

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM712731

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Trademark Security Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Cibo Vita Inc		03/04/2022	Corporation: NEW JERSEY
RECEIVING PARTY DATA			
Name:	City National Bank		
Street Address:	P.O. Box 60938		
City:	Los Angeles		
State/Country:	CALIFORNIA		
Postal Code:	90060-0938		
Entity Type:	National Banking Association: UNITED STATES		
PROPERTY NUMBERS Total: 4			
Property Type	Number	Word Mark	
Registration Number:	4711996	CHOCOLATE ORCHARD	
Registration Number:	4413144	NATURE'S GARDEN	
Serial Number:	90784578	WOODPECKER	
Registration Number:	3864151	WOODPECKER FOODS	
CORRESPONDENCE DATA			
Fax Number:	2138918763		
<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:	rhonda.deleon@lw.com		
Correspondent Name:	LATHAM & WATKINS LLP		
Address Line 1:	355 SOUTH GRAND AVENUE		
Address Line 4:	LOS ANGELES, CALIFORNIA 90071-1560		
ATTORNEY DOCKET NUMBER:	061700-0080		
NAME OF SUBMITTER:	Rhonda DeLeon		
SIGNATURE:	/Rhonda DeLeon/		
DATE SIGNED:	03/08/2022		
Total Attachments: 5			
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TRADEMARK SECURITY AGREEMENT

This **TRADEMARK SECURITY AGREEMENT**, dated as of March 4, 2022 (this “**Agreement**”), is made by **CIBO VITA INC**, a New Jersey corporation (the “**Borrower**”), in favor of **CITY NATIONAL BANK** (“**CNB**”), for and on behalf of the Secured Parties referred to in the Guaranty and Collateral Agreement (as defined below) (in such capacity, and together with its successors and assigns in such capacity, the “**Lender**”).

WHEREAS, pursuant to that certain Credit Agreement, dated as of March 4, 2022, by and between the Borrower and CNB, as lender (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”), CNB has agreed to make extensions of credit to the Borrower upon the terms and conditions set forth therein;

WHEREAS, as a condition precedent to the obligation of CNB to make the extensions of credit to the Borrower under the Credit Agreement, the Borrower entered into that certain Guaranty and Collateral Agreement, dated as of March 4, 2022, by and among the Borrower, the Lender and the other parties from time to time party thereto (as the same may be amended, restated, supplemented or otherwise modified from time to time, the “**Guaranty and Collateral Agreement**”), pursuant to which the Borrower assigned, transferred and granted to the Lender, for the benefit of the Secured Parties, a security interest in the Trademark Collateral (as defined below);

WHEREAS, each of the Credit Agreement and the Guaranty and Collateral Agreement requires the Borrower to execute this Agreement, in order to record the security interest granted to the Lender for the benefit of the Secured Parties with the United States Patent and Trademark Office.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower hereby agrees as follows:

SECTION 1. Defined Terms

Capitalized terms used but not defined herein shall have the respective meanings given thereto in the Credit Agreement.

SECTION 2. Grant of Security Interest in Trademark Collateral

SECTION 2.1 Grant of Security. The Borrower hereby pledges, assigns and transfers to the Lender for the benefit of the Secured Parties, and hereby grants to the Lender for the benefit of the Secured Parties, a security interest in, all of the following property, in each case, in which the Borrower now has or at any time in the future may acquire any right, title or interest (collectively, the “**Trademark Collateral**”) as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Borrower’s Obligations:

all domestic, foreign and multinational trademarks, service marks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, logos, Internet domain names, other indicia of origin or source identification, and general intangibles of a like nature, whether registered or unregistered, and with respect to any and all of the foregoing: (i) all registrations and applications for registration thereof including, without limitation, the registrations and applications listed in Schedule A attached hereto, (ii) all extensions and renewals thereof, (iii) all of the goodwill of the business connected with the use of and symbolized by any of the foregoing, (iv) all rights to sue or otherwise recover for any past, present and future infringement,

dilution, or other violation thereof, (v) all proceeds of the foregoing, including, without limitation, license fees, royalties, income, payments, claims, damages and proceeds of suit now or hereafter due and/or payable with respect thereto, and (vi) all other rights of any kind accruing thereunder or pertaining thereto throughout the world.

SECTION 2.2 Certain Limited Exclusions.

Notwithstanding anything herein to the contrary, in no event shall the Trademark Collateral include or the security interest granted under Section 2.1 hereof attach to any "intent-to-use" application for registration of a Trademark filed pursuant to Section 1(b) of the Lanham Act, 15 U.S.C. § 1051, prior to the filing of a "Statement of Use" pursuant to Section 1(d) of the Lanham Act or an "Amendment to Allege Use" pursuant to Section 1(c) of the Lanham Act with respect thereto, solely to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law; provided that, upon submission and acceptance by the United States Patent and Trademark Office of an amendment to allege use of an intent-to-use trademark application pursuant to 15 U.S.C. Section 1060(a) (or any successor provision), such intent-to-use application shall constitute Collateral.

SECTION 3. Security Agreement

The security interest granted pursuant to this Agreement is granted in conjunction with the security interest granted to the Lender pursuant to the Guaranty and Collateral Agreement, and the Borrower hereby acknowledges and affirms that the rights and remedies of the Lender with respect to the security interest in the Trademark Collateral made and granted hereby are more fully set forth in the Guaranty and Collateral Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In the event that any provision of this Agreement is deemed to conflict with the Guaranty and Collateral Agreement, the provisions of the Guaranty and Collateral Agreement shall control.

SECTION 4. Representation and Warranty.

Schedule A correctly sets forth all applied for and federally registered Trademarks owned by the Borrower in its own name as of the date hereof, other than any intent-to-use Trademark applications prior to the filing of a "Statement of Use", "Amendment to Allege Use" or similar filing with regard thereto.

SECTION 5. Governing Law.

THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAWS OTHER THAN THE LAWS OF THE STATE OF NEW YORK), PROVIDED, HOWEVER, THAT IF THE LAWS OF ANY JURISDICTION OTHER THAN NEW YORK SHALL GOVERN IN REGARD TO THE VALIDITY, PERFECTION OR EFFECT OF PERFECTION OF ANY LIEN OR IN REGARD TO PROCEDURAL MATTERS AFFECTING ENFORCEMENT OF ANY LIENS IN COLLATERAL, SUCH LAWS OF SUCH OTHER JURISDICTIONS SHALL CONTINUE TO APPLY TO THAT EXTENT.

SECTION 6. Counterparts.

This Agreement may be executed in one or more counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

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

CIBO VITA INC, as the Borrower

By:



Name: Herb Ruetsch

Title: Chief Financial Officer

[Signature Page to Trademark Security Agreement]

TRADEMARK
REEL: 007652 FRAME: 0456



Accepted and Agreed:

CITY NATIONAL BANK,
as the Lender

By: Todd Shrier
Name: Todd Shrier
Title: Senior Vice President

SCHEDULE A
to
TRADEMARK SECURITY AGREEMENT

TRADEMARK REGISTRATIONS AND APPLICATIONS

Mark	International Class(es)	Application No. Filing Date	Registration No. Registration Date
CHOCOLATE ORCHARD	30	86362820 11-AUG-2014	4711996 31-MAR-2015
NATURE'S GARDEN 	29	85681391 19-JUL-2012	4413144 08-OCT-2013
WOODPECKER	29	90784578 21-JUN-2021	
WOODPECKER FOODS 	29, 30, 32	77961483 17-MAR-2010	3864151 19-OCT-2010