

**Filings**

Title: FIRST INTERSTATE BANK VS PHYTO GENESIS, INC. ET AL

Case: 06571 EQCV101968 (LINN)

Citation Number:

<u>Event</u>	<u>Filed By</u>	<u>Filed</u>	<u>Create Date</u>	<u>Last Updated</u>	<u>Action Date</u>
Resistance	HECKEL JOHN M	12/20/2023	12/20/2023	12/20/2023	
<i>Comments:</i> TO SUMMARY JUDGMENT MOTION					
<i>Documents:</i> <a href="#">RESISTANCE</a>					
Other Order		12/11/2023	12/11/2023	12/21/2023	
<i>Comments:</i> NOTICE RE: FILING OF MOTION FOR SUMMARY JUDGMENT RET'D MAIL/620 DEVELOPMENT LLC/12-21-23/NO VALID ADDRESS					
<i>Documents:</i> <a href="#">Other Order</a>					
Other Event	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> FORECLOSURE DECREE AND JUDGMENT ON DEFAULT AND DISMISSAL OF DEFENDANTS PARTIES IN POSSESSION					
<i>Documents:</i> <a href="#">OTHER EVENT</a>					
Other Application	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> APPLICATION FOR ATTORNEYS FEES AND COSTS					
<i>Documents:</i> <a href="#">OTHER APPLICATION</a>					
AFF OF SOLDIER AND SAILOR RELIEF	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> AFFIDAVIT OF NON DISABILTY NON PRIOSION AND NON MILITARY SERVICES-JUDGMENT					
<i>Documents:</i> <a href="#">AFFIDAVIT OF SOLDIER &amp; SAILOR RELIEF</a>					
Motion	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> MOTION TO APPEAR TELEPHONICALLY OR VIRTUALLY SUMMARY JUDGMENT HEARING					
<i>Documents:</i> <a href="#">MOTION</a>					
Other Affidavit	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> CERTIFICATE OF SERVICE OF AFFIDAVIT OF INDEBTEDNESS, APPLICATION FOR ATTORNEYS FEES AND COSTS, AFFIDAVIT OF NON DISABILITY, NON PRISONER AND NON- MILITARY SERVICES JUDGMENT					
<i>Documents:</i> <a href="#">OTHER AFFIDAVIT</a>					
Aff of Financial Status	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> AFFIDAVIT OF INDEBTEDNESS					
<i>Documents:</i> <a href="#">AFFIDAVIT OF FINANCIAL STATUS</a>					
MOTION FOR SUMMARY JUDGMENT	HAWK CAMILLE ROCHELLE	12/11/2023	12/11/2023	12/11/2023	
<i>Comments:</i> MOTION FOR SUMMARY JUDGMENT/ APPLICATION FRO DEFAULT JUDGMENT					
<i>Documents:</i> <a href="#">MOTION FOR SUMMARY JUDGMENT ATTACHMENT</a>					
Other Order	THORNHILL IAN K	11/20/2023	11/20/2023	11/20/2023	
<i>Comments:</i> DISMISSING DEFENDANT, ESCO ELECTRIC COMPANY					
<i>Documents:</i> <a href="#">Other Order</a>					
Motion	HAWK CAMILLE ROCHELLE	11/20/2023	11/20/2023	11/20/2023	
<i>Comments:</i> MOTION TO DISMISS DEFENDANT, ESCO ELECTRIC COMPANY					

<i>Documents:</i> <a href="#">MOTION</a>					
Notice	HAWK CAMILLE ROCHELLE	11/13/2023	11/14/2023	11/14/2023	
<i>Comments:</i> NOTICE OF INTENT TO FILE APPLICATION FOR DEFAULT					
<i>Documents:</i> <a href="#">NOTICE</a>					
Notice	HAWK CAMILLE ROCHELLE	11/13/2023	11/14/2023	11/14/2023	
<i>Comments:</i> NOTICE OF INTENT TO FILE APPLICATION FOR DEFAULT					
<i>Documents:</i> <a href="#">NOTICE</a>					
Return of Service - Other	HAWK CAMILLE ROCHELLE	10/02/2023	10/02/2023	10/02/2023	
<i>Comments:</i> 620 DEVELOPMENT LLC BY SERVING REG AGNT/6-5-23					
<i>Documents:</i> <a href="#">RETURN OF SERVICE - OTHER</a>					
Other Event	DUKES KATY	06/25/2023	06/26/2023	06/26/2023	
<i>Comments:</i> ANSWER/CROSS-CLAIM AGAINST CO-DEFENDANTS					
<i>Documents:</i> <a href="#">OTHER EVENT</a>					
Answer	HECKEL JOHN M	06/01/2023	06/01/2023	06/01/2023	
<i>Comments:</i> AND DEMAND FOR DELAY OF SALE					
<i>Documents:</i> <a href="#">ANSWER</a>					
RETURN OF ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	05/09/2023	05/10/2023	05/10/2023	
<i>Comments:</i> 620 DEVELOPMENT LLC BY SUBST SERVICE/05-02-2023					
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>					
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	05/03/2023	05/03/2023	05/03/2023	
<i>Comments:</i> AMENDED FOR NEW ADDRESS FOR 620 DEVELOPMENT					
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>					
Answer	WESTON JOHN MICHAEL	04/25/2023	04/26/2023	04/26/2023	
<i>Comments:</i> DEFENDANT LBC5, INC. D/B/A BOUSLOG INSURANCE'S ANSWER TO PLAINTIFF'S FORECLOSURE PETITION WITHOUT REDEMPTION AND WAIVING DEFICIENCY AND RESERVATION TO REQUEST A RECEIVER					
<i>Documents:</i> <a href="#">ANSWER</a>					
Appearance	WESTON JOHN MICHAEL	04/25/2023	04/26/2023	04/26/2023	
<i>Comments:</i> OF J. MICHAEL WESTON					
<i>Documents:</i> <a href="#">APPEARANCE</a>					
<a href="#">RETURN OF SERVICE - DILIGENT SEARCH</a>	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023	
<i>Comments:</i> PARTIES IN POSSESSION/DILIGENT SEARCH/04-10-2023					
<i>Documents:</i> <a href="#">RETURN OF SERVICE - DILIGENT SEARCH</a>					
RETURN OF ORIGINAL NOTICE	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023	
<i>Comments:</i> PROMETHEUS INC BY SUBST SERVICE/04-10-2023					
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>					
RETURN OF ORIGINAL NOTICE	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023	
<i>Comments:</i> PHYTO GENESIS INC BY SUBST SERVICE/04-10-2023					
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>					
RETURN OF ORIGINAL NOTICE	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023	
<i>Comments:</i> ESCO ELECTRIC COMPANY BY SUBST SERVICE/04-10-2023					
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>					
RETURN OF ORIGINAL NOTICE	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023	



<i>Comments:</i> LBC5 INC BY SUBST SERVICE/04-10-2023				
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>				
RETURN OF ORIGINAL NOTICE	LINN COUNTY SHERIFF	04/20/2023	04/21/2023	04/21/2023
<i>Comments:</i> NEWBOHEMIAN INC BY SUBST SERVICE/ 04-10-2023				
<i>Documents:</i> <a href="#">RETURN OF ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> PARTIES IN POSSESSION IF ANY REAL NAMES UNKNOWN				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> 620 DEVELOPMENT, LLC 3193 JAY				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> LBC5 1532 HUNTERS GREEN WAY				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> ESCO 3450 ORG NOTICE				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> NEW BOHEMIAN, INC. D/B/A THE BOHEMIAN 1106				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> PROMETHEUS INC. 1106 8TH ST SE				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> PHYTO GENESIS, INC. ORG NOTICE 1106 8TH				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
CIVIL ORIGINAL NOTICE	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> PHYTO GENESIS, INC ORG NOTICE MICHAEL RICHARDS 1029 3 ST				
<i>Documents:</i> <a href="#">CIVIL ORIGINAL NOTICE</a>				
Aff of Financial Status	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> ATTORNEYS FEES AND COSTS AFFIDAVIT				
<i>Documents:</i> <a href="#">AFFIDAVIT OF FINANCIAL STATUS</a>				
AFF OF SOLDIER AND SAILOR RELIEF	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> AFFIDAVIT OF NON DISABILTY NON PRIOSION AND NON MILITARY SERVICES-PETITION				
<i>Documents:</i> <a href="#">AFFIDAVIT OF SOLDIER &amp; SAILOR RELIEF</a>				
Petition Filed	HAWK CAMILLE ROCHELLE	03/31/2023	04/03/2023	04/03/2023
<i>Comments:</i> FORECLOSURE PETITION WITHOUT REDEMPTION AND WAIVING DEFICIENCY AND RESERVATION TO REQUEST A RECEIVER				
<i>Documents:</i> <a href="#">PETITION</a>				

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IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	CASE NO. _____
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	<b>FORECLOSURE PETITION WITHOUT</b>
INC. d/b/a THE BOHEMIAN;	)	<b>REDEMPTION AND WAIVING</b>
NEWBOHEMIAN, INC. d/b/a THE	)	<b>DEFICIENCY</b>
BOHEMIAN; ESCO ELECTRIC	)	<b>AND</b>
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	
INSURANCE; 620 DEVELOPMENT,	)	<b>RESERVATION TO REQUEST</b>
LLC; and PARTIES IN POSSESSION, if	)	<b>A RECEIVER</b>
any, real names unknown,	)	
	)	
Defendants.	)	

**NOTICE**

**THE PLAINTIFF HAS ELECTED FORECLOSURE WITHOUT REDEMPTION. THIS MEANS THAT THE SALE OF THE MORTGAGED PROPERTIES WILL OCCUR PROMPTLY AFTER ENTRY OF JUDGMENT UNLESS YOU FILE WITH THE COURT A WRITTEN DEMAND TO DELAY THE SALE. IF YOU FILE A WRITTEN DEMAND, THE SALE WILL BE DELAYED UNTIL THREE MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS YOUR RESIDENCE AND IS A ONE-FAMILY OR TWO-FAMILY DWELLING OR UNTIL TWO MONTHS FROM ENTRY OF JUDGMENT IF THE MORTGAGED PROPERTY IS NOT YOUR RESIDENCE OR IS YOUR RESIDENCE BUT NOT A ONE-FAMILY OR TWO-FAMILY DWELLING. YOU WILL HAVE NO RIGHT OF REDEMPTION AFTER THE SALE. THE PURCHASER AT THE SALE WILL BE ENTITLED TO IMMEDIATE POSSESSION OF THE MORTGAGED PROPERTY. YOU MAY PURCHASE AT THE SALE.**

Plaintiff, First Interstate Bank, respectfully states to the Court the following recitations in support of its action against the Defendants:

1. The Plaintiff elects to foreclose without redemption pursuant to Iowa Code Section 654.20. The mortgaged property, which is the subject of this action, is not used for an agricultural purpose. The mortgaged property is a commercial building.

2. The Plaintiff is successor by merger to Great Western Bank, and is authorized to conduct business in Linn County, Iowa.

3. No Defendant herein is known or suspected to be incarcerated, a minor, an incompetent person, confined to a mental health facility or reformatory, or in the military services of the United States or its allies. The Affidavit of Non-Disability, Non-Prisoner and Non-Military Services is filed separately with this Court and by this reference is incorporated herein.

4. The Defendant, Phyto Genesis, Inc. is licensed in the State of Iowa, and operated or operates its business Linn County, Iowa. It is also the owner of the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

5. Prometheus, Inc. d/b/a The Bohemian, is licensed in the State of Iowa, and operated or operates its business Linn County, Iowa. It may claim some right, title or interest in the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

6. Newboemian, Inc. d/b/a The Bohemian, is licensed in the State of Iowa, and operated or operates its business Linn County, Iowa. It may claim some right, title or interest in the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

7. Esco Electric Company is licensed in the State of Iowa, and operated or operates its business Linn County, Iowa. It may claim some right, title or interest in the subject Property and against certain Defendants by virtue of a judgment entered on September 16, 2021, in the Lin County District Court, Case No. SCSC253358, entitled *Esco Electric Company v. Michael A. Richards and Newbohemian, Inc. d/b/a The Bohemian*. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

8. LBC5, Inc. d/b/a Bouslog Insurance is licensed in the State of Iowa, and operated or operates its business Linn County, Iowa. It may claim some right, title or interest in the subject Property and against certain Defendants by virtue of a judgment entered on February 23, 2022, in the Lin County District Court, Case No. LACV098971, entitled *LBC5, Inc. d/b/a Bouslog Insurance v. Phyto Genesis, Inc., Newbohemian, Inc. d/b/a The Bohemian, Michael L. Richards and Michael A.*

*Richards*. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

9. 620 Development, LLC is made a Defendant to this cause of action because it may claim some right, title or interest in said Property, which is one of the subjects of this action, due to a UCC Financing Statement filed on July 5, 2022, at the Linn County Recorder's Office in Book 11400 at Page 694-698, as Document No. 025610310005. The Defendant's rights, if any, to the said Property, which is one of the subjects of this action, are junior and inferior to those of the Plaintiff

10. The Defendants, Parties in Possession, if any, real names unknown, are made Defendants to this cause of action because they may claim some right, title or interest in said Property, which is one of the subjects of this action, due to the fact that the Plaintiff believes that there may be occupants or tenants in possession of the said Property. The Defendants' rights, if any, to the said Property, which is one of the subjects of this action, are junior and inferior to those of the Plaintiff.

11. On or about April 14, 2015, Defendant, Phyto Genesis, Inc., took fee simple title by virtue of a Corporate Warranty Deed ("Deed") which was filed at the Linn County Recorder's Office on October 14, 2015, in Book 9380 at Page 630, as Document No. 021997200001 to the Property legally described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa

(the "Property") which Property is commonly known as 1029 3<sup>rd</sup> St SE, Cedar Rapids, Iowa 52401. A true and correct copy of the Deed together with the Recorder's Certificate is attached hereto as Exhibit "1" and by this reference is incorporated herein.

12. On or about May 8, 2017, Defendant, Phyto Genesis, Inc., executed and delivered to the then Lender, Great Western Bank, one certain Promissory Note in the principal sum of Four Hundred Fifty Thousand and 0/100 Dollars (\$450,000.00) at the interest rate of 4.50% per annum (the "Note"). A true and correct copy of the redacted Note is attached hereto as Exhibit "2" and by this reference is incorporated herein.

13. The payment of the Note is secured by a Mortgage executed by the Defendant, Phyto Genesis, Inc., executed to the then Lender, Great Western Bank. Said Mortgage was dated May 8, 2017, and was filed May 18, 2017, in Book 9834 at Page 231, Document No. 2431743 of the Linn

County Recorder's Office, upon the Property (the "Mortgage"). A true and correct copy of the redacted Mortgage together with the Recorder's Certificate thereon is attached hereto as Exhibit "3" and by this reference is incorporated herein.

14. Additionally, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed an Assignment of Rents which was filed May 18, 2017, in Book 9834 at Page 242, Document No. 2431744 of the Linn County Recorder's Office, upon the Property (the "AOR"). A true and correct copy of the redacted AOR together with the Recorder's Certificate thereon is attached hereto as Exhibit "4" and by this reference is incorporated herein.

15. Further, in support of the Note, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed Business Loan Agreement (the "BLA"). A true and correct copy of the redacted BLA is attached hereto as Exhibit "5" and by this reference is incorporated herein.

16. The Mortgage and Note were modified by four separate Change in Terms Agreements identified as follows:

- a. Dated October 27, 2017, executed by Defendant, Phyto Genesis, Inc., which changed the payment terms and increased the principal balance to \$600,000.00;
- b. Dated May 1, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments;
- c. Dated July 14, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments;
- d. Dated October 6, 2022, executed by Defendant, Phyto Genesis, Inc., which changed the maturity date to December 8, 2022, and changed certain payment terms.

(together, the "CITAs"). True and correct copies of the redacted CITAs are attached hereto as Exhibits "6", "7", "8" and "9", and by this reference are incorporated herein.

17. Together the Note, Mortgage, AOR, BLA and CITAs shall be referred to as the "Loan Documents".

18. The Defendant, Phyto Genesis, Inc., granted the original Lender the right to have a Receiver appointed by the Court pursuant to the terms of the Loan Documents. The Plaintiff makes specific request that a Receiver be appointed immediately upon Motion and hearing on the same.

19. The Loan Documents provide that in case of default the holder may declare the entire principal and the interest accrued thereon due and payable and the Mortgage may be foreclosed.

20. The Plaintiff seeks an in-rem judgment against the Property, and it waives deficiency on the Note and Mortgage, as modified, and seeks no redemption referenced in this case.

21. The Defendant, Phyto Genesis, Inc., has failed to pay the Note, as modified, and interest and other charges due thereon.

22. By reason of the failure to pay the Note and interest and other charges thereon, the Plaintiff has elected to and does hereby elect in accordance with the terms and conditions of the Loan Documents declare the whole of the Note, as modified, due and payable forthwith and to exercise its right to enforce payment of the entire Note as provided by the Note and to foreclose the Mortgage given to secure the same.

23. The unpaid balance on the Note after allowing all credits due to the Defendant, Phyto Genesis, Inc., is the sum of Five Hundred Forty Thousand One Hundred Thirty-Five and 20/100 Dollars (\$540,135.20) which sum includes interest on the unpaid principal balance calculated at the current rate of \$64.33 per diem, through March 30, 2023. Interest continues to accrue on the unpaid principal balance at the rate of \$64.33 per diem.

24. In order to commence this foreclosure proceeding, the Plaintiff has incurred costs and attorneys' fees and costs, which includes the sum of Three Hundred Fifty and 0/100 Dollars (\$350.00) expended for a title report for this Property. Plaintiff is entitled to a judgment for costs and accruing costs, and also reasonable attorneys' fees and costs.

25. The Plaintiff is the holder of the Loan Documents, due demand has been made for payment and payment has been refused.

26. Because the Property is commercial property (not homestead) which secured a commercial Loan, the Plaintiff gave a 45 Day Notice of Demand on December 12, 2022, and more than forty-five days have elapsed since the Notice was given. The color Mediation Notice was not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A true and correct redacted copy of said Notice is attached hereto as Exhibit "10" and is incorporated herein by this reference.



27. The Plaintiff gave a 14 Day Notice of Acceleration and Demand for Payment on February 7, 2023, in accordance with Iowa Code Section 654.4B and more than fourteen days have elapsed since the Notice was given. The color Mediation Notice was not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A copy of said redacted Notice is attached hereto as Exhibit "11" and is incorporated herein by this reference.

28. Under the terms of said Loan Documents, the Defendant, Phyto Genesis, Inc., agreed to pay attorneys' fees and all costs in connection with the proceeding to enforce or foreclose the Mortgage, as modified. Incorporated herein by this reference and filed separately with this Court is an Affidavit of Attorneys' Fees and Costs as required by Iowa Code Section 625.22.

WHEREFORE, the Plaintiff, First Interstate Bank, prays for a judgment in rem against the Property described legally described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa

on its Loan Documents described above, for the sum of Five Hundred Forty Thousand One Hundred Thirty-Five and 20/100 Dollars (\$540,135.20) which sum includes interest on the unpaid principal balance calculated at the current rate of \$64.33 per diem, through March 30, 2023, plus the costs of this action, including title costs of \$350.00, amounts advanced to protect Plaintiff's security in the Property and reasonable attorneys' fees and costs, all to the point of Sheriff's Sale of the Property and any post-sale proceedings, including but not limited to condemnation of funds or other matter; that said sums be declared a lien upon the Property from the date of the Plaintiff's Mortgage and Assignment of Rents, prior and superior to any right, title, lien or interest of the Defendants or any of them therein; that the Plaintiff's Loan Documents be foreclosed; that any right, title, lien or interest of the Defendants or any of them in said Property be declared junior and inferior to the lien of Plaintiff's Loan Documents; that a Special Execution be issued for the sale of the said Property or so much thereof as may be necessary to satisfy the judgment including interest, attorneys' fees, costs, and accruing costs, advances made by the Plaintiff to safeguard Plaintiff's security in the Property, any amounts related to the appointment and contributions of the Receiver related to the Property up to and including the date of the sale of the Property, and any post-sale proceedings, including but not

limited to condemnation of funds or other matter, and that from and after said sale under Special Execution, the right, title, lien or interest of the Defendants in and to the said Property be forever cut off, barred and foreclosed, and the purchaser at said sale take free and clear of any right, title, lien or interest of the Defendants or any of them.

The Plaintiff prays for an appointment of a Receiver in this proceeding, and that such Receiver be appointed upon Motion and hearing of the same.

The Plaintiff further prays for a Writ of Possession to be issued under the seal of this Court, directed to the Sheriff of Linn County, Iowa, commanding him or her to put the purchaser at said sale under Special Execution or a successor in interest in the possession of the Property.

The Plaintiff further prays for such other and further relief as the Court may deem just and equitable under the circumstances.

FIRST INTERSTATE BANK, Plaintiff.

By:   
Camille R. Hawk, Attorney at Law (AT0009922)  
VALENTINE O'TOOLE, LLP  
11240 Davenport St  
Omaha, NE 68154  
402-330-6300  
chawk@valentineotoole.com  
ATTORNEYS FOR PLAINTIFF

**NOTICE: If a party's liability for this loan has been discharged in a Chapter 7, 11, 12 or Chapter 13 bankruptcy case, please be advised that we will not make a personal claim against that party for the amounts due and owing on the loan(s). We will, however, seek any recovery solely from the property that were pledged as security for the debt.**



Doc ID: 021997200001 Type: GEN  
Recorded: 10/14/2015 at 10:38:18 AM  
Fee Amt: \$168.00 Page 1 of 1  
Revenue Tax: \$158.00  
Linn County Iowa  
JOAN MCCALMANT RECORDER  
BK 9380 PG 630

\$12.00 VISA

Phyto Genesis Inc. 1029 3rd St SE Cedar Rapids IA 52401

Preparer Information: Nancy C. Malloy, 222 3rd Street SE, Suite 302, Cedar Rapids, IA 52401 319-363-8827

After recording return to: Contract Exchange Corporation, P.O. Box 8162, Cedar Rapids, IA 52408

Address Tax Statements: Michael Richards, 1029 3rd Street SE, Cedar Rapids, IA 52403

**CORPORATE WARRANTY DEED**

Know All Men By These Presents:

**Contract Exchange Corporation, an Iowa Corporation**

Having its principal place of business at 222 3rd Street SE, Suite 302, Cedar Rapids, Iowa in Linn County and State of Iowa, a corporation organized and existing under the laws of Iowa in consideration of the sum of One Dollar (\$1.00) and other valuable consideration in hand paid does hereby convey unto

**Phyto Genesis Inc., an Iowa Corporation**

The following described real estate in Linn County, Iowa:

**Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.**

This deed is given in fulfillment of a certain real estate contract that was dated December 29, 2000 and filed on January 3, 2001 in Volume 4218 at Page 629 in the records of the Linn County Recorder.

This deed is exempt from declaration of value and groundwater hazard statement being a deed in fulfillment of a certain real estate contract.

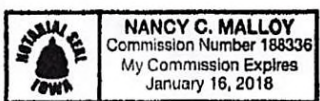
And said Corporation hereby covenants with said grantees, and successors in interest, that it holds said real estate by title in fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be above stated: and it covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

Words and phrases herein including acknowledgement hereof, shall be construed as in the singular or plural number, according to the context.

IN WITNESS WHEREOF said corporation has caused this instrument to be duly executed this 14th day of April, 2015.

Contract Exchange Corporation  
BY: Anthony E. Schubert, Pres  
Anthony E. Schubert, President  
BY: Anthony E. Schubert Sec.  
Anthony E. Schubert, Secretary

State of Iowa, Linn County, ss§:  
On this 14th day of April, A.D., 2015, before me, the undersigned, a notary public in and for said county and said state, personally appeared Anthony E. Schubert, to me personally known, who, being by me duly sworn, did say that he is the President and Secretary, of said corporation: that no seal has been procured by the said corporation, that said instrument was signed on behalf of said Corporation by authority of its board of directors; and that the said Anthony E. Schubert as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Nancy C Malloy  
Notary Public In and For Said County and Said State





*Redacted*

**PROMISSORY NOTE**

Principal	Loan Date	Maturity	Loan No	Call / Call	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022		<i>Redacted</i>			
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "*****" has been omitted due to text length limitations.							

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

**Principal Amount: \$450,000.00**

**Date of Note: May 8, 2017**

**PROMISE TO PAY.** Phyto Genesis, Inc. ("Borrower") promises to pay to GREAT WESTERN BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Four Hundred Fifty Thousand & 00/100 Dollars (\$450,000.00) or so much as may be outstanding, together with interest on the unpaid outstanding principal balance of each advance, calculated as described in the "INTEREST CALCULATION METHOD" paragraph using an interest rate of 4.500% per annum based on a year of 360 days. Interest shall be calculated from the date of each advance until repayment of each advance. The interest rate may change under the terms and conditions of the "INTEREST AFTER DEFAULT" section.

**PAYMENT.** Borrower will pay this loan in accordance with the following payment schedule:

Borrower will pay this loan in Seven (7) monthly interest only payments beginning June 08, 2017 and monthly thereafter. The credit line will be closed on January 08, 2018. Beginning January 08, 2018, Borrower will make Fifty-Three (53) monthly principal and interest payments in the amount of \$2,863.13 and monthly thereafter until maturity. The interest rate will remain at fixed at 4.50% during the term of the loan. The maturity date will be May 08, 2022.

Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any escrow or reserve account payments as required under any mortgage, deed of trust, or other security instrument or security agreement securing this Note; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**INTEREST CALCULATION METHOD.** Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

**PREPAYMENT.** Borrower agrees that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments of accrued unpaid interest. Rather, early payments will reduce the principal balance due. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA 52317.

**LATE CHARGE.** If a payment is 10 days or more late, Borrower will be charged 5.000% of the regularly scheduled payment.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 21.000% per annum based on a year of 360 days. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Borrower, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including without limitation all attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**GOVERNING LAW.** This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Iowa.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any



Loan No *Redacted*

**PROMISSORY NOTE  
(Continued)**

and all such accounts.

**COLLATERAL.** Borrower acknowledges this Note is secured by Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St., Cedar Rapids, Iowa; Commercial Pledge Agreement pledged by Prometheus, Inc. dated 05/08/2017 with further support of Business Loan Agreement dated 05/08/2017.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested orally by Borrower or as provided in this paragraph. All oral requests shall be confirmed in writing on the day of the request. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc. Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any of Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**PURPOSE OF LOAN.** The specific purpose of this loan is: Construction and Permanent Financing.

**GUARANTORS.** Unlimited and Unsecured Commercial Guaranty of Michael A. Richards dated 05/08/2017; Unlimited Commercial Guaranty of Prometheus, Inc. dated 05/08/2017 secured by Commercial Security Pledge pledged by Prometheus, Inc. dated 05/08/2017.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES.** Borrower may notify Lender if Lender reports any inaccurate information about Borrower's account(s) to a consumer reporting agency. Borrower's written notice describing the specific inaccuracy(ies) should be sent to Lender at the following address: GREAT WESTERN BANK 225 S Main Ave Sioux Falls, SD 57104.

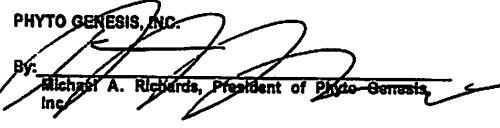
**GENERAL PROVISIONS.** If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto Genesis, Inc.



BK: 9834 PG: 231  
Recorded: 5/18/2017 at 2:45:09.940 PM  
Fee Amount: \$57.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431743

FOR RECORDER'S USE ONLY

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

ADDRESS TAX STATEMENT:

Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

RECORDATION REQUESTED BY:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

WHEN RECORDED MAIL TO:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

MORTGAGE

NOTICE: This Mortgage secures credit in the amount of \$450,000.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Mortgage. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Mortgage. The property address can be found on page 1 of this Mortgage. The legal description can be found on page 1 of this Mortgage.

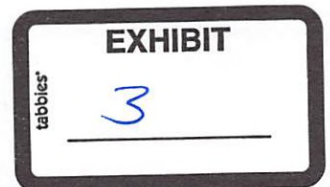
THIS MORTGAGE dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages and conveys to Lender and grants to Lender a security interest in all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; rents and profits; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Real Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay



**MORTGAGE  
(Continued)**

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such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents. The lien on the rents granted in this Mortgage shall be effective from the date of the Mortgage and not just in the event of default.

**FUTURE ADVANCES.** In addition to the Note, this Mortgage secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions: None of the collateral for the indebtedness constitutes, and none of the funds represented by the indebtedness will be used to purchase: (1) Agricultural products or property used for an agricultural purpose as defined in Iowa Code Section 535.13; (2) Agricultural land as defined in Iowa Code Section 9H1 (2) or 175.2 (1); or (3) Property used for an agricultural purpose as defined in Iowa Code Section 570.A.1 (2). Grantor represents and warrants that: (1) There are not now and will not be any wells situated on the Property; (2) There are not now and will not be any solid waste disposal sites on the Property; (3) There are not now and there will not be any hazardous wastes on the Property; (4) There are not now and there will not be any underground storage tanks on the Property.

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.



**MORTGAGE  
(Continued)**

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**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's Interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Iowa law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances

**MORTGAGE  
(Continued)**

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satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real

**MORTGAGE  
(Continued)**

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Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender, and (c) the liens granted hereby are not the type of lien referred to in Chapter 575 of the Iowa Code Supplement, as now enacted or hereafter modified, amended or replaced. Grantor, for itself and all persons claiming by, through or under Grantor, agrees that it claims no lien or right to a lien of the type contemplated by Chapter 575 or any other chapter of the Code of Iowa and further waives all notices and rights pursuant to said law with respect to the liens hereby granted, and represents and warrants that it is the sole party entitled to do so and agrees to indemnify, defend, and hold harmless Lender from any loss, damage, and costs, including reasonable attorneys' fees, threatened or suffered by Lender arising either directly or indirectly as a result of any claim of the applicability of said law to the liens hereby granted.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

**MORTGAGE  
(Continued)**

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**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Personal Property and for this purpose, the name and address of the debtor is the name and address of Grantor as set forth on the first page of this Mortgage and the name and address of the secured party is the name and address of Lender as set forth on the first page of this Mortgage.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full



**MORTGAGE  
(Continued)**

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force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Right to Cure.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Foreclosure.** Lender may exercise the right to non-judicial foreclosure pursuant to Iowa Code Section 654.18 and Chapter 655A as now enacted or hereafter modified, amended or replaced.

**MORTGAGE  
(Continued)**

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**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender. This paragraph is subject to any rights of Grantor, under Iowa law, to remain in possession of the Property during a redemption period.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Shortened Redemption.** Grantor hereby agrees that, in the event of foreclosure of this Mortgage, Lender may, at Lender's sole option, elect to reduce the period of redemption pursuant to Iowa Code Sections 628.26, 628.27, or 628.28, or any other Iowa Code Section, to such time as may be then applicable and provided by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the indebtedness.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by

**MORTGAGE  
(Continued)**

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the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law.** This Mortgage will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Mortgage has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or



**MORTGAGE  
(Continued)**

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regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Mortgage.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.



BK: 9834 PG: 242  
Recorded: 5/18/2017 at 2:45:12.487 PM  
Fee Amount: \$37.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431744

FOR RECORDER'S USE ONLY

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

**ADDRESS TAX STATEMENT:**

Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

**RECORDATION REQUESTED BY:**

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

**WHEN RECORDED MAIL TO:**

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

**ASSIGNMENT OF RENTS**

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Assignment. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Assignment. The property address can be found on page 1 of this Assignment. The legal description can be found on page 1 of this Assignment.

THIS ASSIGNMENT OF RENTS dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

**CROSS-COLLATERALIZATION.** In addition to the Note, this Assignment secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

**FUTURE ADVANCES.** In addition to the Note, this Assignment secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Assignment secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.



