

04/01/00

05-01-2000

FORM PTO-1618A  
Expires 06/30/99  
OMB 0651-0027

U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**



101339951

**RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY**

- 5

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

**Conveyance Type**

- Assignment
- License
- Security Agreement
- Nunc Pro Tunc Assignment  
Effective Date  
Month Day Year  
01/02/00
- Merger
- Change of Name
- Other \_\_\_\_\_

**Conveying Party**

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

01/02/00

Name Agro Power Development, Inc.

Formerly \_\_\_\_\_

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other \_\_\_\_\_
- Citizenship/State of Incorporation/Organization Delaware, U.S.A.

**Receiving Party**

Mark if additional names of receiving parties attached

Name Co Bank, ACB

DBA/AKA/TA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 5500 South Quebec St.

Address (line 2) \_\_\_\_\_

Address (line 3)

Englewood,

City

Colorado

State/Country

80111

Zip Code

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other Federally Chartered Corporation

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

- Citizenship/State of Incorporation/Organization USA

**FOR OFFICE USE ONLY**

04/28/2000 JSKABAZZ 00000 07 75526438

01 FC:481  
02 FC:482

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100.00 OF

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

**TRADEMARK**  
**REEL: 002062 FRAME: 0085**

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages** Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)			Registration Number(s)		
<input type="text" value="75/528,438"/>	<input type="text" value="75/528,439"/>	<input type="text" value="75/528,440"/>	<input type="text" value="1,704,348"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="75/528,441"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Number of Properties** Enter the total number of properties involved.

#

**Fee Amount** Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment: Enclosed  Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

**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. Charges to deposit account are authorized, as indicated herein.

Kristine M. Miller

*Kristine M. Miller*

4/4/00

Name of Person Signing

Signature

Date Signed

## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement ("**Security Agreement**") dated as of January 2, 2000, is executed by and between Agro Power Development, Inc., a Delaware corporation ("**Debtor**"), whose address is 10 Alvin Court, East Brunswick, New Jersey 08816, and CoBank, ACB ("**Secured Party**").

### RECITALS

A. Secured Party and Village Farms, L.P., a Delaware limited partnership ("**Borrower**") have entered into a Consolidated, Amended and Restated Loan Agreement of even date herewith (as amended, modified or supplemented from time to time, the "**Loan Agreement**") pursuant to which Secured Party has agreed make certain term loans to Borrower in an aggregate principal amount up to \$72,285,739.67 ("**Loans**") under the terms and conditions set forth in the Loan Agreement.

B. Debtor has executed in favor of, and delivered to, Secured Party a Guaranty of even date herewith ("**Guaranty**") wherein Debtor has unconditionally guaranteed to Secured Party the payment of all indebtedness and the performance of all obligations of Borrower under the Loan Agreement and the other Loan Documents.

C. The provisions of the Loan Agreement and the Guaranty require that Debtor execute this Security Agreement and any other document or agreement necessary in order for Debtor to grant to Secured Party a lien and security interest in all of its assets and properties, both real and personal, tangible or intangible, whether now owned or hereafter acquired, as security for the performance of its obligations under the Guaranty.

### AGREEMENTS

1. **Definitions.** Capitalized terms used, but not defined, herein shall have the meaning given to such terms in the Guaranty, if defined therein. As used in this Security Agreement, the following terms shall have the meanings set forth below:

"Guarantor Documents" means the Guaranty, the Security and Pledge Agreement of even date herewith executed by and between Debtor and Secured Party, this Security Agreement, and any and all mortgages, deeds of trust, leasehold assignments and consents, pledge agreements, financing statements, assignments and other present and future agreements, documents and/or instruments required by Secured Party from time to time to secure Debtor's

performance of its obligations under the Guaranty with a lien on all assets, real and personal, of Debtor, in form and substance acceptable to Secured Party, together with all renewals, extensions, amendments, modifications, and supplements thereto

2. **Grant of Security Interest.** Debtor does hereby grant to Secured Party a security interest in the following personal property ("**Collateral**"):

(a) All present and future trademarks, tradenames and service marks and federal, state and foreign trademark, tradename and service mark registrations and applications belonging to Debtor and/or any logos now or hereafter used by Debtor, including, but not limited to, the personal property described on Exhibit A attached hereto and incorporated herein by this reference;

(b) All present and future elements of package or trade dress belonging to Debtor pertaining to Debtor's trademarks, tradenames and service marks and federal, state and foreign trademark, tradename and service mark registrations and applications;

(c) All present and future goodwill belonging to Debtor and connected with or symbolized by Debtor's present and future trademarks, tradenames, service marks, trademark registrations, trade registrations, service mark registrations, trademark applications, tradename applications, service mark applications, package and trade dress;

(d) All present and future licenses belonging to Debtor and pertaining to foregoing trademarks, tradenames, service marks, trademark registrations, tradename registrations, service mark registrations, trademark applications, tradename applications, service mark applications, package and trade dress, including, but not limited to, the licenses described on Exhibit B attached hereto; and

(e) All proceeds and products of and books and records pertaining to the foregoing personal property.

