

**CERTIFICATE OF AMENDMENT
TO THE SECOND AMENDED AND RESTATED
CERTIFICATE OF INCORPORATION OF
AXOGEN CORPORATION**

Pursuant to Section 242 of the
Delaware General Corporation Law

AxoGen Corporation, a Delaware corporation (the "**Corporation**"), hereby certifies as follows:

1. The Second Amended and Restated Certificate of Incorporation of the Corporation ("**Second Amended Certificate**") was filed with the Secretary of State of Delaware on January 7, 2010.

2. **ARTICLE FOURTH**, Section A of the Second Amended Certificate is hereby amended and restated in its entirety as follows:

"(A) Classes of Stock. The aggregate number of shares which the Corporation shall have the authority to issue is 236,408,891 shares, divided into 133,000,000 shares of Common Stock, par value \$0.00001 per share (the "*Common Stock*"), and 103,408,891 shares of Preferred Stock (as defined below), 2,544,750 of which are designated Series A Convertible Preferred Stock, par value \$0.00001 per share (the "*Series A Preferred Stock*"), 17,065,217 shares of which are designated Series B Convertible Preferred Stock, par value \$0.00001 per share (the "*Series B Preferred Stock*"), 16,798,924 of which are designated Series C Convertible Preferred Stock, par value \$0.00001 per share (the "*Series C Preferred Stock*"), and 67,000,000 of which are designated Series D Convertible Preferred Stock, par value \$0.00001 per share (the "*Series D Preferred Stock*"). As used in this **ARTICLE FOURTH**, the term "Preferred Stock" used without reference to the Series A Preferred Stock, the Series B Preferred Stock, the Series C Preferred Stock or the Series D Preferred Stock means the shares of Preferred Stock, without distinction as to series. The issuance price of the Series A Preferred Stock shall be \$0.44 per share, the issuance price of the Series B Preferred Stock shall be \$0.46 per share, the issuance price of the Series C Preferred Stock shall be \$0.7345 per share and the issuance price of the Series D Preferred Stock shall be \$0.1198 per share. The Board of Directors of the Corporation (the "*Board*"), except as otherwise provided in this Second Amended and Restated Certificate of Incorporation (the "*Certificate*"), is authorized to decrease the number of shares of any series subsequent to the issuance of shares of that series, but not below the number of shares of such series outstanding. In case the number of shares of any series shall be so decreased, the shares constituting such decrease shall resume the status which they had prior to the adoption of the resolution originally fixing the number of shares of such series."

3. A new Section 6A is added to **ARTICLE FOURTH** of the Second Amended Certificate as follows:

"6A Special Debt Financing Mandatory Conversion.

6A.1 Triggering Event. In the event that at the later of the Close-Out Date (as defined below) any holder of Series B Preferred Stock owning greater than five percent (5%) of the issued and outstanding Series B Preferred Stock as of the date hereof (such holder, a "*Series B Holder*") or a holder of Series C Preferred Stock owning greater than five percent (5%) of the issued and outstanding Series C Preferred Stock as of the date hereof (such holder, a "*Series C Holder*") does not hold Convertible Promissory Notes (as defined below) in an aggregate outstanding principal amount of its Participation Threshold Amount (as such term is defined in the Note and Warrant Purchase Agreement (as defined below)), respectively, then, on the Close-Out Date, all shares of the Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock held by such Non-Participating Series B or Series C Investor (as such term is defined in the Note and Warrant Purchase Agreement) shall automatically, and without further action on the part of such holder, be converted into such number of shares of Common Stock as shall be equal to the quotient obtained by dividing (A) the aggregate number of issued and outstanding shares of each of the Series B Preferred Stock, the Series C Preferred Stock and the Series D Preferred Stock held by such Non-Participating Series B or Series C Investor by (B) five (5). Such conversion is referred to as a "*Special Debt Financing Mandatory Conversion*".

6A.2 Procedural Requirements. Upon a Special Debt Financing Mandatory Conversion, each holder of shares of Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock converted pursuant to Subsection 6A.1 shall surrender his, her or its certificate or certificates for all such shares (or, if such holder alleges that such certificate has been lost, stolen or destroyed, a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) to the Corporation at the place designated in such notice, and shall thereafter receive certificates for the number of shares of Common Stock to which such holder is entitled pursuant to this Section 6A. All rights with respect to the Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock converted pursuant to Subsection 6A.1, including the rights, if any, to receive notices and vote (other than as a holder of Common Stock), will terminate, except for the rights of the holders thereof, upon surrender of their certificate or certificates therefor (or lost certificate affidavit and agreement), to receive the items provided for in the last sentence of this Subsection 6A.2. If so required by the Corporation, certificates surrendered for conversion shall be endorsed or accompanied by written instrument or instruments of transfer, in form satisfactory to the Corporation, duly executed by the registered holder or by his, her or its attorney duly authorized in writing. As soon as practicable after the Special Debt Financing Mandatory Conversion and the surrender of the certificate or certificates (or lost certificate affidavit and agreement) for Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock so converted, the Corporation shall issue and deliver to such holder, or to his, her or its nominees, a certificate or certificates for the number of full shares of Common Stock issuable on such conversion in accordance with the provisions hereof, together with cash as provided in Subsection 5.2 in lieu of any fraction of a share of Common Stock otherwise issuable upon such conversion and the payment of any declared but unpaid dividends (but not any undeclared accruing dividends) on the shares of Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock converted.