**ASSIGNMENT OF RENTS  
(Continued)**

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**THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Iowa and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements



**ASSIGNMENT OF RENTS  
(Continued)**

Page 3

of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**NO OBLIGATION OF LENDER.** The assignment and security interest granted in this Assignment shall not be deemed or construed to constitute Lender as a mortgagee or trustee in possession of the Property, to obligate Lender to lease the Property or to attempt to do so, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the leases or otherwise.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender

**ASSIGNMENT OF RENTS  
(Continued)**

Page 4

believes the prospect of payment or performance of the Indebtedness is impaired.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of Iowa.

**ASSIGNMENT OF RENTS  
(Continued)**

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**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.



**ASSIGNMENT OF RENTS  
(Continued)**

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**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Assignment.** The word "Assignment" means this ASSIGNMENT OF RENTS, as this ASSIGNMENT OF RENTS may be amended or modified from time to time, together with all exhibits and schedules attached to this ASSIGNMENT OF RENTS from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc..

**Default.** The word "Default" means the Default set forth in this Assignment in the section titled "Default".

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Assignment.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this ASSIGNMENT OF RENTS between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.

ASSIGNMENT OF RENTS  
(Continued)

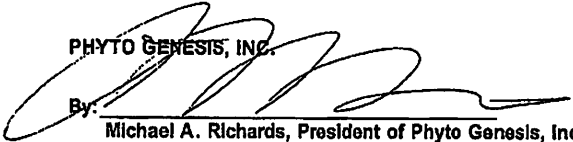
Page 7

THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND NOT PERSONALLY BUT AS AN AUTHORIZED SIGNER, HAS CAUSED THIS ASSIGNMENT TO BE SIGNED AND EXECUTED ON BEHALF OF GRANTOR ON MAY 8, 2017.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS ASSIGNMENT OF RENTS AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

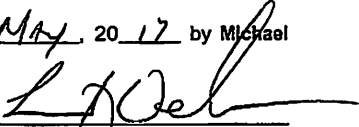
PHYTO GENESIS, INC.

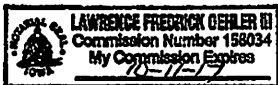
By:   
Michael A. Richards, President of Phyto Genesis, Inc.

CORPORATE ACKNOWLEDGMENT

STATE OF Iowa )  
 ) SS  
COUNTY OF Johnson )

This record was acknowledged before me on 8<sup>th</sup> Day of May, 20 17 by Michael A. Richards, President of Phyto Genesis, Inc..

  
Notary Public in and for the State of Iowa  
My commission expires 10-11-17





*Redacted*

**BUSINESS LOAN AGREEMENT**

Principal <b>\$450,000.00</b>	Loan Date <b>05-08-2017</b>	Maturity <b>05-08-2022</b>	Loan No <i>Redacted</i>	Call / Call <i>Redacted</i>	Account	Officer	Initials
References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "*****" has been omitted due to text length limitations.							

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

THIS BUSINESS LOAN AGREEMENT dated May 8, 2017, is made and executed between Phyto Genesis, Inc. ("Borrower") and GREAT WESTERN BANK ("Lender") on the following terms and conditions. Borrower has received prior commercial loans from Lender or has applied to Lender for a commercial loan or loans or other financial accommodations, including those which may be described on any exhibit or schedule attached to this Agreement. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement; (B) the granting, renewing, or extending of any Loan by Lender at all times shall be subject to Lender's sole judgment and discretion; and (C) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

**TERM.** This Agreement shall be effective as of May 8, 2017, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until such time as the parties may agree in writing to terminate this Agreement.

**ADVANCE AUTHORITY.** The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc.

**CONDITIONS PRECEDENT TO EACH ADVANCE.** Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

**Loan Documents.** Borrower shall provide to Lender the following documents for the Loan: (1) the Note; (2) Security Agreements granting to Lender security interests in the Collateral; (3) financing statements and all other documents perfecting Lender's Security Interests; (4) evidence of insurance as required below; (5) guaranties; (6) together with all such Related Documents as Lender may require for the Loan; all in form and substance satisfactory to Lender and Lender's counsel.

**Borrower's Authorization.** Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, may require.

**Payment of Fees and Expenses.** Borrower shall have paid to Lender all fees, charges, and other expenses which are then due and payable as specified in this Agreement or any Related Document.

**Representations and Warranties.** The representations and warranties set forth in this Agreement, in the Related Documents, and in any document or certificate delivered to Lender under this Agreement are true and correct.

**No Event of Default.** There shall not exist at the time of any Advance a condition which would constitute an Event of Default under this Agreement or under any Related Document.

**REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any indebtedness exists:

**Organization.** Borrower is a corporation for profit which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Iowa. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary filings, governmental licenses and approvals for each state in which Borrower is doing business. Specifically, Borrower is, and at all times shall be, duly qualified as a foreign corporation in all states in which the failure to so qualify would have a material adverse effect on its business or financial condition. Borrower has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage. Borrower maintains an office at 1029 3rd St SE, Cedar Rapids, IA 52401. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name. Borrower shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to Borrower and Borrower's business activities.

**Assumed Business Names.** Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business: None.

**Authorization.** Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of (a) Borrower's articles of incorporation or organization, or bylaws, or (b) any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

**Financial Information.** Each of Borrower's financial statements supplied to Lender truly and completely disclosed Borrower's financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to Lender. Borrower has no material contingent obligations except as disclosed in such financial statements.

**Legal Effect.** This Agreement constitutes, and any instrument or agreement Borrower is required to give under this Agreement when delivered will constitute legal, valid, and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

**Properties.** Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all Security Interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

**Hazardous Substances.** Except as disclosed to and acknowledged by Lender in writing, Borrower represents and warrants that: (1) During the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral. (2) Borrower has no knowledge of, or reason to believe that there has been (a) any breach or violation of any Environmental Laws; (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters. (3) Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender





**BUSINESS LOAN AGREEMENT  
(Continued)**

Loan No: Redacted

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against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the Collateral. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

**Litigation and Claims.** No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in writing.

**Taxes.** To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

**Lien Priority.** Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

**Binding Effect.** This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

**AFFIRMATIVE COVENANTS.** Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

**Notices of Claims and Litigation.** Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

**Financial Records.** Maintain its books and records in accordance with GAAP, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

**Financial Statements.** Furnish Lender with the following:

**Additional Requirements.**

- 1) Annual Tax Return for Phyto Genesis, Inc. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Borrower's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Borrower will provide a copy of the extension to Lender no later than 30 days after filing.
- 2) Annual Tax Return for Prometheus and Michael A. Richards. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Guarantor's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Guarantor will provide a copy of the extension to Lender no later than 30 days after filing.
- 3) Quarterly financial statements for Prometheus. Interim Financial Statements. As soon as available, but in no event later than 45 days after the end of each quarter, Balance Sheet and Income Statement for the period ended.
- 4) Personal Financial Statements for Michael A. Richards. Annually, but in no event later than thirteen (13) months from the date of any prior statements provided to Lender, Michael A. Richards' Balance Sheet and Income Statement for the year ended, prepared by Michael A. Richards.

All financial reports required to be provided under this Agreement shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Borrower as being true and correct.

**Additional Information.** Furnish such additional information and statements, as Lender may request from time to time.

**Additional Requirements.**

**Loan Covenants**

- 1) Debt Service Coverage Ratio – Post-Distribution. Maintain a minimum Debt Service Coverage Ratio of 1.25 to 1.00 as of the end of annual period. "Debt Service Coverage Ratio- Post-Distribution" means, Borrower's Earnings Before Interest, Depreciation and Amortization after distributions plus contributions, divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.
- 2) Global Debt Service Coverage Ratio – Post Distribution. Maintain a minimum Consolidated Debt Service Coverage Ratio of 1.35 to 1.00 as of the end of each calendar annual period. "Consolidated Debt Service Coverage Ratio – Post-Distribution" means the Earnings Before Interest, Depreciation and Amortization after distributions plus contributions for Michael A Richards, Phyto Genesis, Inc. and Prometheus, In., divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.

**Terms & Conditions**

- 1) Borrower and/or Collateral Pledger is to maintain (unpledged) deposits averaging \$45,000.00 or more with Great Western Bank.
- 2) Great Western Bank to be in 1st mortgage position and no additional liens without Great Western Bank approval.
- 3) All rental real estate to be included on Schedule E or on a separate tax return.

**Insurance.** Maintain fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages and with insurance companies acceptable to Lender. Borrower, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Borrower or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Borrower will provide Lender with such lender's loss payable or other endorsements as Lender may require.

**Insurance Reports.** Furnish to Lender, upon request of Lender, reports on each existing insurance policy showing such information as Lender may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the properties insured; (5) the then current property values on the basis of which insurance has been obtained, and the manner of determining those values; and (6) the expiration date of the policy. In addition, upon request of Lender (however not more often than annually), Borrower will have an independent appraiser satisfactory to Lender determine, as applicable, the actual cash value or replacement cost of any Collateral. The cost of such appraisal shall be paid by Borrower.

**Guaranties.** Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by the guarantors named below, on Lender's forms, and in the amounts and under the conditions set forth in those guaranties.

<u>Names of Guarantors</u>	<u>Amounts</u>
Michael A. Richards	Unlimited
Prometheus, Inc.	Unlimited

**Other Agreements.** Comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

**Loan Proceeds.** Use all Loan proceeds solely for Borrower's business operations, unless specifically consented to the contrary by Lender in writing.

**Taxes, Charges and Liens.** Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

**Performance.** Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in



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writing of any default in connection with any agreement.

**Operations.** Maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel; provide written notice to Lender of any change in executive and management personnel; conduct its business affairs in a reasonable and prudent manner.

**Environmental Studies.** Promptly conduct and complete, at Borrower's expense, all such investigations, studies, samplings and testings as may be requested by Lender or any governmental authority relative to any substance, or any waste or by-product of any substance defined as toxic or a hazardous substance under applicable federal, state, or local law, rule, regulation, order or directive, at or affecting any property or any facility owned, leased or used by Borrower.

**Compliance with Governmental Requirements.** Comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the conduct of Borrower's properties, businesses and operations, and to the use or occupancy of the Collateral, including without limitation, the Americans With Disabilities Act. Borrower may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Borrower has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Collateral are not jeopardized. Lender may require Borrower to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's Interest.

**Inspection.** Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

**Compliance Certificates.** Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

**Environmental Compliance and Reports.** Borrower shall comply in all respects with any and all Environmental Laws; not cause or permit to exist, as a result of an intentional or unintentional action or omission on Borrower's part or on the part of any third party, on property owned and/or occupied by Borrower, any environmental activity where damage may result to the environment, unless such environmental activity is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal, state or local governmental authorities; shall furnish to Lender promptly and in any event within thirty (30) days after receipt thereof a copy of any notice, summons, lien, citation, directive, letter or other communication from any governmental agency or instrumentality concerning any intentional or unintentional action or omission on Borrower's part in connection with any environmental activity whether or not there is damage to the environment and/or other natural resources.

**Additional Assurances.** Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

**NEGATIVE COVENANTS.** Borrower covenants and agrees with Lender that while this Agreement is in effect, Borrower shall not, without the prior written consent of Lender:

**Indebtedness and Liens.** (1) Except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement, create, incur or assume indebtedness for borrowed money, including capital leases, (2) sell, transfer, mortgage, assign, pledge, lease, grant a security interest in, or encumber any of Borrower's assets (except as allowed as Permitted Liens), or (3) sell with recourse any of Borrower's accounts, except to Lender.

**Continuity of Operations.** (1) Engage in any business activities substantially different than those in which Borrower is presently engaged, (2) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change its name, dissolve or transfer or sell Collateral out of the ordinary course of business, or (3) pay any dividends on Borrower's stock (other than dividends payable in its stock), provided, however that notwithstanding the foregoing, but only so long as no Event of Default has occurred and is continuing or would result from the payment of dividends, if Borrower is a "Subchapter S Corporation" (as defined in the Internal Revenue Code of 1986, as amended), Borrower may pay cash dividends on its stock to its shareholders from time to time in amounts necessary to enable the shareholders to pay income taxes and make estimated income tax payments to satisfy their liabilities under federal and state law which arise solely from their status as Shareholders of a Subchapter S Corporation because of their ownership of shares of Borrower's stock, or purchase or retire any of Borrower's outstanding shares or alter or amend Borrower's capital structure.

**Loans, Acquisitions and Guaranties.** (1) Loan, invest in or advance money or assets to any other person, enterprise or entity, (2) purchase, create or acquire any interest in any other enterprise or entity, or (3) incur any obligation as surety or guarantor other than in the ordinary course of business.

**Agreements.** Enter into any agreement containing any provisions which would be violated or breached by the performance of Borrower's obligations under this Agreement or in connection herewith.

**CESSATION OF ADVANCES.** If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan Advances or to disburse Loan proceeds if: (A) Borrower or any Guarantor is in default under the terms of this Agreement or any of the Related Documents or any other agreement that Borrower or any Guarantor has with Lender; (B) Borrower or any Guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any Guarantor, or in the value of any Collateral securing any Loan; or (D) any Guarantor seeks, claims or otherwise attempts to limit, modify or revoke such Guarantor's guaranty of the Loan or any other loan with Lender.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts.

**DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Payment Default.** Borrower fails to make any payment when due under the Loan.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help,



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repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the Loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired.

**Right to Cure.** If any default, other than a default on Indebtedness, is curable and if Borrower or Grantor, as the case may be, has not been given a notice of a similar default within the preceding twelve (12) months, it may be cured if Borrower or Grantor, as the case may be, after Lender sends written notice to Borrower or Grantor, as the case may be, demanding cure of such default: (1) cure the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**EFFECT OF AN EVENT OF DEFAULT.** If any Event of Default shall occur, except where otherwise provided in this Agreement or the Related Documents, all commitments and obligations of Lender under this Agreement or the Related Documents or any other agreement immediately will terminate (including any obligation to make further Loan Advances or disbursements), and, at Lender's option, all Indebtedness immediately will become due and payable, all without notice of any kind to Borrower, except that in the case of an Event of Default of the type described in the "Insolvency" subsection above, such acceleration shall be automatic and not optional. In addition, Lender shall have all the rights and remedies provided in the Related Documents or available at law, in equity, or otherwise. Except as may be prohibited by applicable law, all of Lender's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Borrower or of any Grantor shall not affect Lender's right to declare a default and to exercise its rights and remedies.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested either orally or in writing by Borrower or as provided in this paragraph. Lender may, but need not, require that all oral requests be confirmed in writing. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority; \_\_\_\_\_ Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Attorneys' Fees; Expenses.** Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Consent to Loan Participation.** Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Loan to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers, or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to the Loan, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Loan and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligation under the Loan irrespective of the failure or insolvency of any holder of any interest in the Loan. Borrower further agrees that the purchaser of any such participation interests may enforce its interests irrespective of any personal claims or defenses that Borrower may have against Lender.

**Governing Law.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, or between Lender and any Grantor, shall constitute a waiver of any of Lender's rights or of any of Borrower's or any Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address. Unless otherwise provided or required by law, if there is more than one Borrower, any notice given by Lender to any Borrower is deemed to be notice given to all Borrowers.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**Subsidiaries and Affiliates of Borrower.** To the extent the context of any provisions of this Agreement makes it appropriate, including without limitation any representation, warranty or covenant, the word "Borrower" as used in this Agreement shall include all of Borrower's subsidiaries and affiliates. Notwithstanding the foregoing however, under no circumstances shall this Agreement be construed to require Lender to make any Loan or other financial accommodation to any of Borrower's subsidiaries or affiliates.

**Successors and Assigns.** All covenants and agreements by or on behalf of Borrower contained in this Agreement or any Related Documents shall bind Borrower's successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Borrower shall not, however, have the right to assign Borrower's rights under this Agreement or any interest therein, without the prior written consent of Lender.

**Survival of Representations and Warranties.** Borrower understands and agrees that in extending Loan Advances, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the extension of Loan Advances and delivery to Lender of the



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Related Documents, shall be continuing in nature, shall be deemed made and redated by Borrower at the time each Loan Advance is made, and shall remain in full force and effect until such time as Borrower's indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

**Time is of the Essence.** Time is of the essence in the performance of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

**Advance.** The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

**Agreement.** The word "Agreement" means this Business Loan Agreement, as this Business Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Business Loan Agreement from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

**GAAP.** The word "GAAP" means generally accepted accounting principles.

**Grantor.** The word "Grantor" means each and all of the persons or entities granting a Security Interest in any Collateral for the Loan, including without limitation all Borrowers granting such a Security Interest.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Loan.** The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described herein or described on any exhibit or schedule attached to this Agreement from time to time.

**Note.** The word "Note" means the Note dated May 8, 2017 and executed by Phyto Genesis, Inc. in the principal amount of \$450,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

**Permitted Liens.** The words "Permitted Liens" mean (1) liens and security interests securing indebtedness owed by Borrower to Lender; (2) liens for taxes, assessments, or similar charges either not yet due or being contested in good faith; (3) liens of materialmen, mechanics, warehousemen, or carriers, or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by Borrower in the ordinary course of business to secure indebtedness outstanding on the date of this Agreement or permitted to be incurred under the paragraph of this Agreement titled "Indebtedness and Liens"; (5) liens and security interests which, as of the date of this Agreement, have been disclosed to and approved by the Lender in writing; and (6) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

**Security Agreement.** The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

**Security Interest.** The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

**BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS BUSINESS LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS BUSINESS LOAN AGREEMENT IS DATED MAY 8, 2017.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS BUSINESS LOAN AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO-GENESIS, INC.

By:

*[Signature]*  
Michael A. Richards, President of Phyto Genesis, Inc.

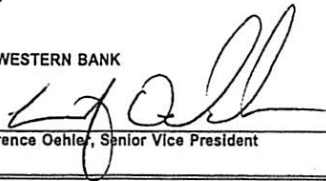
Loan No *Redacted*

**BUSINESS LOAN AGREEMENT  
(Continued)**

Page 6

LENDER:

GREAT WESTERN BANK

By:   
Lawrence Oehler, Senior Vice President



*Redacted*

**CHANGE IN TERMS AGREEMENT**

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	<i>Redacted</i>	<i>Redacted</i>	<i>Redacted</i>		

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

**Principal Amount: \$450,000.00**

**Date of Agreement: October 27, 2017**

**DESCRIPTION OF EXISTING INDEBTEDNESS.** Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 with a current principal balance of \$441,589.77.

**DESCRIPTION OF COLLATERAL.** Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA; Commercial Pledge Agreement dated 5/08/2017 pledged by Prometheus, Inc. .

**DESCRIPTION OF CHANGE IN TERMS.** Increase the loan and line of credit amount from \$450,000.00 to \$600,000.00. Continue with monthly interest payments with the next payment due on 11/08/2017. The credit line will be closed on 01/08/2018. Beginning 1/08/2018, Borrower will make 53 monthly principal and interest payments in the amount of \$3,817.05 and monthly thereafter until maturity, 05/08/2022.

Adding Modification of Mortgage dated 10/27/2017 .

**CONTINUING VALIDITY.** Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

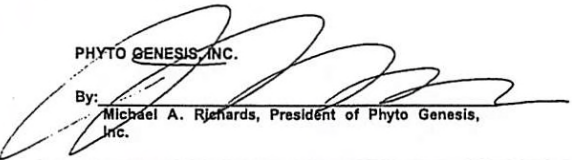
**GUARANTORS.** Unlimited and Unsecured Commercial Guaranty of Michael A. Richards dated 05/08/2017; Unlimited Commercial Guaranty of Prometheus, Inc. dated 05/08/2017 secured by Commercial Security Pledge pledged by Prometheus, Inc. dated 05/08/2017.

**PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto Genesis, Inc.

**EXHIBIT**  
6

Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	← Redacted	Redacted	Redacted	→	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 62401

Lender: GREAT WESTERN BANK  
North Liberty  
656 Community Drive  
PO Box 306  
North Liberty, IA 62317

Principal Amount: \$450,000.00

Date of Agreement: 5/1/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for April 2020, May 2020 & June 2020 and will resume under the same payment amount in July 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 4/8/2020 and monthly thereafter.

No distributions to owners will be allowed during deferment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.





Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	Redacted				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
656 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: 7/14/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for July 2020, August 2020 & September 2020 and will resume under the same payment amount in October 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 8/8/2020 and monthly thereafter.

Lender will collect interest due for July in the amount of \$2,088.08 at closing.

No distributions to owners will be allowed during deferment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.





Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$515,068.67	05-08-2017	12-08-2022	← Redacted				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd Street SE  
Cedar Rapids, IA 52401

**Lender:** First Interstate Bank  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

**Principal Amount: \$515,068.67** **Date of Agreement: October 6, 2022**

**DESCRIPTION OF EXISTING INDEBTEDNESS.** Promissory Note dated May 8, 2017 from Borrower to Lender in the original amount of \$450,000.00, as successor by merger of Great Western Bank, together with all change in terms and/or modifications thereto ("Note"), which has a principal balance owing of \$515,068.67 as of the date of this Agreement.

**DESCRIPTION OF EXISTING GUARANTY:** Commercial Guaranty dated May 8, 2017 executed by Prometheus, Inc. in favor of Lender, secured by a Commercial Pledge Agreement dated May 8, 2017.

**DESCRIPTION OF COLLATERAL.**

As described in the Mortgage dated May 8, 2017, recorded May 18, 2017, as Document Number 2431743 in the official records of the County of Linn, Iowa, together with all modifications thereto. And last modified by a Modification of Mortgage dated October 27, 2017, recorded October 27, 2017 as Document Number 2455562 in the Official Records of the County of Linn, Iowa

As described in the Commercial Pledge Agreement dated May 8, 2007, together with all modifications thereto.

**DESCRIPTION OF CHANGE IN TERMS.**

Upon receipt of the fees and charges described on the Disbursement Request and Authorization of even date, the Note and Related Documents are modified as follows:

**CHANGE IN MATURITY DATE.** From September 8, 2022 to December 8, 2022

**CHANGE IN PAYMENT SCHEDULE.** As described in the "Payment" section below.

**PAYMENT.** Borrower will pay this loan in 2 regular payments of \$3,817.05 each and one irregular last payment estimated at \$511,844.99. Borrower's first payment is due October 8, 2022, and all subsequent payments are due on the same day of each month after that. Borrower's final payment will be due on December 8, 2022, and will be for all principal and all accrued interest not yet paid.

**INTEREST CALCULATION METHOD.** Interest on this loan is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this loan is computed using this method.

**CONTINUING VALIDITY.** Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

**RECEIPT OF PAYMENTS.** All payments must be made by check, automatic account debit, electronic funds transfer, money order, or other instrument in U.S. dollars and must be received by us at the Lender's address. Payments received at that address prior to close of business on any business day will be credited to your loan as of the date received.

**PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

**PHYTO GENESIS, INC.**

By: Michael A Richards 10/6/2022  
Michael A Richards, President of Phyto Genesis, Inc.

**GUARANTOR(S):**

**PROMETHEUS, INC.**

By: Michael A Richards 10/6/2022  
Michael A Richards, President of Prometheus, Inc.

X Michael A Richards 10/6/2022  
Michael A Richards





Michael F. Kivett  
mfkivett@walentineotoole.com  
Direct Line (402) 505-8565

**WALENTINE O'TOOLE, LLP**

▲  
Attorneys at Law

December 12, 2022

**VIA CERTIFIED MAIL RETURN RECEIPT  
REQUESTED AND REGULAR U.S. MAIL**

Phyto Genesis, Inc., Borrower  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401-2303

Michael A. Richards, Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus, Inc., Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Re: First Interstate Bank – Loan No. *Redacted*

Dear Borrower and Guarantors:

Please be advised this law firm represents First Interstate Bank, successor by merger with Great Western Bank (“Bank”) with regard to the Promissory Note dated May 8, 2017 in the original principal amount of \$450,000.00 (“Note”), as amended by certain Change in Terms Agreements. The loan evidenced by the Note is governed by that certain Business Loan Agreement dated May 8, 2017 and secured, among other things, by that certain Mortgage dated May 8, 2017 and that certain Assignment of Rents dated May 8, 2017, encumbering real estate located at 1029 3<sup>rd</sup> St SE, Cedar Rapids, IA 52401 and that certain Commercial Pledge Agreement dated May 8, 2017 granted by Michael A. Richards. The payment and performance of the loan is also guaranteed by the guarantor, Michael A. Richards, pursuant to his Commercial Guaranty dated May 8, 2017 and by the Guarantor Prometheus, Inc., pursuant to its Guaranty dated May 8, 2017.

Walentine O'Toole, LLP  
www.walentineotoole.com

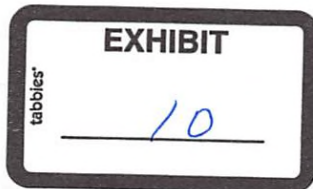
11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

1851 Madison Avenue, Suite 712  
Council Bluffs, IA 51502  
(712) 388-2244

5024 S. Bur Oak Place, #210  
Sioux Falls, SD 57108  
(605) 681-9030

Michael F. Kivett\*\*  
Craig A. Knickrehm\*\*  
Camille R. Hawk\*  
Raymond R. Aranza\*  
David P. Wilson  
Matthew J. Kivett\*\*\*\*  
Jonathan M. Brown\*\*\*

Andrew R. Biehl\*\*  
Jamie M. Hurst  
John M. Kivett\*  
Brad C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel



\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)



December 12, 2022

Page 2

This letter is to advise you that the Note matured on December 8, 2022, and the loan balance remains unpaid and in default.

A principal balance of \$514,614.00, together with accrued interest of \$2,831.22, and late charges and fees in the amount of \$10,458.38 remains due and payable as of December 8, 2012. Interest continues to accrue on the unpaid principal balance at a per diem rate of \$64.33.

You have the right to cure this default and in order to do so, you must pay to the Bank, on or before January 26, 2023, the sum of \$527,903.60 which consists of the total installments of principal, interest, late charges and fees. This payment should be forwarded to First Interstate Bank, 120 South 68<sup>th</sup> Street, West Des Moines, IA 50266. The contact person for the Bank is Weber Bowen, phone number 515-257-7883.

In the event you fail to make the payment demanded herein on or before January 26, 2023, the Bank shall be entitled to proceed with any and all remedies available under the loan documents, including but not limited to the foreclosure or other liquidation of any real or personal property pledged as security for this loan and/or the enforcement of the personal liability of the Borrower and/or Guarantors, or any one or more of them, and the exercise of any and all other remedies as are available at law or in equity.

If you have any questions, do not hesitate to contact me.

Very truly yours,

  
Michael F. Kivett  
For the Firm

MFK/bdf

cc: William Bowen/First Interstate Bank (via email)

Camille R. Hawk  
chawk@walentineotoole.com

**WALENTINE O'TOOLE, LLP**

▲  
Attorneys at Law

February 7, 2023  
**VIA FIRST CLASS MAIL & CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

**14 DAY NOTICE OF ACCELERATION & DEMAND FOR PAYMENT**

Phyto Genesis Inc.  
Attn: Michael Richards, Reg. Agent  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401

Phyto Genesis Inc.  
Attn: Highest Officer  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus Inc.  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Michael Richards  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Ref: Commercial Loan # *Redacted*; First Interstate Bank; Our File # 38457.0006

To Whom It Concerns:

This firm represents First Interstate Bank, 10101 University Avenue, Ste 10, Clive, IA 50325, 855-342-3400, the Lender ("Lender") of the above-referenced Loan, and the Note, Mortgage, Changes in Terms, Assignment of Rent, Business Loan Agreement, Guaranties and other documents ("Loan Documents"). The Loan Documents are cross-collateralized and the security includes but is not limited to real property at 1029 3<sup>rd</sup> Street SE, Cedar Rapids, IA 52401, as well as other assets. You are hereby notified that the above Loan is in default and that this default consists of failure to make payments as identified in the Loan Documents. Specifically, the Loan matured on December 8, 2022, and remains unpaid.

More than 30 days ago, notices were sent that the Loan is in default due to the failure to pay off the Loan upon maturity. Because there has been a failure to cure the default, the Lender is further accelerating the balance due on the Loan secured by the Mortgage.

If you did not sign the Note or a Guaranty of the Note, but only signed the Mortgage, or are an owner of the Property who did not sign a Note and/or Guaranty, please be advised we are not seeking personal liability from you on the amounts owed, but we are providing this letter pursuant

Walentine O'Toole, LLP  
www.walentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

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Council Bluffs, IA 51502  
(712) 388-2244

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John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)



Page 2 of 2

to Iowa law and the terms of the Loan Documents. We are further sending this Notice pursuant to Iowa Code 654.4B.

As of the date of this letter, the accelerated balance due on the Note is:

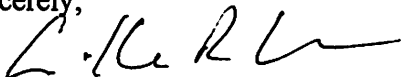
Principal	\$514,614.00
Interest	\$6,755.16
Late Charges	\$15,272.91
Fees Balance	\$158.47
Reconveyance	\$27.00
Release of Assignment of Rents	\$27.00
NET BALANCE DUE	\$536,854.54
Attorney Costs and Expenses	<u>\$1,421.40</u>
TOTAL BALANCE DUE:	\$538,275.94

Additional amounts may become due after the date of this letter. Interest and other charges continue to accrue from and after the date of this letter, as provided in your Loan Documents.

There must be payment of the total balance then due plus all other accrued interest and charges within 14 days from the date of this letter. If there is a failure to pay in full within 14 days, the Lender may take action to enforce the Loan Documents, including, but not limited to foreclosure of the mortgaged property and/or bringing suit to collect from you, as applicable, all amounts due, or to pursue other legal remedies against the assets, and include attorneys' fees and other costs as allowed by law.

Please contact First Interstate Bank immediately at , 855-342-3400 to make arrangements for payment in certified funds, payable to First Interstate Bank. If a partial payment is processed, the Lender is not waiving its right to continue to declare default and/or pursue any and all legal remedies as discussed herein.

Sincerely,



CAMILLE R. HAWK

cc: Weber Bowen, First Interstate Bank, via email

**NOTICE: If the obligation for this Loan has been discharged in a Chapter 7, 11, 11 Subchapter V, 12 or 13 bankruptcy case, please be advised that, unless the debt has been reaffirmed, we will not make a personal claim against the discharged party for the amounts due and owing on the Loan. We will, however, seek any recovery solely from the property which was pledged as security for the debt.**



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, INC. )  
 d/b/a THE BOHEMIAN; NEWBOHEMIAN, INC. )  
 d/b/a THE BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, LLC; and )  
 PARTIES IN POSSESSION, if any, real names )  
 unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**AFFIDAVIT OF NON-DISABILITY,  
NON-PRISONER & NON-MILITARY  
SERVICES - PETITION**

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

I, Camille R. Hawk, being first duly sworn, state that I am an attorney of record for the Plaintiff in the above-entitled action; that I have fully read the Petition in the above-entitled action; and that I am familiar with the facts concerning this transaction and occurrence and that the statements and allegations herein contained are correct as I verily believe.

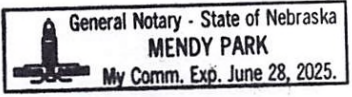
As to Defendants, Parties in Possession, if any, real names unknown, it is unknown or inconclusive at this time whether or not said Defendants are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211, as there is no social security number or date of birth available to me to investigate the same, but it is believed that said Defendants are of legal age, and they are not under any legal disability, are not prisoners in a reformatory or penitentiary, are not in the military services of the United States of America or its allies, and are not entitled to any other privileges under the provisions of the Soldiers and Sailors Civil Relief Act of 1940, as amended by the Service Members Civil Relief Act.

