

LICENSE AGREEMENT BETWEEN NEXTGEN AND SYNOGEN

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Initials: 

License Agreement between NeXtGen and Synogen

This Agreement (the "Agreement") is made effective the 15th day of October, 2014 (the "Effective Date") by and between Synogen Management Group, Inc., a Florida corporation having a principal address at 6565 NW 81st Blvd., Gainesville, FL 32653 ("LICENSOR"), and NeXtGen, a Florida corporation having a principal address at 747 SW 2nd Avenue, IMB #5, Gainesville, FL, 32601 ("LICENSEE") (each of LICENSOR AND LICENSEE a "Party" and collectively the "Parties").

WHEREAS, LICENSOR entered into an agreement on the 23rd day of September, 2014 with ISE Professional Testing & Consulting Services, Inc., entitled "License Agreement between ISE and Synogen"; ("The ISE Agreement");

WHEREAS, LICENSOR Controls, through The ISE Agreement, certain inventions that are described in the "Licensed Patents" and "Licensed Know-How" defined below, and LICENSOR is willing to grant a field limited sublicense to LICENSEE under the Licensed Patents and Licensed Know-How and LICENSEE desires a license under them;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below, the Parties covenant and agree as follows:

Section 1: Definitions

- 1.1 "Affiliate" means: (a) any person or entity which controls at least fifty percent (50%) of the equity or voting stock of the LICENSEE, or (b) any person or entity fifty percent (50%) of whose equity or voting stock is owned or controlled by the LICENSEE or (c) any person or entity of which at least fifty percent (50%) of the equity or voting stock is owned or controlled by the same person or entity owning or controlling at least fifty percent (50 %) of LICENSEE.
- 1.2 "Control" and its correlative terms, "Controlled" or "Controls" shall mean, with respect to any intellectual property right or other intangible property, that a Party or one of its Affiliates owns or has a license or sublicense to such item or right, and has the ability to grant access, license or sublicense in or to such right without violating the terms of any agreement or other arrangement with any Third Party. Notwithstanding anything to the contrary in this Agreement, in the event that a Third Party merges or consolidates with or acquires LICENSEE or LICENSEE transfers to a Third Party all or substantially all of its assets to which this Agreement relates (such Third Party and its Affiliates immediately prior to such merger, consolidation or transfer (the "Subject Transaction"), collectively, the "Acquiring Entities"), the following shall not be deemed to be Controlled by LICENSEE for purposes of this Agreement: (i) any subject matter not acquired from LICENSEE that is owned or controlled by any Acquiring Entity immediately prior to the effective date of such Subject Transaction, and (ii) any subject matter developed or acquired by or on behalf of any Acquiring Entity after a Subject Transaction without use of non-public proprietary Licensed Know-How.
- 1.3 "Covered by a Licensed Patent" means that absent the license granted herein, the manufacture, use, sale, offer for sale or importation of a product or practice of a method would otherwise infringe a Valid Claim under the Licensed Patents.
- 1.4 "Development Plan" means a written report summarizing the development activities that are to be undertaken by the LICENSEE to bring Licensed Products and/or Licensed Processes to the market. The Development Plan will be provided to LICENSOR no later than March 15, 2015.
- 1.5 "Development Report" means a written account of LICENSEE's progress under the Development Plan containing the information reasonably agreed to by LICENSEE and LICENSOR, and shall be sent to the notice address specified for LICENSOR.

- 1.6 "Licensed Know-How" means unpatented trade secret process technology, know how, and related proprietary information Controlled by Synogen pursuant to the ISE Agreement solely as applied to or used for decellurization of Urodele derived tissue as of the Effective Date.
- 1.7 "Licensed Field" means all diagnostic and therapeutic applications of medical devices, EXCEPT THAT, the Licensed Field does not include a medical device combined with a second product that is not a medical device if the second product (x) utilizes Urodele extracellular matrix tissue, in any form, or utilizes material isolated or extracted from Urodele extracellular matrix tissue and (y) is Covered by a Licensed Patent, unless, in which case, LICENSEE obtains a license under the Licensed Patents to utilize such second product.
- 1.8 "Licensed Patents" means all of the following LICENSOR intellectual property.
- 1.8.1 PCT application Serial Number PCT/US2014/010890 entitled "Decellularized Biomaterial from Non-Mammalian Tissue, filed January 9, 2014, inventor Ryanne Early and United States Patent application Serial Number 61/750,555, entitled "Decellularized Biomaterial from Non-Mammalian Tissue", filed January 9, 2013, inventor Ryanne Early; and all United States and foreign patents and patent applications based on this PCT and this U.S. application;
- 1.8.2 any and all United States and foreign patent applications based on or claiming priority to any of the patent applications identified in section 1.9.1; and
- 1.8.3 any and all patents issuing from the patent applications identified in Section 1.9.1 and 1.9.2, including, but not limited to, letters patents, patents of addition, divisionals, reissues, re-examinations, term extensions, term restorations, term adjustments and supplementary protection certificates.
- 1.9 "Licensed Product" means medical devices as defined by section 201(h) of the Federal Food Drug & Cosmetic (FD&C) Act or methods utilizing such medical devices, or part thereof, developed by LICENSEE or its Sublicensee that utilizes Licensed Know-How or is Covered by a Licensed Patent in the Licensed Field.
- 1.10 "Licensed Territory" means the world.
- 1.11 "Patent Challenge" means a challenge to the validity, patentability, enforceability and/or non-infringement of any of the Licensed Patents or otherwise opposing any of the Licensed Patents.
- 1.12 "Patented Royalty Product" means any product, or part thereof, on a country-by-country basis, that (i) is Covered by a Licensed Patent, in the country in which such product is made, used, imported or sold, or (ii) that is used in a method which is Covered by a Licensed Patent in the country in which such method is practiced.
- 1.13 "Sublicense" means, directly or indirectly, to sublicense or grant any other right with respect to any right licensed to LICENSEE under this Agreement.
- 1.14 "Sublicensee" means any entity to which LICENSEE grants a sublicense.
- 1.15 "Third Party" means any entity that is not a Party or an Affiliate of a Party.
- 1.16 "Valid Claim" means a claim (i) of any issued, unexpired patent that has not been revoked or held unenforceable or invalid by a decision of a court or governmental authority of competent jurisdiction from which no appeal can be taken, or with respect to which an appeal is not taken within the time allowed for appeal, and that has not been disclaimed or admitted to be invalid or unenforceable through reissue, disclaimer or otherwise or (ii) of any patent application that has not been cancelled, withdrawn or abandoned, that is being prosecuted in good faith, and that has not been pending (including via claims of priority) for more than 7 years.

