Fill in this information to identify the case:

Debtor 1 Achaogen, Inc.

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: District of Delaware

Case number 19-10844

Official Form 410

Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) **that you received.**

Part 1: Identify the Claim

1. **Who is the current creditor?**

   Clinical Care Options, LLC
   Name of the current creditor (the person or entity to be paid for this claim)

   Other names the creditor used with the debtor _____

2. **Has this claim been acquired from someone else?**

   ☑ No
   ☐ Yes. From whom? _____

3. **Where should notices and payments to the creditor be sent?**

   Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

   Where should notices to the creditor be sent?

   Clinical Care Options, LLC
   Name
   12001 Sunrise Valley Drive, Suite 300
   Number Street
   Reston VA 20191
   City State ZIP Code

   Contact phone 703-674-3535
   Contact email ktseng@clinicaloptions.com

   Where should payments to the creditor be sent? (if different)

   Clinical Care Options, LLC
   Name
   12001 Sunrise Valley Drive, Suite 300
   Number Street
   Reston VA 20191
   City State ZIP Code

   Contact phone 703-674-3535
   Contact email ktseng@clinicaloptions.com

   RECEIVED
   APR 2 2 2019
   KURTZMANCARSONCONSULTANTS

   Uniform claim identifier for electronic payments in chapter 13 (if you use one):
   _

4. **Does this claim amend one already filed?**

   ☑ No
   ☐ Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. **Do you know if anyone else has filed a proof of claim for this claim?**

   ☑ No
   ☐ Yes. Who made the earlier filing? _____



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. **Do you have any number you use to identify the debtor?**
   - ☑ No
   - ☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ ____ ____ ____

7. **How much is the claim?** $ 117,074.00 **Does this amount include interest or other charges?**
   - ☑ No
   - ☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. **What is the basis of the claim?**
   Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
   Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
   Limit disclosing information that is entitled to privacy, such as health care information.
   Services performed - Independent Medical Education Program

9. **Is all or part of the claim secured?**
   - ☑ No
   - ☐ Yes. The claim is secured by a lien on property.

   Nature of property:
   - ☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
   - ☐ Motor vehicle
   - ☐ Other. Describe: _____

   Basis for perfection: _____
   Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

   RECEIVED
   APR 2 2 2019
   KURTZMANCARSONCONSULTANTS

   Value of property: $_____
   Amount of the claim that is secured: $_____
   Amount of the claim that is unsecured: $_____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

   Amount necessary to cure any default as of the date of the petition: $_____

   Annual Interest Rate (when case was filed)_____%
   - ☐ Fixed
   - ☐ Variable

10. **Is this claim based on a lease?**
    - ☑ No
    - ☐ Yes. **Amount necessary to cure any default as of the date of the petition.** $_____

11. **Is this claim subject to a right of setoff?**
    - ☑ No
    - ☐ Yes. Identify the property: _____

12. **Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☑ No

☐ Yes. *Check one:*

	Amount entitled to priority
☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	$_____
☐ Up to $3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	$_____
☐ Wages, salaries, or commissions (up to $13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	$_____
☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	$_____
☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	$_____
☐ Other. Specify subsection of 11 U.S.C. § 507(a)(__) that applies.	$_____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to $500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☑ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 04/18/2019
MM / DD / YYYY

Jan Smilek
Signature

RECEIVED
APR 22 2019
KURTZMANCARSONCONSULTANTS

Print the name of the person who is completing and signing this claim:

Name: JAN (First name) SMILEK (Last name)

Title: CFO

Company: CLINICAL CARE OPTIONS, LLC
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 12001 SUNRISE VALLEY DRIVE # 300
Number Street

RESTON VA 20191
City State ZIP Code

Contact phone 703 674 3555 Email JSMILEK@CLINICALOPTIONS.COM

CLINICAL CARE OPTIONS™

Invoice

Clinical Care Options, LLC
12001 Sunrise Valley Drive
Suite 300
Reston VA 20191

Date	11/12/2018
Invoice #	CCO180219B
PO #	AGP103396
Grant ID#	

Bill To:
Achaogen
1 Tower Place
Suite 300
South San Francisco CA 94080

Description	Contract Value	Invoice Amount
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 60% due upon contract execution	175,611.00	
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 30% due upon online activity launch	87,805.50	87,805.50
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 10% due upon final reconciliation	29,268.50	
	Total:	**$292,685.00**	**$87,805.50**

0• *
87,805•50 +
29,268•50 +
117,074•00 *

Phone: (703) 674-3535 | Fax: (703) 391-6875 | E-mail: kkraig@clinicaloptions.com

CLINICAL CARE OPTIONS®

Invoice

Clinical Care Options, LLC
12001 Sunrise Valley Drive
Suite 300
Reston VA 20191

Date	12/8/2018
Invoice #	CCO180219C
PO #	AGP103396
Grant ID#	

Bill To:
Achaogen
1 Tower Place
Suite 300
South San Francisco CA 94080

Description	Contract Value	Invoice Amount
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 60% due upon contract execution	175,611.00	
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 30% due upon online activity launch	87,805.50	
Educational Grant Support: New Approaches to the Management of Gram Negative Resistant Infections: 10% due upon final reconciliation	29,268.50	29,268.50
Total:	**$292,685.00**	**$29,268.50**

Phone: (703) 674-3535 | Fax: (703) 391-6875 | E-mail: kkraig@clinicaloptions.com

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South San Francisco, CA 94080
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Achaogen, Inc.

