

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM398397

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
SPROUT FOODS, INC.		09/13/2016	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	BIBBY INTERNATIONAL TRADE FINANCE, INC.		
Street Address:	600 TownPark Lane, Suite 450		
City:	Kennesaw		
State/Country:	GEORGIA		
Postal Code:	30144		
Entity Type:	Corporation: FLORIDA		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	4827624	SPROUT RISE	
Registration Number:	4784123	SPROUT SMASH	
Registration Number:	3786248	SPROUT	
Registration Number:	4959046	SPROUT	
Registration Number:	3786214	SPROUT	
Serial Number:	87144227	SPROUT ORGANIC SMASH	
Serial Number:	87144280	SPROUT	
CORRESPONDENCE DATA			
Fax Number:			
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Email:	kansley@stradley.com		
Correspondent Name:	Kareem Ansley		
Address Line 1:	Stradley Ronon		
Address Line 2:	100 Park Avenue		
Address Line 4:	New York, NEW YORK 10017		
ATTORNEY DOCKET NUMBER:	188632-0003		
NAME OF SUBMITTER:	Kareem Ansley		
SIGNATURE:	/Kareem Ansley/		

CH \$190.00 4827624

DATE SIGNED:	09/14/2016
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Total Attachments: 9
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PATENT AND TRADEMARK SECURITY AGREEMENT

This Patent and Trademark Security Agreement (this “**Agreement**”), dated as of September 13, 2016, is made by and between SPROUT FOODS, INC., a Delaware corporation (the “**Borrower**”) and BIBBY INTERNATIONAL TRADE FINANCE, INC., a Florida corporation (“**BFS**”).

Recitals

Borrower and BFS are parties to that certain Loan and Security Agreement dated as of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the “**Credit Agreement**”) setting forth the terms on which BFS may now or hereafter extend credit to or for the account of Borrower.

As a condition to extending credit to or for the account of Borrower, BFS has required the execution and delivery of this Agreement by Borrower.

ACCORDINGLY, in consideration of the mutual covenants contained in the Credit Agreement and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

“Obligations” means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Credit Agreement) which Borrower may now or at any time hereafter owe to BFS, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Credit Agreement).

“Patents” means all of Borrower’s right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on **Exhibit A**.

“Security Interest” has the meaning given in Section 2.

“Trademarks” means all of Borrower’s right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all

as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on **Exhibit B**.

2. Security Interest. Borrower hereby irrevocably pledges and assigns to, and grants BFS a security interest (the “**Security Interest**”) with power of sale to the extent permitted by law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of Borrower. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. § 1060.

3. Representations, Warranties and Agreements. Borrower represents, warrants and agrees as follows:

(a) **Patents. Exhibit A** accurately lists all Patents owned or controlled by the Borrower as of the date hereof, or to which the Borrower has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Borrower owns, controls or has a right to have assigned to it any Patents not listed on **Exhibit A**, or if **Exhibit A** ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Borrower shall promptly provide written notice to BFS with a replacement **Exhibit A**, which upon acceptance by BFS shall become part of this Agreement.

(b) **Trademarks. Exhibit B** accurately lists all Trademarks owned or controlled by the Borrower as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that **Exhibit B** need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to the Borrower’s or any Affiliate’s business(es). If after the date hereof, Borrower owns or controls any Trademarks not listed on **Exhibit B** (other than common law marks which are not material to the Borrower’s or any Affiliate’s business(es)), or if **Exhibit B** ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Borrower shall promptly provide written notice to BFS with a replacement **Exhibit B**, which upon acceptance by BFS shall become part of this Agreement.

(c) **Affiliates.** As of the date hereof, no Affiliate of the Borrower owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Borrower, constitute Patents or Trademarks. If after the date hereof any Affiliate of the Borrower owns, controls, or has a right to have assigned to it any such items, then Borrower shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to the Borrower; or (ii) notify BFS of such item(s) and cause such

Affiliate to execute and deliver to BFS a patent and trademark security agreement substantially in the form of this Agreement.

(d) **Title.** Borrower identified as the owner of each Patent and Trademark on **Exhibits A and B** has absolute title to each Patent and each Trademark listed thereon, free and clear of all Liens except Permitted Liens. The Borrower (i) will have, at the time Borrower acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(e) **No Sale.** Borrower will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without BFS's prior written consent.

