

02-09-1999



100959728

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Docket No.:

014951/0132 Sienna Imaging

Tab settings

To the Honorable Commissioner of Patent

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

METRUM, INC.
4800 EAST DRY CREEK ROAD
LITTLETON, COLORADO 80122

- Individual(s)
- General Partnership
- Corporation-State **COLORADO**
- Other
- Association
- Limited Partnership

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: effective as of 06061995

2. Name and address of receiving party(ies):

Name: **SIENNA IMAGING, INC.**

Internal Address: _____

Street Address: **7050 S. TUSCON WAY**

City: **ENGLEWOOD** State: **CO** ZIP: **80112**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State **COLORADO**
- Other

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1844136



Additional numbers

Yes No

02-02-1999

U.S. Patent & TMO/TM Mail Rcpt Dt. #40

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

Name: **JOSHUA R. BRESSLER, ESQ.**

Internal Address: **SCHULTE ROTH & ZABEL LLP**

Street Address: **900 THIRD AVENUE**

City: **NEW YORK** State: **NY** ZIP: **10022**

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41):.....\$ **\$40.00**

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

SCHULTE ROTH & ZABEL LLP 50067

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.

JOSHUA R. BRESSLER

Name of Person Signing

Signature

FEBRUARY 1, 1999

Date

Total number of pages including cover sheet, attachments, and

TRADEMARK

REEL: 1850 FRAME: 6296

1844136
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PURCHASE OF ASSETS FROM

METRUM, INC.

BY

SIENNA IMAGING, INC.

JUNE 6, 1995

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is entered into this 6th day of June 1995, to be effective as of the "Closing Date" (as defined in Section 3.4 hereof), by and between Metrum, Inc., a Colorado corporation whose principal place of business is 4800 East Dry Creek Road, Littleton, Colorado, 80122 ("Metrum") and SIENNA IMAGING, INC., a Colorado corporation with its principal place of business at 7050 S. Tucson Way, Englewood, Colorado 80112 ("SIENNA").

RECITALS

WHEREAS, Metrum, through its Metrum Imaging Products division (the "Division"), is engaged in the "Business" (as hereinafter defined), including the design, development, manufacture and sale of the "Products" (as hereinafter defined); and

WHEREAS, Metrum desires to sell, transfer and assign to SIENNA, and SIENNA desires to purchase and acquire from Metrum, on the terms and subject to the conditions set forth in this Agreement, substantially all of the assets and certain of the liabilities used or held by the Division for use in the conduct of the Business and identified by Metrum as applicable to the Business; and

WHEREAS, in conjunction therewith, Metrum and SIENNA desire to: (i) execute licensing arrangements for specific patents, copyrights and trademarks; (ii) enter into certain contractual arrangements for specified real property; and (iii) take other necessary actions so as to transfer or license to SIENNA substantially all of the assets used in the Business and certain of the liabilities of the Business, all as more particularly set forth herein.

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants and agreements hereinafter contained, the parties hereby agree as follows:

I. Interpretation.

1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

(a) "Business" shall mean the business in which the Division is engaged as of the "Closing Date" (as defined in Section 3.4 hereof), as described in Schedule 1.1(a)(i) hereto, at the locations listed in Schedule 1.1(a)(ii) hereto and shall include the Products.

(b) "Copyrights" shall mean all published and unpublished rights in works of authorship used exclusively in or held for use in the Business including, without limitation, (1) literary works including books, periodicals, catalogs, directories, textual advertising such as brochures, pamphlets and other literature, tabular lists, lectures, manuals and computer programs and databases, (2) pictorial, graphic and sculptural works including maps, architectural plans and

renderings, blueprints, photographs, prints and pictorial illustrations such as labels and pictorial advertising, posters, brochures, and pamphlets, and pattern designs, (3) audiovisual works, (4) sound recordings and (5) mask works, and all U.S. and foreign pending and issued copyright or mask work registrations thereon.

