

AMERICAN ARBITRATION ASSOCIATION

SYNOGEN MANAGEMENT GROUP, INC.,

and

NEXTGEN BIOLOGICS, INC.,

Claimants,

v.

ISE PROFESSIONAL TESTING &
CONSULTING SERVICES, INC.,

Respondent.

Case No. 01-19-0002-3786

**AMENDED DEMAND FOR
ARBITRATION UNDER
COMMERCIAL ARBITRATION
RULES**

Claimants Synogen Management Group, Inc. (“Synogen”) and NeXtGen Biologics, Inc. (“Nextgen”) demand arbitration against respondent ISE Professional Testing & Consulting Services, Inc. (“ISE”), as follows:

I. PARTIES

1. Claimant Synogen is a Florida corporation. Synogen is represented in this Arbitration by DLA Piper LLP (US), 1650 Market St., Suite 5000, Philadelphia, PA 19103.

2. Claimant Nextgen is a Florida corporation. Nextgen is represented in this Arbitration by DLA Piper LLP (US), at the same address.

3. Respondent ISE is a Florida corporation. ISE is represented by Nelson Mullins Riley & Scarborough LLP, 201 17th St., Suite 1700, Atlanta, GA 30363.

4. Synogen and ISE are parties to a License Agreement, made effective September 23, 2014 (“License Agreement”). The Synogen-ISE License Agreement is attached as Exhibit 1. Under the Synogen-ISE License Agreement, Synogen contracted for an exclusive license to certain

Licensed Patents¹ and a non-exclusive license to certain Licensed Know-How. *See id.* §§ 1.7, 1.9, 2.

5. Synogen and Nextgen are parties to a Sublicense Agreement, made effective October 15, 2014 (“Sublicense Agreement”). The Synogen-Nextgen Sublicense Agreement is attached as Exhibit 2. Under the Synogen-Nextgen Sublicense Agreement, Synogen granted to Nextgen certain rights under the Licensed Patents and Licensed Know-How. *See id.* §§ 1.7, 1.9, 2.

II. ARBITRATION

6. The American Arbitration Association (“AAA”) has authority to arbitrate the disputes among the parties under § 13 of the Synogen-ISE License Agreement.

7. Sections 13.2 and 13.3 of the License Agreement provide, in relevant part:

13.2 All controversies, claims, demands or disputes arising out of or relating to this Agreement will be resolved by arbitration by a neutral arbitrator. To initiate this process, the Party requesting arbitration must send the other Party written notice demanding arbitration (the “Demand”).

13.3 The arbitration will be governed by the rules of the American Arbitration Association (“AAA”) . . . The arbitrator will be selected by mutual agreement of the parties within fifteen (15) days of the Demand being sent. The arbitrator must be an attorney with a background in intellectual property and human biologics. In the event that the Parties are unable to agree to the name of an arbitrator within fifteen (15) days of the Demand being sent, then the case will be transferred to the AAA and selection of the single arbitrator will proceed according to the AAA’s rules . . .

8. Nextgen is a third-party beneficiary to the License Agreement, including, without limitation, §§ 2.2.1 and 13.

¹ Capitalized terms are defined identically in the ISE-Synogen License Agreement and Synogen-Nextgen Sublicense Agreement.

9. On this point, § 13.1 provides, “[i]n the event of a dispute between the Parties, they agree and each Sublicensee which enters into a direct license must agree, that all disputes will be resolved through mediation or arbitration exclusively and not in court.”

10. The Synogen-ISE License Agreement specifically contemplates that Synogen will sublicense the rights under the agreement:

- i. § 1.12 defines “Sublicense” as “to grant any other right with respect to any right licensed to [Synogen] under this Agreement”;
- ii. § 2.2, titled Sublicense, states “[Synogen] may grant, in its sole discretion, written Sublicenses to third parties which are not Excluded Sublicensees”;
- iii. § 2.2.1 gives Sublicensees the right, “at the Sublicensee’s option,” to survive termination of the prime Synogen-ISE licenses in the event of a dispute between Synogen and ISE;
- iv. § 3.1 provides, “[Synogen] agrees and warrants to use commercially reasonable efforts to pursue the development of the technology . . . principally through sublicensing the Licensed Patents”; and
- v. § 5.2.1 contemplates that the Licensed Know-How will be shared with Synogen’s Sublicensees.

