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

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| In re:<br><br>Achaogen, Inc.,<br><br>Debtor. | Chapter 11<br><br>Case No. 19-10844 (BLS)<br><br>**Response Deadline:**<br>June 1, 2022 at 4:00 p.m. (ET)<br><br>**Hearing Date**:<br>July 6, 2022 at 9:00 a.m. (ET) |

**ACHAOGEN PLAN TRUSTEE'S THIRD OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO CERTAIN CLAIMS PURSUANT TO 11 U.S.C. § 502, FED R. BANKR. P. 3007 AND DEL. L.R. 3007-1 (DUPLICATE CLAIMS AND AMENDED CLAIMS)**

**TO THE CLAIMANTS LISTED IN EXHIBITS A & B ATTACHED TO THE PROPOSED ORDER (AS DEFINED HEREIN):**

- **YOUR SUBSTANTIVE RIGHTS MAY BE AFFECTED BY THIS OBJECTION AND BY ANY FURTHER OBJECTION(S) THAT MAY BE FILED BY THE DEBTOR OR ANY OTHER PARTY.**
- **THE RELIEF SOUGHT HEREIN IS WITHOUT PREJUDICE TO THE RIGHTS OF THE PLAN TRUSTEE OR ANY OTHER PARTY TO PURSUE FURTHER SUBSTANTIVE OR NON-SUBSTANTIVE OBJECTIONS AGAINST THE CLAIMS LISTED IN EXHIBITS A & B.**
- **CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS IN EXHIBITS A & B.**

Edward E. Neiger, Plan Trustee ("Plan Trustee") of the Achaogen Plan Trust (the "Plan Trust"), by and through counsel, hereby objects (the "Objection") pursuant to section 502 of title 11 of the United States Code (the "Bankruptcy Code"), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") to those certain claims listed on Exhibit A and Exhibit B, which are



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attached to the proposed form of order (the "Proposed Order") attached hereto as **Exhibit 2**, and incorporated by reference. In support of this Objection, the Plan Trustee submits the *Declaration of Edward E. Neiger in Support of the Plan Trustee's Third Omnibus Objection (Non-Substantive) to Certain Claims (Duplicate Claims and Amended Claims)* (the "Neiger Declaration"), attached hereto as **Exhibit 1** and incorporated by reference, and respectfully states as follows:

## JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The Plan Trustee consents to the entry of a final order by the Court in connection with the Objection.

2. The statutory bases for the relief requested herein are sections 502 and 503 of the Bankruptcy Code, Bankruptcy Rule 3007, and Local Rule 3007-1.

## BACKGROUND

### A. The Chapter 11 Case and Creation of Plan Trust

3. Achaogen, Inc. (the "Debtor") filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on April 15, 2019 (the "Petition Date").

4. Between the Petition Date and May 29, 2020, Achaogen operated its business as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An official committee of unsecured creditors (the "Committee") was formed and was appointed in the Chapter 11 Case on April 23, 2019.

5. On May 29, 2020, the Court entered an Order [D.I. 697] (the "Confirmation Order") confirming the *First Amended Plan of Liquidation Jointly Proposed by Achaogen, Inc. and the Official Committee of Unsecured Creditors of Achaogen Inc.* [D.I. 686-1] (the "Plan").

6. Pursuant to the Plan, Confirmation Order and the Plan Trust Agreement [D.I. 677-1], on May 29, 2020 the assets of the Debtor were vested in the Achaogen Plan Trust and Edward E. Neiger was appointed as Plan Trustee of the Plan Trust.

**B. The Claims Resolution Process in the Chapter 11 Case**

7. On April 16, 2019, the Court entered an order [D.I. 48] appointing Kurtzman Carson Consultants LLC ("KCC") as claims and noticing agent in this Chapter 11 Case. KCC was designated as the authorized repository for proofs of claim in this Chapter 11 Case, and was authorized to maintain the official claims register (the "Claims Register") for the Debtor, to provide public access to every proof of claim unless otherwise ordered by the Court, and to provide the Clerk with a certified duplicate thereof upon request of the Court.

8. On May 30, 2019, the Debtor filed its schedules of assets and liabilities (the "Schedules") and statement of financial affairs [D.I. 235-236].