(c) "Intellectual Property Rights" shall mean the Patent Rights, Copyrights, Trademarks and Trade Secrets and other similar rights in technology that are owned, used or controlled by Metrum on the Closing Date and used exclusively in or held for use in the Business.

(d) "Know-How" shall mean all know-how (not necessarily proprietary) used exclusively in or held for use in the Business as of the Closing Date including, without limitation, (1) design drawings, (2) specifications and performance criteria, (3) operating instructions and maintenance manuals, (4) manufacturing information, including production documentation, methods, layouts and supplier and cost information, (5) copies of computer software and related documentation, including, without limitation, available source and object code listings, (6) prototypes, models or samples, (7) computer-aided design or computer-aided manufacturing data, (8) information communicated to SIENNA in meetings or conferences, (9) files relating to applications for Intellectual Property Rights and (10) other tangible materials that are used exclusively in or held for use in the Business as of the Closing Date.

(e) "Patent Rights" shall mean all (1) rights to inventions conceived as of the Closing Date by employees of Metrum who are engaged solely in the operation of the Business, (2) pending U.S. and foreign patent applications owned by Metrum and any division, continuations and continuations in part thereof or used exclusively, and (3) U.S. and foreign patents owned by Metrum, or U.S. and foreign patents which Metrum has the right to apply for on the Closing Date, and any reexaminations, reissues or extensions thereof which are for use exclusively in or held for use in the Business.

(f) "Primary Intellectual Property Rights" shall mean the Patent Rights, Copyrights and Trademarks, including those identified in Schedule 1.1(f), and the Trade Secrets and other similar exclusive rights and technology that are owned and controlled by Metrum on the Closing Date and used exclusively in or held for use in the Business.

(g) "Products" shall mean the products manufactured or in the process of design or development for manufacture, and services rendered, by the Division as of the Closing Date, including but not limited to those identified in Schedule 1.1(g) hereto.

(h) "Retained Products" shall mean dry silver and ultraviolet paper products, other consumables, associated spares and accessories, and support services for Metrum's retained graphics products as listed on Schedule 1.1(h) hereto.

(i) [Intentionally omitted]

(j) "Trademarks" shall mean trade names, trademarks, service marks, trade dress and product configurations that are used or intended to be used exclusively in the Business or held for the purpose of identifying any part thereof (and not by any other entity or business group within Metrum) and all (1) goodwill and common law rights associated therewith, (2) registration applications pending thereon in any state and in any country, and (3) registrations issued thereon in any state and in any country.

(k) "Trade Secrets" shall mean all proprietary information, including that identified on Schedule 1.1(k), that is used exclusively in or held for use in the Business and that (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, third parties who can obtain economic value from its disclosure or use, and (2) is the subject of efforts by the Division that were reasonable under the circumstances to maintain its secrecy, such as, without limitation, proprietary specifications, formulas, drawings, models, blueprints, software, production techniques and processes, retail and wholesale customer lists, vendor lists, compilations, merchandising information, cost and pricing information, business systems and methods and information regarding future business opportunities.

II. Transfer of Assets; Assumption of Liabilities.

2.1 Transfer of Assets.

(a) **Assets Transferred.** On the terms and subject to the conditions herein set forth, Metrum shall, as of the Closing Date, sell, transfer, convey and assign, except to the extent such sale, transfer, conveyance or assignment is governed by the terms of Sections 2.2 or 2.5 hereto, to SIENNA, all of the assets and properties of the Division as set forth below and on Schedule 3.3 attached hereto (collectively, the "Assets"), including, without limitation:

(i) all rights and interest of Metrum in the real and personal property leases listed on Schedule 2.1(a)(i) hereto ("Real and Personal Property Leases");

(ii) all contracts in respect of the Business including, without limitation, customer contracts, employment-related contracts, royalty and license agreements and rights, distribution agreements, purchase agreements, rights to use technology owned by others and all other agreements other than the Real and Personal Property Leases including but not limited to those listed on Schedule 4.13 hereto (collectively, the "Contracts");

(iii) the prepaid expenses and deposits of the Business;

(iv) the accounts receivable of the Business.