Independent Medical Educational (IEP) Grant Agreement

This agreement is effective as of January 31, 2018. **ACHAOGEN, INC.** ("Achaogen"); Postgraduate Institute for Medicine ("Accredited Provider/IEP Provider") and Clinical Care Options ("IEP Provider"). Achaogen and Company are jointly referred to as the "Parties" to this agreement.

Type of IEP Provider: (check one, if applicable)

☐ Academic hospital

☒ Accredited continuing independent medical education provider that will provide an accredited program under this Agreement.

☐ Non-profit professional organization ("Professional Organization") comprised of individual health care professionals, with a mission to educate its membership on clinical or scientific issues so as to improve patient care, and that regularly sponsors educational events under the direction of a continuing medical education department or a designated continuing medical education function within the Professional Organization.

Information on Grant Request
Title of Independent Medical Education Program ("Program")
"New Approaches to the Management of Gram Negative Resistant Infections"

Date(s), Location(s), & Time(s) of Program
- This is a dinner workshop series of 10 locations which will be determined by the IEP.

Anticipated Audience

Summary of Educational Objectives

The Parties agree as follows:

1. **Statement of Purpose:** The Program is for scientific and educational purposes only and is not intended to promote a Achaogen product, directly or indirectly.
2. **Grant Amount and Funding Arrangements**

(A) Achaogen will provide support for the Program by means of an educational grant in the total amount of $292,685.00. IEP Provider shall use the grant solely in support of the Program in accordance with this Agreement including the IEP Provider's Budget and Program Proposal. If the Program is canceled or terminated prior to completion, IEP Provider shall return the grant, or any unused portion thereof, to Achaogen within sixty (60) days of such termination or cancellation. IEP Provider shall have full responsibility for all funding arrangements of the Program.

Achaogen shall pay the total grant amount to the IEP Provider in the following installments:

1. 60 % upon execution of this Agreement and receipt of invoice;

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2. 30 % upon the launch of the online activity; and
3. 10 % upon Program budget reconciliation

All payments due hereunder shall be made by Achaogen within forty-five (45) days of Achaogen's receipt of an invoice for same, and sent to **Clinical Care Options. 12001 Sunrise Valley Drive, Suite 300. Reston, VA 20191. Tax ID# 05-0538068**

(B) Recipients of funding are required to return to Achaogen any funds in excess of $250 remaining at program completion. Refunds must be returned to Achaogen within sixty (60)days of the completion of the program or receiving notice that a refund is due.

(C) IEP Provider may not use funds provided by Achaogen to pay travel, lodging, honoraria, or personal expenses for non-faculty attendees, except for IEP Provider required staff. Grant funds may be used to reduce the overall registration fees for Program attendees. Grant funds may not be used to purchase capital equipment, to provide salary support for, or pay honoraria to, employees of IEP Provider, or to provide general operational support for IEP Provider. Funds for hospitality shall not be provided, except that funds may be used for modest meals or receptions that are held as part of the Program, but such events shall not compete with nor take precedence over the Program. Within these limitations, the appropriateness of any reception shall be at the sole discretion of the IEP Provider, and IEP Provider shall have final decision-making authority regarding any ancillary activities associated with the Program.

(D) In accordance with ACCME Standards, to assist Achaogen in complying with its internal auditing procedures and various state and federal reporting requirements, IEP Provider agrees to verify the manner in which the grant was used. Accordingly, within sixty (60) days following a request from Achaogen, IEP Provider shall, at its own expense, provide to Achaogen (i) a written statement verifying that the Program occurred; (ii) an itemized list of expenditures supported by the grant, utilizing a budget reconciliation form provided to IEP Provider by Achaogen at the time of the request; and (iii) an outcomes report assessing the extent to which the Program met its educational objectives. Outcomes reports should not contain any metrics evaluating the impact of the program on a learner's actual prescribing behavior

(E) IEP Provider acknowledges that certain grant payments made by Achaogen may be subject to reporting to the federal government and subsequent public disclosure under Section 6002 of the Patient Protection and Affordable Care Act (Open Payments), including (i) grant payments made to teaching hospitals and (ii) grant funding that is used by IEP Provider to make payments or other transfers of value to U.S.-licensed physicians or teaching hospitals in connection with a Program, other than payments or transfers of value made to speakers at a continuing education program that meets the accreditation or certification requirements and standards of the ACCME, AOA, AMA, AAFP or ADA CERP. Accordingly, IEP Provider agrees to provide to Achaogen any information necessary for Achaogen to make a required reporting. If requested by Achaogen, such information shall be included in the Program budget reconciliation information described above.

