

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended **June 30, 2019**

or

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number: 001-38721

**Axonics Modulation Technologies, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**45-4744083**

(I.R.S. Employer  
Identification Number)

**26 Technology Drive Irvine,  
California**

(Address of principal executive offices)

**92618**

(Zip Code)

**(949) 396-6322**

(Registrant's telephone number,  
including area code)

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

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

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

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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

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

**Title of class**

Common stock, par value \$0.0001 per share

**Trading symbol**

AXNX

**Name of exchange on which registered**

Nasdaq Global Select Market

As of August 1, 2019, 28,524,811 shares of the registrant's common stock, par value \$0.0001 per share, were outstanding.

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## Special Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended (the “Securities Act”), and Section 21E of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), that involve risks and uncertainties, including statements based on our current expectations, assumptions, estimates and projections about future events, our business, financial condition, results of operations and prospects, our industry and the regulatory environment in which we operate. Any statements contained herein that are not statements of historical facts may be deemed to be forward-looking statements. In some cases, you can identify forward-looking statements by terms such as “anticipate,” “believe,” “could,” “estimate,” “expect,” “intend,” “may,” “plan,” “potential,” “predict,” “project,” “should,” “will,” “would” or the negative of those terms, or other comparable terms intended to identify statements about the future. Forward-looking statements include, but are not limited to, statements about:

- announcements of regulatory approval or disapproval of our proprietary rechargeable sacral neuromodulation (“SNM”) system (“r-SNM System”) and any future enhancements to our r-SNM System;
- adverse results from or delays in clinical studies of our r-SNM System;
- unanticipated safety concerns related to the use of our r-SNM System;
- U.S. Food and Drug Administration (“FDA”) or other U.S. or foreign regulatory or legal actions or changes affecting us or our industry;
- any termination or loss of intellectual property rights;
- any voluntary or regulatory mandated product recalls;
- adverse developments concerning our manufacturers or suppliers or any future strategic partnerships;
- introductions and announcements of new technologies by us, any commercialization partners or our competitors, and the timing of these introductions and announcements;
- variations in our financial results or those of companies that are perceived to be similar to us;
- success or failure of competitive products or therapies in the SNM market;
- changes in the structure of healthcare payment of our r-SNM System;
- announcements by us or our competitors of significant acquisitions, licenses, strategic partnerships, joint ventures or capital commitments;
- market conditions in the medical technology industry and issuance of securities analysts’ reports or recommendations;
- rumors and market speculation involving us or other companies in our industry;
- sales of substantial amounts of our stock by directors, officers or significant stockholders, or the expectation that such sales might occur;
- general economic, industry and market conditions, including the size and growth, if any, of the market;
- additions or departures of key personnel;
- intellectual property, product liability or other litigation against us, our third-party manufacturers or other parties on which we rely or litigation against our general industry;
- changes in our capital structure, such as future issuances of securities and the incurrence of additional debt; and
- the results of any future legal proceedings.

The forward-looking statements included herein are based on current expectations of our management based on available information and involve a number of risks and uncertainties, all of which are difficult or impossible to predict accurately and many of which are beyond our control. As such, our actual results may differ significantly from those expressed in any forward-looking statements. Factors that may cause or contribute to such differences include, but are not limited to, those discussed in more detail in Item 2 “Management’s Discussion and Analysis of Financial Condition and Results of Operations” of Part I and Item 1A “Risk Factors” of Part II of this Quarterly Report on Form 10-Q. Readers should carefully review these risks, as well as the additional risks described in other documents we file from time to time with the Securities and Exchange Commission (“SEC”). In light of the significant risks and uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation by us or any other person that such results will be achieved, and readers are cautioned not to place undue reliance on such forward-looking statements. Except as required by law, we undertake no obligation to revise the forward-looking statements contained herein to reflect events or circumstances after the date hereof or to reflect the occurrence of unanticipated events. You should read this Quarterly Report on Form 10-Q and the documents we file with the SEC, with the understanding that our actual future results, levels of activity, performance and achievements may be materially different from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

Unless the context indicates otherwise, as used in this Quarterly Report on Form 10-Q, the terms “Axonics,” “our company,” “we,” “us” and “our” refer to Axonics Modulation Technologies, Inc. and our consolidated subsidiaries.

This Quarterly Report on Form 10-Q includes our trademarks and trade names, including, without limitation, r-SNM® and Axonics SNM System®, which are our property and are protected under applicable intellectual property laws. This Quarterly Report on Form 10-Q also includes trademarks and trade names that are the property of other organizations. Solely for convenience, trademarks and trade names referred to in this Quarterly Report on Form 10-Q appear without the ® and ™ symbols, but those references are not intended to indicate that we will not assert, to the fullest extent under applicable law, our rights, or that the applicable owner will not assert its rights, to these trademarks and trade names. We do not intend our use or display of other companies’ trade names or trademarks to imply a relationship with, or endorsement or sponsorship of us by, any other companies.

**Part I—Financial Information****Item 1. Condensed Consolidated Financial Statements (unaudited)**

**Axonics Modulation Technologies, Inc.**  
**Condensed Consolidated Balance Sheets**  
(in thousands, except share and per share data)

	June 30, 2019	December 31, 2018
	(unaudited)	
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 82,680	\$ 98,306
Short-term investments	43,001	59,218
Accounts receivable	1,286	427
Inventory	7,975	3,673
Prepaid expenses and other current assets	3,074	3,716
Total current assets	138,016	165,340
Property and equipment, net	3,000	2,784
Intangible asset, net	368	426
Other assets	5,068	3,356
Total assets	\$ 146,452	\$ 171,906
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable	\$ 3,185	\$ 3,436
Accrued liabilities	3,630	1,683
Lease liability, current portion	588	768
Debt, net of unamortized debt issuance costs, current portion	3,897	—
Total current liabilities	11,300	5,887
Lease liability, net of current portion	4,739	3,281
Debt, net of unamortized debt issuance costs, net of current portion	16,000	19,463
Total liabilities	32,039	28,631
Stockholders' equity		
Preferred stock, par value \$0.0001 per share; 10,000,000 shares authorized, no shares issued and outstanding at June 30, 2019 and December 31, 2018	—	—
Common stock, par value \$0.0001, 50,000,000 shares authorized at June 30, 2019 and December 31, 2018; 28,480,743 and 27,806,934 shares issued and outstanding at June 30, 2019 and December 31, 2018, respectively	3	3
Additional paid-in capital	246,706	243,337
Accumulated deficit	(131,827)	(99,649)
Accumulated other comprehensive loss	(469)	(416)
Total stockholders' equity	114,413	143,275
Total liabilities and stockholders' equity	\$ 146,452	\$ 171,906

See accompanying notes to unaudited condensed consolidated financial statements.

**Axonics Modulation Technologies, Inc.**  
**Condensed Consolidated Statements of Comprehensive Loss**  
**(in thousands, except share and per share data)**  
**(unaudited)**

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Net revenue	\$ 1,488	\$ 12	\$ 2,565	\$ 12
Cost of goods sold	772	5	1,320	5
Gross profit	716	7	1,245	7
Operating Expenses				
Research and development	4,874	6,178	9,093	10,721
General and administrative	4,362	1,636	8,377	3,071
Sales and marketing	10,750	811	16,664	1,359
Total operating expenses	19,986	8,625	34,134	15,151
Loss from operations	(19,270)	(8,618)	(32,889)	(15,144)
Other Income (Expense)				
Interest income	839	205	1,873	276
Interest and other expense	(629)	(234)	(1,161)	(383)
Other income (expense), net	210	(29)	712	(107)
Loss before income tax expense	(19,060)	(8,647)	(32,177)	(15,251)
Income tax expense	1	1	1	1
Net loss	(19,061)	(8,648)	(32,178)	(15,252)
Foreign currency translation adjustment	(43)	(2)	(53)	(3)
Comprehensive loss	\$ (19,104)	\$ (8,650)	\$ (32,231)	\$ (15,255)
Net loss per share, basic and diluted (see Note 1)	\$ (0.68)	\$ (3.07)	\$ (1.15)	\$ (5.43)
Weighted-average shares used to compute basic and diluted net loss per share (see Note 1)	27,945,393	2,819,270	27,887,121	2,811,183

See accompanying notes to unaudited condensed consolidated financial statements.

**Axonics Modulation Technologies, Inc.**  
**Condensed Consolidated Statements of Stockholders' Equity (Deficit)**  
(in thousands, except share and per share data)  
(unaudited)

	Common Stock		Additional	Accumulated	Accumulated	Total
	Shares	Amount	Paid-in Capital	Deficit	Other	
					Comprehensive	
					Loss	
Balance at December 31, 2018	27,806,934	\$ 3	\$ 243,337	\$ (99,649)	\$ (416)	\$ 143,275
Issuance of common stock for employee stock option exercises for cash	41,740	—	44	—	—	44
Restricted Shares Award ("RSA") and stock option issuances and forfeitures for terminations, net	352,417	—	977	—	—	977
Restricted Stock Units ("RSU") issuances and forfeitures for terminations, net	—	—	165	—	—	165
Foreign currency translation adjustment	—	—	—	—	(10)	(10)
Net loss	—	—	—	(13,117)	—	(13,117)
Balance at March 31, 2019	28,201,091	3	244,523	(112,766)	(426)	131,334
Issuance of common stock for employee stock option exercises for cash	136,164	—	308	—	—	308
RSA and stock option issuances and forfeitures for terminations, net	112,417	—	1,629	—	—	1,629
RSU issuances and forfeitures for terminations, net	—	—	246	—	—	246
Issuance of common stock for warrant exercise	31,071	—	—	—	—	—
Foreign currency translation adjustment	—	—	—	—	(43)	(43)
Net loss	—	—	—	(19,061)	—	(19,061)
Balance at June 30, 2019	28,480,743	\$ 3	\$ 246,706	\$ (131,827)	\$ (469)	\$ 114,413

	Common Stock		Additional	Stock	Accumulated	Accumulated	Total
	Shares	Amount	Paid-in Capital	Subscriptions Receivable	Deficit	Other	
						Comprehensive	
						Loss	
Balance at December 31, 2017	2,776,583	\$ —	\$ 2,900	\$ (1,753)	\$ (67,166)	\$ (402)	\$ (66,421)
Issuance of common stock for employee stock option exercises for promissory notes	39,720	—	56	(56)	—	—	—
Stock option issuances and forfeitures for terminations, net	—	—	68	—	—	—	68
Foreign currency translation adjustment	—	—	—	—	—	(1)	(1)
Net loss	—	—	—	—	(6,604)	—	(6,604)
Balance at March 31, 2018	2,816,303	—	3,024	(1,809)	(73,770)	(403)	(72,958)
Issuance of common stock for employee stock option exercises for promissory notes	9,000	—	15	(15)	—	—	—
Stock option issuances and forfeitures for terminations, net	—	—	190	—	—	—	190
Foreign currency translation adjustment	—	—	—	—	—	(2)	(2)
Net loss	—	—	—	—	(8,648)	—	(8,648)
Balance at June 30, 2018	2,825,303	\$ —	\$ 3,229	\$ (1,824)	\$ (82,418)	\$ (405)	\$ (81,418)

See accompanying notes to unaudited condensed consolidated financial statements.

**Axonics Modulation Technologies, Inc.**  
**Condensed Consolidated Statements of Cash Flows**  
(in thousands)  
(unaudited)

	Six Months Ended June 30,	
	2019	2018
<b>Cash Flows from Operating Activities</b>		
Net loss	\$ (32,178)	\$ (15,252)
Adjustments to reconcile net loss to net cash used in operating activities		
Depreciation and amortization	570	428
Stock-based compensation	3,017	258
Amortization of debt issuance costs	434	118
Changes in operating assets and liabilities		
Accounts receivable	(859)	(14)
Inventory	(4,302)	(372)
Prepaid expenses and other current assets	891	(642)
Other assets	(5)	(41)
Accounts payable	(881)	472
Accrued liabilities	1,947	1,121
Lease liability	(48)	(48)
Net cash used in operating activities	(31,414)	(13,972)
<b>Cash Flows from Investing Activities</b>		
Purchases of property and equipment	(729)	(299)
Purchases of short-term investments	(33,231)	(15,152)
Proceeds from sales and maturities of short-term investments	49,449	—
Net cash provided by (used in) investing activities	15,489	(15,451)
<b>Cash Flows from Financing Activities</b>		
Payment of debt issuance costs	—	(142)
Proceeds from debt	—	10,000
Proceeds from exercise of stock options	352	—
Proceeds from issuance of preferred stock and noncontrolling interest	—	20,098
Payment of preferred stock issuance costs	—	(199)
Net cash provided by financing activities	352	29,757
Effect of exchange rate changes on cash and cash equivalents	(53)	(3)
Net increase (decrease) in cash and cash equivalents	(15,626)	331
Cash and cash equivalents, beginning of year	98,306	24,398
Cash and cash equivalents, end of period	\$ 82,680	\$ 24,729
<b>Supplemental Disclosure of Cash Flow Information</b>		
Cash paid for interest	\$ 730	\$ 205
Cash paid for taxes	\$ 1	\$ 1
<b>Noncash Investing and Financing Activities</b>		
Common stock issuance on stock option exercises for promissory notes	\$ —	\$ 71
Warrants issued as debt issuance costs	\$ —	\$ 240
Accrued loan fees as debt issuance costs	\$ —	\$ 750

See accompanying notes to unaudited condensed consolidated financial statements.



**AXONICS MODULATION TECHNOLOGIES, INC.**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Unaudited)**

**Note 1. Nature of Operations and Summary of Significant Accounting Policies*****Nature of Operations***

Axonics Modulation Technologies, Inc. (the “Company”), formerly American Restorative Medicine, Inc., was incorporated in the state of Delaware on March 2, 2012. The Company had no operations until October 1, 2013, when the license agreement between Alfred E. Mann Foundation for Scientific Research (“AMF”) and the Company (the “License Agreement”) was entered into. The Company is a medical technology company that has developed and is commercializing an innovative and minimally invasive implantable neurostimulation system. The Company has designed and developed the rechargeable sacral neuromodulation (“SNM”) system (“r-SNM System”), which delivers mild electrical pulses to the targeted sacral nerve in order to restore normal communication to and from the brain to reduce the symptoms of overactive bladder (“OAB”), urinary retention (“UR”) and fecal incontinence (“FI”). The r-SNM System is protected by intellectual property based on Company-generated innovations and patents and other intellectual property licensed from AMF. To date, the Company has obtained marketing approvals in Europe, Canada, and Australia for OAB, UR, and FI. To date, the Company has derived revenue only from its international operations in select markets including England, the Netherlands and Canada, and its activities have consisted primarily of developing the r-SNM System, conducting its RELAX-OAB post-market clinical follow-up study in Europe, its ARTISAN-SNM pivotal clinical study in the United States and hiring and training its U.S. commercial team in preparation for the launch of the r-SNM System in the United States.

***Initial Public Offering***

On November 2, 2018, the Company completed its initial public offering (“IPO”) by issuing 9,200,000 shares of common stock, at an offering price of \$15.00 per share, inclusive of 1,200,000 shares of the Company’s common stock issued upon the exercise by the underwriters of their option to purchase additional shares. The net proceeds were approximately \$126.0 million, after deducting underwriting discounts, commissions and offering expenses payable by the Company. In connection with the IPO, the Company’s outstanding shares of convertible preferred stock were automatically converted into an aggregate of 15,813,297 shares of common stock, and the Company’s outstanding warrants to purchase shares of Series C convertible preferred stock were automatically converted into warrants to purchase up to an aggregate of 80,000 shares of common stock.

***Principles of Consolidation***

The accompanying unaudited interim condensed consolidated financial statements include the accounts of the Company, its wholly-owned subsidiaries, Axonics Europe, S.A.S., Axonics Modulation Technologies U.K. Limited and Axonics Modulation Technologies Australia Pty Ltd. Intercompany accounts and transactions have been eliminated in consolidation.

***Basis of Presentation******Interim Financial Statements***

The interim financial statements and related footnote disclosures as of and for the three and six months ended June 30, 2019 is unaudited, and is not necessarily indicative of the Company’s operating results for a full year. The unaudited interim condensed consolidated financial statements include all normal and recurring adjustments necessary for a fair presentation of the Company’s financial results for the three and six months ended June 30, 2019 in accordance with United States (“U.S.”) generally accepted accounting principles (“GAAP”), however, certain information and footnote disclosures normally included in annual financial statements prepared in accordance with GAAP have been condensed or omitted pursuant to the U.S. Securities and Exchange Commission (“SEC”) rules and regulations relating to interim financial statements. The accompanying unaudited condensed consolidated financial statements should be read in conjunction with the Company’s audited consolidated financial statements and notes thereto included within the Company’s Annual Report on Form 10-K for the fiscal year ended December 31, 2018 (filed with the SEC on March 5, 2019).

***Stock Split and Charter Amendment***

In October 2018, the board of directors and certain stockholders of the Company approved an amendment to the Company’s Certificate of Incorporation to (i) increase the authorized shares of common stock from 17,500,000 to

20,500,000, (ii) effect a 1.2-for-1 forward stock split of the Company's common stock and (iii) define a "Qualified IPO" to include a per share price equal to at least \$12.00 (as adjusted for stock splits, combinations, stock dividends, recapitalizations and the like). All shares of common stock, stock options, and per share information presented in the condensed consolidated financial statements have been adjusted to reflect the stock split on a retroactive basis for all periods presented. Any fractional shares that resulted from the stock split were rounded up to the nearest whole share. There was no change in the par value of the Company's common stock. The ratios by which shares of preferred stock are convertible into shares of common stock have been adjusted to reflect the effects of the forward stock split.

In November 2018, the board of directors and certain stockholders of the Company approved an amendment to the Company's Certificate of Incorporation to increase the authorized shares of common stock from 20,500,000 to 50,000,000 and authorize 10,000,000 shares of preferred stock.

### ***Use of Estimates***

The preparation of condensed consolidated financial statements in conformity with GAAP requires the Company's management to make estimates and judgments that affect the reported amounts of assets, liabilities, and expenses, and related disclosure of contingent assets and liabilities. The Company bases its estimates on historical experience and on various other assumptions that it believes to be reasonable under the circumstances. The results of this evaluation then form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions, and such differences may be material to the consolidated financial statements.

### ***Revenue Recognition***

Revenue recognized during the three and six months ended June 30, 2019 and June 30, 2018 relates entirely to the sale of our r-SNM System. In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2014-09 "Revenue from Contracts with Customers" ("ASU 2014-09") as Accounting Standards Codification ("ASC") Topic 606. The objective of Topic 606 is to establish a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers and superseded most of the existing revenue recognition guidance, including industry-specific guidance. The core principle is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. Topic 606 applies to all contracts with customers except those that are within the scope of other topics in the FASB ASC. Effective January 1, 2018, the Company early adopted the comprehensive new revenue recognition standard using the modified retrospective method. As the Company generated minimal revenue through the date of adoption, the adoption of this guidance did not have a material impact on the Company's consolidated financial statements or related disclosures.

The Company has revenue arrangements that consist of a single performance obligation. The Company recognizes revenue at the point in time when it transfers control of promised goods to its customers. Revenue is measured as the amount of consideration it expects to receive in exchange for transferring goods. The amount of revenue that is recognized is based on the transaction price, which represents the invoiced amount and includes estimates of variable consideration such as discounts, where applicable. The Company does not offer rights of return or price protection. The amount of variable consideration included in the transaction price may be constrained and is included only to the extent that it is probable that a significant reversal in the amount of the cumulative revenue recognized under the contract will not occur in a future period. Payment terms, typically less than three months, are offered to the Company's customers and do not include a significant financing component. The Company extends credit to its customers based upon an evaluation of the customer's financial condition and credit history and generally requires no collateral. The Company does not have any contract balances related to its product sales. The Company also does not have significant contract acquisition costs related to its product sales. The Company's revenue during the three and six months ended June 30, 2019 and June 30, 2018 consisted primarily of sales to customers in Europe.

### ***Cash and Cash Equivalents***

Cash equivalents consist of short-term, highly liquid investments purchased with an original maturity of three months or less. Financial instruments that potentially subject the Company to a concentration of credit risk consist of cash and cash equivalents. At times, the cash and cash equivalent balances may exceed federally insured limits. The Company does not believe that this results in any significant credit risk.

### ***Fair Value of Financial Instruments***

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. A three-level fair value hierarchy prioritizes the inputs used to measure fair value. The hierarchy requires entities to maximize the use of observable inputs and minimize the use of unobservable inputs. The three levels of inputs used to measure fair value are as follows:

- Level 1: Inputs are unadjusted quoted prices in active markets for identical assets or liabilities.
- Level 2: Inputs are quoted prices for similar assets and liabilities in active markets or quoted prices for identical or similar instruments in markets that are not active and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets.
- Level 3: Inputs are unobservable inputs based on the Company's assumptions and valuation techniques used to measure assets and liabilities at fair value. The inputs require significant management judgment or estimation.

The Company's assessment of the significance of an input to the fair value measurement requires judgment, which may affect the valuation of fair value assets and liabilities and their placement within the fair value hierarchy levels. The carrying amounts reported in the condensed consolidated financial statements approximate the fair value for cash and cash equivalents, accounts receivable, accounts payables, and accrued expenses, due to their short-term nature. The carrying amount of the Company's term loan, which is described below, approximates fair value, considering the interest rates are based on the prime interest rate.

### ***Investment Securities***

The Company classifies its investment securities as available-for-sale. Those investments in debt securities with maturities less than 12 months at the date of purchase are considered short-term investments. Those investments in debt securities with maturities greater than 12 months at the date of purchase are considered long-term investments. The Company's investment securities classified as available-for-sale are recorded at fair value based on the fair value hierarchy (Level 1 and Level 2 inputs in the fair value hierarchy), and consists primarily of commercial paper, corporate notes and U.S. government and agency securities. Unrealized gains or losses, deemed temporary in nature, are reported as other comprehensive income within the condensed consolidated statement of comprehensive income (loss). There were no unrealized gains or losses during the three and six months ended June 30, 2019 and June 30, 2018.

A decline in the fair value of any security below cost that is deemed other than temporary results in a charge to net income (loss) and the corresponding establishment of a new cost basis for the security. Premiums (discounts) are amortized (accreted) over the life of the related security as an adjustment to yield using the straight-line interest method. Dividend and interest income are recognized when earned. Realized gains or losses are included in net income (loss) and are derived using the specific identification method for determining the cost of securities sold.

The following table presents the fair value hierarchy for those assets measured at fair value on a recurring basis as of June 30, 2019 and December 31, 2018 (in thousands):

Assets:	Fair Value Measurements at June 30, 2019			
	Level 1	Level 2	Level 3	Total
Commercial paper	\$ —	\$ 26,117	\$ —	\$ 26,117
Corporate notes	9,728	—	—	9,728
U.S. government and agency securities	7,156	—	—	7,156
	<u>\$ 16,884</u>	<u>\$ 26,117</u>	<u>\$ —</u>	<u>\$ 43,001</u>

Assets:	Fair Value Measurements at December 31, 2018			
	Level 1	Level 2	Level 3	Total
Commercial paper	\$ —	\$ 32,163	\$ —	\$ 32,163
Corporate notes	12,606	3,156	—	15,762
U.S. government and agency securities	11,293	—	—	11,293
	<u>\$ 23,899</u>	<u>\$ 35,319</u>	<u>\$ —</u>	<u>\$ 59,218</u>

### Foreign Currency Translation

The functional currencies of the Company's subsidiaries are currencies other than the U.S. dollar. The Company translates assets and liabilities of the foreign subsidiaries into U.S. dollars at the exchange rate in effect on the balance sheet date. Costs and expenses of the subsidiaries are translated into U.S. dollars at the average exchange rate during the period. Gains or losses from these translation adjustments are reported as a separate component of stockholders' equity in accumulated other comprehensive loss until there is a sale or complete or substantially complete liquidation of the Company's investment in the foreign subsidiary at which time the gains or losses will be realized and included in net income (loss). As of June 30, 2019 and December 31, 2018, all foreign currency translation gains (losses) have been unrealized and included in accumulated other comprehensive loss. Accumulated other comprehensive loss consists entirely of losses from translation of foreign subsidiaries at June 30, 2019 and December 31, 2018. Foreign currency transaction gains and losses are included in results of operations and have not been significant for the periods presented.

### Inventory

Inventories are stated at the lower of cost or net realizable value, with cost computed on a first-in, first-out basis.