Section 2: Grant

2.1 License

2.1.1 License under Licensed Patents

Subject to the terms of this agreement and the ISE Agreement, LICENSOR hereby grants to LICENSEE an exclusive license, solely in the Licensed Field and in the Licensed Territory, under the Licensed Patents to make, have made, develop, use, lease, import, export, offer to sell, sell and have sold Licensed Products.

2.1.2 License under Licensed Know-How

Subject to the terms of this agreement and the ISE Agreement, LICENSOR hereby grants to LICENSEE a non- exclusive license, solely in the Licensed Field and in the Licensed Territory, to use the Licensed Know-How that are not patentable in the making, development, use, lease, import, export, offer to sell, and sale of Licensed Products.

2.1.3 Certain Prohibited Activities.

During the Term, LICENSEE shall not develop or commercialize any product that utilizes the Licensed Know-How or that is Covered by a Licensed Patent, other than Licensed Products in the Licensed Field. Notwithstanding the foregoing, an Acquiring Entity (as defined in Section 1.3 above) shall be free to continue engaging in any activities in which such Acquiring Entity was engaged prior to the Acquiring Entity becoming an Acquiring Entity, so long as no Licensed Patent or non-public proprietary Licensed Know-How are used by the Acquiring Entity in such activities.

2.1.4 Compliance with terms of ISE Agreement

The Parties acknowledge that the Licensed Patents and Licensed Know How include patents and know-how Controlled by LICENSOR under the ISE Agreement. Accordingly it is expressly acknowledged and agreed by the Parties that LICENSEE'S right and license to such patents and know-how is subject to the terms and conditions of the ISE Agreement and is subject to LICENSEE'S compliance (and its respective Sublicensees' compliance) with the terms and conditions of the ISE Agreement applicable to LICENSEE and its Sublicensees.

2.2 Sublicense

- 2.2.1 A list of companies to which a Sublicense may not be granted is attached hereto as Appendix A (the "Excluded Sublicensees"). If ISE Professional Testing & Consulting Services, Inc requests LICENSOR under the ISE Agreement to include one or more additional companies on Appendix A, then each such additional company shall be deemed an Excluded Sublicensees only if (x) LICENSEE has not already entered into an agreement with such company prior to notifying LICENSEE of such addition. LICENSOR will use commercially reasonable efforts to prevent ISE Professional Testing & Consulting Services, Inc from requiring additional companies to be listed on Appendix A. Additionally, LICENSOR will engage with ISE Professional Testing & Consulting Services, Inc. in an effort to reduce or eliminate the right of ISE Professional Testing & Consulting Services, Inc to add to the list of Excluded Sublicensees. Subject to the terms of this agreement, LICENSEE may grant written Sublicenses to Third Parties (other than Excluded Sublicensees) with the prior written consent of LICENSOR not to be unreasonably withheld, conditioned or delayed. Any agreement granting a Sublicense shall be consistent with the terms and conditions of this Agreement. Without limiting the foregoing, LICENSEE shall at all times:
- (a) ensure that any Sublicense agreement in respect of a Licensed Product shall include due diligence obligations with respect to such Sublicensee's development and commercialization of

the Licensed Product that are at least as stringent as those contained in this Agreement (b) use its reasonable commercial efforts to ensure that Sublicensees perform such diligence obligations and (c) remain responsible for any payments due hereunder with respect to activities of the Sublicensee. In the event of termination of this Agreement by LICENSOR, any Sublicense shall, at the Sublicensee's option, survive such termination, provided that the Sublicensee is not in material breach of any of its obligations under such Sublicense and provided that the Sublicensee and LICENSOR enter into a direct license on substantially the same terms as the sublicense. LICENSOR shall not be required to undertake obligations in addition to those required by this Agreement, and LICENSOR's rights under such direct license shall be consistent with its rights under this Agreement, taking into account the scope of the license granted under such direct license.

- 2.2.2 In respect of Sublicenses granted by LICENSEE, LICENSEE shall not receive from Sublicensees anything of value in lieu of cash payments as consideration for any Sublicense under this Agreement without the express prior written consent LICENSOR. LICENSOR will engage with ISE Professional Testing & Consulting Services, Inc to amend the provisions of the ISE Agreement to provide that the consent of ISE Professional Testing & Consulting Services, Inc. to receipt of such non-cash payment shall not be unreasonably withheld, conditioned or delayed. To the extent the ISE Agreement is so amended, this Agreement shall also reflect such standard of consent.
- 2.2.3 LICENSEE shall provide LICENSOR with a copy of each Sublicense agreement within ten (10) days after the execution of any Sublicense and further shall promptly forward to LICENSOR annually a copy of all reports received by LICENSEE from its Sublicensees pertinent to payments received under said Sublicense.