9. On June 14, 2019, the Court entered the *Order (A) Establishing Bar Date for Filing Proofs of Claim, (B) Approving the Form and Manner for Filing Proofs of Claim, (C) Approving Notice Thereof, (D) Implementing Uniform Procedures Regarding 503(b)(9) Claims, and (E) Granting Related Relief* [D.I. 272] which established, among other things, the bar dates for administrative and general claims as July 22, 2019, and August 5, 2019, respectively.

10. On June 18, 2019, KCC duly served the *Notice of Deadlines to File Proofs of Claim for 503(b)(9) Claims, Administrative Claims, and Prepetition Claims* [D.I. 284] (the "Bar Date Notice"). *See Affidavit of Service* [D.I. 322].

11. The Debtor maintained books and records (the "Books and Records") that reflected, among other things, the Debtor's liabilities and the amounts thereof owed to its creditors.

12. The Claims Register, prepared and maintained by KCC, reflects that approximately 380 proofs of claim (collectively, the "Proofs of Claim") have been filed in this Chapter 11 Case asserting claims against the estate of Achaogen, Inc.

13. The Plan Trustee is reviewing the Books and Records and the Proofs of Claim, and comparing same to determine the validity of the asserted Proofs of Claim.

14. This reconciliation process includes identifying particular categories of claims that the Plan Trustee believes should be reclassified, modified and/or disallowed. To avoid an improper recovery by claimants, the Plan Trustee intends to file omnibus objections to such categories of claims if and where warranted. This objection is one such omnibus objection.

15. This Objection is timely as the deadline for the Plan Trustee to object to claims is currently May 19, 2022. *See Order Extending Deadline for Objections to Claims* [D.I. 841].

**RELIEF REQUESTED**

16. By this Objection, the Plan Trustee seeks entry of an order, substantially in the form of the Proposed Order attached hereto as **Exhibit 2**, disallowing and expunging each of the Proofs of Claim identified on Exhibit A to the Proposed Order (the "Duplicate Claims") and Exhibit B to the Proposed Order (the "Amended Claims"), and authorizing the Claims Agent to expunge such Proofs of Claim from the claims register.

17. The Plan Trustee's determinations with respect to the Duplicate Claims and Amended Claims is based on a review of the Debtor's Books and Records, the Claims Register, the relevant proofs of claim, and supporting documentation, if any, provided by each claimant.

18. When asserting a proof of claim against the bankruptcy estate, a claimant must allege facts that, if true, would support a finding that the debtor is legally liable for that claim. *See In re Allegheny Int'l, Inc.*, 954 F.2d 167, 173 (3d Cir. 1992). Where the claimant alleges sufficient

facts to support its claim, that claim is entitled to *prima facie* validity. *Id.*; Fed. R. Bankr. P. 3001(f). Thus, a party wishing to dispute such claim must then produce evidence to negate the claim's *prima facie* validity. *Id.*; 11 U.S.C. § 502(a); Fed. R. Bankr. P. 3001(f).

19. A claim should not be allowed if it is unenforceable against the debtor and property of the debtor under any agreement or applicable law. 11 U.S.C. § 502(b)(1). If an objection to a proof of claim is made, the claimant has the ultimate burden of persuasion as to both the validity and amount of the claim. *In re Allegheny Int'l, Inc.*, 954 F.2d at 172.

## OBJECTION

### A. Duplicate Claims (Exhibit A)

20. The Plan Trustee objects to each of the Duplicate Claims listed on Exhibit A to the Proposed Order and respectfully requests that the Duplicate Claims be disallowed and expunged in full. The Plan Trustee has reviewed each of the Duplicate Claims, the Claims Register and the Debtor's books and records. Based upon this review, the Plan Trustee has determined that the Duplicate Claims are repetitive of other proofs of claim filed by the same claimant. As such, the Duplicate Claims should be disallowed. If the Duplicate Claims are not disallowed, creditors filing such claims may stand to recover twice for the same liability.

21. The Bankruptcy Rules and Local Rules specifically provide for the disallowance of the Duplicate Claims on the basis asserted by the Plan Trustee. Bankruptcy Rule 3007(d)(1) provides for omnibus claims objections based on the ground that the claims duplicate other claims. Fed. R. Bankr. P. 3007(d)(1). Local Rule 3007-1(d)(i) likewise provides that an objection is non-substantive if it is based on "a duplicate claim . . . ." Del. Bankr. L.R. 3007-1(d)(i).

