

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this "Agreement") dated as of _____, 2011 (the "Effective Date"), is entered into between NanoImaging Services, Inc. ("NanoImaging"), having a place of business at 11099 North Torrey Pines Road, Suite 250, La Jolla, California 92037, and _____ ("COMPANY"), having a place of business at _____. The parties agree as follows:

1. DEFINITIONS

1.1 "Confidential Information" shall mean, with respect to a party, all information of any kind whatsoever, and all tangible and intangible embodiments thereof of any kind whatsoever, which is disclosed by such party to the other party and is marked, identified as or otherwise acknowledged to be confidential at the time of disclosure to the other party.

1.2 "Core Invention" shall mean any invention, discovery, composition, enhancement or technology (whether or not patentable) related to the imaging technology of NanoImaging and which is made or conceived by employees or others on behalf of NanoImaging in the performance of the Project Plan during the term of the Project Plan.

1.3 "Materials" shall mean the materials described in the attached Exhibit A which are provided to NanoImaging by COMPANY.

1.4 "Program Invention" shall mean any invention, discovery, composition, enhancement or technology (whether or not patentable) related to the Materials and which is made or conceived by employees or others on behalf of NanoImaging in the performance of the Project Plan during the term of the Project Plan.

1.5 "Project Plan" shall mean the workplan attached as Exhibit A.

1.6 "Results" shall mean all data and information generated under the Project Plan by NanoImaging, and all data and conclusions resulting from the analysis thereof by NanoImaging.

2. RESEARCH

2.1 Conduct of the Project Plan. NanoImaging shall perform the Project Plan in accordance with the Project Plan and all requirements of applicable laws, regulations, and current good laboratory practices. NanoImaging shall be responsible for complying with all requirements of laws and regulations applicable to use of the Materials. COMPANY shall be responsible for providing an adequate description of the Materials to permit NanoImaging to meet its obligations in this regard. Any modification to the Project Plan must be agreed to in writing by both parties.

2.2 Results. NanoImaging shall provide to COMPANY copies of the Results. COMPANY shall own the Results and shall have the right to use and disclose the Results for all purposes. NanoImaging shall maintain records in sufficient detail and in good scientific manner so as to be complete and accurate and to fully and properly reflect all work done and results achieved in the performance of the Project Plan and COMPANY or its designee shall have the right, during normal business hours and on reasonable notice, to inspect and copy such records.

2.3 Informal Consultations. At reasonable times during the term of the Agreement, NanoImaging's representatives may consult informally with the COMPANY regarding the Project Plan personally, by telephone, email or other means of communication.

2.4 Term of Project Plan. Unless this Agreement is terminated earlier under Section 7, the term of this Agreement shall commence on the Effective Date and shall terminate one (1) year following the Effective Date.

3. FUNDING

In consideration for NanoImaging's conduct of the Project Plan, COMPANY shall pay to NanoImaging the amounts at the times set forth in the budget and payment schedule attached as Exhibit A. COMPANY shall have no obligation to provide funds to NanoImaging in excess of such amount. The budget and payment schedule may be modified as necessary to account for any modifications to the Project Plan agreed to by the parties.

4. CONFIDENTIALITY

4.1 Confidential Information. During the term of this Agreement, and for a period of five (5) years following the expiration or earlier termination hereof, each party shall maintain in confidence all Confidential Information disclosed by the other party, and shall not use, disclose or grant the use of the Confidential Information except on a need-to-know basis to those directors, officers, employees, consultants, clinical investigators, contractors, (sub)licensees, distributors or permitted assignees, to the extent such disclosure is reasonably necessary in connection with such party's activities as expressly authorized by this Agreement. To the extent that disclosure is authorized by this Agreement, prior to disclosure, each party hereto shall obtain agreement of any such person to hold in confidence and not make use of the Confidential Information for any purpose other than those permitted by this Agreement. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other party's Confidential Information.

