meeting. Such authority in the Board of Directors is subject to the power of the shareholders to change or repeal such Bylaws by a majority vote of the shareholders present or represented at any regular or special meeting of shareholders called for such purpose, and the Board of Directors shall not make or alter any Bylaws fixing a quorum for meetings of shareholders, prescribing procedures for removing directors or filling vacancies in the Board of Directors or fixing the number of directors or their classifications, qualifications or terms of office, except that the Board of Directors may adopt or amend any Bylaw to increase their number.

## Article 11. Securities of Other Corporations

11.1 Voting Securities Held by the Corporation. Unless otherwise ordered by the Board of Directors, the President shall have full power and authority on behalf of the corporation: (a) to attend any meeting of security holders of other corporations in which the corporation may hold securities and to vote such securities on behalf of this corporation; (b) to execute any proxy for such meeting on behalf of the corporation; or (c) to execute a written action in lieu of a meeting of such other corporation on behalf of this corporation. At such meeting, the president shall possess and may exercise any and all rights and power incident to the ownership of such securities that the corporation possesses. The Board of Directors may, from time to time, grant such power and

authority to one or more other persons and may remove such power and authority from the President or from any such other person or persons.

11.2 Purchase and Sale of Securities. Unless otherwise ordered by the Board of Directors, the President shall have full power and authority on behalf of the corporation to purchase, sell, transfer or encumber any and all securities of any other corporation owned by the corporation, and may execute and deliver such documents as may be necessary to effectuate such purchase, sale, transfer or encumbrance. The Board of Directors may, from time to time, confer like powers upon any other person or persons.

# SIXTH AMENDMENT TO COMMERCIAL LEASE

This Sixth Amendment to Commercial Lease (this "Amendment") is made and entered into to be effective as of the 10 day of March, 2023 (the "Effective Date"), by and between Ja-Cole, L.P., a Texas limited partnership ("Landlord") and Axogen Corporation, a Florida corporation ("Tenant").

## I. RECITALS

A. Landlord and Tenant are parties to that certain Commercial Lease (the "Original Lease") dated April 21, 2015, as amended by that certain Amendment No. 1 to Boone Business Park Commercial Lease (the "First Amendment") dated to be effective April 21, 2015, 2nd Amendment to the Commercial Lease effective November 1, 2016 (the "Second Amendment"), Commercial Lease Amendment effective January 1, 2019 (the "Third Amendment"), Commercial Lease Amendment effective May 1, 2019 (the "Fourth Amendment"), and the Commercial Lease Amendment dated February 1, 2022 (the "Fifth Amendment") covering certain premises located at 300 Boone Rd., Suites 1 – 6, Burleson, Texas (the "Leased Premises"). The Original Lease, as amended by the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, and Fifth Amendment, and any addenda is hereinafter collectively referred to as the "Lease".

B. Landlord and Tenant desire to amend the Lease as hereinafter provided in this Amendment.

C. All capitalized terms in this Amendment shall be defined as set forth in the Lease, except as otherwise expressly provided herein.

D. In consideration of the premises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Landlord and Tenant agree to the matters set forth in this Amendment.

## II. AGREEMENT

1. Landlord's Consent to Tenant's Alterations. Subject to Tenant's duty to restore the Leased Premises as hereafter provided, Landlord hereby consents to Tenant's proposed remodel of the Leased Premises which shall consist of the removal of (i) the demising walls between the suites of the Leased Premises, (ii) the restrooms located in Suites 1 and 6 of the Leased Premises and (iii) construction of gang restrooms between Suites 2 and 3 and Suites 4 and 5 of the Leased Premises (collectively, "Tenant's Alterations"), as depicted on the demolition plan attached hereto and incorporated herein for all purposes as Exhibit "A".

a. Prior to beginning work on Tenant's Alterations, Tenant shall furnish to Landlord for review and approval: plans and specifications; names of proposed contractors; copies of contracts; necessary permits and approvals; and evidence of contractors' and subcontractors' insurance as specified hereinafter. Within five (5) days after Landlord receives such information,

Landlord will notify Tenant whether the plans are “approved" or "disapproved" by marking such on the plans and/or documents furnished by Tenant and delivering the plans and/or documents back to Tenant. Landlord will not unreasonably withhold approval of the plans and/or documents. If Landlord does not notify Tenant of a disapproval within the time specified, the plans and/or will be deemed approved.

b. Except for Tenant’s restoration duty as set forth in Section II (2) of this Amendment, and any alterations which Landlord requires removal by written notice to Tenant prior to the expiration of the Term, Tenant’s Alterations shall become a part of the Leased Premises realty and the Property of Landlord and shall not be removed by Tenant. Material changes to the plans and specifications must also be submitted to Landlord for its approval. The foregoing requirements may be waived by Landlord. Landlord’s waiver on one occasion shall not waive Landlord's right to enforce such requirements on any other occasion.

c. Alterations shall be constructed in a good and workmanlike manner and in compliance with all applicable laws, ordinances, rules, and governmental orders and regulations. Landlord may designate reasonable rules, regulations and procedures for the performance of Tenant’s Alterations in the building (the “Building”) in which the Leased Premises is located and, to the extent reasonably necessary to avoid disruption to the occupants of the Building, shall have the right to designate the time when Tenant’s Alterations may be performed. Upon completion of Tenant’s Alterations, Tenant shall furnish "as-built" plans, completion affidavits, full and final waivers of liens, receipts and bills covering all labor and materials. Tenant shall assure that Tenant’s Alterations comply with all insurance requirements and applicable laws, rules and ordinances.

d. Tenant shall cause its contractor completing Tenant’s Alterations to provide certificates of insurance for worker's compensation, including a waiver of subrogation in favor of Landlord and its agents, employees, contractors and property managers (collectively, “Landlord Parties”), and commercial general liability in an amount equal to $2,000,000, including a provision of additional insured status for Landlord Parties.

e. Tenant guarantees that Tenant will pay all costs of any liability related to the construction of Tenant’s Alterations and further guarantees the lien-free completion of Tenant’s Alterations against the Leased Premises and Property as a result of services or materials provided to the Leased Premises at Tenant’s request. Tenant may not create or place any lien or encumbrance, of any kind, upon the Leased Premises or Property that encumbers Landlord’s interest in the Leased Premises or Property. Tenant shall indemnify and save and hold Landlord harmless from all damages, costs or expenses, including reasonable attorney’s fees that may arise from any claims, encumbrances or liens asserted, filed or threatened against the Leased Premises, Building or the Property as a result of services or materials provided to the Leased Premises in connection with Tenant’s Alternations. Tenant shall give Landlord immediate written notice of any lien or encumbrance placed against the Leased Premises, the Building or Property. If Tenant causes a lien or encumbrance to be filed against the Property or Leased Premises, Tenant will within 20 days after receipt of notice of such filing: (1) pay the lien and have the lien released of

record; or (2) take action to discharge the lien. Tenant will provide Landlord a copy of any release Tenant obtains pursuant to this paragraph.

2. Tenant's Restoration Duty. As a condition to Landlord's consent to Tenant's Alterations, upon expiration or termination of this Lease, Tenant shall except as expressly provided hereafter, restore the Leased Premises to its pre-alteration condition, including, without limitation, construction of (i) restrooms in Suites 1 and 6 of the Leased Premises and (ii) demising walls between Suites 1 and 2, 3 and 4, and 5 and 6, as illustrated on the construction plan attached hereto and incorporated herein for all purposes as Exhibit "B". Tenant shall not be required to reconstruct demising walls between Suites 2 and 3 and 4 and 5 of the Leased Premises. The gang restrooms constructed by Tenant shall remain in the Leased Premises at termination. The Leased Premises and all Tenant's Alterations shall be delivered to Landlord at termination in the condition required under the Lease and to the extent applicable, in good working order.

3. Binding Effect. This Amendment shall be legally binding upon the parties, their successors and/or assigns. Each of the undersigned represents and warrants that the person executing this Amendment on behalf of each party has the full power and authority to so bind such party to the terms of this Amendment and the Lease.

4. Lease Ratified as Amended. Landlord and Tenant hereby ratify and affirm the Lease, except as amended hereby. The Lease, as amended hereby, constitutes the entire agreement of Landlord and Tenant with respect to the subject matter herein.

5. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be original, but all of which shall constitute one instrument. Execution and delivery of this Amendment by exchange of email (.pdf) copies bearing the signature of a party hereto shall constitute a valid and binding execution and delivery of this Amendment by such party. Such copies shall constitute enforceable original documents.

[*Signatures follow*]

**IN WITNESS WHEREOF**, the parties hereto have caused this Amendment to be executed as of the date and year first above written.

**LANDLORD:**

JA-COLE, L.P.,
a Texas limited partnership

By: Dorr Investments, L.L.C.,
a Texas limited liability company,
its General Partner

By: _____
Name: Rob Orr
Title: President

**TENANT:**

AXOGEN CORPORATION,
a Florida corporation

By: Mike Donovan
Name: Mike Donovan
Title: VP, Operations

**Exhibit "A"**

Demolition Plan

**Exhibit "B"**

Construction Plan

TEXAS REALTORS

# COMMERCIAL LEASE AMENDMENT



**AMENDMENT TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT** 300 Boone Rd unit 1-6, Burleson, Tx 76028

Effective on May 1, 2023, Landlord and Tenant amend the above-referenced lease as follows.

[X] A. Leased Premises: The suite or unit number identified in Paragraph 2A(1) is:

[ ] (1) changed to _____.

[X] (2) contains approximately 15,000 rentable square feet ("rsf").

[X] B. Term:

[X] (1) The length of the term stated in Paragraph 3A is changed to 84 months and 0 days.

[ ] (2) The Commencement Date stated in Paragraph 3A is changed to _____.

[X] (3) The Expiration Date stated in Paragraph 3A is changed to April 30, 2030.

[X] C. Rent: The amount of the base monthly rent specified in Paragraph 4A is changed to:

| | | | | |
|---|---|---|---|---|
| $ | 14,150.00 | from 05/01/2023 | to 04/30/2024 | ; |
| $ | 14,503.75 | from 05/01/2024 | to 04/30/2025 | ; |
| $ | 14,886.34 | from 05/01/2025 | to 04/30/2026 | ; |
| $ | 15,238.00 | from 05/01/2026 | to 04/30/2027 | ; |
| $ | 15,695.14 | from 05/01/2027 | to 04/30/2028 | ; |
| $ | 16,166.00 | from 05/01/2028 | to 04/30/2029 | . |

[ ] D. Security Deposit: The amount of the security deposit in Paragraph 5 is changed to $ _____.

[ ] E. Maintenance and Repairs: The following item(s) specified in the identified subparagraph of Paragraph 15C will be maintained by the party designated below:

| Para. No. | Description | Responsible Party |
|---|---|---|
| | | [ ] N/A [ ] Landlord [ ] Tenant |
| | | [ ] N/A [ ] Landlord [ ] Tenant |
| | | [ ] N/A [ ] Landlord [ ] Tenant |
| | | [ ] N/A [ ] Landlord [ ] Tenant |
| | | [ ] N/A [ ] Landlord [ ] Tenant |

[ ] F. Parking:

[ ] (1) Common Parking: The number of vehicles identified in Paragraph A(1) of the Commercial Lease Addendum for Parking (TXR-2107) is changed _____ to vehicles.



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Rob Orr

Commercial Lease Amendment concerning **300 Boone Rd unit 1-6, Burleson, Tx 76028**

☐ (2) Restricted Common Parking for Tenants: The number of vehicles identified in Paragraph A(2) of the Commercial Lease Addendum for Parking (TXR-2107) is changed to _____ vehicles.

☐ (3) Assigned Parking: Tenant's assigned parking areas identified in Paragraph A(3) of the Commercial Lease Addendum for Parking (TXR-2107) is changed to _____

_____

_____

_____.

☐ (4) Parking Rental: The amount of rent identified in Paragraph B of the Commercial Lease Addendum for Parking (TXR-2107) is changed to $ _____ .

☐ G. Counterparts: If this amendment is executed in a number of identical counterparts, each counterpart is an original and all counterparts, collectively, constitute one agreement.

☒ H. Other: Paragraph(s) **4B1** are changed to read *(cite specific paragraphs and copy the applicable paragraphs verbatim, making any necessary changes):*
**4B1 to be checked and add expense reimbursement addendum**

**16,650.98 May 1st 2029-April 30th 2030**

**Landlord:** **Ja-Cole LP**

By: _____

By (signature): Rob Orr

Printed Name: Robert Orr

Title: president Date: 5/9/2023

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____

**Tenant:** **Axogen Corp**

By: _____

By (signature): Mike Donovan

Printed Name: Mike Donovan

Title: VP, Operations Date: 5/9/2023

By: _____

By (signature): _____

Printed Name: _____

Title: _____ Date: _____



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TEXAS REALTORS

# COMMERCIAL LEASE ADDENDUM FOR EXPENSE REIMBURSEMENT



**ADDENDUM TO THE COMMERCIAL LEASE BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE LEASED PREMISES AT 300 Boone Rd unit 1-6, Burleson, Tx 76028**

In addition to rent stated in the lease, Tenant will pay Landlord the additional rent described in this addendum. Tenant will pay the additional rent each month at the time the base-monthly rent in the lease is due.

A. Definitions:

(1) *"Tenant's pro rata share"* is 50.000 %.

(2) *"CAM"* means all of Landlord's expenses reasonably incurred to maintain, repair, operate, manage, and secure the Property (for example, security, lighting, painting, cleaning, decorations, utilities, trash removal, pest control, promotional expenses, and other expenses reasonably related the Property's operations); CAM does not include capital expenditures, interest, depreciation, tenant improvements, insurance, taxes, or brokers' leasing fees Notwithstanding the foregoing, CAM does include the amortized costs incurred by Landlord in making capital improvements or other modifications to the Property to the extent such improvements or modifications reduce CAM overall. These costs will be amortized over the useful life of the improvement or modification on a straight-line basis; however, in no event will the charge for such amortization included in CAM exceed the actual reduction in CAM achieved by the improvements and modifications.

(3) *"Insurance"* means Landlord's costs to insure the leased premises and the Property including but not limited to insurance for casualty loss, general liability, and reasonable rent loss.

(4) *"Taxes"* means the real property ad valorem taxes assessed against the leased premises and Property inclusive of all general and special assessments and surcharges.

(5) *"Structural"* means all of Landlord's expenses reasonably incurred to maintain, repair, and replace the roof, foundation, exterior walls, load bearing walls and other structural components of the Property.

B. Method: The additional rent will be calculated under the following method:
*Note: "CAM" does not include taxes and insurance costs.*

[X] (1) Base-year expenses: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed the amount of the monthly base-year expenses for the calendar year 2023 for: [X] taxes; [X] insurance; [ ] CAM; [ ] structural; and [ ] _____.

[ ] (2) Expense-stop: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property that exceed $ _____ per square foot per year for: [ ] taxes; [ ] insurance; [ ] CAM; [ ] structural; and [ ] _____.

[ ] (3) Net: Each month Tenant will pay Tenant's pro rata share of the projected monthly expenses for the Property for: [ ] taxes; [ ] insurance; [ ] CAM; [ ] structural; and [ ] _____.

C. Projected Monthly Expenses: On or about December 31 of each calendar year, Landlord will project the applicable monthly expenses (those that Tenant is to pay under this addendum) for the following calendar year and will notify Tenant of the projected expenses. The projected expenses are based on Landlord's estimates of such expenses. The actual expenses may vary.



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Rob Orr

Expense Reimbursement Addendum concerning **300 Boone Rd unit 1-6, Burleson, Tx 76028**

Notice: The applicable projected expenses at the time which the above-referenced lease commences are shown in the table below. The total area of the Property presently used by Landlord for calculating expense reimbursements is **30000** rentable square feet (including any add on factor for common areas).

| Projected Expenses | |
|---|---|
| $ Monthly Rate | $ Annual Rate |
| / rsf / month | **1.43** / rsf / year |

D. Reconciliation: Within a reasonable time after the end of each calendar year, Landlord will notify Tenant of the actual costs of the applicable expenses (those that Tenant is to pay under this addendum) for the previous year. If the actual costs of the applicable expenses exceed the amounts paid or owed by Tenant for the previous year, Tenant must pay the deficient amount to Landlord within 30 days after Landlord notifies Tenant of the deficient amount. If the actual costs of the applicable expenses are less than the amounts paid by Tenant for the previous year, Landlord will refund the excess to Tenant or will credit the excess to Tenant's next rent payment. Tenant may audit or examine those items in Landlord's records that relate to Tenant's obligations under this addendum. Landlord will promptly refund to Tenant any overpayment revealed by an audit or examination. If the audit or examination reveals an error of more than 5% over the amounts Landlord collected in a calendar year from Tenant under this addendum, Landlord will pay the reasonable cost of the audit or examination. Landlord may not seek a deficiency from Tenant under this paragraph if Landlord fails to timely provide the required notice.

E. Special Provisions:

**Landlord:** **Ja-Cole LP**

By: _____
By (signature): Rob Orr
Printed Name: Robert Orr
Title: president

By: _____
By (signature): _____
Printed Name: _____
Title: _____

**Tenant:** **Axogen Corp**

By: _____
By (signature): Mike Donovan
Printed Name: Mike Donovan
Title: VP, Operations

By: _____
By (signature): _____
Printed Name: _____
Title: _____



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Rob Orr

# NINTH AMENDMENT TO LICENSE AND SERVICES AGREEMENT

This Ninth Amendment to License and Services Agreement (this "Ninth Amendment") is effective as of December 21, 2023 (the "Ninth Amendment Effective Date") by and between Axogen Corporation, a Delaware corporation ("Licensee") and Community Blood Center (d/b/a Community Tissue Services), an Ohio corporation ("Licensor"). Capitalized terms not otherwise defined in this Ninth Amendment shall have the meaning as set forth in the Agreement (defined below).

WHEREAS, on or about August 6, 2015 the parties entered into that certain License and Services Agreement, as amended effective September 11, 2015 ("First Amendment"), May 12, 2017 ("Second Amendment"), May 19, 2017 ("Third Amendment"), February 22, 2019 ("Fourth Amendment"), June 1, 2019 ("Fifth Amendment"), April 22, 2020 ("Sixth Amendment"), February 19, 2021 ("Seventh Amendment"), and August 22, 2022 ("Eighth Amendment") (collectively, the "Agreement"); and

WHEREAS, the parties desire to modify certain terms and conditions of the Agreement as more fully set forth below.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Licensor and Licensee intending to be legally bound agree as follows as of the Effective Date of this Ninth Amendment:

1. **Grant of License**. Section 2.01 of the Agreement is deleted in its entirety and replaced with the following:

   "Section 2.01 Grant of License. Licensor does hereby grant Licensee upon the terms and conditions of this Agreement an irrevocable license (the "License"), except as otherwise expressly set forth herein, to occupy exclusively the one (1) clean room, inclusive of one corridor ("Clean Room") and collectively, the "Clean Rooms") the four (4) offices/work areas ("Office Space") and the two (2) storage spaces ("Warehouse Space") specifically identified in Exhibit A (collectively, the Clean Rooms, Office Space and Warehouse Space; referred to herein as the "Dedicated Space"), together with a non-exclusive right in common with the Licensor and Licensor's invitees and other licensees at the Premises to access and use the main lobby, necessary hallways, shared rest rooms, shared parking areas, shared breakroom/cafeteria, and the conference room adjacent to the Clean Rooms (which conference room will be shared space but when not required by Licensor or its invitees or licensees may be used by Licensee's employees to use as additional work space), shared copier/scanner room, elevators, locker rooms, stairs and ingress and egress points (the "Common Space", and collectively with the Dedicated Space, the "Licensed Space")."

2. **Option**. Section 2.03 is deleted in its entirety. For clarification purposes, it is the intent of the parties to remove any option and option space.

3. **Term Extension**. Section 12.01 of the Agreement is hereby deleted in its entirety and replaced with the following:

   "12.01 Term. Unless otherwise terminated pursuant to the terms of this Agreement, the License granted hereunder shall commence on the Occupancy Date and shall end on December 31, 2026."

4. **Termination**. Section 12.02(d) of the Agreement is hereby deleted in its entirety and replaced with the following:

   "(d) Either party may terminate this Agreement, with or without cause, at any time, upon providing eighteen (18) months written notice of termination to the other party."

5. **Effects of Expiration and Termination**. Section 12.03(c) of the Agreement is hereby deleted in its entirety and replaced with the following:

"(c) Following expiration or termination of this Agreement, or Licensee's use of a Clean Room, Licensee shall, at Licensee's sole cost and expense, vacate and decommission to commercially reasonable standards the Dedicated Space, leave the Licensed Space in the same general order and condition as the Licensed Space on the Occupancy Date, except for reasonable wear and tear. Licensee shall after such termination or expiration (1) remove all of Licensee's personal property and all other property and effects of Licensee and all persons claiming through or under Licensee from the Licensed Space and the Premises, and (2) remove all Equipment, if any, reasonable wear and tear excepted. Licensor shall provide Licensee with full access and the right to remove the foregoing property (including Equipment) from the Licensed Space following expiration or termination of this Agreement."

6. **Assignment**. Section 13.03 of the Agreement is deleted in its entirety and replaced with the following:

"Section 13.03 Assignment. Neither party may assign its rights or delegate its duties under this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld; provided, however, that neither Parties' consent shall be required in connection with the transfer of the other Party's rights or obligations under this Agreement due to the sale of the Premises, or the incident to a merger, consolidation, reorganization or sale of substantially all the assets of either Party."

7. **Fees**. Schedule II of the Agreement is deleted in its entirety and replaced with Schedule II attached hereto.

8. **Full Force and Effect.** With the modifications set forth in this Ninth Amendment, the Agreement remains in full force and effect.

9. **Miscellaneous:** This Ninth Amendment may be executed in one or more counterparts, each of which shall be deemed an original of this Ninth Amendment and all of which, when taken together, shall be deemed to constitute one and the same valid and binding Ninth Amendment. This Ninth Amendment may be transmitted by facsimile or in .pdf electronic format, and it is the intent of the parties that any signature printed by a receiving facsimile machine or computer system to be deemed an original signature.

***Signature Page Follows***

IN WITNESS WHEREOF, the parties hereto have duly executed this Ninth Amendment as of the Ninth Amendment Effective Date.

COMMUNITY BLOOD CENTER
D/B/A COMMUNITY TISSUE SERVICES

DocuSigned by:
Signer Name: Christopher Graham
Signing Reason: I approve this document
Signing Time: 12/27/2023 | 11:03 EST
CDA8F19CA06340BB999E46FA9B2B4769

By: _____

Name: Christopher Graham

Title: President and CEO

Date: 12/27/2023 | 11:04 EST

AXOGEN CORPORATION

By: _____

Name: Karen Zaderej

Title: President and CEO

Date: 12/27/2023

## SCHEDULE II

### Fees

1. **License Fees:** Licensee shall pay a License Fee of $35,702.57 per month for the Licensed Space as follows:

| Space | Room Numbers | Total Square Feet per Space | License Fee per sq. ft. | Total License Fee per Space |
|---|---|---|---|---|
| Clean Room | M408, M412 (corridor) | 423 | $36.89 | $15,604.47 |
| Office Space | M430, M431, M432, M446 | 1380 | $7.55 | $10,419.00 |
| Warehouse Space | M447, M425 | 1089 | $7.55 | $8,221.95 |
| Half of Locker Rooms | M437, M436 | 193 | $7.55 | $1,457.15 |

2. **Support Service Fees:** Subject to permitted increases, Licensee shall pay the rate of (a) $300.48 per each batch of nerve tissue debrided at Licensor, (b) $1,120.04 per batch of nerve tissue processed at Licensor, (c) $150.00 per batch of birth tissue debrided at Licensor; and $1,350.00 per batch for birth tissue processed at Licensor. After Licensee has vacated rooms M406 and M407, Licensee shall continue to pay the rate of $1,500.00 per batch of nerve tissue $150.00 per batch of birth tissue debrided at Licensor; and $1,350.00 per batch for birth tissue processed at Licensor 0, which includes the cleaning and sterilization of supplies. All other references to tissue in this Agreement shall include both nerve tissue and birth tissue.

3. **Fee Adjustment:** In addition to adjustments under the circumstances described in Section 4.01, the Support Service Fees shall increase by three percent (3%) on each January 1st during the Term.

4. **Additional Support Service Fees:** Licensee shall pay Licensor the sum of $275.00 per month as additional Support Service Fees in respect of the additional Support Services described in Schedule I to this Amendment. In the event the fees charged to Licensor by any third party providing such additional Support Services are increased during the Term, the amount in the preceding sentence shall automatically increase dollar for dollar upon written notice from Licensor to Licensee.

# AXOGUARD HA+ NERVE PROTECTOR SUPPLY AND MANUFACTURING AGREEMENT

**THIS SUPPLY AND MANUFACTURING AGREEMENT** (this "**Agreement**") is entered into as of the 2nd day of May 2023 ("**Effective Date**") by and between Cook Biotech Incorporated, an Indiana corporation having a place of business at 1425 Innovation Place, West Lafayette, Indiana 47906 ("**CBI**") and Axogen Corporation, a Delaware corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("**Axogen**"). Axogen and CBI may each be referred to herein as a "**Party**" and collectively the "**Parties**."

## RECITALS

**WHEREAS**, CBI is engaged in the business of the design, manufacture, sale, and distribution of medical devices and products, including without limitation the Base Component Material (defined below); and

**WHEREAS,** Axogen is engaged in the business of developing, marketing, and distributing medical devices, including without limitation the Device (defined below); and

**WHEREAS,** Axogen and CBI desire to enter into this Agreement whereunder CBI will manufacture, package, and label under the market authorization held by Axogen and exclusively sell to Axogen the Device (defined below) for use in the Field in accordance with and subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the Parties mutually agree as follows:

## Article 1, DEFINITIONS OF CERTAIN TERMS

**1.1 "Affiliate"** of a Party hereto shall mean any entity that controls or is controlled by such Party or is under common control with such Party. For purposes of this definition, an entity shall be deemed to control another entity if it owns or controls, directly or indirectly, at least fifty percent (50%) of the voting equity of another entity (or other comparable ownership interest for an entity other than a corporation).

**1.2 "Field"** means Axogen's exclusive right to import, export, sell, market, advertise, promote and distribute the Device as set forth on **Schedule 1** attached hereto.

**1.3 "Base Component Material"** means a flat sheet of one or more layers of an extracellular matrix (''ECM") tissue technology covered by United States Patent #8,192,763 and produced by CBI's proprietary methods and any improvements made thereto, such improvements excluding any coating or other components added to the ECM.

**1.4 "Cancellation Fees"** shall be the fees payable by Axogen for cancellation of a Firm Purchase Order offset

**1.5 "Confidential Information"** shall mean all information and data provided by one Party to the other Party, including provision to a third party on behalf of the other Party (e.g., FDA or notified bodies) except any portion of such information and data which:

(i) is known to the recipient as evidenced by its written records before receipt thereof from the disclosing Party and which is not itself subject to requirements of confidentiality;
(ii) is disclosed to the recipient Party or recipients' designee by a third person who has the right to make such disclosure and which is not itself subject to requirements of confidentiality;
(iii) is or becomes part of the public domain through no fault of the recipient; or
(iv) the recipient Party can reasonably establish has been independently developed by recipient Party without access to the information disclosed by the disclosing Party.

**1.6 "Consumer Price Index" or "CPI"** means the consumer price index for all urban consumers as published by the Bureau of Labor Statistics of the U.S. Department of Labor or any successor agency that assumes responsibility for the preparation of such index.

**1.7 "Contract Requirements"** shall mean 100% of the quantity of a Device or Demo Device used, sold and/or distributed by Axogen in the Territory.

**1.8 "Contract Price"** shall mean the price paid by Axogen to CBI for each Device or Demo Device that is finished, packaged, labeled, and ready for subsequent sale, distribution, or other use (i.e., Demo Device(s)) by Axogen referenced in **Exhibit B** and as may be amended by the Parties from time to time.

**1.9 "Current Good Manufacturing Practices"** or **"cGMP"** shall mean the good manufacturing practices required by the FDA and set forth in the FD&C Act or FDA Regulations (including without limitation 21 CFR 820), policies or guidelines, in effect at any time during the term of this Agreement, for the manufacture of Devices.

**1.10 "Delivery Date"** shall mean the date that the Device is delivered to a common carrier chosen by CBI.

**1.11 "Demo Device(s)"** shall mean a version of the Device prepared for Axogen by CBI intended solely for demonstration that is manufactured or processed in the same manner as a Device; however, it will be: (i) non-sterile; (ii) not cleared for clinical, human use; and (iii) marked "NOT FOR CLINICAL USE."

**1.12 "Device(s)"** shall mean the Base Component Material coated on both sides with HA+ Material including but not limited to that which is 4-layer Base Component Material and which is then supplied sterile to Axogen in sterile barrier packaging, product labeling, and outer product carton as set forth on **Exhibit "A".**

**1.13 "Existing Distribution Agreement"** shall mean the Distribution Agreement between Axogen and CBI dated August 27, 2008, as amended, pursuant to which CBI granted to Axogen the exclusive worldwide right to market, sell and distribute certain products utilizing ECM and SIS technology in the "Field" as such term is defined therein currently marketed and sold under Axogen's Axoguard® family of trademarks

**1.14 "Effective Date"** shall mean the date of this Agreement as set forth above.

**1.15 "Existing Products"** shall mean those products currently marketed and sold under Axogen's Axoguard® family of trademarks and subject to the Existing Distribution Agreement.

**1.16 "FDA"** shall mean the United States Food and Drug Administration or any successor entity thereto.

**1.17 "FD&C Act"** shall mean the United States Federal Food, Drug and Cosmetic Act, as may be amended from time to time.

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**1.18 "HA + Material"** means a tissue repair membrane adapted for adhesion and lubrication, including a sodium alginate and sodium hyaluronate coating, encompassed by one or more claims of Axogen's U.S. Patent Application No. 16/992,857 and any continuations and/or divisionals thereof or related foreign applications, or a patent issuing therefrom, including any improvements thereto made solely and owned solely by Axogen, made solely and owned solely by CBI, or made jointly and owned jointly by Axogen and CBI.

**1.19 "Purchase Order"** shall mean written orders from Axogen to CBI which shall specify (a) the quantity of Device(s) and Demo Device(s) ordered, (b) the total Contract Price for such order, (c) the requested delivery date(s), and (c) confirmed delivery destination for the order.

**1.20 "Regulatory Authority"** shall mean any applicable governmental regulatory authority, notified body, or agency involved in granting clearance, authorization, certification, or marketing approvals for the development, manufacture, commercialization, and/or regulation of the Device in the Territory, including without limitation, the FDA in the United States and other national or regional authorities globally.

**1.21** "**Regulatory Standards"** means (a) procurement and maintenance of any and all permits, licenses, filings, certifications required by Regulatory Authority, and compliance with the cGMPs, and (b) any laws, rules, regulations and standards of any Regulatory Authority, (including, without limitation, the Environmental Protection Agency ("**EPA**"), the Occupational Safety and Health Administration ("**OSHA**"), the FDA, and state and local authorities), that apply to the Manufacturing Facility or CBI's manufacturing, storage, handling, or shipment of materials or the Device.

**1.22 "Specifications"** shall mean, Axogen's designated written requirements with which a Device must conform as set forth on **Exhibit "A"** as may be modified subject to the terms of the Quality Agreement.

**1.23 "Quality Agreement"** shall mean the certain written agreement between CBI and Axogen which outlines each Party's respective quality and/or regulatory activities and responsibilities related to the Device, as may be amended from time to time.

**1.24 "Territory"** shall mean worldwide.

## Article 2, NATURE AND SCOPE OF AGREEMENT

**2.1 Nature of Agreement.** This Agreement establishes the terms and conditions upon which CBI shall manufacture, package, label, and deliver the Device to Axogen. Pursuant to the terms of this Agreement, Axogen shall have the exclusive right to import, export, sell, resell, market, advertise, promote, and distribute the Device in Axogen's Field, throughout the Territory. For purposes of clarity, except as expressly set forth in this Agreement with respect to the Device, the terms and conditions of the Existing Distribution Agreement for the Existing Products shall not be modified by this Agreement.

**2.2 Axogen Efforts.** Axogen shall use commercially reasonable efforts to promote and solicit the sale of the Devices within Axogen's Field subject to appropriate Regulatory Standards in the Territory and shall not promote or solicit the sale of the Device for use outside of the Field unless agreed to by the Parties in writing via an amendment to this Agreement signed by both Parties.

## Article 3, PURCHASE AND SUPPLY OF DEVICE

**3.1 Agreement to Purchase and Supply.** Subject to the terms and conditions of this Agreement, CBI shall manufacture and deliver to Axogen and Axogen shall accept and pay for the Contract Requirements of Devices or Demo Devices pursuant to each accepted applicable Purchase Order. Except as provided herein and during the Term, CBI shall not manufacture or sell to any person other than Axogen or enter into any agreement with any person other than Axogen related to the manufacture or sale of the Device in the Field. For clarity, nothing in this Agreement shall otherwise limit CBI's right to make, use, sell, offer to sell or import the Base Component Material or products other than the Device, or to use technologies or intellectual property that is or becomes dedicated to the public and which becomes so through no fault or direct or indirect action of CBI. Also, nothing in this Agreement shall otherwise limit Axogen's right to make, use, sell, offer to sell or import the Device or products other than the Device or to use technologies or intellectual property that is or becomes dedicated to the public and which becomes so through no fault or direct or indirect action of Axogen.

**3.2 CBI Storage.**

**3.2.1 Device Storage.** In the event CBI stores manufactured Devices in anticipation of future Purchase Orders for such Devices, such storage will be subject to CBI's standard quality controls and the Quality Agreement including but not limited to the minimum shelf life shipping requirements as set forth in the Specifications; provided, however, in no event shall CBI be required to store the Devices under this Agreement.

**3.2.2 Intentionally Omitted.**

**3.3 Records.** CBI shall maintain records and documentation relating to the manufacture and shipment of Devices to Axogen's designated distribution facility at Burlington, Texas, USA or Alachua, Florida, USA in accordance with cGMP and the Quality Agreement. CBI will make these records available to Axogen subject to the terms of the Quality Agreement.

**3.4** CBI shall be deemed to be in default of its supply obligations under this Agreement (a "Supply Default") if, as clearly and convincingly demonstrated by Axogen: (i) more than two (2) times in any twelve (12) month period CBI fails to fulfill confirmed purchase orders for the Devices from Axogen for a period of more than sixty (60) days or (ii) CBI fails to fulfill confirmed purchase orders for the Devices four (4) times in any continuous twenty four (24) month period, and such failures have caused Axogen to be unable to meet its supply requirements to unaffiliated

third parties. In the event of a Supply Default, CBI shall grant to Axogen a contingent right and license to manufacture the Devices for a limited period until as soon as is reasonably practicable after CBI has demonstrated that the circumstance(s) that resulted in the Supply Default have been rectified.

## Article 4, FORECASTS, ORDERING PROCEDURES, and CAPACITY

**4.1 Purchase Orders, Forecasts and Order Limits.** Axogen shall provide CBI with a written, rolling forecast of Axogen's expected monthly purchases of Devices and Demo Devices over the following twelve (12) months. The Parties understand and agree that such forecast is for informational and planning purposes and is solely intended to aid in CBI's sourcing of materials used in the manufacture of the Device, and both Parties agree that only Purchase Orders accepted as set forth in the Agreement are binding on the Parties. Subsequent to the Effective Date, Axogen will provide CBI with an initial stocking order of Devices and Demo Devices, and thereafter, throughout the Term and subject to the terms of this Agreement, Axogen shall submit to CBI Purchase Orders setting forth the quantities of the Devices and Demo Devices to be purchased by Axogen pursuant to this Agreement, Axogen's requested delivery date(s), and identifying their Texas or Florida delivery location.

**4.2 Acknowledgment of Purchase Orders.** Axogen may designate a preferred delivery date for shipment(s) authorized in each Purchase Order, provided final determination and confirmation of delivery dates under each Purchase Order is subject to CBI's review and acceptance of such Purchase Order, and notification to Axogen thereof. For clarity, requested delivery dates shall not be earlier than thirty (30) calendar days from the date Axogen submits the Purchase Order to CBI, unless approved by CBI in writing. Upon receipt of each Purchase Order, CBI will provide a confirmation of receipt of each Purchase Order to Axogen and confirm the delivery date(s) for such order. Upon Axogen's receipt of the confirmation, such Purchase Order shall become a "Firm Purchase Order." In the event CBI is unable to meet a confirmed delivery date and subject to Article 19, CBI shall so notify Axogen and provide to Axogen an alternative delivery date, which shall be as soon as commercially reasonable and practicable and not unreasonably delayed. Notwithstanding anything else contained herein, in no event shall CBI be obligated to accept an order for a quantity of the Device or Demo Device for delivery in any single month that is in excess of two hundred percent (200%) of the average number delivered to Axogen in the three (3) months prior to such single month. Except for modifications or cancellations to a Firm Purchase Order due to non-conformity of the Device or Demo Device, any Firm Purchase Order cancelled in whole or in part without CBI's written consent is subject to a cancellation fee equal to fifty percent (50%) of the then current Contract Price as set forth in the Purchase Order. To the extent of any conflict between Purchase Orders submitted by Axogen and this Agreement, this Agreement shall control. CBI acknowledges that Axogen shall not be considered to have cancelled a Firm Purchase Order for having given CBI notification of non-conforming Devices pursuant to Article 7.1 below.

## Article 5, PRICE

**5.1 Contract Price.** The Contract Price shall be set forth on **Exhibit "B,"** as may be amended from time to time in accordance with this Agreement and is attached hereto and by reference made a part hereof.

**5.2 Contract Price Adjustment.** Commencing on the Effective Date of this

Agreement the Contract Price for Devices and Demo Devices manufactured by CBI and subsequently shipped to Axogen shall be those as set forth on **Exhibit "B"**. Pricing shall be adjusted each calendar year of the Agreement as follows: (i) CBI will notify Axogen on or before October 1st of each calendar year of the Contract Price's new rate for the following year; (ii) such new Contract Price rate increases shall be the lesser of 4% or the percentage increase in the US Consumer Price Index for the most recently published percentage change for the twelve (12) month period preceding September 1st of that calendar year. Commencing on January 1, 2026, the Contract Price rate increases shall be the lesser of 4% or (a) the percentage increase in the US Consumer Price Index for the most recently published percentage change for the twelve (12) month period preceding September 1st of that calendar year and (b) where such percentage increase in the US CPI is greater than 4%, the sum of 4% plus one-half of the difference between such percentage increase in the US CPI and 4% (for example, if such percentage increase in the US CPI is 7%, then the new Contract Price rate increase would be 5.5% -- calculated as 4% + (0.5)(7%-4%) = 5.5%; or (iii) as may be impacted by a Greater Increase Conditions as set forth below. The new Contract Price for the following calendar year will become effective as of January 1 of the following calendar year.

**5.3** During the Term, CBI will notify Axogen of any proposed increases or decreases in the Contract Price for the following calendar year as set forth in **Article 5.2** above. In the event there are factors which directly impact CBI's costs to procure materials, labor, improvement of manufacturing efficiencies, wages, and/or extra or enhanced FDA or other regulatory requirements or amendments in connection with the manufacture and supply of the Devices, such factors will create a Greater Increase Condition ("Greater Increase Condition"). CBI will notify Axogen of such Greater Increase Condition and the nature of its impact; provided, however, CBI is under no obligation to provide CBI's proprietary information or processes to Axogen for the purposes of Greater Increase Condition review. In no event shall CBI make such an adjustment more than once in any given twelve (12) month period unless CBI demonstrates that a greater increase is described above. Any adjustment arising out of a Greater Increase Condition shall be limited to the direct cost impact experienced by CBI without further mark-up or adjustment. CBI will take commercially reasonable steps to: (i) limit or avoid Greater Increase Conditions; and (ii) consider such Greater Increase Condition when reviewing annual Contract Price review as set forth in **Article 5.2** above.

**5.4** During the Term, CBI and Axogen shall use commercially reasonable efforts to improve Device manufacturing quality and efficiency, when and where possible. Any cost savings due to improved Device manufacturing efficiency resulting in whole or in part from contributions made by CBI, other than those relating to the manufacture of the Base Component Material itself, shall be equally shared by the Parties.

**5.5 Base Component Material Purchase.** If at any time during the Term of this Agreement on or after January 1, 2026, Axogen is able to obtain an offer from an unrelated third-party manufacturer to manufacture the Devices or Demo Devices in the United States using Base Component Material purchased from CBI at a price which is lower than the Contract Price then in effect and otherwise under substantially the same terms as this Agreement, Axogen has the right to notify CBI of such offer and request that CBI reduce the Contract Price to meet such lower price. If CBI does not agree to the reduction in the Contract Price within ninety (90) days of receiving Axogen's request, Axogen shall have the right, but not the obligation, to initiate an Alternate Supply Process by which this Agreement would be terminated and Axogen would enter into an agreement for the manufacturing of the Device and Demo Device with such third-party manufacturer using Base Component Material purchased from CBI. To initiate the Alternate

Supply Process, Axogen shall provide CBI written notice thereof, and CBI and Axogen shall enter into good faith negotiations over the ninety (90) day period following such written notice to simultaneously enter into (i) a written supply agreement under which Axogen shall purchase the Base Component Material from CBI for Axogen's having manufactured the Devices and Demo Devices by such third-party manufacturer, (ii) a written license agreement under which CBI shall grant to Axogen and its third party manufacturer(s) a license on commercially reasonable terms to make, use, sell, offer to sell, import and export the Devices and Demo Devices manufactured by such third party manufacturer incorporating such purchased Base Component Material, and (iii) a written termination of this Agreement. Upon termination of this Agreement as set forth in this Article 5.5, Axogen shall: (i) reimburse CBI for expenses related to cancellation or modification of purchase commitments for materials used by CBI in the manufacture of only the Devices and Demo Devices; (ii) Axogen shall take delivery and shall pay for all open Purchase Orders which have been confirmed by CBI; (iii) Axogen shall reimburse CBI for expenses related to the preparing for shipment and subsequent shipment of materials or Axogen owned equipment to Axogen or their designee. For avoidance of doubt, absent a successful negotiation under this Article 5.5 leading to the execution by the parties of the aforementioned written supply agreement, written license agreement, and written termination agreement, this Agreement shall continue for the Term unless earlier terminated pursuant to Article 8.2.

## Article 6, SHIPMENT AND INVOICING

**6.1 Shipment and Delivery Terms.** CBI shall pack and label the Device in accordance with the Specifications and subject to each Purchase Order and place the Devices with a carrier of CBI's choosing to be delivered on or before the delivery date to either Axogen's Burlington, Texas, USA or Alachua, Florida, USA facilities CPT (Incoterms, 2020). Title to the Device shipped under any Purchase Order shall pass to Axogen upon delivery of the Device to Axogen pursuant to the terms of this Agreement.

**6.2 Payment Terms.** CBI may invoice Axogen for each shipment of Devices upon such shipment. Axogen shall pay CBI for each invoice net thirty (30) days from the date of the receipt of such undisputed invoice. Payments not received within the times noted above shall bear interest at the lesser of (a) the maximum rate permitted by law, and (b) 1.5% per month on the outstanding balance compounded monthly.

**6.3 Default in Payment Obligations.** In addition to all other remedies available to CBI in the event of a Axogen default, if Axogen fails to make payments as required hereunder, CBI may, at its sole election, require one or more of the following: (i) refuse all further Purchase Orders; (ii) refuse to manufacture Devices until Axogen's account is paid in full; (iii) modify the foregoing terms of payment; (iv) place the account on a letter of credit basis; (v) require full or partial payment in advance; (vi) suspend deliveries of Devices until Axogen provides assurance of performance reasonably satisfactory to CBI; and/or (vii) take other reasonable means as CBI may determine.

## Article 7, INSPECTION AND ACCEPTANCE OF DEVICE

**7.1 Device Conformity.** Within thirty (30) calendar days from delivery of a shipment of the Devices or Demo Devices to Axogen, Axogen shall inspect to determine whether Device(s) or Demo Devices in such shipment conform to the Specifications; and shall notify CBI of such inspection and acceptance; provided, however, Axogen shall store all received shipments in

compliance to labeled storage requirements prior to such inspection or the improperly stored Devices shall be deemed accepted. Axogen's failure to notify CBI within the applicable time period of its acceptance of such shipment or rejection of such shipment for a Device or Demo Device that does not conform to the Specifications, then Axogen shall be deemed to have accepted the Device or Demo Device and waived its right to revoke acceptance.

**7.1.1** If Axogen stores and handles the Devices in compliance with labeled storage requirements and thereafter reasonably believes any shipment of Device or Demo Device does not conform to the Specifications, including after acceptance as to those Specifications that cannot be inspected for conformity until the Device package is opened ("Post Acceptance Conformity"), it shall notify CBI by telephone including a detailed explanation of the non-conformity and shall confirm such notice in writing via overnight or e-mail delivery to CBI. Upon receipt of such notice, CBI will investigate such alleged non-conformity and reply with suggested correction plan in timeframes set forth in the Quality Agreement, or such timeframe as is reasonably agreed between the Parties. In the event, assertion that CBI disagrees with Axogen's determination that the shipment of Device is non-conforming, CBI shall promptly notify Axogen by telephone and confirm in writing in material compliance with the terms of the Quality Agreement.

**7.1.2** If the Parties dispute whether a shipment of Device is conforming or non-conforming, including Post Acceptance Conformity, the shipment of Device will be submitted to a mutually acceptable laboratory or consultant for resolution, whose determination of conformity or non-conformity, and the cause thereof of non-conformity, shall be binding upon the Parties. The Axogen shall bear the costs of such laboratory or consultant, except as set forth in Article 7.2.3.

**7.2 Remedies for Non-Conforming Devices**

**7.2.1** In the event CBI agrees that the Devices are non-conforming, or the laboratory determines that the Devices are non-conforming, CBI shall replace such non-conforming Devices as soon as commercially practicable.

**7.2.2** Axogen shall pay for all Devices, including replacement Devices, except as specifically set forth in Article 7.2.3.

In the event CBI agrees, or the laboratory or consultant determines, that the Devices or Demo Devices are nonconforming solely as a result of the negligence or willful misconduct of CBI, then CBI will bear the costs for replacement of each nonconforming Device or Demo Device and bear the costs of such laboratory or consultant.

## Article 8, TERM AND TERMINATION

**8.1 Term.** The term of this Agreement commences on the Effective Date and continues in full force and effect until July 1, 2030, unless extended by mutual agreement of the Parties or earlier terminated in accordance with this Article 8 (the "Term").

**8.2 Early Termination.** Either Party may terminate this Agreement, upon written notice to the other Party, in the event of any of the following: (i) a breach of any obligation to pay money under this Agreement, unless such obligation is disputed in good faith by the non-paying Party, which breach is not cured within thirty (30) days after receiving written notice of such breach from the non-breaching Party; (ii) a breach of any non-monetary representation or warranty or obligation contemplated in this Agreement, which breach is not cured within sixty (60) calendar days after receiving written notice of such breach from the non-breaching Party; (iii) the other Party's inability to pay its debts as the same become due; any assignment by the other Party for the benefit of its creditors; the appointment of a receiver, liquidator, or committee of creditors for all or substantially all of the other Party's business or assets; the filing of a petition for voluntary

or involuntary bankruptcy or similar proceeding by or against the other Party or the liquidation of the other Party; (iv) the expropriation, confiscation, or nationalization of all or substantially all of the other Party's business or assets; or (v) upon the occurrence of any other event constituting grounds for termination set forth in any other provision in this Agreement.

**8.3 Additional Rights and Remedies.** Termination under this Article 8 shall be in addition to the other rights and remedies of the terminating Party. Termination of this Agreement for any reason shall not relieve any Party of any obligations accruing prior to such termination.