Date: 03/31/2023

  
 \_\_\_\_\_  
 Camille R. Hawk, Attorney at Law (AT0009922)  
 VALENTINE O'TOOLE, LLP  
 11240 Davenport St  
 Omaha, NE 68154  
 402-330-6300  
 chawk@valentineotoole.com  
 ATTORNEYS FOR PLAINTIFF

31 SUBSCRIBED AND SWORN to before me, a Notary Public, by Camille R. Hawk, Attorney at Law, this day of March, 2023.

  
 \_\_\_\_\_  
 Notary Public, State of Nebraska



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC COMPANY; )  
 LBC5, INC. d/b/a BOUSLOG INSURANCE; )  
 620 DEVELOPMENT, LLC; and PARTIES IN )  
 POSSESSION, if any, real names unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**ATTORNEYS' FEES AND COSTS  
AFFIDAVIT**

STATE OF NEBRASKA )  
 ) ss:  
 COUNTY OF DOUGLAS )

I, Camille R. Hawk, being first duly sworn on oath, hereby depose and state that I am a member of the firm of Valentine O'Toole, LLP, the attorneys for the Plaintiff in the above-entitled cause; that a copy of the Note and Mortgage sued upon herein are in my possession as attorneys for the Plaintiff, and a diligent search is being made for the originals of the same; that I have read the foregoing Petition and am familiar with the contents thereof, and the allegations contained therein are true as I verily believe.

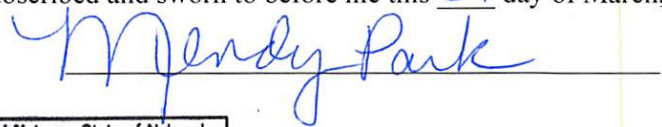
I further depose and state that I am a regularly practicing attorney in the Courts of the State of Iowa; that the attorneys' fees and costs prayed for herein are for services rendered and to be rendered by me and my firm as attorneys for the Plaintiff in this action; that there has been no agreement, express or implied between me and any other person or persons except other practicing attorneys engaged with me in this action, for a division or sharing of the attorneys' fees prayed for herein.

Date: 03/31/2023

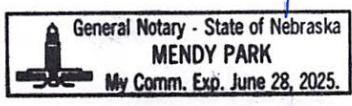


\_\_\_\_\_  
 Camille R. Hawk, Attorney at Law (AT0009922)  
 VALENTINE O'TOOLE, LLP  
 11240 Davenport St  
 Omaha, NE 68154  
 402-330-6300  
 chawk@valentineotoole.com  
 ATTORNEYS FOR PLAINTIFF

Subscribed and sworn to before me this 31 day of March, 2023.



Notary Public, State of Nebraska





IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. \_\_\_\_\_

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**ORIGINAL NOTICE**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

PHYTO GENESIS, INC.  
c/o Michael A. Richards, Registered Agent  
1029 3<sup>rd</sup> St SE  
Cedar Rapids, Iowa 52401

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineoole.com](mailto:chawk@walentineoole.com).

You must, within twenty (20) days after service of this Original Notice upon you, serve, and within a reasonable time thereafter, file a motion or answer, in the Iowa District Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules, Chapter 16, division VI regarding the protection of personal information in court filings.

**If you require the assistance of auxiliary aids or services to participate in Court because of a disability, immediately call your district disability coordinator at 319-398-3920 (1105). (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.) Disability coordinators cannot provide legal advice.**

Clerk of the above Court  
Linn County Courthouse  
Cedar Rapids, Iowa

**IMPORTANT**

**YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.**

**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

You must file your Appearance and Answer on the Iowa Judicial Branch eFile System, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless the court has excused you from filing electronically (see Iowa Court Rule 16.302).

Register for the eFile System at [www.iowacourts.state.ia.us/Efile](http://www.iowacourts.state.ia.us/Efile) to file and view documents in your case and to receive notices from the court.

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Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(319) 398-3920** . Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see [www.iowacourts.gov/for-the-public/ada/](http://www.iowacourts.gov/for-the-public/ada/). **Disability access coordinators cannot provide legal advice.**

Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**ORIGINAL NOTICE**

TO THE ABOVE-NAMED DEFENDANT:

PHYTO GENESIS, INC.  
 c/o Michael A. Richards, Registered Agent  
 1106 8<sup>th</sup> St SE  
 Cedar Rapids, Iowa 52401

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineoole.com](mailto:chawk@walentineoole.com).

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Clerk of the above Court  
 Linn County Courthouse  
 Cedar Rapids, Iowa

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**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

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Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. \_\_\_\_\_

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**ORIGINAL NOTICE**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

PROMETHEUS, INC. d/b/a THE  
BOHEMIAN  
c/o Michael A. Richards, Registered Agent  
1106 8<sup>th</sup> St SE  
Cedar Rapids, Iowa 52401

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

You must, within twenty (20) days after service of this Original Notice upon you, serve, and within a reasonable time thereafter, file a motion or answer, in the Iowa District Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules, Chapter 16, division VI regarding the protection of personal information in court filings.

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Clerk of the above Court  
Linn County Courthouse  
Cedar Rapids, Iowa

**IMPORTANT**  
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**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

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Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**ORIGINAL NOTICE**

TO THE ABOVE-NAMED DEFENDANT:

NEWBOHEMIAN, INC. d/b/a THE  
 BOHEMIAN  
 c/o Michael A. Richards, Registered Agent  
 1106 8<sup>th</sup> St SE  
 Cedar Rapids, Iowa 52401

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

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Clerk of the above Court  
 Linn County Courthouse  
 Cedar Rapids, Iowa

**IMPORTANT**  
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**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

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Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. \_\_\_\_\_

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**ORIGINAL NOTICE**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

ESCO ELECTRIC COMPANY  
c/o Raymond L. Brown, Registered Agent  
3450 3<sup>rd</sup> St  
Marion, Iowa 52302

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

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Clerk of the above Court  
Linn County Courthouse  
Cedar Rapids, Iowa

**IMPORTANT**

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**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

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Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
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 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**ORIGINAL NOTICE**

TO THE ABOVE-NAMED DEFENDANT:

LBC5, INC. d/b/a BOUSLOG INSURANCE  
 c/o Katie Luehrmann, Registered Agent  
 1532 Hunters Green Way  
 Marion, Iowa 52302

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

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Clerk of the above Court  
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District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. \_\_\_\_\_

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**ORIGINAL NOTICE**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

620 DEVELOPMENT, LLC  
c/o Chad L. Freedman, Registered Agent  
3193 Jay  
Denver, CO 80214

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineoole.com](mailto:chawk@walentineoole.com).

You must, within twenty (20) days after service of this Original Notice upon you, serve, and within a reasonable time thereafter, file a motion or answer, in the Iowa District Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules, Chapter 16, division VI regarding the protection of personal information in court filings.

**If you require the assistance of auxiliary aids or services to participate in Court because of a disability, immediately call your district disability coordinator at 319-398-3920 (1105). (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.) Disability coordinators cannot provide legal advice.**

Clerk of the above Court  
Linn County Courthouse  
Cedar Rapids, Iowa

**IMPORTANT**

**YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.**

**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

You must file your Appearance and Answer on the Iowa Judicial Branch eFile System, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless the court has excused you from filing electronically (see Iowa Court Rule 16.302).

Register for the eFile System at [www.iowacourts.state.ia.us/Efile](http://www.iowacourts.state.ia.us/Efile) to file and view documents in your case and to receive notices from the court.

For general rules and information on electronic filing, refer to the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at [www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf](http://www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf).

Court filings are public documents and may contain personal information that should always be kept confidential. For the rules on protecting personal information, refer to Division VI of chapter 16 of the Iowa Court Rules and to the Iowa Judicial Branch website at [www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/](http://www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/).

Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(319) 398-3920** . Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see [www.iowacourts.gov/for-the-public/ada/](http://www.iowacourts.gov/for-the-public/ada/). **Disability access coordinators cannot provide legal advice.**

Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. \_\_\_\_\_

**ORIGINAL NOTICE**

TO THE ABOVE-NAMED DEFENDANT:

PARTIES IN POSSESSION, if any, real names  
 unknown  
 1029 3<sup>rd</sup> St SE  
 Cedar Rapids, Iowa 52401

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

You must, within twenty (20) days after service of this Original Notice upon you, serve, and within a reasonable time thereafter, file a motion or answer, in the Iowa District Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules, Chapter 16, division VI regarding the protection of personal information in court filings.

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Clerk of the above Court  
 Linn County Courthouse  
 Cedar Rapids, Iowa

**IMPORTANT**  
**YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.**

**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

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Register for the eFile System at [www.iowacourts.state.ia.us/Efile](http://www.iowacourts.state.ia.us/Efile) to file and view documents in your case and to receive notices from the court.

For general rules and information on electronic filing, refer to the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at [www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf](http://www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf).

Court filings are public documents and may contain personal information that should always be kept confidential. For the rules on protecting personal information, refer to Division VI of chapter 16 of the Iowa Court Rules and to the Iowa Judicial Branch website at [www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/](http://www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/).

Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(319) 398-3920** . Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see [www.iowacourts.gov/for-the-public/ada/](http://www.iowacourts.gov/for-the-public/ada/). **Disability access coordinators cannot provide legal advice.**

Date Issued **04/03/2023 09:15:07 AM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County



**RETURN OF SERVICE**

**Service Type: Corporation/Association**

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I served a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to Newbohemian, Inc. d/b/a The Bohemian by serving Michael A. Richards, Registered Agent, at 1106 8th St. SE Cedar Rapids, IA 52403 on 4/10/2023 @ 4:30 PM.

Fees:  
Service Fee (\$20.00) Total: \$20.00

Brian D. Gardner, Sheriff, Linn County, Iowa

By 

\_\_\_\_\_  
Deputy Sheriff Jim Dunn

Fees paid by Atty/Party:  
Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154

**RETURN OF SERVICE**

**Service Type: Corporation/Association**

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I served a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to LBC5, INC. d/b/a Bouslog Insurance by serving KATIE LUEHRSMANN, REG AGENT, at Bouslog Insurance, 360 7TH Ave. Marion, IA 52302 on 4/10/2023 @ 11:37 AM.

Fees:  
Mileage (\$10.48) Service Fee (\$30.00) Total: \$40.48

Brian D. Gardner, Sheriff, Linn County, Iowa

By



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Deputy Sheriff Jason Loftsgard

Fees paid by Atty/Party:  
Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154

**RETURN OF SERVICE**

**Service Type: Corporation/Association**

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I served a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to Esco Electric Company by serving RAYMOND BROWN, REG AGENT, at 3450 3rd St. Marion, IA 52302 on 4/10/2023 @ 11:53 AM.

Fees:

Mileage (\$11.79) Service Fee (\$30.00) Total: \$41.79

Brian D. Gardner, Sheriff, Linn County, Iowa

By



---

Deputy Sheriff Jason Loftsgard

Fees paid by Atty/Party:

Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154



**RETURN OF SERVICE**

**Service Type: Corporation/Association**

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I served a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to Phyto Genesis, Inc. by serving Michael A. Richards, Registered Agent, at 1106 8th St. SE Cedar Rapids, IA 52403 on 4/10/2023 @ 4:30 PM.

Fees:  
Mileage (\$3.25) Service Fee (\$30.00) Copy Fee (\$0.50)  
Total: \$33.75

Brian D. Gardner, Sheriff, Linn County, Iowa

By 

Deputy Sheriff Jim Dunn

Fees paid by Atty/Party:  
Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154

**RETURN OF SERVICE**

**Service Type: Corporation/Association**

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I served a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to Prometheus Inc. by serving Michael A. Richards, Registered Agent, at 1106 8th St. SE Cedar Rapids, IA 52403 on 4/10/2023 @ 4:30 PM.

Fees:

Service Fee (\$20.00) Total: \$20.00

Brian D. Gardner, Sheriff, Linn County, Iowa

By *Deputy Jim V. Dunn #128*

\_\_\_\_\_  
Deputy Sheriff Jim Dunn

Fees paid by Atty/Party:

Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154

Case Name First Interstate Bank vs Phyto Genesis, Inc., et al.

**RETURN OF SERVICE**

**Service Type:**

**Diligent Search (not served)**

Case No. EQCV101968

Date Rcvd: April 7, 2023

STATE OF IOWA

ss.

LINN COUNTY

I certify that I was unable to serve a copy of Original Notice, Foreclosure Petition Without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits to Parties in Possession at 1029 3rd St. SE Cedar Rapids, IA 52403 on 4/10/2023 @ 9:27 AM.

**NOTES:**

Address is currently closed, for sale

Fees:  
Mileage (\$3.25) Processing Fee (\$30.00) Total: \$33.25

Brian D. Gardner, Sheriff, Linn County, Iowa

By *Deputy Jim V. Dunn #128*

\_\_\_\_\_  
Deputy Sheriff Jim Dunn

Fees paid by Atty/Party:  
Camille R. Hawk  
11240 Davenport St.  
Omaha, NE 68154



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

<p>FIRST INTERSTATE BANK,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PHYTO GENESIS, INC.; PROMETHEUS, INC. d/b/a THE BOHEMIAN; NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN; ESCO ELECTRIC COMPANY; LBC5, INC. d/b/a BOUSLOG INSURANCE; 620 DEVELOPMENT, LLC; and PARTIES IN POSSESSION, if any, real names unknown,</p> <p>Defendants.</p>	<p>Case No. EQCV101968</p> <p><b>APPEARANCE OF J. MICHAEL WESTON</b></p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------

J. Michael Weston of the law firm of Lederer Weston Craig PLC hereby enters his Appearance on behalf of Defendant, LBC5, Inc. d/b/a Bouslog Insurance, in this matter.

**LEDERER WESTON CRAIG PLC**

By /s/ J. Michael Weston

J. Michael Weston AT0008405  
118 Third Ave SE, Suite 700  
Cedar Rapids, IA 52406-1927  
Telephone: (319) 365-1184  
Fax: (319) 365-1186  
E-mail: [mweston@lwclawyers.com](mailto:mweston@lwclawyers.com)

**ATTORNEYS FOR DEFENDANT  
LBC5, INC. d/b/a Bouslog Insurance**



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

<p>FIRST INTERSTATE BANK,</p> <p>Plaintiff,</p> <p>vs.</p> <p>PHYTO GENESIS, INC.; PROMETHEUS, INC. d/b/a THE BOHEMIAN; NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN; ESCO ELECTRIC COMPANY; LBC5, INC. d/b/a BOUSLOG INSURANCE; 620 DEVELOPMENT, LLC; and PARTIES IN POSSESSION, if any, real names unknown,</p> <p>Defendants.</p>	<p>Case No. EQCV101968</p> <p><b>DEFENDANT LBC5, INC. d/b/a BOUSLOG INSURANCE'S ANSWER TO PLAINTIFF'S FORECLOSURE PETITION WITHOUT REDEMPTION AND WAIVING DEFICIENCY AND RESERVATION TO REQUEST A RECEIVER</b></p>
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For its Answer, Defendant LBC5, Inc. d/b/a Bouslog Insurance (“Bouslog”) states:

1. The Plaintiff elects to foreclose without redemption pursuant to Iowa Code Section 654.20. The mortgaged property, which is the subject of this action, is not used for an agricultural purpose. The mortgaged property is a commercial building.

ANSWER: Bouslog admits the property in question is a commercial building but denies the remaining allegations of paragraph 1 for lack of information.

2. The Plaintiff is successor by merger to Great Western Bank, and is authorized to conduct business in Linn County, Iowa.

ANSWER: Bouslog denies the allegations in paragraph 2 for lack of information.

3. No Defendant herein is known or suspected to be incarcerated, a minor, an incompetent person, confined to a mental health facility or reformatory, or in the military services of the United States or its allies. The Affidavit of Non-Disability, Non-Prisoner and



Non-Military Services is filed separately with this Court and by this reference is incorporated herein.

ANSWER: Bouslog admits the allegations in paragraph 3 for itself but denies the remaining allegations for lack of information.

4. The Defendant, Phyto Genesis, Inc. is licensed in the State of Iowa, and operated or operates its business in Linn County, Iowa. It is also the owner of the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 4 for lack of information.

5. Prometheus, Inc. d/b/a The Bohemian, is licensed in the State of Iowa, and operated or operates its business in Linn County, Iowa. It may claim some right, title or interest in the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 5 for lack of information.

6. Newbohemian, Inc. d/b/a The Bohemian, is licensed in the State of Iowa, and operated or operates its business in Linn County, Iowa. It may claim some right, title or interest in the subject Property. Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 6 for lack of information.

7. Esco Electric Company is licensed in the State of Iowa, and operated or operates its business in Linn County, Iowa. It may claim some right, title or interest in the subject Property and against certain defendants by virtue of a judgment entered on September 16, 2021, in the Linn County District Court, Case No. SCSC253358, entitled *Esco Electric Company v.*

*Michael A. Richards and Newbohemian, Inc. d/b/a The Bohemian.* Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 7 for lack of information.

8. LBC5, Inc. d/b/a Bouslog Insurance is licensed in the State of Iowa, and operated or operates its business in Linn County, Iowa. It may claim some right, title or interest in the subject Property and against certain Defendants by virtue of a judgment entered on February 23, 2022, in the Linn County District Court, Case No. LACV098971, entitled *LBC5, Inc. d/b/a Bouslog Insurance v. Phyto Genesis, Inc., Newbohemian, Inc. d/b/a The Bohemian, Michael L. Richards and Michael A. Richards.* Said Defendant's rights to the Property, which is the subject of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog admits the first two sentences but denies the third sentence of paragraph 8.

9. 620 Development, LLC is made a Defendant to this cause of action because it may claim some right, title or interest in said Property, which is one of the subjects of this action, due to a UCC Financing Statement filed on July 5, 2022, at the Linn County Recorder's Office in Book 11400 at Page 694-698, as Document No. 025610310005. The Defendant's rights, if any, to the said Property, which is one of the subjects of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 9 for lack of information.

10. The Defendants, Parties in Possession, if any, real names unknown, are made Defendants to this cause of action because they may claim some right, title or interest in said Property, which is one of the subjects of this action, due to the fact that the Plaintiff believes that there may be occupants or tenants in possession of said Property. The Defendants' rights, if any,

to the said Property, which is one of the subjects of this action, are junior and inferior to those of the Plaintiff.

ANSWER: Bouslog denies the allegations in paragraph 10 for lack of information.

11. On or about April 14, 2015, Defendant, Phyto Genesis, Inc., took fee simple title by virtue of a Corporate Warranty Deed (“Deed”) which was filed at the Linn County Recorder’s Office on October 14, 2015, in Book 9380 at Page 630, as Document No. 021997200001 to the Property legally described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa

(the “Property”) which Property is commonly known as 1029 3<sup>rd</sup> St SE, Cedar Rapids, Iowa 52401. A true and correct copy of the Deed together with the Recorder’s Certificate is attached hereto as Exhibit “1” and by this references is incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 11 for lack of information.

12. On or about May 8, 2017, Defendant, Phyto Genesis, Inc., executed and delivered to the then Lender, Great Western Bank, one certain Promissory Note in the principal sum of Four Hundred Fifth Thousand and 0/110 Dollars (\$450,000.00) at the interest rate of 4.50% per annum (the “Note”). A true and correct copy of the redacted Note is attached hereto as Exhibit “2” and by this reference is incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 12 for lack of information.

13. The payment of the Note is secured by a Mortgage executed by the Defendant, Phyto Genesis, Inc., executed to the then Lender, Great Western Bank. Said Mortgage was dated May 8, 2017, and was filed May 18, 2017, in Book 9834 at Page 231, Document No. 2431743 of the Linn County recorder’s Office, upon the Property (the “Mortgage”). A true and correct copy



of the redacted Mortgage together with the Recorder's Certificate thereon is attached hereto as Exhibit "3" and by this reference is incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 13 for lack of information.

14. Additionally, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed an Assignment of Rents which was filed May 18, 2017, in Book 9834 at Page 242, Document No. 2431744 of the Linn County Recorder's Office, upon the Property (the "AOR"). A true and correct copy of the redacted AOR together with the Recorder's Certificate thereon is attached hereto as Exhibit "4" and by this references is incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 14 for lack of information.

15. Further, in support of the Note, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed Business Loan Agreement (the "BLA"). A true and correct copy of the redacted BLA is attached hereto as Exhibit "5" and by this references is incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 15 for lack of information.

16. The Mortgage and Note were modified by four separate Change in Terms Agreements identified as follows:

- a. Dated October 27, 2017, executed by Defendant, Phyto Genesis, Inc., which changed the payment terms and increased the principal balance to \$600,000.00;
- b. Dated May 1, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments;
- c. Dated July 14, 2020, executed by Defendant Phyto Genesis, Inc., which deferred certain payments;
- d. Dated October 6, 2022, executed by Defendant, Phyto Genesis, Inc., which changed the maturity date to December 8, 2022, and changed certain payment terms.

(together, the “CITAs”). True and correct copies of the redacted CITAs are attached hereto as Exhibits “6”, “7”, “8” and “9”, and by this reference are incorporated herein.

ANSWER: Bouslog denies the allegations in paragraph 16 including subparts a-d for lack of information.

17. Together the Note, Mortgage, AOR, BLA and CITAs shall be referred to as the “Loan Documents.”

ANSWER: Bouslog denies the allegations in paragraph 17 for lack of information.

18. The Defendant, Phyto Genesis, Inc., granted the original Lender the right to have a Receiver appointed by the Court pursuant to the terms of the Loan Documents. The Plaintiff makes a specific request that a Receiver be appointed immediately upon Motion and hearing on the same.

ANSWER: Bouslog denies the allegations in paragraph 18 for lack of information.

19. The Loan Documents provide that in case of default the holder may declare the entire principal and the interest accrued thereon due and payable and the Mortgage may be foreclosed.

ANSWER: Bouslog denies the allegations in paragraph 19 for lack of information.

20. The Plaintiff seeks an in-rem judgment against the Property, and it waives deficiency on the Note and Mortgage, as modified, and seeks no redemption referenced in this case.

ANSWER: Bouslog denies the allegations in paragraph 20 for lack of information.

21. The Defendant, Phyto Genesis, Inc., has failed to pay the Note, as modified, and interest and other charges due thereon.

ANSWER: Bouslog denies the allegations in paragraph 21 for lack of information.

22. By reason of the failure to pay the Note and interest and other charges thereon, the Plaintiff has elected to and does hereby elect in accordance with the terms and conditions of the Loan Documents declare the whole of the Note, as modified, due and payable forthwith and to exercise its right to enforce payment of the entire Note as provided by the Note and to foreclose the Mortgage given to secure the same.

ANSWER: Bouslog denies the allegations in paragraph 22 for lack of information.

23. The unpaid balance on the Note after allowing all credits due to the Defendant, Phyto Genesis, Inc., is the sum of Five Hundred Forty Thousand One Hundred Thirty-Five and 20/100 Dollars (\$540,135.20) which sum includes interest on the unpaid principal balance calculated at the current rate of \$64.33 per diem, through March 30, 2023. Interest continues to accrue on the unpaid principal balance at the rate of \$64.33 per diem.

ANSWER: Bouslog denies the allegations in paragraph 23 for lack of information.

24. In order to commence this foreclosure proceeding, the Plaintiff has incurred costs and attorneys' fees and costs, which includes the sum of Three Hundred Fifty and 0/100 Dollars (\$350.00) expended for a title report for this Property. Plaintiff is entitled to a judgment for costs and accruing costs, and also reasonable attorneys' fees and costs.

ANSWER: Bouslog denies the allegations in paragraph 24 for lack of information.

25. The Plaintiff is the holder of the Loan Documents, due demand has been made for payment and payment has been refused.

ANSWER: Bouslog denies the allegations in paragraph 25 for lack of information.

26. Because the Property is commercial property (not homestead) which secured a commercial Loan, the Plaintiff gave a 45 Day Notice of Demand on December 12, 2022, and more than forty-five days have elapsed since the Notice was given. The color Mediation Notice

was not included as this property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A true and correct redacted copy of said Notice is attached hereto as Exhibit “10” and is incorporated herein by this reference.

ANSWER: Bouslog denies the allegations in paragraph 26 for lack of information.

27. The Plaintiff gave a 14 Day Notice of Acceleration and Demand for Payment on February 7, 2023, in accordance with Iowa Code Section 654.4B and more than fourteen days have elapsed since the Notice was given. The color Mediation Notice was not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A copy of said redacted Notice is attached hereto as Exhibit “11” and is incorporated herein by this reference.

ANSWER: Bouslog denies the allegations in paragraph 27 for lack of information.

28. Under the terms of said Loan Documents, the Defendant, Phyto Genesis, Inc., agreed to pay attorneys’ fees and all costs in connection with the proceeding to enforce or foreclose the Mortgage, as modified. Incorporated herein by this reference and filed separately with this Court is an Affidavit of Attorneys’ Fees and Costs as required by Iowa Code Section 625.22.

ANSWER: Bouslog denies the allegations in paragraph 28 for lack of information.

WHEREFORE, Bouslog prays that its interest in the Property be recognized, that it be paid its indebtedness in the order of priority determined by the Court and that it be given notice of all future actions to liquidate the Property including, but not limited to, timely notice of any planned sheriff’s sale so Bouslog can participate.



**LEDERER WESTON CRAIG PLC**

By /s/ J. Michael Weston

J. Michael Weston AT0008405

118 Third Ave SE, Suite 700

Cedar Rapids, IA 52406-1927

Telephone: (319) 365-1184

Fax: (319) 365-1186

E-mail: [mweston@lwclawyers.com](mailto:mweston@lwclawyers.com)

**ATTORNEYS FOR DEFENDANT  
LBC5, INC. d/b/a Bouslog Insurance**

**CERTIFICATE OF SERVICE**

I certify that on April 25, 2023, I electronically filed the foregoing with the Clerk of Court using the ECF system, which will send notification of such filing to the following:

**ATTORNEY FOR PLAINTIFF:**

Camille R. Hawk

Email: [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com)

I am not aware of any non-ECF system participants in this proceeding that require service by mail.

/s/ J. Michael Weston

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. EQCV101968

**AMENDED ORIGINAL NOTICE  
(new address)**

TO THE ABOVE-NAMED DEFENDANT:

620 DEVELOPMENT, LLC  
 c/o Melissa Richards, Registered Agent  
 600 Briggs St  
 Erie, CO 80516

You are notified there was filed in the office of the Clerk of the above-named Court, a Petition, naming you as a Defendant, copies of which are attached hereto. The Plaintiff's attorney is Camille R. Hawk whose address is 11240 Davenport St, Omaha, NE 68154, Telephone: (402) 330-6300, Fax: (402) 330-6303, [chawk@walentineotoole.com](mailto:chawk@walentineotoole.com).

You must, within twenty (20) days after service of this Original Notice upon you, serve, and within a reasonable time thereafter, file a motion or answer, in the Iowa District Court for Linn County, at the county courthouse in Cedar Rapids, Iowa. If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. Please see Iowa Court Rules Chapter 16 for information on electronic filing and Iowa Court Rules, Chapter 16, division VI regarding the protection of personal information in court filings.

**If you require the assistance of auxiliary aids or services to participate in Court because of a disability, immediately call your district disability coordinator at 319-398-3920 (1105). (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.) Disability coordinators cannot provide legal advice.**

Clerk of the above Court  
 Linn County Courthouse  
 Cedar Rapids, Iowa

**IMPORTANT**  
**YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.**

**Iowa Judicial Branch**

Case No. **EQCV101968**  
County **Linn**

Case Title **FIRST INTERSTATE BANK V. PHYTO GENESIS, INC.**

You must file your Appearance and Answer on the Iowa Judicial Branch eFile System, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless the court has excused you from filing electronically (see Iowa Court Rule 16.302).

Register for the eFile System at [www.iowacourts.state.ia.us/Efile](http://www.iowacourts.state.ia.us/Efile) to file and view documents in your case and to receive notices from the court.

For general rules and information on electronic filing, refer to the Iowa Rules of Electronic Procedure in chapter 16 of the Iowa Court Rules at [www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf](http://www.legis.iowa.gov/docs/ACO/CourtRulesChapter/16.pdf).

Court filings are public documents and may contain personal information that should always be kept confidential. For the rules on protecting personal information, refer to Division VI of chapter 16 of the Iowa Court Rules and to the Iowa Judicial Branch website at [www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/](http://www.iowacourts.gov/for-the-public/representing-yourself/protect-personal-information/).

Scheduled Hearing:

If you need assistance to participate in court due to a disability, call the disability access coordinator at **(319) 398-3920** . Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). For more information, see [www.iowacourts.gov/for-the-public/ada/](http://www.iowacourts.gov/for-the-public/ada/). **Disability access coordinators cannot provide legal advice.**

Date Issued **05/03/2023 04:23:35 PM**



District Clerk of Court or/by Clerk's Designee of Linn  
/s/ **Katie Hopfensperger**

County

PJB

STATE OF COLORADO  
COUNTY OF JEFFERSON

AFFIDAVIT OF SERVICE  
BUSINESS OR AGENT

CASE NUMBER: 23001565  
DOCKET NUMBER: EQCV101968

I hereby certify that I am over the age of 18 years of age and not a party to this action and that I served the attached Original Notice, Foreclosure Petition without Redemption and Waiving Deficiency and Reservation to Request a Receiver, Exhibits 1-11 on the Defendant, 620 Development LLC, by delivering a true copy thereof to Ryan Gordon, who is this Defendant's Attorney for Chad Freedman and business entities associate with Chad Freedman at:

5335 W 48th Avenue  
Wheat Ridge, CO 80214

County of Jefferson, State of Colorado, on Tuesday, May 2, 2023 at 1:31 PM.

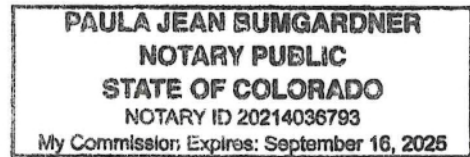
Regina Marinelli  
Sheriff

  
By: Logan Huling  
Civil Process Server/Deputy Sheriff

Subscribed and affirmed before me in the county of Jefferson, State of Colorado, this 3rd day of May, 2023.

Paula Jean Bumgardner  
(Notary's official signature)

Sept. 16, 2025  
(Commission Expiration)



Mileage \$8.50  
Service \$35.00  
Notary \$2.00  
  
Total \$45.50



E-FILED 2023 MAY 09 4:07 PM LINN - CLERK OF DISTRICT COURT  
**Jefferson County Sheriff's Office Civil Unit**  
100 Jefferson County Parkway  
Suite 1520  
Golden, CO 80419  
Phone: 303-271-6580

\*34038\*

---

## Payment Receipt

---

**Payment made by:** Valentine O'Toole LLP  
11240 Davenport Street  
Omaha NE 68154

<b>Payment Date:</b>	4/10/2023
<b>Payment Type:</b>	Check
<b>Check Number:</b>	252696
<b>Receipt Number:</b>	<b>34038</b>
<b>Payment Amount:</b>	<b>45.50</b>

<u>Sheriff #</u>	<u>Docket #</u>	<u>Title</u>	<u>Amount</u>
23001565	EQCV101968	First Interstate Bank vs. 620 Development LLC	45.50

<u>Fee</u>	<u>Paid By</u> <u>This Receipt</u>	<u>Balance</u>
Mileage	8.50	0.00
Notary	2.00	0.00
Service	35.00	0.00
Total	45.50	0.00

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IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRT INTERSTATE BANK

Plaintiff

)

)

)

Vs.

) EQCV101968

)

PHYTOGENESIS,PROMETHEUS INC  
ESCO ELECTRIC COMPANY,LBCS INC  
620 DEVELOPMENT LLC AND PARTIES IN  
POSESSION.

Defendant

)

)

APPEARANCE

JOHN M Heckel enters his appearance for Prometheus and Phyto Genesis INC.

Answer

COMES NOW, the Defendants Prometheus Inc and Phyto  
Genesis and answers the Petition that all allegations adverse to the Defendants are  
denied..

