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Attorneys for Plaintiffs Isagenix International,  
LLC, Isagenix Canada ULC, and Isagenix (Asia  
Pacific) Australia Pty. Ltd.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

ISAGENIX INTERNATIONAL, LLC, an  
Arizona limited liability company;  
ISAGENIX CANADA ULC, a Canadian  
entity; ISAGENIX (ASIA PACIFIC)  
AUSTRALIA PTY. LTD., an Australian  
entity,

Plaintiffs,

v.

MODERE INTERNATIONAL, LLC d/b/a  
MODERE ENTERPRISES, INC. d/b/a  
MODERE SERVICES, INC. d/b/a  
MODERE USA, INC. d/b/a MODERE,  
INC. d/b/a MAPLE MOUNTAIN GROUP,  
INC. d/b/a MAPLE MOUNTAIN INC.  
d/b/a NATURE'S SCIENCEUTICALS  
d/b/a NATURE'S SCIENCEUTICALS  
INTERNATIONAL d/b/a NATURE'S  
SCIENCEUTICALS NETWORK d/b/a  
NEWAYS, INC. d/b/a NEWAYS  
INTERNATIONAL, LLC, a Utah limited  
liability company; MARK KLASSEN and  
LINDA KLASSEN, husband and wife;  
BRETT DAVIS and SAMANTHA  
GASCOIGNE, husband and wife; JOHN  
AND JANE DOES 1-10; ABC  
PARTNERSHIPS 1-10; XZY  
CORPORATIONS 1-10,

Defendants.

**COPY**



FEB 14 2020

CLERK OF THE SUPERIOR COURT  
A. HATCH  
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No. **CV2020-002158**

**COMPLAINT**

Commercial Court Assignment  
Requested

1 Plaintiffs Isagenix International, LLC, Isagenix Canada ULC, and Isagenix (Asia  
2 Pacific) Australia Pty. Ltd. (collectively, "Isagenix"), bring this action against defendants  
3 Modere International, LLC d/b/a Modere Enterprises, Inc. d/b/a Modere Services, Inc. d/b/a  
4 Modere USA, Inc. d/b/a Modere, Inc. Maple Mountain Group, Inc. d/b/a Maple Mountain  
5 Inc. d/b/a Nature's Scienceceuticals d/b/a Nature's Scienceceuticals International d/b/a Nature's  
6 Scienceceuticals Network d/b/a Neways, Inc. d/b/a Neways International, LLC ("Modere");  
7 Mark Klassen ("Klassen") and Linda Klassen; Brett Davis ("Davis") and Samantha  
8 Gascoigne ("Gascoigne"); John and Jane Does 1-10; ABC Partnerships 1-10; XZY  
9 Corporations 1-10 (collectively, "Defendants"), for tortious interference with contract and  
10 business expectancy, breach of contract, breach of the covenant of good faith and fair  
11 dealing, trade secret misappropriation, unfair competition, and unjust enrichment, and in  
12 support of this complaint, allege the following:

### 13 INTRODUCTION

14 1. This lawsuit is about a troubled company unable and unwilling to compete  
15 using fair and legal means, instead turning to unfair and illegal means, with the help of  
16 unscrupulous individuals willing to violate their legal obligations for extra money. That  
17 company, Modere, has engaged in a long-term, sophisticated campaign to raid the ranks of  
18 Isagenix's network-marketing customers and independent sales force ("Associates") across  
19 multiple continents. In doing so, Modere has worked closely with current and former  
20 members of Isagenix's sales force and helped them to violate their contractual obligations  
21 prohibiting the soliciting of Isagenix customers or Associates—even after being notified of  
22 those obligations. These individuals include the named defendants, and likely others who  
23 may later be added as defendants.

24 2. Modere and these individuals have also disparaged Isagenix in misleading  
25 ways using confidential insider information they somehow obtained and then presented in  
26 distorted fashion. Most Associates targeted by this deceptive attack have stayed with  
27 Isagenix, having recognized the attack for what it is—a desperate attempt by an inferior,  
28 private-equity-owned company to achieve, by whatever means necessary, a short-term

1 boost in revenues. However, some have left Isagenix and joined Modere, and those  
2 departures have harmed many hard-working Associates financially and otherwise. Part of  
3 that harm is to Associates' morale which, as in any line of work, is critical to productivity.  
4 This lawsuit seeks reasonable redress for that harm.

5 3. Modere may first have formed an intent to target Isagenix with a raiding  
6 campaign as early as May of 2018, when a representative of Modere inquired with Isagenix  
7 about whether Isagenix was interested in purchasing Modere and Isagenix declined.  
8 Isagenix treated the inquiry with respect but—as a successful and stable company under  
9 original family ownership for nearly 18 years with a highly respected brand—had concerns  
10 about the apparent instability of Modere's ownership and brand. Earlier this month,  
11 Modere's CEO Asma Ishaq revealed how significant those May 2018 communications  
12 were, at least in her mind, when, over 18 months after the communications, she mentioned  
13 those conversations to an Isagenix Associate she was attempting to recruit to Modere (in  
14 the presence of another Isagenix Associate whom she knew was in the act of violating his  
15 non-solicitation obligations).

16 4. Modere began recruiting Isagenix Associates at least as early as the summer  
17 of 2019, when a Modere executive based in Australia visited the home of two of Isagenix's  
18 most prominent Australian Associates, Heidi and Lal Macallan, and invited them to join  
19 Modere. The executive offered the Macallans extra compensation outside the compensation  
20 normally paid to Modere's independent salesforce in an effort to incentivize them to join.  
21 The Macallans declined Modere's offer and, after mentioning it to an Isagenix executive,  
22 Heidi Macallan expressed that, if she were to leave Isagenix, it would not be to join Modere.  
23 However, earlier this year, the Macallans resigned from Isagenix and joined Modere.

24 5. Modere appears to have first succeeded in recruiting an Isagenix Associate as  
25 early as September of 2019, when Associates Todd and Delialah Lotich resigned from  
26 Isagenix and joined Modere.

27 6. In January of 2020, six prominent Australian Associates (three couples)  
28 resigned from Isagenix in coordinated fashion, with resignation emails that were all

1 submitted on the same day and that contained overlapping points. These now-former  
2 Associates—Brett Davis and Samantha Gascoigne, Heidi and Lal Macallan, and Matt and  
3 Karina Jolly—joined Modere and began building a business with Modere promptly after  
4 their resignations.

5         7. Davis and Gascoigne were at one time members of Isagenix's prestigious  
6 Associate Field Advisory Board, giving them particular prominence among Isagenix  
7 Associates, as well as access to confidential information shared by the Company. Their  
8 willingness to violate their contractual non-solicitation and confidentiality obligations to  
9 Isagenix is thus particularly harmful to current Associates and the Company. Perhaps for  
10 that reason, Davis and Gascoigne have taken a lead role in working with the other two  
11 couples to promote Modere.

12         8. Davis and Gascoigne have brazenly solicited Isagenix Associates to Modere  
13 in violation of their contractual obligations. For example, they have used a private  
14 Facebook group to promote Modere to an audience that includes Isagenix Associates. And,  
15 they have sent many Associates a form text message openly inviting discussions about their  
16 new business venture (using a complicated message that ostensibly purports to disclaim  
17 solicitation while, in fact, engaging in exactly that, giving rise to liability for solicitation).