**8.4 Non-cancelable Costs and Expenses.** In the event of the termination or cancellation of this Agreement, except by Axogen as a result of a breach by CBI under Article 8.2, CBI may submit to Axogen a written notice setting forth the following amounts, in sufficient detail to allow Axogen to review such amounts (a "**Termination Claim**"): (i) the purchase price under this Agreement for Devices as of the date of termination, not previously paid for, that conform to Specifications and were produced pursuant to this Agreement (including any open and unfulfilled Purchase Orders issued by Axogen and accepted by CBI hereunder); and (ii) CBI's out-of-pocket costs for unused Device materials ordered by CBI prior to the date of termination and exclusively used in manufacturing the Devices under this Agreement. CBI shall ship Devices and/or those unused materials exclusively used in manufacture of the Devices that Axogen has reimbursed CBI and that are not part of CBI's proprietary manufacturing methods to Axogen pursuant to Article 6.1. Axogen shall pay CBI amounts due with respect to the Termination Claim, less any amounts owed by CBI to Axogen, if any, within thirty (30) days after Axogen's receipt of invoice from CBI covering the Termination Claim. Any payment of a Termination Claim will not be deemed a waiver of any of Axogen's other rights arising under this Agreement or applicable law. A Termination Claim is CBI's sole remedy for termination of this Agreement under this Article 8.4. Except as expressly provided in this Article 8.4, Axogen will not be liable for and will not be required to make payments to CBI, directly or on account of claims by CBI, for loss of anticipated profit, unabsorbed overhead, facilities and equipment rearrangement costs or rental, unamortized depreciation costs, and general and administrative burden charges.

**8.5 Survival.** Termination, expiration, cancellation or abandonment of this Agreement through any means or for any reason, except as set forth in Article 8.1, shall be without prejudice to the rights and remedies of either Party with respect to any antecedent breach of any of the provisions of this Agreement. The provisions of Articles 8, 12, 13, 14, 15, 16, 17, and 18 hereof shall survive expiration or termination of this Agreement.

**8.6 Effect of Termination or Expiration.** The termination of this Agreement will not terminate the Existing Distribution Agreement, or any other agreements or engagements entered into between Axogen and CBI.

**8.6.1 Termination by Axogen**. Promptly following the effectiveness of a notice of termination delivered by Axogen to CBI hereunder (as stated in such notice), CBI shall, unless otherwise directed by Axogen: (i) promptly terminate all performance under this Agreement and Purchase Orders, such terminations subject to Article 4.2 herein; (ii) transfer title and deliver to Axogen all Devices completed prior to the effectiveness of the notice of termination; and (iii) return to Axogen any property and cease all use of any property including Axogen's Intellectual Property furnished by or belonging to Axogen, including all Axogen Confidential Information, or dispose of such property in accordance with Axogen's instructions; provided, however, Axogen shall reimburse CBI for the actual, documented costs associated with such disposal.

**8.6.2 Termination by CBI**. Promptly following the effectiveness of a notice of termination delivered by CBI to Axogen hereunder (as stated in such notice), Axogen shall, unless

otherwise directed by CBI: (i) pay all undisputed outstanding amounts then due and owing to CBI for Devices manufactured pursuant to a Firm Purchase Order prior to the effective date of the notice of termination or within ten (10) business days; (ii) pay all amounts then due and owing to CBI related to any Termination Claim as set forth above; (iii) upon CBI's return to Axogen of any property furnished by or belonging to Axogen, or CBI's disposal of the same in accordance with Axogen's instructions, reimburse CBI for the actual, documented costs associated with such disposal; and (iv) cease all use of CBI's Intellectual Property, including all CBI Confidential Information and the Applicable CBI Patents. CBI shall transfer title and deliver to Axogen all Devices completed prior to the effectiveness of the notice of termination.

**8.6.3** Expiration or termination of the Term will not affect any rights or obligations of the Parties that: (i) come into effect upon or after termination or expiration of this Agreement; or (ii) otherwise survive the expiration or termination of this Agreement as herein set forth.

## Article 9, MANUFACTURE OF DEVICES

**9.1 Manufacture.** CBI shall manufacture, package, and label the Devices in accordance with cGMP, the Specifications, the terms of this Agreement, and the Quality Agreement between the Parties, each of which as may be amended from time to time. All quality requirements and regulatory matters shall be set forth in the Quality Agreement and exclusively governed by the Quality Agreement. Manufacturing deviations and investigations which occur during manufacture of Device and which do not cause the manufacture to be non-compliant with cGMP, the Specification, or the 510K clearance for the Device, shall not be deemed to cause such Device to be non-conforming.

**9.2 Permits and Licenses.** Axogen is the marketing authorization holder of all market authorizations, clearances, registrations, approvals, and listings provided by the Regulatory Authority for the Device in the Territory, except as may be related to CBI's own approvals, clearances, and facilities authorizations and certifications, and shall have sole responsibility, at its expense, to satisfy and obtain all government and statutory permits, approvals, registrations, certificates and licenses necessary or required for the sale, marketing, and commercialization of the Device manufactured by CBI pursuant to this Agreement. CBI shall have sole responsibility, at its expense, to satisfy, obtain, and maintain all government and statutory permits, approvals, registrations, certificates and licenses required for it to carry out its manufacturing obligations in pursuant to this Agreement.

**9.3 Manufacturing Facility.** CBI will manufacture the Device solely at one or more of its approved manufacturing facilities subject to the terms of the Quality Agreement.

**9.4 Device Specifications.** The Specification for the Devices and Demo Devices shall be set forth in writing and agreed between the Parties and referenced by document name and number in **Exhibit "A"**. Any amendment, addition, or deletion of or to a requirement in the Specifications shall be subject to the requirements of the Quality Agreement. CBI is under no obligation to provide Axogen any other specification for manufacturing equipment or processes, each of which may be proprietary and confidential to CBI. In the event a Regulatory Authority requests or requires access to or review of a specification held by CBI other than a Specification, CBI may respond directly to such Regulatory Authority and provide Axogen with a reference to such information without providing such confidential and proprietary information to Axogen.

**9.5 Manufacturing Controls.** All manufacturing controls applicable to the manufacture, storage, if any, and shipment of the Devices, including without limitation material

storage, design controls, nonconformances and investigations, document retention, and quality audit procedures, shall be subject to the terms and conditions set forth in the Quality Agreement.

**9.6 Regulatory Requirements.**

**9.6.1 Changes to Regulation or Specifications.** Each Party promptly shall notify the other of new regulatory requirements of which it becomes aware which are relevant to or materially affect the manufacture, shipment, or subsequent distribution of Devices under this Agreement, and which are required by the FDA, any other applicable Regulatory Authority or other applicable laws or governmental regulations and shall meet and confer with each other with respect to appropriate means to comply with such requirement.

**9.6.2 Facility-Specific Changes.** If facility, equipment, process or system changes are required of CBI as a result of requirements set forth by the FDA or any other regulatory authority, and such regulatory changes apply primarily to the manufacture of the Device, then Axogen and CBI will review such requirements and agree in writing to an implementation schedule for such regulatory changes and changes to Specifications or Devices. The costs of any such change pursuant to this Article 9.6.2 shall be governed by Article 5.3 of the Agreement.

**9.7 Supplied Materials.** CBI will be responsible for sourcing the Base Component Material, solutions of sodium hyaluronate and sodium alginate, packaging, and labeling components necessary for manufacture, packaging, and labeling of the Devices to conform to the Specifications. Axogen and CBI shall cooperate with the other and use good faith efforts to secure secondary source materials.

## Article 10, REGULATORY

**10.1 Regulatory Approvals.** Axogen will be solely responsible for obtaining all regulatory approvals necessary for the sale, marketing, and distribution of Devices. Subject to CBI's requirements for maintaining confidentiality of proprietary methods and processes, CBI will endeavor to respond directly to the applicable Regulatory Authority with respect to proprietary information and processes used in the manufacture or processing of the Device or Demo Device, seek confidential treatment of such proprietary information of CBI, and subsequently provide Axogen with a letter of authorization to reference the necessary regulatory documentation required in response to a request for such information by a Regulatory Authority, but without providing such proprietary documentation and information to Axogen.

**10.2 Regulatory Authority Communications.** Each Party will notify the other pursuant to and subject to the Quality Agreement of any applicable communication, inspection, or interaction directly related to the manufacture, shipment, or distribution of Devices with a Regulatory Authority.

## Article 11, TRADEMARKS AND PATENTS

**11.1** Axogen grants to CBI a non-exclusive, royalty free license to use the Axogen' s trademarks for the sole purpose of allowing CBI to fulfill its responsibilities under this Agreement. Such license shall not be transferable in whole or in part without prior written approval from Axogen.

**11.2** Axogen shall be solely responsible for selecting, registering and enforcing Axogen's trademarks used to identify the Device and, except as set forth in Article 11.l, shall have sole and exclusive rights in such Axogen Trademarks.

**11.3** CBI acknowledges Axogen's right, title and interest in the trade name that Axogen uses for the Device (provided such trade name does not use or incorporate or adopt any of the

Trademarks or CBI's company names or any confusingly similar word or symbol), its trademarks and trade names listed in product sheets issued by Axogen (collectively ''Axogen Trademarks"), and CBI shall not at any time do or cause to be done any act or thing which directly or indirectly challenges, impairs or adversely affects the Axogen's Trademarks or Axogen's goodwill therein. CBI shall not acquire any right, title, or interest in the Axogen Trademarks by virtue of the execution, performance or termination of this Agreement. CBI shall not use any Axogen Trademark, without Axogen's prior written consent. All goodwill resulting from CBI's use of the Axogen Trademarks shall inure to the benefit of Axogen. CBI will have no liability under this Agreement for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is due to Axogen's failure to provide clear, timely and reasonable instructions with respect to CBIs use of Axogen Trademarks in connection with the Device.

**11.4** Axogen acknowledges CBI's exclusive right, title and interest in the trademarks and trade names listed in all catalog and product sheets issued by CBI (collectively "CBI Trademarks"), and Axogen shall not at any time do or cause to be done any act or thing which directly or indirectly challenges, impairs or adversely affects the CBI Trademarks or CBI's goodwill therein. Axogen shall not acquire any right, title, or interest in the CBI Trademarks by virtue of the execution, performance or termination of this Agreement, except as expressly set forth herein. Axogen shall not use any CBI Trademark, without CBI's prior written consent. Any goodwill resulting from Axogen's use of the CBI Trademarks shall inure to the benefit of CBI. Axogen will have no liability under this Agreement for any delay or failure of either Party to perform its obligations hereunder, to the extent that such delay or failure is due to CBI's failure to timely and reasonably implement Axogen's instructions with respect to Axogen's Trademarks or CBI's Trademarks in connection with the Device.

**11.5** Except as provided expressly herein, Axogen may not use the CBI Trademarks or CBI's name in connection with the importation, marketing, distribution and sale of the Device. Axogen shall not use or adopt the CBI Trademarks or any confusingly similar word or symbol as part of its company name. Axogen shall use CBI's name or Tradename as follows: limited to "Manufactured by Cook Biotech Inc for Axogen Corporation" CBI Trademarks are to be used. The package label for the Device processed by CBI and delivered pursuant to this Agreement shall be designed by Axogen and follow applicable laws and regulations including stating "Manufactured by Cook Biotech Inc. for Axogen Corporation" or variations thereof in material compliance with applicable Regulatory Standards. Axogen shall be responsible for all costs of repackaging and re-labeling the Device and any revision of the Device brochures and other educational materials, to the extent such repackaging, re-labeling and/or revisions are required due to Axogen Trademark issues that arise with respect to the Device. CBI shall be responsible for all costs of repackaging and relabeling the Device and any revision of the Device brochures and other educational materials, to the extent such repackaging, re-labeling and/or revisions are required due to CBI Trademark or patent marking issues that arise with respect to the Base Component Material or any other CBI material or process.

**11.6** Axogen will be solely responsible, at its sole expense, for, and except as otherwise provided in this Agreement, shall have the sole right to make all decisions and determinations with respect to marketing and sales of the Device, all subject to and in compliance with all applicable laws and regulations and the terms and conditions of this Agreement.

**11.7** CBI reserves the right to bring such legal action in the courts or administrative agencies of any country within the Territory as may be required to prevent the infringement, imitation, unauthorized sale, purchase or distribution, illegal use, or misuse of the CBI Trademarks or CBI's name. Axogen promptly shall notify CBI of any infringement, imitation, unauthorized sale,

purchase or distribution, illegal use, or misuse of the CBI Trademarks or CBI's name in connection with the Device and of which Axogen becomes aware, in any manner, and shall render any assistance which CBI may reasonably request in protecting the CBI Trademarks or CBI's name.

**11.8** Axogen reserves the right to bring legal action in the courts or administrative agencies of any country within the Territory as may be required to prevent the infringement, imitation, unauthorized sale, purchase or distribution, illegal use, or misuse of the Axogen Trademarks or Axogen's name. CBI shall promptly notify Axogen of any infringement, imitation, unauthorized sale, purchase or distribution, illegal use, or misuse of Axogen's Trademarks or Axogen's name in connection with the Device or any imitation thereof and of which CBI becomes aware, in any manner, and shall render any assistance which Axogen may reasonably request in protecting the Axogen Trademarks or Axogen's name.

**11.9** Axogen grants to CBI during the Term of this Agreement and in connection with any Device(s) or Demo Device(s) provided to Axogen pursuant to and during the Term of this Agreement, a non-transferable, non-exclusive, royalty free license to and under any and all Applicable Axogen Patents, licenses, trademarks, regulatory data, technical information, know-how, and other Axogen Intellectual Property related to the Device(s), including but not limited to Axogen's sole or joint rights in any of Axogen's Existing Intellectual Property as defined in Article 17.1 or in any Foreground Improvements as defined in Article 17.2, solely and to the extent necessary for CBI's performance under this Agreement and subject to the terms of this Agreement, for the manufacturing of the Device and Demo Device exclusively for Axogen. "Applicable Axogen Patents" shall mean any patent or patent application owned by Axogen including at least one claim that encompasses Devices or their use or manufacture and would be infringed by CBI in performing its obligations or rights under this Agreement absent the license from Axogen under this Article 11.9. Such license(s) shall not be transferable in whole or in part without prior written approval from Axogen. Except for the rights expressly granted, no right, title, or interest of any nature whatsoever is granted under the Applicable Axogen Patents whether by implication, estoppel, reliance, or otherwise, by Axogen to CBI. Accordingly, all rights with respect to any know-how, patent or other intellectual property rights that are not specifically granted herein are reserved by Axogen.

**11.10** CBI grants to Axogen and its affiliates, distributors, sub-distributors and successors, during the Term of this Agreement, and in connection with any Devices and Demo Devices provided to Axogen by CBI pursuant to this Agreement or by a third party manufacturer pursuant to Article 3.4 of this Agreement and that may after having been so provided be sold after the Term, a non-transferable, non-exclusive, royalty free license to and under any and all Applicable CBI Patents or other CBI Intellectual Property, including but not limited to CBI's sole or joint rights in any of CBI's Existing Intellectual Property as defined in Article 17.1 or in any Foreground Improvements as defined in Article 17.2, to use, offer to sell, sell and import the Devices and Demo Devices supplied to Axogen pursuant to this Agreement in the Field. "Applicable CBI Patents" shall mean any patent or patent application owned by CBI including at least one claim that encompasses Devices or their use or manufacture and would be infringed by Axogen in performing its obligations or rights under this Agreement or by using, offering to sell, selling or importing the Devices and Demo Devices supplied to Axogen pursuant to this Agreement, absent the license from Cook under this Article 11.10. Such license(s) shall not be transferable in whole or in part without prior written approval from CBI. Except for the rights expressly granted, no right, title, or interest of any nature whatsoever is granted under the Applicable CBI Patents whether by implication, estoppel, reliance, or otherwise, by CBI to Axogen. Accordingly, all rights with respect to any know-how, patent or other intellectual property rights that are not specifically granted herein are reserved by CBI.

## Article 12, REPRESENTATIONS AND WARRANTIES

**12.1 Mutual Representations.** Each Party hereby represents and warrants to the other Party that (i) the person executing this Agreement is authorized to execute this Agreement; (ii) this Agreement is legal and valid and the obligations binding upon such Party are enforceable by their terms; (iii) each Party has obtained (or will obtain prior to manufacturing or selling or distributing the Devices, as may be applicable to each Party), and will remain in compliance with during the term of this Agreement, all permits, licenses and other authorizations (the "Permits") which are required under federal, state and local laws, rules and regulations applicable to the manufacture, shipment, sale, or distribution of the Devices, as may be applicable to each Party; and (iv) the execution, delivery and performance of this Agreement does not conflict with any agreement, instrument or understanding, oral or written, to which such Party may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.

**12.2 CBI Non-Transferable Warranty.** CBI warrants that

**(a)** the Devices shall: (i) be manufactured in accordance with cGMP and the Specifications as required by the FDA; (ii) conform to manufacturer's specifications; (iii) be free from defects in materials and workmanship; and (iv) not be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act as amended; and (v) be delivered free from liens and encumbrances. CBI makes no representation or warranty with respect to printed materials supplied by Axogen or its consignee. No representative of CBI may change any of the foregoing and Axogen accepts the Devices subject to all terms hereof. Axogen acknowledges that the Devices are medical devices that have risks, including those described in its labeling, as used by the FDA. Accordingly, CBI expressly makes no warranties that the Devices will be safe and effective when used, including in each application, in each patient or under any and all circumstances THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF AND SHALL SUPERSEDE ALL OTHER WARRANTIES OF ANY KIND, WHETHER WRITTEN, ORAL.

**(b)** That CBI has no knowledge of (a) any patents or other intellectual property rights of third parties that would be infringed by CBI's manufacture of Devices under this Agreement, in particular but not limited to the Base Component Material, or of (b) any proprietary rights of third parties that would be violated by CBI's performance under this Agreement, and/or by Axogen's or its affiliates, distributors, sub-distributors or successors' sale, offer for sale, marketing and/or importation of the Device.

**(c)** that the Component Base Material of the Device shall practice one or more claims of the patents identified in Article 1.3 of this Agreement, including, U.S. Patent No. 8,192,763. CBI further agrees and represents that it shall identify to Axogen any other CBI patents in the U.S. or abroad which the Component Base Material of the Device practices one or more claims of such that those patents may also be identified in virtual or physical patent marking of the Device, and Axogen agrees and represents that it shall virtually or physically patent mark the Devices with at least the U.S. Patents identified by CBI pursuant to this Article 12.2.

**12.3** CBI makes no representation or warranty with respect to printed materials supplied by Axogen or its consignee.

**12.4 Disclaimer or Warranties.** EXCEPT FOR THOSE WARRANTIES SET FORTH IN ARTICLES 12.1, 12.2, and 12.3 OF THIS AGREEMENT, CBI MAKES NO OTHER WARRANTIES, WRITTEN, ORAL, EXPRESS OR IMPLIED, WITH RESPECT TO DEVICES OR THE MANUFACTURE OF DEVICES. ALL OTHER WARRANTIES, EXPRESS OR

IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND HEREBY ARE DISCLAIMED BY CBI. NO WARRANTIES OF CBI MAY BE CHANGED BY ANY REPRESENTATIVES OF CBI.

**12.5 Axogen Warranties.** Axogen warrants that: (i) it has the right to give CBI any information provided by Axogen hereunder; (ii) that CBI has the right to use such information for the manufacture and shipment of Devices during the Term; (iii) Axogen has no knowledge of any (a) patents or other intellectual rights that would be infringed by CBI's manufacture of Devices under this Agreement or (b) proprietary rights of third parties which would be violated by CBI's or Axogen's performance hereunder and/or by Axogen's or its affiliates, distributors, sub-distributors or successors' sale, offer for sale, marketing and/or importation of the Device in the Field.

## Article 13, LIMITATION OF LIABILITY

**13.1 Limitation of Liability.** AXOGEN'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ARTICLE 7 BY CBI SHALL EITHER REPLACE THE NON-CONFORMING DEVICE OR REIMBURSE AXOGEN FOR THE CONTRACT PRICE FOR THE NON-CONFORMING DEVICE. UNDER NO CIRCUMSTANCES SHALL CBI BE LIABLE FOR LOSS OF USE OR PROFITS OR OTHER COLLATERAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES, LOSSES, OR EXPENSES, INCLUDING BUT NOT LIMITED TO THE COST OF COVER OR THE COST OF A RECALL IN CONNECTION WITH OR BY REASON OF THE MANUFACTURE AND DELIVERY OF DEVICES UNDER THIS AGREEMENT WHETHER SUCH CLAIMS ARE FOUNDED IN TORT OR CONTRACT. THE FOREGOING CONSTITUTES THE SOLE AND EXCLUSIVE REMEDY OF AXOGEN AND THE SOLE AND EXCLUSIVE LIABILITY OF CBI. ALL CLAIMS BY AXOGEN FOR BREACH OR DEFAULT UNDER THIS AGREEMENT SHALL BE BROUGHT WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUED OR SHALL BE DEEMED WAIVED. CBI's AGGREGATE LIABILITY TO AXOGEN ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNTS PAID TO CBI BY AXOGEN FOR DEVICES OR DEMO DEVICES PURSUANT TO THIS AGREEMENT (THE "BASE LIABILITY CAP"); PROVIDED, HOWEVER, THAT FOR LIABILITY FOR BREACH OF CONFIDENTIALITY OR LIABILITY FOR INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS, CBI's AGGREGATE LIABILITY SHALL NOT EXCEED TWO (2) TIMES THE BASE LIABILITY CAP; AND, FURTHER PROVIDED THAT LIABILITY FOR INDEMNIFICATION SHALL BE EXCEPTED FROM THIS PARAGRAPH.

## Article 14, INDEMNIFICATION

**14.1 Axogen Indemnification.** Axogen shall indemnify, defend and hold harmless CBI and its directors, officers, employees, subcontractors, agents and Affiliates ("Indemnified CBI Parties") from and against any and all liabilities, obligations, penalties, claims, judgments, demands, actions, disbursements of any kind and nature, suits, losses, damages, costs and expenses (including, without limitation, reasonable attorney's fees) arising out of or in connection with

property damage or personal injury (including without limitation death) of third parties (collectively "Claims") referring to, relating to or based on: (i) Axogen's storage, promotion, labeling, marketing, distribution, use or sale of Devices or products incorporating Devices; (ii) Axogen's violation of any regulatory rules, regulations or laws relating to the sale, marketing or distribution of Devices or products incorporating Devices, including regulations governing anti-kickback and corruption; (iii) Axogen's negligence or willful misconduct, (iv) a material breach of this Agreement by Axogen, (v) any claim that the use, sale, manufacture, marketing or distribution of Devices or products incorporating Devices by CBI or Axogen, based solely on the HA+ Material itself or as a device coating, violates the intellectual property rights of any third party, or (vi) any claim of trademark infringement due to the sale of the Devices and solely related to Axogen's Trademarks, except to the extent any of the foregoing is caused solely by the negligence or willful misconduct of the Indemnified CBI Parties

**14.2 CBI Indemnification.** CBI shall indemnify, defend and hold harmless Axogen and its directors, officers, employees, subcontractors, agents and Affiliates ("Indemnified Axogen Parties") from and against any and all Claims relating, referring, or based on : (i) any non-conformance of the Device with its then-current Specifications and/or Quality Agreement when delivered to Axogen, including but not limited to any requirements of the Specifications and/or Quality Agreement relating to CBI's storage of any Device or precursor thereto, including the Base Component Material, or any component thereof, or to any regulatory labeling requirement set forth by a Regulatory Authority for which CBI is responsible; (ii) a failure by CBI to manufacture or deliver a Device in material compliance with applicable regulatory law, rule, or regulation; or (iii) the negligent act or omission or willful misconduct of CBI; (iv) a material breach of this Agreement by CBI, or (v) the assertion of third-party intellectual property rights based solely on the Base Component Material; the assertion of false patent marking based on virtual patent marking of the Device under any CBI patent, including as identified in Article 1.3 of this Agreement, and discussed in Article 12.3 of this Agreement, except to the extent any of the foregoing is caused solely by the negligence or willful misconduct of the Indemnified Parties or solely by the breach by Axogen of its obligations under this Agreement or (vi) any claim of trademark infringement due to the sale of the Devices and solely related to CBI's Trademarks, except to the extent any of the foregoing is caused solely by the negligence or willful misconduct of the Indemnified Axogen Parties or solely by the breach by Axogen of its obligations under this Agreement.

**14.3 Indemnitee Obligation.** A Party (the "Indemnitee'') which intends to claim indemnification under this Article 14 shall promptly notify the other Party (the "Indemnitor") in writing of any action, claim or other matter in respect of which the Indemnitee or other of its Affiliates, or any of their respective directors, officers, employees, subcontractors, or agents, intend to claim such indemnification; provided, however, that failure to provide such notice within a reasonable period of time shall not relieve the Indemnitor of any of its obligations hereunder except to the extent the Indemnitor is prejudiced by such failure. The Indemnitee shall permit, and shall cause its Affiliates, and their respective directors, officers, employees, subcontractors and agents to permit, the Indemnitor, at its discretion, to settle any such action, claim or other matter, and the Indemnitee agrees to the complete control of such defense or settlement by the Indemnitor. Notwithstanding the foregoing, the Indemnitor shall not enter into any settlement that would adversely affect the Indemnitee's rights hereunder, or impose any obligations on the Indemnitee in addition to those set forth herein, in order for it to exercise such rights, without Indemnitee's prior written consent, which shall not be unreasonably withheld or delayed. No such action, claim or other matter shall be settled without the prior written consent of the Indemnitor, which shall not

be unreasonably withheld or delayed. The Indemnitee, its Affiliates, and their respective directors, officers, employees, subcontractors and agents shall fully cooperate with the Indemnitor and its legal representatives in the investigation and defense of any action, claim or other matter covered by the indemnification obligations of this Article 14. The Indemnitee shall have the right, but not the obligation, to be represented in such defense by counsel of its own selection and at its own expense.

## Article 15, INSURANCE

**15.1 Axogen Insurance.** Axogen shall procure and maintain during the Term of this Agreement and for a period forty-eight (48) months beyond the expiration date of the last Device delivered by CBI to Axogen pursuant to the final Purchase Order fulfilled under this Agreement, Commercial General Liability Insurance, including without limitation, Product Liability and Contractual Liability coverage (the "Axogen Insurance"). The Axogen Insurance shall cover amounts not less than ten million dollars ($10,000,000) combined single limit and shall be with an insurance carrier reasonably acceptable to CBI. CBI shall be named as an additional insured on the Axogen Insurance and Axogen promptly shall deliver a certificate of Axogen Insurance and endorsement of additional insured to CBI evidencing such coverage. If Axogen fails to furnish such certificates or endorsements, or if at any time during the Term of this Agreement CBI is notified of the cancellation or lapse of the Axogen Insurance, and Axogen fails to rectify the same within ten (10) calendar days after notice from CBI, in addition to all other remedies available to CBI hereunder, CBI, at its option, may obtain the Axogen Insurance and Axogen promptly shall reimburse CBI for the cost of the same. Any deductible and/or self insurance retention shall be the sole responsibility of Axogen.

**15.2 CBI Insurance.** CBI shall procure and maintain during the Term of this Agreement and for a period forty-eight (48) months beyond the expiration date of the last Device delivered pursuant to the final Purchase Order under this Agreement, Commercial General Liability Insurance, including without limitation, Product Liability and Contractual Liability coverage (the "CBI Insurance"). The CBI Insurance shall cover amounts not less than ten million dollars ($10,000,000) combined single limit. CBI promptly shall deliver a certificate of CBI Insurance to Axogen evidencing such coverage. Any deductible and/or self insurance retention shall be the sole responsibility of CBI.

## Article 16, RECALL OF DEVICE

**16.1** In the event Axogen shall be required to recall any Device because such Device may violate local, state or federal laws or regulations, the laws or regulations of any applicable foreign government or agency or the Specifications, or in the event that Axogen or CBI elects to institute a voluntary recall, Axogen shall be responsible for coordinating such recall. Axogen promptly shall notify CBI if any Device is the subject of a recall and provide CBI with a copy of all documents relating to such recall. CBI shall cooperate with Axogen in connection with any recall, at Axogen's expense except as otherwise provided herein.

## Article 17, INTELLECTUAL PROPERTY

**17.1 Existing Intellectual Property.** Except as the Parties may otherwise expressly agree in writing, each Party shall continue to own its patents, trademarks, copyrights, trade secrets,

know-how, and other intellectual property existing as of the Effective Date of this Agreement, without conferring any interests therein on the other Party. Without limiting the generality of the preceding sentence, CBI shall retain all right, title and interest to its patents, trademarks, copyrights, trade secrets, know-how, and other intellectual property existing as of the Effective Date of this Agreement, including that which is related to the HA+ Material, arising under the United States Patent Act, the United States Trademark Act, the United States Copyright Act and all other applicable laws, rules and regulations (collectively, "CBI's Existing Intellectual Property"). Without limiting the generality of the first sentence, Axogen shall retain all right, title and interest to its patents, trademarks, copyrights, trade secrets, know-how, and other intellectual property existing as of the Effective Date of this Agreement, including that which is related to the HA+ Material, arising under the United States Patent Act, the United States Trademark Act, the United States Copyright Act and all other applicable laws, rules and regulations, (collectively, "Axogen's Existing Intellectual Property"). Neither Axogen or any third party shall acquire any right, title or interest in CBI's Existing Intellectual Property by virtue of this Agreement or otherwise, except to the extent expressly provided herein. Neither CBI or any third party shall acquire any right, title or interest in Axogen's Existing Intellectual Property by virtue of this Agreement or otherwise, except to the extent expressly provided herein. For avoidance of doubt, CBI agrees that nothing in this Agreement transfers, or obligates the transfer of, any of Axogen's Existing Intellectual Property to CBI, including but not limited to Axogen's Existing Intellectual Property governed by the provisions of the Master Development Agreement between the parties dated November 26, 2019 (the "MDA"); and, Axogen agrees that nothing in this Agreement transfers, or obligates the transfer of, any of CBI's Existing Intellectual Property to Axogen, including but not limited to CBI's Existing Intellectual Property governed by the provisions of the MDA. Notwithstanding anything to the contrary in this or any other agreement between the Parties, as between Axogen and CBI, the Parties agree that Axogen solely owns all right, title, and interest in and to US Patent Application No. 16/1992,857 and any continuations and/or divisional thereof or priority-related foreign applications and any patents issuing therefrom.

**17.2 Foreground Improvements.** CBI and Axogen acknowledge and agree that any rights to intellectual property made, developed, or conceived by Axogen on or after the Effective Date in performing under this Agreement, including that which is related the HA+ Material, shall be owned by Axogen and shall be subject to Axogen's grant pursuant to Article 11.9. CBI and Axogen acknowledge and agree that any rights to intellectual property made, developed, or conceived by CBI on or after the Effective Date in performing under this Agreement, including that which is related to the HA+ Material, shall be owned by CBI and shall be subject to CBI's grant pursuant to Article 11.10.

**17.3 Disclaimer.** Except as otherwise expressly provided herein, nothing contained in this Agreement shall be construed or interpreted, either expressly or by implication, estoppel or otherwise, as: (i) a grant, transfer or other conveyance by either Party to the other of any right, title, license or other interest of any kind in any of its Intellectual Property, (ii) creating an obligation on the part of either Party to make any such grant, transfer or other conveyance or (iii) requiring either Party to participate with the other Party in any cooperative development program or project of any kind or to continue with any such program or project.

**17.4 Rights in Intellectual Property.** The Party owning any Intellectual Property shall have the worldwide right to control the drafting, filing, prosecution and maintenance of patents relating to such Intellectual Property, including decisions about the countries in which to file patent applications. Patent costs associated with the patent activities described in this Article shall be borne by the sole owner. Each Party will cooperate with the other Party in the filing and

prosecution of patent applications. Such cooperation will include, but not be limited to, furnishing supporting data and affidavits for the prosecution of patent applications and completing and signing forms needed for the prosecution, assignment and maintenance of patent applications.

**17.5 Confidentiality of Intellectual Property.** Intellectual Property shall be deemed to be the Confidential Information of the Party owning such Intellectual Property unless excepted from Confidential Information pursuant to Article 1.5. The protection of each Party's Confidential Information is described in Article 17. Any disclosure of information by one Party to the other under the provisions of this Article 17 shall be treated as the disclosing Party's Confidential Information under this Agreement unless excepted from Confidential Information pursuant to Article 1.5. It shall be the responsibility of the Party preparing a patent application to obtain the written permission of the other Party to use or disclose the other Party's Confidential Information in any patent application before the application is filed and for other disclosures prior to them being made during the prosecution of the patent application.

## Article 18, CONFIDENTIAL INFORMATION, NONDISCLOSURE, AND PUBLICITY

**18.1 Confidentiality.** It is contemplated that in the course of the performance of this Agreement each Party may, from time to time, disclose Confidential Information to the other, but is under no obligation to disclose Confidential Information. Each Party agrees to take all reasonable steps to prevent improper or unauthorized disclosure of Confidential Information to third parties. No provision of this Agreement shall be construed so as to preclude disclosure of Confidential Information as may be reasonably necessary to secure from any governmental agency necessary approvals or licenses or to obtain patents with respect to the Device; provided, however, the disclosing Party may limit such disclosure to the other Party to reasonably protect sensitive or proprietary information, and the disclosing Party may seek from the applicable governmental agency or Regulatory Authority appropriate protection of its Confidential Information.

**18.2 Litigation and Governmental Disclosure.** Each Party may disclose Confidential Information hereunder to the extent such disclosure is reasonably necessary for prosecuting or defending litigation, complying with applicable governmental regulations, apply for Regulatory Approval in the Territory, or conducting pre- clinical or clinical trials, provided that if a Party is required by law or regulation to make any such disclosure of the other Party's Confidential Information it will, except where impractical for necessary disclosures, for example in the event of a medical emergency, give reasonable advance notice to the other Party of such disclosure requirement and will use good faith efforts to assist such other Party to secure a protective order or confidential treatment of such Confidential Information required to be disclosed.

**18.3 Limitation of Disclosure.** The Parties agree that, except as otherwise may be required by applicable laws, regulations, rules or orders, including without limitation the rules and regulations promulgated by the United States Securities and Exchange Commission, and except as may be authorized in Article 18.4, no information concerning this Agreement and the transactions contemplated herein shall be made public by either Party without the prior written consent of the other.

**18.4 Publicity and SEC Filings.** The Parties agree that the public announcement of the execution of this Agreement shall only be by one or more press releases mutually agreed to by the Parties. The failure of a Party to return a draft of a press release with its proposed amendments or modifications to such press release to the other Party within five (5) days of such Party's receipt of such press release shall be deemed as such Party's approval of such press release as received by such Party. Each Party agrees that it shall cooperate fully and in a timely manner with the other with

respect to all disclosures to the Securities and Exchange Commission and any other governmental or regulatory agencies, including requests for confidential treatment of Confidential Information of either Party included in any such disclosure.

**18.5 Duration of Confidentiality.** All obligations of confidentiality and non-use imposed upon the Parties under this Agreement shall expire ten (10) years after the expiration or earlier termination of this Agreement; provided, however, that Confidential Information which constitutes the trade secrets of a Party shall be kept confidential indefinitely, subject to the limitations set forth in Articles 18.3 through 18.5.

## Article 19, FORCE MAJEURE

**19.1** Any delay in the performance of any of the duties or obligations of either Party hereto (except the payment of money) caused by an event outside the affected Party's reasonable control shall not be considered a breach of this Agreement, and unless provided to the contrary herein, the time required for performance shall be extended for a period equal to the period of such delay. Such events shall include without limitation, acts of God; acts of public enemies; epidemic/pandemic; insurrections; riots; injunctions; embargoes; labor disputes, including strikes, lockouts, job actions, or boycotts; fires; explosions; floods; shortages of material or energy; delays in the delivery of raw materials; acts or orders of any government or agency thereof or other unforeseeable causes beyond the reasonable control and without the fault or negligence of the Party so affected. The Party so affected shall give prompt notice to the other Party of such cause and a good faith estimate of the continuing effect of the force majeure condition and duration of the affected Party's nonperformance and shall take whatever reasonable steps are appropriate to relieve the effect of such causes as rapidly as possible. If the period of nonperformance by CBI because of CBI force majeure conditions exceeds ninety (90) calendar days, Axogen may terminate this Agreement by written notice to CBI. If the period of nonperformance by Axogen because of Axogen force majeure conditions exceeds ninety (90) calendar days, CBI may terminate this Agreement by written notice to Axogen.

## Article 20, NOTICES

**20.1** All notices and other communications in connection with this Agreement shall be in writing and shall be sent to the respective Parties at the following addresses, or to such other addresses as may be designated by the Parties in writing from time to time in accordance with this Article, by registered or certified mail, postage prepaid, or by overnight courier service, service fee prepaid, or by electronic mail with a hard copy to follow via overnight courier service in accordance with this Article.

If to CBI:

Cook Biotech Incorporated
1425 Innovation Place
West Lafayette, IN 47906
Attn: President

With a copy to:
Cook Group Incorporated
750 Daniels Way
Bloomington, IN 47404
Attn: General Counsel

If to Axogen:

Axogen Corporation
13631 Progress Blvd., Suite 400
Alachua, FL 32615
Attn: General Counsel

Notices shall be deemed effective upon receipt. A Party may change its address listed above by notice to the other Party given in accordance with this Article.

## Article 21, APPLICABLE LAW

**21.1** This Agreement is being delivered and executed in the State of Indiana. In any action brought regarding the validity, construction and enforcement of this Agreement, it shall be governed in all respects by the laws of the State of Indiana, without regard to the principals of conflicts of laws. The courts of the State of Indiana shall have personal jurisdiction over the Parties hereto in all matters arising hereunder, and venue for such suit will be in a state of federal court for the City of Bloomington, Indiana.

## Article 22, ASSIGNMENT

**22.1** Neither CBI nor Axogen may assign or transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party. Notwithstanding the foregoing, either Party, without the consent of the other Party, may assign this Agreement and all of its rights or obligations hereunder to a successor or an Affiliate, or in connection with a merger or sale of all or substantially all of the stock or assets of such assigning Party to which this Agreement pertains; provided, that such assignee shall be obligated in writing to assume all of the assignor's obligations hereunder.

## Article 23, TAXES

**23.1** Axogen shall pay all national, state, municipal or other sales, use, excise, import, value added, or other similar taxes, assessments or tariffs assessed upon or levied against the sale of Device to Axogen pursuant to this Agreement or the sale or distribution of Device by Axogen (or at Axogen's sole expense, defend against the imposition of such taxes and expenses). CBI shall notify Axogen of any such taxes that any governmental authority is seeking to collect from CBI, and Axogen may assume the defense thereof in CBI's name, if necessary, and CBI agrees to fully

cooperate in such defense to the extent of the capacity of CBI, at Axogen's expense. CBI shall pay all national, state, municipal or other taxes to the extent due or attributable on the income resulting from the sale by CBI of the Device to Axogen under this Agreement, including but not limited to, gross income, adjusted gross income, supplemental net income, gross receipts, excess profit taxes, or other similar taxes.

## Article 24, SUCCESSORS AND ASSIGNS

**24.1** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their successors and permitted assigns.

## Article 25, ENTIRE AGREEMENT

**25.1** This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes all written or oral prior agreements or understandings with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

## Article 26, SEVERABILITY

**26.1** If any term or provision of this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other term or provision hereof, and this Agreement shall be interpreted and construed as if such term or provision, to the extent the same shall have been held to be invalid, illegal or unenforceable, had never been contained herein.

## Article 27, WAIVER AND MODIFICATION OF AGREEMENT

**27.1** No waiver or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both Parties hereto. Failure by either Party to enforce any rights under this Agreement shall not be construed as a waiver of such rights nor shall a waiver by either Party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

## Article 28, INDEPENDENT CONTRACTOR

**28.1** Nothing contained in this Agreement shall be construed to constitute either Party as a partner, employee or agent of the other Party, nor shall either Party hold itself out as such. Except as otherwise provided herein, each Party shall be responsible for its own expenses incidental to the performance of its obligations hereunder. CBI shall act as an independent contractor for Axogen in providing the services required hereunder and shall not be considered an agent or joint venturer with Axogen.

[***SIGNATURE PAGE BELOW***]

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be signed by their duly authorized representatives as of the date written below.

**"CBI"**

**COOK BIOTECH INCORPORATED**

By: Umesh Patel

Name: Umesh Patel

Title: President

Date: 5/3/2023

**"Axogen"**

**AXOGEN CORPORATION**

By: [signature]

Name: Karen Zaderej

Title: Chairman, CEO and President

Date: 5/2/2023

## SCHEDULE 1

### Axogen's Field

1. Clinical Applications – uses in the Peripheral Nervous System and the Central Nervous System throughout the human body, including any combinations thereof, but expressly excluding dura mater repair and the oral cavity for endodontic and periodontal applications and oral and maxillofacial surgery solely as it relates to dental, soft or hard, tissue repair and/or reconstruction.

2. Disease States – (a) Nerve Compressions; (b) Nerve, Spinal Transections, Repair and Regeneration; (c) Neuromas; (d) Acute and Chronic Neuropathic Pain (i.e. pain caused by damage or disease of the somatosensory nervous system), including any combinations thereof, all within the Clinical Applications.

## Exhibit "A"

## Device and Specifications

**"Device"** shall mean the Base Component Material coated on both sides with HA+ Material including but not limited to that which is 4-layer Base Component Material and which is then supplied sterile to Axogen in sterile barrier packaging, product labeling, and outer product carton

**Specifications**:

The Based Component Material shall be a 4-layer Base Component Material; the Base Component material shall have been vacuum-pressed; the Base Component Material shall have been, after it is vacuum-pressed, coated on both sides with the HA+ Material; the Device shall be for use in Axogen's Field; the outer product carton shall bear the identifier "Axoguard HA+ Nerve Protector"; further specification will be as provided in the authorized specifications as set forth in the Pre-market clearance and maintained in the Quality Agreement, and as may be amended or changed subject to the controls of the Quality Agreement from time to time**.**

## Exhibit "B"

## Contract Price

| NGP Device | SKU | Device Unit Price | Demo SKU | Demo Device Unit Price |
|---|---|---|---|---|
| 1x2 (2 $cm^2$) | AGHA12 | $222 | GHA12X | $102 |
| 2x2 (4 $cm^2$) | AGHA22 | $222 | GHA22X | $102 |
| 2x4 (8 $cm^2$) | AGHA24 | $301 | GHA24X | $139 |
| 3x6 (18 $cm^2$) | AGHA36 | $555 | GHA36X | $256 |
| 4x8 (32 $cm^2$) | AGHA48 | $842 | GHA48X | $388 |

# AXOGEN, INC.

# INDUCEMENT EQUITY INCENTIVE PLAN

## 1. Purposes of the Plan.

This Axogen Inc. Inducement Equity Plan (the "Plan") is adopted by Axogen, Inc., a Minnesota corporation, ("Axogen") to attract and retain the best available personnel for positions of substantial responsibility by providing an inducement material to individuals entering into employment with Axogen and its Subsidiaries (together, the "Company"). Each Award under the Plan is intended to qualify as an employment inducement grant under Nasdaq Listing Rule 5635(c)(4) and the official guidance thereunder (together, the "Inducement Listing Rule").

The Administrator may grant stock options, stock appreciation rights, stock awards, stock units, performance shares, performance units, and other stock-based awards to individuals on the terms and subject to the conditions set forth in the Plan.

## 2. Terminology.

Except as otherwise specifically provided in an Award Agreement, capitalized words and phrases used in the Plan or an Award Agreement shall have the meaning set forth in the glossary at Section 15 of the Plan or as defined the first place such word or phrase appears in the Plan.

## 3. Administration.

a. Administration of the Plan. The Plan shall be administered by the Administrator.

b. Powers of the Administrator. The Administrator shall, except as otherwise provided under the Plan, have plenary authority, in its sole and absolute discretion, to grant Awards pursuant to the terms of the Plan and to take all other actions necessary or desirable to carry out the purpose and intent of the Plan. Among other things, the Administrator shall have the authority, in its sole and absolute discretion, subject to the terms and conditions of the Plan to:

(i) determine the individuals to whom, and the time or times at which, Awards shall be granted (which Awards will be intended as a material inducement to the individual becoming an Employee);

(ii) determine the types of Awards to be granted;

(iii) determine the number of shares of Common Stock to be covered by or used for reference purposes for each Award or the value to be transferred pursuant to any Award;

(iv) determine the terms, conditions and restrictions applicable to each Award (which need not be identical) and any shares acquired pursuant thereto, including, without limitation, (A) the purchase price of any shares of Common Stock, (B) the method of payment

for shares purchased pursuant to any Award, (C) the method for satisfying any tax withholding obligation arising in connection with any Award, including by the withholding or delivery of shares of Common Stock, (D) the timing, terms and conditions of the exercisability, vesting or payout of any Award or any shares acquired pursuant thereto, (E) the Performance Goals applicable to any Award and the extent to which such Performance Goals have been attained, (F) the time of the expiration of any Award, (G) the effect of the Participant's Termination of Service on any of the foregoing, and (H) all other terms, conditions and restrictions applicable to any Award or shares acquired pursuant thereto as the Administrator shall consider to be appropriate and not inconsistent with the terms of the Plan;

(v) subject to Sections 6(g), 9(c) and 13, modify, amend or adjust the terms and conditions of any Award;

(vi) accelerate or otherwise change the time at or during which an Award may be exercised or becomes payable and waive or accelerate the lapse, in whole or in part, of any restriction, condition or risk of forfeiture with respect to such Award; provided, however, that, except in connection with death, disability or a Change in Control, no such change, waiver or acceleration shall be made to any Award that is considered "deferred compensation" within the meaning of Section 409A of the Code if the effect of such action is inconsistent with Section 409A of the Code;

(vii) determine whether an Award will be paid or settled in cash, shares of Common Stock, or in any combination thereof and whether, to what extent and under what circumstances cash or shares of Common Stock payable with respect to an Award shall be deferred either automatically or at the election of the Participant;

(viii) for any purpose, including but not limited to, qualifying for preferred or beneficial tax treatment, accommodating the customs or administrative challenges or otherwise complying with the tax, accounting or regulatory requirements of one or more jurisdictions, adopt, amend, modify, administer or terminate sub-plans, appendices, special provisions or supplements applicable to Awards regulated by the laws of a particular jurisdiction, which sub-plans, appendices, supplements and special provisions may take precedence over other provisions of the Plan, and prescribe, amend and rescind rules and regulations relating to such sub-plans, supplements and special provisions;

(ix) establish any "blackout" period, during which transactions affecting Awards may not be effectuated, that the Administrator in its sole discretion deems necessary or advisable;

(x) determine the Fair Market Value of shares of Common Stock or other property for any purpose under the Plan or any Award;

(xi) administer, construe and interpret the Plan, Award Agreements and all other documents relevant to the Plan and Awards issued thereunder, and decide all other matters to be

determined in connection with an Award;

(xii) establish, amend, rescind and interpret such administrative rules, regulations, agreements, guidelines, instruments and practices for the administration of the Plan and for the conduct of its business as the Administrator deems necessary or advisable;

(xiii) correct any defect, supply any omission or reconcile any inconsistency in the Plan or in any Award or Award Agreement in the manner and to the extent the Administrator shall consider it desirable to carry it into effect; and

(xiv) otherwise administer the Plan and all Awards granted under the Plan.

c. Delegation of Administrative Authority. The Administrator may designate officers or Employees of the Company to assist the Administrator in the administration of the Plan and, to the extent permitted by applicable law and stock exchange rules, including the Inducement Listing Rule, the Administrator may delegate to officers or other Employees of the Company the Administrator's duties and powers under the Plan, subject to such conditions and limitations as the Administrator shall prescribe, including without limitation the authority to execute agreements or other documents on behalf of the Administrator; provided, however, that such delegation of authority shall not extend to the granting of any Awards not permitted to be granted without Board or Compensation Committee approval under the Inducement Listing Rule, or to the exercise of discretion with respect to Awards to Employees who are officers under Section 16 of the Exchange Act.

d. Non-Uniform Determinations. The Administrator's determinations under the Plan (including without limitation, determinations of the persons to receive Awards, the form, amount and timing of such Awards, the terms and provisions of such Awards and the Award Agreements evidencing such Awards, and the ramifications of a Change in Control upon outstanding Awards) need not be uniform and may be made by the Administrator selectively among Awards or persons who receive, or are eligible to receive, Awards under the Plan, whether or not such persons are similarly situated.

e. Limited Liability; Advisors. To the maximum extent permitted by law, no member of the Administrator shall be liable for any action taken or decision made in good faith relating to the Plan or any Award thereunder. The Administrator may employ counsel, consultants, accountants, appraisers, brokers or other persons. The Administrator, Axogen, and the officers and Directors of Axogen shall be entitled to rely upon the advice, opinions or valuations of any such persons.

f. Indemnification. To the maximum extent permitted by law, by Axogen's charter and by-laws, and by any Directors' and officers' liability insurance coverage which may be in effect from time to time, the members of the Administrator and any agent or delegate of the Administrator who is a Director, officer or Employee of Axogen or an Affiliate shall be indemnified by Axogen against any and all liabilities and expenses to which they may be subjected by reason of any act or failure to act with respect to their duties on behalf of the Plan.

g. *Effect of Administrator's D*ecision. All actions taken and determinations made by the

Administrator on all matters relating to the Plan or any Award pursuant to the powers vested in it hereunder shall be in the Administrator's sole and absolute discretion, unless in contravention of any express term of the Plan, including, without limitation, any determination involving the appropriateness or equitableness of any action. All determinations made by the Administrator shall be conclusive, final and binding on all parties concerned, including Axogen, its stockholders, any Participants and any other Employee, consultant, or Director of Axogen and its Affiliates, and their respective successors in interest. No member of the Administrator, nor any Director, officer, Employee or representative of Axogen shall be personally liable for any action, determination or interpretation made in good faith with respect to the Plan or Awards.

