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04-10-2002

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office



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102049104

To the Honorable Commissioner of Patents and Trademarks, please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
WARREN P. WILLIAMSON IV
CRAIG B. BERKY
CONFLUENCE DEVELOPMENT CORP.
MARK ORTIZ

3-28-02

Additional name of conveying party(ies) attached? ☒ Yes ☐ No

2. Name and address of receiving party(ies)

Name: Guidant Corporation

Internal Address: _____

Street Address: 1525 O'Brien Drive

City: Menlo Park State: CA Zip: 94025

Additional Name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☒ Other Assignment & Undertaking

Execution Date: 10/22/01, 10/22/01, 10/22/01, 10/28/01

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution data of the application is:

A. Patent Application No.(s)

09/641,284

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning this document should be mailed:

Name: John K. Uilkema

Internal Address: _____

Street Address: P.O. Box 190187

City: San Francisco State: CA Zip: 94119-0187

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41) \$ 40

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

50-0918 **Deficiencies Only**

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

John K. Uilkema

Name of Person Signing

Signature

Date

3/19/02

Total number of pages including cover sheet, attachments, and documents: 23

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

04/09/2002 04HUED1 00000016 07641284

01 FEB 03

40.00 BP

PATENT
REEL: 012759 FRAME: 0082

1. Names of Additional Conveying Parties:

ANASTOMOTIX CORP.

PAUL A. SPENCE

GEORGE CHRISTAKIS

WESTSHAW COMPANY LIMITED, A JERSEY COMPANY

3. Execution Date: 11/7/01, 11/7/01, 11/19/01 and 12/21/02

ASSIGNMENT AND UNDERTAKING

WHEREAS, Paul A. Spence, Warren P. Williamson, IV, George Christakis, Mark Ortiz and Craig B. Berky, hereinafter "ASSIGNORS" have invented certain new and useful inventions and improvements as described and set forth in the below-identified applications for United States Letters Patent:

Title of Invention: APPARATUS AND METHOD FOR PERFORMING AN ANASTOMOSIS, Non-Provisional Application 09/641,284, filed August 17, 2000 and prior Provisional Application No. 60/150,033, filed on August 28, 1999;

WHEREAS, Paul A. Spence has assigned all of his right, title, and interest in and to said inventions and applications for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to Anastomotix Corp., a Delaware corporation, by assignment dated October 31, 1997 (copy attached as Exhibit A);

WHEREAS, Warren P. Williamson IV has assigned all of his right, title, and interest in and to said inventions and applications for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to Confluence Development Corp., a Delaware corporation, by assignment dated October 31, 1997 (copy attached as Exhibit B);

WHEREAS, George Christakis has assigned all of his right, title, and interest in and to said inventions and applications for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to Westshaw Company Limited, an Irish company with offices at 17 Earlsfort Terrace, Dublin 2, Ireland as evidenced by the Confirmatory Assignment dated March 9, 2000 (copy attached as Exhibit C);

WHEREAS, Westshaw Company Limited, an Irish company having offices at 17 Earlsfort Terrace, Dublin 2, Ireland, has assigned all of its right, title and interest in and to said inventions and applications for United States Letters Patent and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to Westshaw Company Limited, a Jersey company with offices at 3 Old Street, St. Helier, Jersey, JE2 3RG, British Isles by an Assignment and Assumption of Contract dated September 20, 1999 (copy attached as Exhibit D);

WHEREAS, Mark Ortiz has assigned all of his right, title, and interest in and to said invention and application for United States Letters Patent, and any Letters Patents which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to IDx Medical, Ltd., an Ohio limited liability company having offices at 101 Southbend Ct., Loveland, OH 45140, by a Consulting Agreement dated October 2, 1997 (copy attached as Exhibit E);

WHEREAS, Warren P. Williamson IV (an officer of IDx Medical, Ltd.) confirms that IDx Medical, Ltd. has assigned all of its right, title, and interest in and to said invention and application for United States Letters Patent, and any Letters Patents which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to said Confluence Development Corp., by a Consulting Agreement executed on February 10, 1999 (copy attached as Exhibit F);

WHEREAS, Craig B. Berky has assigned all of his right, title, and interest in and to said invention and application for United States Letters Patent, and any Letters Patents which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to said Confluence Development Corp., by an agreement dated August 31, 1999 (copy attached as Exhibit G);

WHEREAS, said Anastomotix Corp., Confluence Development Corp., and Westshaw Company Limited, a Jersey company, are hereinafter referred to as "ASSIGNORS";