18         9. In the weeks leading up to their resignation, Davis and Gascoigne repeatedly  
19 disparaged Isagenix to other Associates in an attempt to make those Associates more  
20 susceptible to their eventual solicitations. Since their resignation and their open affiliation  
21 with Modere, Davis and Gascoigne have not been content to simply speak positively of  
22 Modere, but have continued to disparage Isagenix with misinformation. They have done  
23 so via social media, including posts on their Facebook pages, which are populated by large  
24 numbers of Isagenix Associates. With this classic negative-campaign approach, they  
25 repeatedly disparage their former company (generally without naming Isagenix), in a way  
26 that draws the attention of their former fellow Isagenix Associates and serves as a first key  
27 step in their improper solicitation of those Associates.

28

1           10. Also in January of 2020, Modere was busy furthering its raiding of Isagenix  
2 by recruiting prominent U.S. Associates. On January 21, Modere Program Manager Reagan  
3 Cox sent Associate Mark Klassen a proposed contract offering him payments outside of  
4 Modere's regular compensation plan that would guarantee an income of \$180,000 during  
5 his first year with Modere. This contract ostensibly requires Klassen to comply with his  
6 contractual obligations with other companies, but that requirement is clearly only for show.  
7 Modere has worked with Klassen to help him violate the non-solicitation obligations it  
8 knows Klassen has to Isagenix, by helping him solicit other Isagenix Associates to Modere.

9           11. On January 31, 2020, Isagenix sent a letter to Modere's Chief Legal Officer  
10 notifying the company that all Isagenix Associates are contractually obligated to refrain  
11 from soliciting other Associates during their time as Associates and for 12 months  
12 thereafter. And, the very next day, in the evening of February 1, Modere's CEO Asma  
13 Ishaq and its Senior Vice President of Global Sales and Marketing Justin Serra met in person  
14 with Klassen and Associates Andrew and Kimberly Lee in an effort to help Klassen solicit  
15 the Lees to Modere.

16           12. This meeting took place shortly after the conclusion of a three-day Modere  
17 convention in Anaheim California, at which Modere hosted a number of Isagenix  
18 Associates, including Klassen and the Lees. Modere paid for the Lees' airfare and hotel to  
19 attend the event, and Serra told the Lees that they would be offered an income-guarantee  
20 agreement like the one given to Klassen if they were to join Modere. Ishaq disparaged  
21 Isagenix's financial prospects in a manner consistent with the disparagement used by former  
22 Associates in their solicitations for Modere, and confirmed that Modere is owned by a  
23 private equity firm (attempting to put a positive spin on that fact). Shortly after the meeting,  
24 Ishaq sent the Lees a text inviting them to Modere's corporate offices in Utah.

25           13. The income-guarantee agreement Modere gave to Klassen, along with  
26 Modere's obvious willingness to help Klassen violate his Isagenix contract for Modere's  
27 benefit, has incentivized Klassen to brazenly violate that contract. In addition to his  
28

1 improper solicitation of the Lees, Klassen has solicited a number of other Associates to  
2 Modere, including Yolanda Davis, Wendy Frank, and David Oliver.

3 14. The deals for extra compensation offered and given respectively to the  
4 Macallans and Klassen show that providing such deals is part of Modere's raiding campaign  
5 and, upon information and belief, Davis and Gascoigne received a similar deal from  
6 Modere. Indeed, Isagenix expects to uncover in discovery the fact that Davis and Gascoigne  
7 received a substantially more lucrative deal from Modere than the guaranteed \$180,000  
8 Klassen was promised. And, Isagenix expects discovery in this case to reveal that Modere  
9 has extended similar deals to a number of other Isagenix Associates as well.

10 15. It appears that this is not the first time Modere has attempted to use improper  
11 raiding and tortious interference as a shortcut to success. Two other network marketing  
12 companies sued Modere based on similar claims in 2016 and 2017.

13 16. Isagenix is more than equipped and confident in its ability to successfully  
14 compete with any other company in the network marketing company channel. But, Isagenix  
15 is also fully committed to doing everything it can to protect the businesses of its hard-  
16 working Associates, and will not stand idly by while Modere and unscrupulous current and  
17 former Associates attempt to pillage those businesses using illegal means. Isagenix asks  
18 the court to hold Modere and the individual defendants accountable for the harm they have  
19 caused to the businesses of Isagenix's Associates and to the Company.

### 20 21 THE PARTIES

22 17. Isagenix is an Arizona limited liability company with its principal place of  
23 business located in Gilbert, Arizona.

24 18. Defendant Modere is a Utah limited liability company with its principal place  
25 of business in Springville, Utah.

26 19. Upon information and belief, Defendants Klassen and Linda Klassen reside  
27 in Canada.  
28

23. On information and belief, Defendants Davis and Gascoigne are either married, in a civil partnership, or *de facto* partners under the laws of Australia.

25. Pursuant to Isagenix's Policies and Procedures for Residents of Canada (the "Canadian P&Ps"), Defendant Klassen agreed that the proper jurisdiction for any claims arising out of or relating to the Canadian P&Ps are the state and federal courts of Arizona. Upon information and belief, Defendant Modere has purposefully availed itself of the privilege of doing business in Arizona by transacting interstate business in Arizona and elsewhere throughout the United States, including through its website <https://www.modere.com/>. All Defendants have engaged in intentional wrongful conduct, purposefully directed and expressly aimed at Arizona – where Isagenix maintains its principal place of business and employs the vast majority of its employees – and thus at Isagenix in Arizona, knowing that the wrongful conduct would cause harm to Isagenix in Arizona and intending to cause such harm to Isagenix in Arizona. Defendants have derived and continue to derive economic benefit from their wrongful conduct aimed at Isagenix in the forum. This Court has personal jurisdiction over Defendants.

26. Venue is proper in this Court under A.R.S. § 12-401(1) because the Defendants reside outside Arizona and Isagenix resides in Maricopa County, Arizona.

### FACTUAL ALLEGATIONS

27. Isagenix is a network marketing company, formed in 2002, that develops and manufactures systems for weight management, long-term wellness, and skincare, which are promoted with the help of a network of tens of thousands of independent contractors ("Associates"). Isagenix sells its products to hundreds of thousands of customers in the United States, Canada, Puerto Rico, Mexico, Hong Kong, Taiwan, Australia, New Zealand, South Korea, the United Kingdom, Belgium, Ireland, the Netherlands, and Spain. Isagenix strives to impact world health and free people from physical and financial pain.

28. Isagenix Associates are independent contractors, not employees or agents of Isagenix. They are eligible to earn commissions and bonus income from sales of Isagenix products. Each Isagenix Associate interested in building an Isagenix business can refer customers to Isagenix and help others do the same, and the Associate who personally enrolls a customer is referred to as the customer's "sponsor." A sponsor is eligible to earn commissions and bonuses on sales of Isagenix products to those he or she personally enrolls and others in the sponsor's Isagenix business organization.

29. Depending on a sponsor's efforts and success in referring customers and mentoring other Isagenix Associates, his or her business organization may consist of thousands of customers and Associates.

30. To assist Associates in building an Isagenix business, Isagenix provides sponsors and Associates with a wealth of confidential and proprietary information that belongs to Isagenix, including, but not limited to, marketing plans and strategies, products, purchases, pricing, relationships with vendors and suppliers, and the identities of and contact information for Associates and customers ("Confidential Information").