4. Shares Issuable Pursuant to Awards.

a. Initial Share Pool. As of the Effective Date, the number of shares of Common Stock issuable pursuant to Awards that may be granted under the Plan (the "Share Pool") shall be 100,000 shares.

b. Adjustments to Share Pool. On and after the Effective Date, the Share Pool shall be adjusted, in addition to any adjustments to be made pursuant to Section 9 of the Plan, as follows:

(i) The Share Pool shall be reduced, on the date of grant, by one share for each share of Common Stock made subject to an Award granted under the Plan;

(ii) The Share Pool shall be increased, on the relevant date, by the number of unissued shares of Common Stock underlying or used as a reference measure for any Award granted under this Plan that is cancelled, forfeited, expired, terminated, unearned or settled in cash, in any such case without the issuance of shares;

(iii) The Share Pool shall be increased, on the forfeiture date, by the number of shares of Common Stock that are forfeited back to Axogen after issuance due to a failure to meet an Award contingency or condition with respect to any Award or portion of an Award granted under this Plan;

For the avoidance of doubt, the Share Pool shall not be increased by (A) shares of Common Stock used as a reference measure for any Award granted under this Plan that are not issued upon settlement of such Award due to a net settlement, (B) shares of Common Stock withheld by or surrendered (either actually or through attestation) to Axogen in payment of the exercise price of any Award, (C) shares of Common Stock withheld by or surrendered (either actually or through attestation) to Axogen in payment of the Tax Withholding Obligation that arises in connection with any Award, or (D) shares of Common Stock have been reacquired by the Company in the open market using the proceeds of amounts received upon the exercise of stock options.

c. Subject to adjustment as provided in Section 9 of the Plan:

(i) the maximum number of shares of Common Stock that may be made subject to Awards granted under the Plan during a calendar year to any one person in the form of stock

options or stock appreciation rights is, in the aggregate, 50,000 shares;

(ii) the maximum number of shares of Common Stock that may be made subject to Awards granted under the Plan during a calendar year to any one person in the form of Performance Awards is, in the aggregate, 50,000 shares, and

(iii) in connection with Awards granted under the Plan during a calendar year to any one person in the form of Performance Shares, the maximum cash amount payable thereunder is the amount equal to the number of shares made subject to the Award, as limited by Section 4(c)(ii), multiplied by the Fair Market Value as determined as of the payment date; and

(iv) in connection with Awards granted under the Plan during a calendar year to any one person in the form of Performance Units, the maximum cash amount payable under such Performance Units is $50,000; provided, that the limitations set forth above in clauses (ii), (iii) and (iv) of this Section 4(c) shall be multiplied by the number of calendar years over which the applicable Performance Period spans (in whole or in part), if the Performance Period is longer than 12 months' duration, when applied to Performance Awards. If an Award is terminated, surrendered or canceled in the same year in which it was granted, such Award nevertheless will continue to be counted against the limitations set forth above in this Section 4(c) for the calendar year in which it was granted.

d. Source of Shares. The shares of Common Stock with respect to which Awards may be made under the Plan shall be shares authorized for issuance under Axogen's charter but unissued, or issued and reacquired, including without limitation shares purchased in the open market or in private transactions.

5. Participation.

The Administrator may grant Awards to Employees, so long as the following requirements are met: (a) the Employee was not previously an Employee or Director, or the Employee is returning to employment with Axogen or one of its Subsidiaries following a bona-fide period of non-employment and (b) the grant of an Award is an inducement material to the Employee's entering into employment with Axogen and its Subsidiaries in accordance with the Inducement Listing Rule; provided that such Awards shall not become vested or exercisable, and no shares shall be issued to such Employee, prior to the date such Employee first commences employment.

6. Awards.

a. Awards, In General. The Administrator, in its sole discretion, shall establish the terms of all Awards granted under the Plan consistent with the terms of the Plan. Awards may be granted individually or in tandem with other types of Awards, concurrently with or with respect to outstanding Awards. All Awards are subject to the terms and conditions provided in the Award Agreement, which shall be delivered to the Participant receiving such Award upon, or as promptly as is reasonably practicable following, the grant of such Award. Unless otherwise specified by the Administrator, in its sole discretion, or otherwise provided in the Award Agreement, an Award shall not be effective unless the Award Agreement is signed or otherwise accepted by Axogen and

the Participant receiving the Award (including by electronic delivery and/or electronic signature).

b. Vesting Restrictions. Except as provided below and notwithstanding any provision of the Plan to the contrary, each Award granted under the Plan shall be subject to a minimum Restriction Period of 12 months from the date of grant. Except as provided below and notwithstanding any provision of the Plan to the contrary, the Administrator shall not have discretionary authority to waive the minimum Restriction Period applicable to an Award, except in the case of death, disability, retirement, or a Change in Control. The provisions of this Section 6(b) shall not apply and/or may be waived, in the Administrator's discretion, with respect to up to the number of Awards that is equal to 5% of the aggregate Share Pool as of the Effective Date.

c. Stock Options.

(i) Grants. A stock option means a right to purchase a specified number of shares of Common Stock from Axogen at a specified price during a specified period of time. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant stock options to any individual as a material inducement to the individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. All stock options granted under the Plan are intended to be Nonqualified Options.

(ii) Exercise. Stock options shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Administrator; provided, however, that Awards of stock options may not have a term in excess of ten years' duration unless required otherwise by applicable law. The exercise price per share subject to a stock option granted under the Plan shall not be less than the Fair Market Value of one share of Common Stock on the date of grant of the stock option, except as provided under applicable law or with respect to stock options that are granted in substitution of similar types of awards of a company acquired by Axogen or a Subsidiary or with which Axogen or a Subsidiary combines (whether in connection with a corporate transaction, such as a merger, combination, consolidation or acquisition of property or stock, or otherwise) to preserve the intrinsic value of such awards.

(iii) Termination of Service. Except as provided in the applicable Award Agreement or otherwise determined by the Administrator, to the extent stock options are not vested and exercisable, a Participant's stock options shall be forfeited upon his or her Termination of Service.

(iv) Additional Terms and Conditions. The Administrator may, by way of the Award Agreement or otherwise, determine such other terms, conditions, restrictions, and/or limitations, if any, of any Award of stock options, provided they are not inconsistent with the Plan.

d. Rights of a Stockholder; Dividends. Until shares of Common Stock are issued to the Participant upon the exercise of stock options, the Participant shall not have any rights of a stockholder of Axogen with respect to the options or the shares issuable thereunder including dividends or Dividend Equivalents.

e. Limitation on Reload Options. The Administrator shall not grant stock options under this Plan that contain a reload or replenishment feature pursuant to which a new stock option would be granted automatically upon receipt of delivery of Common Stock to Axogen in payment of the exercise price or any tax withholding obligation under any other stock option.

f. Stock Appreciation Rights.

(i) Grants. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant Awards of stock appreciation rights to any individual as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. A stock appreciation right entitles the Participant to receive, subject to the provisions of the Plan and the Award Agreement, a payment having an aggregate value equal to the product of (i) the excess of (A) the Fair Market Value on the exercise date of one share of Common Stock over (B) the base price per share specified in the Award Agreement, times (ii) the number of shares specified by the stock appreciation right, or portion thereof, which is exercised. The base price per share specified in the Award Agreement shall not be less than the lower of the Fair Market Value on the date of grant or the exercise price of any tandem stock option to which the stock appreciation right is related, or with respect to stock appreciation rights that are granted in substitution of similar types of awards of a company acquired by Axogen or a Subsidiary or with which Axogen or a Subsidiary combines (whether in connection with a corporate transaction, such as a merger, combination, consolidation or acquisition of property or stock, or otherwise) such base price as is necessary to preserve the intrinsic value of such awards.

(ii) Exercise. Stock appreciation rights shall be exercisable at such time or times and subject to such terms and conditions as shall be determined by the Administrator; provided, however, that stock appreciation rights granted under the Plan may not have a term in excess of ten years' duration unless required otherwise by applicable law. The applicable Award Agreement shall specify whether payment by Axogen of the amount receivable upon any exercise of a stock appreciation right is to be made in cash or shares of Common Stock or a combination of both, or shall reserve to the Administrator or the Participant the right to make that determination prior to or upon the exercise of the stock appreciation right. If upon the exercise of a stock appreciation right a Participant is to receive a portion of such payment in shares of Common Stock, the number of shares shall be determined by dividing such portion by the Fair Market Value of a share of Common Stock on the exercise date. No fractional shares shall be used for such payment and the Administrator shall determine whether cash shall be given in lieu of such fractional shares or whether such fractional shares shall be eliminated.

(iii) Termination of Service. Except as provided in the applicable Award Agreement or otherwise determined by the Administrator, to the extent stock appreciation rights are not vested and exercisable, a Participant's stock appreciation rights shall be forfeited upon his or her Termination of Service.

(iv) Additional Terms and Conditions. The Administrator may, by way of the Award Agreement or otherwise, determine such other terms, conditions, restrictions, and/or limitations, if any, of any Award of stock appreciation rights, provided they are not inconsistent

with the Plan.

(v) Rights of a Stockholder; Dividends. Until shares of Common Stock are issued to the Participant upon the exercise of stock appreciation rights, the Participant shall not have any rights of a stockholder of Axogen with respect to the stock appreciation right or the shares issuable thereunder including dividends or Dividend Equivalents.

g. Repricing. Notwithstanding anything herein to the contrary, except in connection with a corporate transaction involving Axogen (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, split-up, spin-off, combination, or exchange of shares), the terms of options and stock appreciation rights granted under the Plan may not be amended, after the date of grant, to reduce the exercise price of such options or stock appreciation rights, nor may outstanding options or stock appreciation rights be canceled in exchange for (i) cash, (ii) options or stock appreciation rights with an exercise price or base price that is less than the exercise price or base price of the original outstanding options or stock appreciation rights, or (iii) other Awards, unless such action is approved by Axogen's stockholders.

h. Stock Awards.

(i) Grants. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant Awards of unrestricted Common Stock or Restricted Stock (collectively, "Stock Awards") to any individual as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. The Administrator, in its sole discretion, may determine the terms and conditions of the Stock Awards, and the consideration for the Stock Awards, including no consideration or such minimum consideration as may be required by law. Stock Awards shall be evidenced in such manner as the Administrator may deem appropriate, including via book-entry registration.

(ii) Vesting. Restricted Stock shall be subject to such vesting, restrictions on transferability and other restrictions, if any, and/or risk of forfeiture as the Administrator may impose at the date of grant or thereafter. The Restriction Period to which such vesting, restrictions and/or risk of forfeiture apply may lapse under such circumstances, including without limitation upon the attainment of Performance Goals, in such installments, or otherwise, as the Administrator may determine. Subject to the provisions of the Plan and the applicable Award Agreement, during the Restriction Period, the Participant shall not be permitted to sell, assign, transfer, pledge or otherwise encumber shares of Restricted Stock.

(iii) Rights of a Stockholder; Dividends. Except to the extent restricted under the Award Agreement relating to the Restricted Stock, a Participant granted Restricted Stock shall have all of the rights of a stockholder of Common Stock including, without limitation, the right to vote Restricted Stock. Cash dividends declared payable on Common Stock shall be paid, with respect to outstanding Restricted Stock, either shall be held by Axogen and made subject to forfeiture at least until achievement of the applicable time-based vesting condition or Performance Goal related to such shares of Restricted Stock and shall be paid in cash or as

unrestricted shares of Common Stock having a Fair Market Value equal to the amount of such dividends or may be reinvested in additional shares of Restricted Stock as determined by the Administrator. Stock distributed in connection with a stock split or stock dividend, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Restricted Stock with respect to which such Common Stock or other property has been distributed. As soon as is practicable following the date on which restrictions on any shares of Restricted Stock lapse, Axogen shall deliver to the Participant the certificates for such shares or shall cause the shares to be registered in the Participant's name in book-entry form, in either case with the restrictions removed, provided that the Participant shall have complied with all conditions for delivery of such shares contained in the Award Agreement or otherwise reasonably required by Axogen.

(iv) Termination of Service. Except as provided in the applicable Award Agreement, upon Termination of Service during the applicable Restriction Period, Restricted Stock and any accrued but unpaid dividends that are at that time subject to restrictions shall be forfeited; provided that, the Administrator may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that restrictions or forfeiture conditions relating to Restricted Stock will be waived in whole or in part in the event of terminations resulting from specified causes, and the Administrator may in other cases waive in whole or in part the forfeiture of Restricted Stock.

(v) Additional Terms and Conditions. The Administrator may, by way of the Award Agreement or otherwise, determine such other terms, conditions, restrictions, and/or limitations, if any, of any Award of Restricted Stock, provided they are not inconsistent with the Plan.

i. Stock Units.

(i) Grants. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant Awards of Restricted Stock Units to any individual as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. The Administrator, in its sole discretion, may determine the terms and conditions of such Restricted Stock Units and the consideration for such Restricted Stock Units, including no consideration or such minimum consideration as may be required by law. Restricted Stock Units represent a contractual obligation by Axogen to deliver a number of shares of Common Stock, an amount in cash equal to the Fair Market Value of the specified number of shares subject to the Award, or a combination of shares of Common Stock and cash, in accordance with the terms and conditions set forth in the Plan and any applicable Award Agreement.

(ii) Vesting and Payment. Restricted Stock Units shall be subject to such vesting, risk of forfeiture and/or payment provisions as the Administrator may impose at the date of grant. The Restriction Period to which such vesting and/or risk of forfeiture apply may lapse under such circumstances, including without limitation upon the attainment of Performance Goals, in such installments, or otherwise, as the Administrator may determine. Shares of Common Stock, cash or a combination of shares of Common Stock and cash, as applicable,

payable in settlement of Restricted Stock Units shall be delivered to the Participant as soon as administratively practicable, but no later than 30 days, after the date on which payment is due under the terms of the Award Agreement provided that the Participant shall have complied with all conditions for delivery of such shares or payment contained in the Award Agreement or otherwise reasonably required by Axogen, or in accordance with an election of the Participant, if the Administrator so permits, that meets the requirements of Section 409A of the Code.

(iii) No Rights of a Stockholder; Dividend Equivalents. Until shares of Common Stock are issued to the Participant in settlement of stock Units, the Participant shall not have any rights of a stockholder of Axogen with respect to the stock Units or the shares issuable thereunder. The Administrator may grant to the Participant the right to receive Dividend Equivalents on stock Units which shall be accrued and made subject to forfeiture at least until achievement of the applicable time-based vesting condition or Performance Goal related to such stock Units.

(iv) Termination of Service. Upon Termination of Service during the applicable deferral period or portion thereof to which forfeiture conditions apply, or upon failure to satisfy any other conditions precedent to the delivery of shares of Common Stock or cash to which such Restricted Stock Units relate, all Restricted Stock Units and any accrued but unpaid Dividend Equivalents with respect to such Restricted Stock Units that are then subject to deferral or restriction shall be forfeited; provided that, the Administrator may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that restrictions or forfeiture conditions relating to Restricted Stock Units will be waived in whole or in part in the event of termination resulting from specified causes, and the Administrator may in other cases waive in whole or in part the forfeiture of Restricted Stock Units.

(v) Additional Terms and Conditions. The Administrator may, by way of the Award Agreement or otherwise, determine such other terms, conditions, restrictions, and/or limitations, if any, of any Award of stock Units, provided they are not inconsistent with the Plan.

j. Performance Shares and Performance Units.

(i) Grants. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant Awards of Performance Shares or Performance Units to any individual as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. Performance Shares, as that term is used in this Plan, shall refer to shares of Common Stock or Units that are expressed in terms of Common Stock, the issuance, vesting, lapse of restrictions on or payment of which is contingent on performance as measured against predetermined objectives over a specified Performance Period. Performance Units, as that term is used in this Plan, shall refer to dollar-denominated Units valued by reference to designated criteria established by the Administrator, other than Common Stock, the issuance, vesting, lapse of restrictions on or payment of which is contingent on performance as measured against predetermined objectives over a specified Performance Period. The applicable Award Agreement shall specify whether Performance Shares and Performance Units will be settled or paid in cash or shares of Common Stock or a combination of both, or shall reserve to the Administrator or the Participant the right to make

that determination prior to or at the payment or settlement date.

(ii) Performance Criteria. The Administrator shall, prior to or at the time of grant, condition the grant, vesting or payment of, or lapse of restrictions on, an Award of Performance Shares or Performance Units upon (A) the attainment of Performance Goals during a Performance Period or (B) the attainment of Performance Goals and the continued service of the Participant. The length of the Performance Period, the Performance Goals to be achieved during the Performance Period, and the measure of whether and to what degree such Performance Goals have been attained shall be conclusively determined by the Administrator in the exercise of its absolute discretion. Performance Goals may include minimum, maximum and target levels of performance, with the size of the Award or payout of Performance Shares or Performance Units or the vesting or lapse of restrictions with respect thereto based on the level attained. An Award of Performance Shares or Performance Units shall be settled as and when the Award vests or at a later time specified in the Award Agreement or in accordance with an election of the Participant, if the Administrator so permits, that meets the requirements of Section 409A of the Code.

(iii) Additional Terms and Conditions. The Administrator may, by way of the Award Agreement or otherwise, determine such other terms, conditions, restrictions, and/or limitations, if any, of any Award of Performance Shares or Performance Units, provided they are not inconsistent with the Plan.

(iv) Rights of a Stockholder; Dividends. Until shares of Common Stock are issued to the Participant in settlement of Performance Units, the Participant shall not have any rights of a stockholder of Axogen with respect to the Performance Units or the shares issuable thereunder. The Administrator may grant to the Participant the right to receive Dividend Equivalents on stock Units which shall be held by Axogen and made subject to forfeiture at least until achievement of the applicable time-based vesting condition related to such Unit. Except to the extent restricted under the Award Agreement relating to the Performance Shares, a Participant granted Performance Shares shall have all of the rights of a stockholder of Common Stock including, without limitation, the right to vote. Dividends declared payable on Performance Shares shall be held by Axogen and made subject to forfeiture at least until achievement of the applicable Performance Goal related to such Performance Shares. Stock distributed in connection with a stock split or stock dividend, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Performance Shares with respect to which such Common Stock or other property has been distributed. As soon as is practicable following the date on which restrictions on any Performance Shares lapse, Axogen shall deliver to the Participant the certificates for such shares or shall cause the shares to be registered in the Participant's name in book-entry form, in either case with the restrictions removed, provided that the Participant shall have complied with all conditions for delivery of such shares contained in the Award Agreement or otherwise reasonably required by Axogen.

k. Other Stock-Based Awards. The Administrator, in its sole discretion and subject to the terms and conditions of the Plan, may grant Awards in the form of Other Stock-Based Awards to any individual as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee. Dividend Equivalents payable on Other-Stock Based Awards shall be accrued and made subject to forfeiture at least until

achievement of the applicable time-based and/or Performance Goal related to such Other Stock-Based Awards. Any such settlements, and any such crediting of Dividend Equivalents, may be subject to such conditions, restrictions and contingencies as the Administrator shall establish.

l. Awards to Participants Outside the United States. The Administrator may grant Awards to individuals who are foreign nationals, who are located outside the United States or who are not compensated from a payroll maintained in the United States, or who are otherwise subject to (or could cause Axogen or a Subsidiary to be subject to) tax, legal or regulatory provisions of countries or jurisdictions outside the United States, as a material inducement to such individual becoming an Employee, which grant shall become effective only if the individual actually becomes an Employee, on such terms and conditions different from those specified in the Plan as may, in the judgment of the Administrator, be necessary or desirable in order that any such Award shall conform to laws, regulations, and customs of the country or jurisdiction in which the Participant is then resident or primarily employed or to foster and promote achievement of the purposes of the Plan.

m. Limitation on Dividend Reinvestment and Dividend Equivalents. Reinvestment of dividends in additional Restricted Stock at the time of any dividend payment, and the payment of shares of Common Stock with respect to dividends to Participants holding Awards of stock Units, shall only be permissible if sufficient shares are available under the Share Pool for such reinvestment or payment (taking into account then outstanding Awards). In the event that sufficient shares are not available under the Share Pool for such reinvestment or payment, such reinvestment or payment shall be made in the form of a grant of stock Units equal in number to the shares of Common Stock that would have been obtained by such payment or reinvestment, the terms of which stock Units shall provide for settlement in cash and for Dividend Equivalent reinvestment in further stock Units on the terms contemplated by this Section 6(m).

7. Withholding of Taxes.

Participants and holders of Awards shall pay to Axogen or its Affiliate, or make arrangements satisfactory to the Administrator for payment of, any Tax Withholding Obligation in respect of Awards granted under the Plan no later than the date of the event creating the tax or social insurance contribution liability. The obligations of Axogen under the Plan shall be conditional on such payment or arrangements. Unless otherwise determined by the Administrator, Tax Withholding Obligations may be settled in whole or in part with shares of Common Stock, including unrestricted outstanding shares surrendered to Axogen and unrestricted shares that are part of the Award that gives rise to the Tax Withholding Obligation, having a Fair Market Value on the date of surrender or withholding amount to be withheld for tax or social insurance contribution purposes, all in accordance with such procedures as the Administrator establishes. Axogen or its Affiliate may deduct, to the extent permitted by law, any such Tax Withholding Obligations from any payment of any kind otherwise due to the Participant or holder of an Award.

8. Transferability of Awards.

a. General Nontransferability Absent Administrator Permission. Except as otherwise determined by the Administrator, no Award granted under the Plan shall be transferable by a Participant otherwise than by will or the laws of descent and distribution. The Administrator shall

not permit any transfer of an Award for value. An Award may be exercised during the lifetime of the Participant, only by the Participant or, during the period the Participant is under a legal disability, by the Participant's guardian or legal representative, unless otherwise determined by the Administrator. Awards granted under the Plan shall not be subject in any manner to alienation, anticipation, sale, transfer, assignment, pledge, or encumbrance, except as otherwise determined by the Administrator; provided, however, that the restrictions in this sentence shall not apply to the shares of Common Stock received in connection with an Award after the date that the restrictions on transferability of such shares set forth in the applicable Award Agreement have lapsed. Nothing in this paragraph shall be interpreted or construed as overriding the terms of any Axogen stock ownership or retention policy, now or hereafter existing, that may apply to the Participant or shares of Common Stock received under an Award.

b. Administrator Discretion to Permit Transfers Other Than For Value. Except as otherwise restricted by applicable law, the Administrator may, but need not, permit an Award to be transferred to a Participant's Family Member (as defined below) as a gift or pursuant to a domestic relations order in settlement of marital property rights. The Administrator shall not permit any transfer of an Award for value. For purposes of this Section 8, "Family Member" means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, former spouse, sibling, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships, any person sharing the Participant's household (other than a tenant or employee), a trust in which these persons have more than 50% of the beneficial interest, a foundation in which these persons (or the Participant) control the management of assets, and any other entity in which these persons (or the Participant) own more than 50% of the voting interests. The following transactions are not prohibited transfers for value: (i) a transfer under a domestic relations order in settlement of marital property rights; and (ii) a transfer to an entity in which more than 50% of the voting interests are owned by Family Members (or the Participant) in exchange for an interest in that entity.

9. Adjustments for Corporate Transactions and Other Events.

a. Mandatory Adjustments. In the event of a merger, consolidation, stock rights offering, statutory share exchange or similar event affecting Axogen (each, a "Corporate Event") or a stock dividend, stock split, reverse stock split, separation, spinoff, reorganization, extraordinary dividend of cash or other property, share combination or subdivision, or recapitalization or similar event affecting the capital structure of Axogen (each, a "Share Change") that occurs at any time after adoption of this Plan by the Board (including any such Corporate Event or Share Change that occurs after such adoption and coincident with or prior to the Effective Date), the Administrator shall make equitable and appropriate substitutions or proportionate adjustments to (i) the aggregate number and kind of shares of Common Stock or other securities on which Awards under the Plan may be granted, (ii) the maximum number of shares of Common Stock or other securities with respect to which Awards may be granted during any one calendar year to any individual, (iii) the number of shares of Common Stock or other securities covered by each outstanding Award and the exercise price, base price or other price per share, if any, and other relevant terms of each outstanding Award, and (iv) all other numerical limitations relating to Awards, whether contained in this Plan or in Award Agreements; provided, however, that any fractional shares resulting from any such adjustment shall be eliminated.

b. Discretionary Adjustments. In the case of Corporate Events, the Administrator may make such other adjustments to outstanding Awards as it determines to be appropriate and desirable, which adjustments may include, without limitation, (i) the cancellation of outstanding Awards in exchange for payments of cash, securities or other property or a combination thereof having an aggregate value equal to the value of such Awards, as determined by the Administrator in its sole discretion (it being understood that in the case of a Corporate Event with respect to which stockholders of Axogen receive consideration other than publicly traded equity securities of the ultimate surviving entity, any such determination by the Administrator that the value of a stock option or stock appreciation right shall for this purpose be deemed to equal the excess, if any, of the value of the consideration being paid for each share of Common Stock pursuant to such Corporate Event over the exercise price or base price of such stock option or stock appreciation right shall conclusively be deemed valid and that any stock option or stock appreciation right may be cancelled for no consideration upon a Corporate Event if its exercise price or base price equals or exceeds the value of the consideration being paid for each share of Common Stock pursuant to such Corporate Event), (ii) the substitution of securities or other property (including, without limitation, cash or other securities of Axogen and securities of entities other than Axogen) for the shares of Common Stock subject to outstanding Awards, and (iii) the substitution of equivalent awards, as determined in the sole discretion of the Administrator, of the surviving or successor entity or a parent thereof ("Substitute Awards").

c. Adjustments to Performance Goals. The Administrator may, in its discretion, adjust the Performance Goals applicable to any Awards to reflect any unusual or non-recurring events and other extraordinary items, impact of charges for restructurings, discontinued operations and the cumulative effects of accounting or tax changes, each as defined by generally accepted accounting principles or as identified in Axogen's consolidated financial statements, notes to the consolidated financial statements, management's discussion and analysis or other Axogen filings with the Securities and Exchange Commission. If the Administrator determines that a change in the business, operations, corporate structure or capital structure of Axogen or the applicable subsidiary, business segment or other operational unit of Axogen or any such entity or segment, or the manner in which any of the foregoing conducts its business, or other events or circumstances, render the Performance Goals to be unsuitable, the Administrator may modify such Performance Goals or the related minimum acceptable level of achievement, in whole or in part, as the Administrator deems appropriate and equitable.

d. Statutory Requirements Affecting Adjustments. Notwithstanding the foregoing: (i) any adjustments made pursuant to Section 9 to Awards that are considered "deferred compensation" within the meaning of Section 409A of the Code shall be made in compliance with the requirements of Section 409A of the Code; (ii) any adjustments made pursuant to Section 9 to Awards that are not considered "deferred compensation" subject to Section 409A of the Code shall be made in such a manner as to ensure that after such adjustment, the Awards either (A) continue not to be subject to Section 409A of the Code or (B) comply with the requirements of Section 409A of the Code; and (iii) in any event, the Administrator shall not have the authority to make any adjustments pursuant to Section 9 to the extent the existence of such authority would cause an Award that is not intended to be subject to Section 409A of the Code at the date of grant to be subject thereto.

e. Dissolution or Liquidation. Unless the Administrator determines otherwise, all Awards outstanding under the Plan shall terminate upon the dissolution or liquidation of Axogen.

10. Change in Control Provisions.

a. Termination of Awards. Notwithstanding the provisions of Section 10(b), in the event that any transaction resulting in a Change in Control occurs, outstanding Awards will terminate upon the effective time of such Change in Control unless provision is made in connection with the transaction for the continuation or assumption of such Awards by, or for the issuance therefor of Substitute Awards of, the surviving or successor entity or a parent thereof. Solely with respect to Awards that will terminate as a result of the immediately preceding sentence and except as otherwise provided in the applicable Award Agreement:

(i) the outstanding Awards of stock options and stock appreciation rights that will terminate upon the effective time of the Change in Control shall, immediately before the effective time of the Change in Control, become fully exercisable and the holders of such Awards will be permitted, immediately before the Change in Control, to exercise the Awards;

(ii) the outstanding shares of Restricted Stock, the vesting or restrictions on which are then solely time-based and not subject to achievement of Performance Goals, shall immediately before the effective time of the Change in Control, become fully vested, free of all transfer and lapse restrictions and free of all risks of forfeiture;

(iii) the outstanding shares of Restricted Stock the vesting or restrictions on which are then subject to and pending achievement of Performance Goals shall, immediately before the effective time of the Change in Control and unless the Award Agreement provides for vesting or lapsing of restrictions in a greater amount upon the occurrence of a Change in Control, become vested, free of transfer and lapse restrictions and risks of forfeiture in such amounts as if the applicable Performance Goals for the unexpired Performance Period had been achieved at the target level set forth in the applicable Award Agreement;

(iv) the outstanding Restricted Stock Units, Performance Shares and Performance Units the vesting, earning or settlement of which is then solely time-based and not subject to or pending achievement of Performance Goals shall, immediately before the effective time of the Change in Control, become fully earned and vested and shall be settled in cash or shares of Common Stock (consistent with the terms of the Award Agreement after taking into account the effect of the Change in Control transaction on the shares) as promptly as is practicable, subject to any applicable limitations imposed thereon by Section 409A of the Code; and

(v) the outstanding Restricted Stock Units, Performance Shares and Performance Units the vesting, earning or settlement of which is then subject to and pending achievement of Performance Goals shall, immediately before the effective time of the Change in Control and unless the Award Agreement provides for vesting, earning or settlement in a greater amount upon the occurrence of a Change in Control, become vested and earned in such amounts as if the applicable Performance Goals for the unexpired Performance Period had been achieved at the target level set forth in the applicable Award Agreement and shall be settled in cash or shares of

Common Stock (consistent with the terms of the Award Agreement after taking into account the effect of the Change in Control transaction on the shares) as promptly as is practicable, subject to any applicable limitations imposed thereon by Section 409A of the Code.

Implementation of the provisions of this Section 10(a) shall be conditioned upon consummation of the Change in Control.

b. Continuation, Assumption or Substitution of Awards. The Administrator may specify, on or after the date of grant, in an Award Agreement or amendment thereto, the consequences of a Participant's Termination of Service that occurs coincident with or following the occurrence of a Change in Control, if a Change in Control occurs under which provision is made in connection with the transaction for the continuation or assumption of outstanding Awards by, or for the issuance therefor of Substitute Awards of, the surviving or successor entity or a parent thereof.

c. Other Permitted Actions. In the event that any transaction resulting in a Change in Control occurs, the Administrator may take any of the actions set forth in Section 9 with respect to any or all Awards granted under the Plan.

d. Section 409A Savings Clause. Notwithstanding the foregoing, if any Award is considered to be a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code, this Section 10 shall apply to such Award only to the extent that its application would not result in the imposition of any tax or interest or the inclusion of any amount in income under Section 409A of the Code.

11. Compliance with Securities Laws; Listing and Registration.

a. The obligation of Axogen to sell or deliver Common Stock with respect to any Award granted under the Plan shall be subject to all applicable laws, rules and regulations, including all applicable federal, state securities laws, and the obtaining of all such approvals by governmental agencies as may be deemed necessary or appropriate by the Administrator. If at any time the Administrator determines that the delivery of Common Stock under the Plan is or may be unlawful under the laws of any applicable jurisdiction, or Federal, state or foreign (non-United States) securities laws, the right to exercise an Award or receive shares of Common Stock pursuant to an Award shall be suspended until the Administrator determines that such delivery is lawful. If at any time the Administrator determines that the delivery of Common Stock under the Plan would or may violate the rules of any exchange on which Axogen's securities are then listed for trade, the right to exercise an Award or receive shares of Common Stock pursuant to an Award shall be suspended until the Administrator determines that such delivery would not violate such rules. If the Administrator determines that the exercise or nonforfeitability of, or delivery of benefits pursuant to, any Award would violate any applicable provision of securities laws or the listing requirements of any stock exchange upon which any of Axogen's equity securities are listed, then the Administrator may postpone any such exercise, nonforfeitability or delivery, as applicable, but Axogen shall use all reasonable efforts to cause such exercise, nonforfeitability or delivery to comply with all such provisions at the earliest practicable date.

b. Each Award is subject to the requirement that, if at any time the Administrator determines, in its absolute discretion, that the listing, registration or qualification of Common

Stock issuable pursuant to the Plan is required by any securities exchange or under any state, federal or foreign (non-United States) law, or the consent or approval of any governmental regulatory body is necessary or desirable as a condition of, or in connection with, the grant of an Award or the issuance of Common Stock, no such Award shall be granted or payment made or Common Stock issued, in whole or in part, unless listing, registration, qualification, consent or approval has been effected or obtained free of any conditions not acceptable to the Administrator.

c. In the event that the disposition of Common Stock acquired pursuant to the Plan is not covered by a then current registration statement under the Securities Act of 1933, as amended (the "Securities Act"), and is not otherwise exempt from such registration, such Common Stock shall be restricted against transfer to the extent required by the Securities Act or regulations thereunder, and the Administrator may require a person receiving Common Stock pursuant to the Plan, as a condition precedent to receipt of such Common Stock, to represent to Axogen in writing that the Common Stock acquired by such person is acquired for investment only and not with a view to distribution and that such person will not dispose of the Common Stock so acquired in violation of Federal, state or foreign securities laws and furnish such information as may, in the opinion of counsel for the Company, be appropriate to permit the Company to issue the Common Stock in compliance with applicable Federal, state or foreign securities laws.

12. Section 409A Compliance.

It is the intention of Axogen that any Award that constitutes a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code shall comply in all respects with the requirements of Section 409A of the Code to avoid the imposition of any tax or interest or the inclusion of any amount in income pursuant to Section 409A of the Code, and the terms of each such Award shall be construed, administered and deemed amended, if applicable, in a manner consistent with this intention. Notwithstanding the foregoing, neither Axogen nor any of its Affiliates nor any of its or their directors, officers, employees, agents or other service providers will be liable for any taxes, penalties or interest imposed on any Participant or other person with respect to any amounts paid or payable (whether in cash, shares of Common Stock or other property) under any Award, including any taxes, penalties or interest imposed under or as a result of Section 409A of the Code. Any payments described in an Award that are due within the "short term deferral period" as defined in Section 409A of the Code shall not be treated as deferred compensation unless applicable law requires otherwise. For purposes of any Award, each amount to be paid or benefit to be provided to a Participant that constitutes deferred compensation subject to Section 409A of the Code shall be construed as a separate identified payment for purposes of Section 409A of the Code. For purposes of Section 409A of the Code, the payment of Dividend Equivalents under any Award shall be construed as earnings and the time and form of payment of such Dividend Equivalents shall be treated separately from the time and form of payment of the underlying Award. Notwithstanding any other provision of the Plan to the contrary, with respect to any Award that constitutes a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code, any payments (whether in cash, shares of Common Stock or other property) to be made with respect to the Award that become payable on account of the Participant's separation from service, within the meaning of Section 409A of the Code, while the Participant is a "specified employee" (as determined in accordance with the uniform policy adopted by the Administrator with respect to all of the arrangements subject to Section 409A of the Code maintained by Axogen and its Affiliates) and which would otherwise be paid within six months

after the Participant's separation from service shall be accumulated (without interest) and paid on the first day of the seventh month following the Participant's separation from service or, if earlier, within 15 days after the appointment of the personal representative or executor of the Participant's estate following the Participant's death. Notwithstanding anything in the Plan or an Award Agreement to the contrary, in no event shall the Administrator exercise its discretion to accelerate the payment or settlement of an Award where such payment or settlement constitutes deferred compensation within the meaning of Code section 409A unless, and solely to the extent that, such accelerated payment or settlement is permissible under Treasury Regulation section 1.409A-3(j)(4).

13. Plan Duration; Amendment and Discontinuance.

a. Plan Duration. The Plan shall remain in effect, subject to the right of the Board or the Compensation Committee to amend or terminate the Plan at any time, until the earlier of (a) the earliest date as of which all Awards granted under the Plan have been satisfied in full or terminated and no shares of Common Stock approved for issuance under the Plan remain available to be granted under new Awards or (b) March 4, 2027. No Awards shall be granted under the Plan after such termination date. Subject to other applicable provisions of the Plan, all Awards made under the Plan on or before March 4, 2027, or such earlier termination of the Plan, shall remain in effect until such Awards have been satisfied or terminated in accordance with the Plan and the terms of such Awards.

b. Amendment and Discontinuance of the Plan. The Board or the Compensation Committee may amend, alter or discontinue the Plan, but no amendment, alteration or discontinuation shall be made which would materially impair the rights of a Participant with respect to a previously granted Award without such Participant's consent, except such an amendment made to comply with applicable law or rule of any securities exchange or market on which the Common Stock is listed or admitted for trading or to prevent adverse tax or accounting consequences to Axogen or the Participant. Except as otherwise determined by the Board or Compensation Committee, termination of the Plan shall not affect the Administrator's ability to exercise the powers granted to it hereunder with respect to Awards granted under the Plan prior to the date of such termination.

c. Amendment of Awards. Subject to Section 6(g), the Administrator may unilaterally amend the terms of any Award theretofore granted, but no such amendment shall materially impair the rights of any Participant with respect to an Award without the Participant's consent, except such an amendment made to cause the Plan or Award to comply with applicable law, applicable rule of any securities exchange on which the Common Stock is listed or admitted for trading, or to prevent adverse tax or accounting consequences for the Participant or the Company or any of its Affiliates. For purposes of the foregoing sentence, an amendment to an Award that results in a change in the tax consequences of the Award to the Participant shall not be considered to be a material impairment of the rights of the Participant and shall not require the Participant's consent.

14. General Provisions.

a. Non-Guarantee of Employment or Service. Nothing in the Plan or in any Award Agreement thereunder shall confer any right on an individual to continue in the service of Axogen or any Affiliate or shall interfere in any way with the right of Axogen or any Affiliate to terminate

such service at any time with or without cause or notice and whether or not such termination results in (i) the failure of any Award to vest or become payable; (ii) the forfeiture of any unvested or vested portion of any Award; and/or (iii) any other adverse effect on the individual's interests under any Award or the Plan. No person, even though deemed an Employee, shall have a right to be selected as a Participant, or, having been so selected, to be selected again as a Participant. To the extent that an individual who is an Employee of a Subsidiary receives an Award under the Plan, that Award shall in no event be understood or interpreted to mean that Axogen is the Participant's employer or that the Participant has an employment relationship with Axogen.

b. No Trust or Fund Created. Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between Axogen and a Participant or any other person. To the extent that any Participant or other person acquires a right to receive payments from Axogen pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of Axogen.

c. Status of Awards. Awards shall be special incentive payments to the Participant and shall not be taken into account in computing the amount of salary or compensation of the Participant for purposes of determining any pension, retirement, death, severance or other benefit under (a) any pension, retirement, profit-sharing, bonus, insurance, severance or other employee benefit plan of Axogen or any Affiliate now or hereafter in effect under which the availability or amount of benefits is related to the level of compensation or (b) any agreement between (i) Axogen or any Affiliate and (ii) the Participant, except as such plan or agreement shall otherwise expressly provide.

d. Subsidiary Employees. In the case of a grant of an Award to an Employee who provides services to any Subsidiary, Axogen may, if the Administrator so directs, issue or transfer the shares of Common Stock, if any, covered by the Award to the Subsidiary, for such lawful consideration as the Administrator may specify, upon the condition or understanding that the Subsidiary will transfer the shares of Common Stock to the Employee in accordance with the terms of the Award specified by the Administrator pursuant to the provisions of the Plan. All shares of Common Stock underlying Awards that are forfeited or canceled after such issue or transfer of shares to the Subsidiary shall revert to Axogen.

e. Governing Law and Interpretation. The validity, construction and effect of the Plan, of Award Agreements entered into pursuant to the Plan, and of any rules, regulations, determinations or decisions made by the Administrator relating to the Plan or such Award Agreements, and the rights of any and all persons having or claiming to have any interest therein or thereunder, shall be determined exclusively in accordance with applicable United States federal laws and the laws of the State of Minnesota, without regard to its conflict of laws principles. The captions of the Plan are not part of the provisions hereof and shall have no force or effect. Except where the context otherwise requires: (i) the singular includes the plural and vice versa; (ii) a reference to one gender includes other genders; (iii) a reference to a person includes a natural person, partnership, corporation, association, governmental or local authority or agency or other entity; and (iv) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

f. Use of English Language. The Plan, each Award Agreement, and all other documents, notices and legal proceedings entered into, given or instituted pursuant to an Award shall be written in English, unless otherwise determined by the Administrator. If a Participant receives an Award Agreement, a copy of the Plan or any other documents related to an Award translated into a language other than English, and if the meaning of the translated version is different from the English version, the English version shall control.

g. Recovery of Amounts Paid. Except as otherwise provided by the Administrator, Awards granted under the Plan shall be subject to any and all policies, guidelines, codes of conduct, or other agreement or arrangement adopted by the Board or Compensation Committee with respect to the recoupment, recovery or clawback of compensation (collectively, the "Recoupment Policy") and/or to any provisions set forth in the applicable Award Agreement under which Axogen may recover from current and former Participants any amounts paid or shares of Common Stock issued under an Award and any proceeds therefrom under such circumstances as the Administrator determines appropriate. The Administrator may apply the Recoupment Policy to Awards granted before the policy is adopted to the extent required by applicable law or rule of any securities exchange or market on which shares of Common Stock are listed or admitted for trading, as determined by the Administrator in its sole discretion.

15. Glossary.

Under this Plan, except where the context otherwise indicates, the following definitions apply:

"*Administrator*" means the Compensation Committee, or such other committee(s) or officer(s) duly appointed by the Board or the Compensation Committee to administer the Plan or delegated limited authority to perform administrative actions under the Plan in compliance with the requirements and limitations of the Inducement Listing Rule, and having such powers as shall be specified by the Board or the Compensation Committee and as permitted by the Inducement Listing Rule; provided, however, that at any time the Board may serve as the Administrator in lieu of or in addition to the Compensation Committee or such other committee(s) or officer(s) to whom administrative authority has been delegated. With respect to any Award to which Section 16 of the Exchange Act applies, the Administrator shall consist of either the Board or a committee of the Board, which committee shall consist of two or more directors, each of whom is intended to be, to the extent required by Rule 16b-3 of the Exchange Act, a "non-employee director" as defined in Rule 16b-3 of the Exchange Act and an "independent director" to the extent required by the rules of the national securities exchange that is the principal trading market for the Common Stock. Any member of the Administrator who does not meet the foregoing requirements shall abstain from any decision regarding an Award and shall not be considered a member of the Administrator to the extent required to comply with Rule 16b-3 of the Exchange Act.

"*Affiliate*" means any entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with, Axogen or any successor to Axogen. For this purpose, "control" (including the correlative meanings of the terms "controlled by" and "under common control with") shall mean ownership, directly or indirectly, of 50% or more of the total combined voting power of all classes of voting securities issued by such entity, or the possession, directly or indirectly, of the power to direct the management and policies of such entity, by contract or otherwise.

"Award" means any stock option, stock appreciation right, stock award, stock unit, Performance Share, Performance Unit, and/or Other Stock-Based Award, whether granted under this Plan.

*"Award Agreement"* means the written document(s), including an electronic writing acceptable to the Administrator, and any notice, addendum or supplement thereto, memorializing the terms and conditions of an Award granted pursuant to the Plan and which shall incorporate the terms of the Plan.

"Board" means the Board of Directors of Axogen.

"Cause" means, with respect to a Participant, except as otherwise provided in the relevant Award Agreement (i) the Participant's plea of guilty or nolo contendere to, or conviction of, (A) a felony (or its equivalent in a non-United States jurisdiction) or (B) other conduct of a criminal nature that has or is likely to have a material adverse effect on the reputation or standing in the community of Axogen, any of its Affiliates or a successor to Axogen or an Affiliate, as determined by the Administrator in its sole discretion, or that legally prohibits the Participant from working for Axogen, any of its Subsidiaries or a successor to Axogen or a Subsidiary; (ii) a breach by the Participant of a regulatory rule that adversely affects the Participant's ability to perform the Participant's employment duties to Axogen, any of its Subsidiaries or a successor to Axogen or a Subsidiary, in any material respect; or (iii) the Participant's failure, in any material respect, to (A) perform the Participant's employment duties, (B) comply with the applicable policies of Axogen, or of its Subsidiaries, or a successor to Axogen or a Subsidiary, or (C) comply with covenants contained in any contract or Award Agreement to which the Participant is a party; provided, however, that the Participant shall be provided a written notice describing in reasonable detail the facts which are considered to give rise to a breach described in this clause (iii) and the Participant shall have 30 days following receipt of such written notice (the "Cure Period") during which the Participant may remedy the condition and, if so remedied, no Cause for Termination of Service shall exist.

"Change in Control" means the first of the following to occur: (i) a Change in Ownership of Axogen, (ii) a Change in Effective Control of Axogen, or (iii) a Change in the Ownership of Assets of Axogen, as described herein and construed in accordance with Code section 409A.

(i) A "Change in Ownership of Axogen" shall occur on the date that any one Person acquires, or Persons Acting as a Group acquire, ownership of the capital stock of Axogen that, together with the stock held by such Person or Group, constitutes more than 50% of the total fair market value or total voting power of the capital stock of Axogen. However, if any one Person is, or Persons Acting as a Group are, considered to own more than 50%, on a fully diluted basis, of the total fair market value or total voting power of the capital stock of Axogen, the acquisition of additional stock by the same Person or Persons Acting as a Group is not considered to cause a Change in Ownership of Axogen or to cause a Change in Effective Control of Axogen (as described below). An increase in the percentage of capital stock owned by any one Person, or Persons Acting as a Group, as a result of a transaction in which Axogen acquires its stock in exchange for property will be treated as an acquisition of stock.

(ii) A "Change in Effective Control of Axogen" shall occur on the date either (A) a majority of members of Axogen's Board is replaced during any 12-month period by Directors whose appointment or election is not endorsed by a majority of the members of Axogen's Board before the date of the appointment or election, or (B) any one Person, or Persons Acting as a Group, acquires (or has acquired during the 12-month period ending on the date of the most recent acquisition by such Person or Persons) ownership of stock of Axogen possessing 50% or more of the total voting power of the stock of Axogen.

(iii) A "Change in the Ownership of Assets of Axogen" shall occur on the date that any one Person acquires, or Persons Acting as a Group acquire (or has or have acquired during the 12-month period ending on the date of the most recent acquisition by such Person or Persons), assets from Axogen that have a total gross fair market value equal to or more than 51% of the total gross fair market value of all of the assets of Axogen immediately before such acquisition or acquisitions. For this purpose, gross fair market value means the value of the assets of Axogen, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

The following rules of construction apply in interpreting the definition of Change in Control:

(A) A "Person" means any individual, entity or group within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended, other than employee benefit plans sponsored or maintained by Axogen and by entities controlled by Axogen or an underwriter, initial purchaser or placement agent temporarily holding the capital stock of Axogen pursuant to a registered public offering.