4.2 Permitted Disclosures. Notwithstanding the foregoing, the confidentiality obligations of this Agreement shall not apply to information which the other party can establish by written documentation (i) to have been publicly known prior to disclosure of such information by the disclosing party to the other party, (ii) to have become publicly known, without fault on the part of the other party, subsequent to disclosure of such information by the disclosing party to the other party, (iii) to have been received by the other party at any time from a source, other than the disclosing party, rightfully having possession of and the right to disclose such information, (iv) to have been otherwise known by the other party prior to disclosure of such information by the disclosing party to the other party, or (v) to have been independently developed by employees or agents of the other party without access to or use of such information disclosed by the disclosing party to the other party. The confidentiality obligations of this Agreement shall also not apply to the extent that the receiving party is required to disclose information by applicable law, regulation, court order, or in response to a subpoena, request for production of documents or other lawful court process; provided, however, that the receiving party shall give the disclosing party prompt written notice and sufficient opportunity to object to such disclosure, or to request confidential treatment.

5. PUBLICITY

5.1 NanoImaging may issue a press release indicating that the present Agreement has been entered into with COMPANY. The contents of such press release shall be mutually agreed upon by the parties.

6. INTELLECTUAL PROPERTY

6.1 Program Inventions. All right, title and interest in all Program Inventions, together with all patent rights and other intellectual property rights therein, shall be owned by COMPANY. NanoImaging will provide prompt notice to COMPANY of all such Program Inventions, and shall require its officers, employees and agents to provide reasonable cooperation with COMPANY at COMPANY's expense in order to protect such Program Inventions. NanoImaging shall enter into written agreements with its officers, employees and agents and such others as is necessary to obtain ownership of inventions, discoveries and other useful research results, products and processes made by them pursuant to activity carried out in connection with the Project Plan.

6.2 Core Inventions. All right, title and interest in all Core Inventions, together with all patent rights and other intellectual property rights therein, shall be owned by NanoImaging.

6.3 No Other Technology Rights. Except as otherwise provided in this Agreement, under no circumstances shall a party, as a result of this Agreement, obtain any ownership interest or other right in any invention, discovery, composition or other technology, or in any patent right or other intellectual property right, of the other party (including without limitation those owned, controlled or developed by the other party at any time pursuant to this Agreement).

7. INDEMNITY

7.1 COMPANY shall indemnify and hold harmless NanoImaging from and against all losses, liabilities, damages and expenses (including reasonable attorneys' fees and costs) resulting from all claims, demands, actions and other proceedings by any third party to the extent arising from NanoImaging's storage, use or disposal of MATERIALS obtained under this Agreement, other than to the extent caused by the negligence or willful misconduct of NanoImaging.

7.2 Indemnity Procedure. NanoImaging shall promptly notify COMPANY of any claim, demand, action or other proceeding for which NanoImaging intends to claim such indemnification. COMPANY shall have the right to participate in, and to the extent COMPANY so desires jointly with any other indemnitor similarly noticed, to assume the defense thereof with counsel selected by COMPANY. The indemnity obligations under this Section 7 shall not apply to amounts paid in settlement of any claim, demand, action or other proceeding if such settlement is effected without the prior express written consent of COMPANY, which consent shall not be unreasonably withheld or delayed. The failure to deliver notice to COMPANY within a reasonable time after notice of any such claim or demand, or the commencement of any such action or other proceeding, if prejudicial to its ability to defend such claim, demand, action or other proceeding, shall relieve COMPANY of any liability to NanoImaging under this Section 7 with respect thereto. NanoImaging, its employees and agents, shall reasonably cooperate with COMPANY and its legal representatives in the investigation of any claim, demand, action or other proceeding covered by this Section 7.

8. TERM

8.1 Expiration. Unless terminated earlier pursuant to Section 8.2 or 8.3, this Agreement shall expire on the expiration of the term of the Project Plan.

8.2 Termination for Cause. A party may terminate this Agreement by written notice to the other party upon or after the breach of any material provision of this Agreement by the other party, if the other party has not cured such breach within thirty (30) days after written notice thereof from the non-breaching party.

8.3 Termination by NanoImaging. NanoImaging may terminate this Agreement, with or without cause, by sixty (60) days prior written notice to COMPANY.

8.4 Effect of Expiration and Termination. Expiration or termination of this Agreement shall not relieve the parties of any obligation accruing prior to such expiration or termination. The provisions of Sections 4, 4, 6, 7 and 10 shall survive the expiration or termination of this Agreement.

9. WARRANTY

Each party hereby warrants that its rights and obligations under this Agreement do not conflict with rights and obligations provided under other agreements which it has with third parties, including local governments. During the term of the Agreement, neither party shall enter into any other agreements which conflict with rights and obligations provided hereunder, including any rights and obligations which survive termination hereto.