31. The Isagenix business model rests largely on preserving the integrity of each Associate's business organization. Accordingly, Isagenix's Policies and Procedures ("P&Ps"), versions of which are in use in every county in which Isagenix sells its products



1 and has Associates, contain non-solicitation and confidentiality provisions designed to  
2 protect those business organizations. The P&Ps state that an Isagenix Associate — during  
3 the term of that Associate's relationship with Isagenix and for one year thereafter — may  
4 not solicit or encourage another Associate or customer to join or work with another network  
5 marketing or direct selling company. The P&Ps also define and restrict Associates' use of  
6 Isagenix's Confidential Information. As a matter of custom, practice, and company policy,  
7 Associates work hard to preserve the confidentiality of contact information for Associates  
8 in their individual business organizations, as well as other Confidential Information.  
9 Isagenix works vigorously with its Associates to preserve the confidentiality of that  
10 information, including, among other things, ensuring that Associates and employees know  
11 and understand that they have a continuing obligation to preserve Isagenix's Confidential  
12 Information even after they sever their relationships with Isagenix. Further, employees and  
13 Associates understand that Isagenix takes these precautions to protect a legitimate business  
14 interest and that if the employees or Associates do not honor their obligations, Isagenix will  
15 be irreparably harmed.

16         32. Indeed, all Isagenix Associates acknowledge and agree that this Confidential  
17 Information belongs to Isagenix and must be kept completely confidential for as long as  
18 Isagenix deems that information to be confidential. Moreover, Associates agree that they  
19 will not, directly or indirectly, use or disclose any Confidential Information for any purpose  
20 unrelated to their Isagenix business, whether during the term of their association with  
21 Isagenix or thereafter.

22         33. Because Isagenix sells its products through customer referrals by its  
23 Associates, maintaining a robust force of skilled and knowledgeable Associates is a critical  
24 component of Isagenix's business model. To maintain and support that independent sales  
25 force, Isagenix invests substantial time, energy, and resources in training Associates and  
26 fostering beneficial business relationships among Associates and customers.

27         34. Successful Isagenix Associates possess skills developed by Isagenix's  
28 training programs, along with strong ambition and work ethic. These skills and attributes

1 cause successful Associates to be in high demand among other companies that rely on  
2 independent sales forces similar to Isagenix's. Isagenix vigorously competes for talent with  
3 many other such companies, and works hard to attract and retain Associates by providing  
4 them the best possible opportunities.

5 35. Successful Isagenix Associates also possess extensive business relationships  
6 fostered by Isagenix. These relationships, along with the Confidential Information  
7 Associates receive from Isagenix, are highly valuable to other Associates and companies,  
8 regardless of the fact that such companies may happen to sell different products than  
9 Isagenix, who can use them to raid the ranks of Isagenix's Associates in ways that violate  
10 Isagenix's P&Ps.

11 36. Isagenix therefore has a legitimate and protectable business interest in  
12 retaining its Associates, and Associates who leave the company are uniquely positioned to  
13 harm Isagenix by using their business relationships fostered by Isagenix and the  
14 Confidential Information they received from Isagenix to raid Associates.

15 **DEFENDANTS DAVIS AND GASCOIGNE BECOME ISAGENIX ASSOCIATES**  
16 **AND AGREE TO BE BOUND BY THE TERMS OF THE P&PS**

17 37. Defendants Davis and Gascoigne became Isagenix Associates in October of  
18 2013.

19 38. While Isagenix Associates, Defendants Davis and Gascoigne reached the rank  
20 of 12-Star Platinum, 13-Star Crystal Executive and had thousands of people in their  
21 Isagenix business organization. Defendants Davis and Gascoigne had access to the contact  
22 information for all of the hundreds of Associates they personally enrolled.

23 39. As Isagenix Associates, especially considering their rank and sizable business  
24 organizations, Defendants Davis and Gascoigne were privy to a variety of Confidential  
25 Information that belonged to Isagenix. Isagenix provided this information to Defendants  
26 Davis and Gascoigne in furtherance of what the company hoped would be successful efforts  
27 by Defendants Davis and Gascoigne to develop not only more sales of Isagenix products to  
28 customers and Associates, but also more successful Isagenix Associates through business

organization development.

40. Defendants Davis and Gascoigne also had access to Isagenix's Confidential Information through their role as members of Isagenix's prestigious Associate Field Advisory Board. Isagenix's Associate Field Advisory Board is made up of some of the top Isagenix business leaders, which are hand-selected by the Isagenix Executive Team. The Field Advisory Board focuses on tactics and strategies intended to improve Associate and Company success.

41. As members of the Associate Field Advisory Board, Defendants Davis and Gascoigne gained prominence among Isagenix Associates.

42. In or about late 2018 or early 2019, Isagenix also financially assisted Defendants Davis and Gascoigne in relocating to the United Kingdom in order to build an Isagenix organization in that country.

43. As a part of their role in expanding Isagenix to the United Kingdom, Defendants Davis and Gascoigne had access to Isagenix's Confidential Information, including the contact information for Associates and customers in the United Kingdom.

44. In becoming Isagenix Associates, Defendants Davis and Gascoigne agreed to be bound by the terms of Isagenix's Independent Associate Policies and Procedures Australia and New Zealand (the "Australian P&Ps").

45. Among other things, Isagenix's Australian P&Ps provide:

As an Associate, you are an independent contractor and therefore are not prohibited from participating in other business ventures, even when those business ventures compete directly with Isagenix. However, to protect the integrity of the Isagenix business and to support and protect your business interests and those of other Associates, during the term of your relationship with Isagenix and for one year thereafter (collectively, the "Non-Solicitation Period"), you agree that you will not solicit or encourage, directly or indirectly, any Associate or Customer to join or work with another network marketing, multi-level marketing, or direct selling company. You further agree that, except as otherwise authorized by Isagenix, during the Non-Solicitation Period, you will not introduce, promote, or sell other business ventures, goods, or services to any Associate or Customer.

1 If you violate this Non-Solicitation provision, the Non-Solicitation Period  
2 will be extended by one year from the date of your last solicitation of any  
3 Associate or Customer. A solicitation includes any direct or indirect attempt  
4 to entice or encourage an Associate or Customer to consider joining or  
5 working with or for another network marketing, multi-level marketing, or  
6 direct selling company. A solicitation may include communicating  
7 information (including through online and social media postings) about  
8 another business venture to any Associate or Customer, to the extent a  
9 reasonable person would interpret your communication as an attempt to  
solicit his or her interest in that business venture. For additional information,  
please consult the applicable Guidance Documents which can be obtained in  
your ABO or contact Isagenix Compliance at ComplianceANZ@Isagenix  
Corp.com.

10 Violation of this provision is grounds for termination of your Position and  
11 may also give rise to other claims for unauthorised use of Confidential  
12 Information. You acknowledge that a breach of this policy will result in  
13 irreparable damage to Isagenix and its Associates. You recognise and agree  
14 that violations of this policy cannot be fully compensated through monetary  
15 damages. Accordingly, you acknowledge and agree that Isagenix and its  
16 Associates will be entitled to injunctive relief to prevent breach of this policy.  
17 If any action is taken to enforce this policy or to obtain injunctive relief or  
18 recover damages, the prevailing party shall be awarded of its costs and  
19 expenses, including reasonable attorneys' fees. You understand and agree  
20 that in addition to Isagenix, other Associates may be entitled to seek and  
21 obtain injunctive relief and other damages if you violate this provision. You  
22 understand and agree that the non-solicitation obligations and related  
23 remedies will survive the termination or cancellation of your relationship  
24 with Isagenix.

25 See Australian P&Ps at § 5.3 ("Non-Solicitation Provision").

26 46. Isagenix's Australian P&Ps further provide:

27 To assist you in building an Isagenix business, and in reliance on your  
28 agreement to the terms of this Section, Isagenix may supply you with, or  
grant you access to, certain reports and other confidential and/or proprietary  
information that belongs to Isagenix. This information includes, but is not  
limited to, marketing plans and strategies, products, purchases, pricing,  
relationships with vendors and suppliers, and the identities of and contact  
information for Isagenix Associates and Customers provided to you in any  
document or report, and the identities of and contact information for  
Associates and Customers with whom you first became acquainted as a result  
of your relationship with Isagenix, whether or not they are in your Marketing  
Organisation (collectively, "Confidential Information").

