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

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

1. Name of conveying party(ies):

Vitas Hospice Services

12.31.03

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation-State
☒ Other Delaware limited liability company

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

3. Nature of conveyance:

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

Execution Date: 8/6/2003

2. Name and address of receiving party(ies)

Name: BNP Paribas, as Agent

Internal

Address: New York Branch

Street Address: 787 Seventh Avenue

City: New York State: NY Zip: 10019

- ☐ Individual(s) citizenship
☐ Association
☐ General Partnership
☐ Limited Partnership
☒ Corporation-State
☐ Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No
 (Designations must be a separate document from assignment)
 Additional name(s) & address(es) attached? ☐ Yes ☐ No

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

A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) 1,817,265

1,909,038, 1,910,624, 1,915,683

Additional number(s) attached ☒ Yes ☐ No

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

Name: Erica Hall

Internal Address: Nelson Mullins Riley &

Scarborough, LLP

Street Address: 999 Peachtree Street

Suite 1400

City: Atlanta State: GA Zip: 30309

6. Total number of applications and registrations involved: _____

7

7. Total fee (37 CFR 3.41).....\$ \$190.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

Erica Hall

Name of Person Signing

Signature

December 31, 2003

Date

Total number of pages including cover sheet, attachments, and document: 13

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

2003 DEC 31 PM 1:45
OPR/FINANCE

TRADEMARK

REEL: 002891 FRAME: 0076

Additional Trademark registration numbers:

1,915,685

1,934,376

1,990,551

**AMENDED AND RESTATED BORROWER INTELLECTUAL PROPERTY
SECURITY AGREEMENT**

THIS AMENDED AND RESTATED BORROWER INTELLECTUAL PROPERTY SECURITY AGREEMENT (this “**Intellectual Property Security Agreement**”), dated as of August 6, 2003, is made by **VITAS HOSPICE SERVICES, L.L.C.**, a Delaware limited liability company (“**Grantor**”), in favor of **BNP PARIBAS**, as Agent (“**Agent**”) for the Lenders (as hereafter defined) under the Credit Agreement (as hereafter defined).

WITNESSETH:

WHEREAS, Grantor and Vitas Healthcare Corporation have entered into that certain Credit Agreement dated as of April 27, 2001 (as amended, modified or supplemented prior to the Restatement Date, the “**Original Credit Agreement**”) with certain financial institutions parties to such agreement in their capacity as lenders (the “**Lenders**”) and Agent;

WHEREAS, pursuant to that certain Borrower Intellectual Property Security Agreement dated as of April 27, 2001 (as amended prior to the Restatement Date, the “**Original Borrower IP Security Agreement**”), the Grantor granted a continuing lien on its Intellectual Property to secure such guaranty obligations;

WHEREAS, Grantor and Vitas Healthcare Corporation have requested that the Original Credit Agreement be amended and restated in its entirety as set forth in that certain Amended and Restated Credit Agreement dated as of August 6, 2003, among Grantor, Vitas Healthcare Corporation, the Persons signatory thereto from time to time as Lenders, and the Agent (as such may be amended, modified, supplemented, restated or replaced from time to time, the “**Credit Agreement**”);

WHEREAS, Grantor has entered into that certain Amended and Restated Borrower Security Agreement dated as of even date herewith (as amended, modified or supplemented from time to time, the “**Security Agreement**”) with Agent;

WHEREAS, it is a condition to the occurrence of the Restatement Date, the effectiveness of the Credit Agreement and any extensions of credit to or for the benefit of Grantor thereunder that, among other things, Grantor execute and deliver this Intellectual Property Security Agreement;

WHEREAS, it is the intent of the parties hereto that this Intellectual Property Security Agreement not constitute a novation of the obligations and liabilities existing under the Original Borrower IP Security Agreement or evidence repayment of any such obligations and liabilities (except as expressly provided in the Credit Agreement), and that this Intellectual Property Security Agreement amend and restate in its entirety the Original Borrower IP Security Agreement and re-evidence the obligations of the Grantor outstanding thereunder;

WHEREAS, this Intellectual Property Security Agreement is also intended to confirm and evidence the continuation as security for the indebtedness and obligations under the other loan documents of the liens and security interests granted under and in connection with the Original Borrower IP Security Agreement and the other loan documents referred to in the Original Credit Agreement; and

WHEREAS, the parties hereto agree that, effective on the Restatement Date, the Original Borrower IP Security Agreement is hereby amended and restated in its entirety in the form hereof.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby agrees as follows:

1. **DEFINED TERMS.** All capitalized terms used but not otherwise defined herein have the meanings given to them in the Credit Agreement or the Security Agreement, as applicable.