The Company capitalizes inventory produced for commercial sale. The Company capitalizes manufacturing costs as inventory following both the receipt of regulatory approval from regulatory bodies and the Company's intent to commercialize. Costs associated with developmental products prior to satisfying the Company's inventory capitalization criteria are charged to research and development expense as incurred.

Products that have been approved by certain regulatory authorities are also used in clinical programs to assess the safety and efficacy of the products for usage that have not been approved by the FDA or other regulatory authorities. The form of product utilized for both commercial and clinical programs is identical and, as a result, the inventory has an "alternative future use" as defined in authoritative guidance. Component materials and purchased products associated with clinical development programs are included in inventory and charged to research and development expense when the product enters the research and development process and no longer can be used for commercial purposes and, therefore, does not have an "alternative future use."

For products that are under development and have not yet been approved by regulatory authorities, purchased component materials are charged to research and development expense when the inventory ownership transfers to the Company.

The Company analyzes inventory levels to identify inventory that may expire prior to sale, inventory that has a cost basis in excess of its net realizable value, or inventory in excess of expected sales requirements. Although the

manufacturing of the r-SNM System is subject to strict quality control, certain batches or units of product may no longer meet quality specifications or may expire, which would require adjustments to the Company's inventory values. The Company also applies judgment related to the results of quality tests that are performed throughout the production process, as well as the understanding of regulatory guidelines, to determine if it is probable that inventory will be saleable. These quality tests are performed throughout the pre- and post-production processes, and the Company continually gathers information regarding product quality for periods after the manufacturing date. The r-SNM System currently has a maximum estimated shelf life range of 12 to 27 months and, based on sales forecasts, the Company expects to realize the carrying value of the product inventory. In the future, reduced demand, quality issues, or excess supply beyond those anticipated by management may result in a material adjustment to inventory levels, which would be recorded as an increase to cost of sales.

The determination of whether or not inventory costs will be realizable requires estimates by the Company's management. A critical input in this determination is future expected inventory requirements based on internal sales forecasts. Management then compares these requirements to the expiry dates of inventory on hand. To the extent that inventory is expected to expire prior to being sold, management will write down the value of inventory.

As of June 30, 2019, the Company had \$1.2 million, \$0.5 million and \$6.3 million of finished goods inventory, work-in-process inventory and raw materials inventory, respectively, on hand. As of December 31, 2018, the Company had \$0.9 million and \$2.7 million of finished goods inventory and raw materials inventory, respectively, on hand. As of December 31, 2018, there were minimal work-in-process inventory on hand.

### ***Property and Equipment***

Property and equipment are stated at cost less accumulated depreciation. Depreciation is computed using the straight-line method over the estimated useful lives of the assets, generally between three and seven years. Leasehold improvements are amortized over the lesser of the life of the lease or the useful life of the improvements. Maintenance and repairs are charged to expense as incurred. When assets are retired or otherwise disposed of, the cost and accumulated depreciation are removed from the balance sheet and any resulting gain or loss is reflected in operations.

### ***Intangible Asset***

The intangible asset represents exclusive rights to an additional field-of-use on the patent suite within the License Agreement with AMF. The additional field-of-use was provided in exchange for 50,000 shares of Series A preferred stock, the fair value of which was \$1.0 million in 2013. The intangible asset was recorded at its fair value of \$1.0 million at the date contributed. In connection with the IPO, such shares of Series A preferred stock were converted into common stock. Amortization of this asset is recorded over the shorter of the patent or legal life on a straight-line basis. The weighted-average amortization period is 8.71 years. Accumulated amortization of the intangible asset is \$0.6 million at June 30, 2019 and December 31, 2018. The Company recorded expense for the amortization of intangible assets of \$0.1 million during the six months ended June 30, 2019 and 2018. The amortization of intangible assets were minimal during the three months ended June 30, 2019 and 2018. The Company will review the intangible asset for impairment whenever an impairment indicator exists. There have been no intangible asset impairment charges to date.

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

The Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability is measured by comparing the carrying amount to the future net cash flows that the assets are expected to generate. If said assets are considered to be impaired, the impairment that would be recognized is measured by the amount by which the carrying amount of the assets exceeds the projected discounted future net cash flows arising from the asset.

### ***Leases***

Effective January 1, 2018, the Company early adopted ASU No. 2016-02, "Leases (Topic 842)", the comprehensive new lease standard issued by the FASB. The most significant impact was the recognition of right-of-use ("ROU") assets and lease liabilities for operating leases. The Company determines if an arrangement is a lease at inception and includes operating leases on the Company's consolidated balance sheets. The operating lease ROU asset is included within the Company's other non-current assets, and lease liabilities are included in current or noncurrent liabilities on the Company's condensed consolidated balance sheets.

Operating lease ROU asset and operating lease liabilities are recognized based on the present value of the future minimum lease payments over the lease term at commencement date. As the Company's lease does not provide an implicit rate, the Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of future payments. The operating lease ROU asset also includes any lease payments made and excludes lease incentives and initial direct costs incurred. The lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Lease expense for minimum lease payments is recognized on a straight-line basis over the lease term. As of June 30, 2019 and December 31, 2018, the remaining lease terms for all of the Company's operating leases were 8.3 years and 6.6 years, respectively. The discount rate used to determine the present value of all of the Company's operating leases' future payments was 7.25% (see Note 3 regarding leases).

### ***Research and Development***

Research and development costs are charged to operations as incurred. Research and development costs include salary and personnel-related costs, costs of clinical studies and testing, supplies and materials, and outside consultant costs.

### ***Income Taxes***

The Company accounts for income taxes using the asset and liability method to compute the difference between the tax basis of assets and liabilities and the related financial amounts, using currently enacted tax rates. The Company has deferred tax assets. The realization of these deferred tax assets is dependent upon the Company's ability to generate sufficient taxable income in future years. Valuation allowances are established, when necessary, to reduce deferred tax assets to the amount that more likely than not will be realized. The Company evaluates the recoverability of the deferred tax assets annually. The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by taxing authorities, based on the technical merits of the position. The Company has determined that it has no uncertain tax positions.

### ***Stock-Based Compensation***

The Company measures the cost of employee services in exchange for an award of equity instruments based on the grant-date fair value of the award and recognizes compensation cost over the requisite service period (typically the vesting period), generally four years. The Company accounts for equity instruments issued to non-employees based on the fair value of the award, which is periodically re-measured as they vest over the performance period. The related expense is recognized over the performance period. Forfeitures are estimated at the time of the grant and revised in subsequent periods to reflect differences between the estimates and the number of shares that actually become exercisable.

The Company uses the Black-Scholes option pricing model to determine the fair value of stock options (as of the date of grant) that have service conditions for vesting. The Company uses the Monte Carlo valuation model to value equity awards (as of the date of grant) that have combined market conditions and service conditions for vesting.

### ***Net Loss per Share of Common Stock***

Basic net loss per share of common stock is calculated by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock outstanding during the period, without consideration for potentially dilutive securities. Diluted net loss per share is computed by dividing the net loss attributable to common stockholders by the weighted-average number of shares of common stock and potentially dilutive securities outstanding for the period. For purposes of the diluted net loss per share calculation, convertible preferred stock, common and preferred stock warrants, common stock options, unvested RSAs and RSUs are considered to be potentially dilutive securities. Because the Company has reported a net loss in all periods presented, diluted net loss per share of common stock is the same as basic net loss per share of common stock for those periods.

For the three and six months ended June 30, 2019, there were 2,085,173 and 1,641,593 potentially dilutive shares, respectively, that were not included in the computation of diluted weighted-average shares of common stock and common stock equivalent shares outstanding because their effect would have been antidilutive given the Company's net loss. For the three and six months ended June 30, 2018, there were 11,591,582 and 10,685,599 potentially dilutive shares, respectively, that were not included in the computation of diluted weighted-average shares of common stock

and common stock equivalent shares outstanding because their effect would have been antidilutive given the Company's net loss.

### **Recent Accounting Pronouncements**

In June 2018, the FASB issued ASU No. 2018-07, "Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting", which expands guidance on accounting for share-based payment awards, which includes share-based payment transactions for acquiring goods and services from nonemployees and aligns the accounting for share-based payments for employees and non-employees. This guidance is effective for annual periods beginning after December 15, 2018, which was the Company's first quarter of fiscal year 2019, with early adoption permitted. The guidance should be applied to new awards granted after the date of adoption. The adoption of this guidance did not have an impact on the Company's consolidated financial statements or related disclosures.

### **Note 2. Property and Equipment**

Property and equipment, net consists of the following (in thousands) at:

	<b>June 30, 2019</b>	<b>December 31, 2018</b>
Research and development equipment	\$ 970	\$ 885
Computer hardware and software	1,144	811
Tools and molds	1,259	1,110
Leasehold improvements	1,500	1,500
Furniture and fixtures	598	462
Construction in progress	26	—
	<u>5,497</u>	<u>4,768</u>
Less: accumulated depreciation and amortization	(2,497)	(1,984)
	<u>\$ 3,000</u>	<u>\$ 2,784</u>

Depreciation and amortization expense of property and equipment was \$0.3 million and \$0.5 million for the three and six months ended June 30, 2019, respectively. Depreciation and amortization expense of property and equipment was \$0.2 million and \$0.4 million for the three and six months ended June 30, 2018, respectively.

### **Note 3. Commitments**

#### **Operating Leases**

In August 2014, the Company entered into a five-year operating lease for approximately 12,215 square feet of office space beginning on November 1, 2014, and expiring on October 31, 2019. In June 2019, the lease was amended to extend the expiration date to October 31, 2020. Under the terms of the lease, the Company is responsible for taxes, insurance, and maintenance expense. The lease contains certain scheduled rent increases. Rent expense is recognized on a straight-line basis over the expected lease term.

In November 2017, the Company entered into a seven-year operating lease for approximately 25,548 square feet of office space beginning on August 1, 2018, and expiring on August 31, 2025. In June 2019, the lease was amended to extend the expiration date to October 31, 2027. Under the terms of the lease, the Company is responsible for taxes, insurance, and maintenance expense. The lease contains certain scheduled rent increases. Rent expense is recognized on a straight-line basis over the expected lease term. The Company has a renewal option to extend the term of the lease for a period of five years beyond the initial term. Under the terms of the lease, the base rent payable with respect to each renewal term will be equal to the prevailing market rental rent as of the commencement of the applicable renewal term. In the event of a default of certain of the Company's obligations under the lease, the Company's landlord would have the right to terminate the lease.

In June 2019, the Company entered into a new lease amendment (the “Lease”) with its current landlord, The Irvine Company, LLC, for the lease of approximately 32,621 square feet of office space of a building located in Irvine, California. The Company intends to use the premises as its new principal executive offices and for general office. The Company intends to utilize its other currently-leased spaces through the lease expiration dates to conduct the training of its sales team and for manufacturing purposes.

Unless earlier terminated, the term of the Lease (the “Initial Term”) will expire on the final day of the calendar month following the eighth anniversary of the commencement date. The commencement date is set as November 1, 2019. The Company does not control the leased premises before the expected commencement date. The aggregate base rent due over the Initial Term under the terms of the Lease is approximately \$7.4 million (without giving effect to certain rent abatement terms). The Company will also be responsible for the payment of additional rent to cover certain costs, taxes, and insurance. Based on the estimated monthly additional rent for 2019 as set forth in the Lease, the Company estimates that the additional rent during the Initial Term will be approximately \$1.9 million. The Company also expects to pay approximately \$0.2 million for leasehold improvements, net of the tenant improvement allowance provided in the Lease of approximately \$2.3 million.

The Company has a renewal option to extend the term of the Lease for a period of five years (the “Renewal Term”) beyond the Initial Term. Under the terms of the Lease, the base rent payable with respect to each Renewal Term will be equal to the prevailing market rental rent as of the commencement of the applicable Renewal Term. In the event of a default of certain of the Company’s obligations under the Lease, the Company’s landlord would have the right to terminate the Lease. The Company is assessing the accounting impact of the Lease.

As of June 30, 2019 and December 31, 2018, the ROU asset has a balance of \$4.4 million and \$3.1 million, respectively. The operating lease ROU asset is included within the Company’s other non-current assets, and lease liabilities are included in current or noncurrent liabilities on the Company’s condensed consolidated balance sheets. During the three and six months ended June 30, 2019, cash paid for amounts included in operating lease liabilities were \$0.2 million and \$0.4 million, respectively. During the six months ended June 30, 2018, cash paid for amounts included in operating lease liabilities were \$0.1 million. Cash paid for amounts included in operating lease liabilities were minimal during the three months ended June 30, 2018. Amortization of the ROU asset was \$0.1 million for the three and six months ended June 30, 2019. Amortization of the ROU asset was minimal for the three and six months ended June 30, 2018.

As of June 30, 2019 and December 31, 2018, the remaining lease term for all of the Company’s operating leases were 8.3 years and 6.6 years, respectively. The discount rate used to determine the present value of all of the Company’s operating leases’ future payments was 7.25%.

Rent expense for the three and six months ended June 30, 2019 was \$0.3 million and \$0.6 million, respectively. Rent expense for the three and six months ended June 30, 2018 was \$0.1 million and \$0.2 million, respectively.

### ***License Agreement***

In October 2013, the Company entered into the License Agreement with AMF, pursuant to which AMF agreed to license to the Company certain patents and know-how (collectively, the “AMF IP”) relating to, in relevant part, an implantable pulse generator and related system components in development by AMF as of that date, in addition to any peripheral or auxiliary devices, including all components, that when assembled, comprise such device, excluding certain implantable pulse generators (collectively, the “AMF Licensed Products”). Pursuant to the License Agreement, AMF granted to the Company a royalty-bearing, sublicensable (by written, executed agreements only, subject to the terms of the License Agreement) license under the AMF IP to make, have made, lease, offer to lease, use, sell, offer for sale, market, promote, advertise, import, research, develop and commercialize the AMF Licensed Products worldwide for the treatment of (i) chronic pain in humans through the application of electrical energy to the nervous system, (ii) inflammatory conditions of the human body through the application of electrical energy to the vagus nerve, a nerve that interfaces with parasympathetic control of the heart, lungs and digestive tract, and (iii) urinary and fecal dysfunction in humans through the application of electrical energy anywhere in or on the human body, excluding, in each case, any product or method that involves the placement of electrodes or the administration of electrical stimulation inside the cranial cavity or to the ocular nervous system or the auditory nervous system. Pursuant to the License Agreement, the Company is obligated to pay a 4% royalty of all net revenue derived from the AMF Licensed Products if one of the following conditions applies: (i) one or more valid claims within any of the patents licensed to the Company by AMF



covers such AMF Licensed Products or the manufacture of such AMF Licensed Products or (ii) for a period of 12 years from the first commercial sale anywhere in the world of such AMF Licensed Product, in each case, subject to certain adjustments. The initial term of the License Agreement is from October 1, 2013 to October 1, 2033, and will automatically continue until all patents are no longer in force. Beginning in 2018, the Company is required to pay a minimum annual royalty under the License Agreement. The minimum amount was \$75,000 for 2018, with an increase in subsequent years of \$25,000 (i.e., \$100,000 for 2019) up to a maximum of \$200,000 per year. The Company generated net revenue of \$1.5 million and \$2.6 million during the three and six months ended June 30, 2019, and recorded related royalties of \$0.1 million each during the three and six months ended June 30, 2019. The Company generated minimal revenue during the three and six months ended June 30, 2018, and recorded minimal related royalties during the three and six months ended June 30, 2018.

#### **Note 4. Long-Term Debt**

In February 2018, the Company entered into the Loan and Security Agreement (the “Loan Agreement”), with Silicon Valley Bank, providing for a term loan (the “Term Loan”). Pursuant to the Loan Agreement, the Company may request up to \$20.0 million in three tranches of term loans with such drawn obligations maturing on June 1, 2021. We requested \$10.0 million from the first tranche (“Tranche A”), simultaneously with the entry into the Loan Agreement, which is currently outstanding. The Company may request (a) an additional \$5.0 million (“Tranche B”), after the date commencing on the later of (i) the date that the Company achieves positive three-month results in the Company’s ARTISAN-SNM pivotal study, as confirmed to Silicon Valley Bank by a member of the Company’s management team and a member of its board of directors, and (ii) July 1, 2018, and ending on December 31, 2018 and (b) another \$5.0 million (“Tranche C”), after the date commencing on the later of (i) the date that Silicon Valley Bank receives evidence, in form and substance reasonably satisfactory to Silicon Valley Bank, that the Company has received its pre-market approval (“PMA”) in the United States for its r-SNM System or gross proceeds from the sale of its equity securities of not less than \$20.0 million, and (ii) January 1, 2019, and ending on March 31, 2019, subject to certain terms and conditions. If either Tranche B or Tranche C is drawn, then the maturity of the Term Loan is automatically extended to December 1, 2021.

The Loan Agreement provides for monthly interest payments through December 31, 2018; provided that, (i) if the Company requests and Silicon Valley Bank funds Tranche B or Tranche C, this interest-only period automatically extends through June 30, 2019, and (ii) if the Company has received a PMA in the United States for its r-SNM System and the Company requests and Silicon Valley Bank funds Tranche C, the interest-only period automatically extends through December 31, 2019. On the first day of the end of the interest-only period, the Company will be required to repay the Term Loan in equal monthly installments of principal plus interest through maturity. Outstanding principal balances under the Term Loan bear interest at the prime rate plus 1.75%.

In October 2018, the Company and Silicon Valley Bank entered into an amendment to the Loan Agreement (the “Loan Amendment”) in connection with which the Company requested the full \$5.0 million from Tranche B and the full \$5.0 million from Tranche C. The Company received the \$10.0 million from both tranches in October 2018. Pursuant to the Loan Amendment, Silicon Valley Bank agreed to (i) extend the interest only period from June 30, 2019 to December 31, 2019, without requiring the receipt of the Company’s PMA in the United States for the r-SNM System, and (ii) make Tranche C available immediately instead of January 1, 2019. In addition, pursuant to the Loan Amendment, Silicon Valley Bank added a fee of \$100,000 in the event that the Company did not (i) consummate the IPO, with proceeds of no less than \$75.0 million, (ii) receive PMA approval in the United States for the r-SNM System, or (iii) receive gross proceeds of at least \$40.0 million from the sale of equity securities, in each case on or prior to June 30, 2019, which will not be owed since the Company completed the IPO offering in October 2018. In addition, as a result of the Company’s request of the full \$5.0 million from Tranche B and the full \$5.0 million from Tranche C, the maturity of the Term Loan has been automatically extended to December 1, 2021. The transaction was accounted for as a debt modification.

The Company may prepay amounts outstanding under the Term Loan in increments of \$5.0 million at any time with 30 days prior written notice to Silicon Valley Bank. However, all prepayments of the Term Loan prior to maturity, whether voluntary or mandatory (acceleration or otherwise), are also subject to the payment of a prepayment fee equal to (i) for a prepayment made on or after the closing date through and including the first anniversary of the closing date, 3.00% of the principal amount of the Term Loan being prepaid, (ii) for a prepayment made after the date which is the first anniversary of the closing date through and including the second anniversary of the closing date,

2.00% of the principal amount of the Term Loan being prepaid, and (iii) for a prepayment made after the date which is the second anniversary of the closing date and before the maturity date, 1.00% of the principal amount of the Term Loan being prepaid. Additionally, on the earliest to occur of (i) the maturity date of the Term Loan, (ii) the acceleration of the Term Loan, or (iii) the prepayment of the Term Loan, the Company will be required to make a final payment equal to the original principal amount of such tranche multiplied by 7.50%. The Company is currently accruing the portion of the final payment calculated based on the amount outstanding under the Term Loan.

All obligations under the Term Loan are secured by a first priority lien on substantially all of the Company's assets, excluding intellectual property assets and more than 65% of the shares of voting capital stock of any of its foreign subsidiaries. The Company has agreed with Silicon Valley Bank not to encumber its intellectual property assets without Silicon Valley Bank's prior written consent unless a security interest in the underlying intellectual property is necessary to have a security interest in the accounts and proceeds that are part of the assets securing the Term Loan, in which case the Company's intellectual property shall automatically be included within the assets securing the Term Loan. At June 30, 2019, the Company was in compliance with all debt covenant requirements under the Term Loan.

Debt, net of unamortized debt issuance costs, consists of the following (in thousands) at:

	June 30, 2019	December 31, 2018
Debt, principal	\$ 20,000	\$ 20,000
Accrued loan fees	1,500	1,500
Debt, total	21,500	21,500
Less: unamortized debt issuance costs	(1,603)	(2,037)
Debt, net of unamortized debt issuance costs	19,897	19,463
Less: debt, net of unamortized debt issuance costs, current portion	(3,897)	—
Debt, net of unamortized debt issuance costs, net of current portion	\$ 16,000	\$ 19,463

#### Note 5. Stock-based Compensation

Stock-based compensation expense included in the Company's condensed consolidated statements of comprehensive loss is allocated as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Research and development	\$ 472	\$ 62	\$ 693	\$ 97
General and administrative	776	124	1,421	156
Sales and marketing	627	4	903	5
	\$ 1,875	\$ 190	\$ 3,017	\$ 258

### Stock Option Activity

The option awards issued under the 2014 Stock Option Plan (the “2014 Plan”) and the 2018 Omnibus Incentive Plan (the “2018 Plan”) were measured based on fair value. The Company’s fair value calculations were made using the Black-Scholes option pricing model with the following assumptions:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Expected term (in years)	5.07 - 6.08	5.00 - 6.96	5.07 - 6.16	5.00 - 6.96
Stock volatility	70.02% - 71.38%	76.01% - 77.03%	70.02% - 71.38%	76.01% - 77.03%
Risk-free interest rate	1.76% - 2.36%	2.26% - 2.78%	1.76% - 2.56%	2.26% - 2.81%
Dividend rate	—	—	—	—

The Company used the simplified method of determining the expected term of stock options. The expected stock price volatility assumption was determined by examining the historical volatilities for industry peers, as the Company did not have sufficient trading history for the Company’s common stock. The Company will continue to analyze the historical stock price volatility and expected term assumption as more historical data for the Company’s common stock becomes available. The risk-free interest rate assumption is based on the U.S. Treasury instruments, whose term was consistent with the expected term of the Company’s stock options. The expected dividend assumption is based on the Company’s history and expectation of dividend payouts. The assumptions regarding the expected term of the options and the expected volatility of the stock price are subjective, and these assumptions have a significant effect on the estimated fair value amounts. The weighted-average grant date fair value of options granted was \$21.10 and \$12.49 for the three and six months ended June 30, 2019, respectively. The weighted-average grant date fair value of options granted was \$1.12 and \$1.10 for the three and six months ended June 30, 2018, respectively.

As of June 30, 2019 and December 31, 2018, there was \$16.7 million and \$2.2 million, respectively, of total unrecognized compensation cost related to unvested stock options that is expected to be recognized over a weighted-average period of approximately 3.6 years and 2.5 years, respectively.

The following table summarizes stock option activity under the 2014 and 2018 Plans (in thousands, except share and per share data):

	Number of Options	Weighted-Average Exercise Price Per Share	Aggregate Intrinsic Value
Outstanding at December 31, 2018	1,514,347	\$ 2.22	
Options granted	1,327,273	19.37	
Options exercised	(177,904)	1.98	\$ 4,080 <sup>(1)</sup>
Options forfeited	(11,938)	11.02	
Outstanding at June 30, 2019	2,651,778	\$ 10.80	\$ 79,997 <sup>(2)</sup>

(1) Represents the total difference between our closing stock price at the time of exercise and the stock option exercise price, multiplied by the number of options exercised.

(2) Represents the total difference between our closing stock price on the last trading day of the second quarter of 2019 and the stock option exercise price, multiplied by the number of in-the-money options as of June 30, 2019. The amount of intrinsic value will change based on the fair market value of our stock.

The weighted-average remaining contractual term of options outstanding and exercisable is 7.9 years and 8.4 years at June 30, 2019 and December 31, 2018, respectively.

**Restricted Shares Awards Activity**

As of June 30, 2019 and December 31, 2018, there was \$9.3 million and \$0.4 million, respectively, of total unrecognized compensation cost related to unvested restricted shares awards that is expected to be recognized over a weighted-average period of approximately 3.7 years and 3.8 years, respectively.