To protect your business and the businesses of all Associates, you acknowledge and agree that the Confidential Information belongs to Isagenix and must be kept completely confidential for as long as such information is deemed by Isagenix to be confidential. You agree that you will not, directly or indirectly through a third party, use or disclose any Confidential Information for any purpose unrelated to your Isagenix business, whether during the term of your association with Isagenix or thereafter. You acknowledge that the Confidential Information is of such character as to render it unique and that disclosure or use thereof in breach of this policy will result in irreparable damage to Isagenix and its Associates. You recognise and agree that misuse of the Confidential Information cannot be fully compensated through monetary damages. Accordingly, you acknowledge and agree that Isagenix and its Associates will be entitled to injunctive relief to prevent breach of this Section. If any action is taken to enforce this provision or to obtain injunctive relief or recover damages, the prevailing party shall be awarded its costs and expenses, including reasonable attorneys' fees. You understand and agree that in addition to Isagenix, other Associates may be entitled to seek and obtain injunctive relief and other damages if you violate this provision. You understand and agree that the confidentiality obligations and related remedies will survive the termination or cancellation of your relationship with Isagenix.

See Australian P&Ps at § 5.2 ("Confidential Information Provision").

47. Thus, the P&Ps do not prohibit Defendants Davis and Gascoigne from participating in other business ventures, even when those ventures compete directly with Isagenix, as long as Defendants Davis and Gascoigne comply with the terms of the Non-Solicitation and Confidential Information Provisions.

**DEFENDANT KLASSEN BECOMES AN ISAGENIX ASSOCIATE AND AGREES TO BE BOUND BY THE TERMS OF THE P&PS**

48. Defendant Klassen became an Isagenix Associate in October of 2014.

49. As an Isagenix Associate, Defendant Klassen has reached the rank of 6-Star Golden Circle, 10-Star Crystal Executive and has thousands of people in his Isagenix business organization. Defendant Klassen also has access to the contact information for all of the hundreds of Associates he personally enrolled.

50. As an Isagenix Associate, especially considering his rank and sizable business organization, Defendant Klassen is privy to a variety of Confidential Information that

1 belonged to Isagenix. Isagenix provided this information to Defendant Klassen in  
2 furtherance of what the company hoped would be successful efforts by Defendant Klassen  
3 to develop not only more sales of Isagenix products to customers and Associates, but also  
4 more successful Isagenix Associates through business organization development.

5 51. In becoming an Associate, Defendant Klassen agreed to be bound by the  
6 terms of Isagenix's Canadian P&Ps.

7 52. Among other things, Isagenix's Canadian P&Ps provide:

8 As an Associate, you are an independent contractor and therefore are not  
9 prohibited from participating in other business ventures, even when those  
10 business ventures compete directly with Isagenix. However, to protect the  
11 integrity of the Isagenix business and to support and protect your business  
12 interests and those of other Associates, during the term of your relationship  
13 with Isagenix and for one year thereafter (collectively, the "Non-Solicitation  
14 Period"), you agree that you will not solicit or encourage, directly or  
15 indirectly, any Associate or Customer to join or work with another network  
16 marketing, multi-level marketing, or direct selling company. You further  
17 agree that, except as otherwise authorized by Isagenix, during the Non-  
18 Solicitation Period, you will not introduce, promote, or sell other business  
19 ventures, goods, or services to any Associate or Customer.

20 If you violate this Non-Solicitation provision, the Non-Solicitation Period  
21 will be extended by one year from the date of your last solicitation of any  
22 Associate or Customer. A solicitation includes any direct or indirect attempt  
23 to entice or encourage an Associate or Customer to consider joining or  
24 working with or for another network marketing, multi-level marketing, or  
25 direct selling company. A solicitation may include communicating  
26 information (including through online and social media postings) about  
27 another business venture to any Associate or Customer, to the extent a  
28 reasonable person would interpret your communication as an attempt to  
solicit his or her interest in that business venture. For additional information,  
please consult the applicable Guidance Documents which can be obtained in  
your ABO or contact Isagenix Compliance at Compliance@Isagenix  
Corp.com.

Violation of this provision is grounds for termination of your Position and  
may also give rise to other claims for unauthorized use of Confidential  
Information. You acknowledge that a breach of this policy will result in  
irreparable damage to Isagenix and its Associates. You recognize and agree  
that violations of this policy cannot be fully compensated through monetary  
damages. Accordingly, you acknowledge and agree that Isagenix and its

1 Associates will be entitled to injunctive relief to prevent breach of this policy.  
2 If any action is taken to enforce this policy or to obtain injunctive relief or  
3 recover damages, the prevailing party shall be awarded its costs and  
4 expenses, including reasonable lawyer fees. You understand and agree that  
5 in addition to Isagenix, other Associates may be entitled to seek and obtain  
6 injunctive relief and other damages if you violate this provision. You  
understand and agree that the non-solicitation obligations and related  
remedies will survive the termination or cancellation of your relationship  
with Isagenix.

7 See Canadian P&Ps at § 5.4 ("Non-Solicitation Provision").

8 53. Isagenix's Canadian P&Ps further provide:

9  
10 To assist you in building an Isagenix business, and in reliance on your  
11 agreement to the terms of this Section, Isagenix may supply you with, or  
12 grant you access to, certain reports and other confidential and/or proprietary  
13 information that belongs to Isagenix. For the purposes hereof, the term  
14 "Confidential Information" means all Isagenix information that is intended  
15 by Isagenix to be kept confidential. This includes, but is not limited to (a)  
16 access codes, sales, marketing plans and strategies, products, purchases,  
17 pricing, relationships with vendors and suppliers, (b) the identities of, contact  
18 information and sales statistics/line of sponsorship/rank for Isagenix  
19 Associates and Customers provided to you in any document or report, (c) the  
20 identities of and contact information for Associates and Customers with  
whom you first became acquainted as a result of your relationship with  
Isagenix, whether or not they are in your Marketing Organization, and (d)  
manufacturing procedures, product development information and marketing  
plans/materials, and (e) trade secrets, and any other information which may  
have value by virtue of its not generally being known to the public or  
Isagenix's competitors.

21 To protect your business and the businesses of all Associates, you  
22 acknowledge and agree that the Confidential Information constitutes a trade  
23 secret of Isagenix, belongs to Isagenix and must be kept strictly confidential  
24 for as long as such information is deemed by Isagenix to be confidential. You  
25 agree that you will not, directly or indirectly through a third party, use or  
26 disclose any Confidential Information for any purpose unrelated to your  
Isagenix business, whether during the term of your association with Isagenix  
or thereafter. You acknowledge that the Confidential Information is of such  
character as to render it unique and that disclosure or use thereof in breach  
of this policy will result in irreparable damage to Isagenix and its Associates.  
27 You recognize and agree that misuse of the Confidential Information cannot  
28 be fully compensated through monetary damages. Accordingly, you  
acknowledge and agree that Isagenix and its Associates will be entitled to

injunctive relief to prevent breach of this Section. If any action is taken to obtain injunctive relief or recover damages, the prevailing party shall be awarded its costs and expenses, including reasonable lawyer fees. You understand and agree that in addition to Isagenix, other Associates may be entitled to seek and obtain injunctive relief and other damages if you violate this provision. You understand and agree that the confidentiality obligations and related remedies will survive the termination or cancellation of your relationship with Isagenix.

See Canadian P&Ps at § 5.2 (“Confidential Information Provision”).