2. **GRANT OF SECURITY INTEREST IN INTELLECTUAL PROPERTY COLLATERAL.** To secure the complete and timely payment of all Obligations to Agent which may now or hereafter exist under the Loan Documents or this Intellectual Property Security Agreement (and any obligations of any Credit Party to any Lender under any Hedging Agreement made in accordance with the provisions of the Credit Agreement), Grantor hereby pledges and grants to Agent a continuing first priority security interest in all of Grantor's right, title and interest in, to and under the following property, whether presently existing or hereafter created or acquired (collectively, the "**Intellectual Property Collateral**"):

(a) all of its Patents and Patent Licenses to which it is a party including those referred to on Schedule I hereto;

(b) all of its Trademarks and Trademark Licenses to which it is a party including those referred to on Schedule II hereto;

(c) all of its Copyrights and Copyright Licenses to which it is a party including those referred to on Schedule III hereto;

(d) all reissues, continuations or extensions of the foregoing;

(e) all goodwill of the business connected with the use of, and symbolized by, each Patent, each Patent License, each Trademark, each Trademark License, each Copyright and each Copyright License; and

(f) all products and proceeds of the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future (i) infringement or dilution of any Patent or Patent licensed under any Patent License, (ii) injury to the goodwill

associated with any Patent or any Patent licensed under any Patent License, (iii) infringement or dilution of any Trademark or Trademark licensed under any Trademark License, (iv) injury to the goodwill associated with any Trademark or any Trademark licensed under any Trademark License, (v) infringement or dilution of any Copyright or Copyright licensed under any Copyright License, and (vi) injury to the goodwill associated with any Copyright or any Copyright licensed under any Copyright License.

3. **REPRESENTATIONS AND WARRANTIES.** Grantor represents and warrants that Grantor does not have any interest in, or title to, any Patent, Trademark or Copyright except as set forth in Schedule I, Schedule II and Schedule III, respectively, hereto. This Intellectual Property Security Agreement is effective to create a valid and continuing Lien on and, upon the filing hereof with the United States Patent and Trademark Office and the United States Copyright Office, perfected security interests in favor of Agent in all of Grantor's Patents, Trademarks and Copyrights and such perfected security interests are enforceable as such as against any and all creditors of, and purchasers from, Grantor. Upon filing of this Intellectual Property Security Agreement with the United States Patent and Trademark Office and the United States Copyright Office and the filing of appropriate UCC financing statements in the offices listed on Schedule I to the Security Agreement, all action necessary or desirable to protect and perfect Agent's Lien on Grantor's Patents, Trademarks and Copyrights shall have been duly taken.

4. **COVENANTS.** Grantor covenants and agrees with Agent that from and after the date of this Intellectual Property Security Agreement and until the Facility Termination Date:

(a) Grantor shall notify Agent immediately if it knows or has reason to know that any application or registration relating to any Patent, Trademark or Copyright (now or hereafter existing) may become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding Grantor's ownership of any Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same.

(b) In no event shall Grantor, either directly or through any agent, employee, licensee or designee, file an application for the registration of any Patent, Trademark or Copyright with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency without giving Agent prior written notice thereof, and, upon request of Agent, Grantor shall execute and deliver a supplement hereto (in form and substance satisfactory to Agent) to evidence Agent's Lien on such Patent, Trademark or Copyright, and the General Intangibles of Grantor relating thereto or represented thereby.

(c) Grantor shall take all actions necessary or requested by Agent to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of the Patents or Trademarks (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

(d) In the event that any of the Intellectual Property Collateral is infringed upon, or misappropriated or diluted by a third party, Grantor shall notify Agent promptly after Grantor learns thereof. Grantor shall, unless it shall reasonably determine that such Intellectual Property Collateral is in no way material to the conduct of its business or operations, take such actions as Grantor shall deem appropriate under the circumstances to protect such Intellectual Property Collateral.

5. **SECURITY AGREEMENT.** The security interests granted pursuant to this Intellectual Property Security Agreement are granted in conjunction with the security interests granted to Agent pursuant to the Security Agreement executed by Grantor in favor of Agent. Grantor hereby acknowledges and affirms that the rights and remedies of Agent with respect to the security interest in the Intellectual Property Collateral made and granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

6. **REINSTATEMENT.** This Intellectual Property Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

7. **NOTICES.** Whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Intellectual Property Security Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Security Agreement.