The following table summarizes restricted shares awards activity:

	Number of Restricted Shares Awards	Weighted-Average Fair Value Per Share at Grant Date
Outstanding at December 31, 2018	50,000	\$ 14.48
Restricted shares awards granted	418,001	22.22
Restricted shares awards vested	(13,333)	14.80
Restricted shares awards forfeited	(3,167)	17.94
Outstanding at June 30, 2019	451,501	\$ 21.61

**Restricted Stock Units Activity**

As of June 30, 2019, there was \$0.9 million of total unrecognized compensation cost related to unvested restricted stock units that is expected to be recognized over a weighted-average period of approximately 1.2 years.

The following table summarizes restricted stock units activity:

	Number of Restricted Stock Units	Weighted-Average Fair Value Per Share at Grant Date
Outstanding at December 31, 2018	—	\$ —
Restricted stock units granted	92,672	14.19
Outstanding at June 30, 2019	92,672	\$ 14.19

**Note 6. Income Taxes**

The Company used an annual effective tax rate approach to calculate income taxes for the three and six months ended June 30, 2019 and 2018. The annual effective tax rate of approximately 0% differs from the federal statutory tax rate due primarily to providing a full valuation allowance on deferred tax assets.

At December 31, 2018, the Company had federal and California net operating loss (“NOL”) carryforwards of approximately \$63.4 million. Pursuant to Sections 382 and 383 of the Internal Revenue Code of 1986, as amended (the “Internal Revenue Code”), use of the Company’s NOL carryforwards may be limited if the Company experiences a cumulative change in ownership of greater than 50% in a rolling three-year period. The Company has not performed an analysis of changes in ownership for purposes of these Internal Revenue Code sections. Ownership changes could impact the Company’s ability to utilize NOL carryforwards remaining at an ownership change date. NOLs expire between 2034 and 2038. At December 31, 2018, the Company also had research and development tax credit carryforwards of approximately \$2.3 million, which will expire in 2036 to 2038. Approximately \$0.6 million of these research and development tax credit carryforwards are included in prepaid expenses and other current assets on the Company’s consolidated balance sheets at June 30, 2019 and December 31, 2018, as they are expected to be utilized in 2019 as a credit to offset payroll taxes. The remaining amount of research and development tax credit carryforwards are included in net deferred tax assets.

## **Note 7. Employee Benefit Plan**

The Company sponsors a defined contribution retirement savings plan under Section 401(k) of the Internal Revenue Code. This plan covers all employees who meet minimum age and service requirements, and allows participants to defer a portion of their annual compensation on a pre- or post-tax basis. Contributions to the plan by the Company may be made at the discretion of the board of directors. During the three and six months ended June 30, 2019, the Company contributions to the plan amounted to \$0.3 million and \$0.4 million, respectively. During the three and six months ended June 30, 2018, the Company contributions to the plan amounted to \$0.1 million and \$0.2 million, respectively.

## **Note 8. Related Party Transactions**

The Company has a License Agreement and corresponding royalties incurred with AMF, which is also a stockholder of the Company. John Petrovich, a former member of the Company's board of directors is the President, Chief Executive Officer, Senior Vice President, Business Development, and General Counsel of AMF. For additional information, see Note 3.

The Company incurred minimal amounts during the six months ended June 30, 2019 and three and six months ended June 30, 2018, to a scientific advisor who is also a non-management stockholder of the Company. The Company incurred no amounts during the three months ended June 30, 2019, to this scientific advisor. There were no amounts payable to this advisor at June 30, 2019. Amounts payable to this advisor were minimal at December 31, 2018.

The Company incurred \$0.1 million during the six months ended June 30, 2019, for engineering and design services to a company that is owned by a non-management stockholder of the Company. The Company incurred minimal amounts during the three months ended June 30, 2019, to this company. The Company incurred \$0.2 million during each of the three and six months ended June 30, 2018, to this company. Amounts payable to this company were minimal at June 30, 2019 and December 31, 2018.

## **Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

*The following discussion and analysis should be read in conjunction with our condensed consolidated financial statements and the related notes to those statements included elsewhere in this Quarterly Report on Form 10-Q, as well as the audited consolidated financial statements and the related notes thereto, and the discussion under "Management's Discussion and Analysis of Financial Condition and Results of Operations" and "Business" included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, as filed with the Securities and Exchange Commission on March 5, 2019.*

### **Overview**

We are a medical technology company that has developed and is commercializing an innovative and minimally invasive implantable neurostimulation system. Sacral neuromodulation ("SNM") therapy is primarily used to treat patients with overactive bladder ("OAB"), including urinary urgency incontinence ("UUI") and urinary urgency frequency ("UUF"), as well as fecal incontinence ("FI"), and urinary retention ("UR").

OAB affects an estimated 87 million adults in the United States and Europe. Another estimated 40 million adults are reported to suffer from FI. SNM therapy is an effective and durable treatment that has been widely used and reimbursed in Europe and the United States for the past two decades. SNM is the only OAB treatment with proven clinical superiority to standard medical therapy and OAB patients who receive SNM report significantly higher quality of life than patients undergoing drug treatment.

We believe our proprietary rechargeable SNM system ("r-SNM System") offers significant advantages, including being the first and only rechargeable SNM system that is designed to be 60% smaller than existing technology and to last approximately 15 years. We believe our r-SNM System has the potential to disrupt and grow the estimated \$650 million global SNM market in 2018, which is currently controlled by a single participant.

Since we commenced operations in late 2013, our activities have consisted primarily of developing our r-SNM System, conducting our RELAX-OAB post-market clinical follow up study in Europe and our ARTISAN-SNM pivotal clinical study in the United States and Europe, filing for regulatory approvals and hiring and training our U.S. commercial team in anticipation of U.S. FDA approval and in preparation for the launch of the r-SNM System in the

United States. The Company initiated commercial efforts in Europe and Canada in late 2018 and to date, has derived modest revenue from its international operations in select markets including England, the Netherlands and Canada.

We currently have marketing approvals in Europe, Canada, and Australia for OAB, FI, and UR.

On December 3, 2018, we submitted a literature-based pre-market approval (“PMA”) application to the U.S. Food and Drug Administration (“FDA”) for OAB and UR. This PMA was based on safety and effectiveness data from a literature review reporting on the Medtronic InterStim II System (“InterStim II”), technical specifications of our r-SNM System, detailed testing data from our r-SNM System and one-year clinical follow-up data from our 51-patient RELAX-OAB European post-market follow-up study. Since the original PMA submission in December 2018, we have submitted various amendments to the PMA, including clinical results on the first 60 patients to reach their six-month primary endpoint from our ARTISAN-SNM pivotal study, test data in support of conditional full-body magnetic resonance imaging (“MRI”) labeling and complete six-month clinical data from the ARTISAN-SNM study. On March 1, 2019, we submitted a new literature-based PMA seeking approval for the clinical indication of FI. This PMA is also based on an existing literature review of Interstim II. Typically, the PMA review process takes six to 18 months, with the duration depending on a variety of factors.

We will continue to maintain our core strategy of pursuing what is, in our view, the most expeditious pathway within the PMA processes to achieving FDA clearance to market our r-SNM System in the United States. Additionally, it is our understanding that the submission of complete clinical data from our ARTISAN-SNM pivotal study did not impact the schedule for the FDA’s review of our literature-based PMA or potentially achieving FDA approval of our r-SNM System throughout that process. The literature-based PMA filing now includes the data from all 129 subjects treated in the ARTISAN-SNM pivotal study and we believe that the question-response process between us and the FDA will prove beneficial in the overall PMA review process.

In the future, if our r-SNM System is approved in the United States, we expect to generate revenue from product sales. Our ability to generate revenue and become profitable will depend on our ability to successfully commercialize our r-SNM System and any product enhancements we may advance in the future. Although we have begun limited commercial activities in Europe and Canada, our main priority is the United States, where we expect to begin to commercialize and market our r-SNM System and generate revenue from product sales if and when approved by the FDA. During the first half of 2019, we have established a significant commercial infrastructure in anticipation of potential FDA approval of our r-SNM System and continue to make significant investments to build our sales and marketing organization by hiring dedicated sales and clinical personnel to market and support our product in the United States and Canada. Specifically, we hired and trained a dedicated direct sales organization, comprised of approximately 100 sales professionals, 11 regional sales managers and 35 clinical specialists, in advance of the anticipated commercial launch of our r-SNM System in the United States. In addition, we plan to strategically expand into certain international markets in Europe. If we are unable to accomplish any of these objectives, it could have a significant negative impact on our future revenue. If we fail to generate revenue in the future, our business, results of operations, financial condition, cash flows, and future prospects would be materially and adversely affected.

We also intend to continue to make investments in research and development efforts to develop our next generation r-SNM System and support our future regulatory submissions for expanded labeling. We expect to derive future revenue by increasing patient and physician awareness of our r-SNM System and obtaining additional regulatory approvals.

In the United States, the cost required to treat each patient is reimbursed through various third-party payors, such as commercial payors and government agencies. Most large insurers have established coverage policies in place to cover SNM therapy. Certain commercial payors have a patient-by-patient prior authorization process that must be followed before they will provide reimbursement for SNM therapy. Outside the United States, reimbursement levels vary significantly by country and by region, particularly based on whether the country or region at issue maintains a single-payor system. SNM therapy is eligible for reimbursement in Canada, Australia, and certain countries in the EU, such as Germany, France, and the United Kingdom. Annual healthcare budgets generally determine the number of SNM systems that will be paid for by the payor in these single-payor system countries and regions.

We currently outsource the manufacture of certain components of our r-SNM System. We plan to continue with an outsourced manufacturing arrangement for certain of our r-SNM System components for the foreseeable future. We believe that our contract manufacturers are recognized in their field for their competency to manufacture the respective portions of our r-SNM System and have quality systems established that meet FDA requirements. We believe the manufacturers we currently utilize have sufficient capacity to meet our launch requirements and are able to scale up their capacity relatively quickly with limited capital investment.

We have devoted substantially all of our resources to research and development activities related to our r-SNM System, including clinical and regulatory initiatives to obtain marketing approvals. In anticipation of potential FDA approval, we expect to continue to spend a significant amount of our resources on sales and marketing activities as we begin to commercialize and market our r-SNM System in the United States.

We incurred net losses of \$32.2 million for the six months ended June 30, 2019, and had an accumulated deficit of \$131.8 million as of June 30, 2019. As of June 30, 2019, we had available cash, cash equivalents and short-term investments of approximately \$125.7 million, current liabilities of approximately \$11.3 million, and long-term liabilities of approximately \$20.7 million.

Prior to our initial public offering (“IPO”), we financed our operations primarily through preferred stock financings and amounts borrowed under a Loan and Security Agreement, dated February 6, 2018, between us and Silicon Valley Bank (the “Loan Agreement”). We have invested heavily in product development and continuous improvement to our r-SNM System. We have also made significant investments in clinical studies to demonstrate the safety and effectiveness of our r-SNM System and to support regulatory submissions. Because of these and other factors, we expect to continue to incur net losses for the next few years and we may require additional funding, which may include future equity and debt financings. Adequate funding may not be available to us on acceptable terms, or at all. Our failure to obtain sufficient funds on acceptable terms when needed could have a material and adverse effect on our business, financial condition, and results of operations.

### **Initial Public Offering**

On November 2, 2018, we completed our IPO by issuing 9,200,000 shares of common stock, at an offering price of \$15.00 per share, inclusive of 1,200,000 shares of our common stock issued upon the exercise by the underwriters of their option to purchase additional shares. The gross proceeds from the IPO were \$138.0 million and the net proceeds were approximately \$126.0 million, after deducting underwriting discounts, commissions and estimated offering expenses payable by us. In connection with the IPO, our outstanding shares of convertible preferred stock were automatically converted into an aggregate of 15,813,297 shares of common stock, and our outstanding warrants to purchase shares of Series C convertible preferred stock were automatically converted into warrants to purchase up to an aggregate of 80,000 shares of common stock.

### **AMF License Agreement**

On October 1, 2013, we entered into a license agreement (the “License Agreement”) with the Alfred E. Mann Foundation for Scientific Research (“AMF”), pursuant to which AMF granted us a royalty-bearing, sublicensable license to certain patents and know-how (the “AMF IP”), relating to, in relevant part, an implantable pulse generator and related system components in development by AMF as of that date, in addition to any peripheral or auxiliary devices, including all components, that when assembled, comprise such device, excluding certain implantable pulse generators (altogether, the “AMF Licensed Products”). The license to the AMF IP allows Axonics to make, have made, lease, offer to lease, use, sell, offer for sale, market, promote, advertise, import, research, develop and commercialize the AMF Licensed Products worldwide for the treatment of:

- (i) urinary and fecal dysfunction in humans through the application of electrical energy anywhere in or on the human body;
- (ii) chronic pain in humans through the application of electrical energy to the nervous system; and
- (iii) inflammatory conditions of the human body through the application of electrical energy to the vagus nerve,

excluding, in each case, any product or method that involves the placement of electrodes or the administration of electrical stimulation inside the cranial cavity or to the ocular nervous system or the auditory nervous system.

Generally, the license is non-transferable without the prior written consent of AMF, except to an affiliate of our company or in connection with the acquisition of our company (whether by merger, consolidation, sale or otherwise) or the part of our business to which the License Agreement relates, provided that the assignee agrees in writing to be bound to the terms of the License Agreement to which we are bound.

We granted to AMF a royalty-free, worldwide, sublicensable, perpetual, exclusive license to any patent rights controlled by us that arise out of our improvements to the inventions claimed in the AMF IP (the "Axonics Licensed IP"). This license granted by us to AMF explicitly excludes uses of the Axonics Licensed IP that are within the scope of the exclusive license of the AMF IP granted by AMF to us. Such license is irrevocable unless we terminate the License Agreement and AMF does not agree to pay us compensation for such license mutually agreed between us and AMF or determined by arbitration in accordance with the terms of the License Agreement. To date, we have not made any improvements to the inventions claimed in the AMF IP that constitute Axonics Licensed IP.

Under the License Agreement, for each calendar year beginning in 2018, we are obligated to pay AMF the greater of (i) 4% of all net revenue derived from the AMF Licensed Products, and (ii) a minimum annual royalty (the "Minimum Royalty"), payable quarterly. The Minimum Royalty will automatically increase each year after 2018, subject to a maximum amount of \$200,000 per year. As of June 30, 2019, we have accrued \$0.1 million royalties toward the Minimum Royalty. We have 60 days to pay AMF the royalty amount due under the License Agreement, and if we fail to pay AMF within such 60-day period, AMF may, at its election, convert the exclusive license to a non-exclusive license or terminate the License Agreement.

The initial term of the License Agreement is from October 1, 2013 to October 1, 2033, and will automatically continue until all patents are no longer in force. Upon completion of the initial term, the license granted pursuant to the License Agreement will be fully paid-up and perpetual except that if we wish to continue to practice any of the patents licensed to us by AMF that remain in force after such initial term, then we will have to continue to pay a reduced royalty for so long as such patent remains in force.

Each party may terminate the License Agreement if the other party commits a material breach of any obligation under the License Agreement and such breach is not cured within 90 days following receipt of notice of such breach from the other party. AMF may terminate the License Agreement upon (i) notice to us in the event we challenge or assist any other person or entity in challenging the patentability, enforceability or validity of any of the AMF patents licensed to us under the License Agreement, subject to certain exceptions including challenges that we are not infringing any such AMF patent, and (ii) upon our filing of or the institution of bankruptcy, reorganization, liquidation or receivership proceedings, or upon an assignment of a substantial portion of our assets for the benefit of creditors, and in the case of involuntary bankruptcy, in the event we consent to such bankruptcy and it is not dismissed within 90 days. Lastly, we may terminate the License Agreement in full for any reason effective upon 60 days written notice to AMF.



## **Components of Our Results of Operations**

### ***Net Revenue***

Since we commenced operations in late 2013, our activities have consisted primarily of developing our r-SNM System, conducting our RELAX-OAB post-market clinical follow up study in Europe and our ARTISAN-SNM pivotal clinical study in the United States and Europe, filing for regulatory approvals and hiring and training our U.S. commercial team in anticipation of U.S. FDA approval and in preparation for the launch of the r-SNM System in the United States. The Company initiated commercial efforts in Europe and Canada in late 2018 and to date, has derived modest revenue from its international operations in select markets including England, the Netherlands and Canada. In the future, if our r-SNM System is approved in the United States, we expect to generate revenue from product sales. Our ability to generate revenue and become profitable will depend on our ability to successfully commercialize our r-SNM System and any product enhancements we may advance in the future. Although we have begun limited commercial activities in Europe and Canada, our main priority is the United States, where we expect to begin to commercialize and market our r-SNM System and generate revenue from product sales if and when approved by the FDA. We plan to establish a significant commercial infrastructure in anticipation of potential FDA approval of our r-SNM System. We expect to derive future revenue by increasing patient and physician awareness of our r-SNM System, hiring our own dedicated sales force, and obtaining additional regulatory approvals. In addition, we plan to strategically expand into favorable international markets. If we are unable to accomplish any of these objectives, it could have a significant negative impact on our future revenue. If we fail to generate revenue in the future, our business, results of operations, financial condition, cash flows, and future prospects would be materially and adversely affected.

### ***Cost of Goods Sold and Gross Margin***

Cost of goods sold consists primarily of acquisition costs of the components of our r-SNM System, third-party contract labor costs, overhead costs, as well as distribution-related expenses such as logistics and shipping costs, net of costs charged to customers. The overhead costs include the cost of material procurement and operations supervision and management personnel. We expect overhead costs as a percentage of revenue to decrease as our sales volume increases, if our product is approved in the United States. In the future, our cost of goods sold will include expenses associated with our payment of royalties to AMF when we exceed the Minimum Royalty threshold, as well as scrap and inventory obsolescence. The Minimum Royalty amounts are currently included in research and development expenses. We expect cost of goods sold to increase in absolute dollars primarily as, and to the extent, our revenue grows. We expect gross margin to vary based on regional differences in pricing and discounts negotiated by customers.

We calculate gross margin as gross profit divided by revenue. Revenues have been insignificant to date with prices based on evaluation agreements with one-time discounts offered. We expect future gross margin will be affected by a variety of factors, including manufacturing costs, the average selling price of our r-SNM System, the implementation of cost-reduction strategies, inventory obsolescence costs, which may occur when new generations of our r-SNM System are introduced, and to a lesser extent, the sales mix between the United States, Canada, Europe and Australia as our average selling price in the United States is expected to be higher than in Canada, Europe and Australia. Our gross margin may increase over the long term to the extent our production volumes increase and we receive discounts on the costs charged by our contract manufacturers, thereby reducing our per unit costs. Additionally, our gross margin may fluctuate from quarter to quarter due to seasonality.

### ***Research and Development Expenses***

The largest component of our total operating expenses has historically been research and development expenses. Research and development expenses consist primarily of employee compensation, including stock-based compensation, product development, including testing and engineering, and clinical studies to develop and support our r-SNM System, including clinical study management and monitoring, payments to clinical investigators, and data management. Other research and development expenses include consulting and advisory fees, travel expenses, and equipment-related expenses and other miscellaneous office and facilities expenses related to research and development programs. Research and development costs are expensed as incurred. We expect to continue incurring research and development expenses in the future as we develop next generation versions of our r-SNM System and continue to expand our clinical studies to potentially add additional indications and expand to new markets. We expect research and development expenses as a percentage of revenue to vary over time depending on the level and timing of initiating new product development efforts and new clinical development activities.

The following table summarizes our research and development expenses by functional area for the three and six months ended June 30, 2019 and 2018 (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2019	2018	2019	2018
Personnel related	\$ 2,726	\$ 1,949	\$ 5,257	\$ 3,784
Clinical development	462	2,109	895	2,881
Contract fabrication and manufacturing	704	1,346	1,225	2,394
Contract R&D and consulting	737	457	1,110	1,114
Other R&D expenses	245	317	606	548
Total R&D expenses	\$ 4,874	\$ 6,178	\$ 9,093	\$ 10,721

#### **General and Administrative Expenses**

General and administrative expenses consist primarily of employee compensation, including stock-based compensation, and spending related to finance, information technology, human resource functions, consulting, legal, and professional service fees. Other general and administrative expenses include office-related expenses, facilities and equipment rentals, and travel expenses. We expect our general and administrative expenses will significantly increase in absolute dollars as we increase our headcount and expand administrative personnel to support our growth and operations as a public company including finance personnel and information technology services. Additionally, we anticipate increased expenses related to audit, legal, and tax-related services associated with maintaining compliance with regulations, exchange listing and SEC requirements, director and officer insurance premiums and investor relations costs associated with being a public company. These expenses may further increase when we no longer qualify as an “emerging growth company” under the Jumpstart Our Business Startups (JOBS) Act, which will require us to comply with certain reporting requirements from which we are currently exempt. We expect general and administrative expenses to decrease as a percentage of revenue primarily as, and to the extent, our revenue grows.

#### **Sales and Marketing Expenses**

Sales and marketing expenses consist primarily of employee compensation, including stock-based compensation, trade shows, booth exhibition costs, and the related travel for these events. Other sales and marketing expenses include consulting and advisory fees. In anticipation of potential FDA approval, we expect sales and marketing expenses to continue to increase in absolute dollars as we expand our commercial infrastructure to both drive and support our expected growth in revenue. Specifically, we hired and trained a dedicated direct sales organization, comprised of approximately 100 sales professionals, 11 regional sales managers and 35 clinical specialists, in advance of the anticipated commercial launch of our r-SNM System in the United States. However, we expect sales and marketing expenses to decrease as a percentage of revenue in the long term primarily as, and to the extent, our revenue grows.

#### **Other Income (Expense), Net**

Other income (expense), net consists primarily of interest income earned on cash equivalents and short-term investments, net of interest expense payable under the Loan Agreement with Silicon Valley Bank, and loss on disposal of property and equipment. Other income (expense), net also includes net unrealized mark-to-market gains (losses) on our preferred stock warrant liabilities.

#### **Income Tax Expense**

Income tax expense consists of state income taxes in California. We maintain a full valuation allowance for deferred tax assets including net operating loss carryforwards and research and development credits and other tax credits.

## Results of Operations

The following table shows our results of operations for the three and six months ended June 30, 2019 and 2018 (in thousands, except percentages):

	Three Months Ended June 30,		Period to Period Change	Six Months Ended June 30,		Period to Period Change
	2019	2018		2019	2018	
Net revenue	\$ 1,488	\$ 12	\$ 1,476	\$ 2,565	\$ 12	\$ 2,553
Cost of goods sold	772	5	767	1,320	5	1,315
Gross profit	716	7	709	1,245	7	1,238
Gross Margin	48.1%	56.3%		48.5%	56.3%	
<b>Operating Expenses</b>						
Research and development	4,874	6,178	(1,304)	9,093	10,721	(1,628)
General and administrative	4,362	1,636	2,726	8,377	3,071	5,306
Sales and marketing	10,750	811	9,939	16,664	1,359	15,305
Total operating expenses	19,986	8,625	11,361	34,134	15,151	18,983
Loss from operations	(19,270)	(8,618)	(10,652)	(32,889)	(15,144)	(17,745)
<b>Other Income (Expense)</b>						
Interest income	839	205	634	1,873	276	1,597
Interest and other expense	(629)	(234)	(395)	(1,161)	(383)	(778)
Other income (expense), net	210	(29)	239	712	(107)	819
Loss before income tax expense	(19,060)	(8,647)	(10,413)	(32,177)	(15,251)	(16,926)
Income tax expense	1	1	—	1	1	—
Net loss	(19,061)	(8,648)	(10,413)	(32,178)	(15,252)	(16,926)
Foreign currency translation adjustment	(43)	(2)	(41)	(53)	(3)	(50)
Comprehensive loss	\$ (19,104)	\$ (8,650)	\$ (10,454)	\$ (32,231)	\$ (15,255)	\$ (16,976)

### Comparison of the Three Months Ended June 30, 2019 and 2018

#### Net Revenue

Net revenue was \$1.5 million for the three months ended June 30, 2019 and was derived from the sale of our r-SNM Systems to customers in Europe and Canada. Net revenue was minimal for the three months ended June 30, 2018.

#### Cost of Goods Sold and Gross Margin

We incurred \$0.8 million of cost of goods sold for the three months ended June 30, 2019. We incurred minimal cost of goods sold for the three months ended June 30, 2018. Gross margin was 48.1% for the three months ended June 30, 2019, compared to 56.3% for the three months ended June 30, 2018. The decrease in gross margin is primarily due to country and product mix.