3. **Obligations Secured by Collateral.** The Collateral shall secure the payment and performance of all of Debtor's indebtedness, liabilities and obligations to Secured Party arising under the Guaranty (collectively "**Obligations**").

4. **Representations and Warranties.** Debtor hereby represents and warrants that

(a) Debtor is the owner of the Collateral free and clear of all security interests, liens, charges, encumbrances, setoffs, defenses and

counterclaims of whatsoever kind or nature, except for the Permitted Encumbrances (defined below);

(b) Except for the security interests, liens and encumbrances permitted under the Guaranty and except for the licenses listed on Exhibit B hereto (collectively, the “**Permitted Encumbrances**”), Debtor has not made, and shall not make, any assignment, license, pledge, mortgage, hypothecation or transfer of the Collateral or the proceeds thereof with the prior written consent of Secured Party;

(c) this Security Agreement does not contravene any statute, ordinance, administrative rule, contract, or other agreement binding on Debtor including, but not limited to, any license agreement pertaining to the Collateral, where such contravention would have a material adverse effect on Debtor’s financial condition, business, operations or assets; and

(d) there are no legal actions or administrative proceedings pending or threatened before any court or administrative agency involving the Collateral that, if determined adversely to Debtor, would result in a material obligation or liability of Debtor.

5. **Use and Ownership Prior to Default.** Debtor shall use the Collateral only in the ordinary course of its business. Debtor shall defend its title to the Collateral free and clear of all liens, charges, encumbrances, setoffs, defenses and counterclaims of every kind and nature (except for the Permitted Encumbrances) against all present and future contradictory claims which are reasonably likely to have a material adverse effect on the value of the Collateral and shall not assign, license, sell, transfer or otherwise encumber the Collateral except as permitted under the Guaranty without the prior written consent of Secured Party, except that Guarantor may license the Collateral to Borrower. Debtor shall take any reasonable action needed to maintain the value of the Collateral in a timely manner. The Secured Party is hereby appointed as Debtor’s agent to take any reasonable action necessary to maintain the value of the Collateral, including, but not limited to, filing affidavits of continued use and renewing the trademarks and service marks contained in the Collateral upon the occurrence of an Event of Default or the failure of Debtor to take such action. Debtor shall reimburse Secured Party for all sums expended to maintain the Collateral together with interest thereon at the Default Interest Rate (as defined in the Loan Agreement). Notwithstanding the foregoing, Secured Party shall not be required to maintain the Collateral and does not assume any other obligation or liability pertaining to the Collateral.

6. **Events of Default.** Debtor shall be in default under this Security Agreement upon the occurrence of an “**Event of Default**” under the Loan Agreement.

7. **Rights and Remedies on Default.** Upon the occurrence of an Event of Default, Secured Party shall be entitled to exercise one or more of the following remedies without presentment, dishonor, notice or demand of any kind (all of which are hereby waived by Debtor):

(a) to declare the Obligations immediately due and payable in full;

(b) to enter the premises of Debtor or any third party and take possession of any property evidencing, consisting of, or containing the Collateral;

(c) to require Debtor to deliver and make available to Secured Party any property evidencing, consisting of, or containing the Collateral at a place reasonably convenient to Debtor and Secured Party;

(d) to foreclose on the Collateral; and

(e) to exercise all other rights available to Secured Party under the Guaranty or any other Guarantor Document, in any other present or future document, instrument or agreement between Debtor and Secured Party, or applicable law.

The Secured Party's rights are cumulative and may be exercised together, separately, and in any order.

Without limiting any of Debtor's obligations or Secured Party's rights under this Security Agreement or any of the other Guarantor Documents, Debtor shall provide Secured Party, upon Secured Party's request from time to time, with updated versions of Exhibit A to this Security Agreement which describe all of the Collateral that is applied for and/or registered with the U.S. Patent and Trademark Office. In addition, Debtor shall provide Secured Party, upon Secured Party's request from time to time, with absolute assignments of the Collateral ("**Assignments**"). Such Assignments shall be in the form and substance acceptable to Secured Party in its discretion and shall be executed in blank. Debtor hereby appoints Secured Party as its attorney-in-fact to insert the name and address of the assignee and any other information required by the U.S. Patent and Trademark Office in the Assignments and file the Assignments with that governmental authority but only after the occurrence of an Event of Default and the foreclosure of Secured Party's security interest in the Collateral under applicable law. This power of attorney is coupled with an interest and is irrevocable in nature.

8. **Indemnity.** The Secured Party shall not be deemed to have assumed or be responsible for the performance of any of Debtor's obligations with respect to the Collateral under any circumstances. Debtor shall immediately provide Secured Party with written notice of and indemnify and hold Secured

Party harmless from all claims, damages, liabilities (including attorneys' fees and legal expenses), causes of action, actions, suits and other legal proceedings (collectively "**Claims**") pertaining to its business operations or the Collateral.

