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?**

Andrew Antony Calabrese
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?

Andrew Antony Calabrese
Name

22 Brook Farm Ct
Number Street

Cockeysville MD 21030
City State ZIP Code

Contact phone 650 228 3244

Contact email Andrew.calabrese@hotmail.com

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

Name

Number Street

City State ZIP Code

Contact phone _____

Contact email _____

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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?** $ 162,166.67 **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.
   Effective change in control, provision 5(b) of severance agreement

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.)

   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.)

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   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 05/06/2019
MM / DD / YYYY

Signature

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

Name: Andrew Amtony Calabrese
First name | Middle name | Last name

Title: Self

Company: N/A
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address: 22 Brook Farm Ct
Number Street

Cockeysville MD 21030
City State ZIP Code

Contact phone: 650 228 3244 Email: Andrew.calabrese@hotmail.com

Andrew A Calabrese
Tel: 650 228 3244
E-mail: andrew.calabrese@hotmail.com

22 Brook Farm Ct
Cockeysville, MD 21030

6th May 2019

Kurtzman Carson Consultants LLC
2335 Alaska Ave
El Segundo, CA 90245

Dear Sir/Madam,

Re: Andrew Calabrese – Claim for Case # 19-10844, Achaogen Inc

Please find attached a completed Form 410. In addition to the information contained in the claim form;

- I was terminated on March 4, 2019 and paragraph 5(b) of my severance agreement states that "Solely in the event an effective Change in Control....is completed on or before June 4, 2019, a lump sum of $162,166.67, less all legally required state and federal tax withholdings, equal to seven (7) months base compensation. For the avoidance of doubt, nothing shall be owed under this paragraph (b) shall an effective Change in Control not be completed on or before June 4, 2019". Attached for your convenience is a copy of this Separation Agreement.
- On April 4th, 2019 three (3)Achaogen board members resigned triggering an effective (note effective) Change in Control which is prior to June 4, 2019.
- On April 15th, 2019 Achoagen filed a voluntary petition for bankruptcy protection under Chapter 11 of Title 11 of the United States Bankruptcy Code

Payment for the $162,166.67 should have been made on or about April 5th, 2019 but has not yet been received hence this claim.

Please note that paragraph 5(b) has certain language not shown above about proceedings under US Bankruptcy Code which do not apply in this case as the effective (note effective) Change in Control occurred 11 days before Achaogen filed a voluntary petition for bankruptcy protection under Chapter 11 of Title 11 of the United States Bankruptcy Code.

I look forward to the resolution of this matter and receipt of $162,166.67 less all legally required state and federal tax withholdings.

Yours faithfully,



Andrew A Calabrese

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SEPARATION AGREEMENT AND GENERAL RELEASE

1. **Purpose of Agreement.** The intent of this Separation Agreement and General Release ("***Agreement***"), should Executive accept these terms, is to mutually, amicably, and finally resolve and compromise all issues and claims surrounding the employment of Andrew Calabrese ("***Executive***") with Achaogen, Inc. ("***Employer***") and the end of that employment relationship. This Agreement becomes effective on the eighth day after it is executed in its entirety by Executive ("***Effective Date***").

2. **Separation of Employment and Receipt of Compensation and Benefits.** On February 27, 2019, Executive was informed that Executive is being given the option of (1) accepting termination on March 4, 2019 ("First Part") and (2) receiving the benefits set forth in this negotiated severance arrangement in lieu of all other severance or benefits Executive may have been entitled to receive as a result of this termination ("Second Part"). If Executive accepts the First Part of this option and signs Exhibit B and Exhibit C then March 4, 2019 shall become the "***Separation Date.***" On the Separation Date, Executive shall receive a final paycheck along with accrued and unused PTO and Executive shall have up to forty-five (45) days from the date he receives this Agreement via DocuSign within which to consider whether he should sign the release portion of this Agreement (the Second Part). Executive cannot accept the Second Part without accepting the First Part as well. Should Executive not choose to accept the First Part of the option, Executive shall continue with Employer, lose entitlement to his March 15 bonus payout, and lose entitlement to the benefits offered herein.