WHEREAS, GUIDANT CORPORATION, a corporation of the State of Indiana, 1525 O'Brien Drive, Menlo Park, California 94025-1436 hereinafter referred to as "ASSIGNEE", and ASSIGNORS have entered into an Assignment Agreement, effective October 1997, under which ASSIGNORS assigned to ASSIGNEE all of their right, title, and interest in and to the referenced inventions and applications for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, and ASSIGNEE desires to confirm that it has acquired from ASSIGNORS the entire right, title and interest in said inventions and applications and in any Letters Patent which may be granted on the same; and

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that, for One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged by Assignors, Assignors have sold, assigned and transferred, and by these presents do sell, assign and transfer unto the said Assignee, and Assignee's successors and assigns, all right, title and interest in and to said inventions, said applications for United States Letters Patent, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, prolongations or extensions thereof, said interest to be held and enjoyed by said Assignee as fully and exclusively as it would have been held and enjoyed by said Assignors had this assignment and transfer not been made, to the full end and term of any such Letters Patent.

Paul A. Spence, Warren P. Williamson, IV, George Christakis, Mark Ortiz and Craig B. Berky further agree that they will, without charge to said Assignee, but at Assignee's expense, cooperate with Assignee (or Assignee's successor or assign) in the prosecution of said applications, execute, verify, acknowledge and deliver all such further papers, including applications for Letters Patent and for the reissue thereof, and instruments of assignment and transfer thereof, and will perform such other acts as Assignee or Assignee's successor or assign lawfully may request, to obtain or maintain Letters Patent for said inventions and improvements in any and all countries, and to vest title thereto in said Assignee, or Assignee's successors and assigns.

IN TESTIMONY WHEREOF, each of PAUL A. SPENCE, WARREN P. WILLIAMSON IV, GEORGE CHRISTAKIS, MARK ORTIZ, and CRAIG B. BERKY has signed his name to this Assignment and Undertaking on the dates indicated below, and authorized officers of Assignors have executed this Assignment and Undertaking on behalf of Assignors on the dates indicated below.

Date: Nov 7 / 2001


PAUL A. SPENCE


Date: 10-22-2001


WARREN P. WILLIAMSON IV

Date: 11-19-2001


GEORGE CHRISTAKIS

Date: 10/28/01


MARK ORTIZ

Date: 10-22-2001


CRAIG B. BERKY

Anastomotix Corp.

Confluence Development Corp.

By: Paul Spence

By: David Williams

Title: President

Title: President

Date: Nov 7 2001

Date: 10-22-2001

Westshaw Company Limited,
A Jersey Company

By: 
F.S. Gee.

Title: Director

Date: 21st December 2001

SF #515510 v1

ASSIGNMENT

The undersigned, in connection with the formation of Anastomotix Corp. (the "Company") and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby agree:

(i) to assign, transfer and convey to the Company all of the undersigned's right, title and interest in and to all intellectual property rights, developed or acquired on or prior to the date hereof, associated with or related to (A) the technology described in U.S. patent application Serial No. 08/714,615, filed 16 September 1996, and all resulting patents, including any divisions, substitutions, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof, and (B) all other trade secrets or intellectual property related thereto and within the Field that have been conceived or reduced to practice by, or are otherwise owned or controlled by, the undersigned to enable the development for commercialization and the commercialization of Products (the "Technology") for use in the Field (the "Intellectual Property"); where "Field" means anastomosis, cannulation access and closure of luminal structures using the Technology, and "Products" means any device, apparatus or other product incorporating all or any part of the Technology; and

(ii) to execute all necessary papers, and to cooperate fully with the Company to obtain, maintain or enforce for itself or its licensee or designee, patents, copyrights or other legal protection for such Intellectual Property.

The undersigned further represents and warrants that it is under no obligation to any person, entity or organization with respect to any rights in the Intellectual Property as above described that are, or reasonably could be construed to be, in conflict with this Assignment, and that the undersigned will enter into no agreement or arrangement that would create a conflict with this Assignment.

This Assignment may not be modified or terminated, in whole or in part. The undersigned has executed and delivered this Assignment effective this 31st day of October, 1997.



Paul Spence, M.D.