See License Agrmt. (Ex. 1) §§ 1.12, 2.2, 2.2.1, 3.1, 5.2.1.

11. And, the Synogen-ISE License Agreement specifically contemplates that Synogen will sublicense the rights under the agreement *to Nextgen*. *See License Agrmt. (Ex. 1), Appendix A* (the License Agreement directs Synogen to “form[] Sublicensee . . . NextGen” and “enter into a sublicense with NextGen.”).

12. Further, Appendix A to the License Agreement directs, “[t]he primary focus at the start is the formation and funding and support of NextGen.” *See License Agrmt. (Ex. 1), Appendix A.*

13. Under the Synogen-ISE License Agreement and Synogen-Nextgen Sublicense Agreement, Nextgen retains 97 to 98.5 percent of Net Sales from any product developed from the

Licensed Patents, and Synogen and ISE share the remainder evenly—i.e., Synogen and ISE each receive 0.75 to 1.5 percent of Net Sales. *See* License Agrmt. (Ex. 1) § 4.2; Sublicense Agrmt. (Ex. 2) § 4.4.

14. ISE was provided with a true and accurate copy of the Synogen-Nextgen Sublicense Agreement.

15. Synogen sent written notice to ISE demanding arbitration on July 15, 2019. Synogen's July 15, 2019 letter to ISE is attached as Exhibit 3.

16. The parties were not able to agree to the single arbitrator, and fifteen days lapsed since the Demand. Accordingly, Synogen effectuated the transfer of the dispute to the AAA under § 13.3 of the License Agreement July 31, 2019.

17. Section 13 of the License Agreement outlines additional parameters for the Arbitration:

- i. [t]he arbitration hearing will be held in the City of Gainesville, Florida;
- ii. [the] hearing must be scheduled . . . within sixty (60) days of the date of the appointment of the arbitrator, who must agree to this time frame prior to appointment; and
- iii. [t]he hearing record must close within ninety (90) days of the presentation of the Demand.

See License Agrmt. (Ex. 1) § 13.5.

III. OPERATIVE FACTS

A. The Synogen-ISE License Agreement and the Product

18. As stated, Synogen and ISE are parties to a License Agreement, made effective September 23, 2014. *See* License Agrmt. (Ex. 1).

19. Under the License Agreement, Synogen contracted for:

- i. an exclusive license to develop and commercialize the Licensed Patents—i.e., effectively, technology covering broad rights relating to “decellularized biomaterial from non-mammalian tissue”; and
- ii. a non-exclusive license to use the Licensed Know-How—i.e., the process for decellularizing the product, “which [] procedure will include a black box aspect.”

See License Agrmt. (Ex. 1) §§ 1.7, 1.9, 2, 5.2.2.

20. From the Licensed Patents, Synogen, with sublicensee Nextgen, developed a human skin graft product derived from the tissue of an amphibian species.

21. The skin graft product is branded NeoMatriX®.

22. To manufacture and commercialize the NeoMatriX product, Synogen requires the contracted-for Licensed Know-How and black box aspect. On information and belief, the Know-How and black box aspect, in combination, are the process to decellularize the amphibian tissue, and thus, manufacture the product.

23. As stated, Synogen has contracted-for rights to this manufacturing procedure under the License Agreement. Section 2.1 of the License Agreement sets forth: “[ISE] hereby grants to [Synogen] a non-exclusive license . . . to the Licensed Know-How . . . in the making, development, use . . . and sale of [the product].”

24. More specifically, § 5.2.1 of the License Agreement unequivocally and unambiguously requires ISE to “transfer promptly at the request and expense of Synogen the Licensed Know-How.”