#### Research and Development Expenses

Research and development expenses decreased \$1.3 million, or 21.1%, to \$4.9 million in the three months ended June 30, 2019, compared to \$6.2 million in the three months ended June 30, 2018. The decrease in research and development expenses was primarily attributable to a decrease of \$1.6 million in clinical development costs to demonstrate the safety and effectiveness of our r-SNM System and to support regulatory submissions, a decrease of

\$0.6 million in contract fabrication and manufacturing costs, partially offset by an increase of \$0.8 million in personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits.

#### *General and Administrative Expenses*

General and administrative expenses increased \$2.7 million, or 166.7%, to \$4.4 million in the three months ended June 30, 2019, compared to \$1.6 million in the three months ended June 30, 2018, primarily as a result of an increase of \$1.3 million in personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits, an increase of \$0.9 million in legal and consulting costs, and an increase of \$0.2 million in rent expense.

#### *Sales and Marketing Expenses*

Sales and marketing expenses increased \$9.9 million, or 1,224.9%, to \$10.8 million in the three months ended June 30, 2019, compared to \$0.8 million in the three months ended June 30, 2018. The increase in sales and marketing expenses was primarily due to an increase of \$7.9 million related to personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits, related to increased headcount in anticipation of the commercial launch of our r-SNM System in the United States, an increase of \$1.4 million in travel expenses, and an increase of \$0.4 million related to expenses for general marketing expenses, conferences and tradeshows.

#### *Other Income (Expense), Net*

Other income, net was \$0.2 million in the three months ended June 30, 2019, consisting primarily of interest income earned on cash equivalents and short-term investments, partially offset by interest expense incurred related to the Loan Agreement with Silicon Valley Bank. Other expense, net was minimal in the three months ended June 30, 2018.

#### *Income Tax Expense*

Income tax expense was minimal for the three months ended June 30, 2019 and 2018.

### **Comparison of the Six Months Ended June 30, 2019 and 2018**

#### *Net Revenue*

Net revenue was \$2.6 million for the six months ended June 30, 2019 and was derived from the sale of our r-SNM Systems to customers in Europe and Canada. Net revenue was minimal for the six months ended June 30, 2018.

#### *Cost of Goods Sold and Gross Margin*

We incurred \$1.3 million of cost of goods sold for the six months ended June 30, 2019. We incurred minimal cost of goods sold for the six months ended June 30, 2018. Gross margin was 48.5% in the six months ended June 30, 2019, compared to 56.3% for the six months ended June 30, 2018. The decrease in gross margin is primarily due to country and product mix.

#### *Research and Development Expenses*

Research and development expenses decreased \$1.6 million, or 15.2%, to \$9.1 million in the six months ended June 30, 2019, compared to \$10.7 million in the six months ended June 30, 2018. The decrease in research and development expenses was primarily attributable to a decrease of \$2.0 million in clinical development costs to demonstrate the safety and effectiveness of our r-SNM System and to support regulatory submissions, a decrease of \$1.2 million in contract fabrication and manufacturing costs, partially offset by an increase of \$1.5 million in personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits.

#### *General and Administrative Expenses*

General and administrative expenses increased \$5.3 million, or 172.8%, to \$8.4 million in the six months ended June 30, 2019, compared to \$3.1 million in the six months ended June 30, 2018, primarily as a result of an increase of \$2.5 million in personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits, an increase of \$1.8 million in legal and consulting costs, and an increase of \$0.5 million in rent expense.

### *Sales and Marketing Expenses*

Sales and marketing expenses increased \$15.3 million, or 1,125.6%, to \$16.7 million in the six months ended June 30, 2019, compared to \$1.4 million in the six months ended June 30, 2018. The increase in sales and marketing expenses was primarily due to an increase of \$11.7 million related to personnel costs including salaries and wages, stock-based compensation, and other employee-related benefits, related to increased headcount in anticipation of the commercial launch of our r-SNM System in the United States, an increase of \$2.1 million in travel expenses, and an increase of \$0.9 million related to expenses for general marketing expenses, conferences and tradeshows.

### *Other Income (Expense), Net*

Other income, net was \$0.7 million in the six months ended June 30, 2019, consisting primarily of interest income earned on cash equivalents and short-term investments, partially offset by interest expense incurred related to the Loan Agreement with Silicon Valley Bank. Other expense, net was \$0.1 million in the six months ended June 30, 2018, consisting primarily of interest expense incurred related to the Loan Agreement with Silicon Valley Bank, partially offset by interest income earned on cash equivalents and short-term investments.

### *Income Tax Expense*

Income tax expense was minimal for the six months ended June 30, 2019 and 2018.

## **Liquidity and Capital Resources**

Since we commenced operations in late 2013, we have devoted substantially all of our resources to research and development activities related to our r-SNM System, including clinical and regulatory initiatives to obtain marketing approvals. Additionally, to date, revenue generated from product sales has had minimal impact on our operations, and we have never been profitable. While we have received regulatory approval in Europe, Canada, and Australia for OAB, FI, and UR, our main commercial priority is the United States, where we expect to begin to commercialize and market our r-SNM System initially for the treatment of OAB and UR, and generate revenue from product sales if and when approved by the FDA. In addition to the United States, we expect to expend capital resources pursuing commercial operations in Europe, Canada, and Australia, the amount and timing of which will depend on a variety of factors, including the size of the developed market for SNM therapy, burdens to entry in any such country or region, and other factors specific to certain respective countries and regions.

We incurred net losses of \$32.2 million and \$15.3 million for the six months ended June 30, 2019 and 2018, respectively, and had an accumulated deficit of \$131.8 million as of June 30, 2019 compared to \$99.6 million at December 31, 2018. In anticipation of potential FDA approval, we expect to spend a significant amount of our existing resources on sales and marketing activities as we begin to commercialize and market our r-SNM System in the United States. Specifically, we hired and trained a dedicated direct sales organization, comprised of approximately 100 sales professionals, 11 regional sales managers and 35 clinical specialists, in advance of the anticipated commercial launch of our r-SNM System in the United States.

As of June 30, 2019, we had cash, cash equivalents and short-term investments of \$125.7 million compared to \$157.5 million at December 31, 2018. We expect that our cash, cash equivalents and short-term investments on hand will be sufficient to fund our operations through at least the next 12 months. Since inception and prior to our IPO, we raised an aggregate of \$114.2 million in gross proceeds from private placements of our preferred stock. On October 30, 2018, we completed our IPO by issuing 9,200,000 shares of common stock, at an offering price of \$15.00 per share, for net proceeds of approximately \$126.0 million after deducting underwriting discounts and commissions and estimated offering expenses payable by us. Prior to the IPO, our primary sources of capital were equity financings and amounts borrowed under the Loan Agreement with Silicon Valley Bank. In February 2018, we received \$10.0 million from the first tranche ("Tranche A") of the Term Loan simultaneously with our entry in the Loan Agreement. In October 2018, we received the full \$5.0 million from the second tranche ("Tranche B") and the full \$5.0 million from the third tranche ("Tranche C"). As of June 30, 2019, we had \$21.5 million in outstanding borrowings, as discussed below under "Indebtedness." If we raise additional funds by issuing equity securities, our stockholders could experience dilution. Debt financing, if available, may involve covenants further restricting our operations or our ability to incur additional debt. Any debt financing or additional equity that we raise may contain terms that are not favorable to us or our stockholders. Additional financing may not be available at all, or in amounts or on terms acceptable to us. If we are unable to obtain additional financing when needed to satisfy our liquidity requirements, we may be required to delay

the commercialization and marketing of our r-SNM System.

### **Cash Flows**

The following table presents a summary of our cash flow for the periods indicated (in thousands):

	Six Months Ended June 30,	
	2019	2018
Net cash provided by (used in)		
Operating activities	\$ (31,414)	\$ (13,972)
Investing activities	15,489	(15,451)
Financing activities	352	29,757
Effect of exchange rate changes on cash and cash equivalents	(53)	(3)
Net increase (decrease) in cash and cash equivalents	<u>\$ (15,626)</u>	<u>\$ 331</u>

#### *Net cash used in operating activities*

Net cash used in operating activities was \$31.4 million for the six months ended June 30, 2019 and consisted primarily of a net loss of \$32.2 million and a decrease in net operating assets of \$3.2 million, partially offset by non-cash charges of \$4.0 million. Net operating assets consisted primarily of inventory to support the anticipated commercial launch of our r-SNM System in the United States. Non-cash charges consisted primarily of stock-based compensation.

Net cash used in operating activities was \$14.0 million for the six months ended June 30, 2018 and consisted primarily of a net loss of \$15.3 million, partially offset by non-cash charges of \$0.8 million and an increase in net operating assets of \$0.5 million. Net operating assets consisted primarily of inventory to support the commercial efforts in Europe and Canada. Non-cash charges consisted primarily of depreciation and amortization and stock-based compensation.

#### *Net cash provided by (used in) investing activities*

Net cash provided by investing activities was \$15.5 million for the six months ended June 30, 2019 and consisted primarily of sales and maturities of short-term investments, partially offset by purchases of short-term investments.

Net cash used in investing activities was \$15.5 million for the six months ended June 30, 2018 and consisted of purchases of short-term investments and property and equipment.

#### *Net cash provided by financing activities*

Net cash provided by financing activities was \$0.4 million for the six months ended June 30, 2019 and consisted of proceeds from exercise of stock options.

Net cash provided by financing activities was \$29.8 million for the six months ended June 30, 2018 and consisted primarily of \$20.1 million of proceeds from the issuance of shares of our Series C preferred stock and \$10.0 million of proceeds from our Term Loan with Silicon Valley Bank.

### **Indebtedness**

In February 2018, we entered into the Loan Agreement with Silicon Valley Bank, which we and Silicon Valley Bank amended in October 2018, providing for the Term Loan. Pursuant to the Loan Agreement, we have drawn \$20.0 million in three tranches of term loans, with such drawn obligations maturing on December 1, 2021.

The Loan Agreement provides for monthly interest payments through December 31, 2019. On the first day of the end of the interest only period, we will be required to repay the Term Loan in equal monthly installments of principal plus interest through maturity. Outstanding principal balances under the Term Loan bear interest at the prime rate plus 1.75%.

We may prepay amounts outstanding under the Term Loan in increments of \$5.0 million at any time with 30 days prior written notice to Silicon Valley Bank. However, all prepayments of the Term Loan prior to maturity, whether voluntary or mandatory (acceleration or otherwise), are also subject to the payment of a prepayment fee equal to (i) for a prepayment made on or after the closing date through and including the first anniversary of the closing date, 3.00% of the principal amount of the Term Loan being prepaid, (ii) for a prepayment made after the date which is the first anniversary of the closing date through and including the second anniversary of the closing date, 2.00% of the principal amount of the Term Loan being prepaid, and (iii) for a prepayment made after the date which is the second anniversary of the closing date and before the maturity date, 1.00% of the principal amount of the Term Loan being prepaid. Additionally, on the earliest to occur of (i) the maturity date of the Term Loan, (ii) the acceleration of the Term Loan, or (iii) the prepayment of the Term Loan, we will be required to make a final payment equal to the original principal amount of such Tranche multiplied by 7.50%. We are currently accruing the portion of the final payment calculated based on the amount outstanding under the Term Loan.

All obligations under the Term Loan are secured by a first priority lien on substantially all of our assets, excluding intellectual property assets and more than 65% of the shares of voting capital stock of any of our foreign subsidiaries. We have agreed with Silicon Valley Bank not to encumber our intellectual property assets without its prior written consent unless a security interest in the underlying intellectual property is necessary to have a security interest in the accounts and proceeds that are part of the assets securing the Term Loan, in which case our intellectual property shall automatically be included within the assets securing the Term Loan.

The Loan Agreement contains certain covenants that limit our ability to engage in certain transactions that may be in our long-term best interest. Subject to certain limited exceptions, these covenants limit our ability to or prohibit us to permit any of our subsidiaries to, as applicable, among other things:

- pay cash dividends on, make any other distributions in respect of, or redeem, retire or repurchase, any shares of our capital stock;
- convey, sell, lease, transfer, assign, or otherwise dispose of all or any part of our business or property;
- effect certain changes in our business, management, ownership or business locations;
- merge or consolidate with, or acquire all or substantially all of the capital stock or property of any other company;
- create, incur, assume, or be liable for any additional indebtedness, or create, incur, allow, or permit to exist any additional liens;
- make certain investments; and
- enter into transactions with our affiliates.

While we have not previously breached and are currently in compliance with the covenants contained in the Loan Agreement, we may breach these covenants in the future. Our ability to comply with these covenants may be affected by events and factors beyond our control. In the event that we breach one or more covenants, Silicon Valley Bank may choose to declare an event of default and require that we immediately repay all amounts outstanding under the Loan Agreement, terminate any commitment to extend further credit and foreclose on the collateral. The occurrence of any of these events could have a material adverse effect on our business, financial condition and results of operations. An event of default includes, but is not limited to, the following: if we fail to make any payment under the Loan Agreement when due, if we fail or neglect to perform certain obligations under the Loan Agreement, if we violate certain covenants under the Loan Agreement, if certain material adverse changes occur, if we are unable to pay our debts as they become due or otherwise become insolvent, or if we begin an insolvency proceeding.

In addition, we issued warrants to Silicon Valley Bank and Life Science Loans II, LLC, its counterparty. Each warrant entitles the holder thereof to purchase 40,000 shares of our common stock at an exercise price of \$7.50 per share. Each warrant will expire on February 6, 2028. In May 2019, Life Science Loans II, LLC exercised all of its outstanding warrants at an exercise price of \$7.50 per share.

We have no further indebtedness arrangements.

## **Off-Balance Sheet Arrangements**

We do not have any off-balance sheet arrangements, as defined by applicable regulations of the SEC, that are reasonably likely to have a current or future material effect on our financial condition, results of operations, liquidity, capital expenditures or capital resources.

## **Contractual Obligations**

As a smaller reporting company, we are not required to provide the information required by Item 303(a)(5) of Regulation S-K.

## **Critical Accounting Policies and Estimates**

Our critical accounting policies and estimates are described in “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Critical Accounting Policies and Estimates” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, as filed with the Securities and Exchange Commission on March 5, 2019. We have reviewed and determined that those critical accounting policies and estimates remain our critical accounting policies and estimates as of and for the six months ended June 30, 2019.

## **Recent Accounting Pronouncements**

We have reviewed all recently issued standards and have determined that, other than as disclosed in Note 1 to our unaudited condensed consolidated financial statements included elsewhere in this Quarterly Report on Form 10-Q, such standards will not have a significant impact on our condensed consolidated financial statements or do not otherwise apply to our operations.

## **Item 3. Quantitative and Qualitative Disclosure About Market Risk.**

As a smaller reporting company, we are not required to provide the information required by Item 305 of Regulation S-K.

## **Item 4. Controls and Procedures.**

### ***Limitations on effectiveness of controls and procedures***

In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. In addition, the design of disclosure controls and procedures must reflect the fact that there are resource constraints and that management is required to apply judgment in evaluating the benefits of possible controls and procedures relative to their costs.

### ***Evaluation of disclosure controls and procedures***

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated, as of the end of the period covered by this Quarterly Report on Form 10-Q, the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended the (“Exchange Act”). Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of June 30, 2019.

### ***Changes in internal control over financial reporting***

There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the three months ended June 30, 2019 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.



## **PART II—OTHER INFORMATION**

### **Item 1. Legal Proceedings.**

From time to time, we may be involved in litigation relating to claims arising out of our operations in the normal course of business. We currently are not a party to any legal proceedings, the adverse outcome of which, in management's opinion, individually or in the aggregate, would have a material adverse effect on our results of operations, financial position or cash flows. Regardless of the outcome, any litigation could have an adverse impact on us due to defense and settlement costs, diversion of management resources and other factors.

### **Item 1A. Risk Factors.**

You should carefully consider the information described in the "Risk Factors" section of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018, as filed with the Securities and Exchange Commission on March 5, 2019. There have been no material changes to the risk factors described therein.

### **Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

#### **Use of Proceeds**

On October 30, 2018, our Registration Statement on Form S-1 (File No. 333-227732) relating to our IPO was declared effective by the SEC. Pursuant to such Registration Statement, we sold an aggregate of 9,200,000 shares of our common stock, including the subsequent sale of 1,200,000 shares sold pursuant to the underwriters' full exercise of their option to purchase additional shares, at a public offering price of \$15.00 per share, for aggregate gross proceeds of \$138.0 million. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Morgan Stanley & Co. LLC acted as joint book-running managers for the offering. Wells Fargo Securities, LLC acted as lead manager and SunTrust Robinson Humphrey, Inc. acted as co-manager for the offering.

On November 2, 2018, we closed the sale of such shares, resulting in aggregate cash proceeds to us of approximately \$126.0 million, net of \$9.7 million of underwriting discounts and commissions and \$2.3 million of offering expenses paid or payable by us. No offering expenses were paid or are payable, directly or indirectly, to our directors or officers, to persons owning 10% or more of any class of our equity securities or to any of our affiliates.

There has been no material change in the planned use of proceeds from our IPO as described in our final prospectus dated October 30, 2018 and filed with the SEC on November 1, 2018 pursuant to Rule 424(b) under the Securities Act.

#### **Warrant Exercise**

On May 29, 2019, we issued and sold 31,071 shares of our common stock to Life Science Loans II, LLC ("Life Science Loans") in connection with the exercise by Life Science Loans of its right to purchase 40,000 shares of our common stock under that certain warrant, dated as of February 6, 2018. The exercise price per share was \$7.50, and was paid by Life Science Loans via forfeiture of shares pursuant to a cashless exercise provision in the warrant. The issuance and sale of the shares of common stock was exempt from registration under the Securities Act of 1933, as amended, pursuant to Section 3(a)(9) thereof.

### **Item 3. Defaults Upon Senior Securities.**

None.

### **Item 4. Mine Safety Disclosures.**

Not applicable.

### **Item 5. Other Information.**

None.

**Item 6. Exhibits.****EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Exhibit Title</b>
10.1*	<a href="#">Third Amendment to Lease, dated June 28, 2019, by and between The Irvine Company LLC and the Registrant.</a>
10.2+	<a href="#">Executive Employment Agreement, dated June 5, 2019, by and between Raymond W. Cohen and the Registrant</a>
10.3+	<a href="#">Executive Employment Agreement, dated June 5, 2019, by and between Dan L. Dearen and the Registrant</a>
10.4+	<a href="#">Executive Employment Agreement, dated June 5, 2019, by and between Rinda Sama and the Registrant</a>
31.1	<a href="#">Certification of Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.</a>
31.2	<a href="#">Certification of Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended.</a>
32.1#	<a href="#">Certifications of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
32.2#	<a href="#">Certifications of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.</a>
101.INS**	XBRL Instance Document.
101.SCH**	XBRL Taxonomy Extension Schema Document.
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document.
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document.

+ Indicates management contract or compensatory plan.

The information in Exhibits 32.1 and 32.2 shall not be deemed “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act (including this Quarterly Report on Form 10-Q), unless the Registrant specifically incorporates the foregoing information into those documents by reference.

# Previously filed

\* In accordance with Rule 402 of Regulation S-T, this interactive data file is deemed not filed or part of this Quarterly Report on Form 10-Q for purposes of Sections 11 or 12 of the Securities Act or Section 18 of the Exchange Act and otherwise is not subject to liability under these sections.



**EXECUTIVE EMPLOYMENT AGREEMENT**

This Executive Employment Agreement (this "Agreement") is dated as of June 5th, 2019 by and between Axonics Modulation Technologies, Inc., a Delaware corporation (the "Company"), and Raymond W. Cohen ("Executive").

WHEREAS, Executive currently serves as Chief Executive Officer and a director of the Company pursuant to an Executive Employment Agreement dated May 22, 2014, with a term scheduled to end on July 1, 2019 (the "Original Employment Agreement");

WHEREAS, the Company and Executive desire to continue Executive's employment with the Company following the end of the term of the Original Employment Agreement in accordance with the terms of this Agreement; and

WHEREAS, upon execution, this Agreement shall supersede and replace in its entirety the Original Employment Agreement, which shall no longer be of any force or effect.

NOW, THEREFORE, in consideration of the premises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **DEFINED TERMS.** Exhibit A to this Agreement sets forth defined terms for purposes of this Agreement.
2. **EMPLOYMENT/TERM.** The Company hereby employs Executive to perform the duties and responsibilities set forth below under Section 3 of this Agreement, and Executive hereby accepts such employment, in each case on the terms and conditions set forth in this Agreement. This Agreement shall commence on the Effective Date and remain in effect for five (5) years, unless earlier terminated pursuant to Section 5 of this Agreement (the "Term").
3. **POSITION AND DUTIES.**
  - a. Description of Executive's Position, Duties, Authorities, and Responsibilities. Executive shall serve as the Chief Executive Officer and a director of the Company, subject to the direction of the Board. In such capacity, Executive shall (i) report to the Board, (ii) devote Executive's full professional time and attention, best efforts, energy and skills to the services required of Executive as an employee of the Company, except for paid time off taken in accordance with the Company's policies and practices, and subject to the Company's policies pertaining to reasonable periods of absence due to sickness, personal injury or other disability; (iii) use Executive's best efforts to promote the interests of the Company; (iv) comply with all applicable governmental laws, rules and regulations and with all of the Company's policies, rules and regulations applicable to employees of the Company; (v) participate in, and comply with all Company directives regarding, workplace investigations; and (vi) discharge Executive's responsibilities in a diligent and faithful manner, consistent with sound business practices and in accordance with the Board's directives.
  - b. Outside Boards. It is acknowledged that Executive currently serves on two public company boards; Spectrum Pharmaceuticals, Inc. (NASDAQ: SPPI) and BioLife Solutions, Inc. (NASDAQ: BLFS). In the event that Executive wishes to join any additional boards, Executive shall obtain the prior written consent of the Board. This Section 3.b shall not be construed as preventing Executive from serving on any civic or charitable boards or committees; provided that in no event shall any such service or business activity require substantial services by Executive such that it would interfere with the performance of Executive's duties hereunder or cause a conflict of interest to the interests of the Company.

#### 4. COMPENSATION AND BENEFITS.

- a. Base Salary. As of the Effective Date, Executive's Base Salary shall be five hundred thousand dollars (\$500,000) per year payable in periodic installments in accordance with the Company's regular payroll practices as in effect from time to time. The Board or a duly authorized committee thereof will review the Base Salary on an annual basis and may increase the Base Salary from time to time based on merit or such other considerations as the Board or a duly authorized committee thereof may deem appropriate.
- b. Bonus. Executive shall be eligible to receive an annual cash bonus in an amount up to seventy percent (70%) of Executive's Base Salary for the calendar year for which the annual cash bonus is being paid, as determined in the discretion of the Board or a duly authorized committee thereof, based on the performance of the Company and Executive relative to performance objectives or other metrics as the Board or a duly authorized committee thereof may deem appropriate. The Board shall establish performance objectives or other metrics within 90 days after the beginning of each new calendar year.
- c. Benefits and Vacation. Executive shall be eligible to participate in and receive the benefits under any deferred compensation plan, health, life, accident and disability insurance plans or programs, and any other employee benefit or fringe benefit plans or arrangements that the Company makes available generally to other senior executives of the Company, pursuant to the provisions of such plans, programs or arrangements as in effect from time to time. Executive shall be entitled to four week's paid vacation and additional sick days in accordance with the policies of the Company for its employees generally, as in effect from time to time.
- d. Equity Incentive Compensation. Executive shall be eligible to receive grants, at the discretion of the Board or a duly authorized committee thereof, under any long-term equity-based incentive compensation plans established or maintained by the Company for its senior executive officers, in each case subject to the terms and conditions of the applicable plans and award documents with respect to such grants.
- e. Expenses. The Company shall pay or reimburse Executive for all reasonable, ordinary and necessary business expenses incurred or paid by Executive during the Term in the performance of Executive's services under this Agreement in accordance with the applicable policies and procedures of the Company as in effect from time to time, upon the presentation of proper expense statements or such other supporting documentation as the Company may reasonably require.
- f. Auto Allowance. Company shall pay an automotive allowance of one thousand two hundred (\$1,250) per month.