(B) Persons will be considered to be Persons Acting as a Group (or Group) if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the corporation. If a Person owns stock in both corporations that enter into a merger, consolidation, purchase or acquisition of stock, or similar transaction, such shareholder is considered to be acting as a Group with other shareholders only with respect to the ownership in that corporation before the transaction giving rise to the change and not with respect to the ownership interest in the other corporation. Persons will not be considered to be acting as a Group solely because they purchase assets of the same corporation at the same time or purchase or own stock of the same corporation at the same time, or as a result of the same public offering.

(C) A Change in Control shall not include a transfer to a related person as described in Code section 409A or a public offering of capital stock of Axogen.

(D) For purposes of the definition of Change in Control, Section 318(a) of the Code applies to determine stock ownership. Stock underlying a vested option is considered owned by the individual who holds the vested option (and the stock underlying an unvested option is not considered owned by the individual who holds the unvested option). For purposes of the preceding sentence, however, if a vested option is exercisable for stock that is not

substantially vested (as defined by Treasury Regulation §1.83-3(b) and (j)), the stock underlying the option is not treated as owned by the individual who holds the option.

*"Code"* means the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto, the Treasury Regulations thereunder and other relevant interpretive guidance issued by the Internal Revenue Service or the Treasury Department. Reference to any specific section of the Code shall be deemed to include such regulations and guidance, as well as any successor section, regulations and guidance.

*"Common Stock"* means shares of common stock of Axogen, par value $0.01 per share, and any capital securities into which they are converted.

"Company" means Axogen, Inc. and its Subsidiaries, except where the context otherwise requires. For purposes of determining whether a Change in Control has occurred, Company shall mean only Axogen.

*"Compensation Committee"* means the Compensation Committee of the Board.

*"Director"* means a member of the Board.

"Dividend Equivalent" means a right, granted to a Participant, to receive cash, Common Stock, stock Units or other property equal in value to dividends paid with respect to a specified number of shares of Common Stock.

"Effective Date" means the date on which adoption of the Plan is approved by the Board.

"Employee" means any person employed by Axogen or any of its Subsidiaries. However, service solely as a Director, or payment of a fee for such services, will not cause a Director to be considered an "Employee" for purposes of the Plan. However, for the avoidance of doubt, although a person who is an Employee also may be a Director, a person who already is serving as a Director prior to becoming an Employee will not be eligible to be granted an Award under the Plan unless permitted under the Inducement Listing Rule. Axogen shall determine in good faith and in the exercise of its discretion whether an individual has become or has ceased to be an Employee and the effective date of such individual's employment or termination of employment, as the case may be. For purposes of an individual's rights, if any, under the Plan as of the time of Axogen's determination, all such determinations by Axogen shall be final, binding and conclusive, notwithstanding that Axogen or any court of law or governmental agency subsequently makes a contrary determination.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor thereto. Reference to any specific section of the Exchange Act shall be deemed to include such regulations and guidance issued thereunder, as well as any successor section, regulations and guidance.

*"Fair Market Value"* means, on a per share basis as of any date, unless otherwise determined by the Administrator:

(i) if the principal market for the Common Stock (as determined by the Administrator if the Common Stock is listed or admitted to trading on more than one exchange or market) is a national securities exchange or an established securities market, the official closing price per share of Common Stock for the regular market session on that date on the principal exchange or market on which the Common Stock is then listed or admitted to trading or, if no sale is reported for that date, on the last preceding day on which a sale was reported, all as reported by such source as the Administrator may select;

(ii) if the principal market for the Common Stock is not a national securities exchange or an established securities market, but the Common Stock is quoted by a national quotation system, the average of the highest bid and lowest asked prices for the Common Stock on that date as reported on a national quotation system or, if no prices are reported for that date, on the last preceding day on which prices were reported, all as reported by such source as the Administrator may select; or

(iii) if the Common Stock is neither listed or admitted to trading on a national securities exchange or an established securities market, nor quoted by a national quotation system, the value determined by the Administrator in good faith by the reasonable application of a reasonable valuation method, which method may, but need not, include taking into account an appraisal of the fair market value of the Common Stock conducted by a nationally recognized appraisal firm selected by the Administrator.

Notwithstanding the preceding, for foreign, federal, state and local income tax reporting purposes and for such other purposes as the Administrator deems appropriate, the Fair Market Value shall be determined by the Administrator in accordance with uniform and nondiscriminatory standards adopted by it from time to time.

"Incentive Stock Option" means any stock option that is designated, in the applicable Award Agreement or the resolutions of the Administrator under which the stock option is granted, as an "incentive stock option" within the meaning of Section 422 of the Code and otherwise meets the requirements to be an "incentive stock option" set forth in Section 422 of the Code.

"Nonqualified Option" means any stock option that is not an Incentive Stock Option.

"Other Stock-Based Award" means an Award of Common Stock or any other Award that is valued in whole or in part by reference to, or is otherwise based upon, shares of Common Stock, including without limitation Dividend Equivalents and convertible debentures.

"Participant" means a person to whom one or more Awards are or have been granted pursuant to the Plan and have not been fully settled or cancelled and, following the death of any such person, his successors, heirs, executors and administrators, as the case may be.

"Performance Award" means a Full Value Award, the grant, vesting, lapse of restrictions or settlement of which is conditioned upon the achievement of performance objectives over a specified Performance Period and includes, without limitation, Performance Shares and

Performance Units.

"Performance Goals" means the performance goals established by the Administrator in connection with the grant of Awards based on Performance Metrics or other performance criteria selected by the Administrator.

"Performance Period" means that period established by the Administrator during which any Performance Goals specified by the Administrator with respect to such Award are to be measured.

"Performance Metrics" means criteria established by the Administrator relating to any of the following, as it may apply to an individual, one or more business units, divisions, or Affiliates, or on a company-wide basis, and in absolute terms, relative to a base period, or relative to the performance of one or more comparable companies, peer groups, or an index covering multiple companies:

(i) Earnings or Profitability Metrics: any derivative of revenue; earnings/loss (gross, operating, net, or adjusted); earnings/loss before interest and taxes ("EBIT"); earnings/loss before interest, taxes, depreciation and amortization ("EBITDA"); profit margins; operating margins; combined ratio; expense levels or ratios; provided that any of the foregoing metrics may be adjusted to eliminate the effect of any one or more of the following: interest expense, asset impairments or investment losses, early extinguishment of debt or stock-based compensation expense;

(ii) Return Metrics: any derivative of return on investment, assets, equity or capital (total or invested);

(iii) Investment Metrics: relative risk-adjusted investment performance; investment performance of assets under management;

(iv) Cash Flow Metrics: any derivative of operating cash flow; cash flow sufficient to achieve financial ratios or a specified cash balance; free cash flow; cash flow return on capital; net cash provided by operating activities; cash flow per share; working capital;

(v) Liquidity Metrics: any derivative of debt leverage (including debt to capital, net debt-to-capital, debt-to-EBITDA or other liquidity ratios); and/or

(vi) Stock Price and Equity Metrics: any derivative of return on stockholders' equity; total stockholder return; stock price; stock price appreciation; market capitalization; earnings/loss per share (basic or diluted) (before or after taxes).

The Administrator may also establish such other performance criteria as determined in its discretion.

*"Performance Shares"* means a grant of stock or stock Units the issuance, vesting or payment of which is contingent on performance as measured against predetermined objectives

over a specified Performance Period.

"Performance Units" means a grant of dollar-denominated Units the value, vesting or payment of which is contingent on performance against predetermined objectives over a specified Performance Period.

"Plan" means this Axogen, Inc. Inducement Equity Plan, as set forth herein and as it may be amended from time to time.

"Restricted Stock" means an Award of shares of Common Stock to a Participant that may be subject to certain transferability and other restrictions and to a risk of forfeiture (including by reason of not satisfying certain Performance Goals).

"Restricted Stock Unit" means a right granted to a Participant to receive shares of Common Stock or cash at the end of a specified deferral period, which right may be conditioned on the satisfaction of certain requirements (including the satisfaction of certain Performance Goals).

"Restriction Period" means, with respect to Full Value Awards, the period commencing on the date of grant of such Award to which vesting or transferability and other restrictions and a risk of forfeiture apply and ending upon the expiration of the applicable vesting conditions, transferability and other restrictions and lapse of risk of forfeiture and/or the achievement of the applicable Performance Goals.

"Subsidiary" means any corporation or other entity in an unbroken chain of corporations or other entities beginning with Axogen if each of the corporations or other entities, or group of commonly controlled corporations or other entities, other than the last corporation or other entity in the unbroken chain then owns stock or other equity interests possessing 50% or more of the total combined voting power of all classes of stock or other equity interests in one of the other corporations or other entities in such chain or otherwise has the power to direct the management and policies of the entity by contract or by means of appointing a majority of the members of the board or other body that controls the affairs of the entity; provided, however, that solely for purposes of determining whether a Participant has a Termination of Service that is a "separation from service" within the meaning of Section 409A of the Code or whether an Employee is eligible to be granted an Award that in the hands of such Employee would constitute a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code , a "Subsidiary" of a corporation or other entity means all other entities with which such corporation or other entity would be considered a single employer under Sections 414(b) or 414(c) of the Code.

"Tax Withholding Obligation" means any federal, state, local or foreign (non-United States) income, employment or other tax or social insurance contribution required by applicable law to be withheld in respect of Awards.

"Termination of Service" means the termination of the Participant's employment or consultancy with, or performance of services for, Axogen and its Subsidiaries. Temporary absences from employment because of illness, vacation or leave of absence and transfers among Axogen and its Subsidiaries shall not be considered Terminations of Service. With respect to any

Award that constitutes a "nonqualified deferred compensation plan" within the meaning of Section 409A of the Code, "Termination of Service" shall mean a "separation from service" as defined under Section 409A of the Code to the extent required by Section 409A of the Code to avoid the imposition of any tax or interest or the inclusion of any amount in income pursuant to Section 409A of the Code. A Participant has a separation from service within the meaning of Section 409A of the Code if the Participant terminates employment with Axogen and all Subsidiaries for any reason. A Participant will generally be treated as having terminated employment with Axogen and all Subsidiaries as of a certain date if the Participant and the entity that employs the Participant reasonably anticipate that the Participant will perform no further services for Axogen or any Subsidiary after such date or that the level of bona fide services that the Participant will perform after such date (whether as an Employee or an independent contractor) will permanently decrease to no more than 20% of the average level of bona fide services performed (whether as an Employee or an independent contractor) over the immediately preceding 36-month period (or the full period of services if the Participant has been providing services for fewer than 36 months); provided, however, that the employment relationship is treated as continuing while the Participant is on military leave, sick leave or other bona fide leave of absence if the period of leave does not exceed six months or, if longer, so long as the Participant retains the right to reemployment with Axogen or any Subsidiary.

"Total and Permanent Disability" means, with respect to a Participant, except as otherwise provided in the relevant Award Agreement, that a Participant is (i) unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to last until the Participant's death or result in death, or (ii) determined to be totally disabled by the Social Security Administration or other governmental or quasi-governmental body that administers a comparable social insurance program outside of the United States in which the Participant participates and which conditions the right to receive benefits under such program on the Participant being unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to last until the Participant's death or result in death. The Administrator shall have sole authority to determine whether a Participant has suffered a Total and Permanent Disability and may require such medical or other evidence as it deems necessary to judge the nature and permanency of the Participant's condition.

"Unit" means a bookkeeping entry used by Axogen to record and account for the grant of the following types of Awards until such time as the Award is paid, cancelled, forfeited or terminated, as the case may be: stock units, Restricted Stock Units, Performance Units, and Performance Shares that are expressed in terms of units of Common Stock.

[end of document]

AXOGEN, INC.

RESTRICTED STOCK UNITS NOTICE
UNDER THE
AXOGEN, INC.
INDUCEMENT EQUITY INCENTIVE PLAN

Name of Grantee: _____

This Notice evidences the award of restricted stock units (each, an "RSU" and collectively, the "RSUs") of Axogen, Inc., a Minnesota corporation (the "Company"), that have been granted to you pursuant to the Axogen, Inc. Inducement Equity Incentive Plan (the "Plan") and conditioned upon your agreement to the terms of the attached Restricted Stock Units Agreement (the "Agreement"). The award of RSUs are intended as a material inducement to you becoming an Employee. This Notice constitutes part of and is subject to the terms and provisions of the Agreement and the Plan, which are incorporated by reference herein. Each RSU is equivalent in value to one share of the Company's Common Stock and represents the Company's commitment to issue one share of the Company's Common Stock at a future date, subject to the terms of the Agreement and the Plan. The RSUs are credited to a separate account maintained for you on the books and records of the Company (the "Account"). All amounts credited to the Account will continue for all purposes to be part of the general assets of the Company.

Grant Date:

Vesting Commencement Date:

Number of RSUs:

Vesting Schedule: All of the RSUs are nonvested and forfeitable as of the Grant Date. So long as (i) your Service (as defined in the Agreement) is continuous from the Grant Date through the applicable date upon which vesting is scheduled to occur, or (ii) Section 4 of the Agreement applies, the RSUs shall vest as follows:[1]

_____ _____
Axogen, Inc. Date

I acknowledge that I have carefully read the Agreement and the Plan. I agree to be bound by all of the provisions set forth in those documents. I also consent to electronic delivery of all notices or other information with respect to the RSUs or the Company.

_____ _____

[1] The vesting schedule shall be structured such that 50% of the RSUs shall vest on the second anniversary of the Grant Date and 25% of the RSUs shall vest on each annual anniversary thereafter until vested in full on the fourth anniversary of the Grant Date, unless an alternative vesting schedule is approved by the Administrator.

Signature of Grantee

Date

AXOGEN, INC.
RESTRICTED STOCK UNITS AGREEMENT
UNDER THE
AXOGEN, INC.
INDUCEMENT EQUITY INCENTIVE PLAN

1. Terminology. Unless otherwise provided in this Agreement, capitalized terms used herein are defined in the Plan or the Glossary at the end of this Agreement.

2. Vesting. All of the RSUs are nonvested and forfeitable as of the Grant Date. So long as your Service is continuous from the Grant Date through the applicable date upon which vesting is scheduled to occur, the RSUs will become vested and nonforfeitable in accordance with the vesting schedule set forth in the Notice. Except for the circumstances, if any, described in the Notice, or as otherwise provided in Section 4 below, none of the RSUs will become vested and nonforfeitable after your Service ceases.

3. Termination of Service. Except as otherwise provided in Section 4 below, unless otherwise provided in the Notice, if your Service with the Company ceases for any reason, all RSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon such cessation without payment of any consideration therefor and you will have no further right, title or interest in or to such RSUs or the underlying shares of Common Stock.

4. Qualified Retirement. If your title with the Company as of the Grant Date of the RSUs is Vice President or above, in the event your Service with the Company ceases by reason of a Qualified Retirement, and such Qualified Retirement occurs on a date that is at least six (6) months following the Grant Date, the RSUs will continue to become vested and nonforfeitable in accordance with the vesting schedule set forth in the Notice, provided that all vesting shall cease and any remaining RSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon your death.

5. Restrictions on Transfer. Except to the extent permitted under Section 8(b) of the Plan, neither this Agreement nor any of the RSUs may be assigned, transferred, pledged, hypothecated or disposed of in any way, whether by operation of law or otherwise, and the RSUs shall not be subject to execution, attachment or similar process. All rights with respect to this Agreement and the RSUs shall be exercisable during your lifetime only by you or your guardian or legal representative. Notwithstanding the foregoing, the RSUs, to the extent outstanding, may be transferred upon your death by last will and testament or under the laws of descent and distribution.

6. Settlement of RSUs.

(a) Manner of Settlement. You are not required to make any monetary payment (other than applicable tax withholding, if required) as a condition to settlement of the RSUs. The Company will issue to you, in settlement of your RSUs and subject to the provisions of Section 7 below, the number of whole shares of Common Stock that equals the number of whole RSUs that become vested, and such vested RSUs will terminate and cease to be outstanding upon such issuance of the shares. Upon issuance of such shares, the Company will determine the form of delivery (e.g., a stock certificate or electronic entry evidencing such shares) and may deliver such shares on your behalf electronically to the Company's designated stock plan administrator or such other broker-dealer as the Company may choose at its sole discretion, within reason.

(b) Timing of Settlement. Your RSUs will be settled by the Company, via the issuance of Common Stock as described herein, on the date that the RSUs become vested and nonforfeitable (each, an "Issuance Date"). However, if a scheduled Issuance Date falls on a Saturday, Sunday or federal holiday, such Issuance Date shall instead fall on the next following day that the principal executive offices of the Company are open for business. Notwithstanding the foregoing, in the event that (i) you are subject to the Company's policy permitting officers and directors to sell shares only during certain "window" periods, in effect from time to time or you are otherwise prohibited from selling shares of the Company's Common Stock in the public market and any shares covered by your RSUs are scheduled to be issued on a day (the "Original Distribution Date") that does not occur during an open "window period" applicable to you, as determined by the Company in accordance with such policy, or does not occur on a date when you are otherwise permitted to sell shares of the Company's Common Stock in the open market, and (ii) the Company elects not to satisfy its tax withholding obligations by withholding shares from your distribution, then, solely to the extent permitted by Section 409A (as defined below), such shares shall not be issued and delivered on such Original Distribution Date and shall instead be issued and delivered on the first business day of the next occurring open "window period" applicable to you pursuant to such policy (regardless of whether you are still providing continuous services at such time) or the next business day when you are not prohibited from selling shares of the Company's Common Stock in the open market, but in no event later than December 31st of the calendar year in which the Issuance Date occurs, or if later, by the 15th day of the third calendar month of the calendar year following the Issuance Date, provided, however, in no event are you permitted, directly or indirectly, to designate the taxable year of payment.

7. Tax Withholding. On or before the time you receive a distribution of the shares subject to your RSUs, or at any time thereafter as requested by the Company, you hereby authorize any required withholding from the Common Stock issuable to you and/or otherwise agree to make adequate provision in cash for any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or any Affiliate which arise in connection with your RSUs (the "Withholding Taxes"). Additionally, the Company may, in its sole discretion, satisfy all or any portion of the Withholding Taxes obligation relating to your RSUs by any of the following means or by a combination of such means: (i) withholding from any compensation otherwise payable to you by the Company; (ii) causing you to tender a cash payment; (iii) permitting you to enter into a "same day sale" commitment with a broker-dealer that is a member of the Financial Industry Regulatory Authority (a "FINRA Dealer") whereby you irrevocably elect to sell a portion of the shares to be delivered under the Agreement to satisfy the Withholding Taxes and whereby the FINRA Dealer irrevocably commits to forward the proceeds necessary to satisfy the Withholding Taxes directly to the Company; or (iv) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to you in connection with the RSUs with a Fair Market Value (measured as of the date shares of Common Stock are issued to you pursuant to Section 6 of this Agreement) equal to the amount of such Withholding Taxes; provided, however, that the number of such shares of Common Stock so withheld shall not exceed, by more than the Fair Market Value of one share of Common Stock, the amount necessary to satisfy the Company's required tax withholding obligations using the minimum statutory withholding rates for federal, state, local and foreign tax purposes, including payroll taxes, that are applicable to supplemental taxable income. Unless the tax withholding obligations of the Company and/or any Affiliate are satisfied, the Company shall have no obligation to deliver to you any Common Stock. In the event the Company's obligation to withhold arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Company's withholding obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

8. Adjustments for Corporate Transactions and Other Events.

(a) Stock Dividend, Stock Split and Reverse Stock Split. Upon a stock dividend of, or stock split or reverse stock split affecting, the Common Stock, the number of outstanding RSUs shall, without further action of the Administrator, be adjusted to reflect such event; provided, however, that any fractional RSUs resulting from any such adjustment shall be eliminated. Adjustments under this paragraph will be made by the Administrator, whose determination as to what adjustments, if any, will be made and the extent thereof will be final, binding and conclusive.

(b) Merger, Consolidation and Other Events. If the Company shall be the surviving or resulting corporation in any merger or consolidation and the Common Stock shall be converted into other securities, the RSUs shall pertain to and apply to the securities to which a holder of the number of shares of Common Stock subject to the RSUs would have been entitled. If the stockholders of the Company receive by reason of any distribution in total or partial liquidation or pursuant to any merger of the Company or acquisition of its assets, securities of another entity or other property (including cash), then the rights of the Company under this Agreement shall inure to the benefit of the Company's successor, and this Agreement shall apply to the securities or other property (including cash) to which a holder of the number of shares of Common Stock subject to the RSUs would have been entitled, in the same manner and to the same extent as the RSUs.

9. Non-Guarantee of Employment or Service Relationship. Nothing in the Plan or this Agreement shall alter your at-will or other employment status or other service relationship with the Company, nor be construed as a contract of employment or service relationship between the Company and you, or as a contractual right of you to continue in the employ of, or in a service relationship with, the Company for any period of time, or as a limitation of the right of the Company to discharge you at any time with or without cause or notice and whether or not such discharge results in the forfeiture of any nonvested and forfeitable RSUs or any other adverse effect on your interests under the Plan.

10. Rights as Stockholder. You shall not have any of the rights of a stockholder with respect to any shares of Common Stock that may be issued in settlement of the RSUs until such shares of Common Stock have been issued to you. No adjustment shall be made for dividends, distributions, or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 9 of the Plan and Section 5 of this Agreement.

11. The Company's Rights. The existence of the RSUs shall not affect in any way the right or power of the Company or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issue of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of the Company's assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

12. Restrictions on Issuance of Shares. The issuance of shares of Common Stock upon settlement of the RSUs shall be subject to and in compliance with all applicable requirements of federal, state, or foreign law with respect to such securities. No shares of Common Stock may be issued hereunder if the issuance of such shares would constitute a violation of any applicable federal, state, or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Common Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance of any shares subject to the RSUs shall relieve the Company of any liability in respect of the failure to issue such shares as to which such requisite authority shall not have been obtained. As a condition to the settlement of the RSUs, the Company may require you to satisfy any

qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Company.

13. Restrictive Covenants. You hereby agree to the following restrictive covenants as consideration of the grant of the RSUs:

(a) You hereby agree and acknowledge that the grant of the RSUs is conditioned upon your continued compliance with any and all confidentiality, non-compete and/or non-solicitation covenants and restrictions contained in any separate agreement between you and the Company, and if you breach any of such covenants or restrictions, upon written notice delivered to you: (i) the entirety of the Company's obligations under this Agreement and the Plan shall terminate in their entirety, (ii) all RSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically, and (iii) you shall have no further rights or privileges under this Agreement or the Plan.

14. Notices. All notices and other communications made or given pursuant to this Agreement shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company, or in the case of notices delivered to the Company by you, addressed to the Administrator, care of the Company for the attention of its Secretary at its principal executive office or, in either case, if the receiving party consents in advance, transmitted and received via telecopy or via such other electronic transmission mechanism as may be available to the parties. Notwithstanding the foregoing, the Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and this award of RSUs by electronic means or to request your consent to participate in the Plan or accept this award of RSUs by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, to agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

15. Entire Agreement. This Agreement, together with the relevant Notice and the Plan, contain the entire agreement between the parties with respect to the RSUs granted hereunder. Any oral or written agreements, representations, warranties, written inducements, or other communications made prior to the execution of this Agreement with respect to the RSUs granted hereunder shall be void and ineffective for all purposes.

16. Amendment. This Agreement may be amended from time to time by the Administrator in its discretion; provided, however, that this Agreement may not be modified in a manner that would have a materially adverse effect on the RSUs as determined in the discretion of the Administrator, except as provided in the Plan or in a written document signed by each of the parties hereto.

17. 409A Savings Clause. This Agreement and the RSUs granted hereunder are intended to be exempt from or comply with the requirements of Section 409A of the Code and the regulations and IRS guidance promulgated thereunder ("Section 409A"). In administering this Agreement, the Company shall interpret this Agreement in a manner consistent with Section 409A. To the extent necessary to comply with Section 409A, if you are a "Specified Employee" (within the meaning set forth Section 409A(a)(2)(B)(i) of the Code) as of the date of your separation from service (within the meaning of Treasury Regulation Section 1.409A-1(h)), then the issuance of any shares that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the date that is six (6) months and one day after the date of the separation from service, but if and only if such delay in the issuance of the shares is necessary to avoid the imposition of additional taxation on you in respect of the

shares under Section 409A. Each installment of shares that vests is intended to constitute a "separate payment" for purposes of Section 409A and Treasury Regulation Section 1.409A-2(b)(2). For purposes of Section 409A of the Code, the payment of dividend equivalents under this Agreement, if any, shall be construed as earnings and the time and form of payment of such dividend equivalents shall be treated separately from the time and form of payment of the underlying RSUs.

18. No Obligation to Minimize Taxes. The Company has no duty or obligation to minimize the tax consequences to you of this award of RSUs and shall not be liable to you for any adverse tax consequences to you arising in connection with this award. You are hereby advised to consult with your own personal tax, financial and/or legal advisors regarding the tax consequences of this award and by signing the Notice, you have agreed that you have done so or knowingly and voluntarily declined to do so.

19. Conformity with Plan. This Agreement is intended to conform in all respects with, and is subject to all applicable provisions of, the Plan. Inconsistencies between this Agreement and the Plan shall be resolved in accordance with the terms of the Plan. In the event of any ambiguity in this Agreement or any matters as to which this Agreement is silent, the Plan shall govern. A copy of the Plan is available upon request to the Administrator.

20. No Funding. This Agreement constitutes an unfunded and unsecured promise by the Company to issue shares of Common Stock in the future in accordance with its terms. You have the status of a general unsecured creditor of the Company as a result of receiving the grant of RSUs.

21. Effect on Other Employee Benefit Plans. The value of the RSUs subject to this Agreement shall not be included as compensation, earnings, salaries, or other similar terms used when calculating your benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

22. Governing Law. The validity, construction and effect of this Agreement, and of any determinations or decisions made by the Administrator relating to this Agreement, and the rights of any and all persons having or claiming to have any interest under this Agreement, shall be determined exclusively in accordance with the laws of the State of Minnesota, without regard to its provisions concerning the applicability of laws of other jurisdictions. As a condition of this Agreement, you agree that you will not bring any action arising under, as a result of, pursuant to or relating to, this Agreement in any court other than a federal or state court in the districts which include New Jersey, and you hereby agree and submit to the personal jurisdiction of any federal court located in the district which includes New Jersey or any state court in the district which includes New Jersey. You further agree that you will not deny or attempt to defeat such personal jurisdiction or object to venue by motion or other request for leave from any such court.

23. Resolution of Disputes. Any dispute or disagreement which shall arise under, or as a result of, or pursuant to or relating to, this Agreement shall be determined by the Administrator in good faith in its absolute and uncontrolled discretion, and any such determination or any other determination by the Administrator under or pursuant to this Agreement and any interpretation by the Administrator of the terms of this Agreement, will be final, binding and conclusive on all persons affected thereby. You agree that before you may bring any legal action arising under, as a result of, pursuant to or relating to, this Agreement you will first exhaust your administrative remedies before the Administrator. You further agree that in the event that the Administrator does not resolve any dispute or disagreement arising under, as a result of, pursuant to or relating to, this Agreement to your satisfaction, no legal action may be

commenced or maintained relating to this Agreement more than twenty-four (24) months after the Administrator's decision.

24. Headings. The headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

25. Electronic Delivery of Documents. By your signing the Notice, you (i) consent to the electronic delivery of this Agreement, all information with respect to the Plan and the RSUs, and any reports of the Company provided generally to the Company's stockholders; (ii) acknowledge that you may receive from the Company a paper copy of any documents delivered electronically at no cost to you by contacting the Company by telephone or in writing; (iii) further acknowledge that you may revoke your consent to the electronic delivery of documents at any time by notifying the Company of such revoked consent by telephone, postal service or electronic mail; and (iv) further acknowledge that you understand that you are not required to consent to electronic delivery of documents.

26. No Future Entitlement. By your signing the Notice, you acknowledge and agree that: (i) the grant of a restricted stock unit award is a one-time benefit which does not create any contractual or other right to receive future grants of restricted stock units, or compensation in lieu of restricted stock units, even if restricted stock units have been granted repeatedly in the past; (ii) all determinations with respect to any such future grants and the terms thereof will be at the sole discretion of the Committee; (iii) the value of the restricted stock units is an extraordinary item of compensation which is outside the scope of your employment contract, if any; (iv) the value of the restricted stock units is not part of normal or expected compensation or salary for any purpose, including, but not limited to, calculating any termination, severance, resignation, redundancy, end of service payments or similar payments, or bonuses, long-service awards, pension or retirement benefits; (v) the vesting of the restricted stock units ceases upon termination of Service with the Company or transfer of employment from the Company, or other cessation of eligibility for any reason, except as may otherwise be explicitly provided in this Agreement; (vi) the Company does not guarantee any future value of the restricted stock units; and (vii) no claim or entitlement to compensation or damages arises if the restricted stock units decrease or do not increase in value and you irrevocably release the Company from any such claim that does arise.

27. Personal Data. For purposes of the implementation, administration and management of the restricted stock units or the effectuation of any acquisition, equity or debt financing, joint venture, merger, reorganization, consolidation, recapitalization, business combination, liquidation, dissolution, share exchange, sale of stock, sale of material assets or other similar corporate transaction involving the Company (a "Corporate Transaction"), you consent, by execution of the Notice, to the collection, receipt, use, retention and transfer, in electronic or other form, of your personal data by and among the Company and its third party vendors or any potential party to a potential Corporate Transaction. You understand that personal data (including but not limited to, name, home address, telephone number, employee number, employment status, social security number, tax identification number, date of birth, nationality, job and payroll location, data for tax withholding purposes and shares awarded, cancelled, vested and unvested) may be transferred to third parties assisting in the implementation, administration and management of the restricted stock units or the effectuation of a Corporate Transaction and you expressly authorize such transfer as well as the retention, use, and the subsequent transfer of the data by the recipient(s). You understand that these recipients may be located in your country or elsewhere, and that the recipient's country may have different data privacy laws and protections than your country. You understand that data will be held only as long as is necessary to implement, administer and manage the restricted stock units or effect a Corporate Transaction. You understand that you may, at any time, request a list with the names and addresses of any potential recipients of the personal data, view data, request additional information about the storage and processing of data, require any necessary

amendments to data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company's Secretary. You understand, however, that refusing or withdrawing your consent may affect your ability to accept a restricted stock unit award.

{Glossary begins on next page}

GLOSSARY

(a) "Agreement" means this document, as amended from time to time, together with the Notice and the Plan which are incorporated herein by reference.

(b) "Grant Date" means the effective date of a grant of RSUs made to you as set forth in the relevant Notice.

(c) "Notice" means the statement, letter or other written notification provided to you by the Company setting forth the terms of a grant of RSUs made to you.

(d) "Plan" means the Axogen Inc. Inducement Equity Incentive Plan, as amended from time to time.

(e) "Qualified Retirement" means the termination of your Service after attainment of age sixty (60) with at least ten (10) years of continuous service, provided that: (i) as a Vice-President or above, if you elect to terminate your Service voluntarily, you have provided the Company with at least [six (6) / twelve (12))[2] months' advance notice of your retirement date or such other term of advance notice as is determined by the Chief Human Resources Officer of the Company; (ii) as a Vice-President or above, if the Company elected to terminate your Service, such termination is without Cause and (iii) during the three (3) years prior to the year in which such termination of Service occurs, you have maintained consistent historical performance reviews.

(f) "RSU" means the Company's commitment to issue one share of Common Stock at a future date, subject to the terms of the Agreement and the Plan.

(g) "Service" means your employment with the Company and its Affiliates. Your Service will be considered to have ceased with the Company and its Affiliates if, immediately after a sale, merger, or other corporate transaction, the trade, business, or entity with which you are employed or otherwise have a service relationship is not Axogen, Inc., or its successor or an Affiliate of Axogen, Inc. or its successor.

(h) "You" or "Your" means the recipient of the RSUs as reflected on the applicable Notice. Whenever the word "you" or "your" is used in any provision of this Agreement under circumstances where the provision should logically be construed, as determined by the Administrator, to apply to the estate, personal representative, or beneficiary to whom the RSUs may be transferred by will or by the laws of descent and distribution, the words "you" and "your" shall be deemed to include such person.

{End of Agreement}

[2] Notice period to be 12 months for CEO and CFO and 6 months for other VPs and above eligible for post-retirement vesting.

Certain information has been omitted in accordance with Item 601(b)(10) of Regulation S-K because it is both not material and is the type of information that the registrant treats as private or confidential. An unredacted copy will be furnished supplementally to the SEC upon request.

AXOGEN, INC.

PERFORMANCE-BASED RESTRICTED STOCK UNITS NOTICE
UNDER THE
AXOGEN, INC.
AMENDED AND RESTATED 2019 LONG-TERM INCENTIVE PLAN

Name of Grantee: _____

This Notice evidences the award of performance-based restricted stock units (each, an "PSU," and collectively, the "PSUs") of Axogen, Inc., a Minnesota corporation (the "Company"), that have been granted to you pursuant to the Axogen, Inc. Amended and Restated 2019 Long-Term Incentive Plan (the "Plan") and conditioned upon your agreement to the terms of the attached Restricted Stock Units Agreement (the "Agreement"). This Notice constitutes part of and is subject to the terms and provisions of the Agreement and the Plan, which are incorporated by reference herein. Each PSU is equivalent in value to one share of the Company's Common Stock and represents the Company's commitment to issue one share of the Company's Common Stock at a future date, subject to the terms of the Agreement and the Plan. The PSUs are credited to a separate account maintained for you on the books and records of the Company (the "Account"). All amounts credited to the Account will continue for all purposes to be part of the general assets of the Company.

Grant Date:

Performance Period: Set forth on Exhibit A

Target Number of PSUs: ##,###

Performance-Based PSUs: The Target Number of PSUs stated above reflects the target number of PSUs that may vest pursuant to this Notice and the Agreement. The number of Restricted Stock Units ultimately paid out to you will range from 0% to 200% of the Target Number of PSUs as determined (i) by the formulas and terms contained on the attached Exhibit A and (ii) based upon the Company's achievement of certain performance goals during the applicable performance measurement period described below under "Performance-Based Vesting Schedule" occurring during the Performance Period (the "Performance Goals").

Performance-Based Vesting Schedule: All of the PSUs are nonvested and forfeitable as of the Grant Date. the Target Number of PSUs will be eligible to vest with respect to the Performance Period in accordance with the formulas and terms set forth on Exhibit A, (i) subject to the achievement of the Performance Goals as set forth on Exhibit A and as determined by the Committee in its sole discretion and (ii) and provided that your Service (as defined in the Agreement) is continuous from the Grant Date through the Certification Date, except as otherwise set forth on Exhibit A or in the Agreement.

"Certification Date" means the date on which the Committee certifies whether the Performance Goals for the full Performance Period have been met. The Certification Date with respect to the Performance Period as a whole will be no earlier than February 22nd and no later than March 31st of the calendar year in which the Performance Period ends.

Vesting Upon Termination of Service: The following shall apply if your Service terminates during the Performance Period:

(i) Upon the termination of your Service during the Performance Period for any reason other than due to your Qualified Retirement that satisfies the requirements of Section 4 of the Agreement, none of the Target Number of PSUs will be eligible to vest during the Performance Period.

(ii) Upon termination of your Service during the Performance Period due to a Qualified Retirement that satisfies the requirements of Section 4 of the Agreement, the PSUs will be subject to the terms of Section 4 of the Agreement.

In addition, you hereby agree that, notwithstanding the terms of any employment agreement, employment offer letter, severance agreement or other severance arrangements between you and the Company or any of its Affiliates (each, a "Severance Arrangement"), the PSUs shall not be subject to any additional acceleration of vesting pursuant to the terms of any Severance Arrangement or any subsequent severance plan or arrangement adopted by or implemented by the Company or any of its Affiliates or any of their successors.

Vesting Upon a Change in Control: Notwithstanding anything to the contrary in this Notice or the Agreement, if you remain in continuous Service until the closing of a Change in Control:

(i) the Target Number of PSUs eligible to vest during the Performance Period will vest based on actual performance as determined in accordance with Exhibit A, effective as of immediately prior to the closing of the Change in Control.

Axogen, Inc. Date

I acknowledge that I have carefully read the Agreement and the prospectus for the Plan. I agree to be bound by all of the provisions set forth in those documents. I also consent to electronic delivery of all notices or other information with respect to the PSUs or the Company.

Signature of Grantee Date

AXOGEN, INC.

PERFORMANCE-BASED RESTRICTED STOCK UNITS AGREEMENT
UNDER THE
AXOGEN, INC.
AMENDED AND RESTATED 2019 LONG-TERM INCENTIVE PLAN

1. Terminology. Unless otherwise provided in this Agreement, capitalized terms used herein are defined in the Glossary at the end of this Agreement.

2. Vesting. All of the PSUs are nonvested and forfeitable as of the Grant Date. The PSUs will become vested and nonforfeitable in accordance with the vesting terms and conditions set forth in the Notice. Except for the circumstances, if any, described in the Notice, or as otherwise provided in Section 4 below, none of the PSUs will become vested and nonforfeitable after your Service ceases. Any PSUs that do not satisfy the Performance Goals during the Performance Period, unless forfeited earlier, will be forfeited immediately upon the Certification Date for the full Performance Period upon which the Committee determines that such Performance Goals have not been achieved.

3. Termination of Service. Except as otherwise provided in Section 4 below, or as otherwise provided in the Notice, if your Service with the Company ceases for any reason, all PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon such cessation without payment of any consideration therefor and you will have no further right, title or interest in or to such PSUs or the underlying shares of Common Stock.

4. Qualified Retirement. If your title with the Company as of the Grant Date of the PSUs is Vice President or above, in the event your Service with the Company ceases by reason of a Qualified Retirement during the Performance Period, and such Qualified Retirement occurs on a date that is at least six (6) months following the Grant Date, (i) if you have at least ten (10) years of continuous Service but less than fifteen (15) years of continuous Service as of the date of your Qualified Retirement, then the Target Number of PSUs will continue to be eligible to become vested and nonforfeitable based on actual performance in accordance with the vesting schedule set forth in the Notice; provided, that the Target Number of PSUs that are eligible to vest shall be pro-rated based on the number of days of your Service in the Performance Period (and for the avoidance of doubt, any pro-rated amount for a partial Calendar Year during which the Qualified Retirement occurs will be eligible to vest based on actual performance for such Calendar Year), and (ii) if you have at least fifteen (15) years of continuous Services as of the date of your Qualified Retirement, then the full Target Number of PSUs will continue to be eligible to become vested and nonforfeitable during the Performance Period based on actual performance in accordance with the vesting schedule set forth in the Notice. Notwithstanding the foregoing, all vesting shall cease and any remaining PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon your death.

5. Restrictions on Transfer. To the extent permitted under Section 9(b) of the Plan, neither this Agreement nor any of the PSUs may be assigned, transferred, pledged, hypothecated or disposed of in any way, whether by operation of law or otherwise, and the PSUs shall not be subject to execution, attachment or similar process. All rights with respect to this Agreement and the PSUs shall be exercisable during your lifetime only by you or your guardian or legal representative. Notwithstanding the foregoing, the PSUs, to the extent outstanding, may be transferred upon your death by last will and testament or under the laws of descent and distribution.

6. Settlement of PSUs.

(a) Manner of Settlement. You are not required to make any monetary payment (other than applicable tax withholding, if required) as a condition to settlement of the PSUs. The Company will issue to you, in settlement of your PSUs and subject to the provisions of Section 7 below, the number of whole shares of Common Stock that equals the number of whole PSUs that become vested, and such vested PSUs will terminate and cease to be outstanding upon such issuance of the shares. Upon issuance

of such shares, the Company will determine the form of delivery (e.g., a stock certificate or electronic entry evidencing such shares) and may deliver such shares on your behalf electronically to the Company's designated stock plan administrator or such other broker-dealer as the Company may choose at its sole discretion, within reason.

(b) Timing of Settlement. Your PSUs, to the extent vested, will be settled by the Company, via the issuance of Common Stock as described herein, during the Calendar Year immediately following the end of the Performance Period, within the first ninety (90) days of such Calendar Year (the "Issuance Date"). In no event will you be permitted, directly or indirectly, to designate the Issuance Date. However, if a scheduled Issuance Date falls on a Saturday, Sunday or federal holiday, such Issuance Date shall instead fall on the next following day that the principal executive offices of the Company are open for business. Notwithstanding the foregoing, in the event that (i) you are subject to the Company's policy permitting officers and directors to sell shares only during certain "window" periods, in effect from time to time or you are otherwise prohibited from selling shares of the Company's Common Stock in the public market and any shares covered by your PSUs are scheduled to be issued on a day (the "Original Distribution Date") that does not occur during an open "window period" applicable to you, as determined by the Company in accordance with such policy, or does not occur on a date when you are otherwise permitted to sell shares of the Company's Common Stock in the open market, and (ii) the Company elects not to satisfy its tax withholding obligations by withholding shares from your distribution, then, solely to the extent permitted by Section 409A (as defined below), such shares shall not be issued and delivered on such Original Distribution Date and shall instead be issued and delivered on the first business day of the next occurring open "window period" applicable to you pursuant to such policy (regardless of whether you are still providing continuous services at such time) or the next business day when you are not prohibited from selling shares of the Company's Common Stock in the open market, but in no event later than December 31st of the calendar year in which the Issuance Date occurs.

7. Tax Withholding. On or before the time you receive a distribution of the shares subject to your PSUs, or at any time thereafter as requested by the Company, you hereby authorize any required withholding from the Common Stock issuable to you and/or otherwise agree to make adequate provision in cash for any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or any Affiliate which arise in connection with your PSUs (the "Withholding Taxes"). Additionally, the Company may, in its sole discretion, satisfy all or any portion of the Withholding Taxes obligation relating to your PSUs by any of the following means or by a combination of such means: (i) withholding from any compensation otherwise payable to you by the Company; (ii) causing you to tender a cash payment; (iii) permitting you to enter into a "same day sale" commitment with a broker-dealer that is a member of the Financial Industry Regulatory Authority (a "FINRA Dealer") whereby you irrevocably elect to sell a portion of the shares to be delivered under the Agreement to satisfy the Withholding Taxes and whereby the FINRA Dealer irrevocably commits to forward the proceeds necessary to satisfy the Withholding Taxes directly to the Company; or (iv) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to you in connection with the PSUs with a Fair Market Value (measured as of the date shares of Common Stock are issued to you pursuant to Section 6 of this Agreement) equal to the amount of such Withholding Taxes; provided, however, that the number of such shares of Common Stock so withheld shall not exceed, by more than the Fair Market Value of one share of Common Stock, the amount necessary to satisfy the Company's required tax withholding obligations using the minimum statutory withholding rates for federal, state, local and foreign tax purposes, including payroll taxes, that are applicable to supplemental taxable income. Unless the tax withholding obligations of the Company and/or any Affiliate are satisfied, the Company shall have no obligation to deliver to you any Common Stock. In the event the Company's obligation to withhold arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Company's withholding obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

8. Adjustments for Corporate Transactions and Other Events.

(a) Stock Dividend, Stock Split and Reverse Stock Split. Upon a stock dividend of, or stock split or reverse stock split affecting, the Common Stock, the number of outstanding PSUs shall,

without further action of the Administrator, be adjusted to reflect such event; provided, however, that any fractional PSUs resulting from any such adjustment shall be eliminated. Adjustments under this paragraph will be made by the Administrator, whose determination as to what adjustments, if any, will be made and the extent thereof will be final, binding and conclusive.

(b) Merger, Consolidation and Other Events. If the Company shall be the surviving or resulting corporation in any merger or consolidation and the Common Stock shall be converted into other securities, the PSUs shall pertain to and apply to the securities to which a holder of the number of shares of Common Stock subject to the PSUs would have been entitled. If the stockholders of the Company receive by reason of any distribution in total or partial liquidation or pursuant to any merger of the Company or acquisition of its assets, securities of another entity or other property (including cash), then the rights of the Company under this Agreement shall inure to the benefit of the Company's successor, and this Agreement shall apply to the securities or other property (including cash) to which a holder of the number of shares of Common Stock subject to the PSUs would have been entitled, in the same manner and to the same extent as the PSUs.

9. Non-Guarantee of Employment or Service Relationship. Nothing in the Plan or this Agreement shall alter your at-will or other employment status or other service relationship with the Company, nor be construed as a contract of employment or service relationship between the Company and you, or as a contractual right of you to continue in the employ of, or in a service relationship with, the Company for any period of time, or as a limitation of the right of the Company to discharge you at any time with or without cause or notice and whether or not such discharge results in the forfeiture of any nonvested and forfeitable PSUs or any other adverse effect on your interests under the Plan.

10. Rights as Stockholder. You shall not have any of the rights of a stockholder with respect to any shares of Common Stock that may be issued in settlement of the PSUs until such shares of Common Stock have been issued to you. No adjustment shall be made for dividends, distributions, or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 10 of the Plan and Section 6 of this Agreement.

11. The Company's Rights. The existence of the PSUs shall not affect in any way the right or power of the Company or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issue of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of the Company's assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

12. Restrictions on Issuance of Shares. The issuance of shares of Common Stock upon settlement of the PSUs shall be subject to and in compliance with all applicable requirements of federal, state, or foreign law with respect to such securities. No shares of Common Stock may be issued hereunder if the issuance of such shares would constitute a violation of any applicable federal, state, or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Common Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance of any shares subject to the PSUs shall relieve the Company of any liability in respect of the failure to issue such shares as to which such requisite authority shall not have been obtained. As a condition to the settlement of the PSUs, the Company may require you to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Company.

13. Restrictive Covenants. You hereby agree to the following restrictive covenants as consideration of the grant of the PSUs:

(a) You hereby agree and acknowledge that the grant of the PSUs is conditioned upon your continued compliance with any and all confidentiality, non-compete and/or non-solicitation covenants and restrictions contained in any separate agreement between you and the Company, and if you breach any of such covenants or restrictions, upon written notice delivered to you: (i) the entirety of the Company's obligations under this Agreement and the Plan shall terminate in their entirety, (ii) all PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically, and (iii) you shall have no further rights or privileges under this Agreement or the Plan

14. Notices. All notices and other communications made or given pursuant to this Agreement shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company, or in the case of notices delivered to the Company by you, addressed to the Administrator, care of the Company for the attention of its Secretary at its principal executive office or, in either case, if the receiving party consents in advance, transmitted and received via telecopy or via such other electronic transmission mechanism as may be available to the parties. Notwithstanding the foregoing, the Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and this award of PSUs by electronic means or to request your consent to participate in the Plan or accept this award of PSUs by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, to agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

15. Entire Agreement. This Agreement, together with the relevant Notice and the Plan, contain the entire agreement between the parties with respect to the PSUs granted hereunder. Any oral or written agreements, representations, warranties, written inducements, or other communications made prior to the execution of this Agreement with respect to the PSUs granted hereunder shall be void and ineffective for all purposes.

16. Amendment. This Agreement may be amended from time to time by the Administrator in its discretion; provided, however, that this Agreement may not be modified in a manner that would have a materially adverse effect on the PSUs as determined in the discretion of the Administrator, except as provided in the Plan or in a written document signed by each of the parties hereto.

17. 409A Savings Clause. This Agreement and the PSUs granted hereunder are intended to be exempt from or comply with the requirements of Section 409A of the Code and the regulations and IRS guidance promulgated thereunder ("Section 409A"). In administering this Agreement, the Company shall interpret this Agreement in a manner consistent with Section 409A. To the extent necessary to comply with Section 409A, if you are a "Specified Employee" (within the meaning set forth Section 409A(a)(2)(B)(i) of the Code) as of the date of your separation from service (within the meaning of Treasury Regulation Section 1.409A-1(h)), then the issuance of any shares that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the date that is six (6) months and one day after the date of the separation from service, but if and only if such delay in the issuance of the shares is necessary to avoid the imposition of additional taxation on you in respect of the shares under Section 409A of the Code. Each installment of shares that vests is intended to constitute a "separate payment" for purposes of Section 409A and Treasury Regulation Section 1.409A-2(b)(2). For purposes of Section 409A, the payment of dividend equivalents under this Agreement, if any, shall be construed as earnings and the time and form of payment of such dividend equivalents shall be treated separately from the time and form of payment of the underlying PSUs.