54004v.1

EXHIBIT A

ASSIGNMENT

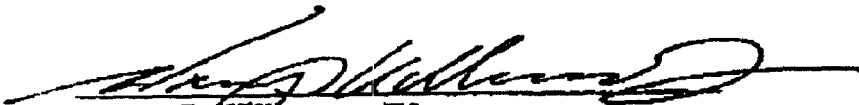
The undersigned, in connection with the formation of Confluence Development Corp. (the "Company") and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby agree:

(i) to assign, transfer and convey to the Company all of the undersigned's right, title and interest in and to all intellectual property rights, developed or acquired on or prior to the date hereof, associated with or related to (A) the technology described in U.S. patent application Serial No. 08/714,615, filed 16 September 1996, and all resulting patents, including any divisions, substitutions, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof, and (B) all other trade secrets or intellectual property related thereto and within the Field that have been conceived or reduced to practice by, or are otherwise owned or controlled by, the undersigned to enable the development for commercialization and the commercialization of Products (the "Technology") for use in the Field (the "Intellectual Property"); where "Field" means anastomosis, cannulation access and closure of luminal structures using the Technology, and "Products" means any device, apparatus or other product incorporating all or any part of the Technology; and

(ii) to execute all necessary papers, and to cooperate fully with the Company to obtain, maintain or enforce for itself or its licensee or designee, patents, copyrights or other legal protection for such Intellectual Property.

The undersigned further represents and warrants that it is under no obligation to any person, entity or organization with respect to any rights in the Intellectual Property as above described that are, or reasonably could be construed to be, in conflict with this Assignment, and that the undersigned will enter into no agreement or arrangement that would create a conflict with this Assignment.

This Assignment may not be modified or terminated, in whole or in part. The undersigned has executed and delivered this Assignment effective this 31st day of October, 1997.


Warren P. Williamson, IV

54004v.1

EXHIBIT B

CONFIRMATORY ASSIGNMENT

OF GEORGE CHRISTAKIS

WHEREAS, I, George Christakis ("Assignor") have invented, with Paul A. Spence and Warren P. Williamson, IV, certain new and useful improvements as described and set forth in the below-identified applications for United States Letters Patent:

Title of Invention: ACCESS AND CANNULATION DEVICE AND METHOD FOR RAPIDLY PLACING SAME AND FOR RAPIDLY CLOSING SAME IN MINIMALLY INVASIVE SURGERY, Non-Provisional Application executed on November 10, 1999, November 20, 1999 and February 9, 2000, and prior Provisional Application No.: 60/136,427, filed on May 28, 1999;

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that for good and valuable consideration, receipt of which is hereby acknowledged by Assignor, Assignor has assigned all of his right, title, and interest in and to said patent applications and the inventions of the patent applications, and any Letters Patent which may hereafter be granted on the same in the United States and all countries throughout the world including any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, reexaminations, prolongations or extensions thereof, to Westshaw Company Limited, an Irish company, with offices at 17 Earlsfort Terrace, Dublin 2, Ireland ("Assignee").

Assignor has further agreed and does hereby agree that he will cooperate with Assignee and any successor or assign of Assignee in the prosecution of said applications, execute, verify, acknowledge and deliver all such further papers, including applications for Letters Patent and for the reissue thereof, and instruments of assignment and transfer thereof, and will perform such other acts as Assignee (or Assignee's successor or assign) lawfully may request, to obtain or maintain Letters Patent for said inventions and improvements in any and all countries, and to vest title thereto in said Assignee, or Assignee's successors and assigns.

IN TESTIMONY WHEREOF, GEORGE CHRISTAKIS has signed his name to this Confirmatory Assignment on the date indicated below.

Date: Mar 9, 2000




GEORGE CHRISTAKIS

EXHIBIT C

ASSIGNMENT AND ASSUMPTION OF CONTRACT

This Assignment and Assumption of Contract ("Assignment") is made this 20th day of September, 1999, by Westshaw Company Limited, an Irish company with a registered office at 17 Earlsfort Terrace, Dublin 2, Ireland ("Assignor") and Westshaw Company Limited, a Jersey company with its Registered Office at 3 Old Street, St Helier, Jersey, JE2 3RG, British Isles ("Assignee").

1. This Assignment is entered into on the basis of the following facts and understandings of the parties:

a. Assignor is one of three (3) "Assignors" in that certain Assignment Agreement dated October 1997, (the "Contract") by and between Confluence Development Corp., a Delaware corporation with offices at 101 Southbend Court, Loveland, OH 45140, Anastomotix Corp., a Delaware corporation with offices at 5818 Orion Road, Louisville, Kentucky 40222, and Assignor (collectively referred to in the Contract as "Assignors") on one hand, and Guidant ^{15250 B. Iron Drive} ~~135 Constitution Drive~~, Menlo Park, CA 94025 and its Affiliates (collectively referred to in the Contract as "Guidant") on the other hand. A copy of the Contract, as described above, is attached to this Assignment. 