#### 5. TERMINATION OF EMPLOYMENT.

- a. General. Executive's employment may be terminated by either party at any time and for any reason; and upon termination of Executive's employment, the Term shall end.
- b. Resignation without Good Reason. Executive may resign from employment with the Company without Good Reason by providing the Company with at least 60 days' advance written notice. During the Resignation Notice Period, the Company, in its sole discretion, may elect to accelerate Executive's date of termination of employment, it being understood that any such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement. Even if Executive's date of termination is accelerated, Executive shall be paid Executive's Base Salary, and shall receive Benefits capable of being provided to persons who are not actively employed by the Company, as if Executive had worked through the end of the Resignation Notice Period. The Company reserves the right to require Executive not to be in the offices of the Company or any of its affiliates and/or not to undertake all or any of Executive's duties and/or not to contact clients, colleagues or advisors of the Company or any of its affiliates during all or part of the Resignation Notice Period. During the

Resignation Notice Period, Executive's terms and conditions of service and duties of loyalty and confidentiality to the Company shall remain in full force and effect and, during any such Resignation Notice Period, Executive shall continue to perform as an employee in compliance with the terms of this Agreement and all other agreements applicable to Executive with respect to Executive's service with the Company or any of its affiliates.

- c. Death. Executive's employment hereunder shall terminate automatically on the date of Executive's death.
- d. Disability. At the option of the Company, Executive's employment hereunder may be terminated immediately upon Disability.
- e. Termination for Cause. Notwithstanding any other provision of this Agreement, the Company may, at any time, immediately terminate Executive's employment for Cause. The Company's lack of immediate action with respect to conduct of Executive that would constitute Cause hereunder shall not preclude the Company from taking later action on such act or taking action with respect to another such act committed by Executive.
- f. Termination Without Cause. The Company may, at any time, immediately terminate Executive's employment without Cause.

6. **COMPENSATION UPON TERMINATION (OTHER THAN A CHANGE IN CONTROL TERMINATION)**. Following any termination of Executive's employment, the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall immediately cease, and the Company shall have no further obligations to Executive under this Agreement, except to provide (i) the Accrued Obligations, (ii) any additional amounts specifically provided by this Section 6, subject to the applicable terms and conditions of this Section 6, and (iii) any other amounts otherwise required by law.

- a. Death or Disability. If, during the Term, Executive's employment is terminated (x) by reason of Executive's death or (y) by the Company for Disability, in addition to the Accrued Obligations, Executive shall receive the following compensation:
  - i. The Company shall pay to Executive (or to Executive's estate or designated beneficiary in the event of Executive's death) a lump sum amount equal to (A) one (1) year of Base Salary in effect as of the Termination Date, plus (B) the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date, plus (C) if the Termination Date occurs during the second, third or fourth quarter of a year, the Pro-Rata Bonus for that year. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date, provided that on or before the Cash Severance Commencement Date, Executive has executed, and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation. If Executive is unable to execute and deliver such waiver and release agreement due to death or Disability, then the waiver and release agreement shall be executed and delivered by an authorized agent or representative of Executive and/or Executive's estate.
  - ii. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date that are not Performance-Based Awards, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered into after the Effective Date (unless such award agreements expressly reference this Agreement), Executive shall immediately vest in such award. For any such awards that are Performance-Based Awards, vesting shall be based on the terms of the applicable equity compensation

plan and award agreement in accordance with Section 6.d. Vested stock options shall remain exercisable during the periods provided in the applicable plan and award agreement.

- b. For Cause or Without Good Reason. If, during the Term, Executive's employment is terminated (i) by the Company for Cause or (ii) by Executive for any reason other than for Good Reason, the Company shall pay to Executive the Accrued Obligations.
- c. Without Cause or for Good Reason (Other than a Change in Control Termination). If, during the Term, Executive's employment with the Company terminates by reason of a Qualifying Termination (other than a Change in Control Termination), in addition to the Accrued Obligations, Executive shall receive the following compensation:
  - i. Executive shall receive cash severance in an amount equal to the sum of (A) one (1) year of Base Salary as in effect on the Termination Date plus (B) the amount of the prior-year annual bonus. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date.
  - ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
  - iii. If the Termination Date occurs during the second, third or fourth quarter of a year, Executive shall be paid the Pro-Rata Bonus for that year, made in a single cash payment on the Cash Severance Commencement Date.
  - iv. Executive shall be paid an amount equal to twelve (12) months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.
  - v. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered after the Effective Date (unless such award agreements expressly reference this Agreement), (A) for any such awards that are not Performance-Based Awards, Executive shall vest on the Cash Severance Payment Date in the portion of the award that was otherwise scheduled to vest within 12 months following the Termination Date; and (B) for any such awards that are Performance-Based Awards, the award shall vest at the end of the applicable performance period based on actual performance results and prorated for the portion of the performance period worked through the Termination Date.

All payments under clauses (i) - (v) of this Section 6.c. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement.

- d. Equity Incentive Compensation. Except as otherwise expressly provided herein, upon termination of Executive's employment during the Term, any outstanding Equity Incentive Compensation awards shall be forfeited or vest

in accordance with the terms of the applicable plan and award agreement, and shall be subject to such other terms and conditions of such plan and award agreement that may apply as a result of such termination.

- e. Benefits. Notwithstanding anything in this Section 6 to the contrary, the Benefits to which Executive is entitled upon or by reason of the termination of Executive's employment with the Company shall be subject to, and shall be governed by, the terms and conditions of the applicable plans, programs and arrangements maintained by the Company with respect to such Benefits. Nothing in this Agreement shall be construed to be a waiver by the Executive of any benefits accrued for or due to the Executive under any employee benefit plan (as such term is defined in the Employee Retirement Income Security Act of 1974, as amended) maintained by the Company, if any, except that the Executive shall not be entitled to any severance benefits pursuant to any severance plan or program of the Company other than as provided herein.
- f. D&O Insurance, and Indemnification. Through at least the sixth anniversary of the Termination Date, the Company shall maintain coverage for the Executive as a named insured on all directors' and officers' insurance maintained by the Company for the benefit of its directors and officers on at least the same basis as all other covered individuals and provide the Executive with at least the same corporate indemnification as it provides to other senior executives.
- g. Expiration of Term. Notwithstanding anything in this Section 6 to the contrary, the expiration of the Term by itself shall not entitle Executive to receipt of any payments under this Section 6.

## 7. CHANGE IN CONTROL.

- a. Treatment of Equity Incentive Compensation. As to any outstanding, unvested Equity Incentive Compensation awards immediately before a Change in Control, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered after the Effective Date (unless such award agreements expressly reference this Agreement):
  - i. For any such awards that are not Performance-Based Awards, (A) the awards shall vest in full immediately upon the Change in Control, and (B) any vested stock options shall remain exercisable during the periods provided in the applicable plans and award agreement.
  - ii. For any such awards that are Performance-Based Awards, the award shall be fully vested based on the greater of (A) assumed target performance or (B) performance as determined by the Board immediately before the Change in Control.
- b. Change in Control Severance. If, during the Term, Executive's employment with the Company terminates by reason of a Change in Control Termination, in addition to the Accrued Obligations, Executive shall receive the following compensation:
  - i. Executive shall receive cash severance in an amount equal to the sum of (A) two (2) years of Base Salary as in effect on the Termination Date plus (B) the amount of the prior-year annual bonus. Such amount shall be payable in a single cash payment on the Cash Severance Commencement Date.
  - ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
  - iii. Executive shall be paid the Pro-Rata Bonus in a single cash payment on the Cash Severance Commencement Date.



- iv. Executive shall be paid an amount equal to 18 months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.

All payments under clauses (i) - (iv) of this Section 7.b. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement. For avoidance of doubt, if amounts are payable to Executive under this Section 7.b, no amounts shall be payable to Executive under Section 6.c.

8. **NONSOLICITATION COVENANT.** Executive agrees that Executive shall not directly or indirectly during the Term and for one (1) year after termination of Executive's employment, either alone or through or in conjunction with any other person or entity employ, solicit, induce, or recruit, any person employed by any member of the Company Group at any time within the one (1) year period immediately preceding such employment, solicitation, inducement or recruitment.
9. **ADJUSTMENTS TO PAYMENTS.** Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment or distribution by the Company to Executive or for Executive's benefit (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise) (the "Payments") would be subject to the excise tax imposed by Section 4999 (or any successor provisions) of the Code, or any interest or penalty is incurred by Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, is hereinafter collectively referred to as the "Excise Tax"), then the Payments shall be reduced (but not below zero) if and to the extent that such reduction would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income taxes and the imposition of the Excise Tax), than if Executive received all of the Payments. The Company shall reduce or eliminate the Payments, by first reducing or eliminating the portion of the Payments which are not payable in cash and then by reducing or eliminating cash payments, in each case in reverse order beginning with payments or benefits which are to be paid the farthest in time from the determination. All determinations required to be made under this Section, including whether and when an adjustment to any Payments is required and, if applicable, which Payments are to be so adjusted, shall be made by an independent accounting firm selected by the Company from among the four (4) largest accounting firms in the United States or any nationally recognized financial planning and benefits consulting company (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and to Executive within fifteen (15) business days of the receipt of notice from Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, Executive shall appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. If the Accounting Firm determines that no Excise Tax is payable by Executive, it shall furnish Executive with a written opinion that failure to report the Excise Tax on Executive's

applicable federal income tax return would not result in the imposition of a negligence or similar penalty. Any determination by the Accounting Firm shall be binding upon the Company and Executive.

10. **COOPERATION.** Upon the receipt of reasonable notice from the Company (including outside counsel), Executive agrees that while employed by the Company and thereafter, Executive will respond and provide information with regard to matters in which Executive has knowledge as a result of Executive's employment with the Company, and will provide reasonable assistance to the Company, its affiliates and their respective representatives in defense of all claims that may be made against the Company or its affiliates, and will assist the Company and its affiliates in the prosecution of all claims that may be made by the Company or its affiliates, to the extent that such claims may relate to the period of Executive's employment with the Company. Executive agrees to promptly inform the Company if Executive becomes aware of any lawsuit involving such claims that may be filed or threatened against the Company or its affiliates. Executive also agrees to promptly inform the Company (to the extent that Executive is legally permitted to do so) if Executive is asked to assist in any investigation of the Company or its affiliates (or their actions), regardless of whether a lawsuit or other proceeding has then been filed against the Company or its affiliates with respect to such investigation, and shall not provide such assistance unless legally required. Upon presentation of appropriate documentation, the Company shall pay or reimburse Executive for all reasonable out-of-pocket travel, duplicating or telephonic expenses incurred by Executive in complying with this Section 10. For the first five hours of cooperation in any calendar month during the period of cooperation, Executive shall provide the specified cooperation services without hourly reimbursement. For each hour of cooperation or part thereof after five hours, in any calendar month, Company shall reimburse Executive at the hourly rate determined by this fraction: (final Base Salary / 2,080 hours).
11. **ARBITRATION.** The parties hereby agree to submit all disputes, claims and controversies ("Claims") between the parties or related to or arising out of their employment relationship by and between the Company and Executive to final, binding arbitration to the fullest extent permitted by law. The Federal Arbitration Act., 9 U.S.C. § 1 *et seq.*, shall govern the interpretation and enforcement of this Section 11. The court and not the arbitrator will determine matters of enforceability of this Section 11.
  - a. Statute of Limitations. The statutory limitations period applicable to a Claim asserted in a civil action shall apply to any such Claim asserted in any arbitration proceeding under this Section 11. Arbitration is commenced for limitations purposes by submitting the matter to the arbitral forum.
  - b. Individual Basis. All Claims that are subject to arbitration under this Section 11 must and will take place on an individual basis only.
  - c. Venue. Binding arbitration under this Section 11 shall be conducted in California unless required by law to be conducted elsewhere, in which case it shall be conducted where required by law.
  - d. Applicable Rules. The arbitration proceeding, including discovery, shall be conducted in accordance with the Federal Arbitration Act, the JAMS Policy on Employment Arbitration Minimum Standards and the JAMS Employment Arbitration Rules and Procedures then in effect (the "JAMS Rules"). Executive understands that if Executive wishes to receive a copy of the JAMS Rules currently in effect, Executive may inform the Company in writing, and the Company will provide them to Executive before Executive executes this Agreement. Executive also understand that JAMS Rules are available online at <http://www.jamsadr.com/rules-employment-arbitration/>.
  - e. Arbitrator Selection. The arbitration shall be conducted before a neutral arbitrator selected by all parties in accordance with JAMS Rules.

- f. Cost Allocation. If required by applicable law, the Company shall pay all additional costs peculiar to the arbitration to the extent such costs would not otherwise be incurred in a court proceeding (for instance, the Company shall pay the arbitrator's fees, and the JAMS administration and filing fees, to the extent such fees exceed court filing fees).
- g. Attorneys' Fees and Costs. Each party shall pay such party's own costs and attorneys' fees except that the arbitrator shall award costs and attorneys' fees to the prevailing party.
- h. Written Decision. The arbitrator shall follow applicable substantive law and, within 30 days after the conclusion of the arbitration, issue a written opinion setting forth the factual and legal bases for his or her decision.
- i. Acknowledgement. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE'S RIGHT TO A JURY TRIAL BY ENTERING INTO THIS AGREEMENT. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE'S RIGHT TO COMMENCE OR PARTICIPATE IN A CLASS OR COLLECTIVE ACTION AND INSTEAD AGREES TO ARBITRATE ANY EMPLOYMENT-RELATED DISPUTE ON AN INDIVIDUAL BASIS ONLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

**12. CODE SECTION 409A.**

- a. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), including the exceptions thereto, and shall be construed and administered in accordance with such intent. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with Section 409A or an applicable exemption. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, each separate payment or installment payment provided under this Agreement shall be treated as a separate payment. Any payments to be made under this Agreement in connection with a termination of employment shall only be made if such termination of employment constitutes a "separation from service" under Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Executive on account of non-compliance with Section 409A.
- b. Notwithstanding any other provision of this Agreement, if at the time of Executive's termination of employment, Executive is a "specified employee," determined in accordance with Section 409A, any payments and benefits provided under this Agreement that constitute "nonqualified deferred compensation" subject to Section 409A that are provided to Executive on account of Executive's separation from service shall not be paid until the first payroll date to occur following the six-month anniversary of Executive's termination date ("Specified Employee Payment Date"). The aggregate amount of any payments that would otherwise have been made during such six-month period shall be paid in a lump sum on the Specified Employee Payment Date and thereafter, any remaining payments shall be paid without delay in accordance with their original schedule. If Executive dies before the Specified Employee Payment Date, any delayed payments shall be paid to Executive's estate in a lump sum within one week of Executive's death.
- c. To the extent required by Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following: (i) the amount of expenses eligible for reimbursement, or

in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; (ii) any reimbursement of an eligible expense shall be paid to Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit. Any tax gross-up payments provided under this Agreement shall be paid to Executive on or before December 31 of the calendar year immediately following the calendar year in which Executive remits the related taxes.

- d. Whenever in this Agreement a payment or benefit is conditioned on Executive's execution of a release of claims, such release must be executed, and all revocation periods shall have expired within 60 days after the Termination Date; failing which such payment or benefit shall be forfeited. If such payment or benefit constitutes "nonqualified deferred compensation" subject to Section 409A, and if such 60-day period begins in one calendar year and ends in the next calendar year, the payment or benefit shall not be made or commence before the second such calendar year, even if the release becomes irrevocable in the first such calendar year.

**13. GENERAL PROVISIONS.**

- a. Notices. All notices, requests, demands, statements, reports and other communications provided for by this Agreement shall be in writing (email being sufficient) and shall be sent by (i) certified mail, return receipt requested, postage prepaid, (ii) nationally recognized overnight delivery service, (iii) personal delivery or (iv) email. A notice shall be deemed to be given (x) if notice is delivered by certified mail or nationally recognized overnight delivery service, on the business day following the date of its mailing, (y) if such notice is delivered personally, upon delivery, or (z) if such notice is sent by email, upon sending. Each party may change such party's address for notices by giving notice in accordance herewith. All notices shall be addressed and mailed or delivered to the following addresses:

If to the COMPANY:

Attn: Chairman of the Board  
Axonics Modulation Technologies, Inc.  
26 Technology Drive  
Irvine, CA 92618

If to EXECUTIVE:

Raymond W. Cohen

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- b. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, representations and understandings (whether written or oral) of the parties with respect to the subject matter hereof, including the Original Employment Agreement, and any other agreement between Executive and the Company or any of its affiliates and subsidiaries.
- c. Modification and Waiver. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by Executive and a duly authorized representative of the Company (other than Executive).

A waiver of any term or condition of this Agreement shall not be construed as a general waiver by the Company. If one or more provisions of this Agreement are held to be illegal or unenforceable under applicable law, such illegal or unenforceable provision(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms.

- d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of law principles, and any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California.
- e. Assignment; Binding Effect. This Agreement is fully assignable and transferable by the Company, but any purported assignment or transfer by Executive is void. It is hereby agreed that Executive's rights and obligations under this Agreement are personal and not assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties. **EXECUTIVE HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS AND ACCEPTS THE OBLIGATIONS WHICH IT IMPOSES UPON EXECUTIVE WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO EXECUTIVE TO INDUCE EXECUTIVE TO SIGN THIS AGREEMENT. EXECUTIVE SIGNS THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT THE COMPANY WILL RETAIN ONE COUNTERPART AND THE OTHER COUNTERPART WILL BE RETAINED BY EXECUTIVE.**
- f. Injunctive Relief. Executive agrees that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, to the fullest extent permitted by applicable law, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies and without any requirement to post bond.
- g. Survival. This Agreement shall terminate upon the expiration of the Term; provided that the provisions of Section 1 and Sections 6 through 13 shall survive termination of this Agreement and termination of Executive's employment regardless of the reason for such termination.
- h. Withholding. The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to applicable law.

*[Signature page follows]*

In witness whereof, the parties have executed this Agreement as of the date first above written.

**COMPANY:**

**Axonics Modulation Technologies, Inc.**

By: /s/ Raphael Wisniewski  
Raphael Wisniewski  
Chairman, Board of Directors

**EXECUTIVE:**

/s/ Raymond W. Cohen  
Raymond W. Cohen

## EXHIBIT A

For purposes of interpreting the Agreement, the following definitions shall apply:

“Accrued Obligations” means, in connection with Executive’s termination of employment with the Company for any reason, (i) any unpaid Base Salary accrued through the Termination Date, payable as soon as practicable (not more than 30 days) after the Termination Date, and (ii) any unpaid Benefits accrued through the Termination Date to which Executive is entitled under any plans, programs or arrangements applicable to terminated employees in which Executive participates, payable in accordance with the terms of such plans, programs or arrangements.

“Base Salary” means Executive’s annual rate of base salary from the Company as provided in Section 4.a (including any permitted adjustments to the annual rate of base salary during the Term as provided by Section 4.a).

“Benefits” means the employee benefits provided to Executive by the Company under the provisions of Section 4.c.

“Board” means the Board of Directors of the Company.

“Cash Severance Commencement Date” means the 60th day after the Termination Date.

“Cause” means the occurrence of any of the following by Executive: (i) fraud, misappropriation, embezzlement or acts of similar dishonesty; (ii) conviction of, or plea of *nolo contendere* to, a felony; (iii) excessive use of alcohol or illegal use of drugs in the workplace; (iv) gross negligence or intentional or willful misconduct by Executive in the performance of Executive’s duties; (v) breach of Executive’s duty of loyalty to the Company or diversion or usurpation of corporate opportunities properly belonging to the Company; (vi) the knowing breach of the Company’s confidentiality agreement to which the Executive is a party to; or (vii) violation of any material provision of this Agreement or any other material provision of any other agreement between Executive and the Company.

“Change in Control” means a “Change in Control” as defined under the Axonics Modulation Technologies, Inc. 2018 Omnibus Incentive Plan.

“Change in Control Protected Period” means the period commencing on the date of a Change in Control and ending on first anniversary of the date of the Change in Control.

“Change in Control Termination” means a Qualifying Termination that occurs during the Change in Control Protected Period.

“Disability” means any physical or mental illness, impairment or incapacity which, in the good faith determination of the Board, has prevented Executive from performing the essential functions of Executive’s position hereunder for a period of 90 or more consecutive days (or for shorter periods totaling 120 days) during any period of 12 consecutive months, consistent with applicable law.

“Effective Date” means July 1, 2019, the effective date of this Agreement and the first day of the Term.

“Equity Incentive Compensation” means the equity compensation awards provided to Executive by the Company under Section 4.d.

“Good Reason” means the occurrence of any of the following events, without the express consent of Executive, (i) a material diminution in Executive’s Base Salary, or (ii) a material diminution in Executive’s title, position, duties, authorities or responsibilities (other than temporarily while physically or mentally incapacitated or as required by applicable law). In order for Executive to terminate Executive’s employment for Good Reason, (x) Executive must furnish written notice to the Company

setting forth the facts and circumstances claimed to provide a basis for such resignation within 30 days following the occurrence of such facts and circumstances, (y) the Company shall have 30 days after its receipt of such written notice to cure such facts and circumstances in all material respects (and if so cured, then Executive shall not be permitted to resign for Good Reason in respect thereof), and (z) Executive must actually terminate Executive's employment within 30 days following the expiration of the Company's cure period set forth above.

"Performance-Based Award" means an option, restricted stock or other Equity Incentive Compensation award that vests based on performance-based criteria.

"Pro-Rata Bonus" means an amount determined as of Executive's Termination Date as follows: (i) if Executive's termination of employment is due to Executive's death or Disability or by reason of a Qualifying Termination that is not a Change in Control Termination, the Pro-Rata Bonus shall equal the actual annual cash bonus earned based on performance through the Termination Date as determined by the Board, multiplied by the Pro-Rata Fraction, payable in a lump sum at the time specified in Section 6.a or Section 6.c (as applicable); and (ii) if Executive's termination of employment is due to a Change in Control Termination, the Pro-Rata Bonus shall equal the target annual cash bonus for the year in which the Termination Date occurs, multiplied by the Pro-Rata Fraction, and payable in a lump sum at the time specified in Section 7.b.

"Pro-Rata Fraction" means a fraction, the numerator of which is the number of days in the calendar year through Executive's Termination Date and the denominator of which is 365.

"Qualifying Termination" means a termination of Executive's employment with the Company during the Term either (i) by the Company other than for Cause, or (ii) by Executive with Good Reason.

"Resignation Notice Period" means the period, not less than 60 days, between the date Executive provides the Company with written notice of his intent to resign from employment with the Company and the intended effective date of such resignation.

"Termination Date" means the date of Executive's termination of employment with the Company as determined under this Agreement.



## EXHIBIT B

### GENERAL RELEASE

I, \_\_\_\_\_ in consideration of and subject to the performance by Axonics Modulation Technologies, Inc. (together with its subsidiaries and successors, the "Company"), of its obligations under the Executive Employment Agreement dated as of \_\_\_\_\_, 2019 (the "Agreement"), do hereby release and forever discharge as of the date hereof the Company and its respective affiliates, subsidiaries and direct or indirect parent entities and all present, former and future directors, officers, agents, representatives, employees, successors and assigns of the Company and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") to the extent provided below (this "General Release"). The Released Parties are intended to be third-party beneficiaries of this General Release, and this General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder. Terms used herein but not otherwise defined shall have the meanings given to them in the Agreement.

1. I understand that any payments or benefits paid or granted to me under the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive certain of the payments and benefits specified in the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter. Such payments and benefits will not be considered compensation for purposes of any employee benefit plan, program, policy or arrangement maintained or hereafter established by the Company or its affiliates.

2. Except as provided in paragraphs 4 and 5 below and except for the provisions of the Agreement which expressly survive the termination of my employment with the Company, I knowingly and voluntarily (for myself, my heirs, executors, administrators and assigns) release and forever discharge the Company and the other Released Parties from any and all claims, suits, controversies, actions, causes of action, cross-claims, counter claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date that this General Release becomes effective and enforceable) and whether known or unknown, suspected, or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, which arise out of or are connected with my employment with, or my separation or termination from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Americans with Disabilities Act Amendments Act of 2008; the Family and Medical Leave Act of 1993; the Labor Management Relations Act; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; the Sarbanes-Oxley Act of 2002; the California Worker Adjustment Retraining and Notification Act; the California Fair Employment and Housing Act; the California Labor Code; the California Family Rights Act; the California Industrial Welfare Commission Wage Orders; the California Constitution; the California Government Code; any applicable Executive Order Programs; the Fair Labor Standards Act; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance, as well as any amendments to any of the foregoing; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters) (all of the foregoing collectively referred to herein as the "Claims").

