

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
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<b>SUBMISSION TYPE:</b>		NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>		ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL	
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Emergent Respiratory Products, Inc.		03/02/2009	CORPORATION: CALIFORNIA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	BEMS Holdings, LLC		
<b>Street Address:</b>	PO Box 8023		
<b>City:</b>	Dublin		
<b>State/Country:</b>	OHIO		
<b>Postal Code:</b>	43016		
<b>Entity Type:</b>	LIMITED LIABILITY COMPANY: DELAWARE		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	77636440	PORTO2VENT	
<b>Serial Number:</b>	78794261	VIBRAPAP	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(216)696-0740		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	(216) 621-0200		
<b>Email:</b>	clevelandip@bakerlaw.com		
<b>Correspondent Name:</b>	Melinda M. Lothes, Baker & Hostetter LLP		
<b>Address Line 1:</b>	1900 East Ninth Street		
<b>Address Line 2:</b>	3200 National City Center		
<b>Address Line 4:</b>	Cleveland, OHIO 44114		
<b>ATTORNEY DOCKET NUMBER:</b>	028897.000027		
<b>NAME OF SUBMITTER:</b>	Melinda M. Lothes		
<b>Signature:</b>	/Melinda M. Lothes/		

CH \$65.00 77636440

Date:

04/02/2009

**Total Attachments: 7**

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## TRADEMARK ASSIGNMENT

This Trademark Assignment is entered into by and between Emergent Respiratory Products, Inc., a California corporation ("**Assignor**") and BEMS Holdings, LLC, a Delaware limited liability company ("**Assignee**") as of this 2<sup>nd</sup> day of March, 2009.

### RECITALS

A. Assignor has agreed to transfer and assign, and Assignee agreed to purchase and accept from Assignor, the Trademarks (defined below) pursuant to that certain Asset Purchase and Assignment Agreement, dated as of March 2, 2009, by and between the Assignor and the Assignee (the "**Purchase Agreement**");

B. Assignee desires to acquire the entire right, title and interest in and to the Trademarks and portions of Assignor's business for which Assignor has a *bone fide* intent to use said Trademarks pursuant to the Purchase Agreement; and

C. In order to evidence the acquisition of Assignor's right, title and interest in and to the Trademarks, Assignor and Assignee desire to execute this Trademark Assignment in favor of Assignee.

NOW, THEREFORE, in consideration of the mutual covenants herein and for other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Pursuant to the Purchase Agreement, Assignor does hereby irrevocably sell, transfer, convey, assign and deliver unto Assignee the entire right, title and interest in and to (i) the trademarks, service marks, certification marks and logos set forth on **EXHIBIT A**, in the United States, its territorial possessions and in those jurisdictions outside the United States as set forth in said Exhibit A, whether or not the same have been registered prior to, on or after the date of this Trademark Assignment, and any and all extensions and renewals thereof for the full term or terms for which the same may be granted, together with the goodwill symbolized thereby ("**Trademarks**"); (ii) all rights and interests in and to the ongoing and existing portions of Assignor's business for which Assignor has a *bona fide* intent to use the Trademarks; and (iii) all claims in law or equity, both statutory and based upon common law that Assignor has or might have by reason of any infringement or other unauthorized use of any Trademarks, including, without limitation, the right to prosecute and sue for (in Assignee's own name) and collect damages, royalties and payments arising out of any past, present or future infringement or other unauthorized use of the Trademarks.

2. Assignor hereby authorizes and requests the United States Patent and Trademark Office and the empowered officials of all other governments in any domestic and foreign jurisdiction to record Assignee as the owner of the entire right, title and interest in and to the Trademarks and hereby covenants that it has full rights to convey the entire interests herein assigned.

3. Assignor agrees that, upon request by Assignee and without further consideration, Assignor shall execute and deliver such further instruments of transfer and

assignment and take such other action as a party may reasonably require to more effectively transfer and assign to, and vest in, Assignee all right, title and interest in and to the Trademarks and all rights related thereto throughout the world, and to fully implement the provisions of this Trademark Assignment; provided that the requesting party shall pay the reasonable out-of-pocket expenses of the other party incurred in connection with complying with this Section 3. Assignor hereby constitutes and appoints Assignee, and its successors and assigns, the true and lawful attorney of Assignor with full power of substitution in the name and stead of Assignor, but on behalf and for the benefit of Assignee, its successors and assigns to demand and receive each and all of the Trademarks and registrations and all rights related thereto.

4. Notwithstanding anything to the contrary herein, Assignor and Assignee are executing and delivering this Trademark Assignment in accordance with and subject to all of the terms and provisions of the Purchase Agreement. The rights and obligations of the parties to the Purchase Agreement set forth in the representations, warranties, covenants, indemnities, agreements and other terms and provisions of the Purchase Agreement shall be neither limited, altered or impaired nor enhanced or enlarged hereby or by performance hereunder.