b. Under the Contract, the Assignors assigned to Guidant and Guidant purchased from the Assignors the rights, title and interest in and to certain Technology and related assets. As defined in the Contract, the term Technology refers to (i) the technology described in U.S. patent application Serial No. 08/714,615, filed 16 September 1996, and all resulting patents, including any divisions, substitutions, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof, and (ii) all other trade secrets or intellectual property related thereto and within the field that have been conceived or reduced to practice by, or are otherwise owned or controlled by, the Assignors to enable the development for commercialization and the commercialization of products.

c. As consideration for the Technology and related assets, Guidant agreed to pay to the Assignors an upfront fee, royalties and milestone payments as those terms are defined under the Contract. Guidant continues to make recurring payments owed under the Contract.

d. Assignor's nonresident tax status will cease on September 30, 1999. Assignee has been formed for the purpose of replacing Assignor for all purposes under the Contract, including the collection of recurring payments made by Guidant under the Contract.

e. Assignee was incorporated on September 6, 1999. Its initial directors are E.L. Bendelow, R.M.C. Blackie and Mrs. J. Coward. The Secretary of Assignee is Hapco Corporate Services Limited.

f. Assignor desires to assign, and Assignee desires to assume, all the Assignor's rights and obligations relating to the Contract.

2. In consideration of the above facts and understandings, the parties agree that:

A. Assignment of Contract. Assignor assigns to Assignee all of the Assignor's right, title, and interest in and to the Contract to Assignee, and Assignee accepts this assignment.

B. Assumption of Contract. Assignee assumes and agrees to perform all obligations, duties, responsibilities, and liabilities of Assignor with respect to the Contract, and Assignor delegates such obligations to Assignee.

C. Time of Essence. Time is of the essence in this Assignment.

D. Successors and Assigns. This Assignment and each of its provisions shall be binding on and shall inure to the benefit of the respective successors, and assigns of the parties to this Assignment.

E. Amendments to Assignment. This Assignment may be amended only by a writing signed by the party against whom or against whose successors and assigns enforcement of the change is sought.

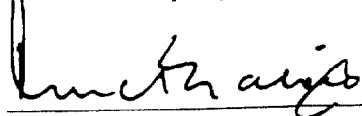
F. Effect of Partial Invalidity. If any term, provision, or application of this Assignment is held invalid or unenforceable, the remainder of this Assignment and any application of the terms and provisions shall not be affected thereby, but shall remain valid and enforceable.

G. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of California.

H. Counterparts. This Assignment and related Consent to Assignment, printed on the following page, may be signed in counterparts, all of which shall be deemed an original and all of which constitute one and the same document. The counterpart signatures shall be deemed to include signatures on facsimile copies and facsimile signatures which shall be deemed to be as binding as a manually executed original.

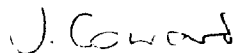
IN WITNESS WHEREOF, the parties have signed and delivered to each other counterpart copies of the Assignment effective as of the later of date first set forth above or as of the date stated on the Consent to Assignment, printed on the following page.

ASSIGNOR:
Westshaw Company Limited,
an Irish company



By: Robert Michael Churchill Blackie
Its: DIRECTOR

ASSIGNEE:
Westshaw Company Limited,
a Jersey company



By: JUNIE COWARD
Its: DIRECTOR

CONSENT TO ASSIGNMENT

Guidant Corporation, an Indiana corporation having a place of business at ~~135~~ 1525 O'Brian Drive, ~~Constitution Drive~~, Menlo Park, CA 94025 and its Affiliates (collectively "Guidant") hereby ⁸⁷⁸ consent to the Assignment and Assumption of Contract, printed above, provided that this consent shall in no way release Assignor from any of its duties or obligations under the Contract, nor shall this consent be deemed to enlarge the rights, duties, or obligations of any party under the Contract.

Dated: 1 Nov., 1999.

"Guidant"
Guidant Corporation, an Indiana
corporation and its Affiliates

13 Greg Garfield
By: GREG GARFIELD
Its: Secretary, CVS Group

Anatomical dev
to IDx

IDx Medical
101 Southbend Ct.
Loveland, OH 45140

513.583.9081
Fax: 513.583.8566

IDx Medical

Date 10-2-97

CONSULTING AGREEMENT

Name of Consultant MARK ORTIZ
Title CONSULTING ENGINEER
Address 5981-7 MEADOWCREEK
MILFORD OH 45150
Tax Identification Number (Social Security Number) 044 56 0905
Telephone Number 513 831 1227
Term of Consulting Service: From _____ to _____

IDx Medical and Consultant agree:

1. Scope of Work

Consultant will perform the consulting services for IDx Medical as described in Exhibit 1 (the "Services").