2.3 Retained Rights

Subject to the terms and conditions of this Agreement, LICENSOR hereby retains for itself and for ISE Professional Testing & Consulting Services, Inc. the rights under the Licensed Patents and Licensed Know-How, to make and use Licensed Products solely for the purpose of conducting internal research by ISE Professional Testing & Consulting Services, Inc. and by LICENSOR.

Section 3: Due Diligence

3.1 Development

- 3.1.1 LICENSEE agrees to use commercially reasonable efforts to pursue the development of the technology embodied in the Licensed Patents. Reasonable commercial efforts shall include, with respect to the efforts to be expended to accomplish a given assigned objective, the efforts and resources a reasonably prudent and diligent medical device company would normally use to diligently accomplish a similar objective under similar circumstances. Without limiting the foregoing, such efforts shall require LICENSEE (or its Sublicensee) to promptly assign responsibilities for development and commercialization activities to specific employee(s) who are held accountable for the progress, monitoring and completion of such activities.
- 3.1.2 LICENSEE agrees to use commercially reasonable efforts to carry out the activities set forth in the Development Plan.
- 3.1.3 LICENSEE agrees to meet the following milestones:
- sell a first commercial product in the U.S. market no later than June 30, 2017;
 - sell a second commercial product in the U.S. market no later than December 31, 2019;
 - sell a first commercial product in the European market no later than June 30, 2018;
 - sell a second commercial product in the European market no later than December 31, 2020.

3.2 Reports



LICENSEE agrees to provide LICENSOR with an annual Development Report fifteen (15) days after the end of each calendar year, respecting efforts taken by LICENSEE and any Sublicensee to develop Licensed Patents. Failure to provide the required reports constitutes a material breach of this Agreement and grounds for termination of the Agreement and the license if not cured according to Section 11 herein.

Section 4: Payments

- 4.1 License Issue Fee. LICENSEE shall pay to LICENSOR a non-refundable non-creditable license issue fee of \$10,000.00 no later than February 16, 2015.
- 4.2 Annual License Maintenance Fee. LICENSEE shall pay to LICENSOR a non-creditable, non-refundable annual license maintenance fee of \$5,000.00 each year on the anniversary of the Effective Date of this Agreement. The annual license maintenance fee is payable until the first commercial sale of a Licensed Product, after which time royalties instead of the annual license maintenance fee are due.
 - 4.3 Past Patent Costs. LICENSEE is responsible for settlement and/or payment of \$47,154.45 to Foley and Lardner, which relates to the preparation, filing, prosecution, issuance and licensing of the Licensed Patents. LICENSEE will, no later than March 16, 2015, either (i) negotiate an agreement with Foley and Lardner for a settlement amount and payment plan in full satisfaction of the \$47,154.45 owed to Foley and Lardner (and supply a copy of that agreement to LICENSOR), the terms of which shall form an obligation of LICENSEE under this Agreement, or (ii) pay \$47,154.45 to LICENSOR.
- 4.4 Royalty on Licensed Products.
 - 4.4.1 LICENSEE shall pay to LICENSOR earned royalties on a product by product and country by country basis calculated as a percentage of Net Sales, as follows:
 - (a) three percent (3 %) of Net Sales of Licensed Products that are Patented Royalty Products.
 - (b) Two and one quarter percent (2.25%) of Net Sales of Licensed Products sold during a period of regulatory exclusivity pertaining to such Licensed Products.
 - (c) One and one half percent (1.5%) of Net Sales of Licensed Products that are Licensed Products solely because they meet the definition of Subsection 1.8 above but do not fall within Section 4.4.1(a) or 4.4.1(b) above, for a period of ten (10) years, on a product by product and country by country basis, from the first commercial sale of each such different Licensed Product in each such country.
 - (d) For purposes of this Agreement, the term "Net Sales" shall mean sales revenue actually received for a Licensed Product, less any discounts, rebates, and returns.
 - 4.4.2 Earned royalties are as of the date the Licensed Product is accounted for as sold. If a Licensed Product falls into more than one category 4.3(a), 4.3(b) and 4.3(c) above, then the highest applicable earned royalty percentage shall apply, but in no event shall two percentages be aggregated.
- 4.5 Payments respecting amounts received for Sublicenses
 - 4.5.1 Earned royalties. With respect to Sublicenses granted by LICENSEE under Section 2.2, LICENSEE shall pay to LICENSOR an amount equal to what LICENSEE would have been required to pay under Section 4.3 had LICENSEE sold the Licensed Products that are sold by a Sublicensee.

4.5.2 Non-royalty Consideration. If LICENSEE receives any fees, milestone payments or other payment under a Sublicense of the rights granted herein that are not based directly on the amount or value of Licensed Products sold by the Sublicensee (i.e., any payments other than earned royalty payments, hereinafter "Non-royalty consideration"), LICENSEE shall pay LICENSOR a percentage of such Non-royalty Consideration, as follows:

- fifty percent (50%) if the Sublicense is entered into before April 15, 2015;
- thirty percent (30%) if the Sublicense respecting a particular Licensed Product is entered into prior to the first commercial sale of such Licensed Product but after April 15, 2015; and
- ten percent (10%) if the Sublicense respecting a particular Licensed Product is entered into after the first commercial sale of such Licensed Product.