3. **Executive Obligations.** On or before the Separation Date, Executive is required to return to Employer in good working order all materials and property, in any form, in his possession or under his control containing any proprietary information (as defined in the At Will Employment, Confidential Information, Invention Assignment and Arbitration Agreement ("***Invention Assignment Agreement***") previously executed by Executive as a condition of employment), and all property belonging to Employer, including keys, files, records (and copies thereof), equipment (including, but not limited to, computer hardware, software and printers, wireless handheld devices, cellular phones and pagers), access or credit cards, company identification, documents and any materials of any kind that contain or embody any proprietary or confidential information of Employer (and all reproductions thereof in whole or in part) and any other Employer-owned property in Executive's possession or control and Executive was required to leave intact all electronic Employer documents, including, but not limited to, those that Executive developed or helped to develop during his employment. Executive agreed that he would make a diligent search to locate any such documents, property and information on or before the Separation Date. In addition, if Executive had used any non-Employer computer, server, or e-mail system to receive, store, review, prepare or transmit any Employer confidential or proprietary data, materials or information, Executive agreed to provide Employer with a computer-useable copy of such information and then permanently delete and expunge such Employer confidential or proprietary information from those systems. Executive further agreed to provide Employer access to such systems as requested to verify that the necessary copying and/or deletion is completed. Executive agreed that, after the Separation Date, he will neither use nor possess Employer property. By the Separation Date, Executive was required also cancel all accounts for his benefit, if any, in Employer's name, including, but not limited to, credit cards, telephone charge cards, cellular phone and/or pager accounts and computer accounts. Executive's compliance with the terms of this paragraph is a condition precedent to his eligibility to receive the severance benefits described herein.

4. **Executive's Change in Control Severance Agreement.** Executive entered into a Change in Control Severance Agreement with Employer originally dated July 25, 2016 ("***CIC Agreement***" and as may have been amended in writing from time to time). Employer and Executive acknowledge and agree that the CIC Agreement has been triggered by virtue of Executive's termination due to a reduction in force. Executive acknowledges and agrees that should Executive accept this Agreement in its entirety, Employer shall have no additional obligations under the CIC Agreement with respect to Executive's termination.

5. **Employer's Consideration for Agreement.** In exchange for the release and agreements that Executive is making in this Agreement, Employer will provide the following severance payment and benefits to Executive so long as he signs this Agreement, including the release, in its entirety no later than forty-five (45) days after Executive's receipt of this Agreement and does not revoke this Agreement within 7 days after signing it:

(a) A lump sum of $86,882, less all legally required state and federal tax withholdings, equal to two (2) months base compensation and the remaining bonus/retention payment formerly scheduled to be paid March 15 ("Severance Payment"). The Severance Payment will be mailed to the Executive no later than five (5) days after the Effective Date, assuming that Executive returned all materials and property to Employer by the Effective Date. Executive acknowledges that this Severance Payment, when added to Executive's salary received during the Transition Period, is in lieu of any Employer's obligations with respect to Section 3(a) of the CIC Agreement.

(b) Solely in the event an effective Change in Control (in no case however shall an effective Change in Control include any proceedings under the US Bankruptcy Code or assignments for the benefits of creditors or a dissolution of the Company) is completed on or before June 4, 2019, a lump sum of $162,166.67, less all legally required state and federal tax withholdings, equal to seven (7) months base compensation. For the avoidance of doubt, nothing shall be owed under this paragraph (b) shall an effective Change in Control not be completed on or before June 4, 2019.

(c) Following the Effective Date, Employer will pay for those costs necessary for continuation of Executive's health insurance benefits for the shorter of (i) six (6) months (April 2019 through September 2019) or (ii) until Executive has a new job where he is eligible for health insurance benefits.

(d) Following the Effective Date, Employer will transfer ownership to Executive of Executive's Company-issued laptop (after the systems and all electronic data has been permanently wiped and deleted) that Executive has used during his tenure at Employer.

(e) Following the Effective Date, each of Executive's outstanding and unvested restricted stock unit ("RSU") awards shall immediately vest, and any unvested stock options shall immediately lapse. These equity awards subject to accelerated

vesting consists of all RSU equity awards granted to Executive as of the Effective Date that have not yet vested:

- 62,302 of Employer's shares arising from the vesting of time and performance-based restricted stock units.

Executive acknowledges that this acceleration of his outstanding restricted stock equity awards are in lieu of Employer's obligations with respect to Section 3(c) of the CIC Agreement.

Executive acknowledges and agrees but for his execution of this Agreement, he would not otherwise be entitled to the benefits described in this Paragraph 4. Executive acknowledges that he is agreeing hereby not to claim any additional benefits from Employer that are not explicitly set forth in this Agreement.