22. For the reasons set forth above and in Exhibit A to the Proposed Order, the Plan Trustee submits that each of the Duplicate Claims do not meet the standards for *prima facie* validity. Therefore, each of the Duplicate Claims should be disallowed and expunged in full.

**B. Amended Claims (Exhibit B)**

23. The Plan Trustee objects to each of the Amended Claims listed on Exhibit B to the Proposed Order and respectfully requests that the Amended Claims be disallowed and expunged in full. The Plan Trustee has reviewed each of the Amended Claims, the Claims Register and the Debtor's books and records. Based upon this review, the Plan Trustee has determined that the Amended Claims were amended or superseded by subsequently filed proofs of claim. As such, the Amended Claims should be disallowed. If the Amended Claims are not disallowed, creditors filing such claims may stand to recover twice for the same liability.

24. The Bankruptcy Rules and Local Rules specifically provide for the disallowance of the Amended Claims on the basis asserted by the Plan Trustee. Bankruptcy Rule 3007(d)(3) provides for omnibus claims objections based on the ground that the claims have been amended by subsequently filed proofs of claim. Fed. R. Bankr. P. 3007(d)(3). Local Rule 3007-1(d)(iii) likewise provides that an objection is non-substantive if it is based on "an amended or superseded claim." Del. Bankr. L.R. 3007-1(d)(iii).

25. For the reasons set forth above and in Exhibit B to the Proposed Order, the Plan Trustee submits that each of the Amended Claims do not meet the standards for *prima facie* validity. Therefore, each of the Amended Claims should be disallowed and expunged in full.

**RESPONSES TO OBJECTION**

26. Filing and Service of Responses. To contest this Objection, a claimant must file and serve a written response to the Objection (a "Response") so that it is received by **4:00 p.m.**

**(Eastern Time) on June 1, 2022.** A claimant who has filed a timely Response and wishes to oppose the Objection must attend or make other plans to participate in the hearing on the Objection, which is scheduled to be held on **July 6, 2022 at 9:00 a.m. (Eastern Time)** before the Honorable Brendan L. Shannon, United States Bankruptcy Judge, United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom No. 6, Wilmington, Delaware 19801.

27. Every Response should be filed with the Office of the Clerk, United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, and served on counsel for the Plan Trustee, so that the Response is received no later than June 1, 2022 at the following address:

COLE SCHOTZ P.C.
500 Delaware Ave., Ste. 1410
Wilmington, DE 19801
Attn: Justin R. Alberto

ASK LLP
2600 Eagan Woods Dr., Ste. 400
St. Paul, MN 55121
Attn: Nicholas C. Brown

28. Content of the Response. Every Response must contain, at a minimum, the following:

a) a caption setting forth the name of the Court, the name of the Debtor, the case number, and the title of the Objection to which the Response is directed;

b) the name of the claimant and a description of the basis for the amount of the claim subject to the Objection;

c) a concise statement setting forth the reasons why the relief requested in the Objection should not be granted, including the specific factual and legal bases on which the claimant relies in opposing the Objection;

d) all documentation and other evidence supporting the claim subject to the Objection not previously filed with the Court or KCC, the claims agent in the Chapter 11 Case, upon which the claimant relies in opposing the Objection; and

e) the name, address, telephone number and facsimile number of the person(s), which may be the claimant or an attorney or other legal representative thereof, to whom counsel for the Plan Trustee should serve a reply, if any, to the Response and who has the authority to reconcile, settle or otherwise resolve the Objection on the claimant's behalf.

27. Timely Response Required. If a claimant fails to file and serve a timely Response, then, without further notice to the claimant or a hearing on the Objection, the Plan Trustee will present the Court with an order disallowing and expunging the claim, substantially in the form attached hereto as **Exhibit 2**.