25. And, § 5.2.2 of the License Agreement requires ISE, with Synogen, to “promptly establish a commercially viable manufacturing procedure which utilizes the Licensed Know-How for making decellularized [product], which manufacturing procedure will include a black box aspect.”

26. In exchange for these rights to the technology and manufacturing procedure, Synogen agreed to: (i) be responsible for the settlement and/or payment of ISE's outstanding intellectual property costs (§ 4.1); (ii) prosecute the Licensed Patents at Synogen's own expense (§§ 4.1, 9.1); and pay to ISE fifty percent (50%) of all consideration received under the sublicenses by royalties, milestone payments or otherwise (§ 4.2).

27. Synogen performed all obligations under the License Agreement.

B. Synogen and Nextgen's Efforts to Commercialize the Technology

28. To date, Synogen has paid to ISE 50% of all consideration received through its sublicensees.

29. And, in accordance with §§ 4.1 and 9.1 of the License Agreement, Synogen has aggressively pursued the prosecution of the Licensed Patents to protect the technology, and, with sublicensee Nextgen, has covered all related expenses of the prosecution.

30. Synogen has aggressively pursued the patent rights since September 2014—now almost five years—and continues to pursue patent rights in the following jurisdictions at significant expense: the United States; Canada; China; Europe; Hong Kong; Israel; Japan; and Korea.

31. As a result of Synogen and Nextgen's efforts, on January 10, 2019, Synogen received a Non-Final Office Action from the United States Patent and Trademark Office ("USPTO") indicating the impending issuance of U.S. patent rights. *See* the January 10, 2019 Office Action as Exhibit 4.

32. Further, in accordance with § 4.1 of the License Agreement, Synogen, through sublicensee Nextgen, resolved ISE's outstanding intellectual property costs.

33. And, as stated above, Synogen, with Nextgen, developed the licensed technology into the product NeoMatriX—a novel human skin graft product.

34. On October 11, 2018, Synogen and Nextgen received 510(k) clearance from the U.S. Food and Drug Administration (“FDA”) to market the product.

35. In reliance on the exclusive rights to the technology and license to the manufacturing process, Synogen and Nextgen have expended incredible efforts, time and money over the past five years in development of the product, pursuit of clearance by the FDA, and in prosecution of the patents in the various jurisdictions, for the product NeoMatriX.

36. In all, Synogen and Nextgen have spent more than \$7.5 million in developing and bringing the product towards market. Taking the product to market continues to be delayed by ISE’s misconduct. As a result of that delay, Synogen and Nextgen continue to incur damages.

C. ISE’s Breach: Refusal to Transfer the Manufacturing Process

37. Synogen and Nextgen are at the precipice of commercializing NeoMatriX, and taking the product to market.

38. However, Synogen cannot manufacture the NeoMatriX product without the Licensed Know-How and black box aspect. On information and belief, in combination, the Know-How and black box aspect outline the process for decellularizing the derivative tissue materials.

39. As detailed, Synogen has contracted-for rights to the Licensed Know-How, and to “a commercially viable manufacturing procedure . . . for making decellularized [product], which manufacturing procedure will include a black box aspect.” See License Agrmt. (Ex. 1) § 5.2.2.

40. Synogen has repeatedly requested transfer of the Licensed Know-How, black box aspect and the commercially viable manufacturing procedure under the License Agreement.

41. Understanding that Synogen and Nextgen are at a critical juncture with respect to NeoMatriX, and that Synogen and Nextgen have expended considerable money and resources to

reach this juncture, ISE is holding the requested information hostage, and breaching its express and unambiguous obligations under the License Agreement.

42. To date, ISE has refused the requests in direct contravention of the License Agreement, and without providing any support for its breach of contract.

43. In a November 5, 2017 email from Jamie Grooms, Chairman of the Board at Synogen, to Geof Vickers, counsel for ISE, Jamie requested the parties “turn [their] intention to escrowing the process.” *See* the November 5, 2017 email from Jamie Grooms as Exhibit 5.

