

MND
RECO
6-2-98

07-08-1998



EET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

Tab settings

To the Honorable Commissioner of Patent

100756672

ed original documents or copy thereof.

1. Name of conveying party(ies):

ProMedica, Inc.

- Individual(s)
- General Partnership
- Corporation-State Florida
- Other

- Association
- Limited Partnership

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

3. Nature of conveyance:

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

Execution Date: June 4, 1998

2. Name and address of receiving party(ies)

Name: Foothill Capital Corporation

Internal Address:

Street Address: 7443 Lee Davis Road, Suite 200

City: Mechanicsville State: Virginia ZIP: 23111

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State California
- 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 patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1990834

Additional numbers attached? Yes No

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

Name: Rhonda J. Birdwell, Paralegal

Internal Address: Parker, Hudson, Rainer & Dobbs LLP

Street Address: 1500 Marquis Two Tower,

285 Peachtree Center Avenue., N.E.

City: Atlanta State: Georgia ZIP: 30303

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:

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

07/02/1998 JSHWBAZZ 00000071 1990834

DO NOT USE THIS SPACE

01 FC:481

40.00 00

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.

Rhonda J. Birdwell
Name of Person Signing

Rhonda Birdwell
Signature

July 1, 1998
Date

Total number of pages including cover sheet, attachments, and document: 10

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents & Trademarks, Box Assignments

Washington, D.C. 20231

DEMARK

REEL: 1748 FRAME: 0775

TRADEMARK SECURITY AGREEMENT

THIS AGREEMENT is made this 4th day of June, 1998, between **PROMEDICA, INC.**, a Florida corporation having its principal place of business at 5501 Airport Boulevard, Tampa, Florida 33634 (the "Company"), and **FOOTHILL CAPITAL CORPORATION**, a California corporation having an office at 7443 Lee Davis Road, Suite 200, Mechanicsville, Virginia 23111 ("Lender").

RECITALS:

The Company desires to obtain loans from Lender pursuant to a certain Loan and Security Agreement, dated the date hereof by and between the Company and Lender (as at any time amended, the "Loan Agreement"); and

Lender is willing to make loans to the Company from time to time, in Lender's sole discretion, provided that the Company executes this Agreement;

The Company has contemporaneously herewith pursuant to the Loan Agreement, granted to Lender a lien upon and security interest in the Company's now existing or hereafter acquired inventory, machinery, equipment, equipment formulations, manufacturing procedures, quality control procedures and product specifications relating to products sold under the Trademarks (as hereinafter defined);

NOW, THEREFORE, for Ten Dollars (\$10.00) in hand paid and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the premises, the Company hereby agrees with Lender as follows:

1. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed to such terms in the Loan Agreement.
2. To secure the payment and performance of the Obligations, the Company hereby pledges, assigns and grants to Lender a continuing security interest in and lien upon all of the following property of the Company, whether now owned or existing or hereafter acquired (the "Collateral"):
 - (a) all trademarks, trademark registrations, trade names and trademark applications, including, without limitation, each trademark and application listed on Schedule

{56704.2}

A attached hereto and made a part hereof (as the same may be amended from time to time), and (i) all renewals thereof, (ii) all income, royalties, damages and payments now or hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringement or dilution thereof or injury to the associated goodwill, (iii) the right to sue for past, present and future infringement or dilution thereof or injury to the associated goodwill, and (iv) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trademark registrations, trade names and applications, together with the items described in clauses (i)-(iv), are hereinafter collectively referred to as the "Trademarks");

(b) the goodwill of the Company's business connected with and symbolized by each Trademark; and

(c) all products and proceeds of the foregoing.

3. The Company represents and warrants that:

(a) Each of the Trademarks is subsisting and has not been adjudged invalid or unenforceable;

(b) Upon filing of this Agreement in the United States Patent and Trademark Office, this Agreement will create a legal and valid perfected lien upon and security interest in the Collateral (other than foreign trademarks), enforceable against Borrower and all third Persons in accordance with its terms;

(c) No claim has been made that the use of any of the Trademarks does or may violate the rights of any third person; and

(d) The Company has the unqualified right to enter into this Agreement and perform its terms.