3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.
4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).
5. I agree that I hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever in respect of any Claim, including, without limitation, reinstatement, back pay, front pay, and any form of injunctive relief. Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law, including the right to file an administrative charge or participate in an administrative investigation or proceeding; provided, however, that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding. Additionally, I am not waiving (i) any right to the severance benefits to which I am entitled under the Agreement, (ii) any claim relating to directors' and officers' liability insurance coverage or any right of indemnification under the Company's organizational documents or otherwise, (iii) claims under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (iv) claims related to reimbursement of ordinary and reasonable business expenses in accordance with the Company's policies in effect from time to time, and (v) claims relating to any outstanding equity-based award on the date of termination in accordance with the terms thereof.
6. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state or local statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims to the maximum extent permitted by law. I further agree that I am not aware of any pending claim of the type described in paragraph 2 above as of the execution of this General Release.
7. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
8. I agree that this General Release and the Agreement are confidential and agree not to disclose any information regarding the terms of this General Release or the Agreement, except to my immediate family and any tax, legal or other counsel that I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.
9. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self regulatory organization or any governmental entity. In addition, nothing in this General Release prevents disclosure of information permitted under applicable law regarding an act of sexual assault, an act of sexual harassment, an act of workplace harassment or discrimination based on sex, or failure to prevent

an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex.

10. I hereby acknowledge that Sections 4 through 10 of the Agreement shall survive my execution of this General Release.

11. I represent that I am not aware of any claim by me other than the claims that are released by this General Release. I acknowledge that I may hereafter discover claims or facts in addition to or different than those which I now know or believe to exist with respect to the subject matter of the release set forth in paragraph 2 above and which, if known or suspected at the time of entering into this General Release, may have materially affected this General Release and my decision to enter into it.

I SPECIFICALLY AND FREELY WAIVE ANY AND ALL RIGHTS I MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

IN WAIVING THE PROTECTIONS OF CIVIL CODE SECTION 1542, I ACKNOWLEDGE AWARENESS OF THE ACTUAL FACTS AND CIRCUMSTANCES SURROUNDING THE AGREEMENT UPON WHICH THIS RELEASE IS GIVEN. TO EFFECT A FULL AND COMPLETE WAIVER AND RELEASE, I ASSUME THE RISK THAT I MAY LATER DISCOVER FACTS DIFFERENT FROM THOSE I NOW KNOW OR BELIEVE TO BE TRUE.

12. Notwithstanding anything in this General Release to the contrary, this General Release shall not relinquish, diminish, or in any way affect any rights or claims arising out of any breach by the Company or by any Released Party of the Agreement after the date hereof.

13. Whenever possible, each provision of this General Release shall be interpreted in, such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

1. I HAVE READ IT CAREFULLY;

2. I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;

3. I VOLUNTARILY CONSENT TO EVERYTHING IN IT;

4. I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
5. I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE TO CONSIDER IT, AND THE CHANGES MADE SINCE MY RECEIPT OF THIS RELEASE ARE NOT MATERIAL OR WERE MADE AT MY REQUEST AND WILL NOT RESTART THE REQUIRED 21 DAY PERIOD;
6. I UNDERSTAND THAT I HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED;
7. I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
8. I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

SIGNED:

DATED:

NAME:

**EXECUTIVE EMPLOYMENT AGREEMENT**

This Executive Employment Agreement (this "Agreement") is dated as of June 5, 2019 by and between Axonics Modulation Technologies, Inc., a Delaware corporation (the "Company"), and Dan L. Dearen ("Executive").

WHEREAS, Executive currently serves as Chief Operating and Financial Officer of the Company pursuant to an Executive Employment Agreement dated May 22, 2014, with a term scheduled to end on July 1, 2019 (the "Original Employment Agreement");

WHEREAS, the Company and Executive desire to continue Executive's employment with the Company following the end of the term of the Original Employment Agreement in accordance with the terms of this Agreement; and

WHEREAS, upon execution, this Agreement shall supersede and replace in its entirety the Original Employment Agreement, which shall no longer be of any force or effect.

NOW, THEREFORE, in consideration of the premises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **DEFINED TERMS.** Exhibit A to this Agreement sets forth defined terms for purposes of this Agreement.
2. **EMPLOYMENT/TERM.** The Company hereby employs Executive to perform the duties and responsibilities set forth below under Section 3 of this Agreement, and Executive hereby accepts such employment, in each case on the terms and conditions set forth in this Agreement. This Agreement shall commence on the Effective Date and remain in effect for five (5) years, unless earlier terminated pursuant to Section 5 of this Agreement (the "Term").
3. **POSITION AND DUTIES.**
  - a. Description of Executive's Position, Duties, Authorities, and Responsibilities. Executive shall serve as the President and Chief Financial Officer of the Company. In such capacity, Executive shall (i) report to the Chief Executive Officer, (ii) devote Executive's full professional time and attention, best efforts, energy and skills to the services required of Executive as an employee of the Company, except for paid time off taken in accordance with the Company's policies and practices, and subject to the Company's policies pertaining to reasonable periods of absence due to sickness, personal injury or other disability; (iii) use Executive's best efforts to promote the interests of the Company; (iv) comply with all applicable governmental laws, rules and regulations and with all of the Company's policies, rules and regulations applicable to employees of the Company; (v) participate in, and comply with all Company directives regarding, workplace investigations; and (vi) discharge Executive's responsibilities in a diligent and faithful manner, consistent with sound business practices and in accordance with the Board's directives.
  - b. Outside Boards. Executive shall obtain the written consent of the Board prior to serving on corporate, civic or charitable boards or committees. This Section 3.b shall not be construed as preventing Executive from serving on the corporate, civic or charitable boards or committees on which Executive serves as of the Effective Date and which have been previously disclosed to the Board in writing; provided that in no event shall any such service or business activity require the provision of substantial services by Executive to the operations or the affairs of such businesses or enterprises such that the provision thereof would interfere in any respect with the performance of Executive's duties hereunder or cause a conflict of interest to the interests of the Company.

#### 4. COMPENSATION AND BENEFITS.

- a. Base Salary. As of the Effective Date, Executive's Base Salary shall be four hundred ten thousand dollars (\$410,000) per year payable in periodic installments in accordance with the Company's regular payroll practices as in effect from time to time. The Board or a duly authorized committee thereof will review the Base Salary on an annual basis and may increase the Base Salary from time to time based on merit or such other considerations as the Board or a duly authorized committee thereof may deem appropriate.
- b. Bonus. Executive shall be eligible to receive an annual cash bonus in an amount up to fifty percent (50%) of Executive's Base Salary for the calendar year for which the annual cash bonus is being paid, as determined in the discretion of the Board or a duly authorized committee thereof, based on the performance of the Company and Executive relative to performance objectives or other metrics as the Board or a duly authorized committee thereof may deem appropriate. The Board shall establish performance objectives or other metrics within 90 days after the beginning of each new calendar year.
- c. Benefits and Vacation. Executive shall be eligible to participate in and receive the benefits under any deferred compensation plan, health, life, accident and disability insurance plans or programs, and any other employee benefit or fringe benefit plans or arrangements that the Company makes available generally to other senior executives of the Company, pursuant to the provisions of such plans, programs or arrangements as in effect from time to time. Executive shall be entitled to four weeks' paid vacation and additional sick days in accordance with the policies of the Company for its employees generally, as in effect from time to time.
- d. Equity Incentive Compensation. Executive shall be eligible to receive grants, at the discretion of the Board or a duly authorized committee thereof, under any long-term equity-based incentive compensation plans established or maintained by the Company for its senior executive officers, in each case subject to the terms and conditions of the applicable plans and award documents with respect to such grants.
- e. Expenses. The Company shall pay or reimburse Executive for all reasonable, ordinary and necessary business expenses incurred or paid by Executive during the Term in the performance of Executive's services under this Agreement in accordance with the applicable policies and procedures of the Company as in effect from time to time, upon the presentation of proper expense statements or such other supporting documentation as the Company may reasonably require.
- f. Auto Allowance. Company shall pay an automotive allowance of one thousand two hundred (\$1,250) per month.

#### 5. TERMINATION OF EMPLOYMENT.

- a. General. Executive's employment may be terminated by either party at any time and for any reason; and upon termination of Executive's employment, the Term shall end.
- b. Resignation without Good Reason. Executive may resign from employment with the Company without Good Reason by providing the Company with at least 60 days' advance written notice. During the Resignation Notice Period, the Company, in its sole discretion, may elect to accelerate Executive's date of termination of employment, it being understood that any such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement. Even if Executive's date of termination is accelerated,

Executive shall be paid Executive's Base Salary, and shall receive Benefits capable of being provided to persons who are not actively employed by the Company, as if Executive had worked through the end of the Resignation Notice Period. The Company reserves the right to require Executive not to be in the offices of the Company or any of its affiliates and/or not to undertake all or any of Executive's duties and/or not to contact clients, colleagues or advisors of the Company or any of its affiliates during all or part of the Resignation Notice Period. During the Resignation Notice Period, Executive's terms and conditions of service and duties of loyalty and confidentiality to the Company shall remain in full force and effect and, during any such Resignation Notice Period, Executive shall continue to perform as an employee in compliance with the terms of this Agreement and all other agreements applicable to Executive with respect to Executive's service with the Company or any of its affiliates.

- c. Death. Executive's employment hereunder shall terminate automatically on the date of Executive's death.
  - d. Disability. At the option of the Company, Executive's employment hereunder may be terminated immediately upon Disability.
  - e. Termination for Cause. Notwithstanding any other provision of this Agreement, the Company may, at any time, immediately terminate Executive's employment for Cause. The Company's lack of immediate action with respect to conduct of Executive that would constitute Cause hereunder shall not preclude the Company from taking later action on such act or taking action with respect to another such act committed by Executive.
  - f. Termination Without Cause. The Company may, at any time, immediately terminate Executive's employment without Cause.
6. **COMPENSATION UPON TERMINATION (OTHER THAN A CHANGE IN CONTROL TERMINATION)**. Following any termination of Executive's employment, the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall immediately cease, and the Company shall have no further obligations to Executive under this Agreement, except to provide (i) the Accrued Obligations, (ii) any additional amounts specifically provided by this Section 6, subject to the applicable terms and conditions of this Section 6, and (iii) any other amounts otherwise required by law.
- a. Death or Disability. If, during the Term, Executive's employment is terminated (x) by reason of Executive's death or (y) by the Company for Disability, in addition to the Accrued Obligations, Executive shall receive the following compensation:
    - i. The Company shall pay to Executive (or to Executive's estate or designated beneficiary in the event of Executive's death) a lump sum amount equal to (A) one (1) year of Base Salary in effect as of the Termination Date, plus (B) the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date, plus (C) if the Termination Date occurs during the second, third or fourth quarter of a year, the Pro-Rata Bonus for that year. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date, provided that on or before the Cash Severance Commencement Date, Executive has executed, and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation. If Executive is unable to execute and deliver such waiver and release

agreement due to death or Disability, then the waiver and release agreement shall be executed and delivered by an authorized agent or representative of Executive and/or Executive's estate.

- ii. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date that are not Performance-Based Awards, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered into after the Effective Date (unless such award agreements expressly reference this Agreement), Executive shall immediately vest in such award. For any such awards that are Performance-Based Awards, vesting shall be based on the terms of the applicable equity compensation plan and award agreement in accordance with Section 6.d. Vested stock options shall remain exercisable during the periods provided in the applicable plan and award agreement.
- b. For Cause or Without Good Reason. If, during the Term, Executive's employment is terminated (i) by the Company for Cause or (ii) by Executive for any reason other than for Good Reason, the Company shall pay to Executive the Accrued Obligations.
  - c. Without Cause or for Good Reason (Other than a Change in Control Termination). If, during the Term, Executive's employment with the Company terminates by reason of a Qualifying Termination (other than a Change in Control Termination), in addition to the Accrued Obligations, Executive shall receive the following compensation:
    - i. Executive shall receive cash severance in an amount equal to one year of Base Salary as in effect on the Termination Date. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date.
    - ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
    - iii. If the Termination Date occurs during the second, third or fourth quarter of a year, Executive shall be paid the Pro-Rata Bonus for that year, made in a single cash payment on the Cash Severance Commencement Date.
    - iv. Executive shall be paid an amount equal to 12 months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.
    - v. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered after the Effective Date (unless such award agreements expressly reference this Agreement), (A) for any such awards that are not Performance-Based Awards, Executive shall vest on the Cash Severance Payment Date in the portion of the award that was otherwise scheduled to vest within 12 months following the



Termination Date; and (B) for any such awards that are Performance-Based Awards, the award shall vest at the end of the applicable performance period based on actual performance results and prorated for the portion of the performance period worked through the Termination Date.

All payments under clauses (i) - (v) of this Section 6.c. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement.

- d. Equity Incentive Compensation. Except as otherwise expressly provided herein, upon termination of Executive's employment during the Term, any outstanding Equity Incentive Compensation awards shall be forfeited or vest in accordance with the terms of the applicable plan and award agreement, and shall be subject to such other terms and conditions of such plan and award agreement that may apply as a result of such termination.
- e. Benefits. Notwithstanding anything in this Section 6 to the contrary, the Benefits to which Executive is entitled upon or by reason of the termination of Executive's employment with the Company shall be subject to, and shall be governed by, the terms and conditions of the applicable plans, programs and arrangements maintained by the Company with respect to such Benefits. Nothing in this Agreement shall be construed to be a waiver by the Executive of any benefits accrued for or due to the Executive under any employee benefit plan (as such term is defined in the Employee Retirement Income Security Act of 1974, as amended) maintained by the Company, if any, except that the Executive shall not be entitled to any severance benefits pursuant to any severance plan or program of the Company other than as provided herein.
- f. D&O Insurance, and Indemnification. Through at least the sixth anniversary of the Termination Date, the Company shall maintain coverage for the Executive as a named insured on all directors' and officers' insurance maintained by the Company for the benefit of its directors and officers on at least the same basis as all other covered individuals and provide the Executive with at least the same corporate indemnification as it provides to other senior executives.
- g. Expiration of Term. Notwithstanding anything in this Section 6 to the contrary, the expiration of the Term by itself shall not entitle Executive to receipt of any payments under this Section 6.

## 7. CHANGE IN CONTROL.

- a. Treatment of Equity Incentive Compensation. As to any outstanding, unvested Equity Incentive Compensation awards immediately before a Change in Control, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered after the Effective Date (unless such award agreements expressly reference this Agreement):
  - i. For any such awards that are not Performance-Based Awards, (A) the awards shall vest in full immediately upon the Change in Control, and (B) any vested stock options shall remain exercisable during the periods provided in the applicable plans and award agreement.
  - ii. For any such awards that are Performance-Based Awards, the award shall be fully vested based on the

greater of (A) assumed target performance or (B) performance as determined by the Board immediately before the Change in Control.

- b. **Change in Control Severance.** If, during the Term, Executive's employment with the Company terminates by reason of a Change in Control Termination, in addition to the Accrued Obligations, Executive shall receive the following compensation:
- i. Executive shall receive cash severance in an amount equal to the sum of (A) one year of Base Salary as in effect on the Termination Date plus (B) the amount of the prior-year annual bonus. Such amount shall be payable in a single cash payment on the Cash Severance Commencement Date.
  - ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
  - iii. Executive shall be paid the Pro-Rata Bonus in a single cash payment on the Cash Severance Commencement Date.
  - iv. Executive shall be paid an amount equal to 12 months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.

All payments under clauses (i) - (iv) of this Section 7.b. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement. For avoidance of doubt, if amounts are payable to Executive under this Section 7.b, no amounts shall be payable to Executive under Section 6.c.

8. **NONSOLICITATION COVENANT.** Executive agrees that Executive shall not directly or indirectly during the Term and for one (1) year after termination of Executive's employment, either alone or through or in conjunction with any other person or entity employ, solicit, induce, or recruit, any person employed by any member of the Company Group at any time within the one (1) year period immediately preceding such employment, solicitation, inducement or recruitment.
9. **ADJUSTMENTS TO PAYMENTS.** Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment or distribution by the Company to Executive or for Executive's benefit (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise) (the "Payments") would be subject to the excise tax imposed by Section 4999 (or any successor provisions) of the Code, or any interest or penalty is incurred by Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, is hereinafter collectively referred to as the "Excise Tax"), then the Payments shall be reduced (but not below zero) if and to the extent that such reduction would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income taxes and the imposition of the Excise Tax), than if Executive

received all of the Payments. The Company shall reduce or eliminate the Payments, by first reducing or eliminating the portion of the Payments which are not payable in cash and then by reducing or eliminating cash payments, in each case in reverse order beginning with payments or benefits which are to be paid the farthest in time from the determination. All determinations required to be made under this Section, including whether and when an adjustment to any Payments is required and, if applicable, which Payments are to be so adjusted, shall be made by an independent accounting firm selected by the Company from among the four (4) largest accounting firms in the United States or any nationally recognized financial planning and benefits consulting company (the "Accounting Firm") which shall provide detailed supporting calculations both to the Company and to Executive within fifteen (15) business days of the receipt of notice from Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, Executive shall appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. If the Accounting Firm determines that no Excise Tax is payable by Executive, it shall furnish Executive with a written opinion that failure to report the Excise Tax on Executive's applicable federal income tax return would not result in the imposition of a negligence or similar penalty. Any determination by the Accounting Firm shall be binding upon the Company and Executive.

10. **COOPERATION.** Upon the receipt of reasonable notice from the Company (including outside counsel), Executive agrees that while employed by the Company and thereafter, Executive will respond and provide information with regard to matters in which Executive has knowledge as a result of Executive's employment with the Company, and will provide reasonable assistance to the Company, its affiliates and their respective representatives in defense of all claims that may be made against the Company or its affiliates, and will assist the Company and its affiliates in the prosecution of all claims that may be made by the Company or its affiliates, to the extent that such claims may relate to the period of Executive's employment with the Company. Executive agrees to promptly inform the Company if Executive becomes aware of any lawsuit involving such claims that may be filed or threatened against the Company or its affiliates. Executive also agrees to promptly inform the Company (to the extent that Executive is legally permitted to do so) if Executive is asked to assist in any investigation of the Company or its affiliates (or their actions), regardless of whether a lawsuit or other proceeding has then been filed against the Company or its affiliates with respect to such investigation, and shall not provide such assistance unless legally required. Upon presentation of appropriate documentation, the Company shall pay or reimburse Executive for all reasonable out-of-pocket travel, duplicating or telephonic expenses incurred by Executive in complying with this Section 10. For the first five hours of cooperation in any calendar month during the period of cooperation, Executive shall provide the specified cooperation services without hourly reimbursement. For each hour of cooperation or part thereof after five hours, in any calendar month, Company shall reimburse Executive at the hourly rate determined by this fraction: (final Base Salary / 2,080 hours).

11. **ARBITRATION.** The parties hereby agree to submit all disputes, claims and controversies ("Claims") between the parties or related to or arising out of their employment relationship by and between the Company and Executive to final, binding arbitration to the fullest extent permitted by law. The Federal Arbitration Act., 9 U.S.C. § 1 *et seq.*, shall govern the interpretation and enforcement of this Section 11. The court and not the arbitrator will determine matters of enforceability of this Section 11.

a. Statute of Limitations. The statutory limitations period applicable to a Claim asserted in a civil action shall apply to any such Claim asserted in any arbitration proceeding under this Section 11. Arbitration is commenced

for limitations purposes by submitting the matter to the arbitral forum.

- b. Individual Basis. All Claims that are subject to arbitration under this Section 11 must and will take place on an individual basis only.
- c. Venue. Binding arbitration under this Section 11 shall be conducted in California unless required by law to be conducted elsewhere, in which case it shall be conducted where required by law.
- d. Applicable Rules. The arbitration proceeding, including discovery, shall be conducted in accordance with the Federal Arbitration Act, the JAMS Policy on Employment Arbitration Minimum Standards and the JAMS Employment Arbitration Rules and Procedures then in effect (the "JAMS Rules"). Executive understands that if Executive wishes to receive a copy of the JAMS Rules currently in effect, Executive may inform the Company in writing, and the Company will provide them to Executive before Executive executes this Agreement. Executive also understand that JAMS Rules are available online at <http://www.jamsadr.com/rules-employment-arbitration/>.
- e. Arbitrator Selection. The arbitration shall be conducted before a neutral arbitrator selected by all parties in accordance with JAMS Rules.
- f. Cost Allocation. If required by applicable law, the Company shall pay all additional costs peculiar to the arbitration to the extent such costs would not otherwise be incurred in a court proceeding (for instance, the Company shall pay the arbitrator's fees, and the JAMS administration and filing fees, to the extent such fees exceed court filing fees).
- g. Attorneys' Fees and Costs. Each party shall pay such party's own costs and attorneys' fees except that the arbitrator shall award costs and attorneys' fees to the prevailing party.
- h. Written Decision. The arbitrator shall follow applicable substantive law and, within 30 days after the conclusion of the arbitration, issue a written opinion setting forth the factual and legal bases for his or her decision.
- i. Acknowledgement. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE'S RIGHT TO A JURY TRIAL BY ENTERING INTO THIS AGREEMENT. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE'S RIGHT TO COMMENCE OR PARTICIPATE IN A CLASS OR COLLECTIVE ACTION AND INSTEAD AGREES TO ARBITRATE ANY EMPLOYMENT-RELATED DISPUTE ON AN INDIVIDUAL BASIS ONLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## 12. CODE SECTION 409A.

- a. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended ("Section 409A"), including the exceptions thereto, and shall be construed and administered in accordance with such intent. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with Section 409A or an applicable exemption. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, each separate payment or installment payment provided under this Agreement shall be treated as a separate payment. Any

payments to be made under this Agreement in connection with a termination of employment shall only be made if such termination of employment constitutes a “separation from service” under Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Executive on account of non-compliance with Section 409A.

- b. Notwithstanding any other provision of this Agreement, if at the time of Executive’s termination of employment, Executive is a “specified employee,” determined in accordance with Section 409A, any payments and benefits provided under this Agreement that constitute “nonqualified deferred compensation” subject to Section 409A that are provided to Executive on account of Executive’s separation from service shall not be paid until the first payroll date to occur following the six-month anniversary of Executive’s termination date (“Specified Employee Payment Date”). The aggregate amount of any payments that would otherwise have been made during such six-month period shall be paid in a lump sum on the Specified Employee Payment Date and thereafter, any remaining payments shall be paid without delay in accordance with their original schedule. If Executive dies before the Specified Employee Payment Date, any delayed payments shall be paid to Executive’s estate in a lump sum within one week of Executive’s death.
- c. To the extent required by Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; (ii) any reimbursement of an eligible expense shall be paid to Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit. Any tax gross-up payments provided under this Agreement shall be paid to Executive on or before December 31 of the calendar year immediately following the calendar year in which Executive remits the related taxes.
- d. Whenever in this Agreement a payment or benefit is conditioned on Executive’s execution of a release of claims, such release must be executed, and all revocation periods shall have expired within 60 days after the Termination Date; failing which such payment or benefit shall be forfeited. If such payment or benefit constitutes “nonqualified deferred compensation” subject to Section 409A, and if such 60-day period begins in one calendar year and ends in the next calendar year, the payment or benefit shall not be made or commence before the second such calendar year, even if the release becomes irrevocable in the first such calendar year.

### 13. GENERAL PROVISIONS.

- a. Notices. All notices, requests, demands, statements, reports and other communications provided for by this Agreement shall be in writing (email being sufficient) and shall be sent by (i) certified mail, return receipt requested, postage prepaid, (ii) nationally recognized overnight delivery service, (iii) personal delivery or (iv) email. A notice shall be deemed to be given (x) if notice is delivered by certified mail or nationally recognized overnight delivery service, on the business day following the date of its mailing, (y) if such notice is delivered personally, upon delivery, or (z) if such notice is sent by email, upon sending. Each party may change such party’s address for notices by giving notice in accordance herewith. All notices shall be addressed and mailed

or delivered to the following addresses:

If to the COMPANY:

Attn: Chief Executive Officer  
Axonics Modulation Technologies, Inc.  
26 Technology Drive  
Irvine, CA 92618

If to EXECUTIVE:

Dan L. Dearen

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- b. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, representations and understandings (whether written or oral) of the parties with respect to the subject matter hereof, including the Original Employment Agreement, and any other agreement between Executive and the Company or any of its affiliates and subsidiaries.
- c. Modification and Waiver. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by Executive and a duly authorized representative of the Company (other than Executive). A waiver of any term or condition of this Agreement shall not be construed as a general waiver by the Company. If one or more provisions of this Agreement are held to be illegal or unenforceable under applicable law, such illegal or unenforceable provision(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms.
- d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of law principles, and any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California.
- e. Assignment; Binding Effect. This Agreement is fully assignable and transferable by the Company, but any purported assignment or transfer by Executive is void. It is hereby agreed that Executive's rights and obligations under this Agreement are personal and not assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties.