6. **Release.** In consideration for the payments and undertakings described in this Agreement, Executive releases and waives ***any and all claims*** that he might possibly have against Employer, ***whether he is aware of them or not***. In legal terms, this means that, individually and on behalf of his representatives, successors, and assigns, Executive does hereby completely release and forever discharge Employer, its successors, assigns, directors, officers, owners, Board members, founder, shareholders, managers, agents, and past and present employees, and all Employer benefit plans, plan fiduciaries, plan administrators, and plan service providers from all claims, rights, demands, actions, obligations, and causes of action of any and every kind, nature and character, known or unknown, which Executive may now have, or has ever had, against him arising from or in any way connected with Executive's employment with Employer and/or the termination thereof (collectively, the "Release"). This Release covers all statutory, common law, constitutional and other claims, ***including but not limited to***:

(a) Any and all claims for wrongful discharge, constructive discharge, or wrongful demotion;

(b) Any and all claims relating to any contracts of employment, express or implied, including the CIC Agreement and the Invention Assignment Agreement, or breach of the covenant of good faith and fair dealing, express or implied;

(c) Any and all tort claims of any nature, including but not limited to claims for negligence, defamation, misrepresentation, fraud, or negligent or intentional infliction of emotional distress;

(d) Any and all claims for wages, compensation, bonuses, commissions, penalties, and/or benefits under any statutory or common law theory whatsoever;

(e) Any and all claims under federal, state or municipal statutes or ordinances, including but not limited to: any claims for harassment, retaliation or discrimination; any claims under the California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, 42 U.S.C. Section 1981, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, the Americans With Disabilities Act, the Employment Retirement Income Security Act, the Family and Medical Leave Act, the California Family Rights Act or any other comparable state statute, the California Labor Code

or any other comparable state statute, the Maryland Civil Rights Law (Md. Code Ann., State Gov't § 20-601 *et seq.*), the Maryland Day of Rest Statute (Md. Code Ann., Lab. & Empl. § 3-704), the Maryland Equal Pay Act (Md. Code Ann., Lab. & Empl. § 3-301 *et seq.*); Md. Code Ann., Lab. & Empl. § 3-712, the Maryland Healthy Working Families Act (Md. Code Ann. Lab & Empl. § 3-1301 *et seq.*), the Maryland Flexible Leave Act (Md. Code Ann., Lab & Empl. § 3-801 *et seq.*), the Maryland Parental Leave Act (Md. Code Ann., Lab & Empl. § 3-1201 *et seq.*) and any other laws and regulations relating to employment or the termination of employment; and

(f) Any and all claims for attorneys' fees or costs.

This Release is not intended to encompass claims that cannot legally be released by private agreement, such as claims under Labor Code section 2802 and claims for workers' compensation or unemployment benefits. Nor is this Release intended to prevent Executive from filing a statutory claim concerning employment with Employer or the termination thereof with the federal Equal Employment Opportunity Commission, the National Labor Relations Board, or similar state agencies. However, if Executive does so, or if any employment-related claim is prosecuted in his name before any court or administrative agency, Executive waives and agrees not to take any award of money or other damages from such suit. Executive acknowledges that he has not suffered any on-the-job injury or occupational disease for which Executive has not already filed a claim. Executive further acknowledges that he has properly reported all hours worked and received the appropriate compensation for all hours worked.

7. **Waiver of Unknown Future Claims.** Executive has read Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Executive understands that Section 1542 gives him the right not to release existing claims of which he is not now aware, unless he voluntarily chooses to waive this right. Even though he is aware of this right, Executive nevertheless hereby voluntarily waives the rights described in Section 1542, or any other comparable state statute, and elects to assume all risks for claims that now exist in his favor, ***known or unknown***, arising from the subject matter of this Agreement.

8. **Executive's Expense Reports and PTO.** Executive acknowledges that as of the date he signs this Agreement, he has properly submitted all expense reimbursement reports along with accurate time sheets reflecting PTO days up to and through the day on which he signs this Agreement.