4. The Company covenants and agrees that:

(a) Each of the Trademarks is valid and enforceable;

(b) The Company is the sole and exclusive owner of the entire right, title and interest in and to each of the Collateral, free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by the Company not to sue third Persons;

(c) The Company will maintain the quality of the products associated with the Trademarks, at a level consistent with the quality at the time of this Agreement, and will

provide Lender quarterly with a certificate to that effect in the form attached hereto as Exhibit 1 executed by an officer of the Company;

(d) The Company will not change the quality of the products associated with the Trademarks without Lender's prior written consent; and

(e) The Company has used and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Trademarks, and has made and will make all appropriate filings with the United States Patent and Trademark Office to maintain the Trademark registrations in existence, including, without limitation, filing an affidavit of use with the United States Patent and Trademark Office during the sixth year of registration for each Trademark as required by law.

5. The Company hereby grants to Lender and its employees and agents the right upon prior notice to the Company to visit the Company's plants and facilities which manufacture, inspect or store products sold under any of the Trademarks and to inspect the products and quality control records relating thereto at reasonable times during regular business hours. The Company shall do any and all acts required by Lender to ensure the Company's compliance with paragraph 4(c) of this Agreement.

6. The Company agrees that, until all of the Obligations have been satisfied in full, it will not enter into any agreement (including, without limitation, any license agreement) which is inconsistent with the Company's duties under this Agreement.

7. If, before the Obligations have been satisfied in full, the Company shall obtain rights to any new trademarks, or become entitled to the benefit of any trademark application or trademark or any renewal of any Trademark, the provisions of paragraph 2 hereof shall automatically apply thereto, and the Company shall give to Lender prompt notice thereof in writing.

8. The Company authorizes Lender to modify this Agreement by amending Schedule A to include any future trademarks and trademark applications within the definition of Trademarks under paragraph 2 or paragraph 7 hereof.

9. Upon and at any time after the occurrence of an Event of Default (as defined in the Loan Agreement), Lender shall have, in addition to all other rights and remedies given it by this Agreement, all rights and remedies under applicable law and all rights and remedies of a secured party under the Uniform Commercial Code as adopted and then in force in the State of New York. Without limiting the generality of the foregoing, Lender may immediately, without notice or demand, each of which the Company hereby waives, collect directly any payments due the Company in respect of the Collateral, or sell at public or private sale or otherwise realize upon all or from time to time, any of the Collateral. The Company hereby agrees that ten (10) days written notice to the Company of any public or private sale or other disposition of any of the Collateral shall be reasonable notice; provided, however, that no notice shall be required hereunder if not otherwise

required by applicable law. At any such sale or disposition, Lender may, to the extent permitted by applicable law, purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of the Company, which right the Company hereby waives and releases. After deducting from the proceeds of such sale or other disposition of the Collateral all costs and expenses incurred by Lender in enforcing its rights hereunder (including, without limitation, all attorneys' fees), Lender shall apply the remainder of such proceeds to the payment of the Obligations in such order and manner as Lender in its sole discretion may determine. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Company. If any deficiency shall arise, the Company and each guarantor of the Obligations shall remain jointly and severally liable to Lender therefor.

10. The Company hereby makes, constitutes and appoints Lender and any officer or agent of Lender as Lender may select as the Company's true and lawful attorney-in-fact, with full power to do any or all of the following if an Event of Default shall occur and be continuing: to endorse the Company's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to any other Person, or to assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to any other Person. The Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until all of the Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated.

11. At such time as all of the Obligations shall have been satisfied finally and in full and the Loan Agreement shall have been terminated, Lender shall execute and deliver to the Company, without representation, warranty or recourse, at the Company's expense, all releases and other instruments necessary to terminate Lender's security interest in the Collateral, subject to any disposition thereof which may have been made by Lender pursuant to the terms of this Agreement, the Loan Agreement or any other Loan Document.

12. Any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining, or preserving the Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to the Collateral, shall be borne and paid by the Company (it being the intent of the Company and Lender that the Company shall be responsible for the payment of all sums, fees, costs and expenses, including, without limitation, all renewal fees with respect to the Trademarks) or, if paid Lender, shall be paid by the Company **on demand** to Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate prescribed in the Loan Agreement.

13. The Company shall use its best efforts to detect any infringers of the Trademarks and shall notify Lender in writing of infringements detected. The Company shall have the duty, through

counsel acceptable to Lender, to prosecute diligently any trademark application of the Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to make federal application on registrable but unregistered Trademarks, to file and prosecute opposition and cancellation proceedings, to file and prosecute lawsuits to enforce the Trademarks and to do any and all acts which are deemed necessary or desirable by Lender to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with such applications or proceedings shall be borne by the Company. The Company shall not abandon any right to file a trademark application, or any pending trademark application or Trademark without the consent of Lender.