**EXECUTIVE HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS AND ACCEPTS THE OBLIGATIONS WHICH IT IMPOSES UPON EXECUTIVE WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO EXECUTIVE TO INDUCE EXECUTIVE TO SIGN THIS AGREEMENT. EXECUTIVE SIGNS THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT THE COMPANY WILL RETAIN ONE COUNTERPART AND THE OTHER COUNTERPART WILL BE RETAINED BY EXECUTIVE.**

- f. Injunctive Relief. Executive agrees that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, to the fullest extent permitted by applicable law, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies and without any requirement to post bond.
- g. Survival. This Agreement shall terminate upon the expiration of the Term; provided that the provisions of Section 1 and Sections 6 through 13 shall survive termination of this Agreement and termination of Executive's employment regardless of the reason for such termination.
- h. Withholding. The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to applicable law.

*[Signature page follows]*

In witness whereof, the parties have executed this Agreement as of the date first above written.

**COMPANY:**

**Axonics Modulation Technologies, Inc.**

By: /s/ Raymond W. Cohen

Raymond W. Cohen

Chief Executive Officer

**EXECUTIVE:**

/s/ Dan L. Dearen

Dan L. Dearen

*Signature Page to Executive Employment Agreement*



## EXHIBIT A

For purposes of interpreting the Agreement, the following definitions shall apply:

“Accrued Obligations” means, in connection with Executive’s termination of employment with the Company for any reason, (i) any unpaid Base Salary accrued through the Termination Date, payable as soon as practicable (not more than 30 days) after the Termination Date, and (ii) any unpaid Benefits accrued through the Termination Date to which Executive is entitled under any plans, programs or arrangements applicable to terminated employees in which Executive participates, payable in accordance with the terms of such plans, programs or arrangements.

“Base Salary” means Executive’s annual rate of base salary from the Company as provided in Section 4.a (including any permitted adjustments to the annual rate of base salary during the Term as provided by Section 4.a).

“Benefits” means the employee benefits provided to Executive by the Company under the provisions of Section 4.c.

“Board” means the Board of Directors of the Company.

“Cash Severance Commencement Date” means the 60th day after the Termination Date.

“Cause” means the occurrence of any of the following by Executive: (i) fraud, misappropriation, embezzlement or acts of similar dishonesty; (ii) conviction of, or plea of *nolo contendere* to, a felony; (iii) excessive use of alcohol or illegal use of drugs in the workplace; (iv) gross negligence or intentional or willful misconduct by Executive in the performance of Executive’s duties; (v) breach of Executive’s duty of loyalty to the Company or diversion or usurpation of corporate opportunities properly belonging to the Company; (vi) the knowing breach of the Company’s confidentiality agreement to which the Executive is a party to; or (vii) violation of any material provision of this Agreement or any other material provision of any other agreement between Executive and the Company.

“Change in Control” means a “Change in Control” as defined under the Axonics Modulation Technologies, Inc. 2018 Omnibus Incentive Plan.

“Change in Control Protected Period” means the period commencing on the date of a Change in Control and ending on first anniversary of the date of the Change in Control.

“Change in Control Termination” means a Qualifying Termination that occurs during the Change in Control Protected Period.

“Disability” means any physical or mental illness, impairment or incapacity which, in the good faith determination of the Board, has prevented Executive from performing the essential functions of Executive’s position hereunder for a period of 90 or more consecutive days (or for shorter periods totaling 120 days) during any period of 12 consecutive months, consistent with applicable law.

“Effective Date” means July 1, 2019, the effective date of this Agreement and the first day of the Term.

“Equity Incentive Compensation” means the equity compensation awards provided to Executive by the Company under Section 4.d.

“Good Reason” means the occurrence of any of the following events, without the express consent of Executive, (i) a material diminution in Executive’s Base Salary, or (ii) a material diminution in Executive’s title, position, duties, authorities or responsibilities (other than temporarily while physically or mentally incapacitated or as required by applicable law). In order for Executive to terminate Executive’s employment for Good Reason, (x) Executive must furnish written notice to the Company

setting forth the facts and circumstances claimed to provide a basis for such resignation within 30 days following the occurrence of such facts and circumstances, (y) the Company shall have 30 days after its receipt of such written notice to cure such facts and circumstances in all material respects (and if so cured, then Executive shall not be permitted to resign for Good Reason in respect thereof), and (z) Executive must actually terminate Executive's employment within 30 days following the expiration of the Company's cure period set forth above.

"Performance-Based Award" means an option, restricted stock or other Equity Incentive Compensation award that vests based on performance-based criteria.

"Pro-Rata Bonus" means an amount determined as of Executive's Termination Date as follows: (i) if Executive's termination of employment is due to Executive's death or Disability or by reason of a Qualifying Termination that is not a Change in Control Termination, the Pro-Rata Bonus shall equal the actual annual cash bonus earned based on performance through the Termination Date as determined by the Board, multiplied by the Pro-Rata Fraction, payable in a lump sum at the time specified in Section 6.a or Section 6.c (as applicable); and (ii) if Executive's termination of employment is due to a Change in Control Termination, the Pro-Rata Bonus shall equal the target annual cash bonus for the year in which the Termination Date occurs, multiplied by the Pro-Rata Fraction, and payable in a lump sum at the time specified in Section 7.b.

"Pro-Rata Fraction" means a fraction, the numerator of which is the number of days in the calendar year through Executive's Termination Date and the denominator of which is 365.

"Qualifying Termination" means a termination of Executive's employment with the Company during the Term either (i) by the Company other than for Cause, or (ii) by Executive with Good Reason.

"Resignation Notice Period" means the period, not less than 60 days, between the date Executive provides the Company with written notice of his intent to resign from employment with the Company and the intended effective date of such resignation.

"Termination Date" means the date of Executive's termination of employment with the Company as determined under this Agreement.

## EXHIBIT B

### GENERAL RELEASE

I, \_\_\_\_\_ in consideration of and subject to the performance by Axonics Modulation Technologies, Inc. (together with its subsidiaries and successors, the "Company"), of its obligations under the Executive Employment Agreement dated as of \_\_\_\_\_, 2019 (the "Agreement"), do hereby release and forever discharge as of the date hereof the Company and its respective affiliates, subsidiaries and direct or indirect parent entities and all present, former and future directors, officers, agents, representatives, employees, successors and assigns of the Company and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") to the extent provided below (this "General Release"). The Released Parties are intended to be third-party beneficiaries of this General Release, and this General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder. Terms used herein but not otherwise defined shall have the meanings given to them in the Agreement.

1. I understand that any payments or benefits paid or granted to me under the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive certain of the payments and benefits specified in the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter. Such payments and benefits will not be considered compensation for purposes of any employee benefit plan, program, policy or arrangement maintained or hereafter established by the Company or its affiliates.

2. Except as provided in paragraphs 4 and 5 below and except for the provisions of the Agreement which expressly survive the termination of my employment with the Company, I knowingly and voluntarily (for myself, my heirs, executors, administrators and assigns) release and forever discharge the Company and the other Released Parties from any and all claims, suits, controversies, actions, causes of action, cross-claims, counter claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date that this General Release becomes effective and enforceable) and whether known or unknown, suspected, or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, which arise out of or are connected with my employment with, or my separation or termination from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Americans with Disabilities Act Amendments Act of 2008; the Family and Medical Leave Act of 1993; the Labor Management Relations Act; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; the Sarbanes-Oxley Act of 2002; the California Worker Adjustment Retraining and Notification Act; the California Fair Employment and Housing Act; the California Labor Code; the California Family Rights Act; the California Industrial Welfare Commission Wage Orders; the California Constitution; the California Government Code; any applicable Executive Order Programs; the Fair Labor Standards Act; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance, as well as any amendments to any of the foregoing; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters) (all of the foregoing collectively referred to herein as the "Claims").

3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.
4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).
5. I agree that I hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever in respect of any Claim, including, without limitation, reinstatement, back pay, front pay, and any form of injunctive relief. Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law, including the right to file an administrative charge or participate in an administrative investigation or proceeding; provided, however, that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding. Additionally, I am not waiving (i) any right to the severance benefits to which I am entitled under the Agreement, (ii) any claim relating to directors' and officers' liability insurance coverage or any right of indemnification under the Company's organizational documents or otherwise, (iii) claims under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (iv) claims related to reimbursement of ordinary and reasonable business expenses in accordance with the Company's policies in effect from time to time, and (v) claims relating to any outstanding equity-based award on the date of termination in accordance with the terms thereof.
6. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state or local statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims to the maximum extent permitted by law. I further agree that I am not aware of any pending claim of the type described in paragraph 2 above as of the execution of this General Release.
7. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
8. I agree that this General Release and the Agreement are confidential and agree not to disclose any information regarding the terms of this General Release or the Agreement, except to my immediate family and any tax, legal or other counsel that I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.
9. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self regulatory organization or any governmental entity. In addition, nothing in this General Release prevents disclosure of information permitted under applicable law regarding an act of sexual assault, an act of sexual harassment, an act of workplace harassment or discrimination based on sex, or failure to prevent

an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex.

10. I hereby acknowledge that Sections 4 through 10 of the Agreement shall survive my execution of this General Release.

11. I represent that I am not aware of any claim by me other than the claims that are released by this General Release. I acknowledge that I may hereafter discover claims or facts in addition to or different than those which I now know or believe to exist with respect to the subject matter of the release set forth in paragraph 2 above and which, if known or suspected at the time of entering into this General Release, may have materially affected this General Release and my decision to enter into it.

I SPECIFICALLY AND FREELY WAIVE ANY AND ALL RIGHTS I MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

IN WAIVING THE PROTECTIONS OF CIVIL CODE SECTION 1542, I ACKNOWLEDGE AWARENESS OF THE ACTUAL FACTS AND CIRCUMSTANCES SURROUNDING THE AGREEMENT UPON WHICH THIS RELEASE IS GIVEN. TO EFFECT A FULL AND COMPLETE WAIVER AND RELEASE, I ASSUME THE RISK THAT I MAY LATER DISCOVER FACTS DIFFERENT FROM THOSE I NOW KNOW OR BELIEVE TO BE TRUE.

12. Notwithstanding anything in this General Release to the contrary, this General Release shall not relinquish, diminish, or in any way affect any rights or claims arising out of any breach by the Company or by any Released Party of the Agreement after the date hereof.

13. Whenever possible, each provision of this General Release shall be interpreted in, such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

1. I HAVE READ IT CAREFULLY;

2. I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;

3. I VOLUNTARILY CONSENT TO EVERYTHING IN IT;

4. I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
5. I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE TO CONSIDER IT, AND THE CHANGES MADE SINCE MY RECEIPT OF THIS RELEASE ARE NOT MATERIAL OR WERE MADE AT MY REQUEST AND WILL NOT RESTART THE REQUIRED 21 DAY PERIOD;
6. I UNDERSTAND THAT I HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED;
7. I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
8. I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

SIGNED:

DATED:

NAME:

## EXECUTIVE EMPLOYMENT AGREEMENT

This Executive Employment Agreement (this "Agreement") is dated as of June 5, 2019 by and between Axonics Modulation Technologies, Inc., a Delaware corporation (the "Company"), and Rinda Sama ("Executive").

WHEREAS, Executive currently serves as Chief Operating Officer of the Company pursuant to an Executive Employment Agreement dated January 1, 2015, with a term scheduled to end on May 20, 2019 (the "Original Employment Agreement");

WHEREAS, the Company and Executive desire to continue Executive's employment with the Company following the end of the term of the Original Employment Agreement in accordance with the terms of this Agreement; and

WHEREAS, upon execution, this Agreement shall supersede and replace in its entirety the Original Employment Agreement, which shall no longer be of any force or effect.

NOW, THEREFORE, in consideration of the premises and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **DEFINED TERMS.** Exhibit A to this Agreement sets forth defined terms for purposes of this Agreement.
2. **EMPLOYMENT/TERM.** The Company hereby employs Executive to perform the duties and responsibilities set forth below under Section 3 of this Agreement, and Executive hereby accepts such employment, in each case on the terms and conditions set forth in this Agreement. This Agreement shall commence on the Effective Date and remain in effect for five (5) years, unless earlier terminated pursuant to Section 5 of this Agreement (the "Term").
3. **POSITION AND DUTIES.**
  - a. Description of Executive's Position, Duties, Authorities, and Responsibilities. Executive shall serve as the Chief Operating Officer of the Company. In such capacity, Executive shall (i) report to the President & Chief Financial Officer, (ii) devote Executive's full professional time and attention, best efforts, energy and skills to the services required of Executive as an employee of the Company, except for paid time off taken in accordance with the Company's policies and practices, and subject to the Company's policies pertaining to reasonable periods of absence due to sickness, personal injury or other disability; (iii) use Executive's best efforts to promote the interests of the Company; (iv) comply with all applicable governmental laws, rules and regulations and with all of the Company's policies, rules and regulations applicable to employees of the Company; (v) participate in, and comply with all Company directives regarding, workplace investigations; and (vi) discharge Executive's responsibilities in a diligent and faithful manner, consistent with sound business practices and in accordance with the Board's directives.
  - b. Outside Boards. It is acknowledged that Executive currently serves on a charitable board. Executive shall obtain the written consent of the Board prior to serving on a public company or other corporate board. This Section 3.b shall not be construed as preventing Executive from serving on the corporate, civic or charitable boards or committees on which Executive serves as of the Effective Date which has been previously disclosed to the CEO of the Company; provided that in no event shall any such service or business activity require the provision of substantial services by Executive to the operations or the affairs of such businesses or enterprises such that the provision thereof would interfere in any respect with the performance of Executive's duties hereunder or

cause a conflict of interest to the interests of the Company.

#### 4. COMPENSATION AND BENEFITS.

- a. Base Salary. As of the Effective Date, Executive's Base Salary shall be three hundred fifty dollars (\$350,000) per year payable in periodic installments in accordance with the Company's regular payroll practices as in effect from time to time. The Board or a duly authorized committee thereof will review the Base Salary on an annual basis and may increase the Base Salary from time to time based on merit or such other considerations as the Board or a duly authorized committee thereof may deem appropriate.
- b. Bonus. Executive shall be eligible to receive an annual cash bonus in an amount up to fifty percent (50%) of Executive's Base Salary for the calendar year for which the annual cash bonus is being paid, as determined in the discretion of the Board or a duly authorized committee thereof, based on the performance of the Company and Executive relative to performance objectives or other metrics as the Board or a duly authorized committee thereof may deem appropriate. The Board shall establish performance objectives or other metrics within 90 days after the beginning of each new calendar year.
- c. Benefits and Vacation. Executive shall be eligible to participate in and receive the benefits under any deferred compensation plan, health, life, accident and disability insurance plans or programs, and any other employee benefit or fringe benefit plans or arrangements that the Company makes available generally to other senior executives of the Company, pursuant to the provisions of such plans, programs or arrangements as in effect from time to time. Executive shall be entitled to four weeks' paid vacation and additional sick days in accordance with the policies of the Company for its employees generally, as in effect from time to time.
- d. Equity Incentive Compensation. Executive shall be eligible to receive grants, at the discretion of the Board or a duly authorized committee thereof, under any long-term equity-based incentive compensation plans established or maintained by the Company for its senior executive officers, in each case subject to the terms and conditions of the applicable plans and award documents with respect to such grants.
- e. Expenses. The Company shall pay or reimburse Executive for all reasonable, ordinary and necessary business expenses incurred or paid by Executive during the Term in the performance of Executive's services under this Agreement in accordance with the applicable policies and procedures of the Company as in effect from time to time, upon the presentation of proper expense statements or such other supporting documentation as the Company may reasonably require.

#### 5. TERMINATION OF EMPLOYMENT.

- a. General. Executive's employment may be terminated by either party at any time and for any reason; and upon termination of Executive's employment, the Term shall end.
- b. Resignation without Good Reason. Executive may resign from employment with the Company without Good Reason by providing the Company with at least 60 days' advance written notice. During the Resignation Notice Period, the Company, in its sole discretion, may elect to accelerate Executive's date of termination of employment, it being understood that any such termination shall still be treated as a voluntary resignation without Good Reason for purposes of this Agreement. Even if Executive's date of termination is accelerated, Executive shall be paid Executive's Base Salary, and shall receive Benefits capable of being provided to persons



who are not actively employed by the Company, as if Executive had worked through the end of the Resignation Notice Period. The Company reserves the right to require Executive not to be in the offices of the Company or any of its affiliates and/or not to undertake all or any of Executive's duties and/or not to contact clients, colleagues or advisors of the Company or any of its affiliates during all or part of the Resignation Notice Period. During the Resignation Notice Period, Executive's terms and conditions of service and duties of loyalty and confidentiality to the Company shall remain in full force and effect and, during any such Resignation Notice Period, Executive shall continue to perform as an employee in compliance with the terms of this Agreement and all other agreements applicable to Executive with respect to Executive's service with the Company or any of its affiliates.

- c. Death. Executive's employment hereunder shall terminate automatically on the date of Executive's death.
  - d. Disability. At the option of the Company, Executive's employment hereunder may be terminated immediately upon Disability.
  - e. Termination for Cause. Notwithstanding any other provision of this Agreement, the Company may, at any time, immediately terminate Executive's employment for Cause. The Company's lack of immediate action with respect to conduct of Executive that would constitute Cause hereunder shall not preclude the Company from taking later action on such act or taking action with respect to another such act committed by Executive.
  - f. Termination Without Cause. The Company may, at any time, immediately terminate Executive's employment without Cause.
6. **COMPENSATION UPON TERMINATION (OTHER THAN A CHANGE IN CONTROL TERMINATION)**. Following any termination of Executive's employment, the obligations of the Company to pay or provide Executive with compensation and benefits under Section 4 shall immediately cease, and the Company shall have no further obligations to Executive under this Agreement, except to provide (i) the Accrued Obligations, (ii) any additional amounts specifically provided by this Section 6, subject to the applicable terms and conditions of this Section 6, and (iii) any other amounts otherwise required by law.
- a. Death or Disability. If, during the Term, Executive's employment is terminated (x) by reason of Executive's death or (y) by the Company for Disability, in addition to the Accrued Obligations, Executive shall receive the following compensation:
    - i. The Company shall pay to Executive (or to Executive's estate or designated beneficiary in the event of Executive's death) a lump sum amount equal to (A) one (1) year of Base Salary in effect as of the Termination Date, plus (B) the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date, plus (C) if the Termination Date occurs during the second, third or fourth quarter of a year, the Pro-Rata Bonus for that year. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date, provided that on or before the Cash Severance Commencement Date, Executive has executed, and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation. If Executive is unable to execute and deliver such waiver and release agreement due to death or Disability, then the waiver and release agreement shall be executed and

delivered by an authorized agent or representative of Executive and/or Executive's estate.

- ii. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date that are not Performance-Based Awards, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered into after the Effective Date (unless such award agreements expressly reference this Agreement), Executive shall immediately vest in such award. For any such awards that are Performance-Based Awards, vesting shall be based on the terms of the applicable equity compensation plan and award agreement in accordance with Section 6.d. Vested stock options shall remain exercisable during the periods provided in the applicable plan and award agreement.
- b. For Cause or Without Good Reason. If, during the Term, Executive's employment is terminated (i) by the Company for Cause or (ii) by Executive for any reason other than for Good Reason, the Company shall pay to Executive the Accrued Obligations.
  - c. Without Cause or for Good Reason (Other than a Change in Control Termination). If, during the Term, Executive's employment with the Company terminates by reason of a Qualifying Termination (other than a Change in Control Termination), in addition to the Accrued Obligations, Executive shall receive the following compensation:
    - i. Executive shall receive cash severance in an amount equal to one (1) year of Base Salary as in effect on the Termination Date. Such payment shall be made in a single cash payment on the Cash Severance Commencement Date.
    - ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
    - iii. If the Termination Date occurs during the second, third or fourth quarter of a year, Executive shall be paid the Pro-Rata Bonus for that year, made in a single cash payment on the Cash Severance Commencement Date.
    - iv. Executive shall be paid an amount equal to 12 months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.
    - v. As to any outstanding, unvested Equity Incentive Compensation awards on the Termination Date, for any such awards that are Performance-Based Awards, the award shall vest at the end of the applicable performance period based on actual performance results and prorated for the portion of the performance period worked through the Termination Date.

All payments under clauses (i) - (v) of this Section 6.c. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the

form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement.

- d. Equity Incentive Compensation. Except as otherwise expressly provided herein, upon termination of Executive's employment during the Term, any outstanding Equity Incentive Compensation awards shall be forfeited or vest in accordance with the terms of the applicable plan and award agreement, and shall be subject to such other terms and conditions of such plan and award agreement that may apply as a result of such termination.
- e. Benefits. Notwithstanding anything in this Section 6 to the contrary, the Benefits to which Executive is entitled upon or by reason of the termination of Executive's employment with the Company shall be subject to, and shall be governed by, the terms and conditions of the applicable plans, programs and arrangements maintained by the Company with respect to such Benefits. Nothing in this Agreement shall be construed to be a waiver by the Executive of any benefits accrued for or due to the Executive under any employee benefit plan (as such term is defined in the Employee Retirement Income Security Act of 1974, as amended) maintained by the Company, if any, except that the Executive shall not be entitled to any severance benefits pursuant to any severance plan or program of the Company other than as provided herein.
- f. D&O Insurance, and Indemnification. Through at least the sixth anniversary of the Termination Date, the Company shall maintain coverage for the Executive as a named insured on all directors' and officers' insurance maintained by the Company for the benefit of its directors and officers on at least the same basis as all other covered individuals and provide the Executive with at least the same corporate indemnification as it provides to other senior executives.
- g. Expiration of Term. Notwithstanding anything in this Section 6 to the contrary, the expiration of the Term by itself shall not entitle Executive to receipt of any payments under this Section 6.

## 7. CHANGE IN CONTROL.

- a. Treatment of Equity Incentive Compensation. As to any outstanding, unvested Equity Incentive Compensation awards immediately before a Change in Control, except to the extent that the applicable award agreement or equity compensation plan provides for better treatment and notwithstanding the terms of any applicable award agreements entered after the Effective Date (unless such award agreements expressly reference this Agreement):
  - i. For any such awards that are not Performance-Based Awards, (A) the awards shall vest in full immediately upon the Change in Control, and (B) any vested stock options shall remain exercisable during the periods provided in the applicable plans and award agreement.
  - ii. For any such awards that are Performance-Based Awards, the award shall be fully vested based on the greater of (A) assumed target performance or (B) performance as determined by the Board immediately before the Change in Control.
- b. Change in Control Severance. If, during the Term, Executive's employment with the Company terminates by reason of a Change in Control Termination, in addition to the Accrued Obligations, Executive shall receive the following compensation:

- i. Executive shall receive cash severance in an amount equal to one year of Base Salary as in effect on the Termination Date. Such amount shall be payable in a single cash payment on the Cash Severance Commencement Date.
- ii. Executive shall be paid the annual bonus earned based on performance for the year immediately preceding the year in which the Termination Date occurs, to the extent such bonus had not been paid as of the Termination Date. Such bonus shall be paid at the same time bonuses are paid to other employees.
- iii. Executive shall be paid the Pro-Rata Bonus in a single cash payment on the Cash Severance Commencement Date.
- iv. Executive shall be paid an amount equal to 12 months of COBRA premiums based on the terms of Company's group health plan and Executive's coverage under such plan as of the Termination Date (regardless of any COBRA election actually made by Executive or the actual COBRA coverage period under the Company's group health plan), payable in a single cash payment on the Cash Severance Commencement Date.

All payments under clauses (i) - (iv) of this Section 7.b. are conditioned on (A) Executive, on or before the Cash Severance Commencement Date, having executed and delivered a general waiver and release agreement in the form of Exhibit B, attached, or in a form and with substance satisfactory to the Company, that is no longer subject to revocation, and (B) Executive's compliance with all applicable post-employment covenants with the Company, including those set forth in Section 8 of this Agreement. For avoidance of doubt, if amounts are payable to Executive under this Section 7.b, no amounts shall be payable to Executive under Section 6.c.