5. This Trademark Assignment shall be binding upon Assignor and shall inure to the benefit of Assignee, and its representatives, successors and assigns. This Trademark Assignment may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute the same agreement.

[remainder of page intentionally blank]

"Assignor"

EMERGENT RESPIRATORY PRODUCTS, INC.

EXECUTED By: *Jack O*  
JACK OLSHANSKY Date: 3/3/09  
Title: CHAIRMAN

STATE OF CALIFORNIA )  
COUNTY OF Riverside ) ss.

On March 3, 2009 before me, Janet S. Popkoff  
Notary Public, personally appeared Jack Olschansky

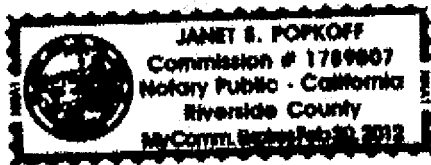
\_\_\_\_\_ personally known to me

Or

X proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal



*Janet S. Popkoff*  
SIGNATURE OF NOTARY PUBLIC

(SEAL)

[Signature page 1 to Trademark Assignment]

"Assignee"

BEMS HOLDINGS, LLC

EXECUTED By: Linden P. Joseph Date: 3/2/2009  
Title: President

STATE OF OHIO )  
 ) ss.  
COUNTY OF Franklin )

On March 2, 2009 before me, Clara T. Russell,

Notary Public, personally appeared Linden P. Joseph

personally known to me

Or

\_\_\_\_\_ proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Clara T. Russell  
SIGNATURE OF NOTARY PUBLIC

**CLARA T. RUSSELL, Notary Public**  
In and for the State of Ohio  
My Commission Expires Jan. 14, 2012

(SEAL)

[Signature page 2 to Trademark Assignment]

EXHIBIT A

ATTACHED.

**U.S. AND FOREIGN TRADEMARK STATUS REPORTS**  
**Emergent Respiratory Products, Inc.**  
**Updated February 3, 2009**

Mark	Class/Goods	Application No./ Filing Date	Registration No./ Registration Date	Renewal Due	Status	Client Code
PORTOZVENT	10: Medical devices including systems for delivering non-invasive ventilation therapy	77636,440 12/18/08			Pending	EMED.017T
PORTOVENT	10: Medical devices, namely, systems for delivering non-invasive ventilation therapy	787542,475 1/05/05			Abandoned 8/28/08	EMED.006T
VIBRAPAP	10: Medical devices, namely, systems comprising continuous positive airway pressure (CPAP) devices, CPAP circuits, vibratory positive expiratory pressure (PEP) devices, nebulizers, face masks and tubing for delivering non-invasive ventilation therapy	78794,261 1/18/06			Pending: Allowance issued 7/22/08; Statement of Use or 2nd Extension due 7/22/09	EMED.020T

Country	Mark	Class/Goods	Application No./ Filing Date	Registration No./ Registration Date	Renewal Due	Status	Client Code
Australia	PORTOVENT	10: Medical devices, including, systems for delivering non-invasive ventilation therapy	1051335 4/18/05	1051335 8/22/05	4/18/15	Registered	EMED.008WAU
Canada	PORTOVENT	10: Gas powered pumps that deliver non-invasive continuous airway pressure to spontaneously breathing patients who are awake and can maintain a patent airway	1257108 5/10/05	TMA731438 12/23/08	12/23/23	Registered	EMED.006WCA
Canada	PORTOZVENT	10: Medical devices including systems for delivering non-invasive ventilation therapy	1424311 1/13/09			Pending	EMED.017WCA
European Community	PORTOVENT	10: Medical apparatus and instruments, including systems for delivering non-invasive ventilation therapy	004382367 4/18/05	004382367 7/27/06	4/18/15	Registered	EMED.006WEU

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Country	Mark	Class/Goods	Application No./ Filing Date	Registration No./ Registration Date	Renewal Due	Status	Client Code
Singapore	PORTOVENT	10: Medical apparatus and instruments, including patient ventilation apparatus and instruments	T05/06483Z 4/18/05	T05/06483Z 4/18/05	4/18/15	Registered	EMED.006WSG

**DISCLAIMER**

To the best of our knowledge, the information contained in this Status Report prepared by Knobbe, Martens, Olson & Bear, is accurate. This Status Report is not to be used or relied upon for any purpose other than your general information. The Report contains confidential material and is protected by the attorney-client privilege. Please do not disclose or reproduce, in whole or in part, without our consent.

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