2. Compensation

IDx Medical will pay Consultant a consulting fee in the amount and on the terms specified in Exhibit 2. The total fee (including reimbursable travel expenses under this agreement) may not exceed two thousand dollars (\$2000.00) without the prior written approval of IDx Medical.

3. Manner of Performance

Consultant represents that Consultant has the requisite expertise, ability and legal right to render the Services and will perform the Services in an efficient manner. Consultant will abide by all laws, rules and regulations that apply to the performance of the Services. Each of Consultant's employees performing Services will have the expertise to perform assigned Services in an efficient manner. Consultant and employees of Consultant when on IDx Medical's premises will comply with IDx Medical's policies with respect to conduct of visitors.

4. Confidentiality

In the course of this agreement, it is anticipated that Consultant will learn confidential or proprietary information of IDx Medical. Consultant will keep confidential this information and any other information which Consultant may acquire with respect to IDx Medical's business, including, but not limited to, information developed by Consultant and information relating to new products, customers, pricing, know-how, processes, and practices, unless and until consents to disclosure, or unless such knowledge and information otherwise becomes generally available to the public through no fault of Consultant. Consultant will not disclose to others, without IDx Medical's consent, the fact that it is acting on behalf of IDx Medical and will not publish on the subject of this consulting relationship without first providing IDx Medical with the

EXHIBIT E

PATENT
REEL: 012759 FRAME: 0094

IDx Medical
101 Southbend Ct.
Loveland, OH 45140

513.583.9081
Fax: 513.583.8566

opportunity to review and offer reasonable objection to the contemplated publication. This undertaking to keep information confidential will survive the termination of this agreement. Consultant will require each of its employees performing Services to execute IDx Medical's Confidentiality Agreement, if requested by IDx Medical. At the termination of this agreement, Consultant will return to IDx Medical all drawings, specifications, manuals and other printed or reproduced material (including information stored on machine readable media) provided by IDx Medical to Consultant and all copies of such information made by Consultant or its employees.

5. Conflicts of Interest

Consultant represents that it has advised IDx Medical in writing prior to the date of signing this agreement of any relationship with third parties, including competitors of IDx Medical, which would present a conflict of interest with the Services or which would prevent Consultant from carrying out the terms of this agreement. Consultant will advise IDx Medical of any such relationships that arise during the term of this agreement. IDx Medical will then have the option to terminate this agreement without further liability to Consultant, except to pay for Services actually rendered.

6. Relationships with Others

During the term of this agreement and for one year after its termination date, neither Consultant nor its employees will perform consulting services in the specific area in which Consultant actually has consulted under this agreement for any other entity engaged in the development manufacture, distribution or sale of medical care products or services.

7. Independent Contractor

Consultant will be an independent contractor, and Consultant and any employees of Consultant performing Services will not be employees of IDx Medical. The manner in which Services are rendered by Consultant and any employees of Consultant will be within Consultant's sole control and discretion. IDx Medical will not be responsible for Consultant's acts or the acts of its employees while performing the Services whether on IDx Medical's premises or elsewhere, and Consultant and its employees will not have authority to speak for, represent, or obligate IDx Medical in any way.

8. Ownership of Developments

All written materials and other works which may be subject to copyright and all patentable and unpatentable inventions, discoveries, and ideas (including but not limited to any computer software) which are made, conceived or written by Consultant during the term of this agreement, and for 90 days after it expires, and which are based upon the Services performed by Consultant for IDx Medical ("Developments") shall become IDx Medical's property. Consultant agrees to hold all Developments confidential in accordance with paragraph 4 of this agreement.

9. Disclosure and Transfer of Developments

Consultant will disclose promptly to IDx Medical each Development and, upon IDx Medical' request and at IDx Medical's expense, Consultant will assist IDx Medical, or anyone it designates, in filing patent or copyright applications in any country in the world. Each copyrightable work, to the extent permitted by law, will be considered a work made for hire and the authorship and copyright of the work shall be in IDx Medical's name. Consultant will execute all papers and do all things which may be necessary or advisable, in the opinion of IDx Medical, to prosecute such applications and to vest in IDx Medical, or its designee, all the right, title and interest in and to the Developments. If for any reason Consultant is unable to effectuate a full assignment of any Development, Consultant will transfer to IDx Medical, or its designee, its transferable rights, whether they be exclusive or nonexclusive, or as a joint inventor or partial owner of the Development.

10. Disclosures to IDx Medical

If during the term of this agreement, Consultant discloses any copyrightable works, inventions, discoveries, or ideas to IDx Medical which were conceived or written prior to this agreement or which are not based upon the Services performed by consultant for IDx Medical under this agreement, IDx Medical will have no liability to Consultant because of its use of such works, inventions, discoveries or ideas, except liability for infringement of any valid copyright or patent now or hereafter issued thereon.