54. Again, the P&Ps do not prohibit Defendant Klassen from participating in other business ventures, even when those ventures compete directly with Isagenix, as long as Defendant Klassen complies with the terms of the Non-Solicitation and Confidential Information Provisions.

**MODERE’S FAILED ATTEMPT TO BE ACQUIRED BY ISAGENIX AND  
RESULTING CAMPAIGN TO SPREAD FALSE STATEMENTS AND RAID  
ISAGENIX ASSOCIATES**

55. In May of 2018, a representative of Modere inquired with Isagenix about whether Isagenix was interested in purchasing Modere.

56. While Isagenix treated Modere’s inquiry with respect, Isagenix—a successful and stable company under original family ownership for nearly 18 years with a highly respected brand—had concerns about the apparent instability of Modere’s ownership and brand.

57. As such, Isagenix ultimately declined Modere’s offer.

58. Isagenix now believes that sometime after Isagenix declined Modere’s offer, Modere and/or its principal owner, a private equity firm, began a smear campaign to spread false statements about Isagenix to its Associates, with the intent that those Associates would leave Isagenix and join Modere.

59. Those false statements included, for example, that Isagenix is for sale. But Isagenix is not for sale.

60. Using these false statements and other improper means, Modere began a campaign to raid Isagenix’s Associates.



1           61. In or about the Summer of 2019, a Modere executive based in Australia  
2 visited the home of two of Isagenix's most prominent Australian Associates, Heidi and Lal  
3 Macallan, and invited them to join Modere.

4           62. Modere's executive offered the Macallans extra compensation outside the  
5 compensation normally paid to Modere's independent salesforce in an effort to incentivize  
6 the Macallans to join Modere.

7           63. At that time, the Macallans declined Modere's offer and, after mentioning it  
8 to an Isagenix executive, Heidi Macallan expressed that, if she were to leave Isagenix, it  
9 would not be to join Modere.

10          64. However, earlier this year, the Macallans resigned from Isagenix and joined  
11 Modere.

12          65. Modere also succeeded in recruiting an Isagenix Associate as early as  
13 September of 2019, when Associates Todd and Delialah Lotich resigned from Isagenix and  
14 joined Modere.

15          66. In January of 2020, six prominent Australian Associates (three couples) —  
16 Defendants Davis and Gascoigne, the Macallans, and Matt and Karina Jolly—resigned from  
17 Isagenix in coordinated fashion, with resignation emails that were all submitted on the same  
18 day and that contained overlapping points relating to false statements.

19          67. The Jollys had been enrolled as Isagenix Associates by Defendants Davis and  
20 Gascoigne.

21          68. These now-former Associates joined Modere and promptly began building a  
22 business with Modere.

23          69. The same day as their resignations, Isagenix reminded Defendants Davis and  
24 Gascoigne of their obligations under the Non-Solicitation Provision of the Australian P&Ps,  
25 which prohibited them from "solicit[ing] or encourag[ing], directly or indirectly, any  
26 Associate or Customer to join or work with another network marketing, multi-level  
27 marketing, or direct selling company[.]" and from "introduc[ing], promot[ing], or sell[ing]

28

1 other business ventures, goods, or services to any Associate or Customer[,]" for one year  
2 their resignation. *See* Australian P&Ps at § 5.3.

3 70. Isagenix further reminded Defendants Davis and Gascoigne of their  
4 obligations under the Confidential Information Provision of the Australian P&Ps, which  
5 prohibited them from using or disclosing Isagenix's Confidential Information, including but  
6 not limited to "marketing plans and strategies, products, purchases, pricing, relationships  
7 with vendors and suppliers, and the identities of and contact information for Isagenix  
8 Associates and Customers provided to [them] in any document or report, and the identities  
9 of and contact information for Associates and Customers with whom [they] first became  
10 acquainted as a result of [their] relationship with Isagenix." *See* Australian P&Ps at § 5.2.

11 71. But in building their business with Modere, Defendants Davis and Gascoigne  
12 breached the Non-Solicitation and Confidential Information Provisions of the P&Ps, with  
13 the assistance and/or encouragement of Modere, by soliciting and encouraging Isagenix  
14 Associates and customers to join or work with Modere, and by introducing, promoting, and  
15 selling Modere's goods and services, and business ventures with Modere, to Isagenix  
16 Associates and customers, with the use of Isagenix's Confidential Information.

17 72. For example, Defendants Davis and Gascoigne have brazenly solicited  
18 Isagenix Associates to Modere using a private Facebook group to promote Modere to an  
19 audience that includes Isagenix Associates. And, they have sent many Associates a form  
20 text message openly inviting discussions about their new business venture with Modere.

21 73. In the weeks leading up to their resignation, Defendants Davis and Gascoigne  
22 also repeatedly disparaged Isagenix to other Associates, including by using false statements,  
23 in an attempt to make those Associates more susceptible to their eventual solicitations.

24 74. Since their resignation and their open affiliation with Modere, Defendants  
25 Davis and Gascoigne have continued to disparage Isagenix, including by using false  
26 statements. They have done so via social media, including posts on their Facebook pages,  
27 which are populated by large numbers of Isagenix Associates. With this classic negative-  
28 campaign approach, they repeatedly disparage their former company, in a way that draws

1 the attention of their former fellow Isagenix Associates and serves as a first key step in their  
2 improper solicitation of those Associates.

3 75. Also in January of 2020, Modere was busy furthering its raiding of Isagenix  
4 Associates by recruiting prominent Associates in the United States.

5 76. On January 21, 2020 Modere Program Manager Reagan Cox sent Associate,  
6 Defendant Mark Klassen, a proposed contract offering him payments outside of Modere's  
7 regular compensation plan that would guarantee an income of \$180,000 during his first year  
8 with Modere (subject to reaching certain performance benchmarks, but regardless of  
9 whether Modere's compensation plan would provide for that much income).

10 77. This contract ostensibly requires Defendant Klassen to comply with his  
11 contractual obligations with other companies, but that requirement is clearly only for show  
12 as Modere has worked with Klassen to help him violate the Non-Solicitation and  
13 Confidential Information Provisions of the P&Ps, to which it knows Defendant Klassen is  
14 bound, by helping him solicit other Isagenix Associates to join Modere using Isagenix's  
15 Confidential Information and false statements.

16 78. Upon information and belief, Defendants Davis and Gascoigne received a  
17 similar deal from Modere. Indeed, Isagenix expects to uncover in discovery the fact that  
18 Davis and Gascoigne received a substantially more lucrative deal from Modere than the  
19 guaranteed \$180,000 Klassen was promised. And, Isagenix expects discovery in this case  
20 to reveal that Modere has extended similar deals to a number of other Isagenix Associates  
21 as well.

22 79. The deals for extra compensation offered and given respectively to the  
23 Macallans and Defendant Klassen show that providing such deals is part of Modere's  
24 raiding campaign.

25 80. On January 31, 2020, Isagenix sent a letter to Modere's Chief Legal Officer  
26 notifying the company that all Isagenix Associates are contractually obligated to refrain  
27 from soliciting other Associates during their time as Associates and for twelve months  
28 thereafter.

1           81.     The very next day, in the evening of February 1, Modere's CEO Asma Ishaq  
2 and its Senior Vice President of Global Sales and Marketing Justin Serra met in person with  
3 Klassen and Associates Andrew and Kimberly Lee in an effort to help Defendant Klassen  
4 solicit the Lees to join Modere.

5           82.     This meeting took place shortly after the conclusion of a three-day Modere  
6 convention in Anaheim California, at which Modere hosted a number of Isagenix  
7 Associates, including Defendant Klassen and the Lees.