6A.3 Effect of Special Debt Financing Mandatory Conversion. All shares of Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock subject to the

Special Debt Financing Mandatory Conversion shall, from and after the time of the Special Debt Financing Mandatory Conversion, no longer be deemed to be outstanding and, notwithstanding the failure of the holder or holders thereof to surrender the certificates for such shares on or prior to such time, all rights with respect to such shares shall immediately cease and terminate at the time of the Special Debt Financing Mandatory Conversion, except for the right of the holders thereof to receive shares of Common Stock in exchange therefor and to receive payment of any dividends declared but unpaid thereon (but not any undeclared accruing dividends). Such converted Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock shall be retired and cancelled and may not be reissued as shares of such series, and the Corporation may thereafter take such appropriate action (without the need for stockholder action) as may be necessary to reduce the authorized number of shares of Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock accordingly.

6A.4 Definitions.

(a) “*Close-Out Date*” shall mean the later of the Rights Offering Closing Date and the Second Closing Date.

(b) “*Convertible Promissory Notes*” shall mean those certain convertible promissory notes issued pursuant to the Convertible Promissory Note and Warrant Purchase Agreement, dated as June 11, 2010 (collectively, the “Note and Warrant Purchase Agreement”), in each case, between the Corporation and certain purchasers party thereto. The Secretary of the Corporation will make a copy of the Note and Warrant Purchase Agreement available upon the request of a stockholder.

(c) “*Rights Offering Closing Date*” shall mean the closing date of the issuance and sale of Convertible Promissory Notes at the Rights Offering Closing (as such term is defined in the Note and Warrant Purchase Agreement).

(d) “*Second Closing Date*” shall mean the closing date of the issuance and sale of Convertible Promissory Notes at Second Closing Date (as such term is defined in the Note and Warrant Purchase Agreement).”

4. Subsection 7.2.1 of **ARTICLE FOURTH** is hereby amended and restated in its entirety as follows:

“7.2.1 Investor Director. The holders of a majority of the outstanding Common Stock and Preferred Stock (based upon an assumed conversion of the outstanding Series A Preferred Stock, the outstanding Series B Stock, the outstanding Series C Stock, and the outstanding Series D Stock into Common Stock), voting together as a single class, shall have the right to elect one (1) director to the Board.”

5. Subsection 7.2.2 of **ARTICLE FOURTH** is hereby amended and restated in its entirety as follows:

“7.2.2 Series B, C and D Preferred Stock. The holders of a majority of the Series B, C and D Preferred Stock, voting together as a single class, shall have the right to elect two (2) directors to the Board (the “*Series B/C/D Directors*”).

6. Subsection 5.4.1(g) of **ARTICLE FOURTH** is hereby amended and restated in its entirety as follows:

“(g) The following issuances of Common Stock or Common Stock Equivalents shall not require adjustment of the Conversion Price under this Section 5.4: (1) any dividend or distribution on the Series D Preferred Stock, Series C Preferred Stock or Series B Preferred Stock; (2) any conversion of shares of Preferred Stock; (3) any stock for which adjustment of the Conversion Price is made pursuant to Sections 5.5, 5.6, 5.7 or 5.8 of this **ARTICLE FOURTH** Section (B) below; (4) securities offered by the Corporation to the public in a Qualified Public Offering (as defined in Section 6 of this **ARTICLE FOURTH** Section (B) below); (5) securities issued pursuant to an acquisition of another corporation by merger, consolidation, amalgamation, exchange of shares, the purchase of assets or otherwise, which has been approved by the Board, including the approval of all of the Series B/C/D Directors; (6) any securities issued to or to be issued to executive officers, consultants or service providers in lieu of cash compensation, if approved in advance by the Board, including the approval of all of the Series B/C/D Directors; (7) any securities issued or securities issuable upon the exercise or conversion of such securities to employees, consultants, directors of the Company pursuant to stock purchase, stock option plans or other agreement approved by the Board prior to the date hereof or approved by holders of 60% of the Series B Stock, Series C Stock and Series D Stock, voting together as a single class, hereafter in the case of amendments to any such plan or any new plan; (8) securities issued or securities issuable upon the exercise or conversion of such securities pursuant to any equipment loan or leasing arrangement, real property leasing arrangement or debt financing from a bank or similar financial institution approved by the Board, including the approval of all of the Series B/C/D Directors; (9) up to 500,000 shares of Common Stock issued in accordance with the terms of that certain Amended and Restated Standard Exclusive License Agreement with the University of Florida Research Foundation, Inc., dated February 21, 2006; (10) the Series D Stock and Series D Warrants issued pursuant to that certain Series D Convertible Preferred Stock and Warrant Purchase Agreement by and among AxoGen and the Series D Investors, dated on or about January 7, 2010 (11) the conversion, exercise or exchange of Common Stock Equivalents outstanding on the Filing Date; and (12) shares issued with respect to which the holders of not less than sixty percent (60%) of the Series B Preferred Stock, Series C Preferred Stock and Series D Preferred Stock, voting together as a single class, waive their rights pursuant to this Section 5 of this **ARTICLE FOURTH** Section (B); provided, however, that the number of shares set forth in subsection (6) or (9) may be increased by the Board, which shall include the approval of all of the Series B/C/D Directors.”

7. This Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of the Corporation has been approved in accordance with Sections 141, 228 and 242 of the General Corporation Law of the State of Delaware.

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IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation to be executed by its duly authorized officer as of June 11, 2010.

AXOGEN CORPORATION

By: 

Name: Karen Zaderaj

Title: Chief Executive Officer