3. **Control of Selection of Faculty and Content.** The Program must be independent, objective, balanced and scientifically rigorous, the IEP Provider will take all necessary steps, including the following, to ensure that such a goal is achieved:

(A) IEP Provider shall retain full responsibility for control of the content and selection of the presenters, authors, moderators, and/or other faculty (hereinafter referred to collectively as

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"Faculty"). Pursuant to ACCME guidelines and related FAQs, Achaogen will not suggest Faculty or content.

(B) IEP Provider agrees that neither Achaogen nor agents of Achaogen shall direct or influence the content of the Program. IEP Provider agrees that there will be no scripting, targeting of points for emphasis, or other activities by Achaogen or Achaogen's agents that are designed to influence the content of the Program. IEP Provider will not permit Achaogen personnel to attend content development meetings or any other planning meetings.

(C) The Parties acknowledge that IEP Provider has not requested any medical accuracy or completeness
review of Program, and there is no obligation or any condition requiring IEP Provider to make such a request. Any such request must be: (i) made after the Program has been conducted; and (ii) made by the IEP Provider only to the Independent Medical Education function within Achaogen's Medical Affairs Department.

4. **Objectivity and Balance:** IEP Provider will ensure that:

(A) The Program material/information will be objective, balanced, and free from commercial bias and all topics shall be treated in an impartial, unbiased manner. All discussions shall include a range of views about each class of drug and disease treatment options. Information shall not unfairly represent a spectrum of views favoring any product or class of products marketed by Achaogen or any other company. The title of the Program will fairly and accurately represent the scope of the presentation.

(B) If a product marketed by Achaogen is to be a subject of discussion, the data will be objectively selected and presented, with an accurate reflection of favorable and unfavorable information about the product and a balanced discussion of prevailing information on alternative products and/or therapies.

(C) Any suggestions of superiority of one product or treatment over another will be supported by the body of available data and will not result from selective presentation or emphasis on data favorable to a particular treatment.

(D) The IEP Provider represents that it has not received any notification or communication, nor been the subject of a disciplinary action from the Food and Drug Administration or the ACCME complaining of lack of independence, balance, objectivity, or scientific rigor with respect to an independent program provided by the IEP Provider.

(E) All parties understand and agree that the provision of this independent educational grant from Achaogen to Grant Requestor is not intended to encourage any healthcare professional to prescribe, purchase, order or recommend Achaogen products or to reward any healthcare professional for the previous prescribing, purchasing, ordering or recommending of Achaogen products.

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5. **Limitations on Data:** IEP Provider will ensure that the Faculty meaningfully discloses to the Program audience limitations of data presented (e.g., ongoing research, interim analyses, preliminary data, or unsupported opinion).

6. **Discussion of Unapproved Uses:** IEP Provider will require that Faculty disclose to the Program audience when a product under discussion is not approved in the United States for the use discussed, or when the information presented refers to a use, dosage, or combination that is not approved by the U.S. Food and Drug Administration.

7. **Opportunity for Debate:** To the extent the Program is a presentation, the IEP Provider will ensure meaningful opportunities for questioning or scientific debate.

8. **Fair Market Value:** The parties agree that the support provided hereunder is fair market value for the activity or activities rendered and does not take into account the volume or value of any current or future referrals or business otherwise generated between the Recipient or Achaogen that is payable in whole or in part under a government health care program

9. **Disclosure of Financial Relationships:** IEP Provider will ensure meaningful disclosure to the audience, at the time of the Program, of Achaogen funding and any significant relationship between the IEP Provider and Achaogen (e.g., recipient of grant funds) and between individual Faculty and Achaogen. All meaningful disclosures shall be made to the audience prior to the Program in introductory statements, and/or brief statements in any written materials, including but not limited to announcements, brochures, syllabi, and enduring material. Disclosures shall not mention product trade names.