4.6 Accounting for Payments

4.6.1 LICENSEE shall, on and from the date of the first commercial sale anywhere in the Territory, deliver to LICENSOR, within sixty (60) days after the end of each calendar quarter, a report setting forth for such calendar quarter the following information on a Licensed Product-by-Licensed Product basis: (a) Net Sales, (b) the royalties due to LICENSOR on account of Net Sales and (c) the exchange rates used in calculating any of the foregoing. If no royalties were payable for any calendar quarter, LICENSEE'S report shall so state. LICENSEE shall pay all royalty payments for such calendar quarter along with each such report.

4.6.2 Any amounts that remain unpaid more than thirty days after the date they are due to LICENSOR under this Section 4 or any other section of this Agreement will begin to accrue interest at the rate of one and one-half percent (1.5%) per month commencing on the thirty-first day after the payment is due. However, in no event shall this interest provision be construed as a grant of permission for any payment delays. LICENSEE is responsible for repayment to LICENSOR of reasonable attorney, collection agency, or other out-of-pocket LICENSOR expenses required to collect overdue payments due from this Section 4 or any other applicable section of this Agreement

4.6.3 Except as otherwise directed, all amounts owing to LICENSOR under this Agreement shall be paid in U.S. dollars to LICENSOR at the following address:

Synogen Management Group, Inc.
6565 NW 81st Blvd
Gainesville, FL 32653

All monies owing stated in currencies other than U.S. dollars shall be converted at the rate shown in the Federal Reserve Noon Valuation - Value of Foreign Currencies on the day preceding the payment due date.

4.7 An accounting statement showing how any amounts payable to LICENSOR under Section 4.4 or 4.5 have been calculated shall be submitted to LICENSOR on the date of each such payment. The accounting statements must contain a written representation signed by an executive officer of LICENSEE that states that the statements are true, accurate, and fairly represent all amounts payable to LICENSOR pursuant to this Agreement.

Section 5: Technology transfer

5.1 Following the Effective Date, LICENSOR will transfer whenever made available to LICENSOR by ISE Professional Testing & Consulting Services, Inc., and at the expense of LICENSEE, the Licensed Know-How. LICENSEE understands and agrees that the Licensed Know-How is Controlled by LICENSOR and is the Confidential Information of ISE Professional Testing & Consulting Services, Inc., and LICENSEE agrees to (i) hold and protect the Licensed Know-How as LICENSEE'S confidential information, (ii) use the Licensed Know-How only as permitted by the terms of this Agreement, and (iii)

disclose the Licensed Know-How only to Sublicensees who have executed an agreement protecting LICENSOR's and ISE Professional Testing & Consulting Services, Inc.'s, confidential, proprietary and intellectual property rights in the Licensed Know-How with terms at least as restrictive as the provisions of this Agreement. Such agreement shall name LICENSOR and ISE Professional Testing & Consulting Services, Inc. as third party beneficiaries.

- 5.2 LICENSEE acknowledges that LICENSOR and ISE Professional Testing & Consulting Services, Inc., plan to establish a commercially viable manufacturing procedure which utilizes and will become part of the Licensed Know-How for making decellularized Urodele extracellular matrix tissue, which manufacturing procedure will include a black box aspect, LICENSEE may disclose this manufacturing procedure to Sublicensees under the confidentiality provisions as set forth in 5.2.1, EXCEPT THAT, LICENSEE may NOT disclose to Sublicensees the black box aspects of the manufacture procedure.

Section 6: Confidentiality

- 6.1 For the purposes of this Agreement, the term "Confidential Information" shall mean without limitation, ideas, concepts, plans, designs, marketing techniques, sales techniques, forecasts, products, technology, methods, procedures, pricing, costs, cost reports, customer prospects, designs, computer systems, passwords, computer software, procedures, methods, formulae, financial statements, assets, liabilities, revenues, business methods, marketing information, marketing methods, acquisition plans, contract terms, contract negotiations, compensation information, structures and plans, employee responsibilities and duties, copyright, trademark and patent applications, all business and technical information, data, know-how, costs, projections, samples, revenue projections, business plans, clinical protocols, formulae or other information which are owned or are in the possession of one or more of the parties to this Agreement, disclosed by one Party to the other, directly or indirectly, in writing or orally. Confidential Information does not include information that: (a) is or subsequently becomes part of the public domain through no fault of the Recipient (defined below); (b) is received from a Third Party under no obligation of confidentiality to the Disclosing Party and who has a lawful right to disclose the information (provided that if such information or materials are lawfully disclosed to the Recipient by a Third Party under conditions of confidentiality, such information shall continue to be considered Confidential Information for purposes of this Agreement, provided that the restrictions in the Section 6.1 shall not limit any permitted use or disclosure of such information allowed under the Recipient's agreement with such Third Party; (c) was known by the Recipient prior to the time of first disclosure by the Disclosing Party, as demonstrated by written documentation; or (d) is independently developed by the Recipient without the aid, application or use of such Confidential Information, as demonstrated by written documentation.
- 6.2 This Agreement applies to all Confidential Information disclosed from one party (the "Disclosing Party") to the other (the "Recipient"), as of the Effective Date of this Agreement and does not affect, supersede or novate any prior agreement regarding confidentiality, which shall be deemed amended to apply only to confidential information up until the Effective Date of this Agreement.
- 6.3 Each Party agrees not to use the Confidential Information received except in connection with the Licenses granted herein. The Recipient agrees to limit disclosure of the Confidential Information to its employees, officers, directors, Affiliates and consultants with a bona fide need to know, and to Sublicensees, but in each case only to the extent necessary in connection with the Licenses and as limited by the terms of this Agreement. All individuals receiving access to the Confidential Information must previously have entered into a confidentiality agreement with the Recipient or otherwise be bound under terms at least as restrictive as those contained herein.
- 6.4 Recipient shall hold Confidential Information in strict confidence and agrees to take all reasonable efforts to prevent disclosure of any Confidential Information to persons outside of its own organization and unauthorized use for a period of seven (7) years or in the event that the Confidential Information also constitutes a trade secret, then as long as it remains a trade secret under applicable law.
- 6.5 Any materials or documents of the Disclosing Party that are furnished to a Recipient will be promptly returned to the Disclosing Party, accompanied by all copies of the documentation made by the Recipient,

at the Disclosing Party's request, except that one copy of any written information may be retained by the Recipient in legal archives.