(f) **Defense.** Borrower will, at its own expense and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(g) **Maintenance.** Borrower will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Borrower covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing BFS: (i) sufficient written notice, of at least 30 days, to allow BFS to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(h) **BFS's Right to Take Action.** If Borrower fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of twenty (20) calendar days after the occurrence thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Borrower notifies BFS that they intend to abandon a Patent or Trademark, BFS may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of the Borrower (or, at BFS's option, in BFS's own name) and may (but need not) take any and all other actions which BFS may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(i) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Borrower shall pay BFS in accordance with the terms of the Credit

Agreement the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by BFS in connection with or as a result of BFS's taking action under subsection (i) or exercising its rights under Section 6.

(j) **Power of Attorney.** To facilitate BFS's taking action under subsection (i) and exercising its rights under Section 6, Borrower hereby irrevocably appoints (which appointment is coupled with an interest) BFS, or its delegate, as the attorney-in-fact of Borrower with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Borrower, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by Borrower under this Section 3, or, necessary for BFS, after a Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. Borrower's Use of the Patents and Trademarks. Borrower shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Default exists.

5. Defaults. Each of the following occurrences shall constitute an event of default under this Agreement (herein called a "**Default**"): (a) an Event of Default, as defined in the Credit Agreement, shall occur and be continuing; or (b) Borrower shall fail promptly to observe or perform any covenant or agreement herein binding on it and such failure shall continue for a period of twenty (20) calendar days after the occurrence thereof; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. While a Default exists, BFS may, at its option, take any or all of the following actions:

(a) BFS may exercise any or all remedies available under the Credit Agreement.

(b) BFS may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

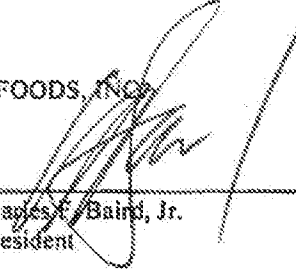
(c) BFS may enforce the Patents and Trademarks and any licenses thereunder, and if BFS shall commence any suit for such enforcement, Borrower shall, at the request of BFS, do any and all lawful acts and execute any and all proper documents required by BFS in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by BFS. A waiver signed by BFS shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of BFS's rights or remedies. All rights and remedies of BFS shall be cumulative and may be exercised singularly or concurrently, at BFS's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Borrower under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. BFS shall not be obligated to preserve any rights the Borrower may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Borrower and BFS and their respective participants, successors and assigns and shall take effect when signed by Borrower and delivered to BFS, and Borrower waives notice of BFS's acceptance hereof. BFS may execute this Agreement if appropriate for the purpose of filing, but the failure of BFS to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement authorized by the Borrower shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of Georgia without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date first written above.

SPROUT FOODS, INC.

By: 
Name: Charles F. Baird, Jr.
Title: President

[Signatures Continue on Following Page]

BIBBY INTERNATIONAL TRADE FINANCE, INC.

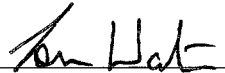
By: 
Name: Ian Watson
Title: Chief Executive Officer

EXHIBIT A

UNITED STATES ISSUED PATENTS

<u>Title</u>	<u>Patent Number</u>	<u>Issue Date</u>
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N/A

UNITED STATES PATENT APPLICATIONS

<u>Title</u>	<u>Serial Number</u>	<u>Filing Date</u>
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N/A

FOREIGN ISSUED PATENTS

<u>Title</u>	<u>Country</u>	<u>Patent Number</u>	<u>Issue Date</u>
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N/A

EXHIBIT B

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>
SPROUT RISE	4,827,624	October 6, 2015
SPROUT SMASH	4,784,123	August 4, 2015
	3,786,248	May 4, 2010
	4,959,046	May 17, 2016
SPROUT	3,786,214	May 4, 2010

PENDING APPLICATIONS

<u>Mark</u>	<u>Serial Number</u>	<u>Application Date</u>
SPROUT ORGANIC SMASH	87/144,227	August 19, 2016
SPROUT	87/144,280	August 19, 2016

COLLECTIVE MEMBERSHIP MARKS

NONE

UNREGISTERED MARKS

[NONE]