10. **Invitations/Enduring Material:** The Program audience will be selected by the IEP Provider. If the IEP Provider is a Professional Organization, the Program will be open to the general membership. The IEP Provider shall be responsible for distributing all materials about the Program, including invitations, reminder notices, and business reply cards that can be used by third parties to obtain any enduring Program material from the IEP Provider. Notwithstanding the foregoing, IEP Provider hereby requests that Achaogen, Inc. distribute a subset of Program invitations/reminder notices that have been prepared or approved by the IEP Provider. Achaogen, Inc. may distribute no more than an average of 10% of the Program invitations/reminder notices and the IEP provider will distribute at least 90% of the Program invitations/reminder notices. Amounts for specific programs will vary depending on the Program size. The supplemental request to distribute Program invitations will be delivered via a Achaogen approved memorandum sent by the Joint Sponsor on behalf of Achaogen, Inc. Medical Affairs. The primary vehicle for distribution to Achaogen, Inc. will be mail.

11. **Ancillary Promotional Activities:** Regardless of Program format, product advertising or promotional material of any type is prohibited in or during the Program. Without limiting the foregoing, (i) to the extent the Program is a live presentation, no promotional activities or product advertisements will be permitted in the same room as the Program; (ii) if the Program

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is a teleconference or webcast, no product advertisements or promotional activities will be permitted immediately prior to, during, or immediately after the delivery of the Program; (iii) if the Program is in print format, no product advertisements or promotional materials will be interleafed within the pages of the Program; and (iv) if the Program is made available electronically, no product advertisements or promotional materials will appear within the Program material or interleafed between computer windows or screens of the Program.

12. **Compliance with Guidelines:** IEP Provider represents that the Program, including development and implementation of the Program and development of the Program materials, shall conform to the rules of the accrediting organization (if the Program is accredited) and the PhRMA Code on Interactions with Healthcare Professionals. IEP Provider further represents that the Program is independent of Achaogen's influence based upon the factors described in the Food and Drug Administration's December 3, 1997 Final Guidance for Industry Supported Scientific and Educational Activities

13. **Firewalls.** In the event that IEP Provider, or any affiliates, subsidiary, or parent company of IEP Provider, provides promotional or consulting services to Achaogen or has done so in the past twelve (12) months, IEP Provider (as applicable) will maintain Firewalls between business functions (including but not limited to personnel) that develop and implement the activity supported by this grant and any business functions that provide or provided services for Achaogen promotional or consulting programs. IEP Provider will also ensure that, in connection with the activity supported by this grant, no information may be exchanged between these separate business units. IEP Provider also agrees that any employee who has worked on Achaogen's promotional or consulting programs in the past twelve (12) months will not work on any project or activity supported by a Achaogen grant.

For the purposes of this Agreement, "Firewalls" is defined as a separation between promotional and educational business functions and personnel, including the registration of independent tax identification numbers for each discrete entity

14. **No liability**: Because the Program named in this LOA is not sponsored by Achaogen and is being conducted independently from Achaogen's influence and control, Achaogen will have absolutely no liability nor indemnification obligations to the Grant Requestor or any third parties enrolled in the Program, covered by this LOA.

15. **Miscellaneous**

(A) No Party shall use the name or trademark of the other Party or its affiliate(s) for publicity or advertising purposes, except with the prior written consent of the other Party.

(B) IEP Provider agrees to obtain all consents, authorizations, approvals, and releases that may be necessary for the production of the Program and of any written materials prepared in connection therewith.

(C) This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, regardless of any choice of law principles.

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(D) No item, condition, or other provision of any attachment or addendum to this Agreement shall supersede any term, condition, or other provision of the Agreement and with respect to any inconsistency or ambiguity, the Agreement shall control.

(E) IEP Provider shall not subcontract or otherwise delegate any of its obligations under this Agreement without Achaogen's express prior written consent on a case-by-case basis. Any purported assignment or delegation by IEP Provider of this Agreement in whole or in part without the prior written consent of Achaogen shall be void.

(F) This Agreement sets forth the complete agreement between the Parties and supersedes all prior agreements and understandings between the Parties related to the subject matter contained herein. No changes, amendments, or alterations to this Agreement or waiver of any term or condition of this Agreement, will be effective unless in writing and signed by all Parties.

(G) This Agreement may be executed via facsimile or via emailed PDF-format document (or other mutually agreeable document format), and a facsimile or emailed copy of either Party's signature shall be deemed and be enforceable as an original thereof. The Agreement may be executed in counterparts, both of which taken together shall constitute one single Agreement between the

(H) No modifications to this Letter of Agreement are valid without prior written approval from Achaogen.

Accredited Provider/IEP Provider	Achaogen, Inc
By Allison Hughes	By DocuSigned by: Tobin Schilke 063B73AE5438471...
(Signature of Corporate Officer)	
Name: Allison Hughes	Name: Tobin Schilke
Title: Director of Operations	Title: CFO
Date: 2/5/18	Date: 2/26/2018

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Tower Place, Suite 530
South San Francisco, CA 94080
650 266 1123 [illegible]

IEP Provider CLINICAL CARE OPTIONS, LLC

By _____
(Signature of Corporate Officer)

Name: JAN SMICK

Title: CFO

Date: 2/6/2018