14. Without limiting the obligations of the Company described in paragraph 13 hereof, after Lender's receipt of notice from the Company as provided in paragraph 13, or if Lender reasonably believes the act of any Person constitutes an infringement of any Trademark, or a violation of any right of the Company or Lender therein, or an unlawful or unauthorized thereof, Lender shall have the right (but shall not be obligated) to take such steps and institute such suits or proceedings as Lender shall deem necessary or advisable in its own name, or in the name of the Company or in the names of Lender and the Company jointly, to enforce the Trademarks and any license thereunder, or to protect the rights of the parties thereunder, in which event the Company shall at the request of Lender do any and all lawful acts (including bringing suit) and execute any and all proper documents required by Lender to aid such enforcement, and the Company shall promptly, **upon demand**, reimburse and indemnify Lender for all costs and expenses incurred in the exercise of Lender's rights under this paragraph 14. Nothing herein shall be deemed to prohibit the Company from bringing any such suit in its own name at any time that an Event of Default does not exist, if Lender declines to institute such suit.

15. If the Company fails to comply with any of its obligations hereunder, to the extent permitted by applicable law, Lender may do so in the Company's name or in Lender's name, but at the Company's expense, and the Company agrees to reimburse Lender in full for all expenses, including attorneys' fees, incurred by Lender in prosecuting, defending or maintaining the Trademarks or Lender's interest therein pursuant to this Agreement.

16. No course of dealing between the Company and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

17. All of Lender's rights and remedies with respect to the Collateral, whether established by this Agreement, by the Loan Agreement, by any other agreements or by Applicable Law shall be cumulative and may be exercised singularly or concurrently.

18. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or

unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

19. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 8 hereof.

20. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Lender and upon the successors of the Company. The Company shall not assign its rights or delegate its duties hereunder without the prior written consent of Lender.

21. Notice of acceptance hereof is hereby waived by the Company.

22. This Agreement has been negotiated, executed and delivered at and shall be deemed to have been made in Atlanta, Georgia. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia.

23. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW THE COMPANY AND LENDER EACH WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE COLLATERAL.

This Agreement has been signed, sealed and delivered in Atlanta, Georgia as of the day and year first above written.

PROMEDICA, INC.

By: 

James T. Spann, President

Accepted in Atlanta, Georgia:

FOOTHILL CAPITAL CORPORATION
("Lender")

By: 

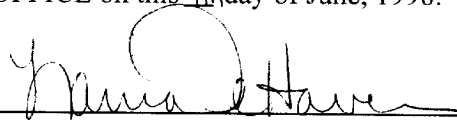
Title: Vice President

[Acknowledgment appearing on following page]

STATE OF GEORGIA §
 §
COUNTY OF FULTON §

BEFORE ME, the undersigned authority, on this day personally appeared James T. Spann, President of ProMedica, Inc., to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

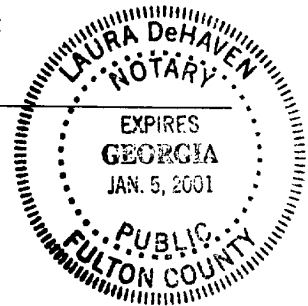
GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 4th day of June, 1998.



Notary Public

My Commission Expires:

01-05-2001
[NOTARIAL SEAL]



CERTIFICATE

The undersigned officer of **PROMEDICA, INC.** (the "Company"), DOES HEREBY CERTIFY to **FOOTHILL CAPITAL CORPORATION** ("Lender") that the quality of the products associated with the Trademarks listed on Schedule A of the Trademark Security Agreement dated June 4, 1998, between the Company and Lender (as amended from time to time to include future trademarks and trademark applications) (the "Agreement"), has been maintained at a level consistent with the quality of such products at the time of the execution of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Certificate, this ____ day of _____, _____.

PROMEDICA, INC.

By: _____
James T. Spann, President

SCHEDULE A

Registrations -
United States Patent and Trademark Office

Mark Name	Registrant Name	Reg. No.	Reg. Date
ProMedica	ProMedica, Inc.	1990834	8-6-96

{56704.2}