WHEREFORE, it is prayed to the Court that the Court enter appropriate orders in  
this case.

**DEMAND FOR DELAY OF SALE**

The defendants demand a delay of sale.

/s/ \_\_\_\_\_

John M. Heckel AT0003289

5250 North Park Place NE

Ste 114

Cedar Rapids, Iowa 52402

319-373-1989

[Heckellaw@JMHeckel.com](mailto:Heckellaw@JMHeckel.com)

319-373-1989

ATTORNEY FOR DEFENDANT

In the Iowa District Court for Linn County

FIRST INTERSTATE BANK

Plaintiff

vs.

PHYTO GENESIS, INC.; PROMETHIUS, INC.  
d/b/a THE BOHEMIAN; NEWBOHEMIAN, INC.  
d/b/a THE BOHEMIAN; ESCO ELECTRIC  
COMPANY; LBC5, INC. d/b/a BOUSLOG  
INSURANCE; 620 DEVELOPMENT, LLC; and  
PARTIES IN POSSESSION, if any, real names  
unknown

Defendants

CASE NO. EQCV101968

**Cross-Claim against Co-Defendants**

Defendant, 620 Development, LLC, respectfully states to the Court the following recitations in support of its cross claim against PHYTO GENESIS, INC.; PROMETHIUS, INC. d/b/a THE BOHEMIAN and NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN:

1. NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN executed a secured promissory note in the amount of \$18,000 in favor of 620 Development, LLC, on or about June 6, 2022
2. PHYTO GENESIS, INC. executed a secured promissory note in the amount of \$67,558 in favor of 620 Development, LLC on or about June 20, 2022.
3. The foregoing promissory notes are secured, in part, by Lot 6, Block 21, Carpenter's Third Addition to the Town of Cedar Rapids, Linn County, Iowa, 52401, also known as 1029 3rd St., SE, Cedar Rapids, IA, 52401 (the "Property").
4. The funds disbursed to PHYTO GENESIS, INC and NEWBOHEMIAN, INC. pursuant to such promissory notes were intended to allow PHYTO GENESIS, INC. and NEWBOHEMIAN, INC. to continue their business operations in the Property, and abate the loan payments to Plaintiff.

WHEREFORE, the Defendant, 620 Development, LLC, prays for a judgment against the co-defendants PHYTO GENESIS, INC.; PROMETHIUS, INC. d/b/a THE BOHEMIAN and NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN, for the sum of \$85,558, plus interest pursuant to the foregoing promissory notes.

The Defendant, 620 Development, LLC, further requests a temporary three-month delay on the Property foreclosure sale, to allow Defendants additional time to find a buyer for the subject property at market rate.

The Defendant, 620 Development, LLC, further prays for such other and further relief as the Court may

deem just and equitable under the circumstances.

620 DEVELOPMENT, LLC

By: /s/ Katy Dukes, Member

PO Box 794  
Erie, CO 80516  
(720) 313-3747  
mkrichards@comcast.net



STATE OF COLORADO )

Process Number:  
23CP2492

) SS

AFFIDAVIT OF SERVICE  
PERSONALLY AT PLACE OF BUSINESS

Docket Number:  
EQCV101968

COUNTY OF WELD )

I hereby certify that I am over the age of 18 years and not a party to this action, and that I served the attached

Notice,  
Exhibits,  
AMENDED ORIGINAL NOTICE

On the Registered Agent, MELISSA RICHARDS for 620 DEVELOPMENT LLC

by delivering to and leaving with said defendant/respondent, a true copy thereof on 6/5/23 @ 7:35:00 PM  
at a place of business, to wit: 620 BRIGGS ST, ERIE, COLORADO, 80516

Steve Reams  
Weld County Sheriff

By: Broderius, John 97-03

*JD Broderius*  
Civil Process Server/Deputy Sheriff

TIFFANIE C MOORE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20104007645  
MY COMMISSION EXPIRES APRIL 28, 2027

*Tiffany C Moore 6/5/2023  
Notary ID 20104007645  
My Commission Expires 4/28/2027*

WALENTINE O'TOOLE, LLP

▲  
Attorneys at Law

May 10, 2023

Weld County Sheriff  
Attn: Civil Division - Service  
1950 O Street  
Greeley, CO 80631

RE: Serving Foreclosure Petition; 38457.0006; *First Interstate Bank v. Phyto Genesis, Inc., et al, Case Id EQCV101968; Linn County, Iowa*

Dear Sheriff:

Please find enclosed the Original Notice for:

620 DEVELOPMENT, LLC, c/o Melissa Richards, Registered Agent, 600 Briggs St,  
Erie, CO 80516

along with one copy of the Petition for each Defendant.

Please serve these documents upon the Defendant. Enclosed is a check made payable to the Sheriff for \$60.00. Instructions for the Sheriff regarding service are enclosed. We appreciate your assistance. Please give me a call if you have any questions or concerns.

**IMPORTANT: Please note – Iowa law requires that the documents served be referenced in the service return. Please make the return identifying the documents served to my office or if you file with the Court, please identify the documents served with each return filed. Because this is being served in a state other than Iowa, the return of service must be notarized.**

Very truly yours,



Camille R. Hawk  
Enclosures

Valentine O'Toole, LLP  
www.valentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

1851 Madison Avenue, Suite 712  
Council Bluffs, IA 51502  
(712) 388-2244

5024 S. Bur Oak Place, #210  
Sioux Falls, SD 57108  
(605) 681-9030

Michael F. Kivett\*\*  
Craig A. Knickrehm\*\*  
Camille R. Hawk\*  
Raymond R. Aranza\*  
David P. Wilson  
Matthew J. Kivett\*\*\*\*  
Jonathan M. Brown\*\*\*

Andrew R. Biehl\*\*  
John M. Kivett\*  
Jamie M. Hurst  
Brad C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\*(also admitted in Iowa)  
\*\*(also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\*(also admitted in South Dakota)



Law Administration Building  
1950 O Street  
Greeley, CO 80631  
Phone 970-356-4015

**Receipt**

Your Reference Number:

**2023135002-35**

05/15/2023 2:37:52 PM

**TRANSACTIONS**

**Notice**

**2023135002-35-1**

Received from:  
Address:  
City:  
State:  
Zip Code:  
Phone Number:  
Remarks:

WALENTINE O'TOOLE, LLP  
11240 DAVENPORT STREET  
OMAHA  
NE  
68154  
4023306300

EQCV101968, MELISSA RICHARDS, CK#252814

Description	Qty@	Amount
Processing Fee	1@	\$35.00
Notary Fees	1@	\$0.00
Additional Serving Fee	1@	\$0.00
Mileage Fees	1@	\$25.00

**Total Amount: \$60.00**

\$60.00

**PAYMENT**

**Check**

\$60.00



CE2023135002-35

Thanks and have a great day!

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. EQCV101968

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**NOTICE OF INTENT TO FILE  
APPLICATION FOR DEFAULT**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

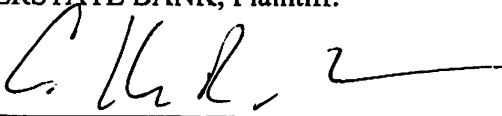
ESCO ELECTRIC COMPANY  
c/o Raymond Brown, Reg. Agent  
3450 3<sup>rd</sup> Street  
Marion, Iowa 52302

DATE OF NOTICE: November 13, 2023

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD SEEK LEGAL ADVICE AT ONCE.

FIRST INTERSTATE BANK, Plaintiff.

By: 

Camille R. Hawk, Attorney at Law (AT0009922)  
WALENTINE O'TOOLE, LLP  
11240 Davenport St  
Omaha, NE 68154  
402-330-6300  
chawk@walentineotoole.com  
ATTORNEYS FOR PLAINTIFF



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )

CASE NO. EQCV101968

Plaintiff, )

vs. )

PHYTO GENESIS, INC.; PROMETHEUS, )

**NOTICE OF INTENT TO FILE  
APPLICATION FOR DEFAULT**

INC. d/b/a THE BOHEMIAN; )

NEWBOHEMIAN, INC. d/b/a THE )

BOHEMIAN; ESCO ELECTRIC )

COMPANY; LBC5, INC. d/b/a BOUSLOG )

INSURANCE; 620 DEVELOPMENT, )

LLC; and PARTIES IN POSSESSION, if )

any, real names unknown, )

Defendants. )

TO THE ABOVE-NAMED DEFENDANT:

NEWBOHEMIAN, INC. d/b/a THE  
BOHEMIAN

c/o Michael A. Richards, Reg. Agent

1106 8<sup>th</sup> St SE

Cedar Rapids, Iowa 52401

DATE OF NOTICE: June 30, 2023

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD SEEK LEGAL ADVICE AT ONCE.

FIRST INTERSTATE BANK, Plaintiff.

By: 

Camille R. Hawk, Attorney at Law (AT0009922)

VALENTINE O'TOOLE, LLP

11240 Davenport St

Omaha, NE 68154

402-330-6300

chawk@valentineotoole.com

ATTORNEYS FOR PLAINTIFF

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	
	)	
Plaintiff,	)	CASE NO. EQCV101968
vs.	)	
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	
INC. d/b/a THE BOHEMIAN;	)	
NEWBOHEMIAN, INC. d/b/a THE	)	<b>MOTION TO DISMISS DEFENDANT,</b>
BOHEMIAN; ESCO ELECTRIC	)	<b>ESCO ELECTRIC COMPANY</b>
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	
INSURANCE; 620 DEVELOPMENT, LLC;	)	
and PARTIES IN POSSESSION, if any, real	)	
names unknown,	)	
Defendants.	)	

COMES NOW the Plaintiff, by and through its counsel, Camille R. Hawk of Valentine O’Toole, LLP, and respectfully requests that Defendant, Esco Electric Company, be dismissed. In support thereof, Plaintiff states the following:

1. On March 31, 2023, the Plaintiff filed in the District Court of the State of Iowa in and for Linn County, a Foreclosure Petition alleging that the Defendant, Phyto Genesis, Inc., is in default on the Note and the terms of the Mortgage.

2. Esco Electric Company was named as a Defendant herein by virtue of a judgment entered on September 16, 2021, in the Linn County District Court, Case No. SCSC253358, entitled *Esco Electric Company v. Michael A. Richards and Newbohemian, Inc. d/b/a The Bohemian*. A Satisfaction of Judgment was filed in that case on May 2, 2023 in which Esco Electric Company released and discharged Michael A. Richards and Newbohemian, Inc. d/b/a The Bohemian from the judgment. Therefore, Plaintiff seeks dismissal of Esco Electric Company. Attached hereto as Exhibit “A” is a true and correct copy of the Satisfaction of Judgment and by this reference made a part hereof.

WHEREFORE, Plaintiff prays that the Defendant, Esco Electric Company, be dismissed from this action.

Respectfully submitted,

FIRST INTERESTATE BANK, Plaintiff.

By: 

Camille R. Hawk (AT0009922)  
VALENTINE O’TOOLE, LLP

11240 Davenport Street, P.O. Box 540125  
Omaha, NE 68154-0125  
402-330-6300 FAX: 402-330-6303  
chawk@walentineotoole.com  
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss Defendant, Esco Electric Company, was sent via regular United States first class mail, postage prepaid, on this 20<sup>th</sup> day of November 2023, to the following:

Esco Electric Company  
c/o Christopher K. Loftus, Its Attorney  
Simmons Perrine Moyer Bergman PLC  
City Center Square  
1150 5<sup>th</sup> St. Suite 170  
Coralville, IA 52241



---

IOWA DISTRICT COURT FOR LINN COUNTY


<p>ESCO ELECTRIC COMPANY,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>MICHAEL A. RICHARDS and NEWBOHEMIAN, INC. d/b/a THE BOHEMIAN ,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Case No. SCSC253358</p> <p style="text-align: center;">SATISFACTION OF JUDGMENT</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------

I, Rachel Loveless, am Chief Financial Officer at ESCO Electric Company, which is the owner and holder of a judgment against Defendants, Michael A. Richards and Newbohemian, Inc d/b/a The Bohemian, the above-entitled cause of action, which judgment was dated September 16, 2021.

I, Rachel Loveless, on behalf of the Plaintiff, ESCO Electric Company, as legal owner and holder of the judgment, release and discharge Defendants, Michael A. Richards and Newbohemian, Inc d/b/a The Bohemian, and declare the judgment fully satisfied.

I further authorize this Satisfaction of Judgment to be filed in the office of the Clerk of Court in and for Linn County.

Dated this 2<sup>nd</sup> day of May, 2023.

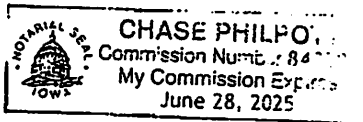
  
Rachel Loveless, Chief Financial Officer  
 ESCO Electric Company





STATE OF IOWA            )  
                                          )  
COUNTY OF LINN        )        ss:

On this 2 day of May, 2023, before me, a Notary Public, appeared Rachel Loveless, Chief Financial Officer of ESCO Electric Company, to be known to be the person herein named and who executed the foregoing Satisfaction of Judgment, and acknowledged that she executed the same as her voluntary act and deed.



Chase Philpott  
Notary Public in and for the State of Iowa  
My commission expires: June 28 2025

**CERTIFICATE OF SERVICE**

I certify that on May 2, 2023, I filed the foregoing with the Clerk of Court via EDMS and will serve by US Mail to the following non-registered user:

Michael A. Richards  
Newbohemian, Inc. d/b/a The Bohemian  
1029 3<sup>rd</sup> St SE  
Cedar Rapids, IA 52401

Michael A. Richards  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

By /s/ Kelly Carmichael

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	
	)	
Plaintiff,	)	CASE NO. EQCV101968
vs.	)	
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	
INC. d/b/a THE BOHEMIAN;	)	
NEWBOHEMIAN, INC. d/b/a THE	)	<b>ORDER DISMISSING DEFENDANT,</b>
BOHEMIAN; ESCO ELECTRIC	)	<b>ESCO ELECTRIC COMPANY</b>
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	
INSURANCE; 620 DEVELOPMENT, LLC;	)	
and PARTIES IN POSSESSION, if any, real	)	
names unknown,	)	
	)	
Defendants.	)	

BE IT REMEMBERED that the above-entitled cause came before the Court on Plaintiff's Motion to Dismiss Defendant, Esco Electric Company. Upon inspection of the file and proof of service, the Court finds as follows:

That Defendant, Esco Electric Company, should be dismissed as said Defendant has no interest in this action.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant, Esco Electric Company, is hereby dismissed from this action as said Defendant has no interest in this action.

Clerk to Notify.



State of Iowa Courts

**Case Number**  
EQCV101968

**Case Title**  
FIRST INTERSTATE BANK VS PHYTO GENESIS, INC. ET

**Type:**

AL  
Other Order

So Ordered

A handwritten signature in black ink, reading "Ian K. Thornhill".

---

Ian K. Thornhill, District Court Judge,  
Sixth Judicial District of Iowa

Electronically signed on 2023-11-20 14:50:48

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	CASE NO. EQCV101968
	)	
Plaintiff,	)	<b>MOTION FOR SUMMARY</b>
	)	<b>JUDGMENT, STATEMENT OF</b>
vs.	)	<b>MATERIAL FACTS AND</b>
	)	<b>MEMORANDUM OF AUTHORITIES</b>
	)	<b>AND</b>
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	<b>APPLICATION FOR DEFAULT AND</b>
INC. d/b/a THE BOHEMIAN;	)	<b>JUDGMENT ON DEFAULT</b>
NEWBOHEMIAN, INC. d/b/a THE	)	
BOHEMIAN; ESCO ELECTRIC	)	<b>AND</b>
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	
INSURANCE; 620 DEVELOPMENT, LLC;	)	<b>APPLICATION TO DISMISS</b>
and PARTIES IN POSSESSION, if any, real	)	<b>DEFENDANT PARTIES IN</b>
names unknown,	)	<b>POSSESSION</b>
	)	
Defendants.	)	

COMES NOW the Plaintiff and respectfully submits its Motion for Summary Judgment, Statement of Material Facts and Memorandum of Authorities, its Application for Default and Judgment on Default, and its Application to Dismiss Defendants, Parties in Possession, if any, real names unknown. The Plaintiff states to the Court the following in support of the same:

**STATEMENT OF MATERIAL FACTS**

1. On or about April 14, 2015, Defendant, Phyto Genesis, Inc., took fee simple title by virtue of a Corporate Warranty Deed (“Deed”) which was filed at the Linn County Recorder’s Office on October 14, 2015, in Book 9380 at Page 630, as Document No. 021997200001 to the Property legally described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa

(the “Property”) which Property is commonly known as 1029 3<sup>rd</sup> St SE, Cedar Rapids, Iowa 52401. A true and correct copy of the Deed together with the Recorder’s Certificate is attached hereto as Exhibit “1” and by this reference is incorporated herein.

2. On or about May 8, 2017, Defendant, Phyto Genesis, Inc., executed and delivered to the then Lender, Great Western Bank, one certain Promissory Note in the principal sum of Four Hundred



Fifty Thousand and 0/100 Dollars (\$450,000.00) at the interest rate of 4.50% per annum (the "Note"). A true and correct copy of the redacted Note is attached hereto as Exhibit "2" and by this reference is incorporated herein.

3. The payment of the Note is secured by a Mortgage executed by the Defendant, Phyto Genesis, Inc., executed to the then Lender, Great Western Bank. Said Mortgage was dated May 8, 2017, and was filed May 18, 2017, in Book 9834 at Page 231, Document No. 2431743 of the Linn County Recorder's Office, upon the Property (the "Mortgage"). A true and correct copy of the redacted Mortgage together with the Recorder's Certificate thereon is attached hereto as Exhibit "3" and by this reference is incorporated herein.

4. Additionally, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed an Assignment of Rents which was filed May 18, 2017, in Book 9834 at Page 242, Document No. 2431744 of the Linn County Recorder's Office, upon the Property (the "AOR"). A true and correct copy of the redacted AOR together with the Recorder's Certificate thereon is attached hereto as Exhibit "4" and by this reference is incorporated herein.

5. Further, in support of the Note, on May 8, 2017, Defendant, Phyto Genesis, Inc., executed Business Loan Agreement (the "BLA"). A true and correct copy of the redacted BLA is attached hereto as Exhibit "5" and by this reference is incorporated herein.

6. The Mortgage and Note were modified by four separate Change in Terms Agreements identified as follows:

- a. Dated October 27, 2017, executed by Defendant, Phyto Genesis, Inc., which changed the payment terms and increased the principal balance to \$600,000.00;
- b. Dated May 1, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments;
- c. Dated July 14, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments;
- d. Dated October 6, 2022, executed by Defendant, Phyto Genesis, Inc., which changed the maturity date to December 8, 2022, and changed certain payment terms.

(together, the "CITAs"). True and correct copies of the redacted CITAs are attached hereto as Exhibits "6", "7", "8" and "9", and by this reference are incorporated herein.

7. Together the Note, Mortgage, AOR, BLA and CITAs shall be referred to as the "Loan Documents".

8. The Plaintiff is the holder of the Loan Documents, and due demand has been made for payment and payment has been refused.

9. Because the Property is commercial property (not homestead) which secured a commercial Loan, the Plaintiff gave a 45 Day Notice of Demand on December 12, 2022, and more than forty-five days have elapsed since the Notice was given. The color Mediation Notice was not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A true and correct redacted copy of said Notice is attached hereto as Exhibit "10" and is incorporated herein by this reference.

10. The Plaintiff gave a 14 Day Notice of Acceleration and Demand for Payment on February 7, 2023, in accordance with Iowa Code Section 654.4B and more than fourteen days have elapsed since the Notice was given. The color Mediation Notice was not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan, as evidenced by the Loan Documents. A copy of said redacted Notice is attached hereto as Exhibit "11" and is incorporated herein by this reference.

11. The Plaintiff has waived its right to a deficiency judgment in the Petition, and the Plaintiff also waives its right to a deficiency judgment.

12. The Loan Documents provide that in case of default the holder may declare the entire principal and the interest accrued thereon due and payable and the Mortgage may be foreclosed.

13. By reason of the failure to pay the Note and interest, the Plaintiff elected in accordance with the terms and conditions of the Loan Documents to declare the whole of the Note due and payable forthwith and to exercise its right to enforce payment of the entire Note as provided by the Note and to foreclose the Mortgage given to secure the same.

14. On March 31, 2023, the Plaintiff filed in the District Court of the State of Iowa in and for Linn County, a Foreclosure Petition alleging that the Defendant, Phyto Genesis, Inc., is in default on the Note and the terms of the Mortgage.

15. The Plaintiff properly served the Defendants with the Foreclosure Petition, and Original Notice, as follows:

- a. Phyto Genesis, Inc., by service on its Registered Agent, Michael A. Richards, on April 10, 2023;
- b. Prometheus, Inc. d/b/a The Bohemian, by service on its Registered Agent, Michael A. Richards, on April 10, 2023;

- c. NewBohemian, Inc. d/b/a The Bohemian., by service on its Registered Agent, Michael A. Richards, on April 10, 2023;
- d. Esco Electric Company, by service on its Registered Agent, Raymond L. Brown, on April 10, 2023, but Esco Electric Company was dismissed from this action by Order of this Court on November 20, 2023;
- e. LBC5, Inc. d/b/a Bouslog Insurance, by service on its Registered Agent, Katie Luehrsmann, on April 10, 2023;
- f. 620 Development, LLC, by service on its Registered Agent, Melissa Richards, on June 5, 2023; and
- g. After due diligence, Parties in Possession, if any, real names unknown, were not served as the address is currently closed and for sale and no Party in Possession exists, and therefore the Plaintiff seeks dismissal of the same.

16. Defendant, NewBohemian, Inc. d/b/a The Bohemian failed to answer said Petition or otherwise plead within twenty days of service, as required by law.

17. On June 30, 2023, while NewBohemian, Inc. d/b/a The Bohemian was in default, the Plaintiff sent by ordinary mail to the last-known address of said Defendant, a written Notice of Intent to File Application for Default. A copy of said Notice is attached hereto and incorporated herein as Exhibit "12".

18. More than ten days have elapsed since the Notice of Intent to File Application for Default was sent to Defendant, NewBohemian, Inc. d/b/a The Bohemian, and it has failed to respond.

19. Plaintiff is entitled to have a Default entered in the above-captioned matter against the Default Defendant, NewBohemian, Inc. d/b/a The Bohemian, pursuant to Iowa Rule of Civil Procedure 1.973.

20. Defendants, Phyto Genesis, Inc. and Promethius, Inc. d/b/a The Bohemian filed an Answer and Demand for Delay of Sale on June 1, 2023, and has not raised any resistance or issue of material fact.

21. Defendant, LBC5, Inc. d/b/a Bouslog Insurance filed an Answer on April 25, 2023, and has not raised any resistance or issue of material fact.

22. Defendant, 620 Development, LLC filed an Answer to Plaintiff's Petition and a Cross-Claim against Co-Defendants on June 25, 2023, and has not raised any resistance or issue of material fact as to Plaintiff's Petition claims.

23. Defendants, Phyto Genesis, Inc., Promethius, Inc. d/b/a The Bohemian, LBC5, Inc. d/b/a Bouslog Insurance, and 620 Development, LLC shall be known as “Appearing Defendants”.

24. The Appearing Defendants have failed to raise in its pleadings any genuine issues of material fact for trial pursuant to Iowa Rule of Civil Procedure 1.981.

25. The mortgaged property is not used for an agricultural purpose and is a commercial property.

26. Upon belief and information, no Defendants in this action are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211 and said Defendants are not under any legal disability, are not prisoners in a reformatory or penitentiary and are not in the military services of the United States of America or its allies. The Plaintiff’s Affidavit of Non-Disability, Non-Prisoner & Non-Military Services – Petition was filed with the Petition. The Plaintiff’s Affidavit of Non-Disability, Non-Prisoner & Non-Military Services – Judgment has been filed separately with this Court and by reference is incorporated herein.

27. As of September 12, 2023, there is due and owing to the Plaintiff upon its Note and Mortgage the sum of Five Hundred Fifty-five Thousand Six Hundred Eighty-Five and 61/100 Dollars (\$555,685.61) with interest accruing on the unpaid principal balance at the current interest rate of 4.50000% per annum, or \$64.33 per diem, after September 12, 2023, until paid, plus costs of this action, amounts advanced to protect the Plaintiff’s security in the property, and reasonable attorneys’ fees and attorneys’ costs. The Plaintiff’s Affidavit of Indebtedness has been filed separately with this Court and by reference is incorporated herein, and the Plaintiff requests that the Court take judicial notice of the same.

28. Under the terms of said Note and Mortgage, Defendant, Phyto Genesis, Inc., agreed to pay attorneys’ fees and all costs in connection with the proceeding to enforce or foreclose the Mortgage. The Plaintiff filed its Attorneys’ Fees and Costs Affidavit with the Petition, and the Plaintiff requests that the Court take judicial notice of the same.

29. There should be added to the amounts due and owing to the Plaintiff outstanding reasonable attorneys’ fees and costs in the amount of \$1,886.00. The Plaintiff’s Application for Attorneys’ Fees and Costs has been filed separately with this Court and by reference is incorporated herein. The Plaintiff requests that the Court take judicial notice of the same.

30. For purposes of review, attached hereto in support of this Motion for Summary Judgment are the following exhibits:

Exhibit 1: Corporate Warranty Deed



- Exhibit 2: Note
- Exhibit 3: Mortgage
- Exhibit 4: Assignment of Rents
- Exhibit 5: Business Loan Agreement
- Exhibit 6: Change in Terms Agreement dated October 27, 2017, executed by Defendant, Phyto Genesis, Inc., which changed the payment terms and increased the principal balance to \$600,000.00
- Exhibit 7: Change in Terms Agreement dated May 1, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments
- Exhibit 8: Change in Terms Agreement dated July 14, 2020, executed by Defendant, Phyto Genesis, Inc., which deferred certain payments
- Exhibit 9: Change in Terms Agreement dated October 6, 2022, executed by Defendant, Phyto Genesis, Inc., which changed the maturity date to December 8, 2022, and changed certain payment terms
- Exhibit 10: Notice of Right to Cure
- Exhibit 11: 14-Day Acceleration Notice
- Exhibit 12: Notice of Intent to File Application for Default to NewBohemian, Inc. d/b/a The Bohemian and

28. There exist no issues of material fact that would preclude the granting of summary judgment in favor of Plaintiff against the Appearing Defendants pursuant to Iowa Rule of Civil Procedure 1.981.

29. The Plaintiff is entitled to judgment in its favor as a matter of law for the relief sought in the Foreclosure Petition.

**POINT OF LAW**

THE PLAINTIFF IS ENTITLED TO FORECLOSURE ON THE REAL ESTATE MORTGAGE WHICH SECURES THE PAYMENT OF THE NOTE MADE AND EXECUTED BY PHYTO GENESIS, INC., BECAUSE SAID ENTITY HAS FAILED TO PAY THE NOTE ACCORDING TO ITS TERMS AND TO PERFORM OTHER COVENANTS CONTAINED THEREIN.

**AUTHORITIES**

Iowa Code § 654

Iowa Rule of Civil Procedure 1.405

Iowa Rule of Civil Procedure 1.981

Collins v. Nagel, 200 Iowa 562, 203 N.W. 702 (1925)

Federal Land Bank v. Wilmarth, 218 Iowa 339, 252 N.W. 507 (1934)

Kolarik v. Cory Intern. Corp., 721 N.W.2d 159 (Iowa 2006)

Coffin v. Younker, 196 Iowa 1021, 195 N.W. 591 (1923)

Davis v. Travelers Insurance Co., 196 N.W. 2d 526 (Iowa 1972)

Drainage District No. 119 v. Incorporated City of Spencer, 268 N.W. 2d 493 (Iowa 1978)

Humboldt Livestock Auctions, Inc. v. B & H Cattle Co., 155 N.W. 2d 478 (Iowa 1967)

59 CJS Mortgages, § 492

59 CJS Mortgages § 495

### **DISCUSSION**

The general prerequisites to the right to foreclosure are that there be a valid mortgage securing a debt or duty which remains wholly or in part unpaid or unperformed and by which some kind of estate or title has been conveyed to the Mortgagee as security, and that there may be a breach of a condition of the mortgage. *Iowa Code* § 654; 59 CJS Mortgages, § 492. In the present case, Phyto Genesis, Inc., executed and delivered a certain Note to the Plaintiff, the payments of which were secured by a Mortgage on real estate located in Linn County, Iowa.

It is also generally recognized that where an agreement exists between the parties to the effect that the entire debt shall or may, at the election of the Mortgagee, become due on a partial default in payment of the mortgage debt, or an installment thereof, or failure to observe any other covenant in the mortgage instrument, foreclosure may be had for the entire amount on such default. *Collins v. Nagel*, 200 Iowa 562, 203 N.W. 702 (1925); 59 CJS Mortgages, § 495. The Mortgage in this case states that if a default occurs in the payment of the indebtedness that is secured, or any part of the interest thereon, then, at the option of Mortgagee, its corresponding Note and the whole of the indebtedness secured by the Mortgage, as applicable, shall become due and collectible at once by foreclosure or otherwise after such default or failure.

The Note also provides upon nonpayment of any installment on its due date, all remaining installments shall, at the option of the holder, become immediately due and payable. Thus, a Mortgage containing an acceleration clause gives the Mortgagee the right to commence an action to recover the entire amount of principal and interest due. *Federal Land Bank v. Wilmarth*, 218 Iowa 339, 252 N.W.

507 (1934); *Collins v. Nagel*, 200 Iowa 562, 203 N.W. 702 (1925); *Coffin v. Younker*, 196 Iowa 1021, 195 N.W. 591 (1923).

Summary judgment is appropriate in the present situation where the Answering Defendants have failed to raise in the pleadings any genuine issues of material fact for trial. *Kolarik v. Cory Intern. Corp.*, 721 N.W.2d 159,162 (Iowa 2006) (citing Iowa Rule of Civil Procedure 1.981(3)). Every fact pleaded and not denied in a subsequent pleading shall be deemed admitted. I.R.C.P. 1.405. The purpose of summary judgment is to enable a party with a just cause of action to obtain judgment without the unnecessary delay and expensive trial where there is no genuine issue of material fact present. *Drainage District No. 119 v. Incorporated City of Spencer*, 268 N.W. 2d 493 (Iowa 1978); *Davis v. Travelers Insurance Co.*, 196 N.W. 2d 526 (Iowa 1972).

It has been held that summary judgment may be entered in an action upon any claim to recover a money demand which is liquidated, and which arises on a negotiable instrument or contract. *Humboldt Livestock Auctions, Inc. v. B & H Cattle Co.*, 155 N.W. 2d 478 (Iowa 1967). The amount claimed due is a “liquidated demand” within summary judgment if it is susceptible of being made certain in amount by mathematical calculation from factors which are or ought to be in the possession or knowledge of the party to be charged. *Humboldt, supra*.

Judgment entered on a summary judgment motion depends on whether there is any real issue of fact as disclosed by affidavits of those having knowledge of the circumstances. *Humboldt, supra*. The best evidence of the facts concerning the transaction and occurrence which is the subject matter of the present action is the documents themselves, that is to say the Loan Documents.

### CONCLUSION

No genuine issue of material fact exists concerning the liability of the Defendant, Phyto Genesis, Inc., on the Note and Mortgage, held by the Plaintiff or as to the priority of the Plaintiff’s lien. The Plaintiff is entitled to judgment as a matter of law.

WHEREFORE, the Plaintiff respectfully prays that the Court enter an Order finding that Defendants, Parties in Possession, if any, real names unknown, be dismissed from this action as said Defendants do not exist.