18. No Obligation to Minimize Taxes. The Company has no duty or obligation to minimize the tax consequences to you of this award of PSUs and shall not be liable to you for any adverse tax consequences to you arising in connection with this award. You are hereby advised to consult with your own personal tax, financial and/or legal advisors regarding the tax consequences of this award and by signing the Notice, you have agreed that you have done so or knowingly and voluntarily declined to do so.

19. Conformity with Plan. This Agreement is intended to conform in all respects with, and is subject to all applicable provisions of, the Plan. Inconsistencies between this Agreement and the Plan shall be resolved in accordance with the terms of the Plan. In the event of any ambiguity in this Agreement or any matters as to which this Agreement is silent, the Plan shall govern. A copy of the Plan is available upon request to the Administrator.

20. No Funding. This Agreement constitutes an unfunded and unsecured promise by the Company to issue shares of Common Stock in the future in accordance with its terms. You have the status of a general unsecured creditor of the Company as a result of receiving the grant of PSUs.

21. Effect on Other Employee Benefit Plans. The value of the PSUs subject to this Agreement shall not be included as compensation, earnings, salaries, or other similar terms used when calculating your benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

22. Governing Law. The validity, construction and effect of this Agreement, and of any determinations or decisions made by the Administrator relating to this Agreement, and the rights of any and all persons having or claiming to have any interest under this Agreement, shall be determined exclusively in accordance with the laws of the State of Minnesota, without regard to its provisions concerning the applicability of laws of other jurisdictions. As a condition of this Agreement, you agree that you will not bring any action arising under, as a result of, pursuant to or relating to, this Agreement in any court other than a federal or state court in the districts which include New Jersey, and you hereby agree and submit to the personal jurisdiction of any federal court located in the district which includes New Jersey or any state court in the district which includes New Jersey. You further agree that you will not deny or attempt to defeat such personal jurisdiction or object to venue by motion or other request for leave from any such court.

23. Resolution of Disputes. Any dispute or disagreement which shall arise under, or as a result of, or pursuant to or relating to, this Agreement shall be determined by the Administrator in good faith in its absolute and uncontrolled discretion, and any such determination or any other determination by the Administrator under or pursuant to this Agreement and any interpretation by the Administrator of the terms of this Agreement, will be final, binding and conclusive on all persons affected thereby. You agree that before you may bring any legal action arising under, as a result of, pursuant to or relating to, this Agreement you will first exhaust your administrative remedies before the Administrator. You further agree that in the event that the Administrator does not resolve any dispute or disagreement arising under, as a result of, pursuant to or relating to, this Agreement to your satisfaction, no legal action may be commenced or maintained relating to this Agreement more than twenty-four (24) months after the Administrator's decision.

24. Headings. The headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

25. Electronic Delivery of Documents. By your signing the Notice, you (i) consent to the electronic delivery of this Agreement, all information with respect to the Plan and the PSUs, and any reports of the Company provided generally to the Company's stockholders; (ii) acknowledge that you may receive from the Company a paper copy of any documents delivered electronically at no cost to you by contacting the Company by telephone or in writing; (iii) further acknowledge that you may revoke your consent to the electronic delivery of documents at any time by notifying the Company of such revoked consent by telephone, postal service or electronic mail; and (iv) further acknowledge that you understand that you are not required to consent to electronic delivery of documents.

26. No Future Entitlement. By your signing the Notice, you acknowledge and agree that: (i) the grant of a restricted stock unit award is a one-time benefit which does not create any contractual or other right to receive future grants of restricted stock units, or compensation in lieu of restricted stock units, even if restricted stock units have been granted repeatedly in the past; (ii) all determinations with respect to any such future grants and the terms thereof will be at the sole discretion of the Committee; (iii) the value of the restricted stock units is an extraordinary item of compensation which is outside the scope of your

employment contract, if any; (iv) the value of the restricted stock units is not part of normal or expected compensation or salary for any purpose, including, but not limited to, calculating any termination, severance, resignation, redundancy, end of service payments or similar payments, or bonuses, long-service awards, pension or retirement benefits; (v) the vesting of the restricted stock units ceases upon termination of Service with the Company or transfer of employment from the Company, or other cessation of eligibility for any reason, except as may otherwise be explicitly provided in this Agreement; (vi) the Company does not guarantee any future value of the restricted stock units; and (vii) no claim or entitlement to compensation or damages arises if the restricted stock units decrease or do not increase in value and you irrevocably release the Company from any such claim that does arise.

27. Personal Data. For purposes of the implementation, administration and management of the restricted stock units or the effectuation of any acquisition, equity or debt financing, joint venture, merger, reorganization, consolidation, recapitalization, business combination, liquidation, dissolution, share exchange, sale of stock, sale of material assets or other similar corporate transaction involving the Company (a "Corporate Transaction"), you consent, by execution of the Notice, to the collection, receipt, use, retention and transfer, in electronic or other form, of your personal data by and among the Company and its third party vendors or any potential party to a potential Corporate Transaction. You understand that personal data (including but not limited to, name, home address, telephone number, employee number, employment status, social security number, tax identification number, date of birth, nationality, job and payroll location, data for tax withholding purposes and shares awarded, cancelled, vested and unvested) may be transferred to third parties assisting in the implementation, administration and management of the restricted stock units or the effectuation of a Corporate Transaction and you expressly authorize such transfer as well as the retention, use, and the subsequent transfer of the data by the recipient(s). You understand that these recipients may be located in your country or elsewhere, and that the recipient's country may have different data privacy laws and protections than your country. You understand that data will be held only as long as is necessary to implement, administer and manage the restricted stock units or effect a Corporate Transaction. You understand that you may, at any time, request a list with the names and addresses of any potential recipients of the personal data, view data, request additional information about the storage and processing of data, require any necessary amendments to data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company's Secretary. You understand, however, that refusing or withdrawing your consent may affect your ability to accept a restricted stock unit award.

{Glossary begins on next page}

GLOSSARY

(a) "Administrator" means the Board of Directors of Axogen, Inc. or such committee or committees appointed by the Board to administer the Plan.

(b) "Affiliate" means any entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with Axogen, Inc. (including but not limited to joint ventures, limited liability companies, and partnerships). For this purpose, "control" means ownership or more of the total combined voting power or value of all classes of stock or interests of the entity.

(c) "Agreement" means this document, as amended from time to time, together with the Notice and the Plan which are incorporated herein by reference.

(d) "Cause" has the meaning ascribed to such term or words of similar import in your written employment or service contract with the Company as in effect at the time at issue and, in the absence of such agreement or definition, means your (i) conviction of, or plea of nolo contendere to, a felony or crime involving moral turpitude; (ii) fraud on or misappropriation of any funds or property of the Company, any affiliate, customer or vendor; (iii) personal dishonesty, incompetence, willful misconduct, willful violation of any law, rule or regulation (other than minor traffic violations or similar offenses) or breach of fiduciary duty which involves personal profit; (iv) willful misconduct in connection with your duties or willful failure to perform your responsibilities in the best interests of the Company; (v) illegal use or distribution of drugs; (vi) violation of any Company rule, regulation, procedure or policy; or (vii) breach of any provision of any employment, non-disclosure, non-competition, non-solicitation or other similar agreement executed by you for the benefit of the Company, all as determined by the Administrator, which determination will be conclusive.

(e) "Change in Control" has the meaning set forth in the Plan.

(f) "Code" means the Internal Revenue Code of 1986, as amended, and the Treasury regulations and other guidance promulgated thereunder.

(g) "Common Stock" means the common stock, US$.01 par value per share, of Axogen, Inc.

(h) "Company" means Axogen, Inc. and its Affiliates, except where the context otherwise requires. For purposes of determining whether a Change in Control has occurred, Company shall mean only Axogen, Inc.

(i) "Fair Market Value" has the meaning set forth in the Plan. The Plan generally defines Fair Market Value to mean the closing price per share of Common Stock on the relevant date on the principal exchange or market on which the Common Stock is then listed or admitted to trading or, if no sale is reported for that date, the last preceding Business Day on which a sale was reported.

(j) "Grant Date" means the effective date of a grant of PSUs made to you as set forth in the relevant Notice.

(k) "Notice" means the statement, letter or other written notification provided to you by the Company setting forth the terms of a grant of PSUs made to you.

(l) "Plan" means the Axogen Amended and Restated 2019 Long-Term Incentive Plan, as amended from time to time.

(m) "Qualified Retirement" means the termination of your Service after attainment of age sixty (60) with at least ten (10) years of continuous Service, provided that: (i) as a Vice-President or above, if you elect to terminate your Service voluntarily, you have provided the Company with at least [six (6) / twelve

(12)][1] months' advance notice of your retirement date or such other term of advance notice as is determined by the Chief Human Resources Officer of the Company; (ii) as a Vice-President or above, if the Company elected to terminate your Service, such termination is without Cause and (iii) during the three (3) years prior to the year in which such termination of Service occurs, you have maintained consistent historical performance reviews.

(n) "PSU" means the Company's commitment to issue one share of Common Stock at a future date, subject to the terms of the Agreement and the Plan.

(o) "Service" means your employment, service as a non-executive director, or other service relationship with the Company and its Affiliates. Your Service will be considered to have ceased with the Company and its Affiliates if, immediately after a sale, merger, or other corporate transaction, the trade, business, or entity with which you are employed or otherwise have a service relationship is not Axogen, Inc., or its successor or an Affiliate of Axogen, Inc. or its successor.

(p) "You" or "Your" means the recipient of the PSUs as reflected on the applicable Notice. Whenever the word "you" or "your" is used in any provision of this Agreement under circumstances where the provision should logically be construed, as determined by the Administrator, to apply to the estate, personal representative, or beneficiary to whom the PSUs may be transferred by will or by the laws of descent and distribution, the words "you" and "your" shall be deemed to include such person.

{End of Agreement}

[1] Notice period to be 12 months for CEO and CFO and 6 months for other VPs and above eligible for post-retirement vesting.

Exhibit A

Terms of Performance Restricted Stock Units
Performance Vesting

Performance Period and Allocation of Target Number of PSUs

The Performance Period is the three Calendar Year period beginning February 22, 2024 and ending February 22, 2027.

Calculation of Actual PSU Vesting

Continued Service Through Performance Period

If you remain in continuous Service through the end of the Performance Period, the actual number of PSUs that vest during the Performance Period will be calculated on the Certification Date at the end of the Performance Period and will equal:

(x) the Target Number of PSUs; multiplied by

(y) Payout Percentage.

The Payout Percentage will be determined based on the Company's Closing Average Share Price during the Performance Period as follows, with linear interpolation for Closing Average Share Price achievement in between performance levels:

[REDACTED]

"Closing Average Share Price" means the average Share Price over the 30 trading days immediately preceding the end of the Performance Period.

"Share Price" means, with respect to a given trading day, the closing price of the Company's Common Stock for such trading day.

The total number of PSUs that will vest will be rounded down to the nearest whole PSU.

However, notwithstanding the foregoing, the number of PSUs vesting under this Agreement will under no circumstance exceed 100% of the Target Number of PSUs unless and until the Company obtains stockholder approval of an amendment to the Plan to sufficiently increase the number of shares of Common Stock issuable under the Plan to cover such increased number of shares of Common Stock being used to settle PSUs vesting in an amount greater than 100% of the Target Number of PSUs. If the Company does not obtain such a stockholder approval of an amendment to the Plan, then the maximum number of PSUs eligible to be paid out to you under this Agreement will be 100% of the Target Number of PSUs and you will not be entitled to any additional shares or consideration if the Payout Percentage is above 100%.

Termination of Service During Performance Period

If your Service terminates during the Performance Period for any reason other than due to a Qualified Retirement, none of your PSUs shall vest and you shall forfeit your PSUs in their entirety.
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If your Service terminates during the Performance Period due to a Qualified Retirement, the PSUs will remain eligible to vest as set forth in Section 4 of the Agreement.

Occurrence of a Change in Control During Performance Period

If the closing of a Change in Control occurs during the Performance Period, subject to the terms of the Notice and your Service through the closing of such Change in Control, you will be eligible to vest in the PSUs based on actual performance, effective as of the closing of the Change in Control. For purposes of calculating Closing Average Share Price and, accordingly, the Payout Percentage, the Closing Average Share Price will be calculated based on the price per share paid in respect of a share of Common Stock in the Change in Control, with any contingent consideration, including contingent value rights, received by holders of shares of Common Stock valued as if the contingency was achieved in full.

Certain information has been omitted in accordance with Item 601(b)(10) of Regulation S-K because it is both not material and is the type of information that the registrant treats as private or confidential. An unredacted copy will be furnished supplementally to the SEC upon request.

AXOGEN, INC.

PERFORMANCE-BASED RESTRICTED STOCK UNITS NOTICE
UNDER THE
AXOGEN, INC.
AMENDED AND RESTATED 2019 LONG-TERM INCENTIVE PLAN

Name of Grantee: _____

This Notice evidences the award of performance-based restricted stock units (each, an "PSU," and collectively, the "PSUs") of Axogen, Inc., a Minnesota corporation (the "Company"), that have been granted to you pursuant to the Axogen, Inc. Amended and Restated 2019 Long-Term Incentive Plan (the "Plan") and conditioned upon your agreement to the terms of the attached Restricted Stock Units Agreement (the "Agreement"). This Notice constitutes part of and is subject to the terms and provisions of the Agreement and the Plan, which are incorporated by reference herein. Each PSU is equivalent in value to one share of the Company's Common Stock and represents the Company's commitment to issue one share of the Company's Common Stock at a future date, subject to the terms of the Agreement and the Plan. The PSUs are credited to a separate account maintained for you on the books and records of the Company (the "Account"). All amounts credited to the Account will continue for all purposes to be part of the general assets of the Company.

Grant Date:

Performance Period: Set forth on Exhibit A

Target Number of PSUs: ##,###

Performance-Based PSUs: The Target Number of PSUs stated above reflects the target number of PSUs that may vest pursuant to this Notice and the Agreement. The number of Restricted Stock Units ultimately paid out to you will range from 0% to 100% of the Target Number of PSUs as determined based on the terms contained on the attached Exhibit A and based upon the Company's achievement of certain performance goals (the "Performance Goals").

"Certification Date" means the date on which the Committee certifies whether the Performance Goals have been met.

Vesting Upon Termination of Service: The following shall apply if your Service terminates during the Performance Period:

(i) Upon the termination of your Service during the Performance Period for any reason other than due to your Qualified Retirement that satisfies the requirements of Section 4 of the Agreement, none of the Target Number of PSUs will be eligible to vest.

(ii) Upon termination of your Service during the Performance Period due to a Qualified Retirement that satisfies the requirements of Section 4 of the Agreement, the PSUs will be subject to the terms of Section 4 of the Agreement.

In addition, you hereby agree that, notwithstanding the terms of any employment agreement, employment offer letter, severance agreement or other severance arrangements between you and the Company or any of its Affiliates (each, a "Severance Arrangement"), the PSUs shall not be

subject to any additional acceleration of vesting pursuant to the terms of any Severance Arrangement or any subsequent severance plan or arrangement adopted by or implemented by the Company or any of its Affiliates or any of their successors.

Vesting Upon a Change in Control: Notwithstanding anything to the contrary in this Notice or the Agreement, if you remain in continuous Service until the closing of a Change in Control, the Target Number of PSUs eligible to vest during the Performance Period before the closing of the Change in Control will be determined by the Committee in its sole discretion in accordance with Exhibit A, effective as of immediately prior to the closing of the Change in Control.

Axogen, Inc. Date

I acknowledge that I have carefully read the Agreement and the prospectus for the Plan. I agree to be bound by all of the provisions set forth in those documents. I also consent to electronic delivery of all notices or other information with respect to the PSUs or the Company.

Signature of Grantee Date

AXOGEN, INC.

PERFORMANCE-BASED RESTRICTED STOCK UNITS AGREEMENT
UNDER THE
AXOGEN, INC.
AMENDED AND RESTATED 2019 LONG-TERM INCENTIVE PLAN

1. Terminology. Unless otherwise provided in this Agreement, capitalized terms used herein are defined in the Glossary at the end of this Agreement.

2. Vesting. All of the PSUs are nonvested and forfeitable as of the Grant Date. The PSUs will become vested and nonforfeitable in accordance with the vesting terms and conditions set forth in the Notice. Except for the circumstances, if any, described in the Notice, or as otherwise provided in Section 4 below, none of the PSUs will become vested and nonforfeitable after your Service ceases. Any PSUs that do not satisfy the Performance Goals during the Performance Period, unless forfeited earlier, will be forfeited immediately upon the Certification Date for the full Performance Period upon which the Committee determines that such Performance Goals have not been achieved.

3. Termination of Service. Except as otherwise provided in Section 4 below, or as otherwise provided in the Notice, if your Service with the Company ceases for any reason, all PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon such cessation without payment of any consideration therefor and you will have no further right, title or interest in or to such PSUs or the underlying shares of Common Stock.

4. Qualified Retirement. If your title with the Company as of the Grant Date of the PSUs is Vice President or above, in the event your Service with the Company ceases by reason of a Qualified Retirement during the Performance Period, and such Qualified Retirement occurs on a date that is at least six (6) months following the Grant Date, (i) if you have at least ten (10) years of continuous Service but less than fifteen (15) years of continuous Service as of the date of your Qualified Retirement, then the Target Number of PSUs will continue to be eligible to become vested and nonforfeitable based on actual performance in accordance with the vesting schedule set forth in the Notice; provided, that the Target Number of PSUs that are eligible to vest shall be pro-rated based on the number of days of your Service in the Performance Period (and for the avoidance of doubt, any pro-rated amount for a partial Calendar Year during which the Qualified Retirement occurs will be eligible to vest based on actual performance for such Calendar Year), and (ii) if you have at least fifteen (15) years of continuous Services as of the date of your Qualified Retirement, then the full Target Number of PSUs will continue to be eligible to become vested and nonforfeitable during the Performance Period based on actual performance in accordance with the vesting schedule set forth in the Notice. Notwithstanding the foregoing, all vesting shall cease and any remaining PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically upon your death.

5. Restrictions on Transfer. To the extent permitted under Section 9(b) of the Plan, neither this Agreement nor any of the PSUs may be assigned, transferred, pledged, hypothecated or disposed of in any way, whether by operation of law or otherwise, and the PSUs shall not be subject to execution, attachment or similar process. All rights with respect to this Agreement and the PSUs shall be exercisable during your lifetime only by you or your guardian or legal representative. Notwithstanding the foregoing, the PSUs, to the extent outstanding, may be transferred upon your death by last will and testament or under the laws of descent and distribution.

6. Settlement of PSUs.

(a) Manner of Settlement. You are not required to make any monetary payment (other than applicable tax withholding, if required) as a condition to settlement of the PSUs. The Company will issue to you, in settlement of your PSUs and subject to the provisions of Section 7 below, the number of whole shares of Common Stock that equals the number of whole PSUs that become vested, and such vested PSUs will terminate and cease to be outstanding upon such issuance of the shares. Upon issuance

of such shares, the Company will determine the form of delivery (e.g., a stock certificate or electronic entry evidencing such shares) and may deliver such shares on your behalf electronically to the Company's designated stock plan administrator or such other broker-dealer as the Company may choose at its sole discretion, within reason.

(b) Timing of Settlement. Your PSUs, to the extent vested, will be settled by the Company, via the issuance of Common Stock as described herein, within thirty (30) days following the Certification Date on which the Committee certifies that a Performance Goal has been met and that a tranche of PSUs have vested (the "Issuance Date"). In no event will you be permitted, directly or indirectly, to designate the Issuance Date. However, if a scheduled Issuance Date falls on a Saturday, Sunday or federal holiday, such Issuance Date shall instead fall on the next following day that the principal executive offices of the Company are open for business. Notwithstanding the foregoing, in the event that (i) you are subject to the Company's policy permitting officers and directors to sell shares only during certain "window" periods, in effect from time to time or you are otherwise prohibited from selling shares of the Company's Common Stock in the public market and any shares covered by your PSUs are scheduled to be issued on a day (the "Original Distribution Date") that does not occur during an open "window period" applicable to you, as determined by the Company in accordance with such policy, or does not occur on a date when you are otherwise permitted to sell shares of the Company's Common Stock in the open market, and (ii) the Company elects not to satisfy its tax withholding obligations by withholding shares from your distribution, then, solely to the extent permitted by Section 409A (as defined below), such shares shall not be issued and delivered on such Original Distribution Date and shall instead be issued and delivered on the first business day of the next occurring open "window period" applicable to you pursuant to such policy (regardless of whether you are still providing continuous services at such time) or the next business day when you are not prohibited from selling shares of the Company's Common Stock in the open market, but in no event later than December 31st of the calendar year in which the Issuance Date occurs.

7. Tax Withholding. On or before the time you receive a distribution of the shares subject to your PSUs, or at any time thereafter as requested by the Company, you hereby authorize any required withholding from the Common Stock issuable to you and/or otherwise agree to make adequate provision in cash for any sums required to satisfy the federal, state, local and foreign tax withholding obligations of the Company or any Affiliate which arise in connection with your PSUs (the "Withholding Taxes"). Additionally, the Company may, in its sole discretion, satisfy all or any portion of the Withholding Taxes obligation relating to your PSUs by any of the following means or by a combination of such means: (i) withholding from any compensation otherwise payable to you by the Company; (ii) causing you to tender a cash payment; (iii) permitting you to enter into a "same day sale" commitment with a broker-dealer that is a member of the Financial Industry Regulatory Authority (a "FINRA Dealer") whereby you irrevocably elect to sell a portion of the shares to be delivered under the Agreement to satisfy the Withholding Taxes and whereby the FINRA Dealer irrevocably commits to forward the proceeds necessary to satisfy the Withholding Taxes directly to the Company; or (iv) withholding shares of Common Stock from the shares of Common Stock issued or otherwise issuable to you in connection with the PSUs with a Fair Market Value (measured as of the date shares of Common Stock are issued to you pursuant to Section 6 of this Agreement) equal to the amount of such Withholding Taxes; provided, however, that the number of such shares of Common Stock so withheld shall not exceed, by more than the Fair Market Value of one share of Common Stock, the amount necessary to satisfy the Company's required tax withholding obligations using the minimum statutory withholding rates for federal, state, local and foreign tax purposes, including payroll taxes, that are applicable to supplemental taxable income. Unless the tax withholding obligations of the Company and/or any Affiliate are satisfied, the Company shall have no obligation to deliver to you any Common Stock. In the event the Company's obligation to withhold arises prior to the delivery to you of Common Stock or it is determined after the delivery of Common Stock to you that the amount of the Company's withholding obligation was greater than the amount withheld by the Company, you agree to indemnify and hold the Company harmless from any failure by the Company to withhold the proper amount.

8. Adjustments for Corporate Transactions and Other Events.

(a) Stock Dividend, Stock Split and Reverse Stock Split. Upon a stock dividend of, or stock split or reverse stock split affecting, the Common Stock, the number of outstanding PSUs shall,

without further action of the Administrator, be adjusted to reflect such event; provided, however, that any fractional PSUs resulting from any such adjustment shall be eliminated. Adjustments under this paragraph will be made by the Administrator, whose determination as to what adjustments, if any, will be made and the extent thereof will be final, binding and conclusive.

(b) Merger, Consolidation and Other Events. If the Company shall be the surviving or resulting corporation in any merger or consolidation and the Common Stock shall be converted into other securities, the PSUs shall pertain to and apply to the securities to which a holder of the number of shares of Common Stock subject to the PSUs would have been entitled. If the stockholders of the Company receive by reason of any distribution in total or partial liquidation or pursuant to any merger of the Company or acquisition of its assets, securities of another entity or other property (including cash), then the rights of the Company under this Agreement shall inure to the benefit of the Company's successor, and this Agreement shall apply to the securities or other property (including cash) to which a holder of the number of shares of Common Stock subject to the PSUs would have been entitled, in the same manner and to the same extent as the PSUs.

9. Non-Guarantee of Employment or Service Relationship. Nothing in the Plan or this Agreement shall alter your at-will or other employment status or other service relationship with the Company, nor be construed as a contract of employment or service relationship between the Company and you, or as a contractual right of you to continue in the employ of, or in a service relationship with, the Company for any period of time, or as a limitation of the right of the Company to discharge you at any time with or without cause or notice and whether or not such discharge results in the forfeiture of any nonvested and forfeitable PSUs or any other adverse effect on your interests under the Plan.

10. Rights as Stockholder. You shall not have any of the rights of a stockholder with respect to any shares of Common Stock that may be issued in settlement of the PSUs until such shares of Common Stock have been issued to you. No adjustment shall be made for dividends, distributions, or other rights for which the record date is prior to the date such shares are issued, except as provided in Section 10 of the Plan and Section 6 of this Agreement.

11. The Company's Rights. The existence of the PSUs shall not affect in any way the right or power of the Company or its stockholders to make or authorize any or all adjustments, recapitalizations, reorganizations, or other changes in the Company's capital structure or its business, or any merger or consolidation of the Company, or any issue of bonds, debentures, preferred or other stocks with preference ahead of or convertible into, or otherwise affecting the Common Stock or the rights thereof, or the dissolution or liquidation of the Company, or any sale or transfer of all or any part of the Company's assets or business, or any other corporate act or proceeding, whether of a similar character or otherwise.

12. Restrictions on Issuance of Shares. The issuance of shares of Common Stock upon settlement of the PSUs shall be subject to and in compliance with all applicable requirements of federal, state, or foreign law with respect to such securities. No shares of Common Stock may be issued hereunder if the issuance of such shares would constitute a violation of any applicable federal, state, or foreign securities laws or other law or regulations or the requirements of any stock exchange or market system upon which the Common Stock may then be listed. The inability of the Company to obtain from any regulatory body having jurisdiction the authority, if any, deemed by the Company's legal counsel to be necessary to the lawful issuance of any shares subject to the PSUs shall relieve the Company of any liability in respect of the failure to issue such shares as to which such requisite authority shall not have been obtained. As a condition to the settlement of the PSUs, the Company may require you to satisfy any qualifications that may be necessary or appropriate, to evidence compliance with any applicable law or regulation, and to make any representation or warranty with respect thereto as may be requested by the Company.

13. Restrictive Covenants. You hereby agree to the following restrictive covenants as consideration of the grant of the PSUs:

(a) You hereby agree and acknowledge that the grant of the PSUs is conditioned upon your continued compliance with any and all confidentiality, non-compete and/or non-solicitation covenants and restrictions contained in any separate agreement between you and the Company, and if you breach any of such covenants or restrictions, upon written notice delivered to you: (i) the entirety of the Company's obligations under this Agreement and the Plan shall terminate in their entirety, (ii) all PSUs that are not then vested and nonforfeitable will be forfeited to the Company immediately and automatically, and (iii) you shall have no further rights or privileges under this Agreement or the Plan

14. Notices. All notices and other communications made or given pursuant to this Agreement shall be given in writing and shall be deemed effectively given upon receipt or, in the case of notices delivered by the Company to you, five (5) days after deposit in the United States mail, postage prepaid, addressed to you at the last address you provided to the Company, or in the case of notices delivered to the Company by you, addressed to the Administrator, care of the Company for the attention of its Secretary at its principal executive office or, in either case, if the receiving party consents in advance, transmitted and received via telecopy or via such other electronic transmission mechanism as may be available to the parties. Notwithstanding the foregoing, the Company may, in its sole discretion, decide to deliver any documents related to participation in the Plan and this award of PSUs by electronic means or to request your consent to participate in the Plan or accept this award of PSUs by electronic means. You hereby consent to receive such documents by electronic delivery and, if requested, to agree to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

15. Entire Agreement. This Agreement, together with the relevant Notice and the Plan, contain the entire agreement between the parties with respect to the PSUs granted hereunder. Any oral or written agreements, representations, warranties, written inducements, or other communications made prior to the execution of this Agreement with respect to the PSUs granted hereunder shall be void and ineffective for all purposes.

16. Amendment. This Agreement may be amended from time to time by the Administrator in its discretion; provided, however, that this Agreement may not be modified in a manner that would have a materially adverse effect on the PSUs as determined in the discretion of the Administrator, except as provided in the Plan or in a written document signed by each of the parties hereto.

17. 409A Savings Clause. This Agreement and the PSUs granted hereunder are intended to be exempt from or comply with the requirements of Section 409A of the Code and the regulations and IRS guidance promulgated thereunder ("Section 409A"). In administering this Agreement, the Company shall interpret this Agreement in a manner consistent with Section 409A. To the extent necessary to comply with Section 409A, if you are a "Specified Employee" (within the meaning set forth Section 409A(a)(2)(B)(i) of the Code) as of the date of your separation from service (within the meaning of Treasury Regulation Section 1.409A-1(h)), then the issuance of any shares that would otherwise be made upon the date of the separation from service or within the first six (6) months thereafter will not be made on the originally scheduled date(s) and will instead be issued in a lump sum on the date that is six (6) months and one day after the date of the separation from service, but if and only if such delay in the issuance of the shares is necessary to avoid the imposition of additional taxation on you in respect of the shares under Section 409A of the Code. Each installment of shares that vests is intended to constitute a "separate payment" for purposes of Section 409A and Treasury Regulation Section 1.409A-2(b)(2). For purposes of Section 409A, the payment of dividend equivalents under this Agreement, if any, shall be construed as earnings and the time and form of payment of such dividend equivalents shall be treated separately from the time and form of payment of the underlying PSUs.

18. No Obligation to Minimize Taxes. The Company has no duty or obligation to minimize the tax consequences to you of this award of PSUs and shall not be liable to you for any adverse tax consequences to you arising in connection with this award. You are hereby advised to consult with your own personal tax, financial and/or legal advisors regarding the tax consequences of this award and by signing the Notice, you have agreed that you have done so or knowingly and voluntarily declined to do so.

19. Conformity with Plan. This Agreement is intended to conform in all respects with, and is subject to all applicable provisions of, the Plan. Inconsistencies between this Agreement and the Plan shall be resolved in accordance with the terms of the Plan. In the event of any ambiguity in this Agreement or any matters as to which this Agreement is silent, the Plan shall govern. A copy of the Plan is available upon request to the Administrator.

20. No Funding. This Agreement constitutes an unfunded and unsecured promise by the Company to issue shares of Common Stock in the future in accordance with its terms. You have the status of a general unsecured creditor of the Company as a result of receiving the grant of PSUs.

21. Effect on Other Employee Benefit Plans. The value of the PSUs subject to this Agreement shall not be included as compensation, earnings, salaries, or other similar terms used when calculating your benefits under any employee benefit plan sponsored by the Company or any Affiliate, except as such plan otherwise expressly provides. The Company expressly reserves its rights to amend, modify, or terminate any of the Company's or any Affiliate's employee benefit plans.

22. Governing Law. The validity, construction and effect of this Agreement, and of any determinations or decisions made by the Administrator relating to this Agreement, and the rights of any and all persons having or claiming to have any interest under this Agreement, shall be determined exclusively in accordance with the laws of the State of Minnesota, without regard to its provisions concerning the applicability of laws of other jurisdictions. As a condition of this Agreement, you agree that you will not bring any action arising under, as a result of, pursuant to or relating to, this Agreement in any court other than a federal or state court in the districts which include New Jersey, and you hereby agree and submit to the personal jurisdiction of any federal court located in the district which includes New Jersey or any state court in the district which includes New Jersey. You further agree that you will not deny or attempt to defeat such personal jurisdiction or object to venue by motion or other request for leave from any such court.

23. Resolution of Disputes. Any dispute or disagreement which shall arise under, or as a result of, or pursuant to or relating to, this Agreement shall be determined by the Administrator in good faith in its absolute and uncontrolled discretion, and any such determination or any other determination by the Administrator under or pursuant to this Agreement and any interpretation by the Administrator of the terms of this Agreement, will be final, binding and conclusive on all persons affected thereby. You agree that before you may bring any legal action arising under, as a result of, pursuant to or relating to, this Agreement you will first exhaust your administrative remedies before the Administrator. You further agree that in the event that the Administrator does not resolve any dispute or disagreement arising under, as a result of, pursuant to or relating to, this Agreement to your satisfaction, no legal action may be commenced or maintained relating to this Agreement more than twenty-four (24) months after the Administrator's decision.

24. Headings. The headings in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

25. Electronic Delivery of Documents. By your signing the Notice, you (i) consent to the electronic delivery of this Agreement, all information with respect to the Plan and the PSUs, and any reports of the Company provided generally to the Company's stockholders; (ii) acknowledge that you may receive from the Company a paper copy of any documents delivered electronically at no cost to you by contacting the Company by telephone or in writing; (iii) further acknowledge that you may revoke your consent to the electronic delivery of documents at any time by notifying the Company of such revoked consent by telephone, postal service or electronic mail; and (iv) further acknowledge that you understand that you are not required to consent to electronic delivery of documents.

26. No Future Entitlement. By your signing the Notice, you acknowledge and agree that: (i) the grant of a restricted stock unit award is a one-time benefit which does not create any contractual or other right to receive future grants of restricted stock units, or compensation in lieu of restricted stock units, even if restricted stock units have been granted repeatedly in the past; (ii) all determinations with respect to any such future grants and the terms thereof will be at the sole discretion of the Committee; (iii) the value of the restricted stock units is an extraordinary item of compensation which is outside the scope of your

employment contract, if any; (iv) the value of the restricted stock units is not part of normal or expected compensation or salary for any purpose, including, but not limited to, calculating any termination, severance, resignation, redundancy, end of service payments or similar payments, or bonuses, long-service awards, pension or retirement benefits; (v) the vesting of the restricted stock units ceases upon termination of Service with the Company or transfer of employment from the Company, or other cessation of eligibility for any reason, except as may otherwise be explicitly provided in this Agreement; (vi) the Company does not guarantee any future value of the restricted stock units; and (vii) no claim or entitlement to compensation or damages arises if the restricted stock units decrease or do not increase in value and you irrevocably release the Company from any such claim that does arise.

27. Personal Data. For purposes of the implementation, administration and management of the restricted stock units or the effectuation of any acquisition, equity or debt financing, joint venture, merger, reorganization, consolidation, recapitalization, business combination, liquidation, dissolution, share exchange, sale of stock, sale of material assets or other similar corporate transaction involving the Company (a "Corporate Transaction"), you consent, by execution of the Notice, to the collection, receipt, use, retention and transfer, in electronic or other form, of your personal data by and among the Company and its third party vendors or any potential party to a potential Corporate Transaction. You understand that personal data (including but not limited to, name, home address, telephone number, employee number, employment status, social security number, tax identification number, date of birth, nationality, job and payroll location, data for tax withholding purposes and shares awarded, cancelled, vested and unvested) may be transferred to third parties assisting in the implementation, administration and management of the restricted stock units or the effectuation of a Corporate Transaction and you expressly authorize such transfer as well as the retention, use, and the subsequent transfer of the data by the recipient(s). You understand that these recipients may be located in your country or elsewhere, and that the recipient's country may have different data privacy laws and protections than your country. You understand that data will be held only as long as is necessary to implement, administer and manage the restricted stock units or effect a Corporate Transaction. You understand that you may, at any time, request a list with the names and addresses of any potential recipients of the personal data, view data, request additional information about the storage and processing of data, require any necessary amendments to data or refuse or withdraw the consents herein, in any case without cost, by contacting in writing the Company's Secretary. You understand, however, that refusing or withdrawing your consent may affect your ability to accept a restricted stock unit award.

{Glossary begins on next page}

GLOSSARY

(a) "Administrator" means the Board of Directors of Axogen, Inc. or such committee or committees appointed by the Board to administer the Plan.

(b) "Affiliate" means any entity, whether now or hereafter existing, which controls, is controlled by, or is under common control with Axogen, Inc. (including but not limited to joint ventures, limited liability companies, and partnerships). For this purpose, "control" means ownership or more of the total combined voting power or value of all classes of stock or interests of the entity.

(c) "Agreement" means this document, as amended from time to time, together with the Notice and the Plan which are incorporated herein by reference.

(d) "Cause" has the meaning ascribed to such term or words of similar import in your written employment or service contract with the Company as in effect at the time at issue and, in the absence of such agreement or definition, means your (i) conviction of, or plea of nolo contendere to, a felony or crime involving moral turpitude; (ii) fraud on or misappropriation of any funds or property of the Company, any affiliate, customer or vendor; (iii) personal dishonesty, incompetence, willful misconduct, willful violation of any law, rule or regulation (other than minor traffic violations or similar offenses) or breach of fiduciary duty which involves personal profit; (iv) willful misconduct in connection with your duties or willful failure to perform your responsibilities in the best interests of the Company; (v) illegal use or distribution of drugs; (vi) violation of any Company rule, regulation, procedure or policy; or (vii) breach of any provision of any employment, non-disclosure, non-competition, non-solicitation or other similar agreement executed by you for the benefit of the Company, all as determined by the Administrator, which determination will be conclusive.

(e) "Change in Control" has the meaning set forth in the Plan.

(f) "Code" means the Internal Revenue Code of 1986, as amended, and the Treasury regulations and other guidance promulgated thereunder.

(g) "Common Stock" means the common stock, US$.01 par value per share, of Axogen, Inc.

(h) "Company" means Axogen, Inc. and its Affiliates, except where the context otherwise requires. For purposes of determining whether a Change in Control has occurred, Company shall mean only Axogen, Inc.

(i) "Fair Market Value" has the meaning set forth in the Plan. The Plan generally defines Fair Market Value to mean the closing price per share of Common Stock on the relevant date on the principal exchange or market on which the Common Stock is then listed or admitted to trading or, if no sale is reported for that date, the last preceding Business Day on which a sale was reported.

(j) "Grant Date" means the effective date of a grant of PSUs made to you as set forth in the relevant Notice.

(k) "Notice" means the statement, letter or other written notification provided to you by the Company setting forth the terms of a grant of PSUs made to you.

(l) "Plan" means the Axogen Amended and Restated 2019 Long-Term Incentive Plan, as amended from time to time.

(m) "Qualified Retirement" means the termination of your Service after attainment of age sixty (60) with at least ten (10) years of continuous Service, provided that: (i) as a Vice-President or above, if you elect to terminate your Service voluntarily, you have provided the Company with at least [six (6) / twelve

(12)][1] months' advance notice of your retirement date or such other term of advance notice as is determined by the Chief Human Resources Officer of the Company; (ii) as a Vice-President or above, if the Company elected to terminate your Service, such termination is without Cause and (iii) during the three (3) years prior to the year in which such termination of Service occurs, you have maintained consistent historical performance reviews.

(n) "PSU" means the Company's commitment to issue one share of Common Stock at a future date, subject to the terms of the Agreement and the Plan.

(o) "Service" means your employment, service as a non-executive director, or other service relationship with the Company and its Affiliates. Your Service will be considered to have ceased with the Company and its Affiliates if, immediately after a sale, merger, or other corporate transaction, the trade, business, or entity with which you are employed or otherwise have a service relationship is not Axogen, Inc., or its successor or an Affiliate of Axogen, Inc. or its successor.

(p) "You" or "Your" means the recipient of the PSUs as reflected on the applicable Notice. Whenever the word "you" or "your" is used in any provision of this Agreement under circumstances where the provision should logically be construed, as determined by the Administrator, to apply to the estate, personal representative, or beneficiary to whom the PSUs may be transferred by will or by the laws of descent and distribution, the words "you" and "your" shall be deemed to include such person.

{End of Agreement}

[1] Notice period to be 12 months for CEO and CFO and 6 months for other VPs and above eligible for post-retirement vesting.

Exhibit A

Terms of Performance Restricted Stock Units
Performance Vesting

Performance Period and Allocation of Target Number of PSUs

The Performance Period is the period beginning January 1, 2024 and ending December 31, 2025.

The Target Number of PSUs will be divided into three tranches: (1) 10% (rounded down to the nearest whole PSU) eligible to vest based on [REDACTED], (2) 30% (rounded down to the nearest whole PSU) eligible to vest based on [REDACTED], and (3) 60% eligible to vest based on [REDACTED].

For purposes of this Agreement, a Performance Goal is deemed achieved on the Certification Date on which the Committee certifies that the applicable Performance Goal has been achieved by the Company. Notwithstanding the foregoing and anything to the contrary in this Agreement, none of the PSUs shall vest prior to the one-year anniversary of the Grant Date, regardless of whether the applicable Performance Goal is achieved prior to such one-year anniversary.

If you remain in continuous Service through the achievement of the applicable Performance Goal and through the one-year anniversary of the Grant Date, the actual number of PSUs that vest will be equal to the Target Number of PSUs multiplied by the percentage applicable to the tranche for which the Performance Goal has been achieved. The total number of PSUs that will vest will be rounded down to the nearest whole PSU.

[REDACTED]

Termination of Service During Performance Period

If your Service terminates during the Performance Period for any reason other than due to a Qualified Retirement, you will only be eligible to vest in the Tranches of PSUs which vested while you remained in Service (including the achievement and certification of the applicable Performance Goal). For the avoidance of doubt, if your Service terminates prior to the one-year anniversary of the Grant Date for any reason other than due to a Qualified Retirement, none of your PSUs shall vest and you shall forfeit your PSUs in their entirety.

If your Service terminates during the Performance Period due to a Qualified Retirement, the PSUs will remain eligible to vest as set forth in Section 4 of the Agreement.

Occurrence of a Change in Control During Performance Period

If the closing of a Change in Control occurs during the Performance Period, subject to the terms of the Notice, the Committee will determine, in its sole discretion, to what extent any of the PSU will vest prior to the date of the closing of the Change in Control.

# EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (the "Agreement"), effective as of February 27, 2023 (the "Effective Date"), is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Marc A. Began ("Employee") (collectively, the "Parties").

## RECITALS:

**WHEREAS**, AXOGEN and the Employee desire to enter into this Agreement to state the terms and conditions of the Agreement in its entirety on the Effective Date on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the promises set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this Agreement, the Parties to this Agreement, intending to be legally bound, agree as follows:

1. Employment. AXOGEN hereby employs Employee, and Employee hereby accepts such employment, all upon the terms and conditions set forth in this Agreement, including those set forth in the attached Schedules and Exhibits.

(a) Duties of Employee. The duties of Employee, as may be amended from time to time, are set forth on Schedule 1 of this Agreement, which is attached hereto and incorporated herein by reference.

(b) Compensation and Benefits. The compensation and benefits to which Employee may be entitled pursuant to this Agreement are set forth on Schedule 2 and Schedule 3 of this Agreement, which is attached hereto and incorporated herein by reference.

2. Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement. Contemporaneously with the execution and delivery of this Agreement, Employee shall enter into a Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement attached hereto as Exhibit A to this Agreement, which shall be incorporated herein by reference.

3. Termination.

(a) At-will. Either AXOGEN or Employee may terminate this Agreement at any time during the course of Employee's employment and for any reason, upon giving written notice to the other party. Other than as described in this Agreement, AXOGEN shall have no further liability or obligation to Employee other than to pay for services rendered through Employee's last date of employment. If Employee elects to terminate this Agreement and provides AXOGEN with any notice period prior to the date of termination, AXOGEN may elect to terminate this Agreement immediately thereon and incur no further obligation to Employee other than for wages worked through the date of termination of this Agreement and any other remuneration expressly set forth herein or as otherwise set forth in AXOGEN's policies. It is the intention of the Parties that at all times this shall be an at-will employment relationship during the course of Employee's employment with AXOGEN. Nothing contained in this Agreement shall be deemed or construed to create a contractual relationship between the

Parties for a specific duration of time.

(b) Death. In the event of the death of the Employee, this Agreement shall terminate on the date of Employee's death, without any liability to or upon AXOGEN other than to pay for services rendered prior to the date of the Employee's death, subject to the terms of AXOGEN's plans and policies, as may be amended.

(c) Permanent Disability. For purposes of this Agreement, the term "Permanent Disability" shall mean a physical or mental incapacity of Employee as determined by an independent medical examination, which renders Employee unable to perform Employee's duties pursuant to this Agreement, and which shall continue for ninety (90) consecutive days or one hundred and eighty (180) days during any twelve-month period. If AXOGEN or Employee terminates Employee's employment by reason of Permanent Disability of Employee, this Agreement shall terminate immediately upon written notice by AXOGEN to Employee, or the date Employee gives notice to terminate employment to AXOGEN, without any liability to or upon AXOGEN other than to pay for services rendered through the termination date, subject to the terms of AXOGEN's plans and policies, as may be amended.

4. Change in Control.

(a) Definition. For the purposes of this Agreement, a "Change in Control" shall mean the occurrence of any of the following events:

(i) any "person" (as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act")), who holds less than twenty percent (20%) of the combined voting power of the securities of AXOGEN or its parent company Axogen, Inc. ("INC."), becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of AXOGEN or INC. representing fifty percent (50%) or more of the combined voting power of the securities of either AXOGEN or INC. then outstanding; or

(ii) during any period of twenty-four (24) consecutive months, individuals, who, at the beginning of such period constitute all members of the Board of Directors of INC. (the "Board") and cease, for any reason, to constitute at least a majority of the Board, unless the election of each director who was not a director at the beginning of the period was either nominated for election by, or approved by a vote of, at least two-thirds of the directors then still in office who were directors at the beginning of the period; or

(iii) AXOGEN or INC. consolidates or merges with another company, and AXOGEN or INC. is not the continuing or surviving corporation, provided, however, that any consolidation or merger whereby INC. continues as the majority holder of AXOGEN securities or a merger or consolidation of AXOGEN and INC. will not constitute a Change in Control; or

(iv) shares of AXOGEN's or INC.'s common stock are converted into cash, securities, or other property, other than by a merger of AXOGEN or INC., pursuant to Section 4(a)(iii), in which the holders of AXOGEN's or INC.'s common stock immediately prior to the merger have the same proportionate ownership of

common stock of the surviving corporation as immediately after the merger; or

(v) AXOGEN or INC. sells, leases, exchanges, or otherwise transfers all, or substantially all, of its assets (in one transaction or in a series of related transactions), provided, however, that any such transaction related to AXOGEN whereby INC. continues as the majority holder of AXOGEN securities or INC. is the sole other party to the transaction, will not constitute a Change in Control; or

(vi) the holders of AXOGEN's or INC.'s stock approve a plan or proposal for the liquidation or dissolution of AXOGEN or INC.

(b) Separation.

(i) Termination in Connection with a Change in Control. In the event of Employee's termination of employment without Substantial Cause (as defined below) or by Employee for Good Reason during the Protection Period, Employee will be entitled to a separation payment consisting of: (A) eighteen (18) months of Employee's base salary; and (B) an amount equal to a 150% of any bonuses or commissions earned by Employee during the calendar year prior to Employee's termination of employment (even though such amounts might be paid to Employee in the calendar year in which the termination of employment occurred).

(ii) For purposes of this Agreement, "Protection Period" means the period commencing on the date of the Change in Control and ending three hundred sixty five (365) days following the Change in Control; provided, however, that in the case of an Anticipatory Termination, the Protection Period shall also include the ninety (90) day period preceding the Change of Control. For purposes of this Agreement, an "Anticipatory Termination" means a termination of Employee's employment without Substantial Cause in anticipation of a Change in Control (by reason of the request of the individual, entity or other person (or their representatives) who subsequently acquire AXOGEN or INC. (the "Acquirer")).\

(iii) For purposes of this Agreement, "Substantial Cause" is the occurrence of any of the following during the course of Employee's employment with AXOGEN:

a) the commission by Employee of any act of fraud, theft, or embezzlement involving AXOGEN or INC.;

b) any material breach by Employee of this Agreement, provided that AXOGEN shall have first delivered to Employee written notice of the alleged breach, specifying the exact nature of the breach in detail, and provided, further, that Employee shall have failed to cure or substantially mitigate such breach within twenty (20) days after receiving such written notice;

c) a conviction of any felony, or of any misdemeanor involving moral turpitude, or entry of a plea of guilty or nolo contendere to any felony or

misdemeanor involving moral turpitude;

d) willful and material failure to adhere to AXOGEN's or INC.'s corporate codes, policies or procedures which have been adopted in good faith for a valid business purpose as in effect from time to time; or

e) a material failure to meet reasonable performance standards as determined by AXOGEN or INC.