9. **Confidentiality of Agreement.** Executive agrees that the terms and conditions of this Agreement are strictly confidential. He shall not disclose, discuss or reveal the terms of this Agreement to any persons, entities or organizations except as follows: (a) as required by court

order; (b) to Executive's spouse or partner (provided that Executive's spouse or partner also agrees to keep this Agreement strictly confidential); or (c) to Executive's legal and financial advisors. Notwithstanding anything to the contrary contained herein, nothing in this Agreement or the Invention Assignment Agreement shall prohibit Executive from reporting possible violations of federal law or regulation to any United States governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934 or Section 806 of the Sarbanes-Oxley Act of 2002, or any other whistleblower protection provisions of state or federal law or regulation (including the right to receive an award for information provided to any such government agencies). Furthermore, in accordance with 18 U.S.C. § 1833, notwithstanding anything to the contrary in this Agreement or the Invention Assignment Agreement: (i) Executive shall not be in breach of this Agreement or the Invention Assignment Agreement, and shall not be held criminally or civilly liable under any federal or state trade secret law (x) for the disclosure of a trade secret that is made in confidence to a federal, state, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law, or (y) for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; and (ii) if Executive files a lawsuit for retaliation by the Employer for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney, and may use the trade secret information in the court proceeding, if Executive files any document containing the trade secret under seal, and does not disclose the trade secret, except pursuant to court order. Executive expressly confirms his continuing obligations to Employer pursuant to the Invention Assignment Agreement.

10. **Non-disparagement.** Executive agrees that he shall not disparage, criticize or defame Employer, its affiliates and their respective affiliates, directors, officers, agents, partners, stockholders or Executives, either publicly or privately. Employer agrees that it shall not, and it shall instruct its officers and members of its Board of Directors to not, disparage, criticize or defame Executive, either publicly or privately. Nothing in this Section 9 shall have application to any evidence or testimony required by any court, arbitrator or government agency.

11. **Interpretation and Construction of Agreement.** This Agreement shall be construed and interpreted in accordance with the laws of the State of California. Regardless of which party initially drafted this Agreement, it shall not be construed against any one party, and shall be construed and enforced as a mutually prepared Agreement.

12. **No Admission of Liability.** By entering into this Agreement, Employer is not admitting to any liability, wrongdoing or legal violation whatsoever with regard to the employment relationship between the parties or with respect to any claims released herein. Employer expressly denies any and all such liability and wrongdoing.

13. **Older Workers' Benefit Protection Act Coverage.** Pursuant to the Age Discrimination in Employment Act and the Older Workers' Benefit Protection Act, Employer hereby advises Executive of the following:

(a) Executive is advised to consult with an attorney prior to signing this Agreement.

(b) Executive has up to forty-five (45) days from the date he receives this Agreement via DocuSign within which to consider whether he should sign this Agreement. If Executive signs the Agreement, he shall have seven (7) days after signing it to revoke the Agreement. To revoke

the Agreement, Executive must deliver written notice of the revocation to Gary Loeb, General Counsel, Achaogen, Inc., One Tower Place, Suite 400, South San Francisco, CA 94080 or to GLoeb@Achaogen.com, so that it is received before the seven-day revocation period expires.

(c) Executive understands that other employees laid off by the Employer have been given the opportunity to receive termination benefits in exchange for a release of claims. Exhibit A to this Agreement discloses the job titles and ages of all individuals selected for the layoff, and the job titles and ages of individuals not selected for the layoff.

(d) In signing this Agreement, Executive is not releasing or waiving any federal age discrimination claims based on conduct or events that occur after the Agreement is signed.

14. **Complete and Voluntary Agreement.** Executive acknowledges that he has read and understands this Agreement; that he has had the opportunity to seek legal counsel of his own choosing and to have the terms of the Agreement fully explained to him; that he is not executing this Agreement in reliance on any promises, representations or inducements other than those contained herein; and that he is executing this Agreement voluntarily, free of any duress or coercion. Executive specifically understands that by entering into this Agreement he is forever foreclosed from pursuing any of the claims he has waived in Paragraphs 5 and 6 above.

15. **Savings Clause.** Should any of the provisions of this Agreement be determined to be invalid or unenforceable by a court or government agency of competent jurisdiction, it is agreed that such determination shall not affect the enforceability of the other provisions herein.

16. **Scope of Agreement.** This Agreement constitutes the entire understanding of the parties on the subjects covered. Except as expressly provided here, this Agreement supersedes and renders null and void any and all prior agreements on the same subjects between Executive and Employer with the exception of the Invention Assignment Agreement and the CIC Agreement.

17. **Proprietary Information.** Executive acknowledges and agrees that he remains bound by the terms of the Employer's Invention Assignment Agreement, which he executed as a condition of employment and which remains in full force and effect. Executive agrees to sign and return Exhibits B, C & D to this Second Agreement along with this Agreement. Executive will not sign Exhibits B, C & D to this Second Agreement any earlier than January 4, 2019.