IDx Medical
101 Southbend Ct.
Loveland, OH 45140

513.583.9081
Fax: 513.583.8566

11. Term

The term of this agreement is as specified on the first page of this agreement, but in no event will the term of this agreement extend beyond three years from this date of this agreement.

12. General

No assignment by Consultant of this agreement or any sums due under it will be binding on IDx Medical without IDx Medical's prior written consent. This agreement supersedes all prior agreements and understandings between the parties respecting the subject matter of this agreement. This agreement may not be changed or terminated orally by or on behalf of either party. In the event either party breaches this agreement, the other party will have the right to terminate the agreement. In the event of the actual or threatened breach of any of the terms of paragraphs 4, 6, 8, and 9, IDx Medical will have the right to specific performance and injunctive relief. The rights granted by this paragraph are in addition to all other remedies and rights available at law or in equity. This agreement shall be construed according to the laws of Ohio for contracts made within that state.

Mark Ostry Date: 10/2/97

[Signature] Date: 10-2-97
For IDx Medical

IDx Medical
101 Southbend Ct.
Loveland, OH 45140

513.583.9081
Fax: 513.583.8566

Exhibit 1

"Services"

The Consultant will use his best efforts to develop conceptual drawings, computer models, prototypes or further reduce to practice ideas relating to the use of tools and instruments for small vessel anastomosis. The specific goals for a particular project will be discussed one on one with the managing member and at a minimum weekly conferences will be used to review progress.

Exhibit 2

IDx Medical will pay Consultant within thirty days of submission of invoices detailing the number of hours worked. IDx Medical will pay Consultant at an hourly rate of \$55.00 per hour. IDx Medical will reimburse Consultant for any reasonable expenses associated with work done for IDx Medical such as any travel expenses or extraneous required materials upon submission of expense receipts. A 1099 will be submitted to the Consultant at the end of each year.

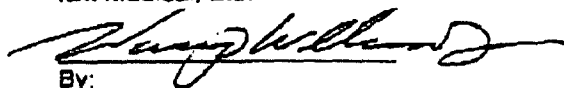
Kinetic Retractor
to IDx

"Services"

The Consultant will use his best efforts to develop conceptual drawings, computer models, prototypes or further reduce to practice ideas relating to the use of tools and instruments for kinetic heart manipulation for off-pump beating heart cardiac surgery, and all resulting patents, including any divisions, substitutions, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof, and all other trade secrets or intellectual property related thereto, that have been reduced to practice by, or are otherwise owned or controlled by IDx Medical, Ltd., its successors or assignors to enable the development for commercialization and the commercialization of the technology. The specific goals for a particular project will be discussed one on one with a managing member at IDx Medical, Ltd. and conferences will be used to review progress.

Dated 6-5-98

IDx Medical, Ltd.


By:

Consultant

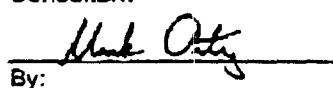

By:

Exhibit 2

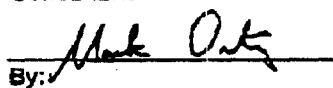
IDx Medical, Ltd. shall cause Consultant to be paid within thirty days of submission of invoices detailing the number of hours worked. Consultant will be paid at an hourly rate of \$55.00 per hour. IDx Medical, Ltd. will reimburse Consultant for any reasonable expenses associated with work done for IDx Medical, Ltd. such as any travel expenses or extraneous required materials upon submission of expense receipts. A 1099 will be submitted to the Consultant at the end of each year.

Dated 6-5-98

IDx Medical, Ltd.


By:

Consultant


By:

RetractCSAgr

Confluence Development Corp.
101 Southbend Ct.
Loveland, OH 45140

513.583.9081
Fax: 513.583.8566

Anastomotics
from IDt
to Confl
Dvig
Corp

Date _____

CONSULTING AGREEMENT

Name of Consultant IDx Medical Limited

Address 101 Southbend Ct. Loveland, OH 45140

Tax Identification Number (Social Security Number) 31-1615085

Telephone Number 513-583-9081

Term of Consulting Service: From October 1988

Confluence Development Corporation and Consultant agree:

1. Scope of Work

Consultant will perform the consulting services for Confluence Development Corp. as described in Exhibit 1 (the "Services").

2. Compensation

Confluence Development Corp. will cause Consultant to be paid a consulting fee in the amount and on the terms specified in Exhibit 2. The total fee (including reimbursable travel expenses under this agreement) may not exceed two thousand dollars (\$2000.00) without the prior written approval of Confluence Development Corp..