## RESERVATION OF RIGHTS

28. The Plan Trustee hereby reserves his rights and those of the Debtor, the estate, and any successors thereto, to object further to the Duplicate Claims and Amended Claims on any additional factual or legal grounds. Without limiting the generality of the foregoing, the Plan Trustee specifically reserves the right to amend the Objection, file additional papers in support hereof or take other appropriate actions, including to: (a) respond to any allegation or defense that may be raised in a Response by or on behalf of any claimant or other party in interest; (b) object further to any claim for which a claimant provides (or attempts to provide) additional documentation or substantiation; and (c) object further to any claim based on additional information that may be discovered on further review by the Plan Trustee, any successors thereto or through discovery.

29. The Plan Trustee reserves the right to seek adjournment of the hearing on any responses to this Objection. In the event that the Plan Trustee seeks such an adjournment, it will

be noted on the notice of agenda for the hearing, and such agenda will be served on the affected claimant by serving the person designated in the response.

**NOTICE**

30. Notice of this Objection will be given to: (i) the U.S. Trustee; (ii) claimants whose claims are subject to this Objection and their counsel, if known, and (iii) all parties entitled to notice pursuant to Bankruptcy Rule 2002. The Plan Trustee submits that, under the circumstances, no other or further notice is required.

**NO PRIOR REQUEST**

31. No prior request for the relief sought in the Objection has been made to this or any other court.

**COMPLIANCE WITH LOCAL RULE 3007-1**

32. To the best of the Plan Trustee's knowledge and belief, the Objection, including its exhibits, substantially complies with Local Rule 3007-1. To the extent that the Objection does not comply with the requirements of Local Rule 3007-1, the Plan Trustee submits that the deviations are not material and respectfully request that those requirements be waived.

WHEREFORE, Edward E. Neiger, Achaogen Plan Trustee, respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit 2**, granting the relief requested in the Objection, and for such other relief as the Court deems just and proper.

[*remainder of page intentionally left blank*]

DATED: May 18, 2022
Wilmington, Delaware

**COLE SCHOTZ P.C.**

*/s/ Andrew J. Roth-Moore*
Justin R. Alberto (No. 5126)
Andrew John Roth-Moore (No. 5988)
500 Delaware Ave., Ste. 1410
Wilmington Delaware 19801
Telephone: (302) 652-3131
Email: jalberto@coleschotz.com
aroth-moore@coleschotz.com

*-and-*

Nicholas C. Brown, NC SBN 038054
(admitted *pro hac vice*)
ASK LLP
2600 Eagan Woods Drive, Suite 400
St. Paul, MN 55121
Telephone: (651) 289-3846
Fax: (651) 406-9676
Email: nbrown@askllp.com

*Counsel for Achaogen Plan Trustee*

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

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|---|---|
| In re:<br><br>Achaogen, Inc.,<br><br>Debtor. | Chapter 11<br><br>Case No. 19-10844 (BLS)<br><br>**Response Deadline:**<br>**June 1, 2022 at 4:00 p.m. (ET)**<br><br>**Hearing Date:**<br>**July 6, 2022 at 9:00 a.m. (ET)** |

**NOTICE OF ACHAOGEN PLAN TRUSTEE'S THIRD OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO CERTAIN CLAIMS PURSUANT TO 11 U.S.C. § 502, FED. R. BANKR. P. 3007 AND DEL. L.R. 3007-1 (DUPLICATE CLAIMS AND AMENDED CLAIMS)**

PLEASE TAKE NOTICE that today, Edward E. Neiger, Plan Trustee ("Plan Trustee") for the Achaogen Plan Trust, filed the *Achaogen Plan Trustee's Third Omnibus Objection (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Duplicate Claims and Amended Claims)* (the "Objection").

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Objection must (a) be in writing; (b) be filed with the Clerk of the Bankruptcy Court, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **June 1, 2022 at 4:00 p.m. (ET)** (the "Response Deadline"); and (c) served so as to be received on or before the Response Deadline.

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

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE OBJECTION WILL BE HELD ON **JULY 6, 2022 AT 9:00 A.M. (ET)** BEFORE THE HONORABLE BRENDAN L. SHANNON, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF

DELAWARE, 824 MARKET STREET, 6TH FLOOR, COURTROOM #1, WILMINGTON, DELAWARE 19801.