10. MISCELLANEOUS

10.1 Assignment. Except as otherwise expressly provided under this Agreement neither this Agreement nor any right or obligation hereunder may be assigned or otherwise transferred (whether voluntarily, by operation of law or otherwise), without the prior express written consent of the other party; provided, however, that any party may, without such consent, assign this Agreement and its rights and obligations hereunder in connection with the transfer or sale of all or substantially all of its business, or in the event of its merger, consolidation, change in control or similar transaction. Any permitted assignee shall assume all obligations of its assignor under this Agreement. Any purported assignment or transfer in violation of this Section 10.1 shall be void.

10.2 Liability Limitations. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF SUCH DAMAGES.

10.3 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of law principles thereof.

10.4 Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. All express or implied representations, agreements and understandings, either oral or written, heretofore made are expressly superseded by this Agreement.

10.5 Independent Contractors. Each party hereby acknowledges that the parties shall be independent contractors and that the relationship between the parties shall not constitute a partnership, joint venture or agency. No party shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other party, without the prior consent of the other party to do so.

10.6 Waiver. The waiver by a party of any right hereunder, or of any failure to perform or breach by the other party hereunder, shall not be deemed a waiver of any other right hereunder or of any other breach or failure by the other party hereunder whether of a similar nature or otherwise.

10.7 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement as of the Effective Date.

NANOIMAGING SERVICES, INC.

By: _____

By: _____

Title: _____

Title: _____

Exhibit A-1

Sample Project Plan

1. Project Confirmation #[]: This Project Confirmation #[] is attached to and made a part of the Master Services Agreement between NanoImaging Services (“NIS”) and COMPANY (“Company”), effective as of[] (the “Agreement”). All capitalized terms not defined in this Project Confirmation are as defined in the Agreement.

2. Service Estimate Number: [NIS internal number]

3. Project Description: General project description including a general description of Materials and methodology. It is expected that the Company scientist requesting services would provide NIS with an initial list of how many samples will be provided and which type of imaging and/or analysis service is to be performed.

4. Detailed Project Plan: Specify type of imaging, equipment to be used, sample preparation requirements, image targeting, statistical sampling plan (or whether sampling plan is to be provided by NIS), what data is to be collected and how data will be returned to Company.

5. Company supplied Materials [and written Company Information as applicable]: Provide number of samples, sample sizes, concentrations, delivery and storage information. List any potential hazards the Materials might present and explain any special requirements for Material handling and storage.

6. Timing for Performance and Completion of Project: Detailed project schedule is to be provided.

7. Costs for Project: The Estimated Budget for this Project is \$xxx,xxx. This estimate is based on the number of samples to be provided (paragraph 4) and the list of services requested (paragraph 1).

8. Cost and Payment Schedule:

The estimated total cost for this project t is \$xxx,xxx. This estimate is based on the number of samples to be provided (paragraph 4) and the list of services requested (paragraph 1).

Payment Terms: A purchase order or credit card number is required prior to initiating the study. An invoice will be sent on completion of the project report. Payment is due within 30 days.

Amendments: No modification, amendment, or waiver of this Work Order shall be effective unless in writing and duly executed and delivered by each party to the other.

9. Analytical Report /Format/Details/Time Frame: Details of final report to be provided by NIS to Company.

10. Any other Project requirements (such as archiving requirements): To be provided by Company.

12. NIS Contact Person:

Clint Potter
NanoImaging Services, Inc.
10931 North Torrey Pines Road, Suite #108
San Diego, CA 92037
Ph/fax: 888-675-8261 x102
Email: cpotter@nanoimagingervices.com

13. Company Contact Person:

For Project Information:

Name:
Address:
Address:
Phone:
Email:

For Invoicing and Billing:

Name:
Address:
Address:
Phone:
Email:

IN WITNESS WHEREOF, the parties have caused this Project Confirmation #[] to be executed by their duly authorized representatives, effective as of the date of the last signature set forth below.

NANOIMAGING SERVICES, INC.

BY: _____

NAME:

TITLE:

DATE:

COMPANY

BY: _____ BY: _____

Authorized representative

Scientist Requesting Services

NAME: _____ NAME: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