44. In an October 22, 2018 email from Mr. Grooms to Ryanne Early, President of ISE, Mr. Groom’s explained:

So, I decided to send this note to keep us on track. **As mutually agreed we have a compliance issue as it relates to the manufacturing blackbox requirement in our agreement.** We have agreed to sit down to discuss a solution to this issue. My goal is to use our timeline within the agreement (45 days) to resolve so we have an agreement that works for all parties.

See the October 22, 2018 email from Jamie Grooms as Exhibit 6 (emphasis added).

45. In response to Synogen’s requests for transfer of its contracted-for rights, counsel for ISE sent a letter to Synogen on November 7, 2018 outlining a number of purported breaches of the License Agreement by Synogen. *See* ISE’s November 7, 2018 letter to Synogen as Exhibit 7. The letter was nothing more than a transparent attempt by ISE to manufacture a breach in the hope of escaping its obligations under the agreement to provide the information requested by Synogen.

46. By its November 7, 2018 letter, ISE again refused to transfer the Licensed Know-How and black box aspect in direct contravention of its clear contract obligations. *See id.*

47. On April 5, 2019, ISE improperly attempted to terminate the License Agreement, citing the manufactured and technical breaches. *See* ISE's April 5, 2019 letter to Synogen as Exhibit 8.

48. However, as outlined in Synogen's May 2, 2019 letter to ISE, Synogen was not in breach of the License Agreement at any relevant time, and ISE has no right to unilaterally, and without support, terminate the agreement. *See* Synogen's May 2, 2019 letter to ISE as Exhibit 9.

49. ISE's attempts to manufacture technical breaches and terminate Synogen's license is a transparent effort to avoid its obligations under the agreement.

50. ISE and its President, Ryanne Early, appear to be willing to take all measures to avoid disclosure of the Licensed Know-How and black box aspect.

51. ISE's actions are in bad faith.

52. Synogen and its sublicensees, in reliance on the exclusive license to the technology and rights to the manufacturing process, expended significant efforts, time and money in development of the product NeoMatriX, clearance of the product to market by the FDA, and prosecution of patent rights in eight different jurisdictions.

53. And now that the branded product NeoMatriX is developed, approved to be marketed in the U.S., and has been given an indication of forthcoming patent rights in the U.S., all based on Synogen's and its sublicensees' efforts and money, ISE is attempting to revoke the licenses to avoid its obligations under the agreement.

54. Ryanne Early is also a principal and the CEO at Seed Biotech, Inc. ("Seed")—a Texas corporation with a focus on the biotech industry.

55. On information and belief, Ryanne Early uses each company interchangeably, and personally, and the corporate formalities one would expect from two different companies are severely lacking.

56. For example, Ms. Early conducts ISE business from a seedbiotech.com email address, and her Gmail address signature refers to positions at both ISE and Seed.

57. The principal place of business, mailing address and registered business address for ISE is the law office of Michael A. Croak—Ryanne Early’s father.

58. Ryanne Early is the sole owner, president and employee of ISE.

59. And, on information and belief, ISE is underfunded.

D. ISE’s Breach: Refusal to Cooperate in Patent Prosecution Efforts

60. Section 9.3 of the License Agreement requires ISE to “cooperate in all respects with [Synogen]’s efforts in preparing and prosecuting the Licensed Patents, and . . . have its employees appear before patent offices and submit declarations when requested.”

61. On July 10, 2019, Synogen submitted to the USPTO two formality documents—a Patent Assignment and a Declaration.

62. Both documents were reviewed and signed by Ryanne Early, President of ISE. The Patent Assignment was signed by Ms. Early on May 30, 2014, and the Declaration on May 7, 2019. The Patent Assignment and Declaration are attached as Exhibits 10 and 11, respectively.

63. Synogen forwarded the Patent Assignment to ISE by email for review on March 18, 2019.

64. And, ISE, through counsel at Nelson Mullins, forwarded to Synogen the reviewed and signed Declaration on May 7, 2019.