(v) the Know-How;

(vi) all inventory of supplies, raw materials, component parts, work-in-progress and finished goods on hand, used in the Business at the locations identified in Schedule 1.1(a)(ii), a list of which is provided as Schedule 2.1(a)(vi) hereto (the "Inventory");

(vii) machinery, equipment, spare parts, fittings, office furniture, fixtures, supplies and other tangible personal property used in the Business at the locations identified in Schedule 1.1(a)(ii) hereto (other than the Inventory and other than the Computer Hardware and Software), a list of which is provided as Schedule 2.1(a)(vii) hereto (the "Equipment");

(viii) computer hardware and software owned by Metrum and used by the Division in the Business at the locations identified in Schedule 1.1(a)(ii) hereto, a list of which is provided as Schedule 2.1 (a)(viii) hereto (the "Computer Hardware and Software");

(ix) all goodwill of the Business;

(x) all customer lists used exclusively in or held for use in the Business;

(xi) all permits, licenses and certificates held by Metrum with respect to the conduct of the Business at the locations identified in Schedule 1.1(a)(ii) hereto;

(xii) all rights and interest of Metrum in the Trade Secrets, a list of which is provided as Schedule 1.1(k);

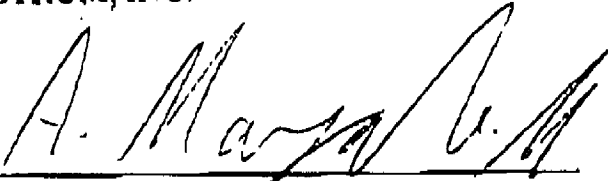
(xiii) all Primary Intellectual Property Rights, a list of which is provided as Schedule 1.1(f); and

(xiv) other assets, whether tangible or intangible, which are used exclusively in or held for use in the Business at the locations identified in Schedule 1.1(a)(ii) hereto, except as specifically excluded by Section 2.1(b).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized on the date first written above.

METRUM, INC.

SIENNA IMAGING, INC.



By: Aviram Margalith, President/CEO

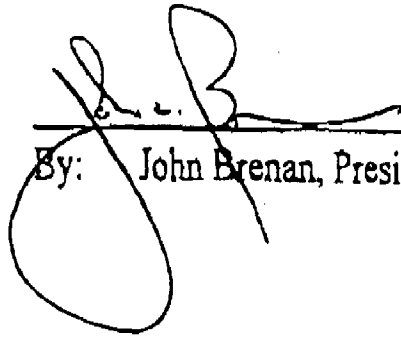
By: John Brennan, President/CEO

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized on the date first written above.

METRUM, INC.

SIENNA IMAGING, INC.

By: Aviram Margalith, President/CEO



By: John Brennan, President/CEO

SCHEDULE 1.1(f)

PRIMARY INTELLECTUAL PROPERTY RIGHTS

C. TRADEMARKS:

FILE NUMBER

1,844,136
7/12/94

COUNTRY

United States

TRADEMARK

Colorado

SCHEDULE 1.1(f)

PRIMARY INTELLECTUAL PROPERTY RIGHTS

A. PATENT RIGHTS:

Patents owned by Metrum, Inc.