18. **Arbitration.** The parties agree that any controversy involving the construction or application of any terms, covenants or conditions of this Agreement, the CIC Agreement or the Invention Assignment Agreement, or any claims arising out of or relating to this Agreement, the CIC Agreement or the Invention Assignment Agreement or the breach thereof will be submitted to and settled by final, binding and confidential arbitration, pursuant to the Federal Arbitration Act, in San Francisco, California. The arbitration shall be conducted by a neutral arbitrator in accordance with the Employment Arbitration Rules and Mediation Procedures issued by the American Arbitration Association (AAA), available to review and download on the Internet at www.adr.org/rules. Each side will bear its own attorneys' fees in any such arbitration, and the arbitrator shall not have authority to award attorneys' fees *unless* a statutory section at issue in the dispute authorizes the award of attorneys' fees to the prevailing party, in which case the arbitrator has the authority to make such award as permitted by the statute in question. Nothing in this Agreement is intended to prevent either Employer or Executive from obtaining injunctive relief in court to prevent irreparable harm pending the conclusion of any such arbitration. Notwithstanding

the foregoing, the parties each have the right to resolve any issue or dispute over intellectual property rights by Court action instead of arbitration. The parties agree that, to the extent there is any conflict between this Section 17 and Section 13 of the CIC Agreement, the terms of this Section 17 shall prevail.

19. **Use of Electronic Signature.** If Executive chooses to sign this Agreement, he shall sign this Agreement and all Exhibits electronically via DocuSign.

[*signatures on the following page*]

FIRST PART: I Agree that my final date at Achaogen shall be March 4, 2019.

Dated: 02-Mar-2019 By: DocuSigned by: Andrew Calabrese 06535BAB366B4A2...

Dated: 27-Feb-2019 **ACHAOGEN, INC.**

By: DocuSigned by: Gary Loeb 8A01A65E3D4E4AB...
Gary Loeb
General Counsel

SECOND PART: PLEASE READ CAREFULLY. THIS AGREEMENT CONTAINS A FULL RELEASE OF LEGAL CLAIMS, BOTH KNOWN CLAIMS AND UNKNOWN CLAIMS. I ACCEPT ALL TERMS OF THIS AGREEMENT. I HAVE FORTY-FIVE DAYS TO CONSIDER WHETHER I SIGN THIS RELEASE.

Dated: 02-Mar-2019 By: DocuSigned by: Andrew Calabrese 06535BAB366B4A2...

Dated: 27-Feb-2019 **ACHAOGEN, INC.**

By: DocuSigned by: Gary Loeb 8A01A65E3D4E4AB...
Gary Loeb
General Counsel

EXHIBIT A TO AGREEMENT

DISCLOSURE UNDER TITLE 29 U.S. CODE SECTION 626(f)(1)(H)

Confidentiality Provision: *The information contained in this document is confidential. You may not disclose this information to anyone except as allowed by Paragraph 8 of the Separation Agreement.*

1. Severance packages are being offered to you and other employees who have been chosen for layoff from Achaogen, Inc.

2. Each employee whose job position is being eliminated is eligible for a severance package if the employee executes two general releases of claims.

3. All eligible employees will have up to 45 days to review the terms and conditions of the severance package, and seven days to revoke this release of claims under the Age Discrimination in Employment Act of 1967 and the Older Workers' Benefit Protection Act, should they choose to do so.

4. The following is statistical information about employees who were and were not selected for layoff and/or severance benefits; such disclosure is required by law (employment status, titles and ages were accurate as of February 27, 2019):

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EMPLOYEES NOT SELECTED FOR LAYOFF
AND NOT ELIGIBLE FOR THE SEVERANCE PACKAGE