WHEREFORE, the Plaintiff further respectfully prays that the Court enter Summary Judgment in its favor and against Appearing Defendants, Phyto Genesis, Inc., Promethius, Inc. d/b/a The Bohemian, LBC5, Inc. d/b/a Bouslog Insurance, and 620 Development, LLC, as to all claims asserted

in the Petition, and Default Judgment against Default Defendant, NewBohemian, Inc. d/b/a The Bohemian as to all claims asserted in the Petition; that Plaintiff be granted an in rem judgment against the Property legally described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa


(the "Property") which Property is commonly known as 1029 3<sup>rd</sup> St SE, Cedar Rapids, Iowa 52401, in the sum of Five Hundred Fifty-five Thousand Six Hundred Eighty-Five and 61/100 Dollars (\$555,685.61) with interest accruing on the unpaid principal balance at the current interest rate of 4.50000% per annum, or \$64.33 per diem, after September 12, 2023, until paid, plus costs of this action, amounts advanced to protect the Plaintiff's security in the Property, and reasonable outstanding attorneys' fees and attorneys' costs of \$1,886.00, amounts advanced to protect the Plaintiff's security in the property, plus additional accruing costs, attorneys' fees and costs to the date of sale and any hearing for condemnation of funds or motion for surplus funds, if applicable, as provided by law, as well as including any eviction or other post-sale matter, as provided by law; that all Defendants be foreclosed of their legal rights in and to said subject Property; that a special execution be issued for the sale of the Property or so much thereof as may be necessary to satisfy the judgment including interest, costs, and accruing costs; that Plaintiff be allowed to file and have issued such special execution immediately after judgment but that the sale of the subject Property pursuant to the special execution not occur until after the two-month delay of sale requested by Phyto Genesis, Inc. in its Demand for Delay of Sale; that from and after said sale under special execution, the right, title, lien or interest of the Defendants in and to the Mortgaged premises be forever cut off, barred and foreclosed, and the purchaser at said sale take free and clear of any right, title, lien or interest of the Defendants or any of them.

The Plaintiff further prays to appear telephonically for any hearing required by the Court related to this Motion and Application.

The Plaintiff further prays for a Writ of Possession to be issued under the seal of this Court, directed to the Sheriff of Linn County, Iowa, commanding him or her to put the purchaser at said sale under special execution or a successor in interest in the peaceful possession of the Property, and for such further and equitable relief as is deemed just by the Court.

FIRST INTERSTATE BANK, Plaintiff



By:   
Camille R. Hawk, Attorney at Law (AT0009922)  
For: WALENTINE O'TOOLE, LLP  
11240 Davenport Street  
Omaha, NE 68154-0125  
402-330-6300 FAX: 402-330-6303  
[chawk@valentineotoole.com](mailto:chawk@valentineotoole.com)  
ITS ATTORNEYS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Summary Judgment, Statement of Material Facts and Memorandum of Authorities, and Application for Default, was sent to the last-known addresses via regular United States first class mail, postage prepaid, on this 11<sup>th</sup> day of December, 2023 to the following:

Phyto Genesis, Inc.  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

Promethius, Inc. d/b/a The Bohemian  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

NewBohemian, Inc. d/b/a The Bohemian  
c/o Michael A. Richards, Its Registered Agent  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

LBC5, Inc. d/b/a Bouslog Insurance  
c/o J. Michael Weston, Its Attorney  
118 Third Ave SE. Suite 700  
Cedar Rapids, IA 52406

620 Development, LLC  
c/o Melissa Richards, Registered Agent  
600 Briggs St  
Erie, CO 80516

  
\_\_\_\_\_

Doc ID: 021997200001 Type: GEN  
Recorded: 10/14/2015 at 10:38:18 AM  
Fee Amt: \$168.00 Page 1 of 1  
Revenue Tax: \$159.00  
Linn County Iowa  
JOAN MCCALMANT RECORDER  
BK 9380 PG 630

#12 PD VISA  
Phyto Genesis Inc. 1029 3rd St SE Cedar Rapids IA 52401  
Preparer Information: Nancy C. Malloy, 222 3rd Street SE, Suite 302, Cedar Rapids, IA 52401 319-363-8827  
After recording return to: Contract Exchange Corporation, PO Box 8182, Cedar Rapids, IA 52408  
Address Tax Statements: Michael Richards, 1029 3rd Street SE, Cedar Rapids, IA 52403

**CORPORATE WARRANTY DEED**

Know All Men By These Presents:

**Contract Exchange Corporation, an Iowa Corporation**

Having its principal place of business at 222 3rd Street SE, Suite 302, Cedar Rapids, Iowa in Linn County and State of Iowa, a corporation organized and existing under the laws of Iowa in consideration of the sum of One Dollar (\$1.00) and other valuable consideration in hand paid does hereby convey unto

**Phyto Genesis Inc., an Iowa Corporation**

The following described real estate in Linn County, Iowa:

**Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.**

This deed is given in fulfillment of a certain real estate contract that was dated December 29, 2000 and filed on January 3, 2001 in Volume 4218 at Page 629 in the records of the Linn County Recorder.

This deed is exempt from declaration of value and groundwater hazard statement being a deed in fulfillment of a certain real estate contract.

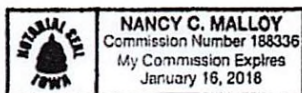
And said Corporation hereby covenants with said grantees, and successors in interest, that it holds said real estate by title in fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be above stated: and it covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

Words and phrases herein including acknowledgement hereof, shall be construed as in the singular or plural number, according to the context.

IN WITNESS WHEREOF said corporation has caused this instrument to be duly executed this 14th day of April, 2015.

Contract Exchange Corporation  
BY: Anthony E. Schubert, Pres  
Anthony E. Schubert, President  
BY: Anthony E. Schubert, Sec  
Anthony E. Schubert, Secretary

State of Iowa, Linn County, ss:  
On this 14th day of April, A.D., 2015, before me, the undersigned, a notary public in and for said county and said state, personally appeared Anthony E. Schubert, to me personally known, who, being by me duly sworn, did say that he is the President and Secretary, of said corporation: that no seal has been procured by the said corporation, that said instrument was signed on behalf of said Corporation by authority of its board of directors; and that the said Anthony E. Schubert as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Nancy C. Malloy  
Notary Public In and For Said County and Said State





Redacted

## PROMISSORY NOTE

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022		Redacted			

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Note: May 8, 2017

**PROMISE TO PAY.** Phyto Genesis, Inc. ("Borrower") promises to pay to GREAT WESTERN BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Four Hundred Fifty Thousand & 00/100 Dollars (\$450,000.00) or so much as may be outstanding, together with interest on the unpaid outstanding principal balance of each advance, calculated as described in the "INTEREST CALCULATION METHOD" paragraph using an interest rate of 4.500% per annum based on a year of 360 days. Interest shall be calculated from the date of each advance until repayment of each advance. The interest rate may change under the terms and conditions of the "INTEREST AFTER DEFAULT" section.

**PAYMENT.** Borrower will pay this loan in accordance with the following payment schedule:

Borrower will pay this loan in Seven (7) monthly interest only payments beginning June 08, 2017 and monthly thereafter. The credit line will be closed on January 08, 2018. Beginning January 08, 2018, Borrower will make Fifty-Three (53) monthly principal and interest payments in the amount of \$2,863.13 and monthly thereafter until maturity. The interest rate will remain at fixed at 4.50% during the term of the loan. The maturity date will be May 08, 2022.

Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any escrow or reserve account payments as required under any mortgage, deed of trust, or other security instrument or security agreement securing this Note; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**INTEREST CALCULATION METHOD.** Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

**PREPAYMENT.** Borrower agrees that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments of accrued unpaid interest. Rather, early payments will reduce the principal balance due. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA 52317.

**LATE CHARGE.** If a payment is 10 days or more late, Borrower will be charged 5.000% of the regularly scheduled payment.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 21.000% per annum based on a year of 360 days. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Borrower, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including without limitation all attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**GOVERNING LAW.** This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Iowa.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any

EXHIBIT

tabbles

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Loan No *Redacted*

**PROMISSORY NOTE  
(Continued)**

Page 2

and all such accounts.

**COLLATERAL.** Borrower acknowledges this Note is secured by Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St., Cedar Rapids, Iowa; Commercial Pledge Agreement by Prometheus, Inc. dated 05/08/2017 with further support of Business Loan Agreement dated 05/08/2017.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested orally by Borrower or as provided in this paragraph. All oral requests shall be confirmed in writing on the day of the request. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc. Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any of Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**PURPOSE OF LOAN.** The specific purpose of this loan is: Construction and Permanent Financing.

**GUARANTORS.** Unlimited and Unsecured Commercial Guaranty of Michael A. Richards dated 05/08/2017; Unlimited Commercial Guaranty of Prometheus, Inc. dated 05/08/2017 secured by Commercial Security Pledge pledged by Prometheus, Inc. dated 05/08/2017.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES.** Borrower may notify Lender if Lender reports any inaccurate information about Borrower's account(s) to a consumer reporting agency. Borrower's written notice describing the specific inaccuracy(ies) should be sent to Lender at the following address: GREAT WESTERN BANK 225 S Main Ave Sioux Falls, SD 57104.

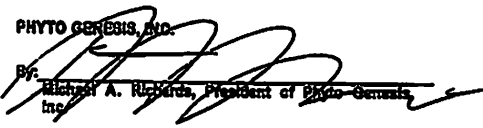
**GENERAL PROVISIONS.** If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto-Genesis, Inc.



BK: 9834 PG: 231  
Recorded: 5/18/2017 at 2:45:09.940 PM  
Fee Amount: \$57.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431743

FOR RECORDER'S USE ONLY

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

ADDRESS TAX STATEMENT:  
Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

RECORDATION REQUESTED BY:  
GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

WHEN RECORDED MAIL TO:  
GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

MORTGAGE

NOTICE: This Mortgage secures credit in the amount of \$450,000.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Mortgage. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Mortgage. The property address can be found on page 1 of this Mortgage. The legal description can be found on page 1 of this Mortgage.

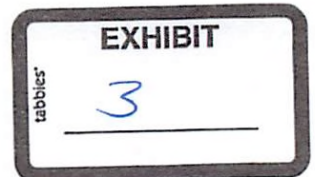
THIS MORTGAGE dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages and conveys to Lender and grants to Lender a security interest in all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; rents and profits; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Real Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay



**MORTGAGE  
(Continued)**

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such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents. The lien on the rents granted in this Mortgage shall be effective from the date of the Mortgage and not just in the event of default.

**FUTURE ADVANCES.** In addition to the Note, this Mortgage secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions: None of the collateral for the indebtedness constitutes, and none of the funds represented by the indebtedness will be used to purchase: (1) Agricultural products or property used for an agricultural purpose as defined in Iowa Code Section 535.13; (2) Agricultural land as defined in Iowa Code Section 9H1 (2) or 175.2 (1); or (3) Property used for an agricultural purpose as defined in Iowa Code Section 570.A.1 (2). Grantor represents and warrants that: (1) There are not now and will not be any wells situated on the Property; (2) There are not now and will not be any solid waste disposal sites on the Property; (3) There are not now and there will not be any hazardous wastes on the Property; (4) There are not now and there will not be any underground storage tanks on the Property.

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**MORTGAGE  
(Continued)**

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**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Iowa law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances



**MORTGAGE  
(Continued)**

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satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real



**MORTGAGE  
(Continued)**

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Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender, and (c) the liens granted hereby are not the type of lien referred to in Chapter 575 of the Iowa Code Supplement, as now enacted or hereafter modified, amended or replaced. Grantor, for itself and all persons claiming by, through or under Grantor, agrees that it claims no lien or right to a lien of the type contemplated by Chapter 575 or any other chapter of the Code of Iowa and further waives all notices and rights pursuant to said law with respect to the liens hereby granted, and represents and warrants that it is the sole party entitled to do so and agrees to indemnify, defend, and hold harmless Lender from any loss, damage, and costs, including reasonable attorneys' fees, threatened or suffered by Lender arising either directly or indirectly as a result of any claim of the applicability of said law to the liens hereby granted.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver, or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

**MORTGAGE  
(Continued)**

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**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Personal Property and for this purpose, the name and address of the debtor is the name and address of Grantor as set forth on the first page of this Mortgage and the name and address of the secured party is the name and address of Lender as set forth on the first page of this Mortgage.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full

**MORTGAGE  
(Continued)**

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force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

**Right to Cure.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Foreclosure.** Lender may exercise the right to non-judicial foreclosure pursuant to Iowa Code Section 654.18 and Chapter 655A as now enacted or hereafter modified, amended or replaced.

**MORTGAGE  
(Continued)**

Page 8

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender. This paragraph is subject to any rights of Grantor, under Iowa law, to remain in possession of the Property during a redemption period.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Shortened Redemption.** Grantor hereby agrees that, in the event of foreclosure of this Mortgage, Lender may, at Lender's sole option, elect to reduce the period of redemption pursuant to Iowa Code Sections 628.26, 628.27, or 628.28, or any other Iowa Code Section, to such time as may be then applicable and provided by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the indebtedness.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by



**MORTGAGE  
(Continued)**

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the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law.** This Mortgage will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Mortgage has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or

**MORTGAGE  
(Continued)**

Page 10

regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Mortgage.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

MORTGAGE  
(Continued)

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS MORTGAGE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

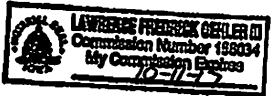
PHYTO GENESIS, INC.

By: [Signature]  
Michael A. Richards, President of Phyto Genesis, Inc.

CORPORATE ACKNOWLEDGMENT

STATE OF Texas )  
 ) SS  
COUNTY OF Johnson )

This record was acknowledged before me on 8th Day of May, 2017 by Michael A. Richards, President of Phyto Genesis, Inc..



[Signature]  
Notary Public in and for the State of Texas  
My commission expires 10-11-17

BK: 9834 PG: 242  
Recorded: 5/18/2017 at 2:45:12.487 PM  
Fee Amount: \$37.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431744

FOR RECORDER'S USE ONLY

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

ADDRESS TAX STATEMENT:

Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

RECORDATION REQUESTED BY:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

WHEN RECORDED MAIL TO:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

ASSIGNMENT OF RENTS

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Assignment. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Assignment. The property address can be found on page 1 of this Assignment. The legal description can be found on page 1 of this Assignment.

THIS ASSIGNMENT OF RENTS dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

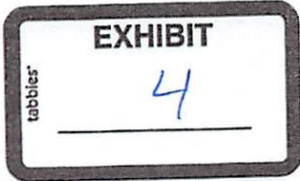
ASSIGNMENT. For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

CROSS-COLLATERALIZATION. In addition to the Note, this Assignment secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

FUTURE ADVANCES. In addition to the Note, this Assignment secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Assignment secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.





**ASSIGNMENT OF RENTS  
(Continued)**

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**THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Iowa and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements

**ASSIGNMENT OF RENTS  
(Continued)**

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of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**NO OBLIGATION OF LENDER.** The assignment and security interest granted in this Assignment shall not be deemed or construed to constitute Lender as a mortgagee or trustee in possession of the Property, to obligate Lender to lease the Property or to attempt to do so, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the leases or otherwise.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender

**ASSIGNMENT OF RENTS  
(Continued)**

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believes the prospect of payment or performance of the indebtedness is impaired.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of Iowa.

**ASSIGNMENT OF RENTS  
(Continued)**

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**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.



**ASSIGNMENT OF RENTS  
(Continued)**

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**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Assignment.** The word "Assignment" means this ASSIGNMENT OF RENTS, as this ASSIGNMENT OF RENTS may be amended or modified from time to time, together with all exhibits and schedules attached to this ASSIGNMENT OF RENTS from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc..

**Default.** The word "Default" means the Default set forth in this Assignment in the section titled "Default".

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Assignment.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this ASSIGNMENT OF RENTS between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.

ASSIGNMENT OF RENTS  
(Continued)

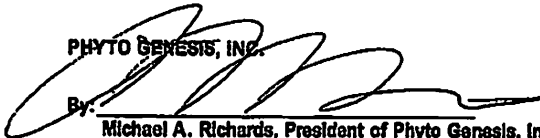
Page 7

THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND NOT PERSONALLY BUT AS AN AUTHORIZED SIGNER, HAS CAUSED THIS ASSIGNMENT TO BE SIGNED AND EXECUTED ON BEHALF OF GRANTOR ON MAY 8, 2017.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS ASSIGNMENT OF RENTS AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

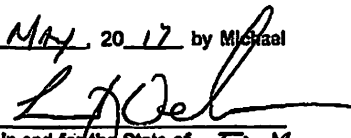
PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto Genesis, Inc.

CORPORATE ACKNOWLEDGMENT

STATE OF Iowa )  
 ) SS  
COUNTY OF Johnson )

This record was acknowledged before me on 8th Day of May 20 17 by Michael A. Richards, President of Phyto Genesis, Inc..

  
Notary Public in and for the State of Iowa  
My commission expires 10-11-17





*Redacted*

**BUSINESS LOAN AGREEMENT**

Principal	Loan Date	Maturity	Loan No.	Call / Coll.	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	<i>Redacted</i>				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

THIS BUSINESS LOAN AGREEMENT dated May 8, 2017, is made and executed between Phyto Genesis, Inc. ("Borrower") and GREAT WESTERN BANK ("Lender") on the following terms and conditions. Borrower has received prior commercial loans from Lender or has applied to Lender for a commercial loan or loans or other financial accommodations, including those which may be described on any exhibit or schedule attached to this Agreement. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement; (B) the granting, renewing, or extending of any Loan by Lender at all times shall be subject to Lender's sole judgment and discretion; and (C) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

**TERM.** This Agreement shall be effective as of May 8, 2017, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until such time as the parties may agree in writing to terminate this Agreement.

**ADVANCE AUTHORITY.** The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc.

**CONDITIONS PRECEDENT TO EACH ADVANCE.** Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

**Loan Documents.** Borrower shall provide to Lender the following documents for the Loan: (1) the Note; (2) Security Agreements granting to Lender security interests in the Collateral; (3) financing statements and all other documents perfecting Lender's Security Interests; (4) evidence of insurance as required below; (5) guaranties; (6) together with all such Related Documents as Lender may require for the Loan; all in form and substance satisfactory to Lender and Lender's counsel.

**Borrower's Authorization.** Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, may require.

**Payment of Fees and Expenses.** Borrower shall have paid to Lender all fees, charges, and other expenses which are then due and payable as specified in this Agreement or any Related Document.

**Representations and Warranties.** The representations and warranties set forth in this Agreement, in the Related Documents, and in any document or certificate delivered to Lender under this Agreement are true and correct.

**No Event of Default.** There shall not exist at the time of any Advance a condition which would constitute an Event of Default under this Agreement or under any Related Document.

**REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any indebtedness exists:

**Organization.** Borrower is a corporation for profit which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Iowa. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary filings, governmental licenses and approvals for each state in which Borrower is doing business. Specifically, Borrower is, and at all times shall be, duly qualified as a foreign corporation in all states in which the failure to so qualify would have a material adverse effect on its business or financial condition. Borrower has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage. Borrower maintains an office at 1029 3rd St SE, Cedar Rapids, IA 52401. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name. Borrower shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to Borrower and Borrower's business activities.

**Assumed Business Names.** Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business: None.

**Authorization.** Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of (a) Borrower's articles of Incorporation or organization, or bylaws, or (b) any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

**Financial Information.** Each of Borrower's financial statements supplied to Lender truly and completely disclosed Borrower's financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to Lender. Borrower has no material contingent obligations except as disclosed in such financial statements.

**Legal Effect.** This Agreement constitutes, and any instrument or agreement Borrower is required to give under this Agreement when delivered will constitute legal, valid, and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

**Properties.** Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all Security Interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

**Hazardous Substances.** Except as disclosed to and acknowledged by Lender in writing, Borrower represents and warrants that: (1) During the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral. (2) Borrower has no knowledge of, or reason to believe that there has been (a) any breach or violation of any Environmental Laws; (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters. (3) Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender





**BUSINESS LOAN AGREEMENT  
(Continued)**

Loan No: Redacted

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against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the Collateral. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

**Litigation and Claims.** No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in writing.

**Taxes.** To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

**Lien Priority.** Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

**Binding Effect.** This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

**AFFIRMATIVE COVENANTS.** Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

**Notices of Claims and Litigation.** Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

**Financial Records.** Maintain its books and records in accordance with GAAP, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

**Financial Statements.** Furnish Lender with the following:

**Additional Requirements.**

1) Annual Tax Return for Phyto Genesis, Inc. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Borrower's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Borrower will provide a copy of the extension to Lender no later than 30 days after filing.

2) Annual Tax Return for Prometheus and Michael A. Richards. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Guarantor's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Guarantor will provide a copy of the extension to Lender no later than 30 days after filing.

3) Quarterly financial statements for Prometheus. Interim Financial Statements. As soon as available, but in no event later than 45 days after the end of each quarter, Balance Sheet and Income Statement for the period ended.

4) Personal Financial Statements for Michael A. Richards. Annually, but in no event later than thirteen (13) months from the date of any prior statements provided to Lender, Michael A. Richards' Balance Sheet and Income Statement for the year ended, prepared by Michael A. Richards.

All financial reports required to be provided under this Agreement shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Borrower as being true and correct.

**Additional Information.** Furnish such additional information and statements, as Lender may request from time to time.

**Additional Requirements.**

**Loan Covenants**

1) **Debt Service Coverage Ratio – Post-Distribution.** Maintain a minimum Debt Service Coverage Ratio of 1.25 to 1.00 as of the end of annual period. "Debt Service Coverage Ratio- Post-Distribution" means, Borrower's Earnings Before Interest, Depreciation and Amortization after distributions plus contributions, divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.

2) **Global Debt Service Coverage Ratio – Post Distribution.** Maintain a minimum Consolidated Debt Service Coverage Ratio of 1.35 to 1.00 as of the end of each calendar annual period. "Consolidated Debt Service Coverage Ratio – Post-Distribution" means the Earnings Before Interest, Depreciation and Amortization after distributions plus contributions for Michael A Richards, Phyto Genesis, Inc. and Prometheus, In., divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.

**Terms & Conditions**

1) Borrower and/or Collateral Pledger is to maintain (unpledged) deposits averaging \$45,000.00 or more with Great Western Bank.

2) Great Western Bank to be in 1st mortgage position and no additional liens without Great Western Bank approval.

3) All rental real estate to be included on Schedule E or on a separate tax return.

**Insurance.** Maintain fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages and with insurance companies acceptable to Lender. Borrower, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Borrower or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Borrower will provide Lender with such lender's loss payable or other endorsements as Lender may require.

**Insurance Reports.** Furnish to Lender, upon request of Lender, reports on each existing insurance policy showing such information as Lender may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the properties insured; (5) the then current property values on the basis of which insurance has been obtained, and the manner of determining those values; and (6) the expiration date of the policy. In addition, upon request of Lender (however not more often than annually), Borrower will have an independent appraiser satisfactory to Lender determine, as applicable, the actual cash value or replacement cost of any Collateral. The cost of such appraisal shall be paid by Borrower.

**Guaranties.** Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by the guarantors named below, on Lender's forms, and in the amounts and under the conditions set forth in those guaranties.

<u>Names of Guarantors</u>	<u>Amounts</u>
Michael A. Richards	Unlimited
Prometheus, Inc.	Unlimited

**Other Agreements.** Comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

**Loan Proceeds.** Use all Loan proceeds solely for Borrower's business operations, unless specifically consented to the contrary by Lender in writing.

**Taxes, Charges and Liens.** Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

**Performance.** Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in



Loan No: *Redacted***BUSINESS LOAN AGREEMENT  
(Continued)**

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writing of any default in connection with any agreement.

**Operations.** Maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel; provide written notice to Lender of any change in executive and management personnel; conduct its business affairs in a reasonable and prudent manner.

**Environmental Studies.** Promptly conduct and complete, at Borrower's expense, all such investigations, studies, samplings and testings as may be requested by Lender or any governmental authority relative to any substance, or any waste or by-product of any substance defined as toxic or a hazardous substance under applicable federal, state, or local law, rule, regulation, order or directive, at or affecting any property or any facility owned, leased or used by Borrower.

**Compliance with Governmental Requirements.** Comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the conduct of Borrower's properties, businesses and operations, and to the use or occupancy of the Collateral, including without limitation, the Americans With Disabilities Act. Borrower may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Borrower has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Collateral are not jeopardized. Lender may require Borrower to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Inspection.** Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

**Compliance Certificates.** Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

**Environmental Compliance and Reports.** Borrower shall comply in all respects with any and all Environmental Laws; not cause or permit to exist, as a result of an intentional or unintentional action or omission on Borrower's part or on the part of any third party, on property owned and/or occupied by Borrower, any environmental activity where damage may result to the environment, unless such environmental activity is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal, state or local governmental authorities; shall furnish to Lender promptly and in any event within thirty (30) days after receipt thereof a copy of any notice, summons, lien, citation, directive, letter or other communication from any governmental agency or instrumentality concerning any intentional or unintentional action or omission on Borrower's part in connection with any environmental activity whether or not there is damage to the environment and/or other natural resources.

**Additional Assurances.** Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

**NEGATIVE COVENANTS.** Borrower covenants and agrees with Lender that while this Agreement is in effect, Borrower shall not, without the prior written consent of Lender:

**Indebtedness and Liens.** (1) Except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement, create, incur or assume indebtedness for borrowed money, including capital leases, (2) sell, transfer, mortgage, assign, pledge, lease, grant a security interest in, or encumber any of Borrower's assets (except as allowed as Permitted Liens), or (3) sell with recourse any of Borrower's accounts, except to Lender.

**Continuity of Operations.** (1) Engage in any business activities substantially different than those in which Borrower is presently engaged, (2) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change its name, dissolve or transfer or sell Collateral out of the ordinary course of business, or (3) pay any dividends on Borrower's stock (other than dividends payable in its stock), provided, however that notwithstanding the foregoing, but only so long as no Event of Default has occurred and is continuing or would result from the payment of dividends, if Borrower is a "Subchapter S Corporation" (as defined in the Internal Revenue Code of 1986, as amended), Borrower may pay cash dividends on its stock to its shareholders from time to time in amounts necessary to enable the shareholders to pay income taxes and make estimated income tax payments to satisfy their liabilities under federal and state law which arise solely from their status as Shareholders of a Subchapter S Corporation because of their ownership of shares of Borrower's stock, or purchase or retire any of Borrower's outstanding shares or alter or amend Borrower's capital structure.

**Loans, Acquisitions and Guaranties.** (1) Loan, invest in or advance money or assets to any other person, enterprise or entity, (2) purchase, create or acquire any interest in any other enterprise or entity, or (3) incur any obligation as surety or guarantor other than in the ordinary course of business.

**Agreements.** Enter into any agreement containing any provisions which would be violated or breached by the performance of Borrower's obligations under this Agreement or in connection herewith.

**CESSATION OF ADVANCES.** If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan Advances or to disburse Loan proceeds if: (A) Borrower or any Guarantor is in default under the terms of this Agreement or any of the Related Documents or any other agreement that Borrower or any Guarantor has with Lender; (B) Borrower or any Guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any Guarantor, or in the value of any Collateral securing any Loan; or (D) any Guarantor seeks, claims or otherwise attempts to limit, modify or revoke such Guarantor's guaranty of the Loan or any other loan with Lender.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts.

**DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Payment Default.** Borrower fails to make any payment when due under the Loan.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help,



Loan No:

*Redacted***BUSINESS LOAN AGREEMENT  
(Continued)**

Page 4

repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the Loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired.

**Right to Cure.** If any default, other than a default on Indebtedness, is curable and if Borrower or Grantor, as the case may be, has not been given a notice of a similar default within the preceding twelve (12) months, it may be cured if Borrower or Grantor, as the case may be, after Lender sends written notice to Borrower or Grantor, as the case may be, demanding cure of such default: (1) cure the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**EFFECT OF AN EVENT OF DEFAULT.** If any Event of Default shall occur, except where otherwise provided in this Agreement or the Related Documents, all commitments and obligations of Lender under this Agreement or the Related Documents or any other agreement immediately will terminate (including any obligation to make further Loan Advances or disbursements), and, at Lender's option, all Indebtedness immediately will become due and payable, all without notice of any kind to Borrower, except that in the case of an Event of Default of the type described in the "Insolvency" subsection above, such acceleration shall be automatic and not optional. In addition, Lender shall have all the rights and remedies provided in the Related Documents or available at law, in equity, or otherwise. Except as may be prohibited by applicable law, all of Lender's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Borrower or of any Grantor shall not affect Lender's right to declare a default and to exercise its rights and remedies.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested either orally or in writing by Borrower or as provided in this paragraph. Lender may, but need not, require that all oral requests be confirmed in writing. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority; \_\_\_\_\_ Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Attorneys' Fees; Expenses.** Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Consent to Loan Participation.** Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Loan to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers, or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to the Loan, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Loan and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligation under the Loan irrespective of the failure or insolvency of any holder of any interest in the Loan. Borrower further agrees that the purchaser of any such participation interests may enforce its interests irrespective of any personal claims or defenses that Borrower may have against Lender.

**Governing Law.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, or between Lender and any Grantor, shall constitute a waiver of any of Lender's rights or of any of Borrower's or any Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address. Unless otherwise provided or required by law, if there is more than one Borrower, any notice given by Lender to any Borrower is deemed to be notice given to all Borrowers.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**Subsidiaries and Affiliates of Borrower.** To the extent the context of any provisions of this Agreement makes it appropriate, including without limitation any representation, warranty or covenant, the word "Borrower" as used in this Agreement shall include all of Borrower's subsidiaries and affiliates. Notwithstanding the foregoing however, under no circumstances shall this Agreement be construed to require Lender to make any Loan or other financial accommodation to any of Borrower's subsidiaries or affiliates.

**Successors and Assigns.** All covenants and agreements by or on behalf of Borrower contained in this Agreement or any Related Documents shall bind Borrower's successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Borrower shall not, however, have the right to assign Borrower's rights under this Agreement or any interest therein, without the prior written consent of Lender.

**Survival of Representations and Warranties.** Borrower understands and agrees that in extending Loan Advances, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the extension of Loan Advances and delivery to Lender of the



Loan No

*Redacted***BUSINESS LOAN AGREEMENT  
(Continued)**

Page 5

Related Documents, shall be continuing in nature, shall be deemed made and redated by Borrower at the time each Loan Advance is made, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

**Time Is of the Essence.** Time is of the essence in the performance of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

**Advance.** The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

**Agreement.** The word "Agreement" means this Business Loan Agreement, as this Business Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Business Loan Agreement from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

**GAAP.** The word "GAAP" means generally accepted accounting principles.

**Grantor.** The word "Grantor" means each and all of the persons or entities granting a Security Interest in any Collateral for the Loan, including without limitation all Borrowers granting such a Security Interest.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Loan.** The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described herein or described on any exhibit or schedule attached to this Agreement from time to time.

**Note.** The word "Note" means the Note dated May 8, 2017 and executed by Phyto Genesis, Inc. in the principal amount of \$450,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

**Permitted Liens.** The words "Permitted Liens" mean (1) liens and security interests securing Indebtedness owed by Borrower to Lender; (2) liens for taxes, assessments, or similar charges either not yet due or being contested in good faith; (3) liens of materialmen, mechanics, warehousemen, or carriers, or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by Borrower in the ordinary course of business to secure indebtedness outstanding on the date of this Agreement or permitted to be incurred under the paragraph of this Agreement titled "Indebtedness and Liens"; (5) liens and security interests which, as of the date of this Agreement, have been disclosed to and approved by the Lender in writing; and (6) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

**Security Agreement.** The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

**Security Interest.** The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

**BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS BUSINESS LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS BUSINESS LOAN AGREEMENT IS DATED MAY 8, 2017.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS BUSINESS LOAN AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO-GENESIS, INC.