5000.00
Handwritten

3. Manner of Performance

Consultant represents that Consultant has the requisite expertise, ability and legal right to render the Services and will perform the Services in an efficient manner. Consultant will abide by all laws, rules and regulations that apply to the performance of the Services. Each of Consultant's employees performing Services will have the expertise to perform assigned Services in an efficient manner. Consultant and employees of Consultant when on Confluence Development Corp.'s premises will comply with Confluence Development Corp.'s policies with respect to conduct of visitors.

4 Confidentiality

In the course of this agreement, it is anticipated that Consultant will learn confidential or proprietary information of Confluence Development Corp. Consultant will keep confidential this information and any other information which Consultant may acquire with respect to Confluence Development Corp.'s business, including, but not limited to, information developed by Consultant and information relating to new products, customers, pricing, know-how, processes, and practices, unless and until consents to disclosure, or unless such knowledge and information otherwise becomes generally available to the public through no fault of Consultant. Consultant will not disclose to others, without Confluence Development Corp.'s consent, the fact that it is acting on behalf of Confluence Development Corp. and will not publish on the subject of this consulting relationship without first providing Confluence Development Corp. with the opportunity to review and offer reasonable objection to the contemplated publication. This undertaking to keep information

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confidential will survive the termination of this agreement. Consultant will require each of its employees performing Services to execute Confluence Development Corp.'s Confidentiality Agreement, if requested by Confluence Development Corp.. At the termination of this agreement, Consultant will return to Confluence Development Corp. all drawings, specifications, manuals and other printed or reproduced material (including information stored on machine readable media) provided by Confluence Development Corp. to Consultant and all copies of such information made by Consultant or its employees.

5. Conflicts of Interest

Consultant represents that it has advised Confluence Development Corp. in writing prior to the date of signing this agreement of any relationship with third parties, including competitors of Confluence Development Corp., which would present a conflict of interest with the Services or which would prevent Consultant from carrying out the terms of this agreement. Consultant will advise Confluence Development Corp. of any such relationships that arise during the term of this agreement. Confluence Development Corp. will then have the option to terminate this agreement without further liability to Consultant, except to pay for Services actually rendered.

6. Relationships with Others

During the term of this agreement and for one year after its termination date, neither Consultant nor its employees will perform consulting services in the specific area in which Consultant actually has consulted under this agreement for any other entity engaged in the development manufacture, distribution or sale of medical care products or services.

7. Independent Contractor

Consultant will be an independent contractor, and Consultant and any employees of Consultant performing Services will not be employees of Confluence Development Corp. The manner in which Services are rendered by Consultant and any employees of Consultant will be within Consultant's sole control and discretion. Confluence Development Corp. will not be responsible for Consultant's acts or the acts of its employees while performing the Services whether on Confluence Development Corp.'s premises or elsewhere, and Consultant and its employees will not have authority to speak for, represent, or obligate Confluence Development Corp. in any way.

8. Ownership of Developments

All written materials and other works which may be subject to copyright and all patentable and unpatentable inventions, discoveries, and ideas (including but not limited to any computer software) which are made, conceived or written by Consultant during the term of this agreement, and for 90 days after it expires, and which are based upon the Services performed by Consultant for Confluence Development Corp. ("Developments") shall become Confluence Development Corp.'s property. Consultant agrees to hold all Developments confidential in accordance with paragraph 4 of this agreement.

9. Disclosure and Transfer of Developments

Consultant will disclose promptly to Confluence Development Corp. each Development and, upon Confluence Development Corp.' request and at Confluence Development Corp.'s expense, Consultant will assist Confluence Development Corp., or anyone it designates, in filing patent or copyright applications in any country in the world. Each copyrightable work, to the extent permitted by law, will be considered a work made for hire and the authorship and copyright of the work shall be in Confluence Development Corp.'s name. Consultant will execute all papers and do all things which may be necessary or advisable, in the opinion of Confluence Development Corp., to prosecute such applications and to vest in Confluence Development Corp., or its designee, all the right, title and interest in and to the Developments. If for any reason Consultant is unable to effectuate a full assignment of any Development, Consultant will transfer to Confluence Development Corp., or its designee, its transferable rights, whether they be exclusive or nonexclusive, or as a joint inventor or partial owner of the Development.