65. Notwithstanding these facts, on July 16, 2019, ISE sent a letter to Synogen purporting to notify Synogen that its July 10th submissions to the USPTO constituted a “material breach” and “[in]curable [breach]” of the License Agreement. ISE’s July 16, 2019 letter is attached as Exhibit 12.

66. As its bases, ISE alleged Synogen failed to provide “advance copies” of the two documents, and that Synogen violated § 15 of the License Agreement—a provision barring use of another company’s name in promotional and marketing materials. See *id.*

67. ISE’s July 16, 2019 letter is another transparent effort by ISE to manufacture a breach of the agreement in the hope of escaping its obligations.

68. As a result of ISE’s continued bad faith efforts, on July 18, 2019, Synogen was forced to respond to ISE’s July 16, 2019 letter on the manufactured patent issues. Synogen’s July 18, 2019 letter is attached as Exhibit 13.

69. As stated, Synogen continues to pursue patent rights in the following jurisdictions at significant expense: the United States; Canada; China; Europe; Hong Kong; Israel; Japan; and Korea.

70. As a result of Synogen’s and its sublicensees’ efforts, on January 10, 2019, Synogen received a Non-Final Office Action from the USPTO indicating the impending issuance of U.S. patent rights. See Ex. 4.

71. The continued patent prosecution efforts across the open jurisdictions are necessary to protect the licensed technology.

72. Notwithstanding this, on July 26, 2019, ISE, through email by counsel at Nelson Mullins, demanded “no further patent documents should be filed” in the open patent prosecution actions. ISE’s July 26, 2019 email is attached as Exhibit 14.

E. Nextgen's Survival of the Synogen-ISE License

73. Section 2.2.1 of the Synogen-ISE License Agreement accords sublicensees the option to survive the termination of the prime Synogen-ISE license "at the Sublicensee's option."

74. Synogen and ISE expressly and unambiguously intended § 2.2.1 as a protection to sublicensees against disputes under the prime Synogen-ISE license.

75. Geof Vicker's, counsel to ISE, August 14, 2014 email to Edward Gates, counsel to Synogen, makes this clear. In memorializing discussions between representatives of Synogen and ISE relating to the terms of the draft License Agreement, Mr. Vickers wrote:

If company does a license with a sub license and the primary companies have made a dispute/default, that sub license needs to remain valid. *the contract does not currently reflect that but it needs to in this context "licensor survives any dispute between the two primaries so the sub license survives."

See Geof Vicker's August 14, 2014 email as Exhibit 15.

76. On June 27, 2019, Nextgen sent written notice to ISE advising ISE that as a result of ISE's purported repudiation of the Synogen-ISE License Agreement, Nextgen intends, and reserves its right, to exercise its option under § 2.2.1 of the License Agreement to survive any termination of the prime license. Nextgen's June 27, 2019 letter to ISE is attached as Exhibit 16.

77. On July 16, 2019, ISE sent a response letter to Nextgen refusing to recognize Nextgen's right to survive the Synogen-ISE license under § 2.2.1 of the License Agreement.

78. And, in its Answering Statement in this Arbitration submitted August 19, 2019, ISE asserted a claim (Claim 3) requesting a declaratory judgment that Nextgen has no right to enter into a direct license agreement with ISE under § 2.2.1 of the License Agreement.

79. Accordingly, by its Answering Statement ISE placed Nextgen's rights at issue in this Arbitration, and waived any objection to Nextgen joining this Arbitration.

IV. NATURE OF THE CLAIMS

80. Claimants repeat and incorporate the preceding paragraphs of this Demand as if set forth herein at length.

A. Claim I: Breach of Contract for Failure to Transfer the Manufacturing Process – Synogen Against ISE

81. Synogen and ISE are parties to the License Agreement, made effective September 23, 2014. *See* License Agreement (Ex. 1).