By:

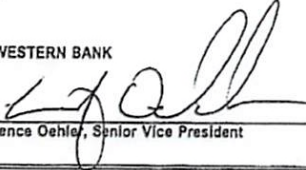
Michael A. Richards, President of Phyto Genesis, Inc.

Loan No *Redacted*

**BUSINESS LOAN AGREEMENT  
(Continued)**

LENDER:

GREAT WESTERN BANK

By:   
Lawrence Oehler, Senior Vice President

Loan#m, Ver. 1E4.10.204 Copr. ©-H USA Corporation 1997, 2017. All Rights Reserved. -IA G:\APPS\32LPC\PL\UC45.PC TR-1458039 PR-32



Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	←	Redacted	→		

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular item or item.  
Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: October 27, 2017

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 with a current principal balance of \$441,589.77.

DESCRIPTION OF COLLATERAL. Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA; Commercial Pledge Agreement dated 5/08/2017 pledged by Prometheus, Inc. .

DESCRIPTION OF CHANGE IN TERMS. Increase the loan and line of credit amount from \$450,000.00 to \$600,000.00. Continue with monthly interest payments with the next payment due on 11/08/2017. The credit line will be closed on 01/08/2018. Beginning 1/08/2018, Borrower will make 53 monthly principal and interest payments in the amount of \$3,817.05 and monthly thereafter until maturity, 05/08/2022.

Adding Modification of Mortgage dated 10/27/2017 .

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the Intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

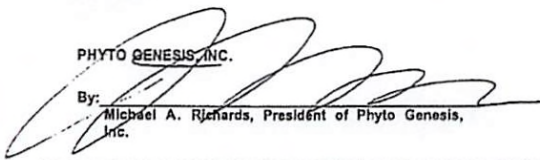
GUARANTORS. Unlimited and Unsecured Commercial Guaranty of Michael A. Richards dated 05/08/2017; Unlimited Commercial Guaranty of Prometheus, Inc. dated 05/08/2017 secured by Commercial Security Pledge pledged by Prometheus, Inc. dated 05/08/2017.

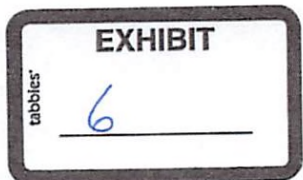
PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto Genesis, Inc.



Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	← Redacted →				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.  
Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
656 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: 5/1/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for April 2020, May 2020 & June 2020 and will resume under the same payment amount in July 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 4/8/2020 and monthly thereafter.

No distributions to owners will be allowed during deforment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.





Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	Redacted				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
666 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: 7/14/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for July 2020, August 2020 & September 2020 and will resume under the same payment amount in October 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 8/8/2020 and monthly thereafter.

Lender will collect interest due for July in the amount of \$2,088.08 at closing.

No distributions to owners will be allowed during deferment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.



DocuSign Envelope ID:

*Redacted*



**First Interstate Bank**  
**CHANGE IN TERMS AGREEMENT**

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$515,068.67	05-08-2017	12-08-2022	<i>Redacted</i>	<i>Redacted</i>	<i>Redacted</i>	<i>Redacted</i>	<i>Redacted</i>

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd Street SE  
Cedar Rapids, IA 52401

**Lender:** First Interstate Bank  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

**Principal Amount: \$515,068.67**

**Date of Agreement: October 6, 2022**

**DESCRIPTION OF EXISTING INDEBTEDNESS.** Promissory Note dated May 8, 2017 from Borrower to Lender in the original amount of \$450,000.00, as successor by merger of Great Western Bank, together with all change in terms and/or modifications thereto ("Note"), which has a principal balance owing of \$515,068.67 as of the date of this Agreement.

**DESCRIPTION OF EXISTING GUARANTY:** Commercial Guaranty dated May 8, 2017 executed by Prometheus, Inc. in favor of Lender, secured by a Commercial Pledge Agreement dated May 8, 2017.

**DESCRIPTION OF COLLATERAL.**

As described in the Mortgage dated May 8, 2017, recorded May 18, 2017, as Document Number 2431743 in the official records of the County of Linn, Iowa, together with all modifications thereto. And last modified by a Modification of Mortgage dated October 27, 2017, recorded October 27, 2017 as Document Number 2455562 in the Official Records of the County of Linn, Iowa

As described in the Commercial Pledge Agreement dated May 8, 2007, together with all modifications thereto.

**DESCRIPTION OF CHANGE IN TERMS.**

Upon receipt of the fees and charges described on the Disbursement Request and Authorization of even date, the Note and Related Documents are modified as follows:

**CHANGE IN MATURITY DATE.** From September 8, 2022 to December 8, 2022

**CHANGE IN PAYMENT SCHEDULE.** As described in the "Payment" section below.

**PAYMENT.** Borrower will pay this loan in 2 regular payments of \$3,817.05 each and one irregular last payment estimated at \$511,844.99. Borrower's first payment is due October 8, 2022, and all subsequent payments are due on the same day of each month after that. Borrower's final payment will be due on December 8, 2022, and will be for all principal and all accrued interest not yet paid.

**INTEREST CALCULATION METHOD.** Interest on this loan is computed on a 365/360 basis; that is, by applying the ratio of the Interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this loan is computed using this method.

**CONTINUING VALIDITY.** Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorser of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

**RECEIPT OF PAYMENTS.** All payments must be made by check, automatic account debit, electronic funds transfer, money order, or other instrument in U.S. dollars and must be received by us at the Lender's address. Payments received at that address prior to close of business on any business day will be credited to your loan as of the date received.

**PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

**PHYTO GENESIS, INC.**

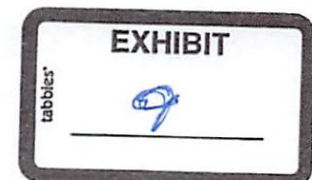
By: *Michael A Richards* 10/6/2022  
Michael A Richards, President of Phyto Genesis, Inc.

**GUARANTOR(S):**

**PROMETHEUS, INC.**

By: *Michael A Richards* 10/6/2022  
Michael A Richards, President of Prometheus, Inc.

X *Michael A Richards* 10/6/2022  
Michael A Richards





Michael F. Kivett  
mfkivett@walentineotoole.com  
Direct Line (402) 505-8565

**WALENTINE O'TOOLE, LLP**

▲  
Attorneys at Law

December 12, 2022

**VIA CERTIFIED MAIL RETURN RECEIPT  
REQUESTED AND REGULAR U.S. MAIL**

Phyto Genesis, Inc., Borrower  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401-2303

Michael A. Richards, Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus, Inc., Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Re: First Interstate Bank – Loan No. *Redacted*

Dear Borrower and Guarantors:

Please be advised this law firm represents First Interstate Bank, successor by merger with Great Western Bank ("Bank") with regard to the Promissory Note dated May 8, 2017 in the original principal amount of \$450,000.00 ("Note"), as amended by certain Change in Terms Agreements. The loan evidenced by the Note is governed by that certain Business Loan Agreement dated May 8, 2017 and secured, among other things, by that certain Mortgage dated May 8, 2017 and that certain Assignment of Rents dated May 8, 2017, encumbering real estate located at 1029 3<sup>rd</sup> St SE, Cedar Rapids, IA 52401 and that certain Commercial Pledge Agreement dated May 8, 2017 granted by Michael A. Richards. The payment and performance of the loan is also guaranteed by the guarantor, Michael A. Richards, pursuant to his Commercial Guaranty dated May 8, 2017 and by the Guarantor Prometheus, Inc., pursuant to its Guaranty dated May 8, 2017.

Walentine O'Toole, LLP  
www.walentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

1851 Madison Avenue, Suite 712  
Council Bluffs, IA 51502  
(712) 388-2244

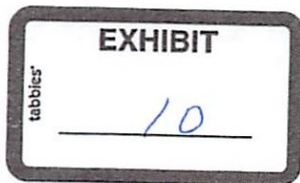
5024 S. Bur Oak Place, #210  
Sioux Falls, SD 57108  
(605) 681-9030

Michael F. Kivett\*\*  
Craig A. Knickrehm\*\*  
Camille R. Hawk\*  
Raymond R. Aranza\*  
David P. Wilson  
Matthew J. Kivett\*\*\*\*  
Jonathan M. Brown\*\*\*

Andrew R. Biehl\*\*  
Jamie M. Hurst  
John M. Kivett\*  
Brad C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)



December 12, 2022

Page 2

This letter is to advise you that the Note matured on December 8, 2022, and the loan balance remains unpaid and in default.

A principal balance of \$514,614.00, together with accrued interest of \$2,831.22, and late charges and fees in the amount of \$10,458.38 remains due and payable as of December 8, 2012. Interest continues to accrue on the unpaid principal balance at a per diem rate of \$64.33.

You have the right to cure this default and in order to do so, you must pay to the Bank, on or before January 26, 2023, the sum of \$527,903.60 which consists of the total installments of principal, interest, late charges and fees. This payment should be forwarded to First Interstate Bank, 120 South 68<sup>th</sup> Street, West Des Moines, IA 50266. The contact person for the Bank is Weber Bowen, phone number 515-257-7883.

In the event you fail to make the payment demanded herein on or before January 26, 2023, the Bank shall be entitled to proceed with any and all remedies available under the loan documents, including but not limited to the foreclosure or other liquidation of any real or personal property pledged as security for this loan and/or the enforcement of the personal liability of the Borrower and/or Guarantors, or any one or more of them, and the exercise of any and all other remedies as are available at law or in equity.

If you have any questions, do not hesitate to contact me.

Very truly yours,



Michael F. Kivett  
For the Firm

MFK/bdf

cc: William Bowen/First Interstate Bank (via email)

Camille R. Hawk  
chawk@walentineotoole.com

**WALENTINE O'TOOLE, LLP**

▲  
Attorneys at Law

February 7, 2023  
**VIA FIRST CLASS MAIL & CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

**14 DAY NOTICE OF ACCELERATION & DEMAND FOR PAYMENT**

Phyto Genesis Inc.  
Attn: Michael Richards, Reg. Agent  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401

Phyto Genesis Inc.  
Attn: Highest Officer  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus Inc.  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Michael Richards  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Ref: Commercial Loan # *Redacted*; First Interstate Bank; Our File # 38457.0006

To Whom It Concerns:

This firm represents First Interstate Bank, 10101 University Avenue, Ste 10, Clive, IA 50325, 855-342-3400, the Lender ("Lender") of the above-referenced Loan, and the Note, Mortgage, Changes in Terms, Assignment of Rent, Business Loan Agreement, Guaranties and other documents ("Loan Documents"). The Loan Documents are cross-collateralized and the security includes but is not limited to real property at 1029 3<sup>rd</sup> Street SE, Cedar Rapids, IA 52401, as well as other assets. You are hereby notified that the above Loan is in default and that this default consists of failure to make payments as identified in the Loan Documents. Specifically, the Loan matured on December 8, 2022, and remains unpaid.

More than 30 days ago, notices were sent that the Loan is in default due to the failure to pay off the Loan upon maturity. Because there has been a failure to cure the default, the Lender is further accelerating the balance due on the Loan secured by the Mortgage.

If you did not sign the Note or a Guaranty of the Note, but only signed the Mortgage, or are an owner of the Property who did not sign a Note and/or Guaranty, please be advised we are not seeking personal liability from you on the amounts owed, but we are providing this letter pursuant

Walentine O'Toole, LLP  
www.walentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
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John M. Kivett\*  
Jamie M. Hurst  
Bradley C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)





Page 2 of 2

to Iowa law and the terms of the Loan Documents. We are further sending this Notice pursuant to Iowa Code 654.4B.

As of the date of this letter, the accelerated balance due on the Note is:

Principal	\$514,614.00
Interest	\$6,755.16
Late Charges	\$15,272.91
Fees Balance	\$158.47
Reconveyance	\$27.00
Release of Assignment of Rents	\$27.00
NET BALANCE DUE	\$536,854.54
Attorney Costs and Expenses	<u>\$1,421.40</u>
TOTAL BALANCE DUE:	\$538,275.94

Additional amounts may become due after the date of this letter. Interest and other charges continue to accrue from and after the date of this letter, as provided in your Loan Documents.

There must be payment of the total balance then due plus all other accrued interest and charges within 14 days from the date of this letter. If there is a failure to pay in full within 14 days, the Lender may take action to enforce the Loan Documents, including, but not limited to foreclosure of the mortgaged property and/or bringing suit to collect from you, as applicable, all amounts due, or to pursue other legal remedies against the assets, and include attorneys' fees and other costs as allowed by law.

Please contact First Interstate Bank immediately at , 855-342-3400 to make arrangements for payment in certified funds, payable to First Interstate Bank. If a partial payment is processed, the Lender is not waiving its right to continue to declare default and/or pursue any and all legal remedies as discussed herein.

Sincerely,



CAMILLE R. HAWK

cc: Weber Bowen, First Interstate Bank, via email

**NOTICE:** If the obligation for this Loan has been discharged in a Chapter 7, 11, 11 Subchapter V, 12 or 13 bankruptcy case, please be advised that, unless the debt has been reaffirmed, we will not make a personal claim against the discharged party for the amounts due and owing on the Loan. We will, however, seek any recovery solely from the property which was pledged as security for the debt.



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. EQCV101968

**NOTICE OF INTENT TO FILE  
APPLICATION FOR DEFAULT**

TO THE ABOVE-NAMED DEFENDANT:

NEWBOHEMIAN, INC. d/b/a THE  
 BOHEMIAN  
 c/o Michael A. Richards, Reg. Agent  
 1106 8<sup>th</sup> St SE  
 Cedar Rapids, Iowa 52401

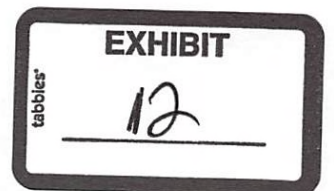
DATE OF NOTICE: June 30, 2023

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD SEEK LEGAL ADVICE AT ONCE.

FIRST INTERSTATE BANK, Plaintiff.

By:   
 Camille R. Hawk, Attorney at Law (AT0009922)  
 VALENTINE O'TOOLE, LLP  
 11240 Davenport St  
 Omaha, NE 68154  
 402-330-6300  
 chawk@valentineotoole.com  
 ATTORNEYS FOR PLAINTIFF



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, )  
 LLC; and PARTIES IN POSSESSION, if )  
 any, real names unknown, )  
 )  
 Defendants. )

CASE NO. EQCV101968

**AFFIDAVIT OF INDEBTEDNESS**

STATE OF Iowa )  
 ) ss.  
 COUNTY OF Polk )

I, Weber Bowen, of legal age, being first duly sworn on oath, depose and state as follows:

1. I am a SVP with First Interstate Bank (hereinafter "FIB" or "Plaintiff").
2. FIB is successor by merger to Great Western Bank and is authorized to conduct business in the state of Iowa.
3. This Affidavit is in support of FIB's Application for Judgment on Default and/or Motion for Summary Judgment.
4. This Affidavit is based upon my personal knowledge and/or review of the business books and records of FIB.
5. I have reviewed Plaintiff's Foreclosure Petition, and, to the best of my knowledge and belief, all allegations contained therein are true.
6. In my capacity as a SVP, I have access to the business books and records with regard to the Note and Mortgage and other Loan Documents referenced in Plaintiff's Foreclosure Petition.
7. The Note and Mortgage and other Loan Documents referenced therein is in default.

8. The last payment received on the Note and Mortgage, as amended and modified, referenced in the Petition was made on November 9, 2022. No payments have been made since that time, and the Loan matured on December 8, 2022.

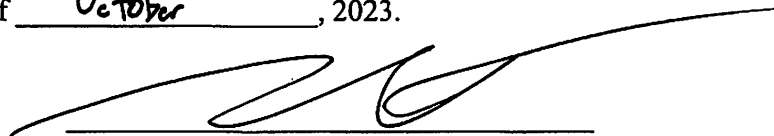
9. As of September 12, 2023, the amount due is \$555, 685.61 with interest accruing thereon at the current interest rate of 4.50000% per annum, or \$64.33 per diem, computed as follows:

Principal	\$514,614.00
Interest through September 12, 2023	\$20,714.06
Late Charges	\$15,272.91
Fees Balance	\$158.47
Paid Attorney Fees and Costs	\$4,926.17
(Fees \$3,994.00; Title – \$350.00;	
Sheriffs’ Costs – service \$194.77;	
Petition and Lis Pendens filing \$255.00;	
Certified Mailing \$32.40 – demand letter)	
<b>TOTAL</b>	<b>\$555,685.61</b>

10. To the best of my information and belief, no Defendants in this action are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211 and are not under any legal disability, are not prisoners in a reformatory or penitentiary and are not in the military services of the United States of America or its allies.

11. Attached hereto and incorporated herein are true and correct redacted copies of the Corporate Warranty Deed, Note, Mortgage, Assignment of Rents, Business Loan Agreement, Change in Terms Agreements, 45- Day Demand Letter, and 14 Day Notice of Acceleration and Demand for Payment for the Property referenced in the Plaintiff’s Petition, and as contained in the business records and books of Plaintiff, marked as Exhibits “A” – “K”, accordingly.

DATED this 2<sup>nd</sup> day of October, 2023.



Signature

Weber Bowen

Printed Name

First Interstate Bank

Employer

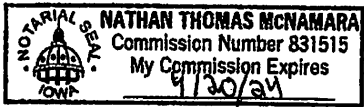
SVP. SAC

Title

SUBSCRIBED and sworn to before me this 2<sup>nd</sup> day of October, 2023.

Nate McNamara

Notary Public





Doc ID: 021897200001 Type: GEN  
Recorded: 10/14/2015 at 10:38:18 AM  
Fee Amt: \$168.00 Page 1 of 1  
Revenue Tax: \$156.00  
Linn County Iowa  
JOAN MCCALMANT RECORDER  
BK 9380 Pg 630

#13 Ad VISA  
Phyto Genesis Inc. 1029 3rd St SE Cedar Rapids IA 52401  
Preparer Information: Nancy C. Malloy, 222 3rd Street SE, Suite 302, Cedar Rapids, IA 52401 319-363-8827  
After recording return to: Contract Exchange Corporation, PO Box 8182, Cedar Rapids, IA 52408  
Address Tax Statements: Michael Richards, 1029 3rd Street SE, Cedar Rapids, IA 52403

**CORPORATE WARRANTY DEED**

Know All Men By These Presents:

**Contract Exchange Corporation, an Iowa Corporation**

Having its principal place of business at 222 3rd Street SE, Suite 302, Cedar Rapids, Iowa in Linn County and State of Iowa, a corporation organized and existing under the laws of Iowa in consideration of the sum of One Dollar (\$1.00) and other valuable consideration in hand paid does hereby convey unto

**Phyto Genesis Inc., an Iowa Corporation**

The following described real estate in Linn County, Iowa:

Lot 6, Block 21, Carpenters Thlr Addition to the Town of Cedar Rapids, Linn County, Iowa.

This deed is given in fulfillment of a certain real estate contract that was dated December 29, 2000 and filed on January 3, 2001 in Volume 4218 at Page 629 in the records of the Linn County Recorder.

This deed is exempt from declaration of value and groundwater hazard statement being a deed in fulfillment of a certain real estate contract.

And said Corporation hereby covenants with said grantees, and successors in interest, that it holds said real estate by title in fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be above stated: and it covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

Words and phrases herein including acknowledgement hereof, shall be construed as in the singular or plural number, according to the context.

IN WITNESS WHEREOF said corporation has caused this instrument to be duly executed this 14th day of April, 2015.

Contract Exchange Corporation  
BY: Anthony E. Schubert, Pres  
Anthony E. Schubert, President  
BY: Anthony E. Schubert Sec.  
Anthony E. Schubert, Secretary

State of Iowa, Linn County, ss§:  
On this 14th day of April, A.D., 2015, before me, the undersigned, a notary public in and for said county and said state, personally appeared Anthony E. Schubert, to me personally known, who, being by me duly sworn, did say that he is the President and Secretary, of said corporation: that no seal has been procured by the said corporation, that said instrument was signed on behalf of said Corporation by authority of its board of directors; and that the said Anthony E. Schubert as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.



Nancy C. Malloy  
Notary Public In and For Said County and Said State



*Redacted*

**PROMISSORY NOTE**

Principal	Loan Date	Maturity	Loan No	Call / Call	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022		<i>Redacted</i>			

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

**Principal Amount: \$450,000.00**

**Date of Note: May 8, 2017**

**PROMISE TO PAY.** Phyto Genesis, Inc. ("Borrower") promises to pay to GREAT WESTERN BANK ("Lender"), or order, in lawful money of the United States of America, the principal amount of Four Hundred Fifty Thousand & 00/100 Dollars (\$450,000.00) or so much as may be outstanding, together with interest on the unpaid outstanding principal balance of each advance, calculated as described in the "INTEREST CALCULATION METHOD" paragraph using an interest rate of 4.500% per annum based on a year of 360 days. Interest shall be calculated from the date of each advance until repayment of each advance. The interest rate may change under the terms and conditions of the "INTEREST AFTER DEFAULT" section.

**PAYMENT.** Borrower will pay this loan in accordance with the following payment schedule:

Borrower will pay this loan in Seven (7) monthly interest only payments beginning June 08, 2017 and monthly thereafter. The credit line will be closed on January 08, 2018. Beginning January 08, 2018, Borrower will make Fifty-Three (53) monthly principal and interest payments in the amount of \$2,863.13 and monthly thereafter until maturity. The interest rate will remain at fixed at 4.50% during the term of the loan. The maturity date will be May 08, 2022.

Unless otherwise agreed or required by applicable law, payments will be applied first to any accrued unpaid interest; then to principal; then to any escrow or reserve account payments as required under any mortgage, deed of trust, or other security instrument or security agreement securing this Note; then to any late charges; and then to any unpaid collection costs. Borrower will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**INTEREST CALCULATION METHOD.** Interest on this Note is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this Note is computed using this method.

**PREPAYMENT.** Borrower agrees that all loan fees and other prepaid finance charges are earned fully as of the date of the loan and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Except for the foregoing, Borrower may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will not, unless agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments of accrued unpaid interest. Rather, early payments will reduce the principal balance due. Borrower agrees not to send Lender payments marked "paid in full", "without recourse", or similar language. If Borrower sends such a payment, Lender may accept it without losing any of Lender's rights under this Note, and Borrower will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any check or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to: GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA 52317.

**LATE CHARGE.** If a payment is 10 days or more late, Borrower will be charged 5.000% of the regularly scheduled payment.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, the interest rate on this Note shall be increased to 21.000% per annum based on a year of 360 days. However, in no event will the interest rate exceed the maximum interest rate limitations under applicable law.

**DEFAULT.** Each of the following shall constitute an event of default ("Event of Default") under this Note:

**Payment Default.** Borrower fails to make any payment when due under this Note.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note or in any of the related documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the disputes.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of this Note is impaired.

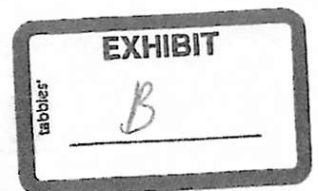
**Cure Provisions.** If any default, other than a default in payment, is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Borrower, after Lender sends written notice to Borrower demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance under this Note and all accrued unpaid interest immediately due, and then Borrower will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including without limitation all attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law.

**GOVERNING LAW.** This Note will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Note has been accepted by Lender in the State of Iowa.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any



Loan No *Redacted*

**PROMISSORY NOTE  
(Continued)**

Page 2

and all such accounts.

**COLLATERAL.** Borrower acknowledges this Note is secured by Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St., Cedar Rapids, Iowa; Commercial Pledge Agreement pledged by Prometheus, Inc. dated 05/08/2017 with further support of Business Loan Agreement dated 05/08/2017.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested orally by Borrower or as provided in this paragraph. All oral requests shall be confirmed in writing on the day of the request. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc. Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any of Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**PURPOSE OF LOAN.** The specific purpose of this loan is: Construction and Permanent Financing.

**GUARANTORS.** Unlimited and Unsecured Commercial Guaranty of Michael A. Richards dated 05/08/2017; Unlimited Commercial Guaranty of Prometheus, Inc. dated 05/08/2017 secured by Commercial Security Pledge pledged by Prometheus, Inc. dated 05/08/2017.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon Borrower, and upon Borrower's heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**NOTIFY US OF INACCURATE INFORMATION WE REPORT TO CONSUMER REPORTING AGENCIES.** Borrower may notify Lender if Lender reports any inaccurate information about Borrower's account(s) to a consumer reporting agency. Borrower's written notice describing the specific inaccuracy(ies) should be sent to Lender at the following address: GREAT WESTERN BANK 226 S Main Ave Sioux Falls, SD 57104.

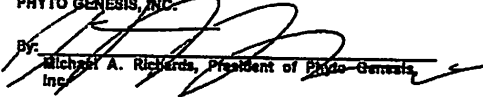
**GENERAL PROVISIONS.** If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several.

**PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

PHYTO GENESIS, INC.

By:   
Michael A. Richards, President of Phyto Genesis, Inc.



BK: 9834 PG: 231  
Recorded: 5/18/2017 at 2:45:09.940 PM  
Fee Amount: \$57.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431743

**FOR RECORDER'S USE ONLY**

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

**ADDRESS TAX STATEMENT:**

Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

**RECORDATION REQUESTED BY:**

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

**WHEN RECORDED MAIL TO:**

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

**MORTGAGE**

**NOTICE:** This Mortgage secures credit in the amount of \$450,000.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Mortgage. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Mortgage. The property address can be found on page 1 of this Mortgage. The legal description can be found on page 1 of this Mortgage.

THIS MORTGAGE dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages and conveys to Lender and grants to Lender a security interest in all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; rents and profits; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Real Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

**CROSS-COLLATERALIZATION.** In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay





**MORTGAGE  
(Continued)**

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such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents. The lien on the rents granted in this Mortgage shall be effective from the date of the Mortgage and not just in the event of default.

**FUTURE ADVANCES.** In addition to the Note, this Mortgage secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions: None of the collateral for the indebtedness constitutes, and none of the funds represented by the indebtedness will be used to purchase: (1) Agricultural products or property used for an agricultural purpose as defined in Iowa Code Section 535.13; (2) Agricultural land as defined in Iowa Code Section 9H1 (2) or 175.2 (1); or (3) Property used for an agricultural purpose as defined in Iowa Code Section 570.A.1 (2). Grantor represents and warrants that: (1) There are not now and will not be any wells situated on the Property; (2) There are not now and will not be any solid waste disposal sites on the Property; (3) There are not now and there will not be any hazardous wastes on the Property; (4) There are not now and there will not be any underground storage tanks on the Property.

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**MORTGAGE  
(Continued)**

Page 3

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Iowa law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances

**MORTGAGE  
(Continued)**

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satisfactory to Lender that Grantor can and will pay the cost of such Improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the property insured, the then current replacement value of such property, and the manner of determining that value; and (5) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real

**MORTGAGE  
(Continued)**

Page 5

Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage. (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender, and (c) the liens granted hereby are not the type of lien referred to in Chapter 575 of the Iowa Code Supplement, as now enacted or hereafter modified, amended or replaced. Grantor, for itself and all persons claiming by, through or under Grantor, agrees that it claims no lien or right to a lien of the type contemplated by Chapter 575 or any other chapter of the Code of Iowa and further waives all notices and rights pursuant to said law with respect to the liens hereby granted, and represents and warrants that it is the sole party entitled to do so and agrees to indemnify, defend, and hold harmless Lender from any loss, damage, and costs, including reasonable attorneys' fees, threatened or suffered by Lender arising either directly or indirectly as a result of any claim of the applicability of said law to the liens hereby granted.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Grantor's indebtedness shall be paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:



**MORTGAGE  
(Continued)**

Page 6

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Fixture Filing.** From the date of its recording, this Mortgage shall be effective as a financing statement filed as a fixture filing with respect to the Personal Property and for this purpose, the name and address of the debtor is the name and address of Grantor as set forth on the first page of this Mortgage and the name and address of the secured party is the name and address of Lender as set forth on the first page of this Mortgage.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**EVENTS OF DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full

**MORTGAGE  
(Continued)**

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force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property securing the indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

**Right to Cure.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Foreclosure.** Lender may exercise the right to non-judicial foreclosure pursuant to Iowa Code Section 654.18 and Chapter 655A as now enacted or hereafter modified, amended or replaced.

**MORTGAGE  
(Continued)**

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**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender. This paragraph is subject to any rights of Grantor, under Iowa law, to remain in possession of the Property during a redemption period.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Shortened Redemption.** Grantor hereby agrees that, in the event of foreclosure of this Mortgage, Lender may, at Lender's sole option, elect to reduce the period of redemption pursuant to Iowa Code Sections 628.26, 628.27, or 628.28, or any other Iowa Code Section, to such time as may be then applicable and provided by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Lender following an Event of Default, or in any way to limit or restrict the rights and ability of Lender to proceed directly against Grantor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other collateral directly or indirectly securing the indebtedness.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by

**MORTGAGE  
(Continued)**

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the party or parties sought to be charged or bound by the alteration or amendment.

**Annual Reports.** If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law.** This Mortgage will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Mortgage has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Default.** The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or



**MORTGAGE  
(Continued)**

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regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Mortgage.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

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(Continued)

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GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS MORTGAGE AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

GRANTOR:

PHYTO GENESIS, INC.

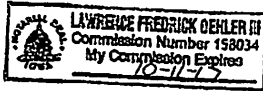
By: [Signature]  
Michael A. Richards, President of Phyto Genesis, Inc.

CORPORATE ACKNOWLEDGMENT

STATE OF Iowa )  
 ) SS  
COUNTY OF Johnson )

This record was acknowledged before me on 8th Day of May, 20 17 by Michael A. Richards, President of Phyto Genesis, Inc..

[Signature]  
Notary Public in and for the State of Iowa  
My commission expires 10-11-17



BK: 9834 PG: 242  
Recorded: 5/18/2017 at 2:45:12.487 PM  
Fee Amount: \$37.00  
Revenue Tax:  
Joan McCalmant RECORDER  
Linn County, Iowa  
Unique Doc ID: 2431744

FOR RECORDER'S USE ONLY

Prepared By: Megan Svoboda, Business Banking Associate I, GREAT WESTERN BANK, 655  
Community Drive, North Liberty, IA 52317, (319) 471-4570

ADDRESS TAX STATEMENT:

Phyto Genesis, Inc.; 1029 3rd St SE; Cedar Rapids, IA 52401

RECORDATION REQUESTED BY:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

WHEN RECORDED MAIL TO:

GREAT WESTERN BANK, North Liberty, 655 Community Drive, PO Box 306, North Liberty, IA  
52317

*Redacted*

ASSIGNMENT OF RENTS

The names of all Grantors (sometimes "Grantor") can be found on page 1 of this Assignment. The names of all Grantees (sometimes "Lender") can be found on page 1 of this Assignment. The property address can be found on page 1 of this Assignment. The legal description can be found on page 1 of this Assignment.

THIS ASSIGNMENT OF RENTS dated May 8, 2017, is made and executed between Phyto Genesis, Inc., whose address is 1029 3rd St SE, Cedar Rapids, IA 52401 (referred to below as "Grantor") and GREAT WESTERN BANK, whose address is 655 Community Drive, PO Box 306, North Liberty, IA 52317 (referred to below as "Lender").

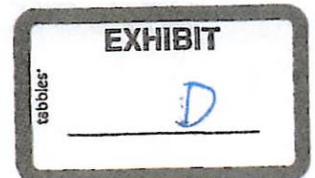
ASSIGNMENT. For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Linn County, State of Iowa:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids, Linn County, Iowa.

The Property or its address is commonly known as 1029 3rd St SE, Cedar Rapids, IA 52401.

