UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ABBOTT DIABETES CARE INC.,
Petitioner

v.

DEXCOM, INC.,
Patent Owner.

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Case: IPR2022-00917

Patent 10,980,452

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**DECLARATION OF JOHN L. SMITH, PH.D. IN SUPPORT OF PETITION
FOR *INTER PARTES* REVIEW OF U.S. PAT. NO. 10,980,452**

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I.   INTRODUCTION

1.   I submit this declaration in support of a Petition for *Inter Partes* Review of U.S. Patent No. 10,980,452 (the "452 Patent"), owned by DexCom, Inc. ("DexCom"). I have been retained in this matter by counsel for Abbott Diabetes Care Inc. ("Petitioner").

2.   Although I am being compensated for my time at my customary rate of $400 per hour in preparing this declaration, the opinions herein are my own, and I have no stake in the outcome of the review proceedings. My compensation does not depend in any way on the outcome of the Petition.

3.   The materials I considered in forming my opinions herein have included at least the 452 Patent (Exhibit 1001) and its prosecution history (Exhibit 1002), as well as certain other exhibits submitted with IPR2022-00917, including the following:

- **Exhibit 1001:** U.S. Patent No. 10,980,542 ("452 Patent")

- **Exhibit 1003:** Declaration of Karl R. Leinsing, MSME, PE in Support of *Inter Partes* Review of U.S. Patent No. 10,980,452

- **Exhibit 1002:** Prosecution File History of the 452 Patent

- **Exhibit 1024:** U.S. Patent No. 6,275,717 ("Gross")

- **Exhibit 1030:** Spichiger-Keller, Ursula E., CHEMICAL SENSORS AND BIOSENSORS FOR MEDICAL AND BIOLOGICAL APPLICATIONS, Chapter 20, *In vivo chemical sensors and biosensors in clinical medicine*, by Denzil J. Claremont and John C. Pickup (pp. 356-376) (1998) ("Spichiger-Keller")

4.   I also relied on my considerable experience with glucose monitoring systems and devices.

II.   QUALIFICATIONS

5.   I am a consultant in the areas of analytical chemistry, clinical chemistry, blood glucose monitoring, and non-invasive blood measurements. I hold a Bachelor of Science degree in chemistry from Butler University and a Ph.D. in analytical chemistry from the University of Illinois.

6.   I have over 55 years of experience with electrochemical analytical instruments and systems; 34 of those years have been spent in the blood glucose monitoring field. My work includes development of novel electrochemical instrumentation, development of automated clinical laboratory instrumentation, research and development, including for blood glucose meters and test strips, development of transcutaneous intravascular glucose measurement systems, and development of noninvasive glucose measurement systems.

7.   I have consulted for more than 50 companies in the field of blood glucose monitoring or their investors, including LifeScan, Inc., TheraSense, Insulet, Masimo Corporation, and Cercacor Laboratories.

8.   At the LifeScan division of Johnson & Johnson, I was employed for twelve years in the positions of Vice President of Research, Development, and Engineering (R, D & E), Worldwide Vice President of R, D & E, and Chief Scientific

Officer. Prior to that time, I had been employed as a Senior Applications Chemist and Manager of Product Development for electrochemical instrumentation at Princeton Applied Research, and as a Staff Systems Engineer and Director of Decentralized Testing at Technicon Instruments Corporation. Throughout my career, I have worked closely with numerous technicians, engineers, and scientists employed at all levels by technical organizations and who were persons of ordinary skill in the art, as I explain below.

9.   I hold seventeen issued United States patents (most with foreign counterparts) and five additional published United States patent applications. Eleven of the aforementioned issued patents relate to glucose monitoring, four relate to clinical laboratory instrumentation, and two relate to novel electrochemical instrumentation. I have authored publications in refereed journals and a manuscript entitled "The Pursuit of Noninvasive Glucose: Hunting the Deceitful Turkey," 8th Edition: Revised and Expanded, 2022.

10.   The full details of my education, employment, and consulting history are in my curriculum vitae, attached hereto as Appendix A (also filed as Exhibit 1044).

11.   As detailed in Appendix A, I have participated as an expert witness in patent infringement litigation, including consulting, expert reports, depositions and court testimony in *Markman* hearings, arbitrations, bench trials, and jury trials in

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