FILE NO.	NOTICE	PATENT NO.	DATE	US	CA	JP	WP	DE	FR	GB	EP	INVENTOR	TITLE	NOTIFICATION *
900-20091	Issued	5,250,878	Oct-93	x								Rothe, Shaklee	CRT Beam Intensity Correction System	
901-12709	Issued	5,184,154	Jan-93	x								Shaklee	Method and Apparatus for Image Production by Selective or Random Exposure Element Activation	
901-13826	Issued	5,204,691	Apr-93	x								Sanford	Cathode Ray Tube Mounting Apparatus	
A-001-P93	Issued	5,073,347	Dec-94	x								Shaklee, Bodentz, Brackett	Singgered Multiple CRTs in a Photographic Process Printer	x
901-12487	Pending	2041402-2	Apr-91		x							Rothe, Shaklee	Facsimile Apparatus for Producing Variable Size and Resolution Images on a Reproduction Medium	x
As Above	Pending	91107141.3	May-91								x		As Above	x
As Above	Pending	130310/1991	May-91			x							As Above	x
As Above	Issued	5,165,073	Nov-92	x									As Above	x
901-12693	Pending	2041019-1	Apr-91		x							Shaklee, Sturm	Compensation for Drift in a Cathode Ray Tube	x
As Above	Pending	91106589.4	Apr-91										As Above	x
As Above	Pending	123123/1991	Apr-91			x							As Above	x

FILE NO.	NOTE:	PATENT NO	DATE	US	CA	JP	WP	DE	FR	GD	INVENTOR	TITLE	NOTIFICATION *
As Above	Issued	5,077,502	Dec-91	x							As Above		x
901-20143	Pending	08/004417	Sep-94	x							Anhorn, O'Brien	Media Spacing System for Fiber Optic Cathode Ray Tube Printer	x
900-04265	Issued	4,343,010	Aug-82	x							Denny, Diddens	Recorder Control Circuit for Suppressing Incipient Arcing at the Heating Electrodes	x
901-13107	Issued	0321,182	Oct-91	x							Losasso, Sanford	Web Media Dispenser	x
901-13904	Issued	5,077,680	Dec-91	x							Martin, Shinkle, Sturm	Apparatus and Method for Printer Speed Control	
901-13929	Issued	5,084,656	Jan-92	x							Martin, Sturm	CRT Beam Deflection System	
901-20065	Issued	5,239,243	Aug-93	x							Rothe, Sturm	CRT Beam Deflection System	
900-04157	Issued	4,193,078	Mar-80	x							Exposito	Electrical Contact for Conductive-Backed Paper	x
900-04179	Issued	4,213,136	Jul-80	x							Jenkins, Lowe	Electrical Contact for Conductive-Backed Paper	x
900-04243	Issued	4,359,745	Nov-82	x							Reid	Cathode Ray Tube Display Apparatus, copy attached	x

* Note: Siemens is required to notify Metrum of any intention to abandon any patent or patent application, and further to obtain written confirmation that Metrum has no intention of maintaining the application or issued patent thereof.

B. COPYRIGHTS - NONE

BILL OF SALE

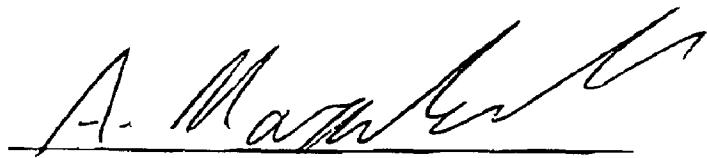
KNOW ALL BY THESE PRESENTS, that Metrum, Inc., a Colorado corporation, duly organized and existing under and by virtue of the laws of the State of Colorado (the "Seller"), by and in consideration of the sum of Ten dollars (\$10.00) and pursuant to the terms of that certain Purchase and Sale Agreement between the parties, dated June 6, 1995 (the "Purchase Agreement"), the receipt and sufficiency of which is hereby acknowledged by Sienna Imaging, Inc., a Colorado corporation ("Buyer"), has bargained and sold, and by these presents does grant and convey unto the Buyer, its successors and assigns, all of the assets and properties, except as set forth in paragraph 2.1(b) of the Purchase Agreement, of the Metrum Imaging Products Division (MIP) as of the Closing Date, including but not limited to (capitalization terms not specifically defined herein shall have the meanings assigned to them in the Purchase Agreement):