9. **Further Assurances.** Debtor shall take all actions and execute and file all documents necessary or reasonably requested by Secured Party to carry out the intent and purposes of this Security Agreement. Without limiting the foregoing, Debtor shall execute and file such financing statements and other documents in any location that Secured Party may deem necessary or appropriate to perfect and preserve Secured Party's security interest in the Collateral and appoints Secured Party as Debtor's attorney-in-fact to execute and file the aforementioned documents, and, further Debtor authorizes Secured Party to file financing statements without Debtor's signature where permitted by law; provided, however, that in no event shall Secured Party file the Assignments with the United States Patent and Trademark Office until after the conclusion of the foreclosure proceedings with respect to the Collateral after the occurrence of an Event of Default. This power of attorney is coupled with an interest and irrevocable in nature.

10. **Termination.** This Security Agreement and the security interest of Secured Party in the Collateral shall terminate upon (a) the full indefeasible payment and satisfaction of (i) the Obligations and (ii) the obligations of Borrower to Secured Party under the Loan Agreement, and (b) upon Secured Party having no further obligation under the Loan Agreement to make any extension of credit to Borrower. Upon any such termination, Secured Party shall return to Debtor or destroy all executed Assignments that have not previously been filed with the U.S. Patent and Trademark Office in accordance with Section 7 hereof.

11. **Modification and Waiver.** No provision of this Security Agreement may be waived or modified except in a writing signed by the parties hereto. The Secured Party may perform any of Debtor's obligations or delay or fail to exercise any of its rights under this Security Agreement without causing a waiver of those obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Debtor's obligations under this Security Agreement shall not be affected if Secured Party amends, compromises, exchanges, fails to exercise, impairs or releases any of the obligations belonging to any Debtor or third party or any of its rights against any Debtor, third party or collateral.

12. **Successors and Assigns.** This Security Agreement shall be binding upon and inure to the benefit of Debtor and Secured Party and their respective successors and assigns, except that Debtor may not assign or transfer its rights or obligations hereunder without the prior written consent of Secured Party.

13. **Construction.** This Security Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to principles of conflict of laws.

14. **Headings.** The several captions to different sections of this Security Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof.

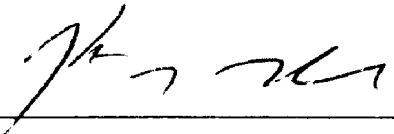
**[Signatures follow on next page]**



Dated as of the 2<sup>nd</sup> day of January, 2000.

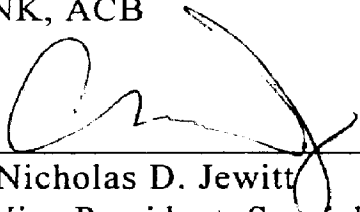
**DEBTOR:**

AGRO POWER DEVELOPMENT, INC.

By:   
Name: Kenneth S. Hollander  
Title: Senior Vice President

**SECURED PARTY:**

COBANK, ACB

By:   
Name: Nicholas D. Jewitt  
Title: Vice President, Special Assets

2343915\_3.DOC

STATE OF NEW JERSEY )  
 ) ss.  
COUNTY OF MONMOUTH )

The foregoing instrument was acknowledged before me by  
Kenneth S. Hollander as the Sr. Vice President of Agro Power Development,  
Inc. on this 22nd day of December, 1999.

WITNESS MY HAND AND OFFICIAL SEAL.

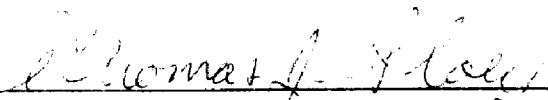
  
\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
ANITA S. LACONTI  
A Notary Public of New Jersey  
My Commission Expires Jan 7, 2000

STATE OF Colorado )  
 ) ss.  
COUNTY OF Denver )

The foregoing instrument was acknowledged before me by Nicholas D.  
Jewitt as the Vice President, Special Assets of CoBank, ACB on this 28 day of  
December, 1999.

WITNESS MY HAND AND OFFICIAL SEAL.

  
\_\_\_\_\_  
Notary Public

My commission expires: 10-19-2001

**EXHIBIT A TO TRADEMARK  
SECURITY AGREEMENT**

Trademark, Service mark or Tradenam Registration No.	Trademark, Service mark or Tradenam	Date Registered
1,704,348	"Village Farms"	July, 28, 1992

Trademark, Service mark or Tradenam Application Serial No	Trademark, Service mark or Tradenam	Date Application Filed
BABY BEEFS	(75/528,439)	July 29, 1998
HOME CHOICE	(75/528,441)	July 29, 1998
RED PASSION	(75/528,440)	July 29, 1998
RED SPI ENDOR	(75/528,438)	July 29, 1998

**EXHIBIT B TO TRADEMARK  
SECURITY AGREEMENT**

**EXISTING LICENSES**

That certain license of the "Village Farms" trademark to Village Farms, L.P. pursuant to that certain Agreement for Trademark Village Farms by and among Debtor and Village Farms, L.P. dated as of January 2, 2000.