CROSS-COLLATERALIZATION. In addition to the Note, this Assignment secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

FUTURE ADVANCES. In addition to the Note, this Assignment secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Assignment secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Grantor, together with all interest thereon.



**ASSIGNMENT OF RENTS  
(Continued)**

Page 2

**THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Iowa and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements



**ASSIGNMENT OF RENTS  
(Continued)**

Page 3

of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**NO OBLIGATION OF LENDER.** The assignment and security interest granted in this Assignment shall not be deemed or construed to constitute Lender as a mortgagee or trustee in possession of the Property, to obligate Lender to lease the Property or to attempt to do so, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the leases or otherwise.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of Grantor's existence as a going business, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender

**ASSIGNMENT OF RENTS  
(Continued)**

Page 4

believes the prospect of payment or performance of the Indebtedness is impaired.

**Cure Provisions.** If any default, other than a default in payment, is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay without notice, except as may be expressly required by applicable law.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of Iowa.

**ASSIGNMENT OF RENTS  
(Continued)**

Page 5

**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Merger.** There shall be no merger of the interest or estate created by this Assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Release of Rights of Dower, Homestead and Distributive Share.** Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Property and waives all rights of exemption as to any of the Property. If a Grantor is not an owner of the Property, that Grantor executes this Mortgage for the sole purpose of relinquishing and waiving such rights.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.

**ASSIGNMENT OF RENTS  
(Continued)**

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**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Assignment.** The word "Assignment" means this ASSIGNMENT OF RENTS, as this ASSIGNMENT OF RENTS may be amended or modified from time to time, together with all exhibits and schedules attached to this ASSIGNMENT OF RENTS from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc..

**Default.** The word "Default" means the Default set forth in this Assignment in the section titled "Default".

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

**Grantor.** The word "Grantor" means Phyto Genesis, Inc..

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest and late fees, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision, together with all interest thereon and all amounts that may be indirectly secured by the Cross-Collateralization provision of this Assignment.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Mortgage.** The word "Mortgage" means this ASSIGNMENT OF RENTS between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated May 8, 2017, in the original principal amount of \$450,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other Instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.



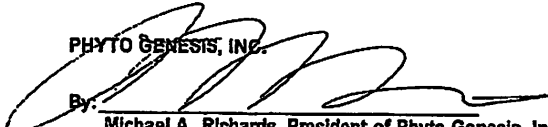
ASSIGNMENT OF RENTS  
(Continued)

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THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND NOT PERSONALLY BUT AS AN AUTHORIZED SIGNER, HAS CAUSED THIS ASSIGNMENT TO BE SIGNED AND EXECUTED ON BEHALF OF GRANTOR ON MAY 8, 2017.

GRANTOR ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS ASSIGNMENT OF RENTS AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

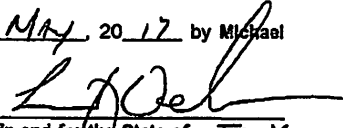
GRANTOR:

PHYTO GENESIS, INC.  
By:   
Michael A. Richards, President of Phyto Genesis, Inc.

CORPORATE ACKNOWLEDGMENT

STATE OF Iowa )  
 ) SS  
COUNTY OF Johnson )

This record was acknowledged before me on 8th Day of May 20 17 by Michael A. Richards, President of Phyto Genesis, Inc..

  
Notary Public in and for the State of Iowa  
My commission expires 10-11-17



*Redacted*

**BUSINESS LOAN AGREEMENT**

Principal	Loan Date	Maturity	Loan No.	Call / Coll.	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	<i>Redacted</i>				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

**Lender:** GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

THIS BUSINESS LOAN AGREEMENT dated May 8, 2017, is made and executed between Phyto Genesis, Inc. ("Borrower") and GREAT WESTERN BANK ("Lender") on the following terms and conditions. Borrower has received prior commercial loans from Lender or has applied to Lender for a commercial loan or loans or other financial accommodations, including those which may be described on any exhibit or schedule attached to this Agreement. Borrower understands and agrees that: (A) in granting, renewing, or extending any Loan, Lender is relying upon Borrower's representations, warranties, and agreements as set forth in this Agreement; (B) the granting, renewing, or extending of any Loan by Lender at all times shall be subject to Lender's sole judgment and discretion; and (C) all such Loans shall be and remain subject to the terms and conditions of this Agreement.

**TERM.** This Agreement shall be effective as of May 8, 2017, and shall continue in full force and effect until such time as all of Borrower's Loans in favor of Lender have been paid in full, including principal, interest, costs, expenses, attorneys' fees, and other fees and charges, or until such time as the parties may agree in writing to terminate this Agreement.

**ADVANCE AUTHORITY.** The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority: Michael A. Richards, President of Phyto Genesis, Inc.

**CONDITIONS PRECEDENT TO EACH ADVANCE.** Lender's obligation to make the initial Advance and each subsequent Advance under this Agreement shall be subject to the fulfillment to Lender's satisfaction of all of the conditions set forth in this Agreement and in the Related Documents.

**Loan Documents.** Borrower shall provide to Lender the following documents for the Loan: (1) the Note; (2) Security Agreements granting to Lender security interests in the Collateral; (3) financing statements and all other documents perfecting Lender's Security Interests; (4) evidence of insurance as required below; (5) guaranties; (6) together with all such Related Documents as Lender may require for the Loan; all in form and substance satisfactory to Lender and Lender's counsel.

**Borrower's Authorization.** Borrower shall have provided in form and substance satisfactory to Lender properly certified resolutions, duly authorizing the execution and delivery of this Agreement, the Note and the Related Documents. In addition, Borrower shall have provided such other resolutions, authorizations, documents and instruments as Lender or its counsel, may require.

**Payment of Fees and Expenses.** Borrower shall have paid to Lender all fees, charges, and other expenses which are then due and payable as specified in this Agreement or any Related Document.

**Representations and Warranties.** The representations and warranties set forth in this Agreement, in the Related Documents, and in any document or certificate delivered to Lender under this Agreement are true and correct.

**No Event of Default.** There shall not exist at the time of any Advance a condition which would constitute an Event of Default under this Agreement or under any Related Document.

**REPRESENTATIONS AND WARRANTIES.** Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any indebtedness exists:

**Organization.** Borrower is a corporation for profit which is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Iowa. Borrower is duly authorized to transact business in all other states in which Borrower is doing business, having obtained all necessary filings, governmental licenses and approvals for each state in which Borrower is doing business. Specifically, Borrower is, and at all times shall be, duly qualified as a foreign corporation in all states in which the failure to so qualify would have a material adverse effect on its business or financial condition. Borrower has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage. Borrower maintains an office at 1029 3rd St SE, Cedar Rapids, IA 52401. Unless Borrower has designated otherwise in writing, the principal office is the office at which Borrower keeps its books and records including its records concerning the Collateral. Borrower will notify Lender prior to any change in the location of Borrower's state of organization or any change in Borrower's name. Borrower shall do all things necessary to preserve and to keep in full force and effect its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to Borrower and Borrower's business activities.

**Assumed Business Names.** Borrower has filed or recorded all documents or filings required by law relating to all assumed business names used by Borrower. Excluding the name of Borrower, the following is a complete list of all assumed business names under which Borrower does business: None.

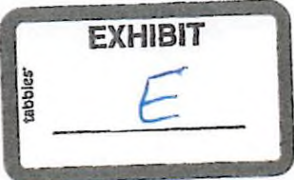
**Authorization.** Borrower's execution, delivery, and performance of this Agreement and all the Related Documents have been duly authorized by all necessary action by Borrower and do not conflict with, result in a violation of, or constitute a default under (1) any provision of (a) Borrower's articles of incorporation or organization, or bylaws, or (b) any agreement or other instrument binding upon Borrower or (2) any law, governmental regulation, court decree, or order applicable to Borrower or to Borrower's properties.

**Financial Information.** Each of Borrower's financial statements supplied to Lender truly and completely disclosed Borrower's financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to Lender. Borrower has no material contingent obligations except as disclosed in such financial statements.

**Legal Effect.** This Agreement constitutes, and any instrument or agreement Borrower is required to give under this Agreement when delivered will constitute legal, valid, and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms.

**Properties.** Except as contemplated by this Agreement or as previously disclosed in Borrower's financial statements or in writing to Lender and as accepted by Lender, and except for property tax liens for taxes not presently due and payable, Borrower owns and has good title to all of Borrower's properties free and clear of all Security Interests, and has not executed any security documents or financing statements relating to such properties. All of Borrower's properties are titled in Borrower's legal name, and Borrower has not used or filed a financing statement under any other name for at least the last five (5) years.

**Hazardous Substances.** Except as disclosed to and acknowledged by Lender in writing, Borrower represents and warrants that: (1) During the period of Borrower's ownership of the Collateral, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from any of the Collateral. (2) Borrower has no knowledge of, or reason to believe that there has been (a) any breach or violation of any Environmental Laws; (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Collateral by any prior owners or occupants of any of the Collateral; or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters. (3) Neither Borrower nor any tenant, contractor, agent or other authorized user of any of the Collateral shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from any of the Collateral; and any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation all Environmental Laws. Borrower authorizes Lender and its agents to enter upon the Collateral to make such inspections and tests as Lender may deem appropriate to determine compliance of the Collateral with this section of the Agreement. Any inspections or tests made by Lender shall be at Borrower's expense and for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person. The representations and warranties contained herein are based on Borrower's due diligence in investigating the Collateral for hazardous waste and Hazardous Substances. Borrower hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Borrower becomes liable for cleanup or other costs under any such laws, and (2) agrees to indemnify, defend, and hold harmless Lender





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against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Agreement or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the Collateral. The provisions of this section of the Agreement, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the termination, expiration or satisfaction of this Agreement and shall not be affected by Lender's acquisition of any interest in any of the Collateral, whether by foreclosure or otherwise.

**Litigation and Claims.** No litigation, claim, investigation, administrative proceeding or similar action (including those for unpaid taxes) against Borrower is pending or threatened, and no other event has occurred which may materially adversely affect Borrower's financial condition or properties, other than litigation, claims, or other events, if any, that have been disclosed to and acknowledged by Lender in writing.

**Taxes.** To the best of Borrower's knowledge, all of Borrower's tax returns and reports that are or were required to be filed, have been filed, and all taxes, assessments and other governmental charges have been paid in full, except those presently being or to be contested by Borrower in good faith in the ordinary course of business and for which adequate reserves have been provided.

**Lien Priority.** Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any Security Agreements, or permitted the filing or attachment of any Security Interests on or affecting any of the Collateral directly or indirectly securing repayment of Borrower's Loan and Note, that would be prior or that may in any way be superior to Lender's Security Interests and rights in and to such Collateral.

**Binding Effect.** This Agreement, the Note, all Security Agreements (if any), and all Related Documents are binding upon the signers thereof, as well as upon their successors, representatives and assigns, and are legally enforceable in accordance with their respective terms.

**AFFIRMATIVE COVENANTS.** Borrower covenants and agrees with Lender that, so long as this Agreement remains in effect, Borrower will:

**Notices of Claims and Litigation.** Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower or any Guarantor which could materially affect the financial condition of Borrower or the financial condition of any Guarantor.

**Financial Records.** Maintain its books and records in accordance with GAAP, applied on a consistent basis, and permit Lender to examine and audit Borrower's books and records at all reasonable times.

**Financial Statements.** Furnish Lender with the following:

**Additional Requirements.**

1) Annual Tax Return for Phyto Genesis, Inc. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Borrower's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Borrower will provide a copy of the extension to Lender no later than 30 days after filing.

2) Annual Tax Return for Prometheus and Michael A. Richards. Income Tax Returns. As soon as available, but in no event later than 30 days after the applicable filing date for the tax reporting period, Guarantor's Federal and other governmental tax returns, prepared by CPA, satisfactory to Lender. In the event an extension is filed, the Guarantor will provide a copy of the extension to Lender no later than 30 days after filing.

3) Quarterly financial statements for Prometheus. Interim Financial Statements. As soon as available, but in no event later than 45 days after the end of each quarter, Balance Sheet and Income Statement for the period ended.

4) Personal Financial Statements for Michael A. Richards. Annually, but in no event later than thirteen (13) months from the date of any prior statements provided to Lender, Michael A. Richards' Balance Sheet and Income Statement for the year ended, prepared by Michael A. Richards.

All financial reports required to be provided under this Agreement shall be prepared in accordance with GAAP, applied on a consistent basis, and certified by Borrower as being true and correct.

**Additional Information.** Furnish such additional information and statements, as Lender may request from time to time.

**Additional Requirements.**

**Loan Covenants**

1) Debt Service Coverage Ratio – Post-Distribution. Maintain a minimum Debt Service Coverage Ratio of 1.25 to 1.00 as of the end of annual period. "Debt Service Coverage Ratio- Post-Distribution" means, Borrower's Earnings Before Interest, Depreciation and Amortization after distributions plus contributions, divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.

2) Global Debt Service Coverage Ratio – Post Distribution. Maintain a minimum Consolidated Debt Service Coverage Ratio of 1.35 to 1.00 as of the end of each calendar annual period. "Consolidated Debt Service Coverage Ratio – Post-Distribution" means the Earnings Before Interest, Depreciation and Amortization after distributions plus contributions for Michael A Richards, Phyto Genesis, Inc. and Prometheus, Inc., divided by the sum of the following for the stated period: interest expense and the current principal portion of long term debt.

**Terms & Conditions**

1) Borrower and/or Collateral Pledger is to maintain (unpledged) deposits averaging \$45,000.00 or more with Great Western Bank.

2) Great Western Bank to be in 1st mortgage position and no additional liens without Great Western Bank approval.

3) All rental real estate to be included on Schedule E or on a separate tax return.

**Insurance.** Maintain fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to Borrower's properties and operations, in form, amounts, coverages and with insurance companies acceptable to Lender. Borrower, upon request of Lender, will deliver to Lender from time to time the policies or certificates of insurance in form satisfactory to Lender, including stipulations that coverages will not be cancelled or diminished without at least ten (10) days prior written notice to Lender. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Borrower or any other person. In connection with all policies covering assets in which Lender holds or is offered a security interest for the Loans, Borrower will provide Lender with such lender's loss payable or other endorsements as Lender may require.

**Insurance Reports.** Furnish to Lender, upon request of Lender, reports on each existing insurance policy showing such information as Lender may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the properties insured; (5) the then current property values on the basis of which insurance has been obtained, and the manner of determining those values; and (6) the expiration date of the policy. In addition, upon request of Lender (however not more often than annually), Borrower will have an independent appraiser satisfactory to Lender determine, as applicable, the actual cash value or replacement cost of any Collateral. The cost of such appraisal shall be paid by Borrower.

**Guaranties.** Prior to disbursement of any Loan proceeds, furnish executed guaranties of the Loans in favor of Lender, executed by the guarantors named below, on Lender's forms, and in the amounts and under the conditions set forth in those guaranties.

<u>Names of Guarantors</u>	<u>Amounts</u>
Michael A. Richards	Unlimited
Prometheus, Inc.	Unlimited

**Other Agreements.** Comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements.

**Loan Proceeds.** Use all Loan proceeds solely for Borrower's business operations, unless specifically consented to the contrary by Lender in writing.

**Taxes, Charges and Liens.** Pay and discharge when due all of its indebtedness and obligations, including without limitation all assessments, taxes, governmental charges, levies and liens, of every kind and nature, imposed upon Borrower or its properties, income, or profits, prior to the date on which penalties would attach, and all lawful claims that, if unpaid, might become a lien or charge upon any of Borrower's properties, income, or profits. Provided however, Borrower will not be required to pay and discharge any such assessment, tax, charge, levy, lien or claim so long as (1) the legality of the same shall be contested in good faith by appropriate proceedings, and (2) Borrower shall have established on Borrower's books adequate reserves with respect to such contested assessment, tax, charge, levy, lien, or claim in accordance with GAAP.

**Performance.** Perform and comply, in a timely manner, with all terms, conditions, and provisions set forth in this Agreement, in the Related Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in



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writing of any default in connection with any agreement.

**Operations.** Maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel; provide written notice to Lender of any change in executive and management personnel; conduct its business affairs in a reasonable and prudent manner.

**Environmental Studies.** Promptly conduct and complete, at Borrower's expense, all such investigations, studies, samplings and testings as may be requested by Lender or any governmental authority relative to any substance, or any waste or by-product of any substance defined as toxic or a hazardous substance under applicable federal, state, or local law, rule, regulation, order or directive, at or affecting any property or any facility owned, leased or used by Borrower.

**Compliance with Governmental Requirements.** Comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the conduct of Borrower's properties, businesses and operations, and to the use or occupancy of the Collateral, including without limitation, the Americans With Disabilities Act. Borrower may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Borrower has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's Interests in the Collateral are not jeopardized. Lender may require Borrower to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Inspection.** Permit employees or agents of Lender at any reasonable time to inspect any and all Collateral for the Loan or Loans and Borrower's other properties and to examine or audit Borrower's books, accounts, and records and to make copies and memoranda of Borrower's books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including without limitation computer generated records and computer software programs for the generation of such records) in the possession of a third party, Borrower, upon request of Lender, shall notify such party to permit Lender free access to such records at all reasonable times and to provide Lender with copies of any records it may request, all at Borrower's expense.

**Compliance Certificates.** Unless waived in writing by Lender, provide Lender at least annually, with a certificate executed by Borrower's chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

**Environmental Compliance and Reports.** Borrower shall comply in all respects with any and all Environmental Laws; not cause or permit to exist, as a result of an intentional or unintentional action or omission on Borrower's part or on the part of any third party, on property owned and/or occupied by Borrower, any environmental activity where damage may result to the environment, unless such environmental activity is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal, state or local governmental authorities; shall furnish to Lender promptly and in any event within thirty (30) days after receipt thereof a copy of any notice, summons, lien, citation, directive, letter or other communication from any governmental agency or instrumentality concerning any intentional or unintentional action or omission on Borrower's part in connection with any environmental activity whether or not there is damage to the environment and/or other natural resources.

**Additional Assurances.** Make, execute and deliver to Lender such promissory notes, mortgages, deeds of trust, security agreements, assignments, financing statements, instruments, documents and other agreements as Lender or its attorneys may reasonably request to evidence and secure the Loans and to perfect all Security Interests.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Borrower fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Borrower's failure to discharge or pay when due any amounts Borrower is required to discharge or pay under this Agreement or any Related Documents, Lender on Borrower's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on any Collateral and paying all costs for insuring, maintaining and preserving any Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Borrower. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity.

**NEGATIVE COVENANTS.** Borrower covenants and agrees with Lender that while this Agreement is in effect, Borrower shall not, without the prior written consent of Lender:

**Indebtedness and Liens.** (1) Except for trade debt incurred in the normal course of business and indebtedness to Lender contemplated by this Agreement, create, incur or assume indebtedness for borrowed money, including capital leases, (2) sell, transfer, mortgage, assign, pledge, lease, grant a security interest in, or encumber any of Borrower's assets (except as allowed as Permitted Liens), or (3) sell with recourse any of Borrower's accounts, except to Lender.

**Continuity of Operations.** (1) Engage in any business activities substantially different than those in which Borrower is presently engaged, (2) cease operations, liquidate, merge, transfer, acquire or consolidate with any other entity, change its name, dissolve or transfer or sell Collateral out of the ordinary course of business, or (3) pay any dividends on Borrower's stock (other than dividends payable in its stock), provided, however that notwithstanding the foregoing, but only so long as no Event of Default has occurred and is continuing or would result from the payment of dividends, if Borrower is a "Subchapter S Corporation" (as defined in the Internal Revenue Code of 1986, as amended), Borrower may pay cash dividends on its stock to its shareholders from time to time in amounts necessary to enable the shareholders to pay income taxes and make estimated income tax payments to satisfy their liabilities under federal and state law which arise solely from their status as Shareholders of a Subchapter S Corporation because of their ownership of shares of Borrower's stock, or purchase or retire any of Borrower's outstanding shares or alter or amend Borrower's capital structure.

**Loans, Acquisitions and Guaranties.** (1) Loan, invest in or advance money or assets to any other person, enterprise or entity, (2) purchase, create or acquire any interest in any other enterprise or entity, or (3) incur any obligation as surety or guarantor other than in the ordinary course of business.

**Agreements.** Enter into any agreement containing any provisions which would be violated or breached by the performance of Borrower's obligations under this Agreement or in connection herewith.

**CESSATION OF ADVANCES.** If Lender has made any commitment to make any Loan to Borrower, whether under this Agreement or under any other agreement, Lender shall have no obligation to make Loan Advances or to disburse Loan proceeds if: (A) Borrower or any Guarantor is in default under the terms of this Agreement or any of the Related Documents or any other agreement that Borrower or any Guarantor has with Lender; (B) Borrower or any Guarantor dies, becomes incompetent or becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged a bankrupt; (C) there occurs a material adverse change in Borrower's financial condition, in the financial condition of any Guarantor, or in the value of any Collateral securing any Loan; or (D) any Guarantor seeks, claims or otherwise attempts to limit, modify or revoke such Guarantor's guaranty of the Loan or any other loan with Lender.

**RIGHT OF SETOFF.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, or some other account). This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts.

**DEFAULT.** Each of the following shall constitute an Event of Default under this Agreement:

**Payment Default.** Borrower fails to make any payment when due under the Loan.

**Other Defaults.** Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Borrower or on Borrower's behalf under this Agreement or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Insolvency.** The dissolution or termination of Borrower's existence as a going business, the insolvency of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

**Defective Collateralization.** This Agreement or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help,



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repossession or any other method, by any creditor of Borrower or by any governmental agency against any collateral securing the Loan. This includes a garnishment of any of Borrower's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Borrower gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Change in Ownership.** Any change in ownership of twenty-five percent (25%) or more of the common stock of Borrower.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired.

**Right to Cure.** If any default, other than a default on Indebtedness, is curable and if Borrower or Grantor, as the case may be, has not been given a notice of a similar default within the preceding twelve (12) months, it may be cured if Borrower or Grantor, as the case may be, after Lender sends written notice to Borrower or Grantor, as the case may be, demanding cure of such default: (1) cure the default within twenty (20) days; or (2) if the cure requires more than twenty (20) days, immediately initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**EFFECT OF AN EVENT OF DEFAULT.** If any Event of Default shall occur, except where otherwise provided in this Agreement or the Related Documents, all commitments and obligations of Lender under this Agreement or the Related Documents or any other agreement immediately will terminate (including any obligation to make further Loan Advances or disbursements), and, at Lender's option, all Indebtedness immediately will become due and payable, all without notice of any kind to Borrower, except that in the case of an Event of Default of the type described in the "Insolvency" subsection above, such acceleration shall be automatic and not optional. In addition, Lender shall have all the rights and remedies provided in the Related Documents or available at law, in equity, or otherwise. Except as may be prohibited by applicable law, all of Lender's rights and remedies shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Borrower or of any Grantor shall not affect Lender's right to declare a default and to exercise its rights and remedies.

**LINE OF CREDIT.** This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested either orally or in writing by Borrower or as provided in this paragraph. Lender may, but need not, require that all oral requests be confirmed in writing. All communications, instructions, or directions by telephone or otherwise to Lender are to be directed to Lender's office shown above. The following person or persons are authorized to request advances and authorize payments under the line of credit until Lender receives from Borrower, at Lender's address shown above, written notice of revocation of such authority; \_\_\_\_\_ Borrower agrees to be liable for all sums either: (A) advanced in accordance with the instructions of an authorized person or (B) credited to any Borrower's accounts with Lender. The unpaid principal balance owing on this Note at any time may be evidenced by endorsements on this Note or by Lender's internal records, including daily computer print-outs.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Agreement:

**Amendments.** This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Attorneys' Fees; Expenses.** Borrower agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

**Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

**Consent to Loan Participation.** Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Loan to one or more purchasers, whether related or unrelated to Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers, or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to the Loan, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interests in the Loan and will have all the rights granted under the participation agreement or agreements governing the sale of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligation under the Loan irrespective of the failure or insolvency of any holder of any interest in the Loan. Borrower further agrees that the purchaser of any such participation interests may enforce its interests irrespective of any personal claims or defenses that Borrower may have against Lender.

**Governing Law.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Iowa without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of Iowa.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, or between Lender and any Grantor, shall constitute a waiver of any of Lender's rights or of any of Borrower's or any Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address. Unless otherwise provided or required by law, if there is more than one Borrower, any notice given by Lender to any Borrower is deemed to be notice given to all Borrowers.

**Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

**Subsidiaries and Affiliates of Borrower.** To the extent the context of any provisions of this Agreement makes it appropriate, including without limitation any representation, warranty or covenant, the word "Borrower" as used in this Agreement shall include all of Borrower's subsidiaries and affiliates. Notwithstanding the foregoing however, under no circumstances shall this Agreement be construed to require Lender to make any Loan or other financial accommodation to any of Borrower's subsidiaries or affiliates.

**Successors and Assigns.** All covenants and agreements by or on behalf of Borrower contained in this Agreement or any Related Documents shall bind Borrower's successors and assigns and shall inure to the benefit of Lender and its successors and assigns. Borrower shall not, however, have the right to assign Borrower's rights under this Agreement or any interest therein, without the prior written consent of Lender.

**Survival of Representations and Warranties.** Borrower understands and agrees that in extending Loan Advances, Lender is relying on all representations, warranties, and covenants made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to Lender under this Agreement or the Related Documents. Borrower further agrees that regardless of any investigation made by Lender, all such representations, warranties and covenants will survive the extension of Loan Advances and delivery to Lender of the



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Related Documents, shall be continuing in nature, shall be deemed made and redated by Borrower at the time each Loan Advance is made, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full, or until this Agreement shall be terminated in the manner provided above, whichever is the last to occur.

**Time Is of the Essence.** Time is of the essence in the performance of this Agreement.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Uniform Commercial Code. Accounting words and terms not otherwise defined in this Agreement shall have the meanings assigned to them in accordance with generally accepted accounting principles as in effect on the date of this Agreement:

**Advance.** The word "Advance" means a disbursement of Loan funds made, or to be made, to Borrower or on Borrower's behalf on a line of credit or multiple advance basis under the terms and conditions of this Agreement.

**Agreement.** The word "Agreement" means this Business Loan Agreement, as this Business Loan Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Business Loan Agreement from time to time.

**Borrower.** The word "Borrower" means Phyto Genesis, Inc. and includes all co-signers and co-makers signing the Note and all their successors and assigns.

**Collateral.** The word "Collateral" means all property and assets granted as collateral security for a Loan, whether real or personal property, whether granted directly or indirectly, whether granted now or in the future, and whether granted in the form of a security interest, mortgage, collateral mortgage, deed of trust, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien, charge, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

**GAAP.** The word "GAAP" means generally accepted accounting principles.

**Grantor.** The word "Grantor" means each and all of the persons or entities granting a Security Interest in any Collateral for the Loan, including without limitation all Borrowers granting such a Security Interest.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Loan.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Indebtedness.** The word "Indebtedness" means the indebtedness evidenced by the Note or Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or under any of the Related Documents.

**Lender.** The word "Lender" means GREAT WESTERN BANK, its successors and assigns.

**Loan.** The word "Loan" means any and all loans and financial accommodations from Lender to Borrower whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described herein or described on any exhibit or schedule attached to this Agreement from time to time.

**Note.** The word "Note" means the Note dated May 8, 2017 and executed by Phyto Genesis, Inc. in the principal amount of \$450,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the note or credit agreement.

**Permitted Liens.** The words "Permitted Liens" mean (1) liens and security interests securing indebtedness owed by Borrower to Lender; (2) liens for taxes, assessments, or similar charges either not yet due or being contested in good faith; (3) liens of materialmen, mechanics, warehousemen, or carriers, or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by Borrower in the ordinary course of business to secure indebtedness outstanding on the date of this Agreement or permitted to be incurred under the paragraph of this Agreement titled "Indebtedness and Liens"; (5) liens and security interests which, as of the date of this Agreement, have been disclosed to and approved by the Lender in writing; and (6) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Loan.

**Security Agreement.** The words "Security Agreement" mean and include without limitation any agreements, promises, covenants, arrangements, understandings or other agreements, whether created by law, contract, or otherwise, evidencing, governing, representing, or creating a Security Interest.

**Security Interest.** The words "Security Interest" mean, without limitation, any and all types of collateral security, present and future, whether in the form of a lien, charge, encumbrance, mortgage, deed of trust, security deed, assignment, pledge, crop pledge, chattel mortgage, collateral chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever whether created by law, contract, or otherwise.

**BORROWER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS BUSINESS LOAN AGREEMENT AND BORROWER AGREES TO ITS TERMS. THIS BUSINESS LOAN AGREEMENT IS DATED MAY 8, 2017.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS BUSINESS LOAN AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

BORROWER:

PHYTO-GENESIS, INC.

By:

Michael A. Richards, President of Phyto Genesis, Inc.

Loan No

*Reduced*

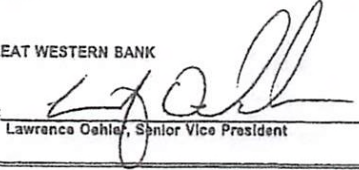
**BUSINESS LOAN AGREEMENT  
(Continued)**

Page 6

LENDER:

GREAT WESTERN BANK

By:



Lawrence Oehler, Senior Vice President





Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	←	Redacted	→		

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
.1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
656 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: 5/1/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for April 2020, May 2020 & June 2020 and will resume under the same payment amount in July 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 4/8/2020 and monthly thereafter.

No distributions to owners will be allowed during deforment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

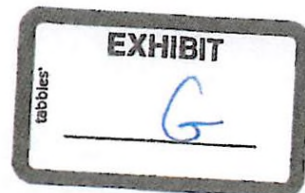
PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER:

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.





Redacted

CHANGE IN TERMS AGREEMENT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$450,000.00	05-08-2017	05-08-2022	Redacted				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "XXXX" has been omitted due to text length limitations.

Borrower: Phyto Genesis, Inc.  
1029 3rd St SE  
Cedar Rapids, IA 52401

Lender: GREAT WESTERN BANK  
North Liberty  
655 Community Drive  
PO Box 306  
North Liberty, IA 52317

Principal Amount: \$450,000.00

Date of Agreement: 7/14/2020

DESCRIPTION OF EXISTING INDEBTEDNESS. Promissory Note from Phyto Genesis, Inc. to Great Western Bank dated 5/08/2017 in the original amount of \$450,000.00 increased credit line to \$600,000.00 with a current principal balance of \$556,289.09.

DESCRIPTION OF COLLATERAL. Borrower acknowledges this Note is secured by all property of every kind and nature (now or hereafter existing) granted, transferred, assigned or pledged to Lender as collateral for payment and performance of Borrower's obligations to Lender. Borrower acknowledges and agrees that all deeds of trust, mortgages, assignments of rents, security agreements, pledge agreements, and other documents creating and/or perfecting any lien on or security interest in the collateral shall continue to secure Borrower's obligations to Lender, as modified herein. No payment or discharge of the liens and security interests created by the loan documents is intended by this Agreement, and such liens and security interests shall continue in full force and effect. Collateral includes, without limitation, the following:

Real Estate Mortgage and Assignment of Rents dated 05/08/2017 on Property located at 1029 3rd St. Cedar Rapids, IA from Phyto Genesis, Inc. to Great Western Bank

Commercial Pledge Agreement dated 5/08/2017 from Prometheus, Inc. to Great Western Bank

Guarantors: This note is Guaranteed pursuant to Unlimited and unsecured Commercial Guaranties from Michael A. Richards and Prometheus, Inc.

DESCRIPTION OF CHANGE IN TERMS. Principal payments will be deferred for July 2020, August 2020 & September 2020 and will resume under the same payment amount in October 2020 and monthly thereafter, with all principal and interest outstanding due at maturity.