- (1) Inventory as listed on Schedule 2.1(a)(vi) of the Purchase Agreement;
- (2) Machinery, equipment, spare parts, fittings, office equipment, fixtures, supplies and other tangible property as listed on Schedule 2.1(a)(vii) of the Purchase Agreement;
- (3) Computer Hardware and Software as listed on Schedule 2.1(a)(viii) of the Purchase Agreement;
- (4) customer lists; and
- (5) All other assets, whether tangible or intangible, which are used in or held by MIP for use in the Business at its various locations, identified in Schedule 1.1(a)(ii) of the Purchase Agreement, except as specifically excluded by Section 2.1(b) to the Purchase Agreement.

TO HAVE AND TO HOLD the same unto the Buyer, its successors and assigns, forever.

IN WITNESS WHEREOF, the Seller has caused its corporate name to be hereunto subscribed by its President, attested by its Secretary, the day and year first written above.

METRUM, INC.



By: Dr. Aviram Margalith, President/CEO

ATTEST

Willie Little Jr.
Secretary

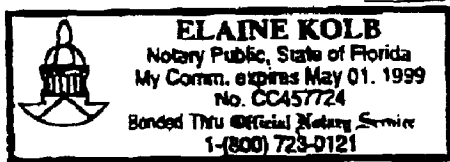
STATE OF Florida }

COUNTY OF Hillsborough }

The foregoing Bill of Sale was acknowledged before me this 5th day of June, 1995, by Dr. Aviram Margalith and Willie Little, Jr. Of Metrum, Inc., a Colorado corporation.

Witness my hand and official seal.

My commission expires: May 1, 1999



Elaine Kolb
Notary Public

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT made this 6th day of June, 1995, by and between Metrum, Inc., a Colorado corporation ("Seller") and Sienna Imaging, Inc., a Colorado corporation ("Buyer").

WHEREAS, Seller and Buyer have entered into a Purchase and Sale Agreement dated June 6, 1995, (the "Purchase Agreement") providing for the sale and transfer by Seller to Buyer of the Business of Metrum's Imaging Products Division ("MIP") and the assumption by Buyer of certain liabilities and obligations related thereto set forth in paragraph 2.6 of the Purchase Agreement. Capitalized terms not specifically defined herein shall have the meanings assigned to them in the Purchase Agreement.

NOW THEREFORE, pursuant to the Purchase Agreement and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, Seller and Buyer hereby agree as follows:

1. Seller hereby assigns, transfers and sets over to Buyer, without recourse, and Buyer hereby accepts and assumes all of the assets, except as set forth in paragraph 2.1(b) of the Purchase Agreement, and properties of, or properties used or held by MIP for use in the Business as of the Closing Date as set forth below and on Schedule 3.3 attached to the Purchase Agreement (collectively the "Assets"), including but not limited to:

(i) all right to and interest in the applicable personal property leases (the "Personal Property Leases") and the applicable real property leases (the "Real Property Leases"), if any, a list of which is provided as Schedule 2.1(a)(i) to the Purchase Agreement;

(ii) all contracts in respect of the Business including, without limitation, customer contracts, employment related contracts, royalty and license agreements and rights, distribution agreements, purchase agreements, rights to use technology owned by others, and all other agreements other than the Real and Personal Property Leases and the Agreement, including but not limited to those listed on Schedule 4.13 to the Purchase Agreement (collectively, the "Contracts");

(iii) all prepaid expenses and deposits of MIP;

(iv) the accounts receivable of MIP

(v) the Know-How;

(vi) all goodwill of MIP;

(vii) all permits, licenses and certificates held by Metrum with respect to the conduct of MIP at its various locations identified in Schedule 1.1(a)(ii) to the Purchase Agreement (the "Permits and Licenses");

(viii) all rights and interest in the Trade Secrets, a partial list of which is provided as Schedule 1.1(k) to the Purchase Agreement;

(ix) all Primary Intellectual Property Rights, a list of which is provided as Schedule 1.1(f) to the Purchase Agreement; and

(x) all other assets, whether tangible or intangible, which are used in or held by MIP for use in the Business at its various locations identified in Schedule 1.1(a)(ii) of the Purchase Agreement, except as specifically excluded by paragraph 2.1(b) of the Purchase Agreement.