- 6.6 This Agreement is binding upon and for the benefit of the parties, and the right to the Confidential Information granted to the Recipient may not be assigned; (ii) This Agreement shall not be construed to grant any license or other rights except as specified herein; (iii) Each Disclosing Party warrants that it believes that (a) it is the owner or licensee of its Confidential Information or otherwise has the right to disclose such Confidential Information in its possession and (b) it has the right to enter into the Agreement without any breach of its obligations to others; (iv) Each Disclosing Party makes no other warranty relating to the Confidential Information and the use to be made thereof by the Recipient and disclaims all implied warranties.
- 6.7 The parties agree that the disclosure of Confidential Information by recipient without the Disclosing Party's written permission may cause the Disclosing Party irreparable harm and that any breach of this Agreement may entitle a party injunctive relief, in addition to any other legal remedies available to it, in any court of competent jurisdiction.
- 6.8 In the event that any Confidential Information is requested from a Recipient by legal process, such as a subpoena or a request for production, is required to be disclosed by law, or pursuant to the direction of a court or government agency ("Request"), the Recipient must provide the Disclosing Party with prior written notice of the Request within two (2) business days of receipt thereof. The Recipient and the Disclosing Party agree to take all reasonable efforts, collectively and independently, to limit disclosure of the Confidential Information in accordance with the law.

Section 7: Certain Warranties and Disclaimers of LICENSOR

- 7.1 LICENSOR represents that it has the right to grant the licenses granted to LICENSEE in this Agreement. However, nothing in this Agreement shall be construed as:
- 7.1.1 warranty or representation by LICENSOR as to the validity or scope of any right included in the Licensed Patents;
- 7.1.2 a warranty or representation that anything made, used, sold or otherwise disposed of under the license granted in this Agreement will or will not infringe patents of Third Parties;
- 7.1.3 an obligation to bring or prosecute actions or suits against Third Parties for infringement of Licensed Patents; or
- 7.1.4 an obligation to furnish any services other than those specified in this Agreement.
- 7.2 EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, LICENSOR MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND VALIDITY OF PATENT RIGHTS CLAIMS, ISSUED OR PENDING. LICENSOR ASSUMES NO RESPONSIBILITIES WHATSOEVER WITH RESPECT TO USE, SALE, OR OTHER DISPOSITION BY LICENSEE, ITS SUBLICENSEE(S), OR THEIR VENDEES OR OTHER TRANSFEREES OF PRODUCT INCORPORATING OR MADE BY USE OF INVENTIONS LICENSED UNDER THIS AGREEMENT.

Section 8: Record Keeping

- 8.1 LICENSEE and its Sublicensee(s) shall keep books and records sufficiently to verify the accuracy and completeness of LICENSEE's and its Sublicensee(s)'s accounting referred to above, including without limitation inventory, purchase, and invoice records, manufacturing records, sales analysis, general

ledgers, financial statements, and tax returns relating to the Licensed Products. All books and records must be preserved for a period not less than three years after they are created or as required by federal law, both during and for the three-year period after the term of this Agreement.

- 8.2 LICENSEE and its Sublicensee(s) shall allow LICENSOR and ISE Professional Testing & Consulting Services, Inc., within thirty (30) days of a written request, to audit, review and/or copy the books and records at a single U.S. location to verify the accuracy of LICENSEE's and its Sublicensee(s)'s accounting. The review may be performed by any authorized employees or contractors of LICENSOR or of ISE Professional Testing & Consulting Services, Inc., as well as by any attorneys and/or accountants designated by LICENSOR or by ISE Professional Testing & Consulting Services, Inc., upon reasonable notice and during regular business hours. If a deficiency, as determined by LICENSOR or by ISE Professional Testing & Consulting Services, Inc., with regard to any payment hereunder is determined, LICENSEE and/or its Sublicensee(s) agree to pay the deficiency within thirty (30) days of receiving notice thereof along with applicable interest as described in Section 4. If a payment deficiency for a calendar year exceeds six percent (6%) of the royalties paid for that year, then LICENSEE and its Sublicensee(s) are responsible for paying LICENSOR's (or ISE Professional Testing & Consulting Services, Inc.'s, as applicable) out-of-pocket expenses incurred with respect to such review. All information obtained by LICENSOR or ISE Professional Testing & Consulting Services, Inc. pursuant to this Section 8 shall be deemed Confidential Information. For the avoidance of doubt, if LICENSEE disputes the existence or amount of the purported deficiency, LICENSEE may invoke the dispute resolution provisions of this Agreement to resolve the dispute. LICENSOR will work to amend the ISE Agreement such that ISE Professional Testing & Consulting Services, Inc. does not have a direct right to audit LICENSEE'S books and records. If such amendment is entered into, then this Agreement will be deemed to have been amended to eliminate the rights granted to ISE Professional Testing & Consulting Services, Inc. under this Section 8.2. If LICENSOR disputes an audit of its books and records under the ISE Agreement, LICENSEE shall, at the expense of LICENSOR, cooperate with LICENSOR to provide the relevant information of LICENSEE to LICENSOR in connection with such dispute, subject in all cases to the confidentiality provisions hereof.