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

DATED: May 18, 2022
Wilmington, Delaware

**COLE SCHOTZ P.C.**

*/s/ Andrew J. Roth-Moore*
Justin R. Alberto (No. 5126)
Andrew John Roth-Moore (No. 5988)
500 Delaware Ave., Ste. 1410
Wilmington Delaware 19801
Telephone: (302) 652-3131
Email: jalberto@coleschotz.com
aroth-moore@coleschotz.com

*-and-*

Nicholas C. Brown, NC SBN 038054
(admitted *pro hac vice*)
ASK LLP
2600 Eagan Woods Drive, Suite 400
St. Paul, MN 55121
Telephone: (651) 289-3846
Fax: (651) 406-9676
Email: nbrown@askllp.com

*Counsel for Achaogen Plan Trustee*

**Exhibit A - Duplicate Claims**

| Name of Claimant | Claim No. to be Disallowed | Claim Amount | Remaining Claim No. | Reason for Disallowance |
|---|---|---|---|---|
| Clarke, David | 194 | $ 72,442.50 | 268 | This claim is a duplicate of another filed claim and should be disallowed. |
| Heller, Harvey | 382 | $ 256.79 | 90 | This claim is a duplicate of another filed claim and should be disallowed. |
| Moss Adams LLP | 309 | $ 51,675.75 | 13 | This claim is a duplicate of another filed claim and should be disallowed. |
| Movva, Neelima | 278 | $ 115,706.34 | 219 | This claim is a duplicate of another filed claim and should be disallowed. |
| Oxford University Press | 294 | $ 38,973.00 | 217 | This claim is a duplicate of another filed claim and should be disallowed. |
| Shanghai Medicilon Inc. | 191 | $ 83,526.00 | 251 | This claim is a duplicate of another filed claim and should be disallowed. |
| The George E Ritter Trust | 384 | $ 5,965.45 | 162 | This claim is a duplicate of another filed claim and should be disallowed. |

**Exhibit B - Amended Claims**

| Name of Claimant | Claim No. to be Disallowed | Claim Amount | Remaining Claim No. | Reason for Disallowance |
|---|---|---|---|---|
| Clarke, David | 268 | $ 72,442.50 | 365 | This claim has been amended by another claim filed against the Debtor by the same claimant relating to the same purported liability. |
| Patel, Hina Navnit | 72 | $ 34,814.00 | 109 | This claim has been amended by another claim filed against the Debtor by the same claimant relating to the same purported liability. |
| PPD Development, L.P. | 225 | $ 47,818.25 | 250 | This claim has been amended by another claim filed against the Debtor by the same claimant relating to the same purported liability. |
| Reed, Mark C. | 116 | $ 31,333.00 | 112 | This claim has been amended by another claim filed against the Debtor by the same claimant relating to the same purported liability. |

# Exhibit 1

## Neiger Declaration

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

| | |
|---|---|
| In re: | Chapter 11 |
| Achaogen, Inc., | Case No. 19-10844 (BLS) |
| Debtor. | |

**DECLARATION OF EDWARD NEIGER, PLAN TRUSTEE, IN SUPPORT OF THE ACHAOGEN PLAN TRUSTEE'S THIRD OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO CERTAIN CLAIMS PURSUANT TO 11 U.S.C. § 502, FED R. BANKR. P. 3007 AND DEL. L.R. 3007-1 (DUPLICATE CLAIMS AND AMENDED CLAIMS)**

I, Edward E. Neiger, hereby declare under penalty of perjury:

1. I am the Plan Trustee ("Plan Trustee") for the Achaogen Plan Trust, pursuant to the Plan, Confirmation Order and Plan Trust Agreement entered in the above-captioned Chapter 11 Case.[1]

2. In my capacity as Plan Trustee, I am generally familiar with the Debtors' books and records which reflect, among other things, the Debtor's liabilities and the amount thereof owed to its creditors both as of and subsequent to the Petition Date. I have also reviewed and am familiar with the Claims Register in the Chapter 11 Case.

3. I have read the *Achaogen Plan Trustee's Third Omnibus Objection (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Duplicate Claims and Amended Claims)* (the "Objection").

4. To the best of my knowledge, information, and belief, the assertions made in the Objection are accurate. In evaluating the Duplicate Claims and Amended Claims, my law firm,

[1] All capitalized, undefined terms herein shall have the meanings assigned to them in the Objection.

together with Kurtzman Carson Consultants, LLC ("KCC"), the claims and noticing agent in this Chapter 11 Case, thoroughly reviewed the claims register, the relevant proofs of claim, the Debtor's books and records, and the supporting documentation provided by each claimant, if any.