8           83.     Modere paid for the Lees' airfare and hotel to attend the event, and Serra told  
9 the Lees that they would be offered an income-guarantee agreement like the one given to  
10 Defendant Klassen if they were to join Modere.

11          84.     Ishaq also disparaged Isagenix's financial prospects in a manner consistent  
12 with the false statements, and confirmed that Modere is owned by a private equity firm.

13          85.     Shortly after the meeting, Ishaq sent the Lees a text inviting them to Modere's  
14 corporate offices in Utah.

15          86.     Ishaq also revealed how significant those prior May 2018 communications  
16 with Isagenix were, at least in her mind, when, around this time, she mentioned those  
17 conversations to an Isagenix Associate she was attempting to recruit to Modere.

18          87.     The income-guarantee agreement Modere gave to Defendant Klassen, along  
19 with Modere's obvious willingness to help Defendant Klassen violate the P&Ps for  
20 Modere's benefit, has incentivized Defendant Klassen to brazenly violate the P&Ps.

21          88.     In addition to his improper solicitation of the Lees, Defendant Klassen has  
22 solicited a number of other Associates to Modere, including former Associates Yolanda  
23 Davis, Wendy Frank, and David Oliver.

24          89.     Upon information and belief, Defendant Klassen also met with other Isagenix  
25 Associates on February 11, 2020 in an attempt to improperly solicit them to Modere.

26          90.     On information and belief, Modere has targeted Isagenix Associates who  
27 recently joined Isagenix in connection with Isagenix's acquisition of Zija International with  
28 offers of income-guarantee agreements and flights to visit Modere's headquarters.

1           91. On information and belief, this is not the first time Modere has attempted to  
2 use improper raiding and tortious interference as a shortcut to success. Two other network  
3 marketing companies sued Modere based on similar claims in 2016 and 2017.

4           92. On information and belief, Defendant Modere continues to solicit, directly  
5 and indirectly through Defendants Klassen, Davis, and Gascoigne, and others, Isagenix  
6 Associates to join Modere while using Isagenix's Confidential Information.

7           93. Upon information and belief, Defendants Klassen, Davis, and Gascoigne  
8 intentionally violated the P&Ps; intended to cause injury to Isagenix; were motivated by  
9 spite or ill will; and/or acted to serve their own interests and the interests of their marital  
10 community when they knew, had reason to know, or consciously disregarded the substantial  
11 risk that their conduct would cause significant harm to Isagenix.

12           94. By intentionally raiding Isagenix's Associates, Defendants have unjustly  
13 capitalized and traded, and continue to unjustly capitalize and trade, on the goodwill  
14 associated with the Isagenix brand. Defendants also have stolen Isagenix Associates and,  
15 with them, have stolen potential customers—both the Associates themselves and the  
16 customers they could have enrolled in the future. Because of this wrongful conduct,  
17 Isagenix has lost revenue from product sales that may never be recovered. Isagenix  
18 therefore has been irreparably harmed by the loss of its Associates, customers, intellectual  
19 property, revenue, and goodwill. In addition, on information and belief, Defendants have  
20 profited from their deliberate breaches and other wrongful conduct, and Isagenix is entitled  
21 to disgorgement of those wrongfully-obtained profits.

22           95. Yet the full extent of the harm to Isagenix's business caused by Defendants'  
23 conduct can be difficult to gauge. In addition to the loss of potential customers, there is a  
24 loss of proven, successful Associates whose future production is difficult to predict. Those  
25 who stay with Isagenix may be demoralized by the losses from their business organizations,  
26 and consequently may become less effective Associates.

27           96. Such misconduct also deprives Isagenix of the fruits of the substantial time,  
28 energy, and resources invested into growing and promoting its business and the robust force

1 of Associates that is vital to that business. Solicitation of Isagenix's Associates, and  
2 flouting of the obligations under the P&Ps, operates to dismantle relationships, networks,  
3 and businesses that Isagenix Associates have created, and to undermine Associate  
4 confidence and morale among remaining Associates. Often, Associates whose businesses  
5 have been raided cannot rebuild their businesses to the same levels they once reached. And,  
6 because of conduct such as the Defendants', product-sales-based revenue lost by Isagenix  
7 and the impacted Associates may never be recovered.

8 97. Defendants John and Jane Does 1-10; ABC Partnerships 1-10; XYZ  
9 Corporations 1-10 are those additional, but currently unknown, parties who were involved  
10 in or participated with Defendants in the wrongful conduct described in this Complaint,  
11 including by tortiously interfering with Isagenix's contracts with Associates for the benefit  
12 of Modere, tortiously interfering with Isagenix's business expectancies for the benefit of  
13 Modere, breaching the P&Ps for the benefit of Modere, and misappropriating Isagenix's  
14 Confidential Information for the benefit of Modere.

### 15 COUNT ONE

### 16 **TORTIOUS INTERFERENCE WITH CONTRACT**

#### 17 **(All Defendants)**

18 98. Isagenix incorporates by reference the prior paragraphs of this Complaint as  
19 if fully alleged herein.

20 99. Isagenix has contracts with Defendants Klassen, Davis, and Gascoigne, and  
21 other Isagenix Associates, which prohibit them from soliciting or encouraging Associates  
22 and customers to work with or join Modere, and from improperly using Isagenix's  
23 Confidential Information.

24 100. Specifically, Defendant Klassen was bound by the Non-Solicitation Provision  
25 in the Canadian P&Ps, which prohibited him from "solicit[ing] or encourag[ing], directly  
26 or indirectly, any Associate or Customer to join or work with another network marketing,  
27 multi-level marketing, or direct selling company[.]" and from "introduc[ing], promot[ing],  
28 or sell[ing] other business ventures, goods, or services to any Associate or Customer[.]"

1 while Defendant Klassen was an Associate and for one year thereafter. *See* Section 5.4 of  
2 the Canadian P&Ps.

3 101. Defendant Klassen was also bound by the Confidential Information Provision  
4 of the Canadian P&Ps, which prohibited him from “directly or indirectly through a third  
5 party, us[ing] or disclos[ing] any Confidential Information for any purpose unrelated to  
6 [his] Isagenix business[.]” *See* Section 5.2 of the Canadian P&Ps.

7 102. Similarly, Defendants Davis and Gascoigne were bound by the Non-  
8 Solicitation Provision in the Australian P&Ps, which prohibited them from “solicit[ing] or  
9 encourag[ing], directly or indirectly, any Associate or Customer to join or work with  
10 another network marketing, multi-level marketing, or direct selling company[.]” and from  
11 “introduc[ing], promot[ing], or sell[ing] other business ventures, goods, or services to any  
12 Associate or Customer[.]” while Defendants Davis and Gascoigne were Associates and for  
13 one year thereafter. *See* Section 5.3 of the Australian P&Ps.

14 103. Defendants Davis and Gascoigne were bound by the Confidential Information  
15 Provision in the Australian P&Ps, which prohibited them from “directly or indirectly  
16 through a third party, us[ing] or disclos[ing] any Confidential Information for any purpose  
17 unrelated to [their] Isagenix business[.]” *See* Section 5.2 of the Australian P&Ps.

18 104. As of at least January 31, 2020, Modere knew about Isagenix’s contracts with  
19 Defendants Klassen, Davis, and Gascoigne, including those provisions in Isagenix’s P&Ps  
20 which prohibited Defendants Klassen, Davis, and Gascoigne from improperly soliciting or  
21 encouraging Isagenix Associates and customers to work with or join Modere, and from  
22 improperly using Isagenix’s Confidential Information.

23 105. Defendants Klassen, Davis, and Gascoigne also knew that other Isagenix  
24 Associates were prohibited from soliciting or encouraging Isagenix Associates and  
25 customers to work with or join Modere, and from improperly using Isagenix’s Confidential  
26 Information, by Isagenix’s P&Ps.

