

05-22-2001

FORM PTO-1594
(Rev. 6-93)



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

101724769

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

1. Name of conveying party(ies): S. 16-01
 MetaMedix, Inc., a California corporation

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

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

2. Name and address of receiving party(ies):
 Name: iMetrikus, Inc., a Delaware corporation

Internal Address: _____

Street Address: 5950 La Place Court, Suite 250

City: Carlsbad State: CA ZIP: 92008

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State Delaware
 Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached:
 Yes No

(Designation must be a separate document from Assignment).
 Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: August 1, 2000

4. Application number(s) or registration number(s):
 A. Trademark Application No.(s)

B. Trademark Registration No.(s)
1,869,414
2,057,157

Additional numbers attached? Yes No

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

Name: COOLEY GODWARD LLP

Internal Address: Five Palo Alto Square
3000 El Camino Real
Palo Alto, California 94306-2155

Street Address Five Palo Alto Square
3000 El Camino Real

City: Palo Alto State: CA ZIP: 94306-2155

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41):.....
 \$ 65.00

Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:
03-3118
 (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.

Susan D. Berney-Key, Esq. 5/10/01
 _____ Date

Total number of pages including cover sheet, attachments, and document: 12

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

ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** is entered into as of August 9th, 2000 by and between: **METAMEDIX, INC.**, a California corporation (the "Seller"), and **IMETRIKUS, INC.**, a Delaware corporation (the "Purchaser").

IN CONSIDERATION OF the mutual covenants, agreements, representations and warranties contained herein and in the Asset Purchase Agreement, dated August 9th, 2000 (the "Purchase Agreement"), by and between Purchaser and Seller, the parties hereto agree as follows:

1. **Assignment.** Seller, for value received, does hereby sell, transfer and assign to Purchaser, its successors and assigns forever, all of the right, title and interest of Seller, if any, in and to all customer accounts, claims, contracts or leases included in the Assets, as that term is defined in the Purchase Agreement, together with original or copies of all books, records, accounts statements, correspondences, and other documents relating thereto, **TO HAVE AND TO HOLD** the same to Purchaser, its successors and assigns, free and clear of all claims, liens and encumbrances, and Purchaser does hereby accept the entire right, title and interest of Seller, if any, in and to the customer accounts, claims, contracts or leases included in the Assets sold, transferred and assigned.

2. **Assumption of Liabilities.** Purchaser does hereby assume and agree to perform and discharge when due, the Assumed Liabilities. "Assumed Liabilities" shall have the meaning ascribed thereto in Section 1.3(b) of the Purchase Agreement.

3. **Third Parties.** The assumption by Purchaser of the liabilities of Seller herein provided is not intended by the parties to expand the rights and remedies of any third party against Purchaser in respect of such liabilities as compared to the rights and remedies which such third party would have had against Seller in respect of such liabilities had the Purchaser not consummated the transactions contemplated by the Purchase Agreement. Nothing contained herein shall, or shall be construed to, prejudice the right of Purchaser to contest any claim or demand with respect to any obligation, liability or commitment assumed hereunder and Purchaser shall have all rights which Seller may have or have had to defend or contest any such claim or demand.

4. **Subject to the Purchase Agreement.** The scope, nature and extent of the Assumed Liabilities are expressly set forth in the Purchase Agreement. Nothing contained herein shall itself change, amend, extend or alter (nor shall it be deemed or construed as changing, amending, extending or altering) the terms or conditions of the Purchase Agreement in any manner whatsoever. This instrument does not create or establish liabilities or obligations not otherwise created or existing under or pursuant to the Purchase Agreement. In the event of any conflict or other difference between the Purchase Agreement and this instrument, the provisions of the Purchase Agreement shall control.


5. **Headings.** The headings in this instrument are for purposes of convenience only and shall not affect the meaning or interpretation hereof.

6. **Governing Law.** This instrument shall be governed in all respects, including, but not limited to, as to validity, interpretation and effect, by the internal laws of the State of California, without giving effect to the conflict of laws rules thereof.