5. Based on my review, I determined that each of the Duplicate Claims should be disallowed and expunged because they are repetitive of other proofs of claim filed by the same claimant. Therefore, I believe disallowance and expungement as shown in Exhibit A to the Proposed Order is appropriate.

6. Based on my review, I determined that each of the Amended Claims should be disallowed and expunged because they were amended or superseded by subsequently-filed claims. Therefore, I believe disallowance and expungement as shown in Exhibit B to the Proposed Order is appropriate.

5. I have reviewed Local Rule 3007-1 and hereby state that, to the best of my knowledge and belief, the Objection is in compliance with such rule.

5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the facts set forth in the foregoing declaration are true and correct to the best of my knowledge, information, and belief as of the date hereof.

Dated: May 18, 2022

/s/ *Edward E. Neiger*
Edward E. Neiger
Achaogen Plan Trustee

# Exhibit 2

## Proposed Order

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

| | |
|---|---|
| In re: | Chapter 11 |
| Achaogen, Inc., | Case No. 19-10844 (BLS) |
| Debtor. | |

**ORDER SUSTAINING ACHAOGEN PLAN TRUSTEE'S THIRD OMNIBUS OBJECTION (NON-SUBSTANTIVE) TO CERTAIN CLAIMS PURSUANT TO 11 U.S.C. § 502, FED R. BANKR. P. 3007 AND DEL. L.R. 3007-1 (DUPLICATE CLAIMS AND AMENDED CLAIMS)**

Upon the *Achaogen Plan Trustee's Third Omnibus Objection (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Duplicate Claims and Amended Claims)* (the "Objection")[1] filed by Edward E. Neiger, Plan Trustee ("Plan Trustee") of the Achaogen Plan Trust ("Trust") seeking entry of an order (this "Order") disallowing and expunging the claims identified in **Exhibit A** and **Exhibit B** attached hereto, all as more fully set forth in the Objection; and upon the *Declaration of Edward Neiger, Plan Trustee, in Support of the Achaogen Plan Trustee's Third Omnibus Objection (Non-Substantive) to Certain Claims Pursuant to 11 U.S.C. § 502, Fed. R. Bankr. P. 3007 and Del. L.R. 3007-1 (Duplicate Claims and Amended Claims)* attached to the Objection as Exhibit 1; and upon all other documentation filed in connection with the Objection and the Claims identified on **Exhibit A** and **Exhibit B**; and adequate notice of the Objection having been given as set forth in the Objection; and it appearing that no other or further notice is required; and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

[1] Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Objection.

1. The Objection is GRANTED to the extent set forth herein with respect to each of the claims identified on **Exhibit A** and **Exhibit B** attached hereto.

2. The Duplicate Claims listed on **Exhibit A** attached hereto are hereby disallowed and expunged in their entirety as set forth in **Exhibit A**.

3. The Amended Claims listed on **Exhibit B** attached hereto are hereby disallowed and expunged in their entirety as set forth in **Exhibit B**.

4. This Order shall be deemed a separate Order with respect to each of the claims identified on **Exhibit A** and **Exhibit B**. Any stay of this Order pending appeal by any claimants whose claims are subject to this Order shall only apply to the contested matter which involves such claimant and shall not act to stay the applicability and/or finality of this Order with respect to the other contested matters listed in the Objection or this Order.

5. The Plan Trustee, KCC, and the Clerk of this Court are authorized to take all actions necessary and appropriate to give effect to this Order.

6. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable law; (b) an allowance of any claim or a waiver of the Plan Trustee's or any other party in interest's right to dispute or object to any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Objection or any order granting the relief requested by this Objection or a finding that any particular claim is a secured, administrative expense or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection

of any lien on, security interest in, or other encumbrance on property of the Debtor's estate; or (g) a waiver or limitation of the Plan Trustee's, or any other party in interest's, rights under the Bankruptcy Code or any other applicable law.

7. The Plan Trustee is authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Objection.

8 Notwithstanding any applicable Bankruptcy Rules or Local Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.