8. **NONSOLICITATION COVENANT.** Executive agrees that Executive shall not directly or indirectly during the Term and for one (1) year after termination of Executive's employment, either alone or through or in conjunction with any other person or entity employ, solicit, induce, or recruit, any person employed by any member of the Company at any time within the one (1) year period immediately preceding such employment, solicitation, inducement or recruitment.
9. **ADJUSTMENTS TO PAYMENTS.** Anything in this Agreement to the contrary notwithstanding, in the event it shall be determined that any payment or distribution by the Company to Executive or for Executive's benefit (whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise) (the "Payments") would be subject to the excise tax imposed by Section 4999 (or any successor provisions) of the Code, or any interest or penalty is incurred by Executive with respect to such excise tax (such excise tax, together with any such interest and penalties, is hereinafter collectively referred to as the "Excise Tax"), then the Payments shall be reduced (but not below zero) if and to the extent that such reduction would result in Executive retaining a larger amount, on an after-tax basis (taking into account federal, state and local income taxes and the imposition of the Excise Tax), than if Executive received all of the Payments. The Company shall reduce or eliminate the Payments, by first reducing or eliminating the portion of the Payments which are not payable in cash and then by reducing or eliminating cash payments, in each case in reverse order beginning with payments or benefits which are to be paid the farthest in time from the determination. All determinations required to be made under this Section, including whether and when an adjustment to any Payments is required and, if applicable, which Payments are to be so adjusted, shall be made by an independent accounting firm selected by the Company from among the four (4) largest accounting firms in the United States or any nationally recognized financial planning and benefits consulting company (the "Accounting Firm") which shall provide detailed

supporting calculations both to the Company and to Executive within fifteen (15) business days of the receipt of notice from Executive that there has been a Payment, or such earlier time as is requested by the Company. In the event that the Accounting Firm is serving as accountant or auditor for the individual, entity or group effecting the Change in Control, Executive shall appoint another nationally recognized accounting firm to make the determinations required hereunder (which accounting firm shall then be referred to as the Accounting Firm hereunder). All fees and expenses of the Accounting Firm shall be borne solely by the Company. If the Accounting Firm determines that no Excise Tax is payable by Executive, it shall furnish Executive with a written opinion that failure to report the Excise Tax on Executive's applicable federal income tax return would not result in the imposition of a negligence or similar penalty. Any determination by the Accounting Firm shall be binding upon the Company and Executive.

10. **COOPERATION.** Upon the receipt of reasonable notice from the Company (including outside counsel), Executive agrees that while employed by the Company and thereafter, Executive will respond and provide information with regard to matters in which Executive has knowledge as a result of Executive's employment with the Company, and will provide reasonable assistance to the Company, its affiliates and their respective representatives in defense of all claims that may be made against the Company or its affiliates, and will assist the Company and its affiliates in the prosecution of all claims that may be made by the Company or its affiliates, to the extent that such claims may relate to the period of Executive's employment with the Company. Executive agrees to promptly inform the Company if Executive becomes aware of any lawsuit involving such claims that may be filed or threatened against the Company or its affiliates. Executive also agrees to promptly inform the Company (to the extent that Executive is legally permitted to do so) if Executive is asked to assist in any investigation of the Company or its affiliates (or their actions), regardless of whether a lawsuit or other proceeding has then been filed against the Company or its affiliates with respect to such investigation, and shall not provide such assistance unless legally required. Upon presentation of appropriate documentation, the Company shall pay or reimburse Executive for all reasonable out-of-pocket travel, duplicating or telephonic expenses incurred by Executive in complying with this Section 10. For the first five hours of cooperation in any calendar month during the period of cooperation, Executive shall provide the specified cooperation services without hourly reimbursement. For each hour of cooperation or part thereof after five hours, in any calendar month, Company shall reimburse Executive at the hourly rate determined by this fraction: (final Base Salary / 2,080 hours).
11. **ARBITRATION.** The parties hereby agree to submit all disputes, claims and controversies ("Claims") between the parties or related to or arising out of their employment relationship by and between the Company and Executive to final, binding arbitration to the fullest extent permitted by law. The Federal Arbitration Act., 9 U.S.C. § 1 *et seq.*, shall govern the interpretation and enforcement of this Section 11. The court and not the arbitrator will determine matters of enforceability of this Section 11.
- a. Statute of Limitations. The statutory limitations period applicable to a Claim asserted in a civil action shall apply to any such Claim asserted in any arbitration proceeding under this Section 11. Arbitration is commenced for limitations purposes by submitting the matter to the arbitral forum.
  - b. Individual Basis. All Claims that are subject to arbitration under this Section 11 must and will take place on an individual basis only.
  - c. Venue. Binding arbitration under this Section 11 shall be conducted in California unless required by law to be conducted elsewhere, in which case it shall be conducted where required by law.
  - d. Applicable Rules. The arbitration proceeding, including discovery, shall be conducted in accordance with the

Federal Arbitration Act, the JAMS Policy on Employment Arbitration Minimum Standards and the JAMS Employment Arbitration Rules and Procedures then in effect (the “JAMS Rules”). Executive understands that if Executive wishes to receive a copy of the JAMS Rules currently in effect, Executive may inform the Company in writing, and the Company will provide them to Executive before Executive executes this Agreement. Executive also understand that JAMS Rules are available online at <http://www.jamsadr.com/rules-employment-arbitration/>.

- e. Arbitrator Selection. The arbitration shall be conducted before a neutral arbitrator selected by all parties in accordance with JAMS Rules.
- f. Cost Allocation. If required by applicable law, the Company shall pay all additional costs peculiar to the arbitration to the extent such costs would not otherwise be incurred in a court proceeding (for instance, the Company shall pay the arbitrator’s fees, and the JAMS administration and filing fees, to the extent such fees exceed court filing fees).
- g. Attorneys’ Fees and Costs. Each party shall pay such party’s own costs and attorneys’ fees except that the arbitrator shall award costs and attorneys’ fees to the prevailing party.
- h. Written Decision. The arbitrator shall follow applicable substantive law and, within 30 days after the conclusion of the arbitration, issue a written opinion setting forth the factual and legal bases for his or her decision.
- i. Acknowledgement. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE’S RIGHT TO A JURY TRIAL BY ENTERING INTO THIS AGREEMENT. EXECUTIVE UNDERSTANDS THAT EXECUTIVE IS GIVING UP EXECUTIVE’S RIGHT TO COMMENCE OR PARTICIPATE IN A CLASS OR COLLECTIVE ACTION AND INSTEAD AGREES TO ARBITRATE ANY EMPLOYMENT-RELATED DISPUTE ON AN INDIVIDUAL BASIS ONLY TO THE MAXIMUM EXTENT PERMITTED BY LAW.

## 12. **CODE SECTION 409A.**

- a. This Agreement is intended to comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended (“Section 409A”), including the exceptions thereto, and shall be construed and administered in accordance with such intent. Notwithstanding any other provision of this Agreement, payments provided under this Agreement may only be made upon an event and in a manner that complies with Section 409A or an applicable exemption. Any payments under this Agreement that may be excluded from Section 409A either as separation pay due to an involuntary separation from service or as a short-term deferral shall be excluded from Section 409A to the maximum extent possible. For purposes of Section 409A, each separate payment or installment payment provided under this Agreement shall be treated as a separate payment. Any payments to be made under this Agreement in connection with a termination of employment shall only be made if such termination of employment constitutes a “separation from service” under Section 409A. Notwithstanding the foregoing, the Company makes no representations that the payments and benefits provided under this Agreement comply with Section 409A and in no event shall the Company be liable for all or any portion of any taxes, penalties, interest or other expenses that may be incurred by Executive on account of non-compliance with Section 409A.
- b. Notwithstanding any other provision of this Agreement, if at the time of Executive’s termination of employment,

Executive is a “specified employee,” determined in accordance with Section 409A, any payments and benefits provided under this Agreement that constitute “nonqualified deferred compensation” subject to Section 409A that are provided to Executive on account of Executive’s separation from service shall not be paid until the first payroll date to occur following the six-month anniversary of Executive’s termination date (“Specified Employee Payment Date”). The aggregate amount of any payments that would otherwise have been made during such six-month period shall be paid in a lump sum on the Specified Employee Payment Date and thereafter, any remaining payments shall be paid without delay in accordance with their original schedule. If Executive dies before the Specified Employee Payment Date, any delayed payments shall be paid to Executive’s estate in a lump sum within one week of Executive’s death.

- c. To the extent required by Section 409A, each reimbursement or in-kind benefit provided under this Agreement shall be provided in accordance with the following: (i) the amount of expenses eligible for reimbursement, or in-kind benefits provided, during each calendar year cannot affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other calendar year; (ii) any reimbursement of an eligible expense shall be paid to Executive on or before the last day of the calendar year following the calendar year in which the expense was incurred; and (iii) any right to reimbursements or in-kind benefits under this Agreement shall not be subject to liquidation or exchange for another benefit. Any tax gross-up payments provided under this Agreement shall be paid to Executive on or before December 31 of the calendar year immediately following the calendar year in which Executive remits the related taxes.
- d. Whenever in this Agreement a payment or benefit is conditioned on Executive’s execution of a release of claims, such release must be executed, and all revocation periods shall have expired within 60 days after the Termination Date; failing which such payment or benefit shall be forfeited. If such payment or benefit constitutes “nonqualified deferred compensation” subject to Section 409A, and if such 60-day period begins in one calendar year and ends in the next calendar year, the payment or benefit shall not be made or commence before the second such calendar year, even if the release becomes irrevocable in the first such calendar year.

### 13. GENERAL PROVISIONS.

- a. Notices. All notices, requests, demands, statements, reports and other communications provided for by this Agreement shall be in writing (email being sufficient) and shall be sent by (i) certified mail, return receipt requested, postage prepaid, (ii) nationally recognized overnight delivery service, (iii) personal delivery or (iv) email. A notice shall be deemed to be given (x) if notice is delivered by certified mail or nationally recognized overnight delivery service, on the business day following the date of its mailing, (y) if such notice is delivered personally, upon delivery, or (z) if such notice is sent by email, upon sending. Each party may change such party’s address for notices by giving notice in accordance herewith. All notices shall be addressed and mailed or delivered to the following addresses:

If to the COMPANY:

Attn: Chief Executive Officer  
Axonics Modulation Technologies, Inc.  
26 Technology Drive  
Irvine, CA 92618

If to EXECUTIVE:

Rinda Sama

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- b. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, representations and understandings (whether written or oral) of the parties with respect to the subject matter hereof, including the Original Employment Agreement, and any other agreement between Executive and the Company or any of its affiliates and subsidiaries.
  - c. Modification and Waiver. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by Executive and a duly authorized representative of the Company (other than Executive). A waiver of any term or condition of this Agreement shall not be construed as a general waiver by the Company. If one or more provisions of this Agreement are held to be illegal or unenforceable under applicable law, such illegal or unenforceable provision(s) shall be limited or excluded from this Agreement to the minimum extent required so that this Agreement shall otherwise remain in full force and effect and enforceable in accordance with its terms.
  - d. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its conflict of law principles, and any dispute in the meaning, effect or validity of this Agreement shall be resolved in accordance with the laws of the State of California.
  - e. Assignment; Binding Effect. This Agreement is fully assignable and transferable by the Company, but any purported assignment or transfer by Executive is void. It is hereby agreed that Executive's rights and obligations under this Agreement are personal and not assignable by Executive. This Agreement shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of the parties.
- EXECUTIVE HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS AND ACCEPTS THE OBLIGATIONS WHICH IT IMPOSES UPON EXECUTIVE WITHOUT RESERVATION. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO EXECUTIVE TO INDUCE EXECUTIVE TO SIGN THIS AGREEMENT. EXECUTIVE SIGNS THIS AGREEMENT VOLUNTARILY AND FREELY, IN DUPLICATE, WITH THE UNDERSTANDING THAT THE COMPANY WILL RETAIN ONE COUNTERPART AND THE OTHER COUNTERPART WILL BE RETAINED BY EXECUTIVE.**
- f. Injunctive Relief. Executive agrees that any breach of this Agreement will cause irreparable harm to the Company for which damages would not be an adequate remedy, and, therefore, to the fullest extent permitted



by applicable law, the Company will be entitled to injunctive relief with respect thereto in addition to any other remedies and without any requirement to post bond.

- g. Survival. This Agreement shall terminate upon the expiration of the Term; provided that the provisions of Section 1 and Sections 6 through 13 shall survive termination of this Agreement and termination of Executive's employment regardless of the reason for such termination.
- h. Withholding. The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to applicable law.

*[Signature page follows]*

In witness whereof, the parties have executed this Agreement as of the date first above written.

**COMPANY:**

**Axonics Modulation Technologies, Inc.**

By: /s/ Raymond W. Cohen

Raymond W. Cohen

Chief Executive Officer

**EXECUTIVE:**

/s/ Rinda Sama

Rinda Sama

*Signature Page to Executive Employment Agreement*

## EXHIBIT A

For purposes of interpreting the Agreement, the following definitions shall apply:

“Accrued Obligations” means, in connection with Executive’s termination of employment with the Company for any reason, (i) any unpaid Base Salary accrued through the Termination Date, payable as soon as practicable (not more than 30 days) after the Termination Date, and (ii) any unpaid Benefits accrued through the Termination Date to which Executive is entitled under any plans, programs or arrangements applicable to terminated employees in which Executive participates, payable in accordance with the terms of such plans, programs or arrangements.

“Base Salary” means Executive’s annual rate of base salary from the Company as provided in Section 4.a (including any permitted adjustments to the annual rate of base salary during the Term as provided by Section 4.a).

“Benefits” means the employee benefits provided to Executive by the Company under the provisions of Section 4.c.

“Board” means the Board of Directors of the Company.

“Cash Severance Commencement Date” means the 60th day after the Termination Date.

“Cause” means the occurrence of any of the following by Executive: (i) fraud, misappropriation, embezzlement or acts of similar dishonesty; (ii) conviction of, or plea of *nolo contendere* to, a felony; (iii) excessive use of alcohol or illegal use of drugs in the workplace; (iv) gross negligence or intentional or willful misconduct by Executive in the performance of Executive’s duties; (v) breach of Executive’s duty of loyalty to the Company or diversion or usurpation of corporate opportunities properly belonging to the Company; (vi) the knowing breach of the Company’s confidentiality agreement to which the Executive is a party to; or (vii) violation of any material provision of this Agreement or any other material provision of any other agreement between Executive and the Company.

“Change in Control” means a “Change in Control” as defined under the Axonics Modulation Technologies, Inc. 2018 Omnibus Incentive Plan.

“Change in Control Protected Period” means the period commencing on the date of a Change in Control and ending on first anniversary of the date of the Change in Control.

“Change in Control Termination” means a Qualifying Termination that occurs during the Change in Control Protected Period.

“Disability” means any physical or mental illness, impairment or incapacity which, in the good faith determination of the Board, has prevented Executive from performing the essential functions of Executive’s position hereunder for a period of 90 or more consecutive days (or for shorter periods totaling 120 days) during any period of 12 consecutive months, consistent with applicable law.

“Effective Date” means May 20, 2019, the effective date of this Agreement and the first day of the Term.

“Equity Incentive Compensation” means the equity compensation awards provided to Executive by the Company under Section 4.d.

“Good Reason” means the occurrence of any of the following events, without the express consent of Executive, (i) a material diminution in Executive’s Base Salary, or (ii) a material diminution in Executive’s title, position, duties, authorities or responsibilities (other than temporarily while physically or mentally incapacitated or as required by applicable law). In order for Executive to terminate Executive’s employment for Good Reason, (x) Executive must furnish written notice to the Company

setting forth the facts and circumstances claimed to provide a basis for such resignation within 30 days following the occurrence of such facts and circumstances, (y) the Company shall have 30 days after its receipt of such written notice to cure such facts and circumstances in all material respects (and if so cured, then Executive shall not be permitted to resign for Good Reason in respect thereof), and (z) Executive must actually terminate Executive's employment within 30 days following the expiration of the Company's cure period set forth above.

"Performance-Based Award" means an option, restricted stock or other Equity Incentive Compensation award that vests based on performance-based criteria.

"Pro-Rata Bonus" means an amount determined as of Executive's Termination Date as follows: (i) if Executive's termination of employment is due to Executive's death or Disability or by reason of a Qualifying Termination that is not a Change in Control Termination, the Pro-Rata Bonus shall equal the actual annual cash bonus earned based on performance through the Termination Date as determined by the Board, multiplied by the Pro-Rata Fraction, payable in a lump sum at the time specified in Section 6.a or Section 6.c (as applicable); and (ii) if Executive's termination of employment is due to a Change in Control Termination, the Pro-Rata Bonus shall equal the target annual cash bonus for the year in which the Termination Date occurs, multiplied by the Pro-Rata Fraction, and payable in a lump sum at the time specified in Section 7.b.

"Pro-Rata Fraction" means a fraction, the numerator of which is the number of days in the calendar year through Executive's Termination Date and the denominator of which is 365.

"Qualifying Termination" means a termination of Executive's employment with the Company during the Term either (i) by the Company other than for Cause, or (ii) by Executive with Good Reason.

"Resignation Notice Period" means the period, not less than 60 days, between the date Executive provides the Company with written notice of his intent to resign from employment with the Company and the intended effective date of such resignation.

"Termination Date" means the date of Executive's termination of employment with the Company as determined under this Agreement.

## EXHIBIT B

### GENERAL RELEASE

I, \_\_\_\_\_ in consideration of and subject to the performance by Axonics Modulation Technologies, Inc. (together with its subsidiaries and successors, the "Company"), of its obligations under the Executive Employment Agreement dated as of \_\_\_\_\_, 2019 (the "Agreement"), do hereby release and forever discharge as of the date hereof the Company and its respective affiliates, subsidiaries and direct or indirect parent entities and all present, former and future directors, officers, agents, representatives, employees, successors and assigns of the Company and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") to the extent provided below (this "General Release"). The Released Parties are intended to be third-party beneficiaries of this General Release, and this General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder. Terms used herein but not otherwise defined shall have the meanings given to them in the Agreement.

1. I understand that any payments or benefits paid or granted to me under the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive certain of the payments and benefits specified in the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter. Such payments and benefits will not be considered compensation for purposes of any employee benefit plan, program, policy or arrangement maintained or hereafter established by the Company or its affiliates.

2. Except as provided in paragraphs 4 and 5 below and except for the provisions of the Agreement which expressly survive the termination of my employment with the Company, I knowingly and voluntarily (for myself, my heirs, executors, administrators and assigns) release and forever discharge the Company and the other Released Parties from any and all claims, suits, controversies, actions, causes of action, cross-claims, counter claims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date that this General Release becomes effective and enforceable) and whether known or unknown, suspected, or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, which arise out of or are connected with my employment with, or my separation or termination from, the Company (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Americans with Disabilities Act Amendments Act of 2008; the Family and Medical Leave Act of 1993; the Labor Management Relations Act; the Worker Adjustment Retraining and Notification Act; the Employee Retirement Income Security Act of 1974; the Sarbanes-Oxley Act of 2002; the California Worker Adjustment Retraining and Notification Act; the California Fair Employment and Housing Act; the California Labor Code; the California Family Rights Act; the California Industrial Welfare Commission Wage Orders; the California Constitution; the California Government Code; any applicable Executive Order Programs; the Fair Labor Standards Act; or their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance, as well as any amendments to any of the foregoing; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters) (all of the foregoing collectively referred to herein as the "Claims").

3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.
4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).
5. I agree that I hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever in respect of any Claim, including, without limitation, reinstatement, back pay, front pay, and any form of injunctive relief. Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law, including the right to file an administrative charge or participate in an administrative investigation or proceeding; provided, however, that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding. Additionally, I am not waiving (i) any right to the severance benefits to which I am entitled under the Agreement, (ii) any claim relating to directors' and officers' liability insurance coverage or any right of indemnification under the Company's organizational documents or otherwise, (iii) claims under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, (iv) claims related to reimbursement of ordinary and reasonable business expenses in accordance with the Company's policies in effect from time to time, and (v) claims relating to any outstanding equity-based award on the date of termination in accordance with the terms thereof.
6. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state or local statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims to the maximum extent permitted by law. I further agree that I am not aware of any pending claim of the type described in paragraph 2 above as of the execution of this General Release.
7. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.
8. I agree that this General Release and the Agreement are confidential and agree not to disclose any information regarding the terms of this General Release or the Agreement, except to my immediate family and any tax, legal or other counsel that I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.
9. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self regulatory organization or any governmental entity. In addition, nothing in this General Release prevents disclosure of information permitted under applicable law regarding an act of sexual assault, an act of sexual harassment, an act of workplace harassment or discrimination based on sex, or failure to prevent

an act of workplace harassment or discrimination based on sex or an act of retaliation against a person for reporting harassment or discrimination based on sex.

10. I hereby acknowledge that Sections 4 through 10 of the Agreement shall survive my execution of this General Release.

11. I represent that I am not aware of any claim by me other than the claims that are released by this General Release. I acknowledge that I may hereafter discover claims or facts in addition to or different than those which I now know or believe to exist with respect to the subject matter of the release set forth in paragraph 2 above and which, if known or suspected at the time of entering into this General Release, may have materially affected this General Release and my decision to enter into it.

I SPECIFICALLY AND FREELY WAIVE ANY AND ALL RIGHTS I MAY HAVE UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

IN WAIVING THE PROTECTIONS OF CIVIL CODE SECTION 1542, I ACKNOWLEDGE AWARENESS OF THE ACTUAL FACTS AND CIRCUMSTANCES SURROUNDING THE AGREEMENT UPON WHICH THIS RELEASE IS GIVEN. TO EFFECT A FULL AND COMPLETE WAIVER AND RELEASE, I ASSUME THE RISK THAT I MAY LATER DISCOVER FACTS DIFFERENT FROM THOSE I NOW KNOW OR BELIEVE TO BE TRUE.

12. Notwithstanding anything in this General Release to the contrary, this General Release shall not relinquish, diminish, or in any way affect any rights or claims arising out of any breach by the Company or by any Released Party of the Agreement after the date hereof.

13. Whenever possible, each provision of this General Release shall be interpreted in, such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

1. I HAVE READ IT CAREFULLY;

2. I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING BUT NOT LIMITED TO, RIGHTS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990; AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;

3. I VOLUNTARILY CONSENT TO EVERYTHING IN IT;

4. I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;
5. I HAVE HAD AT LEAST 21 DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE TO CONSIDER IT, AND THE CHANGES MADE SINCE MY RECEIPT OF THIS RELEASE ARE NOT MATERIAL OR WERE MADE AT MY REQUEST AND WILL NOT RESTART THE REQUIRED 21 DAY PERIOD;
6. I UNDERSTAND THAT I HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED;
7. I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND
8. I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

SIGNED:

DATED:

NAME:



I, Raymond W. Cohen, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Axonics Modulation Technologies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) [Omitted pursuant to Exchange Act Rules 13a-14(a) and 15d-15(a)];
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2019

By:

/s/ Raymond W. Cohen

Raymond W. Cohen

*Chief Executive Officer and Director*

*(Principal Executive Officer)*

I, Dan L. Dearen, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Axonics Modulation Technologies, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) [Omitted pursuant to Exchange Act Rules 13a-14(a) and 15d-15(a)];
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2019

By:

/s/ Dan L. Dearen

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Dan L. Dearen

*President and Chief Financial Officer*

*(Principal Financial Officer)*

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Axonics Modulation Technologies, Inc. (the "Company") on Form 10-Q for the quarterly period ended June 30, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 5, 2019

By:

\_\_\_\_\_  
/s/ Raymond W. Cohen

Raymond W. Cohen

*Chief Executive Officer and Director*

*(Principal Executive Officer)*

A signed original of this written statement required by Section 906 has been provided to Axonics Modulation Technologies, Inc. and will be retained by Axonics Modulation Technologies, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Axonics Modulation Technologies, Inc. (the "Company") on Form 10-Q for the quarterly period ended June 30, 2019 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 5, 2019

By:

/s/ Dan L. Dearen

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Dan L. Dearen

*President and Chief Financial Officer*

*(Principal Financial Officer)*

A signed original of this written statement required by Section 906 has been provided to Axonics Modulation Technologies, Inc. and will be retained by Axonics Modulation Technologies, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.