27 106. Modere intentionally interfered with Isagenix’s contractual relationships with  
28 Defendants Klassen, Davis, and Gascoigne by inducing and incentivizing Defendants

Klassen, Davis, and Gascoigne to breach their contractual relationships with Isagenix by improperly soliciting or encouraging other Associates and customers to work with and join Modere, while improperly using Isagenix's Confidential Information to do the same.

107. Defendants Klassen, Davis, and Gascoigne also intentionally interfered with Isagenix's contractual relationships with other Isagenix Associates and customers by soliciting or encouraging them to work with or join Modere, while improperly using Isagenix's Confidential Information to do the same.

108. Defendants Klassen, Davis, and Gascoigne breached the non-solicitation and confidentiality provisions of the P&Ps.

109. On information and belief, Defendants also improperly induced other Isagenix Associates to breach their contracts with Isagenix.

110. Defendants' conduct was improper.

111. As a direct and proximate result of Defendants' conduct, Isagenix has suffered and will continue to suffer irreparable harm and economic damages.

112. Defendants committed these acts willfully, maliciously, and in conscious disregard of Isagenix's rights, with the intent to injure Isagenix.

113. Isagenix also seeks injunctive relief to enjoin Defendants from continuing to improperly interfere with Isagenix's contractual relationships with any Isagenix Associate, as well as disgorgement of profits deriving from Defendants' wrongful conduct.

## **COUNT TWO**

### **TORTIOUS INTERFERENCE WITH BUSINESS EXPECTANCY**

#### **(All Defendants)**

114. Isagenix incorporates by reference the prior paragraphs of this Complaint as if fully alleged herein.

115. Isagenix had business expectancies with certain Isagenix Associates and customers who were improperly solicited or encouraged by Defendants to work with or join Modere, or to whom Defendants improperly introduced, promoted, or sold Modere's goods or services, or business ventures with Modere.



116. Defendants knew about Isagenix's business expectancies with these Associates and customers, and intentionally interfered with these business expectancies causing them to terminate or not be realized.

117. Defendants' conduct was improper.

118. As a direct and proximate result of Defendants' conduct, Isagenix has suffered and will continue to suffer irreparable harm and economic damages.

119. Defendants committed these acts willfully, maliciously, and in conscious disregard of Isagenix's rights, with the intent to injure Isagenix.

120. Isagenix also seeks injunctive relief to enjoin Defendants from continuing to improperly solicit or encourage Isagenix Associates or Customers to work with or join Modere, and from continuing to improperly introduce, promote, or sell Modere's good and services or business ventures with Modere, to Isagenix Associates or Customers, as well as disgorgement of profits deriving from Defendants' wrongful conduct.

### COUNT THREE

#### **BREACH OF CONTRACT**

##### **(Defendants Klassen, Davis, and Gascoigne Only)**

121. Isagenix incorporates by reference the prior paragraphs of this Complaint as if fully alleged herein.

122. Isagenix has valid and enforceable contracts with Defendant Klassen, which include Isagenix's Canadian P&Ps.

123. Isagenix also has valid and enforceable contracts with Defendants Davis and Gascoigne, which include Isagenix's Australian P&Ps.

124. The Non-Solicitation Clauses in Isagenix's Canadian and Australian P&Ps prohibit Defendants Klassen, Davis, and Gascoigne from "solicit[ing] or encourag[ing], directly or indirectly, any Associate or Customer to join or work with another network marketing, multi-level marketing, or direct selling company[.]" and from "introduc[ing], promot[ing], or sell[ing] other business ventures, goods, or services to any Associate or Customer[.]" while Defendants Klassen, Davis, and Gascoigne were Isagenix Associates

1 and for one year thereafter. *See* Section 5.4 of Canadian P&Ps; Section 5.3 of Australian  
2 P&Ps.

3 125. The Confidentiality Provisions in Isagenix's Canadian and Australian P&Ps  
4 also prohibit Defendants Klassen, Davis, and Gascoigne from "directly or indirectly through  
5 a third party, us[ing] or disclos[ing] any Confidential Information for any purpose unrelated  
6 to [their] Isagenix business, whether during the term of [their] association with Isagenix or  
7 thereafter." *See* Section 5.2 of Canadian P&Ps; Section 5.2 of Australian P&Ps.

8 126. Defendants Klassen, Davis, and Gascoigne breached and continue to breach  
9 Isagenix's P&Ps by improperly soliciting or encouraging Isagenix Associates and  
10 customers to work with or join Modere, and by improperly introducing, promoting, or  
11 selling Modere's goods and services, or business ventures with Modere, while using  
12 Isagenix's Confidential Information to do the same.

13 127. Isagenix has performed its duties under the P&Ps, complied with the material  
14 provisions of the P&Ps, and has a right to seek relief under those Agreements.

15 128. As a direct and proximate result of Defendants Klassen, Davis, and  
16 Gascoigne's breaches of the P&Ps, Isagenix has suffered damages.

17 129. Isagenix is entitled to recover its reasonable attorneys' fees and costs pursuant  
18 to Section 5.4 of the Canadian P&Ps, Section 5.3 of the Australian P&Ps, A.R.S. §§ 12-  
19 341, and 12-341.01.

20 130. Isagenix is also entitled to injunctive relief to enjoin Defendants Klassen,  
21 Davis, and Gascoigne from continuing to breach the P&Ps, *see* Section 5.4 of the Canadian  
22 P&Ps; Section 5.3 of the Australian P&Ps, as well as disgorgement of profits deriving from  
23 Defendants' wrongful conduct.

#### 24 COUNT FOUR

#### 25 **BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**

#### 26 **(Defendants Klassen, Davis, and Gascoigne Only)**

27 131. Isagenix incorporates by reference the prior paragraphs of this Complaint as  
28 if fully alleged herein.

136. Isagenix is also entitled to injunctive relief to enjoin Defendants Klassen, Davis, and Gascoigne from continuing to breach the P&Ps, *see* Section 5.4 of the Canadian P&Ps; Section 5.3 of the Australian P&Ps, as well as disgorgement of profits deriving from Defendants' wrongful conduct.

**(All Defendants)**

139. Isagenix's Confidential Information, to which Defendants Klassen, Davis, and Gascoigne had access, was developed at significant expense and over a considerable period of time.

1           140. Isagenix's Confidential Information, to which Defendants Klassen, Davis,  
2 and Gascoigne had access, provides a competitive advantage over those who do not know  
3 the information, and has independent economic value because the information is not  
4 generally known to and readily ascertainable by proper means by other persons who can  
5 obtain economic value from its use.

6           141. Isagenix's Confidential Information is related to a product or service used in,  
7 or intended for use in, interstate or foreign commerce.

8           142. Isagenix takes reasonable measures to protect the confidentiality of its  
9 Confidential Information.

10          143. Isagenix's Confidential Information would have significant value to a  
11 competing business like Modere.

12          144. Isagenix provided Defendants Klassen, Davis, and Gascoigne with its  
13 Confidential Information pursuant to the terms of the Confidential Information Provision  
14 of the P&Ps.

15          145. At no time has Isagenix given its consent, express or implied, to Defendants  
16 Klassen, Davis, and Gascoigne to disclose any of Isagenix's Confidential Information  
17 outside of the terms of the Confidential Information Provision of the P&Ps.

18          146. At no time has Isagenix given its consent, express or implied, to Modere to  
19 access, disclose or use any of Isagenix's Confidential Information.