Section 9: Patent Prosecution

- 9.1 LICENSOR shall prosecute and maintain the Licensed Patents using counsel of its choice. LICENSOR shall provide LICENSEE with advance copies of all patent applications, amendments, and other filings with the United States Patent and Trademark Office and foreign patent offices and all related correspondence. LICENSOR will also provide LICENSEE with copies of office actions and other communications and correspondence relating to Licensed Patents and received by LICENSOR from the United States Patent and Trademark Office and foreign patent offices. LICENSEE agrees not to disclose any information received pursuant to this Section 9.1 to a Third Party. LICENSEE shall have the right to comment on prosecution, and LICENSOR shall take into account the reasonable comments made by LICENSEE.
- 9.2 LICENSEE is responsible for and must pay all reasonable costs and expenses incurred by LICENSOR and related to the preparation, filing, prosecution (including interferences), issuance, maintenance, defense (including oppositions) and reporting of the Licensed Patents, but exclusive of expenses to be paid by LICENSOR under Section 9.3 ("Patent Costs") during the term of the Agreement so long as they relate to Licensed Products in the Licensed Field. If LICENSOR licenses its patents or know-how outside of the Licensed Field, it shall use commercially reasonable efforts to require reimbursement of a proportional amount of the Patent Costs from such licensees. To the extent another licensee is obligated to reimburse Patent Costs, LICENSEE'S obligation to pay for Patent Costs shall be reduced.
- 9.3 LICENSEE shall, at the request and expense of LICENSOR, cooperate in all respects with LICENSOR'S efforts in preparing and prosecuting the Licensed Patents, and, to the extent possible and necessary, have its employees appear before patent offices and submit declarations when requested and make available relevant records, papers, information, samples, specimens, and the like.

- 9.4 Unless the Parties mutually agree to abandon a Licensed Patent, if LICENSEE declines to pay Patent Costs it is required to pay under Section 9.2 for any Licensed Patent or gives sixty (60) days' notice that it intends to decline to pay such required Patent Costs, then the license granted hereunder respecting such Licensed Patent shall automatically terminate after the expiration of such sixty (60) days in the involved country and/or jurisdiction.

Section 10: Infringement and Invalidity

- 10.1 LICENSEE agrees to inform LICENSOR promptly in writing of any alleged infringement of the Licensed Patents by a Third Party and of any available evidence thereof.
- 10.2 During the term of this Agreement, LICENSEE shall have the right, but shall not be obligated, to prosecute at its own expense any infringements of the Licensed Patents. If LICENSEE prosecutes any infringement, LICENSOR agrees that LICENSEE may include LICENSOR and ISE Professional Testing & Consulting Services, Inc. as a co-plaintiff in any suit (and LICENSOR shall exercise its rights under the ISE Agreement to procure that ISE Professional Testing & Consulting Services, Inc. be joined as a co-plaintiff, without expense to LICENSOR or to ISE Professional Testing & Consulting Services, Inc. No settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the written consent of LICENSOR, which consent shall not be unreasonably withheld. LICENSEE shall indemnify LICENSOR and ISE Professional Testing & Consulting Services, Inc. against any order for costs, fees and damages that may be made against such Party in such proceedings.
- 10.3 If within six (6) months after having been notified of any alleged infringement, LICENSEE has been unsuccessful in persuading the alleged infringer to desist but has not brought an infringement action against the alleged infringer, or if LICENSEE shall notify LICENSOR at any time prior thereto of its intention not to bring suit against the alleged infringer, then LICENSOR (or ISE Professional Testing & Consulting Services, Inc.) may, but is not obligated, to prosecute at its own expense any infringement of the Licensed Patents, and LICENSOR (or ISE Professional Testing & Consulting Services, Inc., as applicable) may, for those purposes, include LICENSEE as a co-plaintiff in any suit, without expense to LICENSEE. No settlement, consent judgment or other voluntary final disposition of the suit may be entered into without the consent of LICENSEE, which consent may not be unreasonably withheld. LICENSOR (or ISE Professional Testing & Consulting Services, Inc., as applicable) shall indemnify LICENSEE against any order for costs that may be made against LICENSEE in such proceedings.
- 10.4 In the event that a declaratory judgment action is brought against LICENSOR or LICENSEE by a Third Party alleging invalidity, unpatentability, unenforceability, or non-infringement of the Licensed Patents, LICENSEE, at its option, within twenty (20) days after commencement of such action, may take over the sole defense of the action at its own expense.
- 10.5 In the event that a Party shall undertake the enforcement by litigation and/or defense of the Licensed Patents by litigation, then the other Party shall have the right, but not the obligation, to voluntarily join that litigation, represented by its own counsel at its own expense. In the event that LICENSEE shall undertake the enforcement by litigation and/or defense of the Licensed Patents by litigation, any recovery of damages by LICENSEE for any such suit shall be applied first in satisfaction of any unreimbursed expenses and legal fees of LICENSEE relating to the suit, and next toward reimbursement of ISE Professional Testing & Consulting Services, Inc. for any legal fees, and unreimbursed expenses, and next toward reimbursement of LICENSOR for any legal fees, and unreimbursed expenses. The balance remaining from any recovery will be divided between ISE Professional Testing & Consulting Services, Inc. (25%), LICENSEE (50%) and LICENSOR (25%). In the event that LICENSOR or ISE Professional Testing & Consulting Services, Inc. undertakes the enforcement by litigation and/or defense of the Licensed Patents by litigation, any recovery of damages by LICENSOR (or ISE Professional Testing & Consulting Services, Inc., as applicable) for any such suit shall be applied first in satisfaction of any unreimbursed expenses and legal fees of ISE Professional Testing & Consulting Services, Inc., next in satisfaction of any unreimbursed expenses and legal fees of LICENSOR relating to the suit, and next toward reimbursement of LICENSEE for any legal fees, and unreimbursed expenses. The balance

remaining from any recovery will be retained by LICENSOR or ISE Professional Testing & Consulting Services, Inc., as applicable.