82. The License Agreement is an enforceable contract.

83. Under the License Agreement, Synogen contracted for, among other things, a non-exclusive license to the Licensed Know-How. *See* License Agreement (Ex. 1) §§ 1.7, 2 (“[ISE] hereby grants to [Synogen] a non-exclusive license . . . to the Licensed Know-How . . . in the making, development, use . . . and sale of [the product].”)

84. Under § 5.2.1 of the License Agreement, ISE is required to “transfer promptly at the request and expense of Synogen the Licensed Know-How.”

85. And, under § 5.2.2 of the License Agreement, ISE is required to “promptly establish a commercially viable manufacturing procedure which utilizes the Licensed Know-How for making decellularized [product], which manufacturing procedure will include a black box aspect.”

86. Synogen performed all obligations under the License Agreement.

87. ISE is in breach of the License Agreement, by among other things, (i) refusing to transfer the Licensed Know-How and (ii) refusing to establish and transfer a commercially viable manufacturing procedure.

88. As a result of ISE’s breaches of contract, Synogen has been deprived the benefit of its bargain under the License Agreement and suffered harm including monetary damages.

Wherefore, Synogen requests entry of judgment on Claim I against ISE, and that the Arbitrator award relief to Synogen as outlined in Section V of this Demand.

B. Claim II: Breach of Contract for Refusal to Cooperate in the Patent Prosecution – Synogen Against ISE

89. Synogen and ISE are parties to the License Agreement, made effective September 23, 2014. *See* License Agreement (Ex. 1).

90. The License Agreement is an enforceable contract.

91. Under the License Agreement, ISE is required to “cooperate in all respects with [Synogen]’s efforts in preparing and prosecuting the Licensed Patents, and . . . have its employees appear before patent offices and submit declarations when requested.” License Agrmt. (Ex. 1) § 9.3.

92. Synogen performed all obligations under the License Agreement.

93. ISE is in breach of the License Agreement, by among other things, (i) refusing to cooperate in good faith in the submission of the Patent Assignment and Declaration documents to the USPTO, and (ii) its demand that “no further patent documents [are] filed.”

94. As a result of ISE’s breaches of contract, Synogen has been deprived the benefit of its bargain under the License Agreement and suffered harm including monetary damages.

Wherefore, Synogen requests entry of judgment on Claim II against ISE, and that the Arbitrator award relief to Synogen as outlined in Section V of this Demand.

C. Claim III: Breach of the Covenant of Good Faith and Fair Dealing – Synogen Against ISE

95. Florida recognizes the implied covenant of good faith and fair dealing in contractual relationships.

96. The Synogen-ISE License Agreement is an enforceable contract.

97. ISE has breached the implied covenant of good faith and fair dealing by its arbitrary and unreasonable conduct, including, without limitation, (i) its refusal to transfer the Licensed Know-How, and (ii) refusal to establish and transfer a commercially viable manufacturing procedure.

98. ISE's obligation to transfer the Know-How and commercially viable manufacturing procedure under the License Agreement is clear and unambiguous. *See* License Agreement (Ex. 1) §§ 1.7, 2, 5.2.1, 5.2.2.

99. And, ISE's refusals are in direct contravention to the unambiguous terms of the License Agreement.

100. As a result of ISE's breach of the implied covenant of good faith and fair dealing, Synogen has been deprived the benefit of its bargain under the License Agreement and suffered harm including monetary damages.

Wherefore, Synogen requests entry of judgment on Claim II against ISE, and that the Arbitrator award relief to Synogen as outlined in Section V of this Demand.

D. Claim IV: Violation of Florida's Deceptive and Unfair Trade Practices Act – Synogen Against ISE

101. Synogen contracted with ISE for the transfer of the exclusive rights to the Licensed Patents and the non-exclusive rights to the Licensed Know-How.

102. At the time of the agreement, ISE promised to provide the Licensed Know-How, black box aspect and a "commercially viable manufacturing procedure" to Synogen.