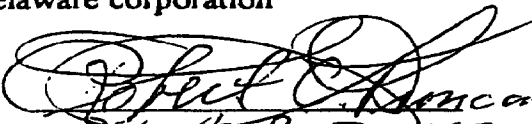
[signature page follows]

IN WITNESS WHEREOF, each party hereof has caused this Assignment and Assumption Agreement to be duly executed as of the date first above written.

METAMEDIX, INC.,
a California corporation

By: 
Name: Timothy J. Bailey, MD
Title: PRESIDENT

IMETRIKUS, INC.,
a Delaware corporation

By: 
Name: Robert C. Duncan
Title: VP, CFO

Disclosure Schedule

This Disclosure Schedule serves to further describe and clarify Sections of the Asset Purchase Agreement.

2.3 Capitalization.

Seller Shareholders as of the closing are:

<u>Name</u>	<u>Number of Shares</u>
Timothy S. Bailey, M.D. and Naila C. Bailey, Ph.D.	140
Stephen P. Eskeland, D.D.S. and Nahida L. Eskeland, Ph.D.	60
Timothy S. Bailey, M.D.	<u>100</u>
Total	<u>300</u>

2.5 Absence of Changes.

There have been no adverse changes since May 31, 2000. Changes have occurred in the normal course of business with respect to accounts receivables, accounts payables, Wells Fargo Credit Line, and notes payable since May 31, 2000 that are not adverse. Balances as of closing are:

<u>Account</u>	<u>Closing Balance</u>
Accounts Receivable	1,725.91
Accounts Payable	8,677.85
Wells Fargo Credit Line	2,840.12
Note payable	23,741.25
Note payable	96,788.16

We need to change these amounts at closing and provide supporting schedules.

2.6 Title of Assets.

Seller owns the Assets free and clear as of closing date. (See attached schedule 1.1.)

2.7 Bank Accounts.

The bank account of MetaMedix is:

Name & Location	Account Name/#	Interest rate	Individuals named
Wells Fargo Bank, NA University Towne Center 721 4315 La Jolla Village Drive, Bldg. 4 San Diego, CA 92122	General Checking 0721 125094		

2.8 Accounts receivables.

Need updated accounts receivables aging.

2.9 Customers.

Seller discloses no major customers.

2.10 Inventory.

Inventory consists of (list here accurately).

<u>Item</u>	<u>Description</u>	<u>Number</u>
CDs		
Cables		

2.11 Equipment.

Seller owned software and equipment includes:

Software

- 1 Microsoft Small Business Server 4.5
- 1 Viso Professional 5.0
- 2 Microsoft Office 97 Professional
- 1 MSDN Universal Subscription 1998-1999 (includes ALL Microsoft development tools, operating...(?))
- 1 Sheridan Active Suite
- 1 Graphics Server 5.5
- 1 Peachtree 7.0 Accounting
- 1 Adobe Acrobat 3.0 (Authoring Edition)
- 1 Demoshield 5.0
- 1 Requisite Pro (Rational Software)
- 1 Mastercook
- 1 In Touch
- 1 Camit Pro
- 1 Accutivity
- 1 HealthDesk

Hardware

- 1 Dell Power Edge 2300 Server 256MB RAM
- 1 Byte and Floppy Computer PII-233 32 MB RAM
- 1 Byte and Floppy Computer PII-233 64 MB RAM
- 1 Datel Computer PII-233 64 MB RAM
- 1 Gateway 2000 computer P-100
- 1 Gateway 2000 computer P-75
- 1 Fujitsu Lifebook Laptop
- 2 15" computer monitors
- 2 17" computer monitors
- 3 4-line phones, model ATT 854
- 1 Credit card processor and printer
- 1 HP Laserjet 2100 Printer
- 1 Epson Stylus Color Ink Jet printer
- 1 Fellowes Powershred PS 40 paper shredder w/wastebasket
- 1 Mustek 600III EP Plus Scanner