2. Buyer hereby assumes and agrees to pay when due and to perform, satisfy and discharge the following debts, obligations and liabilities of Seller relating to MIP as set forth below and on Schedule 3.3 attached to the Purchase Agreement:

(a) all liabilities and obligations of Metrum pertaining to the Business under any Real or Personal Property Lease, any Contract or any other of the Transferred Rights, Obligations and Agreements assigned or transferred to Buyer pursuant to paragraph 2.1(a) of the Purchase Agreement (or deemed assigned or transferred pursuant to paragraph 2.5 of the Purchase Agreement) including all leases or other agreements with respect to the operation of MIP to the extent the obligations are to be performed after the Closing Date and the liabilities and obligations related thereto, but excluding the "Excluded Liabilities" (as defined in paragraph 2.7 of the Purchase Agreement);

(b) all trade payables and accrued expenses of MIP as of the Closing Date;

(d) all liabilities and obligations of or related to the Assets of MIP arising on or after the Closing Date (including, without limitation, liabilities and obligations of the type described in paragraph 2.7 of the Purchase Agreement arising on or after the Closing Date) but not including Environmental Liability except to the extent provided in the Holdover Lease.

3. Notwithstanding the foregoing, Buyer shall not assume and shall not be obligated to pay, perform, satisfy or discharge, any obligations or liabilities of Seller not specifically included herein.

4. This Assignment and Assumption Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Colorado. This Assignment and Assumption Agreement may not be modified, amended or discharged or any term or provision hereof waived, except in writing signed by the party against whom such modification, amendment, discharge or waiver is sought to be enforced. All the terms of this Assignment and Assumption Agreement, whether so expressed or not, shall be binding upon and inure to the benefit of and be enforceable by and against the parties hereto and their respective successors and assigns. Waiver of any breach of any provision of this Assignment and Assumption Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision thereof, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision hereof. All defined terms herein shall have the meaning set forth in the Purchase Agreement. In the event of conflict between the terms and conditions of the Purchase Agreement and this Assignment, the terms of the Purchase Agreement shall prevail and be binding on the parties hereto.

IN WITNESS WHEREOF, Seller and Buyer have executed this Assignment and Assumption Agreement on the date first above written.

SIENNA IMAGING, INC.

METRUM, INC.

By: John C. Brenan, President/CEO



By: Dr. Aviram Margalith, President/CEO

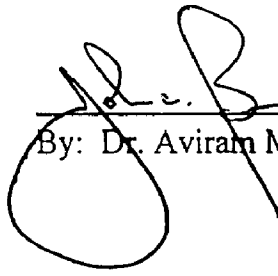
4. This Assignment and Assumption Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Colorado. This Assignment and Assumption Agreement may not be modified, amended or discharged or any term or provision hereof waived, except in writing signed by the party against whom such modification, amendment, discharge or waiver is sought to be enforced. All the terms of this Assignment and Assumption Agreement, whether so expressed or not, shall be binding upon and inure to the benefit of and be enforceable by and against the parties hereto and their respective successors and assigns. Waiver of any breach of any provision of this Assignment and Assumption Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision thereof, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision hereof. All defined terms herein shall have the meaning set forth in the Purchase Agreement. In the event of conflict between the terms and conditions of the Purchase Agreement and this Assignment, the terms of the Purchase Agreement shall prevail and be binding on the parties hereto.

IN WITNESS WHEREOF, Seller and Buyer have executed this Assignment and Assumption Agreement on the date first above written.

SIENNA IMAGING, INC.

METRUM, INC.

By: John C. Brenan, President/CEO



By: Dr. Aviram Margalith, President/CEO