8. **TERMINATION OF THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT.** This Intellectual Property Security Agreement shall remain in full force and effect until all of the Obligations have been paid in full and are no longer outstanding.

9. **EFFECT OF AMENDMENT AND RESTATEMENT.** Until the occurrence of the Restatement Date, the Original Holdings IP Security Agreement shall remain in full force and effect and shall not be affected hereby. After the Restatement Date, all obligations of the Grantor under the Original Holdings IP Security Agreement shall become obligations of the Grantor hereunder, secured by the Security Documents, and the provisions of the Original

Holdings IP Security Agreement shall be superseded by the provisions hereof; provided, that the effectiveness of this Intellectual Property Security Agreement shall not be deemed to be a waiver of or consent to any default or other violation of the terms of the Original Holdings IP Security Agreement (or other loan documents as in existence at the time) occurring or existing prior to the Restatement Date. The other "Loan Documents" as defined in the Original Credit Agreement are being revised, amended and restated on the Restatement Date as provided in the Credit Agreement, but in all other respects (including with respect to the Liens created thereby), are continued and confirmed.

IN WITNESS WHEREOF, Grantor has caused this Intellectual Property Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

VITAS HOSPICE SERVICES, L.L.C.

By: 

Name: Hugh A. Westbrook

Title: Chairman of the Board, President
and Chief Executive Officer

ACCEPTED and ACKNOWLEDGED by:

BNP PARIBAS, as Agent

By: 

Name: C. David Yates

Title: Managing Director

By: 

Name: Daniel H. Davidson

Title: Vice President

SCHEDULE I
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. PATENT REGISTRATIONS

| <u>Patent</u> | <u>Reg. No.</u> | <u>Date</u> |
|---------------|-----------------|-------------|
|---------------|-----------------|-------------|

None

II. PATENT APPLICATIONS

| <u>Patent</u> | <u>Application No.</u> | <u>Date</u> |
|---------------|------------------------|-------------|
|---------------|------------------------|-------------|

None

III. PATENT LICENSES

| <u>Name of Agreement</u> | <u>Date of Agreement</u> | <u>Parties</u> |
|--------------------------|--------------------------|----------------|
|--------------------------|--------------------------|----------------|

None

SCHEDULE II
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. TRADEMARK REGISTRATIONS

| <u>Mark</u> | <u>Reg. No.</u> | <u>Date</u> |
|---------------------------|-----------------|-------------------------------------|
| Vitas (Stylized) | 1,817,265 | registered 1/18/94; expires 1/18/04 |
| VITAS | 1,909,038 | registered 8/1/95; expires 8/1/05 |
| Choices | 1,910,624 | registered 8/8/95; expires 8/8/05 |
| The Lives We Touch | 1,915,683 | registered 8/29/95; expires 8/29/05 |
| Each Day Has Value | 1,915,685 | registered 8/29/95; expires 8/29/05 |
| Innovative Hospice Care | 1,934,376 | registered 11/7/95; expires 11/7/05 |
| Intensive Palliative Care | 1,990,551 | registered 7/3/96; expires 7/30/06 |

II. TRADEMARK APPLICATIONS

| <u>Mark</u> | <u>Application No.</u> | <u>Date</u> |
|-------------|------------------------|-------------|
|-------------|------------------------|-------------|

None

III. TRADEMARK LICENSES

| <u>Name of Agreement</u> | <u>Date of Agreement</u> | <u>Parties</u> |
|--------------------------|--------------------------|----------------|
|--------------------------|--------------------------|----------------|

License Agreement relating to the Missoula-Vitas Quality of Life Index (a tool for measuring the quality of life of terminally ill patients).

March 15, 2000

Vitas Healthcare Corporation, the Hospice Institute for the Florida Suncoast and Dr. Ira Byock

SCHEDULE III
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. COPYRIGHT REGISTRATIONS

| <u>Copyright</u> | <u>Reg. No.</u> | <u>Date</u> |
|--------------------------------------|--------------------|-------------|
| Analgesic Dosage Conversion Ruler | TX – 5 – 291 – 812 | 5/11/2000 |

II. COPYRIGHT APPLICATIONS

| <u>Copyright</u> | <u>Application No.</u> | <u>Date</u> |
|------------------|------------------------|-------------|
| None | | |

III. COPYRIGHT LICENSES

| <u>Name of Agreement</u> | <u>Date of Agreement</u> | <u>Parties</u> |
|--------------------------|--------------------------|----------------|
| None | | |