(iv) For purposes of this Agreement, "Good Reason" shall mean Employee's resignation from employment upon or within three hundred sixty five (365) days following a Change in Control, provided that Substantial Cause for termination of Employee's employment does not exist at the time of such resignation and the resignation is the result of the occurrence of any one or more of the following:

a) the assignment to Employee of any duties inconsistent with Employee's (including status, offices, titles, and reporting requirements), authorities, duties, or other responsibilities as in effect immediately prior to the Change in Control of AXOGEN or INC. or any other action of AXOGEN, INC., or the Acquirer that results in a material diminishment in such position, authority, duties, or responsibilities, other than an insubstantial and/or inadvertent action which is remedied by AXOGEN, INC., or the Acquirer promptly after receipt of notice thereof given by Employee;

b) a reduction by AXOGEN, INC., or the Acquirer, absent Substantial Cause, in Employee's base salary as in effect on the date hereof and as the same shall be increased from time to time hereafter; or

c) Employee is required to perform a substantial portion of her duties at a facility which is more than 50 miles from the facility for which Employee performed a substantial portion of her duties immediately prior to the Change in Control.

However, the foregoing events or conditions will constitute Good Reason only if (i) such event or condition occurs during the period commencing on the date of the Change in Control and ending three hundred and sixty five (365) days thereafter and (ii) the Employee provides AXOGEN, INC., or the Acquirer with written objection to the event or condition within sixty (60) days following the occurrence thereof, AXOGEN, INC., or the Acquirer does not reverse or otherwise cure the event or condition within thirty (30) days of receiving that written objection and the Employee resigns the Employee's employment within ninety (90) days following the expiration of that cure period.

(v) Termination not in Connection with a Change in Control. In the event of Employee's termination of employment by AXOGEN without Substantial Cause not in connection with a Change in Control, Employee shall be entitled to a separation payment consisting of: (a) twelve (12) months of Employee's base salary; and (b) an amount equal to 100% of any bonuses or commissions earned by Employee

during the calendar year prior to the calendar year of Employee's termination of employment (even though such amounts might be paid to Employee in the calendar year in which the termination of employment occurred).

(c) Payment of Separation Pay. As a condition of receiving any separation pay under this Section 4, Employee must sign (and not revoke) a separation, waiver and release agreement (to be prepared by AXOGEN at the time of Employee's termination) of all claims (known and unknown) against AXOGEN and INC. arising out of or relating to Employee's employment with AXOGEN or termination thereof, excluding claims for separation pay under this Section 4, as well as any other terms and conditions reasonably required by AXOGEN. The separation payment will be made in a lump sum on the first payroll date following the 60th day following the date of Employee's execution of the separation, waiver and release agreement; provided, however, that if the 60 day period spans two (2) calendar years, the payments will commence in the second calendar year. Notwithstanding the foregoing, if the Employee is a "specified employee" on Employee's termination date, the postponement provisions of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), as described in Section 6(n) below, shall apply, if applicable.

Further, in the event Employee is entitled to separation payments pursuant to this Agreement and so long as AXOGEN or INC. is subject to federal COBRA and Employee timely elects continuation coverage under COBRA, AXOGEN or INC. shall pay the premiums for the Employee and Employee's covered dependent's COBRA (i) for the first eighteen (18) months of the COBRA continuation period in the event that the termination is in connection with a Change in Control or the first twelve (12) months of the COBRA continuation period in the event that the termination is not in connection with a Change in Control, or (ii) until such time as the Employee is no longer eligible for COBRA benefits or obtains new employment that provides health care coverage (including without limitation, coverage of dependents), whichever period is shorter. Employee has the duty to immediately notify the applicable entity, in writing, if the event in (ii) above occurs.

(d) Limitation on Payments.

(i) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided to Employee pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and would, but for this Section 4(d) be subject to the excise tax imposed under Section 4999 of the Code (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the "Excise Tax"), then prior to making the Covered Payments, a calculation shall be made comparing (a) the Net Benefit (as defined below) to the Employee of the Covered Payments after payment of the Excise Tax to (b) the Net Benefit to the Employee if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (a) above is less than the amount under (b) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the "Reduced Amount"). "Net Benefit" shall mean the present value of the Covered Payments net of all federal, state, local, foreign income,

employment and excise taxes.

(ii) The Covered Payments shall be reduced in a manner that maximizes the Employee's economic position. To the extent that Section 409A of the Code is applicable, then in applying this principle, the reduction shall be made in a manner consistent with the requirements of Section 409A of the Code, and where two economically equivalent amounts are subject to reduction but payable at different times, such amounts shall be reduced on a pro rata basis but not below zero.

(iii) Any determination required under this Section 4(d) shall be made in writing in good faith by an independent accounting firm or other independent consultant selected by AXOGEN (the "Accountants") which shall provide detailed supporting calculations to AXOGEN and the Employee as requested by AXOGEN. AXOGEN and the Employee shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4(d). For purposes of making the calculations and determinations required by this Section 4(d), the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accountants' determinations shall be final and binding on AXOGEN and the Employee. AXOGEN shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4(d).

(iv) It is possible that after the determinations and selections made pursuant to this Section 4(d) the Employee will receive Covered Payments that are in the aggregate more than the amount provided under this Section ("Overpayment") or less than the amount provided under this Section ("Underpayment").

(v) In the event that: (a) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either AXOGEN or the Employee which the Accountants believe has a high probability of success, that an Overpayment has been made or (b) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Employee shall pay any such Overpayment to AXOGEN.

(vi) In the event that: (a) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (b) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by AXOGEN to or for the benefit of the Employee.

5. Surrender of Records and all AXOGEN and INC. Property. Upon termination of Employee's employment with AXOGEN or INC for any reason, or at any time as AXOGEN or INC. requests, Employee will immediately return to AXOGEN and INC., as applicable all Confidential Information and other tangible property that belongs to AXOGEN or INC. in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or

electronic format). Employee shall not retain possession of any copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment. and confirm such return in writing.

6. Miscellaneous Provisions.

(a) Amendments to this Agreement only in Writing. The provisions of this Agreement and the attached Schedules and Exhibits shall only be modified by a written agreement executed by both a duly authorized officer of AXOGEN and Employee.

(b) Assignments. Employee shall not assign Employee's rights and/or obligations pursuant to this Agreement or the attached Schedules and Exhibits. AXOGEN may assign its rights and/or obligations pursuant to this Agreement and the attached Schedules and Exhibits at any time without prior notice to Employee. In the event of a Change in Control in which AXOGEN or INC. is not the surviving entity, any reference to AXOGEN or INC. shall be deemed to refer to the surviving entity.

(c) Binding Effect. All of the terms and provisions of this Agreement and the attached Schedules and Exhibits, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective administrators, executors, legal representatives, heirs, successors and permitted assigns.

(d) The Provisions of this Agreement are Severable. If any part of this Agreement, or any of the Schedules or Exhibits entered into pursuant to this Agreement, is contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement and its Schedules and Exhibits shall not be so invalidated, and shall be given full force and effect so far as possible.

(e) Survival. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 1 through 6 shall survive and remain in effect beyond the execution and delivery of this Agreement in accordance with their respective terms of duration.

(f) Waivers. The failure or delay of AXOGEN or Employee at any time to require performance of any provision of this Agreement or the attached Schedules and Exhibits, even if known, shall not affect the rights of AXOGEN or Employee to require performance of that provision or to exercise any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits. Any waiver by AXOGEN or Employee of any breach of any provision of this Agreement or the attached Schedules and Exhibits shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits.

(g) Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (i) delivered via electronic notification; (ii) hand-delivered by messenger or courier service; (iii) sent by an overnight-mail service (e.g. FedEx or UPS); or (iv) mailed (airmail, if international) by registered or certified mail (postage prepaid), return receipt requested, and addressed to:

If to Employee:

Employee's most current address on file with AXOGEN.

| If to AXOGEN: | With a copy to: |
|---|---|
| AXOGEN Corporation | AXOGEN Corporation |
| 13631 Progress Blvd., Ste. 400 | 13631 Progress Blvd., Ste. 400 |
| Alachua, FL 32615 | Alachua, FL 32615 |
| Attn: Office of the General Counsel | Attn: Human Resources |

or to such other address as any party may designate by written notice complying with the terms of this Section. Each such notice shall be deemed delivered (a) on the date delivered, if by personal delivery, or (b) on the date upon which the return receipt is signed, delivery is refused, or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

(h) Governing Law. This Agreement and the attached Schedules and Exhibits and all transactions contemplated by this Agreement or the attached Schedules and Exhibits shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

(i) Jurisdiction and Venue. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Agreement and the attached Schedules and Exhibits occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Agreement or the attached Schedules and Exhibits shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the personal jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws or court rules in said state.

(j) Remedies Available to Either Party Cumulative. No remedy conferred upon any party pursuant to this Agreement (or the attached Schedules and Exhibits) is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given pursuant to this Agreement (or the attached Schedules and Exhibits) now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise

by any party of any right, power or remedy pursuant to this Agreement (or the attached Schedules and Exhibits) shall preclude any other or further exercise of such right, power or remedy.

(k) Entire Agreement. This Agreement and the attached Schedules and Exhibits represents the entire understanding and agreement between the Parties with respect to the subject matter contained herein and supersedes all other agreements, negotiations, understandings and representations (if any) made by and between the Parties regarding such subject matter. The Parties represent that they have not relied on any statement, promise, or representation not set forth herein in entering into this Agreement.

(l) Section and Paragraph Headings. Section and paragraph headings used throughout this Agreement and the attached Schedules and Exhibits are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or the attached Schedules and Exhibits.

(m) Preparation of Agreement. This Agreement shall not be construed more strongly against any party regardless of who is responsible for its preparation. The Parties acknowledge that each party contributed to its negotiations and is equally responsible for its preparation.

(n) Section 409A of the Code. Notwithstanding any provision of this Agreement to the contrary, this Agreement is intended to meet the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") to the extent applicable, the Parties intend to administer this Agreement in a manner that is consistent with those requirements or an exception thereto, and this Agreement shall be construed and interpreted in accordance with such intent. Any payments that are considered deferred compensation under Section 409A of the Code and that are paid to a "specified employee" (as defined in Section 409A of the Code) upon separation from service shall be subject to a six (6) month delay, if required by Section 409A of the Code. If required by Section 409A of the Code, any amounts otherwise payable during the six (6) month period that commences on and follows the Employee's termination date shall be paid in one lump sum amount on the first payroll date following the six (6) month period following the Employee date of termination (or within thirty (30) days of the Employee's death, if earlier). For purposes of Section 409A of the Code, all payments to be made upon a termination of employment under this Agreement may only be made upon a "separation from service" (within the meaning of such term under Section 409A of the Code). Each payment made under this Agreement shall be treated as a separate payment. In no event shall the Employee, directly or indirectly, designate the calendar year of a payment. All reimbursements under this Agreement shall be provided in a manner that complies with Section 409A of the Code, if applicable. If required by regulations or other guidance issued under Section 409A of the Code or a court of competent jurisdiction, the provisions regarding payments hereunder shall be amended to provide for such payments to be made at the time allowed under such regulations, guidance or authority that most closely achieves the intent of this Agreement.

(o) Liability Insurance. AXOGEN shall cover, at its sole cost and expense, the Employee under directors and officers liability insurance during the term of this Agreement in the same amount and to the same extent as AXOGEN covers its officers and directors. Furthermore, AXOGEN shall use best efforts to continue to include the Employee as a former officer of AXOGEN for coverage in the director and officers liability insurance for the one year period following the termination of this Agreement.

**EMPLOYEE AND AXOGEN** have executed this Agreement as of the 27th day of February, 2023.

**AXOGEN CORPORATION**

DocuSigned by:

Name: Karen Zaderej
Title: CEO, President & Chairman

**EMPLOYEE:**

DocuSigned by:

Marc A. Began

## SCHEDULE AND EXHIBIT LIST

Schedule 1 - Duties of Employee

Schedule 2 - Compensation and Benefits

Schedule 3 – Offer/Promotion Letters

Exhibit A - Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement

## SCHEDULE 1 - DUTIES OF EMPLOYEE

The duties of Employee with AXOGEN CORPORATION ("AXOGEN") are as follows:

1. Employee's Title: AXOGEN hereby employs Employee as Executive Vice President, which title is expected to change to Executive Vice President and General Counsel effective on or about March 19, 2023, and which title may change further at AXOGEN's discretion.

2. Employee's Duties: Employee shall perform all duties in connection with Employee's position, or as otherwise designated by AXOGEN, including, without limitation, the following duties:

   Reporting to the CEO, the Executive Vice President and General Counsel is a key member of Axogen's executive leadership team with a high degree of visibility and impact across the organization. This role, collaborating with the CEO, Board of Directors, and senior leaders across the organization, brings a strong strategic and visionary mindset and is a key contributor to the overall corporate strategy.

   Primary Responsibilities: The specific duties of the Executive Vice President and General Counsel include but are not limited to:

   - Structuring, coaching, and managing Axogen's internal legal function and staff.
   - Overseeing the selection, retention, management and evaluation of all outside counsel.
   - Ensuring that Axogen operates within the law at all times, including those of the Securities and Exchange Commission, Federal Drug Administration and other regulatory bodies related to operating as a medical company, offering counsel on legal issues and serving as an effective guardian of the Axogen organization.
   - Advising Axogen executive team and Board of Directors of the best course of legal action as situations arise or reach the potential to occur.
   - Assessing and managing legal risk as to Axogen's business including, but not limited to, public company status, insurance, ethics and business, regulatory compliance, real estate, human resources, intellectual property and corporate governance.
   - Advising on legal implications or procedures for business development initiatives, strategic planning and operations.
   - Supporting organization as to general legal needs.
   - Keeping up-to-date on changes to legislation, regulations and relevant legal news.
   - Providing interpretations and recommendations to management and other staff.
   - Proactively looking for solutions and better practices to mitigate risk.
   - Dealing with external parties such as regulators and counsels.
   - Leading on major business transactions, including acquisitions, divestitures and joint ventures
   - Judging the merits of court cases filed against or on behalf of the company, working with the appropriate executive(s) to define a strategic defense and approving settlements of disputes where warranted.
   - Advising on legal aspects of the company's financing, including assessing and advising on current and future business structures and legal entities.

- Other duties as needed by the CEO and the company.

(a) Compliance with Employee Policies, Procedures, Rules and Regulations.

Employee shall comply with all AXOGEN policies, procedures, rules and regulations for employees as such policies and procedures may exist or be established from time to time.

(b) No Other Business Activities.

(i) Employee shall devote Employee's entire professional time, energy and skill to the performance of Employee's duties pursuant to the Agreement, the service of AXOGEN, and promotion of AXOGEN's interests. The Parties agree that Employee may not during Employee's employment, except as permitted in writing by AXOGEN, be engaged in any other business activity, whether or not such activity is pursued for gain, profit, or other pecuniary advantage including, without limitation, management or management consulting activities.

(ii) Notwithstanding the preceding subsection, Employee may invest Employee's personal assets in businesses or real estate that are not in competition with AXOGEN where the form or manner of such investment will not require services on the part of Employee, and in which Employee's participation is solely that of a passive investor.

## SCHEDULE 2 - COMPENSATION AND BENEFITS

Subject to the terms and conditions of the EXECUTIVE EMPLOYMENT AGREEMENT (the "Agreement"), Employee may be entitled to receive from AXOGEN Corporation ("AXOGEN") the following compensation and benefits:

1. Base Salary.

(a) Amount. Employee's salary with AXOGEN will be at the rate of $410,000 (Four Hundred and Ten Thousand and XX/100 US Dollars) annually (the "Base Salary").

(b) Payment. The Base Salary shall be payable in accordance with the existing payroll practices of AXOGEN, which practices may be changed by AXOGEN from time to time at its sole discretion. The Base Salary shall be subject to all appropriate withholding taxes.

(c) Review of Base Salary. The Base Salary may be reviewed by AXOGEN from time to time; however, AXOGEN reserves the right to increase or decrease the Base Salary at any time during the employment relationship in its sole discretion.

(d) Additional Compensation. In addition to the Base Salary, Employee may also be eligible to receive stock options, benefits, paid vacations and holidays during Employee's employment.

2. Business Expenses and Reimbursements. Employee shall be eligible for reimbursement by AXOGEN in accordance with AXOGEN's normal reimbursement practices for ordinary and necessary business expenses incurred by Employee in the performance of Employee's duties for AXOGEN, so long as Employee timely submits to AXOGEN accurate invoices and receipts of all expenses submitted for reimbursement pursuant to this section or as otherwise permitted pursuant to Schedule 3.

3. Benefits. Employee will be permitted to participate in such benefit plans of AXOGEN that may be in effect from time to time, to the extent Employee is eligible under the terms of those plans. Nothing herein shall be construed to require AXOGEN to institute or continue any particular plan or benefit. AXOGEN reserves the right to add, change, or eliminate any benefits at any time at its sole discretion.

4. Vacations and Holidays. Employee will be entitled to paid sick, personal and vacation time of 160 hours per calendar year (prorated for partial years) and holidays in accordance with the holiday policies of AXOGEN in effect for its employees from time to time (AXOGEN reserves the right to modify these policies, including any vacation entitlements, from time to time). Vacation must be taken by Employee at such time or times as approved by AXOGEN.

5. Bonus.

(a) Calculation. Employee may receive a bonus based on an AXOGEN bonus plan, as determined by AXOGEN from time to time in its sole discretion. Bonuses will be pro-rated based on Employee start date and his target rate set at a percentage of salary subject to the conditions of such bonus as established by AXOGEN executive management and/or the compensation committee of the INC. Board of Directors, as applicable.

(b) Payment. Any bonus if paid shall be paid in accordance with, and subject to, the normal payroll policies of AXOGEN with respect to similar forms of compensation, including, without limitation, being subject to all appropriate withholding taxes.

6. Compensation Review. AXOGEN may, from time to time, review Employee's compensation (including benefits) and may, in its sole discretion, increase, or decrease, or eliminate any or all of the benefits. Any such increase or decrease in the compensation package shall be in writing, executed by a duly authorized officer of AXOGEN, and such writing shall constitute an amendment to this Paragraph 6 (and to the Agreement and any applicable Schedules or Exhibits) solely as to the benefits, without waiver or modification of any other terms, conditions or provisions of the Agreement.

7. No Other Compensation. Employee agrees that the compensation and benefits set forth in the Agreement, this Schedule 2, and Schedule 3 contain the sole and exclusive compensation and benefits to which Employee is eligible and that Employee shall have no rights to receive any other compensation or benefits of any nature from AXOGEN. The terms of this Agreement supersede any conflicting terms of that certain January 17, 2023 Offer Letter provided to Employee. Notwithstanding the foregoing, any equity awards granted to the Employee remain in full force under the terms upon which they are or were granted.

## SCHEDULE 3 – OFFER/PROMOTION LETTERS

January 17, 2023

**VIA EMAIL**

Marc A. Began
marcbegan@gmail.com

Re: Axogen Offer

Dear Marc,

I am pleased to send you this formal invitation to join the Axogen team in the position of Executive Vice President and General Counsel with the position of EVP effective on or about February 27, 2023, and EVP and General Counsel effective on or about March 19, 2023, subject to the contingency as outlined in the Offer Acceptance. We feel your background is ideally suited for the challenges and extraordinary opportunity ahead. We look forward to your expertise to guide and support activities as we bring Axogen's nerve repair products to patients.

START DATE
Your start date will be on or about February 27, 2023, based on successful completion of pre-employment checks and the details of the offer are listed below.

SALARY
The position of Executive Vice President is a full-time, salaried, exempt position and your salary is $410,000.00 annually, paid bi-weekly.

BENEFITS
You are eligible for health benefits under Axogen's Medical Benefits Plan. You will be eligible on day 1 of your employment and must enroll within 30 days of your start date.

Axogen has a Sick/Personal/Vacation plan (SPV) that allows for 160 hours of paid time off annually, which will be prorated the first year based on your start date.

You are eligible for Axogen's 401(k) Plan that matches dollar-for-dollar for the first 3% contributed and $.50 cents per dollar contributed for the next 2% contributed of your annual base salary to maximum statutory limits.

RELOCATION
You are approved for reimbursement of relocation expenses up to $50,000.00 according to company policy. Expenses must be submitted within one year from your start date, you must still be employed by Axogen when the expenses are submitted, and a signed relocation payback agreement is required (attached).

EMPLOYEE STOCK PURCHASE PLAN

Once you have completed three months as a full-time employee you will have the opportunity to purchase Axogen stock at a discounted price in accordance with company policy.

BONUS

Your target annual bonus will be 60% of your base salary, based on either company performance or a combination of company performance and achievement of department level goals, as determined by the compensation committee of the Axogen board at is sole discretion, and is paid annually, prorated the first year.

RESTRICTED STOCK UNITS

As a material inducement for your acceptance of your new employment with Axogen, you will be provided with a non-qualified equity grant in the form of Restricted Stock Units for the grant of 45,000 shares of Axogen, Inc. common stock. Such restricted stock units will vest over 4 years, with 50% vesting after the second year and 25% of the total shares granted vesting every year thereafter for the next two years, provided that you have been continuously employed through each vesting date as to the particular number of shares vesting.

PERFORMANCE STOCK UNITS

You will be eligible to enroll in the annual PSU program with grants thereunder anticipated for March 16, 2023.

STOCK OPTIONS

As further material inducement for your acceptance of your new employment with Axogen, you will be provided a non-qualified equity grant in the form of an Incentive Stock Option that will allow during its 10-year term to purchase, subject to vesting provisions, 90,000 shares of Axogen, Inc. common stock at the closing price of the Company Common Stock on the grant date. Such stock options will vest over 4 years, with 50% vesting after the second year and 12.5% of the total shares granted vesting every 6 months thereafter for the next two years, provided that you have been continuously employed.

The compensation and benefits to be provided to you are contingent on your continued employment and subject to the particular terms of any further documentation provided to you. These employment terms are also subject to change at the discretion of the Axogen Corporation. Neither this letter nor other documentation between the parties is intended to convey a right to a particular length of time of employment.

Please let me know if you have questions. I look forward to working with you in the days to come.

Kind Regards,

DocuSigned by:
Maria Martinez
5C07B9DE3D404F4...
Maria Martinez

O 386.462.6800 | Customer Care 888.296.4361 | F 386.462.6801 | 13631 Progress Blvd., Suite 400 | Alachua, FL 32615


Chief Human Resources Officer
Axogen Corporation

O 386.462.6800 | Customer Care 888.296.4361 | F 386.462.6801 | 13631 Progress Blvd., Suite 400 | Alachua, FL 32615

axogen®

OFFER ACCEPTANCE

The provisions of this conditional offer of employment have been read, are understood, and the offer is herewith accepted. I understand that my final offer of employment is contingent upon: (1) satisfactory fulfillment of a pre-employment drug test and background check; (2) executing all of the documents included in Axogen's New Hire Package which includes, but is not limited to, non-compete, non-solicitation, confidentiality, invention assignment, insider trading, anti-fraud, and code of ethics agreements; and (3) completing all necessary quality related training. (Collectively the aforementioned list will be referred to as Employment Documentation.) Completing the Employment Documentation will confirm my employment pursuant to the terms of this Letter. However, Axogen reserves the right to change any or all of the Employment Documentation listed above. I further understand that my employment will be as an at-will employee. Although I am an at-will employee, Axogen may issue me company property and I understand that if my employment is terminated for any reason, I am responsible for returning that company property in usable or salable condition. I consent to Axogen withholding any payments due to me post termination until all of my company property is returned in good condition.

This offer shall remain open for 3 business days unless an extension of the consideration time is agreed to in writing by an Officer of the company.

To confirm your acceptance of this offer please submit your signatures via electronic signature. We look forward to working with you!

Date: 1/24/2023

Signature: DocuSigned by:

Target Start Date: February 27, 2023

O 386.462.6800 | Customer Care 888.296.4361 | F 386.462.6801 | 13631 Progress Blvd., Suite 400 | Alachua, FL 32615

# EXHIBIT A

## CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "IP and NCNS Agreement") is effective as of February 27, 2023 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Marc A. Began ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets; and

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, Employee agrees to abide by the terms and conditions set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this IP and NCNS Agreement hereby agree as follows:

## 1. DEFINITIONS.

The following terms, when used in this IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on

behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

**2. CONFIDENTIAL INFORMATION AND PROPERTY.**

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen for any reason, or at any time as Axogen requests, Employee shall immediately return to Axogen all Confidential Information and other tangible property that belongs to Axogen in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen.

2.3 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X)

files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

**3. RESTRICTIVE COVENANTS.**

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and protect the purpose and subject matter of this IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the year prior to Employee's separation from Axogen.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

(c) Notwithstanding anything in this IP and NCNS Agreement to the contrary, nothing in this IP and NCNS Agreement shall prohibit or restrict Employee from providing legal advice or legal services to any client, including a Competing Organization, provided that (i) Employee does

not disclose any Confidential Information and (ii) Employee does not engage in entrepreneurial activities for a Competing Organization that would otherwise violate the terms of this IP and NCNS Agreement.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

## 4. INVENTIONS.

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are

made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for AXOGEN during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of IP and NCNS Agreement and has either done so, or knowingly declined to do so.

## 6. MISCELLANEOUS.

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from

purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this IP and NCNS Agreement; this IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the IP and NCNS Agreement. The provisions of this IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this IP and NCNS Agreement signed by both Parties.

6.4 Severability. This IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this IP and NCNS Agreement, and the remaining provisions contained in this IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this IP and NCNS Agreement.

6.5. Assignment. This IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to Axogen and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any

suit, action or legal proceeding arising out of, or relating to, this IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This IP and NCNS Agreement may be executed by facsimile or electronic transmission.

***[Signature Page Follows]***

**IN WITNESS WHEREOF,** the Parties have caused this IP and NCNS Agreement to be executed as of the Effective Date.

**AXOGEN CORPORATION**

DocuSigned by:

By _____
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Name: Karen Zaderej

Title: Chairman, CEO and President

**EMPLOYEE**

DocuSigned by:

_____
44D7FEF43046471...

Name: Marc A. Began

## Schedule 1

## Competing Organizations

Amniox Medical Inc.
Applied Biologics Inc.
Baxter International, Inc.
Checkpoint Surgical Inc.
Guangzhou Zhongda Medical (China)
Integra LifeSciences Inc.
Medovent GmbH
MiMedx Group Inc.
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical Inc.

## Schedule 2

## List of Prior Intellectual Property

[ ]

# AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT

**THIS AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT** (this "First Amendment"), effective as of February 27, 2024 is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Marc Began ("Employee") (collectively, the "Parties").

## RECITALS:

**WHEREAS**, the Company and Executive have entered into that certain Executive Employment Agreement, dated as of February 27, 2023 (the "Executive Employment Agreement"); and

**WHEREAS**, the Parties wish to amend the Executive Employment Agreement, with such amendment to be effective as of February 27, 2024 (the "Amendment Effective Date").

**NOW, THEREFORE**, in consideration of the promises set forth in this First Amendment, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this First Amendment, the Parties to this First Amendment, intending to be legally bound, agree as follows:

1. **RECITALS**. The above recitals are true and correct and fully incorporated as a part of this First Amendment.

2. Section 4(b)(i) of the Executive Employment Agreement regarding termination in connection with a change in control is hereby amended, as follows:

(a) the words "eighteen (18) months of Employee's base salary" shall be replaced with the words "twenty-four (24) months of Employee's base salary"; and

(b) the words "150% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "200% of Employee's target bonus for the year in which the termination occurs".

3. Section 4(b)(v) of the Executive Employment Agreement regarding termination not in connection with a change in control is hereby amended, as follows:

(a) the words "twelve (12) months of Employee's base salary" shall be replaced with the words "fifteen (15) months of Employee's base salary"; and

(b) the words "100% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "125% of Employee's target bonus for the year in which the termination occurs".

4. The second paragraph in Section 4(c) regarding Employee's continuation coverage under COBRA is hereby amended, as follows:

(a) the words "eighteen (18) months of the COBRA continuation period" in prong (i) shall be replaced with the words "twenty-four (24) months of the COBRA continuation period"; and

(b) the words "twelve (12) months of the COBRA continuation period" in prong (i) shall be replaced with the words "fifteen (15) months of the COBRA continuation period".

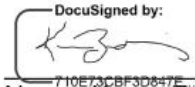
All other terms and conditions of the Agreement and any additional agreements that may exist between the Executive and the company shall remain valid.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date and year first written above.

**AXOGEN CORPORATION**

DocuSigned by:



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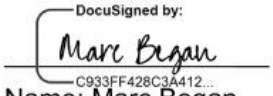
Name: Karen Zaderej
Title: Chairman, CEO and President

**EMPLOYEE:**

DocuSigned by:



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Name: Marc Began
Title: EVP and General Counsel

# EXHIBIT A

## AMENDED AND RESTATED CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "Amended IP and NCNS Agreement") is effective as of February 27, 2024 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Marc Began ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets;

**WHEREAS,** Employee is currently a party to Axogen's Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement;

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, as well as in consideration for the amendment to Employee's employment agreement executed concurrently herewith, Employee agrees to abide by the terms and conditions of this Amended IP and NCNS Agreement as set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Amended IP and NCNS Agreement hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and fully incorporated as a part of this Amended IP and NCNS Agreement.

**2. DEFINITIONS.**

The following terms, when used in this Amended IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

## 2. CONFIDENTIAL INFORMATION AND PROPERTY.

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2 Protected Rights. Nothing in this Agreement shall be construed to limit Employee's ability to report (by way of filing a charge or complaint, or otherwise) possible violations of law or regulation, or make other legally-protected disclosures under applicable whistleblower laws or regulations (including pursuant to Section 21F of the Securities Exchange Act of 1934, as amended), without notice to or consent from Axogen, to the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Department of Justice, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agency" or "Government Agencies"). Employee further understands that this Agreement does not limit Employee's ability to participate in an investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information to such Government Agencies, without notice to Axogen. Nothing in this Agreement prevents Employee from giving truthful testimony to, responding to a valid subpoena from, initiating communications directly with, responding to an inquiry from, volunteering information to, or communicating with Government Agencies in connection with any reporting of, investigation into or proceeding regarding suspected violations of law. In addition, nothing in this Agreement in any way prohibits or is intended to restrict or impede, and shall not be interpreted or understood as restricting or impeding, Employee

from exercising Employee's rights under Section 7 of the National Labor Relations Act (NLRA) or otherwise disclosing information as permitted by that law.

2.3. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen [or its parent company Axogen, Inc. ("INC.")] for any reason, or at any time as Axogen [or INC.] requests, Employee shall immediately return to Axogen[ and INC as applicable] all Confidential Information and other tangible property that belongs to Axogen[ or INC] in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive")) relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen and confirm such return in writing. This obligation does not limit or otherwise prevent Employee from engaging in any Protected Rights that are set forth above in Paragraph 2.2.

2.4 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X) files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

## 3. RESTRICTIVE COVENANTS.

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and

protect the purpose and subject matter of this Amended IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the one year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the one year prior to Employee's separation from the Company.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this Amended IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this Amended IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this Amended IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

**4. INVENTIONS.**

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for Axogen during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this Amended IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and Confidential Information and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this Amended IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this Amended IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this Amended IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this Amended IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this Amended IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this Amended IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this Amended IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of Amended IP and NCNS Agreement and has either done so, or knowingly declined to do so.

**6. MISCELLANEOUS.**

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this Amended IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this Amended IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this Amended IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this Amended IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This Amended IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this Amended IP and NCNS Agreement; this Amended IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the Amended IP and NCNS Agreement. The provisions of this Amended IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this Amended IP and NCNS Agreement signed by both Parties.

6.4 Severability. This Amended IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this Amended IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this Amended IP and NCNS Agreement, and the remaining provisions contained in this Amended IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this Amended IP and NCNS Agreement.

6.5. Assignment. This Amended IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This Amended IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this Amended IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to the Company and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this Amended IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this Amended IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Amended IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Amended IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Amended IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This Amended IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This Amended IP and NCNS Agreement may be executed by facsimile or electronic transmission.

***[Signature Page Follows]***

**IN WITNESS WHEREOF,** the Parties have caused this Amended IP and NCNS Agreement to be executed as of the Effective Date.

| **AXOGEN CORPORATION** | **EMPLOYEE** |
|---|---|
| By DocuSigned by: 710E73CBF3D847E... | DocuSigned by: Marc Began C933FF428C3A412... |
| Name: Karen Zaderej | Name: Marc Began |
| Title: Chairman, CEO and President | Title: EVP and General Counsel |

## Schedule 1

## Competing Organizations

BioCircuit Technologies
Amniox Medical Inc.
Applied Biologics Inc.
Baxter International, Inc.
Checkpoint Surgical Inc.
Guangzhou Zhongda Medical (China)
Integra LifeSciences Inc.
Medovent GmbH
MiMedx Group Inc.
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical Inc.

## Schedule 2

## List of Prior Intellectual Property

[ ]

# EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (the "Agreement"), effective as of February 13, 2023 (the "Effective Date"), is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Jens Schroder Kemp, with an address of 235 Meadowgate Drive, Annapolis Maryland, 21409 ("Employee"; collectively with AXOGEN, the "Parties").

## RECITALS:

**WHEREAS**, AXOGEN and the Employee desire to enter into this Agreement to state the terms and conditions of the Agreement in its entirety on the Effective Date on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the promises set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this Agreement, the Parties to this Agreement, intending to be legally bound, agree as follows:

1. Employment. AXOGEN hereby employs Employee, and Employee hereby accepts such employment, all upon the terms and conditions set forth in this Agreement, including those set forth in the attached Schedules and Exhibits.

(a) Duties of Employee. The duties of Employee, as may be amended from time to time, are set forth on Schedule 1 of this Agreement, which is attached hereto and incorporated herein by reference.

(b) Compensation and Benefits. The compensation and benefits to which Employee may be entitled pursuant to this Agreement are set forth on Schedule 2 and Schedule 3 of this Agreement, which is attached hereto and incorporated herein by reference.

2. Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement. Contemporaneously with the execution and delivery of this Agreement, Employee shall enter into a Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement attached hereto as Exhibit A to this Agreement, which shall be incorporated herein by reference.

3. Termination.

(a) At-will. Either AXOGEN or Employee may terminate this Agreement at any time during the course of Employee's employment and for any reason, upon giving written notice to the other party. Other than as described in this Agreement, AXOGEN shall have no further liability or obligation to Employee other than to pay for services rendered through Employee's last date of employment. If Employee elects to terminate this Agreement and provides AXOGEN with any notice period prior to the date of termination, AXOGEN may elect to terminate this Agreement immediately thereon and incur no further obligation to Employee other than for wages worked through the date of termination of this Agreement and any other remuneration expressly set forth herein or as otherwise set forth in AXOGEN's policies. It is the intention of the Parties that at all times this shall be an at-will employment relationship during the course of Employee's employment with AXOGEN. Nothing contained in this Agreement shall be deemed or construed to create a contractual relationship between the Parties for a specific duration of time.

(b) Death. In the event of the death of the Employee, this Agreement shall terminate on the date of Employee's death, without any liability to or upon AXOGEN other than to pay for services rendered prior to the date of the Employee's death, subject to the terms of AXOGEN's plans and policies, as may be amended.

(c) Permanent Disability. For purposes of this Agreement, the term "Permanent Disability" shall mean a physical or mental incapacity of Employee as determined by an independent medical examination, which renders Employee unable to perform Employee's duties pursuant to this Agreement, and which shall continue for ninety (90) consecutive days or one hundred and eighty (180) days during any twelve-month period. If AXOGEN or Employee terminates Employee's employment by reason of Permanent Disability of Employee, this Agreement shall terminate immediately upon written notice by AXOGEN to Employee, or the date Employee gives notice to terminate employment to AXOGEN, without any liability to or upon AXOGEN other than to pay for services rendered through the termination date, subject to the terms of AXOGEN's plans and policies, as may be amended.

4. Change in Control.

(a) Definition. For the purposes of this Agreement, a "Change in Control" shall mean the occurrence of any of the following events:

(i) any "person" (as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act")), who holds less than twenty percent (20%) of the combined voting power of the securities of AXOGEN or its parent company Axogen, Inc. ("INC."), becomes the "beneficial owner'' (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of AXOGEN or INC. representing fifty percent (50%) or more of the combined voting power of the securities of either AXOGEN or INC. then outstanding; or

(ii) during any period of twenty-four (24) consecutive months, individuals, who, at the beginning of such period constitute all members of the Board of Directors of INC. (the "Board") and cease, for any reason, to constitute at least a majority of the Board, unless the election of each director who was not a director at the beginning of the period was either nominated for election by, or approved by a vote of, at least two-thirds of the directors then still in office who were directors at the beginning of the period; or

(iii) AXOGEN or INC. consolidates or merges with another company, and AXOGEN or INC. is not the continuing or surviving corporation, provided, however, that any consolidation or merger whereby INC. continues as the majority holder of AXOGEN securities or a merger or consolidation of AXOGEN and INC. will not constitute a Change in Control; or

(iv) shares of AXOGEN's or INC.'s common stock are converted into cash, securities, or other property, other than by a merger of AXOGEN or INC., pursuant to Section 4(a)(iii), in which the holders of AXOGEN's or INC.'s common stock immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation as immediately after the merger; or

(v) AXOGEN or INC. sells, leases, exchanges, or otherwise transfers all, or substantially all, of its assets (in one transaction or in a series of related transactions), provided, however, that any such transaction related to AXOGEN whereby INC. continues as the majority

holder of AXOGEN securities or INC. is the sole other party to the transaction, will not constitute a Change in Control; or

(vi) the holders of AXOGEN's or INC.'s stock approve a plan or proposal for the liquidation or dissolution of AXOGEN or INC.

(b) Separation.

(i) Termination in Connection with a Change in Control. In the event of Employee's termination of employment without Substantial Cause (as defined below) or by Employee for Good Reason during the Protection Period, Employee will be entitled to a separation payment consisting of: (A) eighteen (18) months of Employee's base salary; and (B) an amount equal to a 150% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment.

(ii) For purposes of this Agreement, "Protection Period" means the period commencing on the date of the Change in Control and ending three hundred sixty five (365) days following the Change in Control; provided, however, that in the case of an Anticipatory Termination, the Protection Period shall also include the ninety (90) day period preceding the Change of Control. For purposes of this Agreement, an "Anticipatory Termination" means a termination of Employee's employment without Substantial Cause in anticipation of a Change in Control (by reason of the request of the individual, entity or other person (or their representatives) who subsequently acquire AXOGEN or INC. (the "Acquirer")).\

(iii) For purposes of this Agreement, "Substantial Cause" is the occurrence of any of the following during the course of Employee's employment with AXOGEN:

a) the commission by Employee of any act of fraud, theft, or embezzlement involving AXOGEN or INC.;

b) any material breach by Employee of this Agreement, provided that AXOGEN shall have first delivered to Employee written notice of the alleged breach, specifying the exact nature of the breach in detail, and provided, further, that Employee shall have failed to cure or substantially mitigate such breach within twenty (20) days after receiving such written notice;

c) a conviction of any felony, or of any misdemeanor involving moral turpitude, or entry of a plea of guilty or nolo contendere to any felony or misdemeanor involving moral turpitude;

d) willful and material failure to adhere to AXOGEN's or INC.'s corporate codes, policies or procedures which have been adopted in good faith for a valid business purpose as in effect from time to time; or

e) a material failure to meet reasonable performance standards as determined by AXOGEN or INC.

(iv) For purposes of this Agreement, "Good Reason" shall mean Employee's resignation from employment upon or within three hundred sixty five (365) days following a

Change in Control, provided that Substantial Cause for termination of Employee's employment does not exist at the time of such resignation and the resignation is the result of the occurrence of any one or more of the following:

a) the assignment to Employee of any duties inconsistent with Employee's (including status, offices, titles, and reporting requirements), authorities, duties, or other responsibilities as in effect immediately prior to the Change in Control of AXOGEN or INC. or any other action of AXOGEN, INC., or the Acquirer that results in a material diminishment in such position, authority, duties, or responsibilities, other than an insubstantial and/or inadvertent action which is remedied by AXOGEN, INC., or the Acquirer promptly after receipt of notice thereof given by Employee;

b) a reduction by AXOGEN, INC., or the Acquirer, absent Substantial Cause, in Employee's base salary as in effect on the date hereof and as the same shall be increased from time to time hereafter; or

c) Employee is required to perform a substantial portion of her duties at a facility which is more than 50 miles from the facility for which Employee performed a substantial portion of her duties immediately prior to the Change in Control.

However, the foregoing events or conditions will constitute Good Reason only if (i) such event or condition occurs during the period commencing on the date of the Change in Control and ending three hundred sixty fifty (365) days thereafter and (ii) the Employee provides AXOGEN, INC., or the Acquirer with written objection to the event or condition within sixty (60) days following the occurrence thereof, AXOGEN, INC., or the Acquirer does not reverse or otherwise cure the event or condition within thirty (30) days of receiving that written objection and the Employee resigns the Employee's employment within ninety (90) days following the expiration of that cure period.

(v) Termination not in Connection with a Change in Control. In the event of Employee's termination of employment by AXOGEN without Substantial Cause not in connection with a Change in Control, Employee shall be entitled to a separation payment consisting of: (a) twelve (12) months of Employee's base salary; and (b) an amount equal to 100% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment.

(c) Payment of Separation Pay. As a condition of receiving any separation pay under this Section 4, Employee must sign (and not revoke) a separation, waiver and release agreement (to be prepared by AXOGEN at the time of Employee's termination) of all claims (known and unknown) against AXOGEN and INC. arising out of or relating to Employee's employment with AXOGEN or termination thereof, excluding claims for separation pay under this Section 4, as well as any other terms and conditions reasonably required by AXOGEN. The Separation Payment will be made in a lump sum on the first payroll date following the 60th day following the date of Employee's execution of the separation, waiver and release agreement; provided, however, that if the 60 day period spans two (2) calendar years, the payments will commence in the second calendar year. Notwithstanding the foregoing, if the Employee is a "specified employee" on Employee's termination date, the postponement provisions of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), as described in Section 8(n) below, shall apply, if applicable.

Further, in the event Employee is entitled to separation payments pursuant to this Agreement and so long as AXOGEN or INC. is subject to federal COBRA and Employee timely elects continuation coverage under COBRA, AXOGEN or INC. shall pay the premiums for the Employee and Employee's covered dependent's COBRA (i) for the first eighteen (18) months of the COBRA continuation period in the event that the termination is in connection with a Change in Control or the first twelve (12) months of the COBRA continuation period in the event that the termination is not in connection with a Change in Control, or (ii) until such time as the Employee obtains new employment that provides reasonable and comparable health care coverage (including without limitation, coverage of dependents), whichever period is shorter. Employee has the duty to immediately notify the applicable entity, in writing, if the event in (ii) above occurs.

(d) Limitation on Payments.

(i) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided to Employee pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and would, but for this Section 4(d) be subject to the excise tax imposed under Section 4999 of the Code (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the "Excise Tax"), then prior to making the Covered Payments, a calculation shall be made comparing (a) the Net Benefit (as defined below) to the Employee of the Covered Payments after payment of the Excise Tax to (b) the Net Benefit to the Employee if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (a) above is less than the amount under (b) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the "Reduced Amount"). "Net Benefit" shall mean the present value of the Covered Payments net of all federal, state, local, foreign income, employment and excise taxes.

(ii) The Covered Payments shall be reduced in a manner that maximizes the Employee's economic position. To the extent that Section 409A of the Code is applicable, then in applying this principle, the reduction shall be made in a manner consistent with the requirements of Section 409A of the Code, and where two economically equivalent amounts are subject to reduction but payable at different times, such amounts shall be reduced on a pro rata basis but not below zero.

(iii) Any determination required under this Section 4(d) shall be made in writing in good faith by an independent accounting firm or other independent consultant selected by the Company (the "Accountants") which shall provide detailed supporting calculations to AXOGEN and the Employee as requested by AXOGEN. AXOGEN and the Employee shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4(d). For purposes of making the calculations and determinations required by this Section 4(d), the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accounting Firm's determinations shall be final and binding on AXOGEN and the Employee. AXOGEN shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4(d).

(iv) It is possible that after the determinations and selections made pursuant to this

Section 4(d) the Employee will receive Covered Payments that are in the aggregate more than the amount provided under this Section ("Overpayment") or less than the amount provided under this Section ("Underpayment").

(v) In the event that: (a) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either AXOGEN or the Employee which the Accountants believe has a high probability of success, that an Overpayment has been made or (b) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Employee shall pay any such Overpayment to AXOGEN.

(vi) In the event that: (a) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (b) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by AXOGEN to or for the benefit of the Employee.

5. Surrender of Records and all AXOGEN and INC. Property. Upon termination of Employee's employment with AXOGEN or INC for any reason, or at any time as AXOGEN or INC. requests, Employee will immediately return to AXOGEN and INC., as applicable all Confidential Information and other tangible property that belongs to AXOGEN or INC. in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment. and confirm such return in writing.

6. Miscellaneous Provisions.

(a) Amendments to this Agreement only in Writing. The provisions of this Agreement and the attached Schedules and Exhibits shall only be modified by a written agreement executed by both a duly authorized officer of AXOGEN and Employee.

(b) Assignments. Employee shall not assign Employee's rights and/or obligations pursuant to this Agreement or the attached Schedules and Exhibits. AXOGEN may assign its rights and/or obligations pursuant to this Agreement and the attached Schedules and Exhibits at any time without prior notice to Employee. In the event of a Change in Control in which AXOGEN or INC. is not the surviving entity, any reference to AXOGEN or INC. shall be deemed to refer to the surviving entity.

(c) Binding Effect. All of the terms and provisions of this Agreement and the attached Schedules and Exhibits, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective administrators, executors, legal representatives, heirs, successors and permitted assigns.

(d) The Provisions of this Agreement are Severable. If any part of this Agreement, or any of the Schedules or Exhibits entered into pursuant to this Agreement, is contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement and its Schedules and Exhibits shall not be so invalidated, and shall be given full force and effect so far as possible.

(e) Survival. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 1 through 6 shall survive and remain in effect beyond the execution and delivery of this Agreement in accordance with their respective terms of duration.

(f) Waivers. The failure or delay of AXOGEN or Employee at any time to require performance of any provision of this Agreement or the attached Schedules and Exhibits, even if known, shall not affect the rights of AXOGEN or Employee to require performance of that provision or to exercise any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits. Any waiver by AXOGEN or Employee of any breach of any provision of this Agreement or the attached Schedules and Exhibits shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits.

(g) Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (i) delivered via electronic notification; (ii) hand-delivered by messenger or courier service; (iii) sent by an overnight-mail service (e.g. FedEx or UPS); or (iv) mailed (airmail, if international) by registered or certified mail (postage prepaid), return receipt requested, and addressed to:

If to Employee:

Employee's most current address on file with AXOGEN.

| If to AXOGEN: | With a copy to: |
|---|---|
| AXOGEN Corporation<br>13631 Progress Blvd., Ste. 400<br>Alachua, FL 32615<br>Attn: Office of the General Counsel | AXOGEN Corporation<br>13631 Progress Blvd., Ste. 400<br>Alachua, FL 32615<br>Attn: Human Resources |

or to such other address as any party may designate by written notice complying with the terms of this Section. Each such notice shall be deemed delivered (a) on the date delivered, if by personal delivery, or (b) on the date upon which the return receipt is signed, delivery is refused, or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

(h) Governing Law. This Agreement and the attached Schedules and Exhibits and all transactions contemplated by this Agreement or the attached Schedules and Exhibits shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

(i) Jurisdiction and Venue. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Agreement and the attached Schedules and Exhibits occurred, or shall occur, in Hillsborough County, Florida, and the Parties

irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Agreement or the attached Schedules and Exhibits shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the personal jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws or court rules in said state.