10. Disclosures to Confluence Development Corp.

Confluence Development Corp.
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If during the term of this agreement, Consultant discloses any copyrightable works, inventions, discoveries, or ideas to Confluence Development Corp. which were conceived or written prior to this agreement or which are not based upon the Services performed by consultant for Confluence Development Corp. under this agreement, Confluence Development Corp. will have no liability to Consultant because of its use of such works, inventions, discoveries or ideas, except liability for infringement of any valid copyright or patent now or hereafter issued thereon.

11. Term

The term of this agreement is as specified on the first page of this agreement, but in no event will the term of this agreement extend beyond three years from this date of this agreement.

12. General

No assignment by Consultant of this agreement or any sums due under it will be binding on Confluence Development Corp. without Confluence Development Corp.'s prior written consent. This agreement supersedes all prior agreements and understandings between the parties respecting the subject matter of this agreement. This agreement may not be changed or terminated orally by or on behalf of either party. In the event either party breaches this agreement, the other party will have the right to terminate the agreement. In the event of the actual or threatened breach of any of the terms of paragraphs 4, 6, 8, and 9, Confluence Development Corp. will have the right to specific performance and injunctive relief. The rights granted by this paragraph are in addition to all other remedies and rights available at law or in equity. This agreement shall be construed according to the laws of Ohio for contracts made within that state.


President, IDx Medical Limited "Consultant"

Date: 2-10-99


President, Confluence Development Corp.

Date: 2-10-99

Confluence Development Corp.
101 Southbend Ct.
Loveland, OH 45140

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Exhibit 1

"Services"

The Consultant will use his best efforts to develop conceptual drawings, computer models, prototypes or further reduce to practice ideas relating to the methods and devices for mechanically joining small vessels use of tools and instruments, and all resulting patents, including any divisions, substitutions, continuations, continuations-in-part, reissues, reexaminations, renewals or extensions thereof, and all other trade secrets or intellectual property related thereto, that have been reduced to practice by, or is otherwise owned or controlled by Confluence Development Corp., its successors or assignors to enable the development for commercialization and the commercialization of the technology. The specific goals for a particular project will be discussed one on one with Confluence Development Corp. and conferences will be used to review progress.

Exhibit 2

Confluence Development Corp. shall cause Consultant to be paid within thirty days of submission of invoices detailing the number of hours worked. Consultant will be paid at an hourly rate of \$42.00 per hour. Confluence Development Corp. will reimburse Consultant for any reasonable expenses associated with work done for Confluence Development Corp. such as any travel expenses or extraneous required materials upon submission of expense receipts.

ASSIGNMENT

This Assignment is being executed this 31st day of August, 1999 by Craig Berky ("Assignor") for the benefit of Confluence Development Corporation, a Delaware corporation ("Confluence"), pursuant to that certain Employment Agreement by and between Assignor and Confluence.

Recitals

Confluence and Assignor have entered into a Consulting Agreement pursuant to which Assignor has been engaged to provide certain consulting services to Confluence in connection with the design and development of certain intellectual property.

Pursuant to the terms of the Consulting Agreement, Assignor agreed that all works which may be subject to copyright and all patentable and unpatentable inventions, discoveries and ideas which are made, conceived or written by Assignor during the term of the Consulting Agreement and for 90 days after its expiration, which are based on the services performed by Assignor for Confluence in the development of an anastomotic device or similar device in the area of anastomosis, cannulation access and closure of luminal structures ("Developments"), are and shall become the sole and exclusive property of Confluence.

Assignor further agreed in the Consulting Agreement to execute all papers which may be necessary or advisable to prosecute applications for patents and to vest in Confluence, or its designee, all the right, title and interest in and to the Developments.

In connection with the prosecution of patent applications number 08/714,615, 09/200,796 and 09/220,395 related to and/or arising out of the Developments, Confluence is requesting and Assignor is desirous of executing this Assignment.

Now therefore, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby assign, transfer and convey to Confluence all of Assignor's right, title and interest in and to the Developments and all Letters Patent of the United States to be obtained therefor in respect of the patent applications related thereto and in all foreign countries to be obtained for the Developments or any portion thereof, and any continuation, division, renewal, substitute or reissue thereof or any legal equivalent thereof in any foreign country for the full term or terms for which the same may be granted.

Assignor further covenants that, upon the request of Confluence or its designee, Assignor will testify in any proceeding affecting the prosecution of the patent and will promptly execute and deliver to Confluence or its designee any and all further

papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said patent applications and Letters Patent and any equivalents thereof in any foreign country which may be necessary or desirable to carry out the purposes hereof.

This Assignment shall in no way mitigate, reduce or amend the rights and obligations of each of Assignor and Confluence pursuant to the Consulting Agreement.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year first above written.

Assignor


Name: Craig Berky

175577