JOB TITLE	AGE
Accountant	25
AD HR Ops	54
Associate Director, ERP	45
Associate Director, Technical Accounting and SEC Reporting	28
CEO	48
Chief Administrator	39
Chief Business Officer	51
Chief Commercial Officer	44
Chief Financial Officer	38
Clinical Operations Associate Director	51
CMC Associate Director	40
CMC Director	37
Dir, Regulatory Operations	49
Director, Medical Science	44
Director, Outcome Research & Quality Care	53
Director, Procurement	32
Director, Regulatory CMC	43
Facilities Specialist	41
General Counsel	49
Hospital Account Manager	40
Hospital Account Manager	40
Hospital Account Manager	49
Information Technology Associate Director	37
National Director, Health Systems	42
Principal Scientist, Analytical Chemistry	58
Regional Business Director	38
Senior Accounting Manager	47
Senior Director, Market Access	51
Senior Medical Scientist	33
Senior Medical Scientist	43
Sr Director, TDM/ Antibody CMC Dev	43
Sr. Director Accounting, Controller	45
Sr. Director, Clinical Development	30
Sr. Director, Corporate Development & Head of Microbiology	44
Sr. Director, Finance	59
Sr. Executive Assistant	44
Sr. Manager, Technical QA	41
Vice President, Finance & Accounting	49
Vice President, Life Cycle Leader	43
VP Infectious Disease Research	39
VP, Deputy General Counsel	44
VP, Head of Early Development	57

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EMPLOYEES ELECTED FOR LAYOFF	
AND ELIGIBLE FOR THE SEVERANCE PACKAGE	
Job Title	**Age**
Senior Accountant	34
Associate Director, Medical Science	42
Associate General Counsel, Healthcare Law	51
Director, Medical Science	39
Director, Medical Scientist	44
Director, Toxicology	50
Hospital Account Manager	44
Hospital Account Manager	68
Hospital Account Manager	39
Hospital Account Manager	48
Hospital Account Manager	43
Hospital Account Manager	41
Hospital Account Manager	46
Hospital Account Manager	33
Hospital Account Manager	44
Hospital Account Manager	46
Hospital Account Manager	52
Hospital Account Manager	47
Hospital Account Manager	46
Hospital Account Manager	52
Hospital Account Manager	40
Hospital Account Manager	42
Hospital Account Manager	42
Hospital Account Manager	39
Hospital Account Manager	40
Marketing Specialist I	34
Regional Business Director	48
Regional Business Director	39
Regional Business Director	55
Regional Business Director	40
Specialist, Accounts Payable	49
Sr. Director, Sales & Strategic Operations	44
Sr. Director, Scientific Communications	43
Sr. Scientist, Formulation Development	34
Vice President, Pharmacovigilance	61
Vice President, Sales	47
VP of Tech Ops	43
VP Strategic Planning	46
VP, Chemistry	45
VP, Development & Medical Affairs	53

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EXHIBIT B

This is to certify that I do not have in my possession, nor have I failed to return, any devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items belonging to Achaogen, Inc., its subsidiaries, affiliates, successors or assigns (together, the "***Company***").

I further certify that I have complied with all the terms of the Company's Employment, Confidential Information, Invention Assignment and Arbitration Agreement previously signed by me, including the reporting of any inventions and original works of authorship (as defined therein), conceived or made by me (solely or jointly with others) covered by that agreement.

I further agree that, in compliance with the Employment, Confidential Information, Invention Assignment, and Arbitration Agreement, I will preserve as confidential all trade secrets, confidential knowledge, data or other proprietary information relating to products, processes, know-how, designs, formulas, developmental or experimental work, computer programs, data bases, other original works of authorship, customer lists, business plans, financial information or other subject matter pertaining to any business of the Company or any of its employees, clients, consultants or licensees.

I further agree that for twelve (12) months from this date, I will not solicit, induce, recruit or encourage any of the Company's employees to leave their employment.

Dated: 02-Mar-2019

DocuSigned by:
Andrew Calabrese
[illegible]B4A2
EXECUTIVE

EXHIBIT C
NOTICE TO EMPLOYEE AS TO CHANGE IN RELATIONSHIP
(Termination Notice Pursuant to Provisions of Section 1089 of the California Unemployment Insurance Code)

Name: Social Security Number:

Your employment status has changed for the reason checked below:

☐ Voluntarily resigned effective _____.

XX Laid-off as of 3/4/2019.

☐ Leave of absence effective _____, with a return to work date of _____.

☐ Discharge effective _____.

☐ Refusal to accept available work effective _____.

☐ Change in status from employee to independent contractor, effective _____.

Comments: _____

_____

Address Change: _____

_____

_____

Phone Number: _____

Gary Loeb, General Counsel	Achaogen, Inc.
Human Resources Name	*Company Name*
DocuSigned by: Gary Loeb	27-Feb-2019
Human Resources Signature	*Date*

Notice Acknowledgment

I received a copy of this notice on 02-Mar-2019 (please fill in date and sign below).

DocuSigned by: Andrew Calabrese	Andrew Calabrese
Executive Signature	*Print Name*