(j) Remedies Available to Either Party Cumulative. No remedy conferred upon any party pursuant to this Agreement (or the attached Schedules and Exhibits) is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given pursuant to this Agreement (or the attached Schedules and Exhibits) now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy pursuant to this Agreement (or the attached Schedules and Exhibits) shall preclude any other or further exercise of such right, power or remedy.

(k) Entire Agreement. This Agreement and the attached Schedules and Exhibits represents the entire understanding and agreement between the Parties with respect to the subject matter contained herein and supersedes all other agreements, negotiations, understandings and representations (if any) made by and between the Parties regarding such subject matter. The Parties represent that they have not relied on any statement, promise, or representation not set forth herein in entering into this Agreement.

(l) Section and Paragraph Headings. Section and paragraph headings used throughout this Agreement and the attached Schedules and Exhibits are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or the attached Schedules and Exhibits.

(m) Preparation of Agreement. This Agreement shall not be construed more strongly against any party regardless of who is responsible for its preparation. The Parties acknowledge that each party contributed to its negotiations and is equally responsible for its preparation.

(n) Section 409A of the Code. Notwithstanding any provision of this Agreement to the contrary, this Agreement is intended to meet the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") to the extent applicable, the Parties intend to administer this Agreement in a manner that is consistent with those requirements or an exception thereto, and this Agreement shall be construed and interpreted in accordance with such intent. Any payments that are considered deferred compensation under Section 409A of the Code and that are paid to a "specified employee" (as defined in Section 409A of the Code) upon separation from service shall be subject to a six (6) month delay, if required by Section 409A of the Code. If required by Section 409A of the Code, any amounts otherwise payable during the six (6) month period that commences on and follows the Employee's termination date shall be paid in one lump sum amount on the first payroll date following the six (6) month period following the Employee date of termination (or within thirty (30) days of the Employee's death, if earlier). For purposes of Section 409A of the Code, all payments to be made upon a termination of employment under this Agreement may only be made upon a "separation from service" (within the meaning of such term under Section 409A of the Code). Each payment made under this Agreement shall be treated as a separate payment. In no event shall the Employee, directly or indirectly, designate the calendar

year of a payment. All reimbursements under this Agreement shall be provided in a manner that complies with Section 409A of the Code, if applicable. If required by regulations or other guidance issued under Section 409A of the Code or a court of competent jurisdiction, the provisions regarding payments hereunder shall be amended to provide for such payments to be made at the time allowed under such regulations, guidance or authority that most closely achieves the intent of this Agreement.

(o) Liability Insurance. AXOGEN shall cover, at its sole cost and expense, the Employee under directors and officers liability insurance both during the term of this Agreement and for the one year period following the termination of this Agreement, in the same amount and to the same extent as AXOGEN covers its officers and directors.

**EMPLOYEE AND AXOGEN** have executed this Agreement as of the 13 day of February, 2023.

**AXOGEN CORPORATION**

DocuSigned by:

Name: Karen Zaderej
Title: CEO, President & Chairman

**EMPLOYEE:**

DocuSigned by:

Jens Schroder Kemp

Jens Schroder Kemp

## SCHEDULE AND EXHIBIT LIST

Schedule 1 - Duties of Employee

Schedule 2 - Compensation and Benefits

Schedule 3 – Offer/Promotion Letters

Exhibit A - Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement

## SCHEDULE 1 - DUTIES OF EMPLOYEE

The duties of Employee with AXOGEN CORPORATION ("AXOGEN") are as follows:

1. Employee's Title: AXOGEN hereby employs Employee as Chief Marketing Officer ("CMO"), which title may change at AXOGEN's discretion.

2. Employee's Duties: Employee shall perform all duties in connection with Employee's position, or as otherwise designated by AXOGEN, including, without limitation, the following duties:

   Serving as a member of the Executive Team of the company and reporting directly to the CEO, the CMO is responsible for driving the growth strategy of Axogen, acting as a strategic leader, and delivering new market creation through education and awareness-raising of new applications. This will involve educating and partnering with residencies, education centers, teaching institutions, etc. This role is responsible for overseeing Market Development, including go-to market strategy, upstream marketing, new applications, launching new products, brand marketing, and marketing communications across all the company's business segments. Additionally, the role will have strategic oversight and responsibility for delivering on the goals established for the growth of Axogen's international business and will lead the team. The Health Economics and Reimbursement function also reports to this position and serves as a strong enabler to the growth of our business globally.

   Primary Responsibilities: The specific duties of the CMO include but are not limited to:

   - Oversee Marketing Development, including go to market strategy, upstream marketing, new applications, launching new products, brand marketing, marketing and patient communications, health economics and reimbursement as well as international marketing & sales.
   - Develop and implement the marketing strategy that includes surgeons' education, developing advocates, growing a body of clinical evidence, expanding the company's pipeline & applications.
   - Partner closely with the Sales organization to drive and deliver new market creation appetite, and to "open the door" for Sales to walk though.
   - Responsible over upstream marketing not only for products, but also for identifying and developing market opportunities around new technologies & applications for Axogen's products. Creating value propositions for hospitals and patients, who will lead to new product development in collaboration with the R&D team.
   - Create a strategic roadmap - growth strategy, leading and creating a marketing platform where the organization can excel.
   - Manage and further expanding the International Marketing & Sales function and network of distributors as part of a strategic plan to increase OUS footprint.
   - Develop strong relationships and a strong network with relevant KOLs.
   - Drive growth through education and awareness - residency programs, education centers, teaching institutions.
   - Work closely with the Professional Education and Medical Affairs teams as it pertains to professional education initiatives including tradeshow presence, clinical education events, symposiums, and digital webinars that serve to enhance our key messages and reach the appropriate audience.

- Manage all digital marketing channels (e.g., website, blogs, emails, and social media) to ensure and increase brand awareness and consistency.
- Continuously identify opportunities to create space for our patients' stories to be told both internally and externally.
- Drive cultural change within the organization, as well as influencing the market and healthcare in general.
- Interface with internal stakeholder groups such as sales, customer service, IT, operations, product management, finance, and human resources and others to understand their unique goals, objectives and challenges and optimize processes and communication across the organization.
- Hire, engage, organize and develop a highly qualified team capable of partnering cross functionally to execute on the mission of the team and the vision of the organization
- Other duties as needed by the CEO and the company.

(a) Compliance with Employee Policies, Procedures, Rules and Regulations.

Employee shall comply with all AXOGEN policies, procedures, rules and regulations for employees as such policies and procedures may exist or be established from time to time.

(b) No Other Business Activities.

(i) Employee shall devote Employee's entire professional time, energy and skill to the performance of Employee's duties pursuant to the Agreement, the service of AXOGEN, and promotion of AXOGEN's interests. The Parties agree that Employee may not during Employee's employment, except as permitted in writing by AXOGEN, be engaged in any other business activity, whether or not such activity is pursued for gain, profit, or other pecuniary advantage including, without limitation, management or management consulting activities.

(ii) Notwithstanding the preceding subsection, Employee may invest Employee's personal assets in businesses or real estate that are not in competition with AXOGEN where the form or manner of such investment will not require services on the part of Employee, and in which Employee's participation is solely that of a passive investor.

## SCHEDULE 2 - COMPENSATION AND BENEFITS

Subject to the terms and conditions of the EXECUTIVE EMPLOYMENT AGREEMENT (the "Agreement"), Employee may be entitled to receive from AXOGEN Corporation ("AXOGEN") the following compensation and benefits:

1. Base Salary.

(a) Amount. Employee's salary during employment with AXOGEN will be at the rate of $360,000.00 (Three Hundred Sixty Thousand dollars) annually, (the "Base Salary") effective on February 13, 2023 and delivery of the Agreement to AXOGEN.

(b) Payment. The Base Salary shall be payable in accordance with the existing payroll practices of AXOGEN, which practices may be changed by AXOGEN from time to time at its sole discretion. The Base Salary shall be subject to all appropriate withholding taxes.

(c) Review of Base Salary. The Base Salary may be reviewed by AXOGEN from time to time; however, AXOGEN reserves the right to increase or decrease the Base Salary at any time during the employment relationship in its sole discretion.

(d) Additional Compensation. In addition to the Base Salary, Employee may also be eligible to receive stock options, benefits, paid vacations and holidays during Employee's Employment.

2. Business Expenses and Reimbursements. Employee shall be eligible for reimbursement by AXOGEN in accordance with AXOGEN's normal reimbursement practices for ordinary and necessary business expenses incurred by Employee in the performance of Employee's duties for AXOGEN, so long as Employee timely submits to AXOGEN accurate invoices and receipts of all expenses submitted for reimbursement pursuant to this section or as otherwise permitted pursuant to Schedule 3.

3. Benefits. Employee will be permitted to participate in such benefit plans of AXOGEN that may be in effect from time to time, to the extent Employee is eligible under the terms of those plans. Nothing herein shall be construed to require AXOGEN to institute or continue any particular plan or benefit. AXOGEN reserves the right to add, change, or eliminate any benefits at any time at its sole discretion.

4. Vacations and Holidays. Employee will be entitled to paid vacation of 4 (four) weeks per calendar year and holidays in accordance with the holiday policies of AXOGEN in effect for its employees from time to time. Vacation must be taken by Employee at such time or times as approved by AXOGEN.

5. Bonus.

(a) Calculation. During the Employment Period, Employee may receive a bonus based on an AXOGEN bonus plan, as determined by AXOGEN from time to time in its sole discretion. Bonuses will be pro-rated based on Employee start date and his target rate set at a percentage of salary subject to the conditions of such bonus as established by AXOGEN executive management and/or the compensation committee of the INC. Board of Directors, as applicable.

(b) Payment. The Bonus if paid shall be paid in accordance with, and subject to, the normal payroll policies of AXOGEN with respect to similar forms of compensation, including, without limitation, being subject to all appropriate withholding taxes.

6. Compensation Review. AXOGEN may, from time to time, review Employee's compensation (including benefits) and may, in its sole discretion, increase, or decrease, or eliminate any or all of the benefits. Any such increase or decrease in the compensation package shall be in writing, executed by a duly authorized officer of AXOGEN, and such writing shall constitute an amendment to this Paragraph 6 (and to the Agreement and any applicable Schedules or Exhibits) solely as to the benefits, without waiver or modification of any other terms, conditions or provisions of the Agreement.

7. No Other Compensation. Employee agrees that the compensation and benefits set forth in the Agreement, this Schedule 2 and Schedule 3 contain the sole and exclusive compensation and benefits to which Employee is eligible and that Employee shall have no rights to receive any other compensation or benefits of any nature from AXOGEN. Notwithstanding the foregoing, any and all equity awards granted to the Employee remain in full force under the terms upon which they were originally granted.

## SCHEDULE 3 – OFFER LETTER

January 3, 2023

**VIA EMAIL**

Jens Schroder Kemp
jensskemp@gmail.com

Re: Axogen Offer

Dear Jens,

I am pleased to send you this formal invitation to join the Axogen team in the position of Chief Marketing Officer, subject to the contingency as outlined in the Offer Acceptance. We feel your background is ideally suited for the challenges and extraordinary opportunity ahead. We look forward to your expertise to guide and support activities as we bring Axogen's nerve repair products to patients.

START DATE
Your start date will be on or about February 13, 2023, based on successful completion of pre-employment checks and the details of the offer are listed below.

SALARY
The position of Chief Marketing Officer is a full-time, salaried, exempt position and your salary is $360,000.00 annually, paid bi-weekly.

BENEFITS
You are eligible for health benefits under Axogen's Medical Benefits Plan. You will be eligible on day 1 of your employment and must enroll within 30 days of your start date.

Axogen has a Sick/Personal/Vacation plan (SPV) that allows for 160 hours of paid time off annually, which will be prorated the first year based on your start date.

You are eligible for Axogen's 401(k) Plan that matches dollar-for-dollar for the first 3% contributed and $.50 cents per dollar contributed for the next 2% contributed of your annual base salary to maximum statutory limits.

RELOCATION
You are approved for reimbursement of relocation expenses up to $50,000.00 according to company policy. Expenses must be submitted within one year from your start date, you must still be employed by Axogen when the expenses are submitted, and a signed relocation payback agreement is required (attached).

EMPLOYEE STOCK PURCHASE PLAN
Once you have completed three months as a full-time employee you will have the opportunity to

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purchase Axogen stock at a discounted price in accordance with company policy.

BONUS
Your target annual bonus will be 60% of your base salary, based on either company performance or a combination of company performance and achievement of department level goals, as determined by the compensation committee of the Axogen board at is sole discretion, and is paid annually, prorated the first year.

RESTRICTED STOCK UNITS
As a material inducement for your acceptance of your new employment with Axogen, you will be provided with a non-qualified equity grant in the form of Restricted Stock Units for the grant of 30,000 shares of Axogen, Inc. common stock. Such restricted stock units will vest over 4 years, with 50% vesting after the second year and 25% of the total shares granted vesting every year thereafter for the next two years, provided that you have been continuously employed through each vesting date as to the particular number of shares vesting.

PERFORMANCE STOCK UNITS
You will be eligible to enroll in the annual PSU program with grants thereunder anticipated for March 16, 2023.

STOCK OPTIONS
As further material inducement for your acceptance of your new employment with Axogen, you will be provided a non-qualified equity grant in the form of an Incentive Stock Option that will allow during its 10-year term to purchase, subject to vesting provisions, 60,000 shares of Axogen, Inc. common stock at the closing price of the Company Common Stock on the grant date. Such stock options will vest over 4 years, with 50% vesting after the second year and 12.5% of the total shares granted vesting every 6 months thereafter for the next two years, provided that you have been continuously employed.

The compensation and benefits to be provided to you are contingent on your continued employment and subject to the particular terms of any further documentation provided to you. These employment terms are also subject to change at the discretion of the Axogen Corporation. Neither this letter nor other documentation between the parties is intended to convey a right to a particular length of time of employment.

Please let me know if you have questions. I look forward to working with you in the days to come.

Kind Regards,

DocuSigned by:
Maria Martinez
Maria Martinez
Chief Human Resources Officer
Axogen Corporation

O 386.462.6800 | Customer Care 888.296.4361 | F 386.462.6801 | 13631 Progress Blvd., Suite 400 | Alachua, FL 32615

OFFER ACCEPTANCE

The provisions of this conditional offer of employment have been read, are understood, and the offer is herewith accepted. I understand that my final offer of employment is contingent upon: (1) satisfactory fulfillment of a pre-employment drug test and background check; (2) executing all of the documents included in Axogen's New Hire Package which includes, but is not limited to, non-compete, non-solicitation, confidentiality, invention assignment, insider trading, anti-fraud, and code of ethics agreements; and (3) completing all necessary quality related training. (Collectively the aforementioned list will be referred to as Employment Documentation.) Completing the Employment Documentation will confirm my employment pursuant to the terms of this Letter. However, Axogen reserves the right to change any or all of the Employment Documentation listed above. I further understand that my employment will be as an at-will employee. Although I am an at-will employee, Axogen may issue me company property and I understand that if my employment is terminated for any reason, I am responsible for returning that company property in usable or salable condition. I consent to Axogen withholding any payments due to me post termination until all of my company property is returned in good condition.

This offer shall remain open for 3 business days unless an extension of the consideration time is agreed to in writing by an Officer of the company.

To confirm your acceptance of this offer please submit your signatures via electronic signature. We look forward to working with you!

Date: 1/9/2023

Signature: DocuSigned by: Jens Schroder Kemp 25B6D3FE8AEC4CD...

Target Start Date: February 13, 2023

O 386.462.6800 | Customer Care 888.296.4361 | F 386.462.6801 | 13631 Progress Blvd., Suite 400 | Alachua, FL 32615

axogen

RELOCATION ASSISTANCE PAYBACK AGREEMENT

I, Jens Schroder Kemp , understand that I am eligible to be reimbursed up to

$ 50,000 for relocation expenses, as outlined in my offer letter.

Because of the time and money that Axogen (the Company) has invested or will invest in connection with my relocation, if I should voluntarily resign or if my employment is terminated for cause, including poor performance, within twenty-four (24) months of my job start date, I am expressly responsible for repayment of reimbursed in the amounts applicable to my tenure, as per the schedule below.

Repayment Schedule by Tenure:

| | |
|---|---|
| 0 months to <6 months | 100% of relocation expenses reimbursed to employee or paid by Company |
| <7 months to <12 months | 75% of relocation expenses reimbursed to employee or paid by Company |
| <13 months to <18 months | 50% of relocation expenses reimbursed to employee or paid by Company |
| <19 months to <24 months | 25% of relocation expenses reimbursed to employee or paid by Company |

In addition, if I have been reimbursed for expenses or submitted expenses but have not yet been reimbursed, I acknowledge and agree that Axogen may withhold any money owed to be as part of the payback based on the schedule above.

I authorize the Company to deduct the entirety of the amounts reimbursed to me or disbursed on my behalf at the time of termination from my final paycheck to the extent permitted by applicable state law. I understand that such deductions will not reduce my pay below minimum wage. I further agree and acknowledge that, if my paycheck is insufficient to cover the repayment obligation, I understand I will be liable for repayment of the outstanding balance to the Company by check within 15 days of termination.

I also understand that if I am employed in Connecticut, Colorado, Indiana, North Carolina, and Utah, I may revoke the deduction authorization at any time. If revoked, or if the deduction is not allowed under applicable state law at the time of termination, I acknowledge that I will still be responsible for repaying the repayment obligation within fifteen (15) days of my date of termination. If I fail to repay the repayment obligation, I understand that the Company will have all legal rights to recover the repayment obligation available under applicable law.

Revised as of Dec 2020/KB

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New York employees only: You may contest any deduction that is not in accordance with the terms of your written authorization. Please see Human Resources if you wish to contest any deductions taken.

Tennessee employees only: You will have 14 days from the date you are notified to pay the repayment obligation, or the deduction described above will be taken from your paycheck. If you contest the amount owed, within 7 days of being notified of the amount owed you may send a sworn affidavit to the Company and to the Tennessee Department of Labor and Workforce Development contesting what is owed.

This payback agreement represents the sole agreement between me and Axogen regarding the subject matter set forth above. Nothing in this payback agreement shall be construed to change the at will nature of your employment with Axogen.

Employee's Full Name: Jens Schroder Kemp

Employee Signature: DocuSigned by: Jens Schroder Kemp 258B06FE5AEC4C3... Date 1/9/2023

Director, Talent Acquisition Signature: DocuSigned by: Kellie Brady 809CD1C0598442F... Date: 1/9/2023

Revised as of Dec 2020/KB

# EXHIBIT A

## CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "IP and NCNS Agreement") is effective as of February 13, 2023 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Jens Schroder Kemp ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets; and

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, Employee agrees to abide by the terms and conditions set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this IP and NCNS Agreement hereby agree as follows:

### 1. DEFINITIONS.

The following terms, when used in this IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on

behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

**2. CONFIDENTIAL INFORMATION AND PROPERTY.**

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen for any reason, or at any time as Axogen requests, Employee shall immediately return to Axogen all Confidential Information and other tangible property that belongs to Axogen in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen.

2.3 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X)

files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

**3. RESTRICTIVE COVENANTS.**

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and protect the purpose and subject matter of this IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the year prior to Employee's separation from the Company.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

**4. INVENTIONS.**

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or

other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for AXOGEN during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to

Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of IP and NCNS Agreement and has either done so, or knowingly declined to do so.

## 6. MISCELLANEOUS.

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from

purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this IP and NCNS Agreement; this IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the IP and NCNS Agreement. The provisions of this IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this IP and NCNS Agreement signed by both Parties.

6.4 Severability. This IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this IP and NCNS Agreement, and the remaining provisions contained in this IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this IP and NCNS Agreement.

6.5. Assignment. This IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to the Company and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any

suit, action or legal proceeding arising out of, or relating to, this IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This IP and NCNS Agreement may be executed by facsimile or electronic transmission.

**IN WITNESS WHEREOF,** the Parties have caused this IP and NCNS Agreement to be executed as of the Effective Date.

| **AXOGEN CORPORATION** | **EMPLOYEE** |
|---|---|
| DocuSigned by: | DocuSigned by: |
| By _____ 718E73CBF3D847E... | _____ 250666FE5AEC4CD... |
| Name: Karen Zaderej | Name: Jens Schroder Kemp |
| Title: Chairman, CEO and President | |

## Schedule 1

## Competing Organizations

Amniox Medical
Applied Biologics
Baxter international
Checkpoint Surgical
Guangzou Zhongda (China)
Integra Lifesciences
Medovent GMBH
MiMedx Group
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical
Alafair Biosciences
Tissium
Monarch Bioimplants
Biocircuit
Skye Biologics
TissueTech
Orthocell
Renerva
Epineuron
Cook Biotech

## Schedule 2

## List of Prior Intellectual Property

# AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT

**THIS AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT** (this "First Amendment"), effective as of February 27, 2024 is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Jens Kemp ("Employee") (collectively, the "Parties").

## RECITALS:

**WHEREAS**, the Company and Executive have entered into that certain Executive Employment Agreement, dated as of February 13, 2023 (the "Executive Employment Agreement"); and

**WHEREAS**, the Parties wish to amend the Executive Employment Agreement, with such amendment to be effective as of February 27, 2024 (the "Amendment Effective Date").

**NOW, THEREFORE**, in consideration of the promises set forth in this First Amendment, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this First Amendment, the Parties to this First Amendment, intending to be legally bound, agree as follows:

1. **RECITALS**. The above recitals are true and correct and fully incorporated as a part of this First Amendment.

2. Section 4(b)(i) of the Executive Employment Agreement regarding termination in connection with a change in control is hereby amended, as follows:

(a) the words "eighteen (18) months of Employee's base salary" shall be replaced with the words "twenty-four (24) months of Employee's base salary"; and

(b) the words "150% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "200% of Employee's target bonus for the year in which the termination occurs".

3. Section 4(b)(v) of the Executive Employment Agreement regarding termination not in connection with a change in control is hereby amended, as follows:

(a) the words "twelve (12) months of Employee's base salary" shall be replaced with the words "fifteen (15) months of Employee's base salary"; and

(b) the words "100% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "125% of Employee's target bonus for the year in which the termination occurs".

4. The second paragraph in Section 4(c) regarding Employee's continuation coverage under COBRA is hereby amended, as follows:

(a) the words "eighteen (18) months of the COBRA continuation period" in prong (i) shall be replaced with the words "twenty-four (24) months of the COBRA continuation period"; and

(b) the words “twelve (12) months of the COBRA continuation period” in prong (i) shall be replaced with the words “fifteen (15) months of the COBRA continuation period”.

All other terms and conditions of the Agreement and any additional agreements that may exist between the Executive and the company shall remain valid.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date and year first written above.

**AXOGEN CORPORATION**

DocuSigned by:
Z10E73CBE3D847E...
Name: Karen Zaderej
Title: Chairman, CEO and President

**EMPLOYEE:**

DocuSigned by:
FC0F3F6015B0455...
Name: Jens Kemp
Title: Chief Marketing Officer

# EXHIBIT A

## AMENDED AND RESTATED CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "Amended IP and NCNS Agreement") is effective as of February 27, 2024 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Jens Kemp ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets;

**WHEREAS,** Employee is currently a party to Axogen's Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement;

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, as well as in consideration for the amendment to Employee's employment agreement executed concurrently herewith, Employee agrees to abide by the terms and conditions of this Amended IP and NCNS Agreement as set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Amended IP and NCNS Agreement hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and fully incorporated as a part of this Amended IP and NCNS Agreement.

2. **DEFINITIONS.**

The following terms, when used in this Amended IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

**2. CONFIDENTIAL INFORMATION AND PROPERTY.**

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2 Protected Rights. Nothing in this Agreement shall be construed to limit Employee's ability to report (by way of filing a charge or complaint, or otherwise) possible violations of law or regulation, or make other legally-protected disclosures under applicable whistleblower laws or regulations (including pursuant to Section 21F of the Securities Exchange Act of 1934, as amended), without notice to or consent from Axogen, to the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Department of Justice, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agency" or "Government Agencies"). Employee further understands that this Agreement does not limit Employee's ability to participate in an investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information to such Government Agencies, without notice to Axogen. Nothing in this Agreement prevents Employee from giving truthful testimony to, responding to a valid subpoena from, initiating communications directly with, responding to an inquiry from, volunteering information to, or communicating with Government Agencies in connection with any reporting of, investigation into or proceeding regarding suspected violations of law. In addition, nothing in this Agreement in any way prohibits or is intended to restrict or impede, and shall not be interpreted or understood as restricting or impeding, Employee

from exercising Employee's rights under Section 7 of the National Labor Relations Act (NLRA) or otherwise disclosing information as permitted by that law.

2.3. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen [or its parent company Axogen, Inc. ("INC.")] for any reason, or at any time as Axogen [or INC.] requests, Employee shall immediately return to Axogen[ and INC as applicable] all Confidential Information and other tangible property that belongs to Axogen[ or INC] in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive")) relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen and confirm such return in writing. This obligation does not limit or otherwise prevent Employee from engaging in any Protected Rights that are set forth above in Paragraph 2.2.

2.4 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X) files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

## 3. RESTRICTIVE COVENANTS.

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and

protect the purpose and subject matter of this Amended IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the one year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the one year prior to Employee's separation from the Company.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this Amended IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this Amended IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this Amended IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

**4. INVENTIONS.**

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for Axogen during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this Amended IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and Confidential Information and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this Amended IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this Amended IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this Amended IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this Amended IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this Amended IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this Amended IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this Amended IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of Amended IP and NCNS Agreement and has either done so, or knowingly declined to do so.

**6. MISCELLANEOUS.**

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this Amended IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this Amended IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this Amended IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this Amended IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This Amended IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this Amended IP and NCNS Agreement; this Amended IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the Amended IP and NCNS Agreement. The provisions of this Amended IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this Amended IP and NCNS Agreement signed by both Parties.

6.4 Severability. This Amended IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this Amended IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this Amended IP and NCNS Agreement, and the remaining provisions contained in this Amended IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this Amended IP and NCNS Agreement.

6.5. Assignment. This Amended IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This Amended IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this Amended IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to the Company and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this Amended IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this Amended IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Amended IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Amended IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Amended IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This Amended IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This Amended IP and NCNS Agreement may be executed by facsimile or electronic transmission.

***[Signature Page Follows]***

**IN WITNESS WHEREOF,** the Parties have caused this Amended IP and NCNS Agreement to be executed as of the Effective Date.

**AXOGEN CORPORATION**

By DocuSigned by: 710E73CBF3D847E...

Name: Karen Zaderej

Title: Chairman, CEO and President

**EMPLOYEE**

DocuSigned by: Jens Kemp FC0F3F6015B0455...

Name: Jens Kemp

Title: Chief Marketing Officer

## Schedule 1

## Competing Organizations

BioCircuit Technologies
Amniox Medical Inc.
Applied Biologics Inc.
Baxter International, Inc.
Checkpoint Surgical Inc.
Guangzhou Zhongda Medical (China)
Integra LifeSciences Inc.
Medovent GmbH
MiMedx Group Inc.
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical Inc.

## Schedule 2

## List of Prior Intellectual Property

[ ]

# EXECUTIVE EMPLOYMENT AGREEMENT

**THIS EXECUTIVE EMPLOYMENT AGREEMENT** (the "Agreement"), effective as of Feb. 27, 2024 (the "Effective Date"), is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Erick DeVinney("Employee") (collectively, the "Parties").

## RECITALS:

**WHEREAS**, AXOGEN and the Employee desire to enter into this Agreement to state the terms and conditions of the Agreement in its entirety on the Effective Date on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the promises set forth in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this Agreement, the Parties to this Agreement, intending to be legally bound, agree as follows:

1. Employment. AXOGEN hereby employs Employee, and Employee hereby accepts such employment, all upon the terms and conditions set forth in this Agreement, including those set forth in the attached Schedules and Exhibits.

(a) Duties of Employee. The duties of Employee, as may be amended from time to time, are set forth on Schedule 1 of this Agreement, which is attached hereto and incorporated herein by reference.

(b) Compensation and Benefits. The compensation and benefits to which Employee may be entitled pursuant to this Agreement are set forth on Schedule 2 and Schedule 3 of this Agreement, which is attached hereto and incorporated herein by reference.

2. Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement. Contemporaneously with the execution and delivery of this Agreement, Employee shall enter into a Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement attached hereto as Exhibit A to this Agreement, which shall be incorporated herein by reference.

3. Termination.

(a) At-will. Either AXOGEN or Employee may terminate this Agreement at any time during the course of Employee's employment and for any reason, upon giving written notice to the other party. Other than as described in this Agreement, AXOGEN shall have no further liability or obligation to Employee other than to pay for services rendered through Employee's last date of employment. If Employee elects to terminate this Agreement and provides AXOGEN with any notice period prior to the date of termination, AXOGEN may elect to terminate this Agreement immediately thereon and incur no further obligation to Employee other than for wages worked through the date of termination of this Agreement and any other remuneration expressly set forth herein or as otherwise set forth in AXOGEN's policies. It is the intention of the Parties that at all times this shall be an at-will employment relationship during the course of Employee's employment with AXOGEN. Nothing contained in this Agreement shall be deemed or construed to create a contractual relationship between the Parties for a specific duration of time.

(b) Death. In the event of the death of the Employee, this Agreement shall terminate on the date of Employee's death, without any liability to or upon AXOGEN other than to pay for services rendered prior to the date of the Employee's death, subject to the terms of AXOGEN's plans and policies, as may be amended.

(c) Permanent Disability. For purposes of this Agreement, the term "Permanent Disability" shall mean a physical or mental incapacity of Employee as determined by an independent medical examination, which renders Employee unable to perform Employee's duties pursuant to this Agreement, and which shall continue for ninety (90) consecutive days or one hundred and eighty (180) days during any twelve-month period. If AXOGEN or Employee terminates Employee's employment by reason of Permanent Disability of Employee, this Agreement shall terminate immediately upon written notice by AXOGEN to Employee, or the date Employee gives notice to terminate employment to AXOGEN, without any liability to or upon AXOGEN other than to pay for services rendered through the termination date, subject to the terms of AXOGEN's plans and policies, as may be amended.

4. Change in Control.

(a) Definition. For the purposes of this Agreement, a "Change in Control" shall mean the occurrence of any of the following events:

(i) any "person" (as that term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act")), who holds less than twenty percent (20%) of the combined voting power of the securities of AXOGEN or its parent company Axogen, Inc. ("INC."), becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of AXOGEN or INC. representing fifty percent (50%) or more of the combined voting power of the securities of either AXOGEN or INC. then outstanding; or

(ii) during any period of twenty-four (24) consecutive months, individuals, who, at the beginning of such period constitute all members of the Board of Directors of INC. (the "Board") and cease, for any reason, to constitute at least a majority of the Board, unless the election of each director who was not a director at the beginning of the period was either nominated for election by, or approved by a vote of, at least two-thirds of the directors then still in office who were directors at the beginning of the period; or

(iii) AXOGEN or INC. consolidates or merges with another company, and AXOGEN or INC. is not the continuing or surviving corporation, provided, however, that any consolidation or merger whereby INC. continues as the majority holder of AXOGEN securities or a merger or consolidation of AXOGEN and INC. will not constitute a Change in Control; or

(iv) shares of AXOGEN's or INC.'s common stock are converted into cash, securities, or other property, other than by a merger of AXOGEN or INC., pursuant to Section 4(a)(iii), in which the holders of AXOGEN's or INC.'s common stock immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation as immediately after the merger; or

(v) AXOGEN or INC. sells, leases, exchanges, or otherwise transfers all, or substantially all, of its assets (in one transaction or in a series of related transactions), provided, however, that any such transaction related to AXOGEN whereby INC. continues as the majority holder of AXOGEN securities or INC. is the sole other party to the transaction, will not constitute a Change in Control; or

(vi) the holders of AXOGEN's or INC.'s stock approve a plan or proposal for the liquidation or dissolution of AXOGEN or INC.

(b) Separation.

(i) Termination in Connection with a Change in Control. In the event of Employee's termination of employment without Substantial Cause (as defined below) or by Employee for Good Reason during the Protection Period, Employee will be entitled to a separation payment consisting of: (A) eighteen (18) months of Employee's base salary; and (B) an amount equal to a 150% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment.

(ii) For purposes of this Agreement, "Protection Period" means the period commencing on the date of the Change in Control and ending three hundred sixty five (365) days following the Change in Control; provided, however, that in the case of an Anticipatory Termination, the Protection Period shall also include the ninety (90) day period preceding the Change of Control. For purposes of this Agreement, an "Anticipatory Termination" means a termination of Employee's employment without Substantial Cause in anticipation of a Change in Control (by reason of the request of the individual, entity or other person (or their representatives) who subsequently acquire AXOGEN or INC. (the "Acquirer")).\

(iii) For purposes of this Agreement, "Substantial Cause" is the occurrence of any of the following during the course of Employee's employment with AXOGEN:

a) the commission by Employee of any act of fraud, theft, or embezzlement involving AXOGEN or INC.;

b) any material breach by Employee of this Agreement, provided that AXOGEN shall have first delivered to Employee written notice of the alleged breach, specifying the exact nature of the breach in detail, and provided, further, that Employee shall have failed to cure or substantially mitigate such breach within twenty (20) days after receiving such written notice;

c) a conviction of any felony, or of any misdemeanor involving moral turpitude, or entry of a plea of guilty or nolo contendere to any felony or misdemeanor involving moral turpitude;

d) willful and material failure to adhere to AXOGEN's or INC.'s corporate codes, policies or procedures which have been adopted in good faith for a valid business purpose as in effect from time to time; or

e) a material failure to meet reasonable performance standards as determined by AXOGEN or INC.

(iv) For purposes of this Agreement, "Good Reason" shall mean Employee's resignation from employment upon or within three hundred sixty five (365) days following a Change in Control, provided that Substantial Cause for termination of Employee's employment does not exist at the time of such resignation and the resignation is the result of the occurrence of any one or more of the following:

a) the assignment to Employee of any duties inconsistent with Employee's (including status, offices, titles, and reporting requirements), authorities, duties, or other responsibilities as in effect immediately prior to the Change in Control of AXOGEN or INC. or any other action of AXOGEN, INC., or the Acquirer that results in a material diminishment in such position, authority, duties, or responsibilities, other than an insubstantial and/or inadvertent action which is remedied by AXOGEN, INC., or the Acquirer promptly after receipt of notice thereof given by Employee;

b) a reduction by AXOGEN, INC., or the Acquirer, absent Substantial Cause, in Employee's base salary as in effect on the date hereof and as the same shall be increased from time to time hereafter; or

c) Employee is required to perform a substantial portion of her duties at a facility which is more than 50 miles from the facility for which Employee performed a substantial portion of her duties immediately prior to the Change in Control.

However, the foregoing events or conditions will constitute Good Reason only if (i) such event or condition occurs during the period commencing on the date of the Change in Control and ending three hundred sixty fifty (365) days thereafter and (ii) the Employee provides AXOGEN, INC., or the Acquirer with written objection to the event or condition within sixty (60) days following the occurrence thereof, AXOGEN, INC., or the Acquirer does not reverse or otherwise cure the event or condition within thirty (30) days of receiving that written objection and the Employee resigns the Employee's employment within ninety (90) days following the expiration of that cure period.

(v) Termination not in Connection with a Change in Control. In the event of Employee's termination of employment by AXOGEN without Substantial Cause not in connection with a Change in Control, Employee shall be entitled to a separation payment consisting of: (a) twelve (12) months of Employee's base salary; and (b) an amount equal to 100% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment.

(c) Payment of Separation Pay. As a condition of receiving any separation pay under this Section 4, Employee must sign (and not revoke) a separation, waiver and release agreement (to be prepared by AXOGEN at the time of Employee's termination) of all claims (known and unknown) against AXOGEN and INC. arising out of or relating to Employee's employment with AXOGEN or termination thereof, excluding claims for separation pay under this Section 4, as well as any other terms and conditions reasonably required by AXOGEN. The Separation Payment will be made in a lump sum on the first payroll date following the 60th day following the date of Employee's execution of the separation, waiver and release agreement; provided, however, that if the 60 day period spans two (2) calendar years, the payments will commence in the second calendar year. Notwithstanding the foregoing, if the Employee is a "specified employee" on Employee's termination date, the postponement provisions of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), as described in Section 8(n) below, shall apply, if applicable.

Further, in the event Employee is entitled to separation payments pursuant to this Agreement and so long as AXOGEN or INC. is subject to federal COBRA and Employee timely elects continuation coverage under COBRA, AXOGEN or INC. shall pay the premiums for the Employee and Employee's covered dependent's COBRA (i) for the first eighteen (18) months of the COBRA continuation period in the event that the termination is in connection with a Change in Control or the first twelve (12) months of the COBRA continuation period in the event that the termination is not in connection with a Change in Control, or (ii) until such time as the Employee obtains new employment that provides reasonable and comparable health care coverage (including without limitation, coverage of dependents), whichever period is shorter. Employee has the duty to immediately notify the applicable entity, in writing, if the event in (ii) above occurs.

(d) Limitation on Payments.

(i) Notwithstanding any other provision of this Agreement or any other plan, arrangement or agreement to the contrary, if any of the payments or benefits provided or to be provided to Employee pursuant to the terms of this Agreement or otherwise ("Covered Payments") constitute parachute payments ("Parachute Payments") within the meaning of Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") and would, but for this Section 4(d) be subject to the excise tax imposed under Section 4999 of the Code (or any successor provision thereto) or any similar tax imposed by state or local law or any interest or penalties with respect to such taxes (collectively, the "Excise Tax"), then prior to making the Covered Payments, a calculation shall be made comparing (a) the Net Benefit (as defined below) to the Employee of the Covered Payments after payment of the Excise Tax to (b) the Net Benefit to the Employee if the Covered Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (a) above is less than the amount under (b) above will the Covered Payments be reduced to the minimum extent necessary to ensure that no portion of the Covered Payments is subject to the Excise Tax (that amount, the "Reduced Amount"). "Net Benefit" shall mean the present value of the Covered Payments net of all federal, state, local, foreign income, employment and excise taxes.

(ii) The Covered Payments shall be reduced in a manner that maximizes the Employee's economic position. To the extent that Section 409A of the Code is applicable, then in applying this principle, the reduction shall be made in a manner

consistent with the requirements of Section 409A of the Code, and where two economically equivalent amounts are subject to reduction but payable at different times, such amounts shall be reduced on a pro rata basis but not below zero.

(iii) Any determination required under this Section 4(d) shall be made in writing in good faith by an independent accounting firm or other independent consultant selected by the Company (the "Accountants") which shall provide detailed supporting calculations to AXOGEN and the Employee as requested by AXOGEN. AXOGEN and the Employee shall provide the Accountants with such information and documents as the Accountants may reasonably request in order to make a determination under this Section 4(d). For purposes of making the calculations and determinations required by this Section 4(d), the Accountants may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Accounting Firm's determinations shall be final and binding on AXOGEN and the Employee. AXOGEN shall be responsible for all fees and expenses incurred by the Accountants in connection with the calculations required by this Section 4(d).

(iv) It is possible that after the determinations and selections made pursuant to this Section 4(d) the Employee will receive Covered Payments that are in the aggregate more than the amount provided under this Section ("Overpayment") or less than the amount provided under this Section ("Underpayment").

(v) In the event that: (a) the Accountants determine, based upon the assertion of a deficiency by the Internal Revenue Service against either AXOGEN or the Employee which the Accountants believe has a high probability of success, that an Overpayment has been made or (b) it is established pursuant to a final determination of a court or an Internal Revenue Service proceeding that has been finally and conclusively resolved that an Overpayment has been made, then the Employee shall pay any such Overpayment to AXOGEN.

(vi) In the event that: (a) the Accountants, based upon controlling precedent or substantial authority, determine that an Underpayment has occurred or (b) a court of competent jurisdiction determines that an Underpayment has occurred, any such Underpayment will be paid promptly by AXOGEN to or for the benefit of the Employee.

5. Surrender of Records and all AXOGEN and INC. Property. Upon termination of Employee's employment with AXOGEN or INC for any reason, or at any time as AXOGEN or INC. requests, Employee will immediately return to AXOGEN and INC., as applicable all Confidential Information and other tangible property that belongs to AXOGEN or INC. in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating in any way to the Confidential Information obtained by

or entrusted to Employee during Employee's employment. and confirm such return in writing.

6. Miscellaneous Provisions.

(a) Amendments to this Agreement only in Writing. The provisions of this Agreement and the attached Schedules and Exhibits shall only be modified by a written agreement executed by both a duly authorized officer of AXOGEN and Employee.

(b) Assignments. Employee shall not assign Employee's rights and/or obligations pursuant to this Agreement or the attached Schedules and Exhibits. AXOGEN may assign its rights and/or obligations pursuant to this Agreement and the attached Schedules and Exhibits at any time without prior notice to Employee. In the event of a Change in Control in which AXOGEN or INC. is not the surviving entity, any reference to AXOGEN or INC. shall be deemed to refer to the surviving entity.

(c) Binding Effect. All of the terms and provisions of this Agreement and the attached Schedules and Exhibits, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective administrators, executors, legal representatives, heirs, successors and permitted assigns.

(d) The Provisions of this Agreement are Severable. If any part of this Agreement, or any of the Schedules or Exhibits entered into pursuant to this Agreement, is contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder of this Agreement and its Schedules and Exhibits shall not be so invalidated, and shall be given full force and effect so far as possible.

(e) Survival. Notwithstanding anything to the contrary in this Agreement, the provisions of Sections 1 through 6 shall survive and remain in effect beyond the execution and delivery of this Agreement in accordance with their respective terms of duration.

(f) Waivers. The failure or delay of AXOGEN or Employee at any time to require performance of any provision of this Agreement or the attached Schedules and Exhibits, even if known, shall not affect the rights of AXOGEN or Employee to require performance of that provision or to exercise any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits. Any waiver by AXOGEN or Employee of any breach of any provision of this Agreement or the attached Schedules and Exhibits shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy pursuant to this Agreement or the attached Schedules and Exhibits.

(g) Notices. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (i) delivered via electronic notification; (ii) hand-delivered by messenger or courier service; (iii) sent by an overnight-mail service (e.g. FedEx or UPS); or (iv) mailed (airmail, if

international) by registered or certified mail (postage prepaid), return receipt requested, and addressed to:

If to Employee:

Employee's most current address on file with AXOGEN.

| If to AXOGEN: | With a copy to: |
|---|---|
| AXOGEN Corporation<br>13631 Progress Blvd., Ste. 400<br>Alachua, FL 32615<br>Attn: Office of the General Counsel | AXOGEN Corporation<br>13631 Progress Blvd., Ste. 400<br>Alachua, FL 32615<br>Attn: Human Resources |

or to such other address as any party may designate by written notice complying with the terms of this Section. Each such notice shall be deemed delivered (a) on the date delivered, if by personal delivery, or (b) on the date upon which the return receipt is signed, delivery is refused, or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

(h) Governing Law. This Agreement and the attached Schedules and Exhibits and all transactions contemplated by this Agreement or the attached Schedules and Exhibits shall be governed by, and construed and enforced in accordance with, the laws of the State of Florida.

(i) Jurisdiction and Venue. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Agreement and the attached Schedules and Exhibits occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Agreement or the attached Schedules and Exhibits shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the personal jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws or court rules in said state.

(j) Remedies Available to Either Party Cumulative. No remedy conferred upon any party pursuant to this Agreement (or the attached Schedules and Exhibits) is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given pursuant to this Agreement (or the attached Schedules and Exhibits) now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power or remedy pursuant to this Agreement (or the attached Schedules and Exhibits) shall preclude any other or further exercise of such right, power or remedy.

(k) Entire Agreement. This Agreement and the attached Schedules and Exhibits

represents the entire understanding and agreement between the Parties with respect to the subject matter contained herein and supersedes all other agreements, negotiations, understandings and representations (if any) made by and between the Parties regarding such subject matter. The Parties represent that they have not relied on any statement, promise, or representation not set forth herein in entering into this Agreement.

(l) Section and Paragraph Headings. Section and paragraph headings used throughout this Agreement and the attached Schedules and Exhibits are for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement or the attached Schedules and Exhibits.

(m) Preparation of Agreement. This Agreement shall not be construed more strongly against any party regardless of who is responsible for its preparation. The Parties acknowledge that each party contributed to its negotiations and is equally responsible for its preparation.

(n) Section 409A of the Code. Notwithstanding any provision of this Agreement to the contrary, this Agreement is intended to meet the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") to the extent applicable, the Parties intend to administer this Agreement in a manner that is consistent with those requirements or an exception thereto, and this Agreement shall be construed and interpreted in accordance with such intent. Any payments that are considered deferred compensation under Section 409A of the Code and that are paid to a "specified employee" (as defined in Section 409A of the Code) upon separation from service shall be subject to a six (6) month delay, if required by Section 409A of the Code. If required by Section 409A of the Code, any amounts otherwise payable during the six (6) month period that commences on and follows the Employee's termination date shall be paid in one lump sum amount on the first payroll date following the six (6) month period following the Employee date of termination (or within thirty (30) days of the Employee's death, if earlier). For purposes of Section 409A of the Code, all payments to be made upon a termination of employment under this Agreement may only be made upon a "separation from service" (within the meaning of such term under Section 409A of the Code). Each payment made under this Agreement shall be treated as a separate payment. In no event shall the Employee, directly or indirectly, designate the calendar year of a payment. All reimbursements under this Agreement shall be provided in a manner that complies with Section 409A of the Code, if applicable. If required by regulations or other guidance issued under Section 409A of the Code or a court of competent jurisdiction, the provisions regarding payments hereunder shall be amended to provide for such payments to be made at the time allowed under such regulations, guidance or authority that most closely achieves the intent of this Agreement.

(o) Liability Insurance. AXOGEN shall cover, at its sole cost and expense, the Employee under directors and officers liability insurance both during the term of this Agreement and for the one year period following the termination of this Agreement, in the same amount and to the same extent as AXOGEN covers its officers and directors.

**EMPLOYEE AND AXOGEN** have executed this Agreement as of the 27th day of February 2024.

**AXOGEN CORPORATION**

DocuSigned by:

Name: Karen Zaderej
Title: CEO, President & Chairman

**EMPLOYEE:**

DocuSigned by:

Name: Erick DeVinney
Title: Chief Innovation Officer

## SCHEDULE AND EXHIBIT LIST

Schedule 1 - Duties of Employee

Schedule 2 - Compensation and Benefits

Schedule 3 – Offer/Promotion Letters

Exhibit A - Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement

## SCHEDULE 1 - DUTIES OF EMPLOYEE

The duties of Employee with AXOGEN CORPORATION ("AXOGEN") are as follows:

1. Employee's Title: AXOGEN hereby employs Employee as Chief Innovation Officer, which title may change at AXOGEN's discretion.

2. Employee's Duties: Employee shall perform all duties in connection with Employee's position, or as otherwise designated by AXOGEN, including, without limitation, the following duties:

   Reporting to the CEO, the Chief Innovation Officer is a key member of Axogen's executive leadership team with a high degree of visibility and impact across the organization. This role, collaborating with the CEO, Board of Directors, and senior leaders across the organization, brings a strong strategic and visionary mindset and is a key contributor to the overall corporate strategy.

   Primary Responsibilities: The specific duties of the Chief Innovation Officer include but are not limited to:

   - As a senior leader and in collaboration with the executive team, play a key role in the overall development, strategic planning, and management of the organization.
   - Provide leadership in support of the mission of the Company and exemplify Axogenic Values in actions.
   - Complies with all appropriate company policies/procedures, FDA and international regulatory requirements and guidelines and HIPAA guidelines regarding confidentiality.
   - Collaborates with NBD to assess external technology and product opportunities as potential in-licensing or acquisition opportunities.
   - Expand the base of science by directly or in collaboration with outside research organizations obtain grants for basic research in the area of peripheral nerve.
   - Identifies and recommends technology to out license to maximize the value to the Company.
   - Champions the company's efforts to stay on the forefront of technology advancement in peripheral nerve repair, ensures continued assessment of external technology and remains current with new development and trends in the industry including ongoing investigation and evaluation of related research, products and technology licensing opportunities as well as gathering competitive intelligence.
   - Retains and recruits talent for the organization and provides guidance and direction to members of the Clinical Development, Medical Affairs, and Professional Education teams including coaching, performance management and career development. Mentors individuals across the organization.
   - Creates and supports a high performing culture and encourages a team-based environment to motivate and inspire staff to work collaboratively towards Axogen's vision and goals by implementing yearly staff development plans and mentoring.
   - Oversees the operations, personnel, and related budgets of all Clinical Development, Medical Affairs, and Professional Education teams to maintain a high level of fiscal accountability for all department expenses.
   - Other duties as needed by the CEO and the company.