- 10.6 In any suit in which either Party is involved to enforce or defend the Licensed Patents pursuant to this Agreement, the other Party hereto shall, at the request and expense of the Party initiating such suit, cooperate in all respects and, to the extent possible, have its employees testify when requested and make available relevant records, papers, information, samples, specimens, and the like.

Section 11: Term and Termination

- 11.1 The term of this license begins on the Effective Date of this Agreement and continues until the date that no Licensed Patent remains an enforceable patent or no royalty is due, whichever is later. For the avoidance of doubt, upon expiration of the obligation to pay royalties in any country for a Licensed Product, the licenses granted herein as to such Licensed Product in such country shall be fully-paid, royalty free, irrevocable and shall continue in perpetuity in such country.
- 11.2 LICENSEE may terminate this Agreement at any time by giving at least forty five (45) days written notice of such termination to LICENSOR. Upon termination, all licenses granted under this Agreement immediately cease and each Party shall immediately return all of the Disclosing Party's Confidential Information to the Disclosing Party.
- 11.3 LICENSOR may terminate this Agreement by giving LICENSEE at least thirty (30) days written notice of termination if LICENSEE:
- 11.3.1 is delinquent on any report or payment as specified in any section of this Agreement and the delinquency, after written notice, remains uncured for forty five (45) days;
- 11.3.2 is in material breach of this Agreement, and the breach, after written notice, remains uncured for sixty (60) days; provided, that any right to terminate under this Section 11.3.2 shall be stayed in the event that, during such cure period, the LICENSEE shall have initiated dispute resolution in good faith in accordance with this Agreement with respect to the alleged default, which stay shall last so long as LICENSEE diligently and in good faith cooperates in the prompt resolution of such dispute resolution proceedings;
- 11.3.3 brings or assists another in bringing, or permits a Sublicensee to bring or assist another in bringing, a Patent Challenge against the Licensed Patents; or
- 11.3.4 goes into bankruptcy, liquidation or proposes having a receiver control any assets.
- 11.4 Upon the termination of this Agreement for any reason, nothing herein shall be construed to release either Party from any obligation that matured prior to the effective date of such termination. LICENSEE shall remain obligated to provide an accounting for and to pay royalties earned to the date of termination. LICENSEE may, however, after the effective date of such termination, sell all Licensed Products, and complete Licensed Products in the process of manufacture at the time of such termination and sell the same, provided that LICENSEE shall remain obligated to provide an accounting for and to pay running royalties thereon.

Section 12: Assignability

LICENSEE shall have the right to assign the License Agreement, upon prior written consent from LICENSOR, not to be unreasonably withheld, conditioned or delayed, to an Affiliate or to a Third Party in conjunction with the transfer or sale of substantially all of the assets or stock of the business entity to which the License Agreement relates.

Section 13: Dispute Resolution Procedures

- 13.1 Any dispute, controversy or claim that may arise relating to the terms of this Agreement or the activities of the Parties shall be referred to the Chief Executive Officers of the Parties, who shall use good faith efforts to mutually agree upon the proper course of action to resolve the dispute. If any dispute is not resolved by these individuals (or their designees) within thirty (30) days after such dispute is referred to them, then either Party may request within fifteen (15) days of the end of the thirty (30) day period the other Party to agree to mediation of the dispute through a mutually agreed upon mediator. The request shall be in writing. If the parties cannot agree upon a mediator, then the Party requesting mediation will submit the request to the AAA to select a mediator for the parties and then mediation will proceed according to the AAA's mediation rules then in effect. In the event a request for mediation is made, then mediation is mandatory. Although mediation is not binding, both Parties recognize that mediation may resolve the disputes without incurring substantial costs and agree to participate in mediation in good faith within thirty (30) days of the request for mediation being made, or as soon as possible thereafter if there is a delay caused solely by the selected mediator's schedule. At any time after the mediation is complete or in the event mediation is not requested, either Party may resort to the Florida courts for resolution of the dispute. Notwithstanding anything to the contrary in this Agreement, if either Party in its sole judgment believes in good faith that any such dispute could cause it irreparable harm, such Party (i) will be entitled to seek equitable relief in order to avoid such irreparable harm and (ii) will not be required to follow the procedures set forth in this Section 13.