103. In exchange for these rights, Synogen paid fair market consideration.

104. In direct contravention to the clear terms of the agreement, ISE has refused to transfer the Licensed Know-How.

105. Instead, to avoid its clear obligations under the agreement to transfer the Know-How, black box aspect and manufacturing process, ISE has taken unreasonable positions and improperly attempted to terminate the License Agreement and Synogen's rights to the Licensed Patents and Licensed Know-How.

106. ISE has provided no explanation for its unreasonable breach position, and its actions are unethical, deceptive and are in bad faith.

107. As a result of ISE's deceptive practices, Synogen's contracted-for rights to the technology have no market value.

108. As a result of ISE's violation of Florida's Deceptive and Unfair Trade Practices Act, Synogen has been deprived the benefit of its bargain under the License Agreement and suffered harm including the diminution in value of its received rights and monetary damages.

Wherefore, Synogen requests entry of judgment on Claim III against ISE, and that the Arbitrator award relief to Synogen as outlined in Section V of this Demand.

E. Claim V: Breach of Contract for Failure to Transfer the Manufacturing Process – Nextgen Against ISE

109. The Synogen-ISE License Agreement is an enforceable agreement.

110. Nextgen is a third-party beneficiary to the License Agreement, including, without limitation, §§ 2.2.1 and 13.

111. Section 2.2.1 of the License Agreement accords sublicensees the option to survive the termination of the prime license at the sublicensee's option, and to enter into a direct license agreement with ISE on substantially the same terms as the sublicense agreement. *See* License Agreement (Ex. 1) § 2.2.1.

112. On June 27, 2019, Nextgen sent written notice to ISE advising ISE that as a result of ISE's purported repudiation of the Synogen-ISE License Agreement, Nextgen intends, and

reserves its right, to exercise its option under § 2.2.1 of the License Agreement to survive any termination of the prime license.

113. Despite purportedly terminating the Synogen-ISE License Agreement, ISE has refused to recognize Nextgen's contractual rights under § 2.2.1 of the License Agreement.

Wherefore, in the alternative, should the License Agreement be deemed terminated, Nextgen requests entry of judgment on Claim V against ISE, and that the Arbitrator award relief to Nextgen as outlined in Section V of this Demand.

V. REQUEST FOR RELIEF

Wherefore, claimants Synogen Management Group, Inc. and NeXtGen Biologics, Inc. request damages, and declaratory and injunctive relief, as follows:

A. Injunctive Relief – Synogen Against ISE

1. In accordance with § 5.2.1 of the License Agreement, ISE shall transfer promptly to Synogen, and not later than 3 business days from the entry of this Arbitrator's Award, the Licensed Know-How;

2. And, in accordance with § 5.2.2 of the License Agreement, ISE shall promptly, and not later than 3 business days from the entry of this Arbitrator's Award, establish, and transfer to Synogen, a commercially viable manufacturing procedure which utilizes the Licensed Know-How for making decellularized [product], which manufacturing procedure will include a black box aspect;

B. Monetary Damages – Synogen and Nextgen Against ISE

3. Monetary damages to compensate Synogen and Nextgen for all losses, including but not limited to, lost revenues, expenses incurred in pursuit of development of the technology,

and regulatory and patent approvals, and expenses incurred in pursuit of alternative manufacturing processes, and the value of Nextgen's business should it be destroyed by ISE's breaches;

4. Reasonable attorneys' fees, expenses, and related litigation and arbitration costs under AAA Rule R-47(d), as a sanction for bad faith litigation conduct, and generally at law and in equity;

5. All other relief that the Arbitrator finds just;

C. Declaratory Relief – Nextgen Against ISE

6. In the alternative, should the License Agreement between Synogen and ISE be deemed terminated, Nextgen has the right, at its sole option, under § 2.2.1 of the License Agreement to survive the termination of the prime license, and to enter into a direct license with ISE on substantially the same terms as the Synogen-Nextgen Sublicense Agreement.

Synogen and Nextgen reserve the right to modify and supplement their claims, including their requests for relief, as more facts become available and to submit all documents, exhibits, witness statements and other evidence as necessary to prove their claims and damages.

Date: September 16, 2019

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