1 HP OfficeJet LX Fax Machine/Printer
 1 Large, L-shaped black & grey desk
 1 Wooden desk
 1 Executive Chair
 2 Standard Office Chairs
 1 Typewriter
 1 Pelouze 1050 Postage Scale
 1 Bookcase/Shelves
 1 Printer Table
 1 Ibico Hi-tech Binding Machine
 1 Precision Link Interface
 5 Marx Cryptobox (dongles)
 2 MiniMed 507 Pumps
 2 MiniMed 507C Pumps
 1 Intel InBusiness 8-port Hub
 1 Maxtech 10Base-T Hub
 1 CompShare 7650 Telephone Line Sharing Device
 6 Accu-Chek Advantage meter
 2 Accu-Chek Complete meter
 1 Glucometer DEX
 1 SureStep
 1 One-Touch FastTake
 1 Glucometer Elite
 1 One-Touch Basic

2.12 Real Property.

Seller does not own real property and does not intend to transfer any real property interest to Purchaser.

2.13 Proprietary Assets.

<u>Item</u>	<u>Description</u>	<u>Form</u>
Mellitus Manager	Identifying mark for computer software for use by doctors and patients in diabetes care	Trademark

Mellitus Manager	Computer software code for use by doctors and patients in diabetes care	Copyright
MetaMedix	Identifying mark for computer software for diabetes care and nutrition	Trademark

2.14 Contracts.

<u>Company</u>	<u>Description</u>	<u>Form</u>
Abbott/Medisense	Nontransferrable confidentiality agreement regarding technology for Precision QID and Companion 2	NDA
Abbott/Medisense	Nonassignable agreement regarding technology for Precision QID and Companion 2; agreement transfers to successors	License
Minimed	Nontransferrable confidentiality agreement regarding technology for 507 507C	NDA
Minimed	Assignable and transferable agreement regarding technology for 507 507C; agreement transfers to successors	License
Roche/Boehringer	Nontransferrable but assignable confidentiality agreement regarding technology for Precision QID and Companion 2	NDA
Roche/Boehringer	Nonassignable agreement regarding technology for AccuCheck Easy and AccuCheck Adv	License

LXN Assignable agreement regarding License
technology for Duet and Go
System; not for successors

Lifescan Nontransferrable confidentiality NDA
agreement regarding technology
for One Touch II, One Touch
Profile, One Touch Fast Take,
One Touch Basic, and One
Touch Sure Step

2.15 Major Suppliers.

No suppliers satisfy the definition of a major supplier.

2.16 Compliance.

Seller discloses that there is no known non-compliance.

2.17 Government Authorizations.

Seller discloses that all government authorizations have been obtained.

2.18 Tax Matters.

Seller discloses that all taxes have been paid and that there are no pending examinations or audits.

2.19 Employees and Labor Matters.

Seller discloses that it is not bound by any employment contract, union contract, collective bargaining agreement or similar agreement. Seller discloses that there are no work related claims.

2.20 Employees and Labor Matters.

Seller discloses that ERISA is inapplicable to Seller or its at-will employees.

2.21 Environmental Matters.

Seller discloses that there are no known environmental matters or claims pending. There has been no use of Hazardous Materials above, below or on the Land Seller has rented.

2.24 Insurance.

Seller discloses only the following regarding insurance:

<u>Policy</u>	<u>Limits/Terms</u>	<u>Coverage</u>
General Star Indemnity Co.	General Aggregate Limit	2,000,000
	Products completed operations aggregated limit	Included
	Personal & advertising injury limit	1,000,000
	Each occurrence limit	1,000,000
	Fire damage limit	50,000
	Medical expense limit	Excluded

Seller discloses that no claim(s) have been made. No event has occurred and that no circumstances or conditions exist that might directly or indirectly give rise to or serve as a basis for any such insurance claim.

2.25 Related Party Transactions.

Seller discloses that no Related Party Transactions have occurred since December 31, 1998 that would give rise to a claim against Seller.

2.27 Proceedings; Orders.

Seller discloses that there are no pending or threatened proceedings against Seller.

2.28 Non-Contravention; Consents.

Seller discloses that none of the Transactional Agreements will result in a contravention, conflict, breach as defined in the Asset Purchase Agreement.