Section 14: Product Liability

- 14.1 LICENSEE and Sublicensee(s) shall, at all times during the term of this Agreement and thereafter, indemnify, defend and hold LICENSOR, and each of its directors, officers, employees, and agents, and the inventors of the Licensed Patents, regardless of whether such inventors are employed by LICENSOR at the time of the claim, harmless against all claims and expenses, including legal expenses and reasonable attorneys' fees, whether arising from a Third Party claim or resulting from LICENSOR's enforcing this indemnification clause against LICENSEE, arising out of the death or injury to any person or persons or out of any damage to property and against any other claim, proceeding, demand, expense and liability of any kind whatsoever resulting from the development, production, manufacture, sale, use, lease, consumption, marketing, or advertisement of Licensed Products or arising from any right or obligation of LICENSEE hereunder. Notwithstanding the above, LICENSOR at all times reserves the right to retain counsel of its own to defend LICENSOR's, and the inventor's interests.
- 14.2 LICENSEE covenants that (i) LICENSEE or its Sublicensee will maintain liability insurance coverage appropriate to the risk involved in the development, production, manufacture, clinical trials, sale, marketing, use, leasing, consumption, or advertisement of the products subject to this Agreement and (ii) prior to the first use of a Product in a human, LICENSEE's or its Sublicensee's insurance coverage will list LICENSOR as an additional insured. Prior to the first use of a Product in a human and thereafter annually between January 1 and January 31 of each year, LICENSEE will present evidence to LICENSOR that coverage is being maintained with LICENSOR listed as an additional insured. In addition, LICENSEE shall provide LICENSOR with at least thirty (30) days prior written notice of any change in or cancellation of the insurance coverage.

Section 15: Use of Names

No Party shall use the names of any other Party, nor of any of their respective entity's employees, agents, or Affiliates, nor the name of any inventor of Licensed Patents, nor any adaptation of such names, in any promotional, advertising or marketing materials or any other similar form of publicity, or to suggest any endorsement by such entities or individuals, without the prior written approval of other Party, or the individual involved.

Section 16: Miscellaneous

- 16.1 This Agreement is governed by the laws of the State of Florida without respect to the conflicts of laws provisions thereof. The parties consent to the jurisdiction of the state and federal courts in Florida and waive any defense of *forum non conveniens* for such courts.

- 16.2 The Parties hereto are independent and not joint venturers or partners.
- 16.3 This Agreement constitutes the full understanding between the Parties with reference to the subject matter hereof, and no statements or agreements by or between the Parties, whether orally or in writing, may vary or modify the written terms of this Agreement. This Agreement may not be amended or modified except in writing as mutually agreed upon by the Parties.
- 16.4 Survival

The provisions of this Section shall survive the termination of this Agreement. Upon termination of the Agreement for any reason, the following sections of the License Agreement will remain in force as non-cancelable obligations:

- Section 6 Confidentiality
- Section 8 Record Keeping
- Section 11.4 Requirement to pay royalties after Agreement termination
- Section 13 Dispute Resolution
- Section 14 Product Liability
- Section 15 Use of Names

Section 17: Notices

- 17.1 Any notice required to be given pursuant to the provisions of this Agreement shall be in writing and shall be deemed to have been given:
- if sent by electronic mail, 24 hours after sending, **or**
 - the day following the day on which the notice has been delivered prepaid to an overnight courier service, **or**
 - five (5) business days following deposit in the U.S. mail if sent certified mail, **(return receipt acknowledgement is not required to certify delivery).**

17.2 If to LICENSOR:

President
Synogen Management Group, Inc.
6565 NW 81st Blvd
Gainesville, FL 32653
email: Jamie M. Grooms <jmg.jmgrooms@gmail.com>

With a copy to:
Edward R. Gates
WolfGreenfield
600 Atlantic Avenue
Boston, MA 02210
email: edward.gates@wolfgreenfield.com

17.3 If to LICENSEE:

President
NeXtGen Biologics, Inc.
747 SW 2nd Avenue, IMB #5
Gainesville, FL 32601
jltoothman@nextgenbiologics.com

With a copy to:

Keli Whitlock
Duane Morris LLP
1330 Post Oak Blvd, Suite 800
Houston, TX 77056
Kwhitlock@duanemorris.com

Section 18: Contract Authority

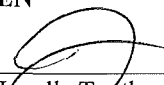
18.1 LICENSOR and LICENSEE hereby warrant and represent that the persons signing this Agreement have authority to execute this Agreement on behalf of the Party for whom they have signed.

18.2 Force Majeure

No default, delay, or failure to perform on the part of LICENSEE or LICENSOR shall be considered a default, delay or failure to perform otherwise chargeable hereunder, if such default, delay or failure to perform is due to causes beyond either Party's reasonable control including, but not limited to: strikes, lockouts, or inactions of governmental authorities, epidemics, war, embargoes, fire, earthquake, hurricane, flood, acts of God, or default of common carrier. In the event of such default, delay or failure to perform, any date or times by which either Party is otherwise scheduled to perform shall be extended automatically for a period of time equal in duration to the time lost by reason of the excused default, delay or failure to perform.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement on the dates indicated below.

NEXTGEN

By:  _____ Date: January 26, 2015
Jonelle Toothman
President

Synogen Management Group, Inc.

By:  _____ Date: January 26, 2015
Jamie Grooms
President

Appendix A

MIMEDx Group, Inc.
1775 West Oak Commons Ct. NE
Marietta, GA 30062
Toll Free: 888.543.1917
Local: 678.384.6720

A handwritten signature in black ink, appearing to be 'J. Pres' or similar, written over a horizontal line.

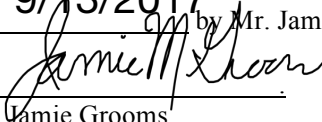
Attachment 1:

First Amendment to License Agreement Between NeXtGen and Synogen:

Section 3.1.3. is hereby amended to read:

"3.1.3 LICENSEE agrees to meet the following milestones:

- sell a first commercial product in the U.S. market no later than Feb. 28, 2020;
- sell a second commercial product in the U.S. market no later than December 31, 2021;
- sell a first commercial product in the European market no later than Feb. 28, 2021;
- sell a second commercial product in the European market no later than December 31, 2022."

Agreed to on 9/13/2017 by Mr. Jamie Grooms on behalf of Synogen Management
Group, Inc. 
Jamie Grooms