20          147. Isagenix's discovery that Defendants have been soliciting and encouraging  
21 Isagenix Associates and customers to join or work with Modere, actively diverting business  
22 to Modere, and that Defendants Klassen, Davis, and Gascoigne have breached the P&Ps,  
23 creates a reasonable apprehension of threatened trade secret misappropriation by  
24 Defendants, unless they are restrained and enjoined from doing so.

25          148. Upon information and belief, Defendants Klassen, Davis, and Gascoigne used  
26 at least their knowledge of Isagenix's Confidential Information to solicit and encourage  
27 Isagenix Associates and customers to join or work with Modere.

28          149. After a reasonable opportunity for further investigation and discovery, further

1 factual contentions that Defendants have misappropriated Isagenix's Confidential  
2 Information by using such information for the benefit of Modere, will likely have  
3 evidentiary support.

4 150. Under the circumstances, Isagenix is likely to suffer irreparable harm unless  
5 Defendants are restrained and enjoined from any threatened misappropriation of its trade  
6 secrets.

7 151. Defendants have acted willfully and maliciously in the conduct described  
8 herein.

9 152. Isagenix requests injunctive relief to enjoin Defendants from using its  
10 Confidential Information to encourage and solicit Associates and customers to work with  
11 or join Modere; an award of damages for actual loss caused by any misappropriation of  
12 trade secrets; attorneys' fees; an award of damages for unjust enrichment caused by any  
13 misappropriation of trade secrets; and an award of exemplary damages as provided by 18  
14 U.S.C. § 1836(b)(3).

15 153. Isagenix is also entitled to disgorgement of profits deriving from Defendants'  
16 wrongful conduct.

## 17 COUNT SIX

### 18 VIOLATION OF ARIZONA TRADE SECRET ACT

#### 19 (All Defendants)

20 154. Isagenix incorporates by reference the prior paragraphs of this Complaint as  
21 if fully alleged herein.

22 155. During the course of their relationship with Isagenix, Defendants Klassen,  
23 Davis, and Gascoigne had access to Isagenix's Confidential Information, which includes  
24 certain valuable trade secrets.

25 156. At all relevant times, Isagenix undertook reasonable steps to safeguard its  
26 Confidential Information.

27 157. Isagenix's Confidential Information constitutes "trade secrets" as the term is  
28 defined in A.R.S. § 44-401 because it is information:

1           a.       From which Isagenix derives independent economic value, actual or  
2           potential, from not being generally known to and not being readily ascertainable by  
3           proper means by, other persons who can obtain economic value from its disclosure  
4           or use; and

5           b.       That is the subject of efforts to maintain its secrecy that are  
6           reasonable under the circumstances.

7           158. Pursuant to the contracts entered into by Defendants Klassen, Davis, and  
8           Gascoigne, and under A.R.S. § 44-401 *et seq.*, Defendants Klassen, Davis, and Gascoigne  
9           owed Isagenix a duty to protect those trade secrets to which they had access.

10          159. Defendants violated those duties by knowingly misappropriating and  
11          wrongfully using Isagenix's trade secrets for their own benefit to compete against Isagenix  
12          on behalf of themselves and their marital community, knowing or having reason to know  
13          that the trade secrets were acquired by improper means.

14          160. As a direct and proximate result of Defendants' unauthorized  
15          misappropriation and use of Isagenix's trade secrets, Isagenix has suffered and will continue  
16          to suffer irreparable harm and economic damages.

17          161. Isagenix is entitled to an injunction for actual and threatened misappropriation  
18          pursuant to A.R.S. § 44-402.

19          162. Isagenix is entitled to compensation for all actual damages and unjust  
20          enrichment, including disgorgement of profits deriving from Defendants' wrongful  
21          conduct, pursuant to A.R.S. § 44-403(A).

22          163. Isagenix is entitled to its reasonable attorneys' fees pursuant to A.R.S. § 44-  
23          404(3).

24          164. Isagenix is entitled to exemplary damages pursuant to A.R.S. § 44-403(B)  
25          because Defendants' misappropriation and wrongful use of Isagenix's trade secrets was  
26          willful and malicious.

**COUNT SEVEN****COMMON LAW UNFAIR COMPETITION****(All Defendants)**

165. Isagenix incorporates by reference the prior paragraphs of this Complaint as if fully alleged herein.

166. In addition to its rights in its trade secrets, Isagenix has rights in other confidential information.

167. Defendants improperly used Isagenix's confidential information.

168. Defendants' actions described herein violate Isagenix's common law rights and constitute unfair competition.

169. Defendants committed these acts of unfair competition willfully, maliciously, and in conscious disregard of Isagenix's rights, with the intent to injure Isagenix.

170. As a direct and proximate result of defendants' actions, Isagenix has suffered irreparable harm and economic damage, entitling Isagenix to injunctive relief and damages as well as disgorgement of profits deriving from Defendants' wrongful conduct.

**COUNT EIGHT****UNJUST ENRICHMENT****(All Defendants)**

171. Isagenix incorporates by reference the prior paragraphs of this Complaint as if fully alleged herein.

172. Defendants have been enriched, and Isagenix has been impoverished, by defendants' unjustified and unauthorized actions, entitling Isagenix to recover therefore.

**PRAYER FOR RELIEF**

WHEREFORE, Isagenix prays for the following relief:

A. For judgment in favor of Isagenix and against Defendants on the claims set forth above;

B. For preliminary and permanent injunctive relief enjoining Defendants, and their attorneys, officers, agents, affiliates, directors, members, managers, subsidiaries,

1 servants, employees, and any and all other persons acting in concert or participating with it  
2 or for its benefit, from:

- 3 a. continuing to improperly interfere with Isagenix's contractual  
4 relationships with Isagenix Associates;
- 5 b. continuing to improperly solicit or encourage Isagenix Associates or  
6 customers to work with or join Modere;
- 7 c. continuing to improperly introduce, promote, or sell business ventures  
8 with Modere, or Modere's goods or services, to Isagenix Associates or  
9 Customers;
- 10 d. any and all use, disclosure, or dissemination to others of any Isagenix's  
11 trade secrets and Confidential Information;

12 C. For preliminary and permanent injunctive relief ordering Defendants, and  
13 their attorneys, officers, agents, affiliates, directors, members, managers, subsidiaries,  
14 servants, employees, and any and all other persons acting in concert or participating with  
15 them or for their benefit, to return all of Isagenix's Confidential Information in Defendants'  
16 possession, without retaining any copies, whether in whole or in part, of that information;

17 D. For an award of all damages, including, but not limited to, any compensatory,  
18 consequential and/or restitutionary damages and remedies, in an amount to be proven at  
19 trial, including damages for actual loss to Isagenix, any unjust enrichment by Defendants,  
20 and reimbursement for any expenses Isagenix paid to or for the benefit of Defendants Davis  
21 and Gascoigne while they were expanding Isagenix into the United Kingdom;

22 E. For entry of an order requiring Defendants to account to Isagenix for any and  
23 all profits derived by Defendants and all damages sustained by Isagenix by virtue of  
24 Defendants' acts complained of herein;

25 E. For an award of punitive damages in an amount to be proven at trial;

26 F. For an award of Isagenix's reasonable costs and attorneys' fees pursuant to  
27 Section 5.4 of the Canadian P&Ps, Section 5.3 of the Australian P&Ps, A.R.S. §§ 12-341,  
28 12-341.01, 44-404(3), and any other applicable law;



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G. For an award of exemplary damages pursuant to A.R.S. § 44-403(B) and 18 U.S.C. § 1836(b)(3);

H. For an award of post-judgment interest; and

I. For such other relief as this Court may deem just and proper.

DATED this 14th day of February, 2020.

SNELL & WILMER L.L.P.



By: \_\_\_\_\_

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