(a) Compliance with Employee Policies, Procedures, Rules and Regulations.

Employee shall comply with all AXOGEN policies, procedures, rules and regulations for employees as such policies and procedures may exist or be established from time to time.

(b) No Other Business Activities.

(i) Employee shall devote Employee's entire professional time, energy and skill to the performance of Employee's duties pursuant to the Agreement, the service of AXOGEN, and promotion of AXOGEN's interests. The Parties agree that Employee may not during Employee's employment, except as permitted in writing by AXOGEN, be engaged in any other business activity, whether or not such activity is pursued for gain, profit, or other pecuniary advantage including, without limitation, management or management consulting activities.

(ii) Notwithstanding the preceding subsection, Employee may invest Employee's personal assets in businesses or real estate that are not in competition with AXOGEN where the form or manner of such investment will not require services on the part of Employee, and in which Employee's participation is solely that of a passive investor.

## SCHEDULE 2 - COMPENSATION AND BENEFITS

Subject to the terms and conditions of the EXECUTIVE EMPLOYMENT AGREEMENT (the "Agreement"), Employee may be entitled to receive from AXOGEN Corporation ("AXOGEN") the following compensation and benefits:

1. Base Salary.

(a) Amount. Employee's salary during employment with AXOGEN will be at the rate of $400,200.00 annually, (the "Base Salary") effective on January 2, 2024 and delivery of the Agreement to AXOGEN.

(b) Payment. The Base Salary shall be payable in accordance with the existing payroll practices of AXOGEN, which practices may be changed by AXOGEN from time to time at its sole discretion. The Base Salary shall be subject to all appropriate withholding taxes.

(c) Review of Base Salary. The Base Salary may be reviewed by AXOGEN from time to time; however, AXOGEN reserves the right to increase or decrease the Base Salary at any time during the employment relationship in its sole discretion.

(d) Additional Compensation. In addition to the Base Salary, Employee may also be eligible to receive stock options, benefits, paid vacations and holidays during Employee's Employment.

2. Business Expenses and Reimbursements. Employee shall be eligible for reimbursement by AXOGEN in accordance with AXOGEN's normal reimbursement practices for ordinary and necessary business expenses incurred by Employee in the performance of Employee's duties for AXOGEN, so long as Employee timely submits to AXOGEN accurate invoices and receipts of all expenses submitted for reimbursement pursuant to this section or as otherwise permitted pursuant to Schedule 3.

3. Benefits. Employee will be permitted to participate in such benefit plans of AXOGEN that may be in effect from time to time, to the extent Employee is eligible under the terms of those plans. Nothing herein shall be construed to require AXOGEN to institute or continue any particular plan or benefit. AXOGEN reserves the right to add, change, or eliminate any benefits at any time at its sole discretion.

4. Vacations and Holidays. Employee will be entitled to paid vacation of [ ] weeks per calendar year and holidays in accordance with the holiday policies of AXOGEN in effect for its employees from time to time. Vacation must be taken by Employee at such time or times as approved by AXOGEN.

5. Bonus.

(a) Calculation. During the Employment Period, Employee may receive a bonus based on an AXOGEN bonus plan, as determined by AXOGEN from time to time in its sole discretion. Bonuses will be pro-rated based on Employee start date and his target rate set at a percentage of salary subject to the conditions of such bonus as established by AXOGEN executive management and/or the compensation committee of the INC. Board of Directors, as applicable.

(b) Payment. The Bonus if paid shall be paid in accordance with, and subject to, the normal payroll policies of AXOGEN with respect to similar forms of compensation, including, without limitation, being subject to all appropriate withholding taxes.

6. Compensation Review. AXOGEN may, from time to time, review Employee's compensation (including benefits) and may, in its sole discretion, increase, or decrease, or eliminate any or all of the benefits. Any such increase or decrease in the compensation package shall be in writing, executed by a duly authorized officer of AXOGEN, and such writing shall constitute an amendment to this Paragraph 6 (and to the Agreement and any applicable Schedules or Exhibits) solely as to the benefits, without waiver or modification of any other terms, conditions or provisions of the Agreement.

7. No Other Compensation. Employee agrees that the compensation and benefits set forth in the Agreement, this Schedule 2, and Schedule 3 contain the sole and exclusive compensation and benefits to which Employee is eligible and that Employee shall have no rights to receive any other compensation or benefits of any nature from AXOGEN. With regard to Schedule 3, Salary, Bonus, and Effective Date terms set forth in the January 4, 2021 Promotion Letter supersede those same terms as set forth in the August 2, 2018 Offer Letter; the remaining terms set forth in the August 2, 2018 Offer Letter remain unchanged. Notwithstanding the foregoing, any and all equity awards granted to the Employee remain in full force under the terms upon which they were originally granted.

# SCHEDULE 3 – OFFER/PROMOTION LETTERS

axogen

January 2, 2024

**VIA EMAIL**

Erick DeVinney
Edevinney@axogeninc.com

Re: Promotion

Dear Erick,

I am pleased to send you this letter informing you of your promotion to the salaried exempt position of Chief Innovation Officer. You have demonstrated leadership and commitment to Axogen's mission, and we feel your background, skill set, and accomplishments are ideally suited for the challenges and extraordinary opportunity ahead. We look forward to your continued expertise to guide and support activities as we bring Axogen's nerve repair products to patients.

SALARY
The position of Chief Innovation Officer is a full-time, salaried, exempt position and your salary is $400,200.00 annually, paid bi-weekly. Your annual merit of 4% was included in the updated salary amount.

BONUS
Your target annual bonus will be 50% of your base salary, based on company performance, paid annually, prorated the first year.

EQUITY award (RSU & Options):
You will receive equity, as part of this promotion, at a future date, to be determined and approved by the Compensation Committee. The equity award will be accordance with the terms and conditions of the Axogen Long-Term Incentive Plan and is subject to approval by the Compensation Committee of the Board of Directors. The expected value is established at the time the equity awards are granted and is not guaranteed. The equity award value will ultimately depend on the share price at the time of grant as well as the share price on vesting or exercise date, as appropriate. The structure, form, and timing of all awards shall be at Axogen's sole discretion.

The compensation and benefits to be provided to you are contingent on your continued employment and subject to the particular terms of any further documentation provided to you. These employment terms are also subject to change at the discretion of the Axogen Corporation. Neither this letter nor other documentation between the parties is intended to convey a right to a particular length of time of employment.

Please let me know if you have questions. I look forward to working with you in your new role.

Kind Regards,
DocuSigned by:
7A0E73CBF5D9475...
Karen Zaderej
Chairman, CEO, and President
Axogen, Inc.

axogen

PROMOTION ACCEPTANCE

I understand that my employment will be as an at-will employee. Although I am an at-will employee, Axogen may issue me company property and I understand that if my employment is terminated for any reason, I am responsible for returning that company property in usable or salable condition. I consent to Axogen withholding any payments due to me post termination until all of my company property is returned in good condition.

This promotion offer shall remain open for 2 business days unless an extension of the consideration time is agreed to in writing by an Officer of the company.

To confirm your acceptance of this offer, please submit your signature via electronic signature. We look forward to working with you!

Date: 1/3/2024

Signature: DocuSigned by: 2009F2B49F684B7...

Target Effective Date: January 2, 2024

# EXHIBIT A

## CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "IP and NCNS Agreement") is effective as of February 27, 2024 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Erick DeVinney ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets; and

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, Employee agrees to abide by the terms and conditions set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this IP and NCNS Agreement hereby agree as follows:

### 1. DEFINITIONS.

The following terms, when used in this IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on

behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

## 2. CONFIDENTIAL INFORMATION AND PROPERTY.

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen for any reason, or at any time as Axogen requests, Employee shall immediately return to Axogen all Confidential Information and other tangible property that belongs to Axogen in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive") relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen.

2.3 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X)

files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

## 3. RESTRICTIVE COVENANTS.

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and protect the purpose and subject matter of this IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the year prior to Employee's separation from the Company.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

## 4. INVENTIONS.

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or

other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for AXOGEN during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to

Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of IP and NCNS Agreement and has either done so, or knowingly declined to do so.

## 6. MISCELLANEOUS.

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from

purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this IP and NCNS Agreement; this IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the IP and NCNS Agreement. The provisions of this IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this IP and NCNS Agreement signed by both Parties.

6.4 Severability. This IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this IP and NCNS Agreement, and the remaining provisions contained in this IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this IP and NCNS Agreement.

6.5. Assignment. This IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to the Company and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any

suit, action or legal proceeding arising out of, or relating to, this IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This IP and NCNS Agreement may be executed by facsimile or electronic transmission.

***[Signature Page Follows]***

**IN WITNESS WHEREOF,** the Parties have caused this IP and NCNS Agreement to be executed as of the Effective Date.

**AXOGEN CORPORATION**

DocuSigned by:

By 
710E73CBF3D847E...

Name: Karen Zaderej

Title: Chairman, CEO and President

**EMPLOYEE**

DocuSigned by:


2909F2B49F684B7...

Name: Erick DeVinney

Title: Chief Innovation Officer

## Schedule 1

## Competing Organizations

Amniox Medical Inc.
Applied Biologics Inc.
Baxter International, Inc.
Checkpoint Surgical Inc.
Guangzhou Zhongda Medical (China)
Integra LifeSciences Inc.
Medovent GmbH
MiMedx Group Inc.
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical Inc.

## Schedule 2

## List of Prior Intellectual Property

[ ]

# AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT

**THIS AMENDMENT NO. 1 TO EXECUTIVE EMPLOYMENT AGREEMENT** (this "First Amendment"), effective as of February 27, 2024 is made by and between AXOGEN CORPORATION, a Delaware corporation ("AXOGEN"), and Erick DeVinney ("Employee") (collectively, the "Parties").

## RECITALS:

**WHEREAS**, the Company and Executive have entered into that certain Executive Employment Agreement, dated as of February 27, 2024 (the "Executive Employment Agreement"); and

**WHEREAS**, the Parties wish to amend the Executive Employment Agreement, with such amendment to be effective as of February 27, 2024 (the "Amendment Effective Date").

**NOW, THEREFORE**, in consideration of the promises set forth in this First Amendment, and for other good and valuable consideration, the receipt and adequacy of which is acknowledged by this First Amendment, the Parties to this First Amendment, intending to be legally bound, agree as follows:

1. **RECITALS**. The above recitals are true and correct and fully incorporated as a part of this First Amendment.

2. Section 4(b)(i) of the Executive Employment Agreement regarding termination in connection with a change in control is hereby amended, as follows:

(a) the words "eighteen (18) months of Employee's base salary" shall be replaced with the words "twenty-four (24) months of Employee's base salary"; and

(b) the words "150% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "200% of Employee's target bonus for the year in which the termination occurs".

3. Section 4(b)(v) of the Executive Employment Agreement regarding termination not in connection with a change in control is hereby amended, as follows:

(a) the words "twelve (12) months of Employee's base salary" shall be replaced with the words "fifteen (15) months of Employee's base salary"; and

(b) the words "100% of any bonuses or commissions paid to Employee during the year prior to Employee's termination of employment" shall be replaced with the words "125% of Employee's target bonus for the year in which the termination occurs".

4. The second paragraph in Section 4(c) regarding Employee's continuation coverage under COBRA is hereby amended, as follows:

(a) the words "eighteen (18) months of the COBRA continuation period" in prong (i) shall be replaced with the words "twenty-four (24) months of the COBRA continuation period"; and

(b) the words "twelve (12) months of the COBRA continuation period" in prong (i) shall be replaced with the words "fifteen (15) months of the COBRA continuation period".

All other terms and conditions of the Agreement and any additional agreements that may exist between the Executive and the company shall remain valid.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date and year first written above.

**AXOGEN CORPORATION**

DocuSigned by:

710E73CBF3D847...

Name: Karen Zaderej
Title: Chairman, CEO and President

**EMPLOYEE:**

DocuSigned by:

2909F2B49F684B7...

Name: Erick DeVinney
Title: Chief Innovation Officer

# EXHIBIT A

## AMENDED AND RESTATED CONFIDENTIALITY, INTELLECTUAL PROPERTY, NON-COMPETITION AND NON-SOLICITATION AGREEMENT

This Amended and Restated Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement (this "Amended IP and NCNS Agreement") is effective as of February 27, 2024 (the "Effective Date") by and between Axogen Corporation, having a place of business at 13631 Progress Blvd., Suite 400, Alachua, FL 32615 ("Axogen") and Erick DeVinney ("Employee"). Axogen and Employee may each be referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, Axogen is a global leader in developing, marketing, selling and distributing surgical and non-surgical solutions for peripheral nerve damage or discontinuity, as well as of instruments and devices in connection with the foregoing and in diagnosis, surgery for, therapy associated with and recovery in connection with nerve damage and/or nerve discontinuity, and has spent substantial time, resources and monies developing its Confidential Information (as defined below);

**WHEREAS**, Employee has accepted employment with or is currently an employee of Axogen who will or does, as the case may be, receive certain compensation and other employment-related benefits from Axogen in return for Employee performing Employee's job duties and responsibilities;

**WHEREAS**, during Employee's employment Employee will be (or has been) provided with periodically supplemented Confidential Information, including trade secrets, as well as the opportunity to contribute to the creation and/or maintenance of Confidential Information;

**WHEREAS**, Employee recognizes that Axogen's Confidential Information is an important and valuable asset to Axogen and that Axogen has a legitimate business interest in protecting these assets;

**WHEREAS,** Employee recognizes that Axogen's relationships with Axogen Customers and the goodwill associated with Axogen Customers, Axogen's business and Axogen's reputation in the industry, are important and valuable assets to Axogen and that Axogen has a legitimate business interest in protecting those assets;

**WHEREAS,** Employee is currently a party to Axogen's Confidentiality, Intellectual Property, Non-Competition and Non-Solicitation Agreement;

**WHEREAS**, in consideration for Employee's initial employment or continued employment, as the case may be, with Axogen, as well as in consideration for the amendment to Employee's employment agreement executed concurrently herewith, Employee agrees to abide by the terms and conditions of this Amended IP and NCNS Agreement as set forth herein.

**NOW THEREFORE,** in consideration of the mutual covenants contained herein and other good and valuable consideration, including initial or continued employment, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Amended IP and NCNS Agreement hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and fully incorporated as a part of this Amended IP and NCNS Agreement.

2. **DEFINITIONS.**

The following terms, when used in this Amended IP and NCNS Agreement with initial capital letters, shall have the respective meanings set forth in this Section 1.

"Axogen Customers" means accounts, customers, physicians, therapists, hospitals, acute surgical care centers, group purchasing organizations, integrated delivery networks, treatment centers or other clients that: (a) have purchased Axogen products during the prior one (1) year; or (b) have received or requested a proposal during the prior one (1) year for the purchase Axogen products; as well as all such entities or individuals that come to purchase Axogen products and/or request or receive a proposal for the purchase of Axogen products during the time of Employee's employment by Axogen.

"Competing Organization" means any person or organization which is engaged in or about to become engaged in research on, consulting regarding, or development, production, marketing or selling of a Competing Product including, but not limited to, the organizations identified on Schedule 1, effective as of the Effective Date and as may be amended from time to time, attached hereto.

"Competing Product" means any product, process, technology, service, machine or invention of any person or organization other than Axogen in existence or under development which is similar to, resembles, competes with, is substitutable for, or is intended to be similar to, resemble, compete with, or be substitutable for a product, process, technology, service, machine or invention of Axogen.

"Confidential Information" means Axogen's confidential, proprietary, trade secret or any other non-public information, including without limitation: (a) Axogen Customers; (b) actual or potential vendors, suppliers, distributors or referral sources; (c) products, product know-how, product manufacturing and distribution systems and processes, product technology, product development plans and strategies; (d) marketing and sales strategies and plans, product pricing policies, offerings and structures; (e) business and financial information of a non-public nature (e.g., strategy plans, forecasts, budgets); (f) employee, personnel or payroll policies, records and information; (g) corporate development strategies including acquisitions, divestitures, growth plans and other plans; (h) clinical study design, management, evaluation, and interpretation; (i) inventions, ideas, innovations, improvements, know-how, methods, processes, specifications, procedures, invention disclosures, certifications, and proposed and/or actual research and development activities, regardless of whether or not any of the foregoing is patentable or otherwise protectable under the intellectual property laws of the United States; and (j) information disclosed by third parties to Axogen pursuant to a confidentiality agreement. Confidential Information does not include information that is or becomes part of the public domain through no fault of Employee, or without any third-party violation of any confidentiality agreement with Axogen.

"Copyrightable Works" means all works of authorship, fixed in any tangible medium of expression known or later developed, including but not limited to writings, reports, articles, white papers, compilations, summaries, graphics, computer programs, user interfaces, drawings, designs, documentation and publications.

"Intellectual Property" means all inventions, patents, patent applications, designs, discoveries, ideas, innovations, improvements, modifications, know-how, trade secrets, methods, processes, specifications, procedures, trademarks, certifications, and invention disclosures, whether or not patentable or otherwise protectable under the intellectual property laws of the United States.

"Material Contact" means (i) any interaction between Employee and an Axogen Customer which takes place in an effort to establish, maintain, and/or further a business relationship on behalf of Axogen, (ii) any Axogen Customer whose dealings with Axogen were coordinated or supervised by Employee, (iii) any Axogen Customer about whom Employee obtained Confidential Information in the ordinary course of business as result of Employee's association with Axogen, or (iv) any Axogen Customer who receives product or services from Axogen, the sale or provision of which results or resulted in compensation, commissions or earnings for Employee, all within the last year of Employee's employment with Axogen (or during Employee's employment if employed less than a year).

**2. CONFIDENTIAL INFORMATION AND PROPERTY.**

2.1. Non-Disclosure of Confidential Information. Employee acknowledges that the Confidential Information is of great value to Axogen, that Axogen has legitimate business interests in protecting its Confidential Information, and that the disclosure to anyone not authorized to receive such information, including any Competing Organization, will cause irreparable injury to Axogen. Employee agrees: (a) not to make use of the Confidential Information for any purpose other than is necessary to perform Employee's duties while an employee of Axogen; (b) not to disclose, use, disseminate, identify, or publish Confidential Information for five (5) years after the termination of Employee's employment with Axogen for any reason; (c) to provide to Axogen's Office of General Counsel immediate notice of any (i) inadvertent or otherwise improper disclosure of Confidential Information; and (ii) theft of Confidential Information, including breach of security, hacking, or other improper act by a third party. Notwithstanding the foregoing, Employee agrees not to, and shall not for any reason disclose, use, disseminate, identify or publish Confidential Information that is an Axogen trade secret, as long as that Confidential Information remains a trade secret and does not become publicly known through no fault of Employee.

2.2 Protected Rights. Nothing in this Agreement shall be construed to limit Employee's ability to report (by way of filing a charge or complaint, or otherwise) possible violations of law or regulation, or make other legally-protected disclosures under applicable whistleblower laws or regulations (including pursuant to Section 21F of the Securities Exchange Act of 1934, as amended), without notice to or consent from Axogen, to the Equal Employment Opportunity Commission, the National Labor Relations Board, the Occupational Safety and Health Administration, the Department of Justice, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agency" or "Government Agencies"). Employee further understands that this Agreement does not limit Employee's ability to participate in an investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information to such Government Agencies, without notice to Axogen. Nothing in this Agreement prevents Employee from giving truthful testimony to, responding to a valid subpoena from, initiating communications directly with, responding to an inquiry from, volunteering information to, or communicating with Government Agencies in connection with any reporting of, investigation into or proceeding regarding suspected violations of law. In addition, nothing in this Agreement in any way prohibits or is intended to restrict or impede, and shall not be interpreted or understood as restricting or impeding, Employee

from exercising Employee's rights under Section 7 of the National Labor Relations Act (NLRA) or otherwise disclosing information as permitted by that law.

2.3. Return of Confidential Information and Axogen Property. Upon termination of Employee's employment with Axogen [or its parent company Axogen, Inc. ("INC.")] for any reason, or at any time as Axogen [or INC.] requests, Employee shall immediately return to Axogen[ and INC as applicable] all Confidential Information and other tangible property that belongs to Axogen[ or INC] in Employee's possession; such tangible property includes but is not limited to: all keys and security and credit cards; all products, product samples, computers, cellular phones and other electronic devices; and all customer and account files, price lists, product information, training manuals, advertising and promotional materials, handbooks and polices (in physical or electronic format). Employee shall not retain possession of any physical or electronic copies of correspondence, memoranda, reports, notebooks, drawings, photographs notes, research and scientific data, and tangible communications concerning the same, or other documents in any form whatsoever (including information contained in computer memory or any portable storage device (e.g., a "thumb drive")) relating to or reflecting in any way to the Confidential Information obtained by or entrusted to Employee during Employee's employment with Axogen and confirm such return in writing. This obligation does not limit or otherwise prevent Employee from engaging in any Protected Rights that are set forth above in Paragraph 2.2.

2.4 Defend Trade Secrets Act. Pursuant to the Defend Trade Secrets Act of 2016, 18 U.S.C. §1833, Employee acknowledges that Employee shall not have criminal or civil liability under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. In addition, if Employee files a lawsuit for retaliation by Axogen for reporting a suspected violation of law, Employee shall not have criminal or civil liability under any federal or state trade secret law if Employee discloses the trade secret to Employee's attorney and (X) files any document containing the trade secret under seal and (Y) does not disclose the trade secret, except pursuant to court order.

## 3. RESTRICTIVE COVENANTS.

3.1. Employee Acknowledgment.

(a) Employee acknowledges that: (a) Employee's position and employment with Axogen gives Employee access to and knowledge of Axogen Customers and its vendors, suppliers, distributors or referral sources (collectively, "Axogen Business Partners"), which represent important and unique business assets that have resulted from a significant investment of time, resources and monies by Axogen; (b) Employee would cause Axogen great loss, damage and immediate irreparable harm if Employee were to engage in unfair or unlawful competitive activity by improperly using or disclosing any information related to Axogen Business Partners for Employee's own benefit or for the benefit of any Competing Organization.

(b) Employee acknowledges and agrees that the restrictions contained in this Section 3, are reasonable and necessary to protect Axogen's legitimate business interests, promote and

protect the purpose and subject matter of this Amended IP and NCNS Agreement and Employee's employment, and deter any potential conflict of interest. Employee agrees that Employee knows of no reason why any restriction contained in this Section 3 is not reasonable and enforceable and that all such restrictions are necessary and reasonable to protect Axogen's interests. Employee also acknowledges and agrees that the restrictions contained in this Section 3 will not impair or infringe upon Employee's right to work or earn a living when Employee's employment with Axogen ends.

3.2 Non-Compete.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not work for (as an employee, consultant, contractor, agent or otherwise) or render services directly or indirectly to any Competing Organization whereby the services Employee would provide for, to, or on behalf of the Competing Organization (i) are the same as or similar to those services that Employee provided for, to, or on behalf of Axogen during Employee's employment, (ii) involve the development, sale, marketing, or distribution of a Competing Product, or (iii) could enhance the use or marketability of a Competing Product. This restriction covers (i) the United States, (ii) any state or territory in which Axogen is engaged in its business at the time of and during the one year prior to Employee's separation from Axogen, and (iii) any state or territory in which Employee was providing services for Axogen at the time of and during the one year prior to Employee's separation from the Company.

(b) The restrictions herein shall not prohibit Employee from accepting employment with a Competing Organization whose business is diversified and which is, as to that part of its business in which Employee accepts employment, not a Competing Organization. If Employee accepts employment with a Competing Organization, Employee will provide Axogen written assurances satisfactory to Axogen that Employee will not render services, directly or indirectly, for the time period herein in connection with any Competing Product.

3.3 Non-Solicitation of Employees and Axogen Business Partners.

(a) During Employee's employment with Axogen and for a period of two (2) years following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly, solicit, induce or influence, or attempt to solicit, induce or influence, any person engaged as an employee, independent contractor, or agent of Axogen to terminate his or her employment and/or business relationship with Axogen or do any act which may result in the impairment of the relationship between Axogen and its employees, independent contractors or agents.

(b) During the term of Employee's employment with Axogen and for a period of one (1) year following the termination of Employee's employment with Axogen for any reason, Employee will not in any capacity, directly or indirectly: (i) solicit, contact, accept solicited business from, provide competitive services to, or sell any Competing Product to an Axogen Customer; (ii) divert, entice or otherwise take away from Axogen the business or patronage of any Axogen Business Partner; or (iii) solicit or induce any Axogen Business Partner to terminate or reduce its relationship with Axogen or otherwise interfere with Axogen's relationship with any Axogen Business Partner. This restriction applies only to those Axogen Customers and Axogen Business Partners with whom Employee had Material Contact.

3.4 New Employer Notification. To enable Axogen to monitor Employee's compliance with the obligations set forth in this Amended IP and NCNS Agreement, Employee agrees to notify Axogen in writing before commencing employment with a new employer; such notification shall include the identify of Employee's new employer, job title and responsibilities. Employee will continue to notify Axogen, in writing, any time Employee accepts or changes employment during the time periods set forth in this Section 3. Employee agrees that Axogen is permitted to contact any new or prospective employer regarding Employee's obligations owed to Axogen.

3.5 Modification of Non-Compete and Non-Solicitation Provisions. The parties agree that a court of competent jurisdiction may modify any invalid, overbroad or unenforceable term of this Section 3 so that such term, as modified, is valid and enforceable under applicable law; such court is also authorized to extend the time periods set forth in this Section 3 for any period of time in which Employee is in breach of this Amended IP and NCNS Agreement or as necessary to protect the legitimate business interests of Axogen. If a court of competent jurisdiction determines that any term of this Section 3 is invalid, overbroad, or unenforceable, in whole or in part, and cannot be modified as set forth in the prior sentence to make such term valid and enforceable under applicable law, the Parties agree that any such term, in whole or in part as the case may, shall be severable and the remainder of this Section 3 and this Amended IP and NCNS Agreement shall nevertheless be enforceable and binding on the Parties.

**4. INVENTIONS.**

4.1. Disclosure of Developments. Employee agrees that during and subsequent to Employee's employment with Axogen, Employee will promptly disclose and furnish complete information to Axogen relating to all inventions, ideas, improvements, modifications, discoveries, research, data, know-how, methods and developments, whether patentable or not, and whether or not otherwise protectable under the intellectual property laws of the United States, that are made, conceived, developed, reduced to practice, or authored by Employee or under Employee's direction during Employee's employment whether or not made, conceived, developed, reduced to practice or authored during normal business hours or on Axogen premises. Employee shall keep complete, accurate, and organized information and records of all Copyrightable Works or other Intellectual Property and Confidential Information in the manner and form reasonably requested by Axogen.

4.2 Ownership of Intellectual Property.

(a) Employee agrees to assign and hereby does assign to Axogen all right, title and interest, worldwide in and to any and all Intellectual Property made, conceived, developed, reduced to practice or authored by Employee alone or with others for Axogen during the course of Employee's employment (or after the period of Employee's employment and which rely upon or use Axogen's Confidential Information and/or non-public Intellectual Property), whether made, conceived, developed or reduced to practice, whether or not the foregoing are within the scope of Axogen's actual or anticipated research and development business.

(b) Axogen's rights in Section 4.2(a) above shall not apply to any Intellectual Property conceived and developed without reliance upon and/or without the use of Axogen's equipment, supplies, facilities, Confidential Information or other non-public Intellectual Property, and which was developed entirely on Employee's own time, unless (a) the Intellectual Property relates (i) to Axogen's actual or anticipated business; (ii) to Axogen's actual or anticipated research and development; or (iii) the Intellectual Property results from or relates to any work performed by Employee for Axogen.

(c) For avoidance of doubt, it shall be Axogen's sole decision, in its sole discretion how to protect its Confidential Information and/or Intellectual Property and/or Copyrightable Works and whether to formally seek registration of any of its Intellectual Property and/or Copyrightable Works.

4.3 Copyrightable Works. Employee acknowledges that all Copyrightable Works shall to the fullest extent permissible be considered "works for hire" in the United States as defined in the U.S. Copyright Laws and in any other country adhering to the "works made for hire" or similar notion. All such Copyrightable Works shall from the time of creation be owned solely and exclusively by Axogen throughout the world. If any Copyrightable Work or portion thereof shall not be legally qualified as a work made for hire in the United States or elsewhere or shall subsequently be held to not be a work made for hire, Employee agrees to assign and does hereby assign to Axogen all Employee's right, title and interest in, including all moral rights in and to the Copyrightable Works, and all registered and applied for copyrights therein. To the extent the assignment of all rights, title and interest in, including of all moral rights in, the Copyrightable Works, is prohibited in full or in part by any applicable law, Employee hereby grants to Axogen a fully-paid-up, royalty-free, exclusive, sublicensable, transferrable, irrevocable and perpetual, worldwide license in and to the Copyrightable Works and hereby waives Employee's enforcement of any moral rights which Employee may hold in any existing or future Copyrightable Works worldwide and hereby consents to any action of Axogen that would violate its moral rights in the absence of such consent. Employee hereby further agrees that Axogen is not required to designate Employee as author of any Copyrightable Works when such Copyrightable Works are distributed publicly or otherwise, and hereby waives any cause of action against Axogen for not so identifying Employee as an author of such Copyrightable Works.

4.4 License. In the event that any of the rights in any Copyrightable Works or other Intellectual Property ("Intellectual Property Rights") cannot be transferred to Axogen pursuant to the terms of this Amended IP and NCNS Agreement, Employee hereby (i) unconditionally and irrevocably waives the enforcement of any Intellectual Property Rights retained by Employee, and all claims and causes of action of any kind against Axogen with respect to those rights; and (ii) grants to Axogen an irrevocable, perpetual, fully paid-up, transferable, sublicensable, royalty-free, exclusive worldwide right and license to use, reproduce, distribute, display, perform, prepare derivative works of, modify, enforce, and otherwise use and exploit all or any portion of such existing and future Intellectual Property Rights.

4.5 Causes of Action. Employee further irrevocably assigns to Axogen all causes of action, including accrued, existing and future causes of action, arising out of or related to the Intellectual Property Rights.

4.6 Cooperation. When requested to do so by Axogen, either during or subsequent to Employee's employment with Axogen, Employee shall: (a) execute all documents requested by Axogen for the vesting in Axogen of the entire right, title and interest in and to the Intellectual Property and Confidential Information, and all patent, copyright, trademarks or other applications filed and issuing on the Intellectual Property; (b) execute all documents requested by Axogen for filing and obtaining of patents, trademarks or copyrights; and (c) provide assistance that Axogen reasonably requires to protect its right, title and interest in the Intellectual Property and Confidential Information. Employee acknowledges that the obligations herein shall continue beyond the termination of Employee's employment with Axogen with respect to Intellectual Property conceived, authored or made by Employee during Employee's period of employment and Confidential Information and shall be binding on Employee's executors, administrators or other legal representatives.

4.7 Appointment of Attorney-In-Fact. Employee irrevocably appoints any AXOGEN-selected designee to act, at all times hereafter, as Employee's agent and attorney-in-fact to perform all acts necessary to file for registration of and/or register Copyrightable Works or other Intellectual Property as required by this Amended IP and NCNS Agreement if Employee (i) refuses to perform those acts or (ii) is unavailable, within the meaning of the United States Patent and Copyright laws. It is expressly intended by Employee that the foregoing power of attorney is coupled with an interest.

4.8 Assignability. All Intellectual Property Rights and representations made or granted by Employee in this Amended IP and NCNS Agreement are assignable by Axogen and are for the benefit of Axogen's successors, assigns, and parties contracting with Axogen.

4.9 Prior Intellectual Property. Attached as Schedule 2 is a complete list, if any, of all of Employee's Intellectual Property and Copyrightable Works made, conceived or first reduced to practice by Employee, alone or jointly with others, prior to Employee's employment with Axogen ("Prior Intellectual Property"). If in the course of Employee's employment with Axogen Employee incorporates into an Axogen product, process or machine any Prior Intellectual Property to which Employee possesses all right, title and interest, then Employee hereby grants, and agrees to grant, Axogen a non-exclusive, royalty-free, irrevocable, perpetual, transferable, sublicensable worldwide license to make, modify, use and sell such Prior Intellectual Property as part of or in connection with such product, process or machine. Notwithstanding the foregoing, Employee agrees not to, and shall not, use at or on behalf of Axogen any Prior Intellectual Property that is owned by a third party and/or the use of which would require a license from a third party, and/or to which Axogen has not otherwise acquired the right to use, and/or which would be in violation of Section 5.3 of this Amended IP and NCNS Agreement.

## 5. EMPLOYEE REPRESENTATIONS.

5.1. Performance. During Employee's employment with Axogen, Employee shall devote Employee's best efforts, attention and energies to the performance of Employee's duties as an employee of Axogen.

5.2 Code of Conduct; Conflicts of Interest. Employee agrees to adhere to Axogen's Code of Business Conduct and Ethics, including but not limited to the provisions regarding Conflicts of Interest, as defined therein. Employee will not engage in any activity or have any outside interest that could interfere with the satisfactory performance of Employee's duties or be detrimental to Axogen or be engaged in any other occupation or activity that conflicts with Employee's obligations to Axogen. Employee agrees to promptly notify Axogen of any potential conflict of interest.

5.3. Agreements with Prior Employers. Employee has not signed any non-competition, non-solicitation, or other agreement that Employee has not disclosed to Axogen that prohibits Employee from being employed by Axogen, fully performing Employee's duties or fully providing services to or on behalf of Axogen during Employee's employment or assigning works and ideas to Axogen ("Prior Non-Compete Agreement"). Employee has not and will not disclose to Axogen or use for Axogen's benefit any information that to Employee's knowledge is proprietary or confidential to any of Employee's prior employers without proper consent from the prior employer. If Employee has signed a Prior Non-Compete Agreement with a prior employer, Employee has provided a copy of such agreement to Axogen's Human Resources Department under separate cover.

5.4 At-Will Employment. Employee acknowledges that this Amended IP and NCNS Agreement does not obligate Employee to remain employed by Axogen nor does it confer upon Employee the right to continued employment by Axogen. Employee and Axogen each have the right to terminate the employment relationship at any time, for any reason or no reason, with or without notice and with or without cause.

5.5 Theft of Trade Secrets. Employee acknowledges that Employee is aware that a theft of trade secrets of an employer by an employee is an offense under federal law and the state laws of Florida and is prohibited by this Amended IP and NCNS Agreement. Employee further acknowledges that such theft of trade secrets constitutes a criminal violation of Florida Statute 812.081, punishable as a third-degree felony under Florida Statute 775.082, conviction for which carries a term of imprisonment not exceeding five (5) years. Employee acknowledges AXOGEN will vigorously prosecute its rights under federal law and the state laws of Florida for any violation arising out of a breach by Employee of any of the material terms of this Amended IP and NCNS Agreement.

5.6 Advice of Counsel. Employee acknowledges and agrees that Employee has read and understands the terms set forth in this Amended IP and NCNS Agreement and has been given a reasonable opportunity to consult with an attorney of their choosing prior to execution of Amended IP and NCNS Agreement and has either done so, or knowingly declined to do so.

**6. MISCELLANEOUS.**

6.1. Inside Information. Employee hereby acknowledges that Employee is aware (and that Employee's representatives who are apprised of this matter have been advised) that the United States securities laws prohibit Employee and any person or entity that has received material non-public information about Axogen from Employee ("Inside Information") from purchasing or selling securities of Axogen or from communicating such information to any person under circumstances under which such other person may purchase or sell securities of Axogen.

6.2 Essence of the Agreement. The restrictive covenants set forth in Sections 2-4 are the essence of this Amended IP and NCNS Agreement and they shall be construed as agreements independent of (i) any other agreements, or (ii) any other provision in this Amended IP and NCNS Agreement. The existence of any claim or cause of action of Employee against Axogen, whether predicated on this Amended IP and NCNS Agreement or otherwise, regardless of who was at fault and regardless of any claims that either Employee or Axogen may have against the other, will not constitute a defense to the enforcement by Axogen against Employee of the restrictive covenants set forth in Sections 2-4. Axogen shall not be barred from enforcing the restrictive covenants set forth in Sections 2-4 by reason of any breach of (i) any other part of this Amended IP and NCNS Agreement, or (ii) any other agreement with Employee.

6.3. Entire Agreement; Prior Agreements. This Amended IP and NCNS Agreement including its Schedules sets forth the entire agreement between the Parties as it relates to the subject matter of this Amended IP and NCNS Agreement; this Amended IP and NCNS Agreement supersedes and replaces prior agreements between Employee and Axogen with respect to the subject matter addressed in the Amended IP and NCNS Agreement. The provisions of this Amended IP and NCNS Agreement shall not be amended, supplemented, waived or changed orally; any such alteration shall only be valid through a written amendment to this Amended IP and NCNS Agreement signed by both Parties.

6.4 Severability. This Amended IP and NCNS Agreement shall be enforceable to the fullest extent allowed by law. In the event that a court holds any provision of this Amended IP and NCNS Agreement to be invalid or unenforceable, the Parties agrees that, if allowed by law, that provision shall be deemed severable from the remainder of this Amended IP and NCNS Agreement, and the remaining provisions contained in this Amended IP and NCNS Agreement shall be construed to preserve to the maximum permissible extent the intent and purposes of this Amended IP and NCNS Agreement.

6.5. Assignment. This Amended IP and NCNS Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. This Amended IP and NCNS Agreement may not be assigned by Employee.

6.6. Injunctive Relief. Employee acknowledges that because of the difficulty of measuring economic losses to Axogen as a result of a breach or threatened breach of any of the covenants in this Amended IP and NCNS Agreement, and because of the immediate and irreparable damage that would be caused to the Company and for which monetary damages would not be a sufficient remedy and which harm would not be fully or adequately compensated by recovery of damages alone, the Parties agree that, in addition to all other remedies or damages that may be available to Axogen hereunder and at law or in equity, in the event of a breach or a threatened breach by Employee of any covenants in this Amended IP and NCNS Agreement, Axogen shall be entitled to specific performance and injunctions restraining such breach.

6.7. Disputes and Litigation. In the event of any dispute or litigation between or among the Parties with respect to this Amended IP and NCNS Agreement, the prevailing party shall be entitled to its costs and expenses, including reasonable attorneys' fees and costs.

6.8. Governing Law; Jurisdiction and Venue and Waiver of Jury Trial. The Parties acknowledge that a substantial portion of negotiations, anticipated performance and execution of this Amended IP and NCNS Agreement and the attached Schedules occurred, or shall occur, in Hillsborough County, Florida, and the Parties irrevocably and unconditionally (a) agree that any suit, action or legal proceeding arising out of, or relating to, this Amended IP and NCNS Agreement or the attached Schedules shall be brought in the courts of record of the State of Florida in Hillsborough County, or the United States District Court, Middle District of Florida, Tampa Division; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; (c) waive any objection which they may have to the laying of venue of any such suit, action or proceeding in any of such courts; and (d) agree that service of any court paper may be effected on such party by mail, as provided in this Amended IP and NCNS Agreement, or in such other manner as may be provided under applicable laws or court rules in said state. **The Parties further agree to waive any right to a trial by jury should any action be brought to enforce this Agreement.**

6.9. Counterparts; Transmission. This Amended IP and NCNS Agreement may be executed in one or more counterparts, each of which shall be considered one and the same document. This Amended IP and NCNS Agreement may be executed by facsimile or electronic transmission.

***[Signature Page Follows]***

**IN WITNESS WHEREOF,** the Parties have caused this Amended IP and NCNS Agreement to be executed as of the Effective Date.

**AXOGEN CORPORATION**

By DocuSigned by: 710E73CBF3D847E...

Name: Karen Zaderej

Title: Chairman, CEO and President

**EMPLOYEE**

DocuSigned by: 2909F2B49F684B7...

Name: Erick DeVinney

Title: Chief Innovation Officer

## Schedule 1

## Competing Organizations

BioCircuit Technologies
Amniox Medical Inc.
Applied Biologics Inc.
Baxter International, Inc.
Checkpoint Surgical Inc.
Guangzhou Zhongda Medical (China)
Integra LifeSciences Inc.
Medovent GmbH
MiMedx Group Inc.
Neuraptive Therapeutics
Polyganics B.V.
Stryker Corporation
Vivex Biomedical Inc.

## Schedule 2

## List of Prior Intellectual Property

[ ]

**Exhibit 21.1**

# SUBSIDIARIES OF AXOGEN, INC.

As of December 31, 2023, Axogen, Inc. had four sole subsidiaries:

1. Axogen Corporation, a Delaware corporation;
2. Axogen Europe GmbH, an Austrian corporation;
3. Axogen Processing Corporation, a Delaware corporation; and
4. Axogen Germany GmbH, a German corporation.

**Exhibit 23.1**

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statement Nos. 333-220770, 333-224713 and 333-255807 on Form S-3 and Registration Statement Nos. 333-173539, 333-177980, 333-201238, 333-211660, 333-218290, 333-230418, 333-233416, 333-222019, 333-255992, 333-265321 and 333-274090 on Form S-8 of our report dated March 5, 2024, relating to the financial statements of Axogen, Inc., and the effectiveness of Axogen, Inc.'s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2023.

/s/ DELOITTE & TOUCHE LLP

Tampa, Florida

March 5, 2024

**EXHIBIT 31.1**

**CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002**

I, Karen Zaderej, certify that:

1. I have reviewed this Annual Report on Form 10-K of Axogen, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 5, 2024

/s/ Karen Zaderej

Karen Zaderej
Chief Executive Officer, President and
Chairman of the Board

**EXHIBIT 31.2**

**CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE**

**SARBANES-OXLEY ACT OF 2002**

I, Nir Naor, certify that:

1. I have reviewed this Annual Report on Form 10-K of Axogen, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

March 5, 2024

/s/ Nir Naor
Nir Naor
Chief Financial Officer

**EXHIBIT 32**

**CERTIFICATION PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (SUBSECTIONS (A) AND (B) OF SECTION 1350, CHAPTER 63 OF TITLE 18, UNITED STATES CODE)**

In connection with the Annual Report on Form 10-K (the "Report") of Axogen, Inc. (the "Company"), Karen Zaderej, Chief Executive Officer and President of the Company and Nir Naor, Chief Financial Officer of the Company, each certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, to the best of her/his knowledge that:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: March 5, 2024

/s/ Karen Zaderej

Karen Zaderej
Chief Executive Officer, President and
Chairman of the Board
(Principal Executive Officer)

/s/ Nir Naor

Nir Naor
Chief Financial Officer
(Principal Financial and Accounting
Officer)

# AXOGEN, INC.
# COMPENSATION RECOUPMENT POLICY

In the event of any required accounting restatement of the financial statements of Axogen, Inc. (the "Company") due to the material noncompliance of the Company with any financial reporting requirement under the applicable U.S. federal securities laws, including any required accounting restatement to correct an error in previously issued financial statements that is material to the previously issued financial statements, or that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (a "Restatement"), the Board of Directors of the Company (or any committee to which the Board of Directors may delegate its authority) (the "Board") shall recover reasonably promptly from any person, who is or was an executive officer, as such term is defined in Rule 10D-1 adopted under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), of the Company (each, a "Covered Person") the amount of any "Erroneously Awarded Incentive-Based Compensation" (as defined below); provided that the Board shall have the right to recover more than the amount of Erroneously Awarded Incentive-Based Compensation from any Covered Person whose fraud or other intentional misconduct (in the Board's judgment) caused such Restatement.

The amount of incentive-based compensation that must be recovered from a Covered Person pursuant to the immediately preceding paragraph in the event that the Company is required to prepare a Restatement is the amount of incentive-based compensation received by a Covered Person that exceeds the amount of incentive-based compensation that otherwise would have been received had it been determined based on the restated amounts and must be computed without regard to any taxes paid (referred to as the "Erroneously Awarded Incentive-Based Compensation"). For incentive-based compensation based on stock price or total shareholder return, where the amount is not subject to mathematical recalculation directly from the information in a Restatement, the amount must be based on a reasonable estimate of the effect of the Restatement on the stock price or total shareholder return, as applicable, upon which the incentive-based compensation was received, and the Company must maintain documentation of that reasonable estimate and provide such documentation to the Nasdaq Stock Market LLC ("Nasdaq"). For the purposes of this policy, incentive-based compensation will be deemed to be received in the fiscal period during which the financial reporting measure specified in the applicable incentive-based compensation award is attained, even if the payment or grant occurs after the end of that period.

In determining the amount of Erroneously Awarded Incentive-Based Compensation to be recovered from a Covered Person, this policy shall apply to all incentive-based compensation received by a Covered Person: (i) after beginning service as an executive officer; (ii) who served as an executive officer at any time during the performance period for the incentive-based compensation; (iii) while the Company has a class of securities listed on a national securities exchange or a national securities

association; and (iv) during the three completed fiscal years immediately preceding the date that the Company is required to prepare a Restatement, including any applicable transition period that results from a change in the Company's fiscal year within or immediately following those three completed fiscal years. For this purpose, the Company is deemed to be required to prepare a Restatement on the earlier of: (i) the date the Board, or the Company's officers authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare a Restatement; or (ii) the date a court, regulator, or other legally authorized body directs the Company to prepare a Restatement. The Company's obligation to recover Erroneously Awarded Incentive-Based Compensation is not dependent on if or when the restated financial statements are filed with the Securities and Exchange Commission.

The Company shall recover the Erroneously Awarded Incentive-Based Compensation from Covered Persons unless the Board determines that recovery is impracticable because: (i) the direct expense to a third party to assist in enforcing this policy would exceed the amount of Erroneously Awarded Incentive-Based Compensation; provided that the Company must make a reasonable attempt to recover the Erroneously Awarded Incentive-Based Compensation before concluding that recovery is impracticable, document such reasonable attempt to recover the Erroneously Awarded Incentive-Based Compensation and provide such documentation to Nasdaq; or (ii) recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the Company, to fail to meet the applicable requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

For purposes of this policy, "incentive-based compensation" refers to any compensation that is granted, earned, or vested based wholly or in part upon the attainment of a "financial reporting measure," which refers to measures that are determined and presented in accordance with Generally Accepted Accounting Principles which are used in preparing the Company's financial statements, and any measures that are derived wholly or in part from such measures. Stock price and total shareholder return are also financial reporting measures for this purpose. For avoidance of doubt, a financial reporting measure need not be presented within the Company's financial statements or included in a filing with the Securities and Exchange Commission.

In no event will the Company indemnify any Covered Person for any amounts that are recovered under this policy. This policy is in addition to (and not in lieu of) any right of repayment, forfeiture or right of offset against any employees that is required pursuant to any statutory repayment requirement (regardless of whether implemented at any time prior to or following the adoption or amendment of this policy), including Section 304 of the Sarbanes-Oxley Act of 2002. Any amounts paid to the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 shall be considered in determining any amounts recovered under this policy.

The application and enforcement of this policy does not preclude the Company from taking any other action to enforce a Covered Person's obligations to the Company, including termination of employment or institution of legal proceedings. The terms of this

policy shall be binding and enforceable against all persons subject to this policy and their beneficiaries, heirs, executors, administrators or other legal representatives.

This policy shall be interpreted in a manner that is consistent with Rule 10D-1 under the Exchange Act, Rule 5608 of the Nasdaq listing rules and any related rules or regulations adopted by the Securities and Exchange Commission or Nasdaq (the "Applicable Rules") as well as any other applicable law. To the extent the Applicable Rules require recovery of incentive-based compensation in additional circumstances besides those specified above, nothing in this policy shall be deemed to limit or restrict the right or obligation of the Company to recover incentive-based compensation to the fullest extent required by the Applicable Rules.