Borrower will continue to make monthly interest payments with the next payment due on 8/8/2020 and monthly thereafter.

Lender will collect interest due for July in the amount of \$2,088.08 at closing.

No distributions to owners will be allowed during deferment period.

CONTINUING VALIDITY. Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.

BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.

BORROWER

PHYTO GENESIS, INC.

By: Michael A. Richards, President of Phyto Genesis, Inc.





DocuSign Envelope ID:

*Redacted*  
 **First Interstate Bank**  
**CHANGE IN TERMS AGREEMENT**

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$515,068.67	05-08-2017	12-08-2022	<i>Redacted</i>				

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item. Any item above containing "\*\*\*\*" has been omitted due to text length limitations.

**Borrower:** Phyto Genesis, Inc.  
1029 3rd Street SE  
Cedar Rapids, IA 52401

**Lender:** First Interstate Bank  
North Liberty  
655 Community Drive  
PO Box 305  
North Liberty, IA 52317

**Principal Amount: \$515,068.67** **Date of Agreement: October 6, 2022**

**DESCRIPTION OF EXISTING INDEBTEDNESS.** Promissory Note dated May 8, 2017 from Borrower to Lender in the original amount of \$460,000.00, as successor by merger of Great Western Bank, together with all change in terms and/or modifications thereto ("Note"), which has a principal balance owing of \$515,068.67 as of the date of this Agreement.

**DESCRIPTION OF EXISTING GUARANTY:** Commercial Guaranty dated May 8, 2017 executed by Prometheus, Inc. in favor of Lender, secured by a Commercial Pledge Agreement dated May 8, 2017.

**DESCRIPTION OF COLLATERAL.**

As described in the Mortgage dated May 8, 2017, recorded May 18, 2017, as Document Number 2431743 in the official records of the County of Linn, Iowa, together with all modifications thereto. And last modified by a Modification of Mortgage dated October 27, 2017, recorded October 27, 2017 as Document Number 2455562 in the Official Records of the County of Linn, Iowa

As described in the Commercial Pledge Agreement dated May 8, 2007, together with all modifications thereto.

**DESCRIPTION OF CHANGE IN TERMS.**

Upon receipt of the fees and charges described on the Disbursement Request and Authorization of even date, the Note and Related Documents are modified as follows:

**CHANGE IN MATURITY DATE.** From September 8, 2022 to December 8, 2022

**CHANGE IN PAYMENT SCHEDULE.** As described in the "Payment" section below.

**PAYMENT.** Borrower will pay this loan in 2 regular payments of \$3,817.05 each and one irregular last payment estimated at \$511,844.99. Borrower's first payment is due October 8, 2022, and all subsequent payments are due on the same day of each month after that. Borrower's final payment will be due on December 8, 2022, and will be for all principal and all accrued interest not yet paid.

**INTEREST CALCULATION METHOD.** Interest on this loan is computed on a 365/360 basis; that is, by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable under this loan is computed using this method.

**CONTINUING VALIDITY.** Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

**RECEIPT OF PAYMENTS.** All payments must be made by check, automatic account debit, electronic funds transfer, money order, or other instrument in U.S. dollars and must be received by us at the Lender's address. Payments received at that address prior to close of business on any business day will be credited to your loan as of the date received.

**PRIOR TO SIGNING THIS AGREEMENT, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. BORROWER AGREES TO THE TERMS OF THE AGREEMENT.**

**BORROWER ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THIS CHANGE IN TERMS AGREEMENT AND ALL OTHER DOCUMENTS RELATING TO THIS DEBT.**

**BORROWER:**

**PHYTO GENESIS, INC.**

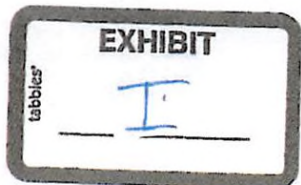
By: Michael A Richards 10/6/2022  
Michael A Richards, President of Phyto Genesis, Inc.

**GUARANTOR(S):**

**PROMETHEUS, INC.**

By: Michael A Richards 10/6/2022  
Michael A Richards, President of Prometheus, Inc.

X Michael A Richards 10/6/2022  
Michael A Richards



Michael F. Kivett  
mfkivett@walentineotoole.com  
Direct Line (402) 505-8565

**WALENTINE O'TOOLE, LLP**

Attorneys at Law

December 12, 2022

**VIA CERTIFIED MAIL RETURN RECEIPT  
REQUESTED AND REGULAR U.S. MAIL**

Phyto Genesis, Inc., Borrower  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401-2303

Michael A. Richards, Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus, Inc., Guarantor  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Re: First Interstate Bank – Loan No. *Redacted*

Dear Borrower and Guarantors:

Please be advised this law firm represents First Interstate Bank, successor by merger with Great Western Bank (“Bank”) with regard to the Promissory Note dated May 8, 2017 in the original principal amount of \$450,000.00 (“Note”), as amended by certain Change in Terms Agreements. The loan evidenced by the Note is governed by that certain Business Loan Agreement dated May 8, 2017 and secured, among other things, by that certain Mortgage dated May 8, 2017 and that certain Assignment of Rents dated May 8, 2017, encumbering real estate located at 1029 3<sup>rd</sup> St SE, Cedar Rapids, IA 52401 and that certain Commercial Pledge Agreement dated May 8, 2017 granted by Michael A. Richards. The payment and performance of the loan is also guaranteed by the guarantor, Michael A. Richards, pursuant to his Commercial Guaranty dated May 8, 2017 and by the Guarantor Prometheus, Inc., pursuant to its Guaranty dated May 8, 2017.

Walentine O'Toole, LLP  
www.walentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

1851 Madison Avenue, Suite 712  
Council Bluffs, IA 51502  
(712) 388-2244

5024 S. Bur Oak Place, #210  
Sioux Falls, SD 57108  
(605) 881-9030

Michael F. Kivett\*\*  
Craig A. Knickrehm\*\*  
Camille R. Hawk\*  
Raymond R. Aranza\*  
David P. Wilson  
Matthew J. Kivett\*\*\*\*  
Jonathan M. Brown\*\*\*

Andrew R. Biehl\*\*  
Jamie M. Hurst  
John M. Kivett\*  
Brad C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)





December 12, 2022

Page 2

This letter is to advise you that the Note matured on December 8, 2022, and the loan balance remains unpaid and in default.

A principal balance of \$514,614.00, together with accrued interest of \$2,831.22, and late charges and fees in the amount of \$10,458.38 remains due and payable as of December 8, 2012. Interest continues to accrue on the unpaid principal balance at a per diem rate of \$64.33.

You have the right to cure this default and in order to do so, you must pay to the Bank, on or before January 26, 2023, the sum of \$527,903.60 which consists of the total installments of principal, interest, late charges and fees. This payment should be forwarded to First Interstate Bank, 120 South 68<sup>th</sup> Street, West Des Moines, IA 50266. The contact person for the Bank is Weber Bowen, phone number 515-257-7883.

In the event you fail to make the payment demanded herein on or before January 26, 2023, the Bank shall be entitled to proceed with any and all remedies available under the loan documents, including but not limited to the foreclosure or other liquidation of any real or personal property pledged as security for this loan and/or the enforcement of the personal liability of the Borrower and/or Guarantors, or any one or more of them, and the exercise of any and all other remedies as are available at law or in equity.

If you have any questions, do not hesitate to contact me.

Very truly yours,

  
Michael F. Kivett  
For the Firm

MFK/bdf

cc: William Bowen/First Interstate Bank (via email)



Camille R. Hawk  
chawk@valentineotoole.com

**WALENTINE O'TOOLE, LLP**

▲  
Attorneys at Law

February 7, 2023  
**VIA FIRST CLASS MAIL & CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED**

**14 DAY NOTICE OF ACCELERATION & DEMAND FOR PAYMENT**

Phyto Genesis Inc.  
Attn: Michael Richards, Reg. Agent  
1029 3<sup>rd</sup> Street SE  
Cedar Rapids, IA 52401

Phyto Genesis Inc.  
Attn: Highest Officer  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Prometheus Inc.  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Michael Richards  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Ref: Commercial Loan # *Redacted*; First Interstate Bank; Our File # 38457.0006

To Whom It Concerns:

This firm represents First Interstate Bank, 10101 University Avenue, Ste 10, Clive, IA 50325, 855-342-3400, the Lender ("Lender") of the above-referenced Loan, and the Note, Mortgage, Changes in Terms, Assignment of Rent, Business Loan Agreement, Guaranties and other documents ("Loan Documents"). The Loan Documents are cross-collateralized and the security includes but is not limited to real property at 1029 3<sup>rd</sup> Street SE, Cedar Rapids, IA 52401, as well as other assets. You are hereby notified that the above Loan is in default and that this default consists of failure to make payments as identified in the Loan Documents. Specifically, the Loan matured on December 8, 2022, and remains unpaid.

More than 30 days ago, notices were sent that the Loan is in default due to the failure to pay off the Loan upon maturity. Because there has been a failure to cure the default, the Lender is further accelerating the balance due on the Loan secured by the Mortgage.

If you did not sign the Note or a Guaranty of the Note, but only signed the Mortgage, or are an owner of the Property who did not sign a Note and/or Guaranty, please be advised we are not seeking personal liability from you on the amounts owed, but we are providing this letter pursuant

Valentine O'Toole, LLP  
www.valentineotoole.com

11240 Davenport Street  
PO Box 540125  
Omaha, NE 68154  
Phone: (402) 330-6300  
Fax: (402) 330-6303

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Bradley C. Entwistle\*  
John J. Hawk, Jr.\*  
Betty L. Egan, Of Counsel  
Richard C. Gordon, Of Counsel

\* (also admitted in Iowa)  
\*\* (also admitted in Iowa and South Dakota)

\*\*\* (also admitted in Iowa, Wisconsin & South Dakota)  
\*\*\*\* (also admitted in South Dakota)



Page 2 of 2

to Iowa law and the terms of the Loan Documents. We are further sending this Notice pursuant to Iowa Code 654.4B.

As of the date of this letter, the accelerated balance due on the Note is:


Principal	\$514,614.00
Interest	\$6,755.16
Late Charges	\$15,272.91
Fees Balance	\$158.47
Reconveyance	\$27.00
Release of Assignment of Rents	\$27.00
NET BALANCE DUE	\$536,854.54
Attorney Costs and Expenses	<u>\$1,421.40</u>
TOTAL BALANCE DUE:	\$538,275.94

Additional amounts may become due after the date of this letter. Interest and other charges continue to accrue from and after the date of this letter, as provided in your Loan Documents.

There must be payment of the total balance then due plus all other accrued interest and charges within 14 days from the date of this letter. If there is a failure to pay in full within 14 days, the Lender may take action to enforce the Loan Documents, including, but not limited to foreclosure of the mortgaged property and/or bringing suit to collect from you, as applicable, all amounts due, or to pursue other legal remedies against the assets, and include attorneys' fees and other costs as allowed by law.

Please contact First Interstate Bank immediately at , 855-342-3400 to make arrangements for payment in certified funds, payable to First Interstate Bank. If a partial payment is processed, the Lender is not waiving its right to continue to declare default and/or pursue any and all legal remedies as discussed herein.

Sincerely,



CAMILLE R. HAWK

cc: Weber Bowen, First Interstate Bank, via email

**NOTICE: If the obligation for this Loan has been discharged in a Chapter 7, 11, 11 Subchapter V, 12 or 13 bankruptcy case, please be advised that, unless the debt has been reaffirmed, we will not make a personal claim against the discharged party for the amounts due and owing on the Loan. We will, however, seek any recovery solely from the property which was pledged as security for the debt.**

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	
	)	
	)	CASE NO. EQCV101968
Plaintiff,	)	
	)	
vs.	)	
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	<b>CERTIFICATE OF SERVICE OF</b>
INC. d/b/a THE BOHEMIAN;	)	
NEWBOHEMIAN, INC. d/b/a THE	)	<b>AFFIDAVIT OF INDEBTEDNESS,</b>
BOHEMIAN; ESCO ELECTRIC	)	<b>APPLICATION FOR ATTORNEYS'</b>
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	<b>FEES AND COSTS, AND AFFIDAVIT</b>
INSURANCE; 620 DEVELOPMENT,	)	<b>OF NON-DISABILITY,</b>
LLC; and PARTIES IN POSSESSION, if	)	<b>NON-PRISONER &amp; NON-MILITARY</b>
any, real names unknown,	)	<b>SERVICES - JUDGMENT</b>
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Affidavit of Indebtedness, Application for Attorneys' Fees and Costs, and Affidavit of Non-Disability, Non-Prisoner & Non-Military - Judgment was sent to the last-known addresses via regular United States first class mail, postage prepaid, on this 11<sup>th</sup> day of December, 2023 to the following:

Phyto Genesis, Inc.  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

Promethius, Inc. d/b/a The Bohemian  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

NewBohemian, Inc. d/b/a The Bohemian  
c/o Michael A. Richards, Its Registered Agent  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

LBC5, Inc. d/b/a Bouslog Insurance  
c/o J. Michael Weston, Its Attorney  
118 Third Ave SE, Suite 700  
Cedar Rapids, IA 52406



620 Development, LLC  
c/o Melissa Richards, Registered Agent  
600 Briggs St  
Erie, CO 80516



---

Prepared by:



---

Camille R. Hawk, Attorney at Law (AT0009922)  
VALENTINE O'TOOLE, LLP  
11240 Davenport Street, P.O. Box 540125  
Omaha, NE 68154-0125  
402-330-6300 FAX: 402-330-6303  
[chawk@valentineotoole.com](mailto:chawk@valentineotoole.com)  
ATTORNEYS FOR PLAINTIFF

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, LLC; )  
 and PARTIES IN POSSESSION, if any, real )  
 names unknown, )  
 )  
 Defendants. )


CASE NO. EQCV101968

**MOTION TO APPEAR  
TELEPHONICALLY OR VIRTUALLY -  
SUMMARY JUDGMENT HEARING**

COMES NOW the Plaintiff herein and requests that its counsel, Camille R. Hawk of the law firm of Walentine O’Toole, LLP, be allowed to attend any hearing required for the Plaintiff’s Motion for Summary Judgment and Application for Default, by telephone or virtually through Zoom, Teams or other method.

WHEREFORE, the Plaintiff requests an Order allowing its counsel to attend the Summary Judgment and Application for Default hearing by telephone or virtually.

FIRST INTERSTATE BANK, Plaintiff

By:   
 Camille R. Hawk, Attorney at Law (AT0009922)  
 For WALENTINE O’TOOLE, LLP  
 11240 Davenport Street  
 Omaha, NE 68154-0125  
 402-330-6300 FAX: 402-330-6303  
[chawk@walentineotoole.com](mailto:chawk@walentineotoole.com)  
 ITS ATTORNEYS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent via regular United States first class mail, postage prepaid, on this 11<sup>th</sup> day of December, 2023 to the following:

Phyto Genesis, Inc.  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114

Cedar Rapids, IA 52402

Promethius, Inc. d/b/a The Bohemian  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

NewBohemian, Inc. d/b/a The Bohemian  
c/o Michael A. Richards, Its Registered Agent  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

Esco Electric Company  
c/o Raymond L. Brown, Its Registered Agent  
3450 3<sup>rd</sup> Street  
Marion, IA 52302

LBC5, Inc. d/b/a Bouslog Insurance  
c/o J. Michael Weston, Its Attorney  
118 Third Ave SE, Suite 700  
Cedar Rapids, IA 52406

620 Development, LLC  
c/o Melissa Richards, Registered Agent  
600 Briggs St  
Erie, CO 80516



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IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK, )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 PHYTO GENESIS, INC.; PROMETHEUS, )  
 INC. d/b/a THE BOHEMIAN; )  
 NEWBOHEMIAN, INC. d/b/a THE )  
 BOHEMIAN; ESCO ELECTRIC )  
 COMPANY; LBC5, INC. d/b/a BOUSLOG )  
 INSURANCE; 620 DEVELOPMENT, LLC; )  
 and PARTIES IN POSSESSION, if any, real )  
 names unknown, )  
 )  
 Defendants. )

CASE NO. EQCV101968

**AFFIDAVIT OF NON-DISABILITY,  
NON-PRISONER & NON-MILITARY  
SERVICES - JUDGMENT**

STATE OF NEBRASKA )  
 ) ss.  
 COUNTY OF DOUGLAS )

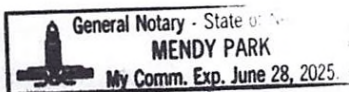
I, Camille R. Hawk, being first duly sworn, state that I am the attorney of record for the Plaintiff in the above-entitled action; that I have fully read the Motion and Application in the above-entitled action; and that I am familiar with the facts concerning this transaction and occurrence and that the statements and allegations herein contained are correct as I verily believe.

To the best of my information and belief, Defendants, Parties in Possession, if any, real names unknown, do not exist pursuant to the Sheriff's return of service, and therefore, the Plaintiff seeks dismissal of the same. No other party herein is entitled to the privileges under the provisions of the Soldiers and Sailors Civil Relief Act of 1940, as amended by the Service Members Civil Relief Act.

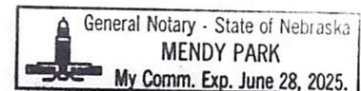
Date: 12/11/2023

Camille R. Hawk, Attorney at Law (AT0009922)  
 VALENTINE O'TOOLE, LLP  
 11240 Davenport Street  
 Omaha, NE 68154-0125  
 402-330-6300 FAX: 402-330-6303  
 chawk@walentineotoole.com  
 ATTORNEYS FOR PLAINTIFF

SUBSCRIBED AND SWORN to before me, a Notary Public, by Camille R. Hawk, Attorney at Law, this 11<sup>th</sup> day of December, 2023.



Notary Public, State of Nebraska



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	
	)	
Plaintiff,	)	CASE NO. EQCV101968
	)	
vs.	)	
	)	
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	
INC. d/b/a THE BOHEMIAN;	)	<b>APPLICATION FOR ATTORNEYS'</b>
NEWBOHEMIAN, INC. d/b/a THE	)	<b>FEES AND COSTS</b>
BOHEMIAN; ESCO ELECTRIC	)	
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	
INSURANCE; 620 DEVELOPMENT, LLC;	)	
and PARTIES IN POSSESSION, if any, real	)	
names unknown,	)	
	)	
Defendants.	)	

The Plaintiff, First Interstate Bank, in support of its Application for Attorneys' Fees and Costs respectfully states as follows:

1. On March 31, 2023, the Plaintiff filed in the District Court of the State of Iowa in and for Linn County a Foreclosure Petition alleging that there is a default on the Note.
2. Under the terms of the Note and Mortgage which form the basis of this action the Defendant, Phyto Genesis, Inc., agreed to pay attorneys' fees and all costs in connection with the proceeding to enforce or foreclose the Mortgage.
3. The Plaintiff's attorney has on file with the Court an Attorneys' Fee Affidavit in this case.
4. When judgment is recovered upon a written contract containing an agreement to pay an attorney's fee, the court shall allow and attach as part of the costs reasonable attorney's fees to be determined by the Court. *See*, Iowa Code § 625.22.
5. The Plaintiff has incurred attorneys' fees and costs, and additional costs and fees, to date, itemized as follows:

**Costs Outstanding Incurred to Date**

The outstanding unpaid costs at this time are as follows: \$0.00. Additional costs will continue to be incurred. Please see the foreclosure costs paid by Plaintiff which are contained in Plaintiff's Affidavit of Indebtedness in the amount of \$932.17 (consisting of \$350.00 title report; \$255.00 lis pendens and petition filing; Sheriff's Cost of service \$294.77; and \$32.40 mailings – demands).

**Fees Outstanding Incurred to Date**

Please also see the foreclosure fees paid by Plaintiff which are contained in Plaintiff's Affidavit of Indebtedness in the amount of \$3,994.00. Outstanding Attorneys' Fees are \$1,886.00.\*

\*Description of Work Performed related to the foreclosure:

- Review referral for foreclosure initiation, perform conflict check, order title report, review loan documents provided, perform bankruptcy checks
- Prepare demand letters
- Review title report upon receipt and review vesting
- Prepare and edit Petition, Confidential Information Form, Attorney Fees and Costs Affidavit, Original Notices (and research addresses for same), Directions and Letters for Sheriff(s)/Process Server(s) re: service
- Review filed Petition and service documents; complete letter(s) to Sheriff(s)/Process Server(s) for service
- Review updated title report after filed Petition and lis pendens to ensure proper filing and no new creditors/parties between title report and lis pendens filing
- Check Iowa Courts on-line for service return filings and Answers/Delays/other responses
- Prepare Notices of Intent to File Default and Affidavit of Indebtedness based off payoff provided by client for signature by client
- Review signed Affidavit from client



- Prepare Motion for Summary Judgment and Application for Default, Statement of Facts, Authorities, and arguments supporting Summary Judgment; Application for Attorney Fees, Affidavit of Non-Military Status, Proposed Decree
- General communication and correspondence with client throughout process to date

**Total Outstanding Attorneys' Fees and Costs: \$1,886.00**

WHEREFORE, the Plaintiff, First Interstate Bank, respectfully requests the Court to grant the outstanding sum of \$1,886.00 plus additional fees and costs incurred herein as part of the judgment that may be entered in this case.

FIRST INTERSTATE BANK, Plaintiff

By



Camille R. Hawk, Attorney at Law (AT0009922)

For: WALENTINE O'TOOLE, LLP

11240 Davenport Street

Omaha, NE 68154-0125

402-330-6300 FAX: 402-330-6303

[chawk@walentinteotoole.com](mailto:chawk@walentinteotoole.com)

ITS ATTORNEYS

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRST INTERSTATE BANK,	)	CASE NO. EQCV101968
	)	
Plaintiff,	)	<b>FORECLOSURE DECREE</b>
	)	
vs.	)	<b>AND</b>
	)	
PHYTO GENESIS, INC.; PROMETHEUS,	)	<b>JUDGMENT ON DEFAULT</b>
INC. d/b/a THE BOHEMIAN;	)	
NEWBOHEMIAN, INC. d/b/a THE	)	<b>AND</b>
BOHEMIAN; ESCO ELECTRIC	)	
COMPANY; LBC5, INC. d/b/a BOUSLOG	)	<b>DISMISSAL OF DEFENDANTS</b>
INSURANCE; 620 DEVELOPMENT, LLC;	)	<b>PARTIES IN POSSESSION</b>
and PARTIES IN POSSESSION, if any, real	)	
names unknown,	)	
	)	
Defendants.	)	

BE IT REMEMBERED that the above-entitled cause came before the Court on the Plaintiff's Motion for Summary Judgment, Statement of Material Facts and Memorandum of Authorities, its Application for Default and Judgment on Default and its Application for Dismissal of Defendants, Parties in Possession, if any, real names unknown. Also taken into consideration were Plaintiff's Application for Attorneys' Fees and Costs, Affidavit of Indebtedness, and Affidavit of Non-Disability, Non-Prisoner & Non-Military Services – Judgment.

Upon inspection of the file and proof of service, the Court finds as follows:

1. The Court has jurisdiction of the subject matter and parties to this action.
2. That Judgment and Decree on its cause of action as prayed in its Petition, Motion for Summary Judgment, Application for Default and Application to Dismiss Defendants, Parties in Possession, if any, real names unknown, are proper.
3. That Defendants, Parties in Possession, if any, real names unknown, should be dismissed as said parties do not exist and therefore have no interest in the subject Property.
4. That the Plaintiff herein is the proper holder of the Note and Mortgage.
5. That the Note and Mortgage declared upon in the Petition are just, genuine, due, and unpaid.
6. Proper Notice of the Right to Cure as defined by Iowa Code § 654.2D was given prior to filing the Petition. The color Mediation Notice was properly not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan.

7. Proper Notice of Demand and Acceleration of Loan was given in accordance with Iowa code §654.4B prior to filing the Petition. The color Mediation Notice was properly not included as this Property was not the homestead of the Defendant, Phyto Genesis, Inc.; this subject Property is commercial property which secured a Commercial Business Loan.

8. Good and sufficient service of Original Notice has been had on Appearing Defendants, Phyto Genesis, Inc., Promethius, Inc. d/b/a The Bohemian, LBC5, Inc. d/b/a Bouslog Insurance, and 620 Development, LLC, and the Default Defendant, NewBohemian, Inc. d/b/a The Bohemian.

9. Appearing Defendants have not raised any resistance or issue of material fact.

10. That proper notice was given pursuant to Iowa Code §654.20. Therefore, no rights of redemption will be allowed after Sheriff's sale, and the purchaser at the sale is entitled to immediate peaceful possession of the Property.

11. That proper Notice of Intent to File Written Application for Default Judgment was sent to Defendant, NewBohemian, Inc. d/b/a The Bohemian.

12. That a Default should be entered against Defendant, NewBohemian, Inc. d/b/a The Bohemian, pursuant to Iowa Rule of Civil Procedure 1.973.

13. That the Plaintiff's Motion for Summary Judgment has not been resisted as required by Iowa Rule of Civil Procedure 1.981.

14. That, pursuant to Iowa Rule of Civil Procedure 1.981, and the evidence offered and accepted, there are no disputed facts, the issues are with the Plaintiff and the Plaintiff is entitled to Judgment and Decree on its causes of action as prayed in the Petition and its Motion and Application.

15. No Defendants in this action are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211 and said Defendants are not under any legal disability, are not prisoners in a reformatory or penitentiary and are not in the military services of the United States of America or its allies.

16. That there is due and owing to the Plaintiff upon its Note and Mortgage the sum of Five Hundred Fifty-five Thousand Six Hundred Eighty-Five and 61/100 Dollars (\$555,685.61) with interest accruing on the unpaid principal balance at the current interest rate of 4.50000% per annum, or \$64.33 per diem, after September 12, 2023, until paid, plus costs of this action, amounts advanced to protect the Plaintiff's security in the property, reasonable attorneys' fees and attorneys' costs amounts of \$1,886.00, additional accruing costs, attorneys' fees and costs to the date of Sheriff's sale and any hearing and order for condemnation or distribution of



funds, if applicable, as provided by law, as well as and including any eviction process or other post-sale matter to protect the Plaintiff's security in the Property, for which sums the Plaintiff is entitled to judgment.

17. No Defendants in this action are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211 and said Defendants are not under any legal disability, are not prisoners in a reformatory or penitentiary and are not in the military services of the United States of America or its allies.

18. That the Note and Mortgage declared upon are liens upon the Property described in Petition and the improvements thereon, prior, and superior to any right, title, lien or interest of the Defendants or any of them therein.

19. That the Property referenced in the Petition is a commercial property, has not been claimed as homestead property, and is not agricultural land as defined in Iowa Code Section 9H.1 or 175.2 or used for agricultural purpose as defined in Iowa Code Section 535.13 or used for farming as defined in Iowa Code Section 175.2.

20. That the Plaintiff has a valid first and paramount lien on the Property referenced in the Petition and that any right, title, or interest of the Defendants or any of them in said Property be declared junior and inferior to the lien of the Plaintiff's Mortgage.

21. Any surplus amounts after the Plaintiff's lien is paid in full as identified herein shall be paid to the lien holders in order of priority, such amounts to be determined at a future hearing for distribution of the funds, if any and as applicable

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants, Parties in Possession, if any, real names unknown, are hereby dismissed from this action as said Defendants do not exist and thus have no interest in the subject Property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Summary Judgment is entered against Appearing Defendants, Phyto Genesis, Inc., Promethius, Inc. d/b/a The Bohemian, LBC5, Inc. d/b/a Bouslog Insurance, and 620 Development, LLC, as to all claims asserted in the Petition, and Default Judgment is entered against Default Defendant, NewBohemian, Inc. d/b/a The Bohemian, and that an in rem judgment be and the same is hereby rendered in favor of the Plaintiff and against the Property described as:

Lot 6, Block 21, Carpenters Third Addition to the Town of Cedar Rapids,  
Linn County, Iowa

(the “Property”) which Property is commonly known as 1029 3<sup>rd</sup> St SE, Cedar Rapids, Iowa 52401, and described in Petition in the amount of **\$556,530.61**, as of September 12, 2023, as follows:

Principal	\$514,614.00
Interest	\$20,714.06
Late Charges	\$15,272.91
Fees Balance	\$158.47
Paid Attorney Fees and Costs	\$4,926.17
(Fees \$3,994.00; Title – \$350.00; Sheriffs’ Costs – service \$294.77; Petition and Lis Pendens filing \$255.00; Certified Mailing \$32.40 – demand letter)	
Outstanding Attorney’s Fees	<u>\$845.00</u>
<b>TOTAL</b>	<b>\$556,530.61</b>

together with interest on the unpaid principal balance at the current interest rate of 4.50000% per annum, or \$64.33 per diem, after September 12, 2023, and other charges due under the Note and Mortgage, until paid, plus the costs of this action, amounts advanced to protect the Substitute Plaintiff’s security in the Property, additional accruing costs, attorneys’ fees and costs to the date of Sheriff’s sale and any hearing and order for condemnation or distribution of funds, if applicable, as provided by law, as well as and including any eviction process or other post-sale matter to protect the Plaintiff’s security in the Property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said in rem judgment be and the same are hereby declared to be a lien upon the Property in Linn County, Iowa, together with all improvements now or hereafter erected on the Property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the Property, including replacements and additions thereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that no Defendants in this action are entitled to the protection of a defense pursuant to Iowa Rules of Civil Procedure 1.211 and said Defendants are not under any legal disability, are not prisoners in a reformatory or penitentiary and are not in the military services of the United States of America or its allies.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Note and Mortgage declared upon in Petition be, and the same are hereby foreclosed; that the right title, lien and interest of the Plaintiff regarding its Mortgage in and to the subject Property and all improvements thereon be and is hereby declared prior and superior to the right, title and the lien and interest of the Defendants, or any of them, in and to said Property.

IT IS FURTHER ORDERED that a Special Execution be issued after filing of the Praecipe for Special Execution, which shall be allowed immediately after the judgment is entered, that the sale of said Property together with all improvements thereon be held after the two-month delay of sale for the purpose of paying the judgment herein rendered in favor of the Plaintiff, its attorneys' fees and costs and accruing costs, and that thereunder said Property, or so much thereof as is necessary be sold to satisfy Plaintiff's said judgment, plus the costs of this action, amounts advanced to protect the Plaintiff's security in the Property, additional accruing costs, attorneys' fees and costs to the date of Sheriff's sale and any hearing and order for condemnation of funds, if applicable, as provided by law, as well as and including any eviction process or other post-sale matter to protect the Plaintiff's security in the Property; that any proceeds from the sale remaining after the satisfaction of the Note and Mortgage indebtedness plus the costs of this action, amounts advanced to protect the Plaintiff's security in the Property, additional accruing costs, attorneys' fees and costs to the date of Sheriff's sale and any hearing and order for condemnation or distribution of funds, if applicable, as provided by law, as well as and including any eviction process or other post-sale matter to protect the Plaintiff's security in the Property, and pursuant to this Decree be distributed to the junior lien holders in accordance with their relative priority as established by law; that from and after this sale under said special execution, Defendants, and each of them, and all persons claiming by, through or under them, are forever cut off, barred and foreclosed of all right, title, lien and interest to said Property. No rights of redemption exist for any party herein.

IT IS FURTHER ORDERED that Sheriff's Deed issue immediately to the purchaser of the Property at said sale; that a Writ of Possession shall be issued under the seal of the Court directed to the Sheriff of Linn County, Iowa, commanding him or her to put the purchaser at said sale or his or her successor in interest into immediate peaceful possession of the Property, pursuant to Section 654.20.

Clerk to Notify as follows:

Camille R. Hawk  
Attorney for Plaintiff  
11240 Davenport St, PO Box 540125  
Omaha, NE 68154  
chawk@walentinteoole.com

Phyto Genesis, Inc.  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114



Cedar Rapids, IA 52402

Promethius, Inc. d/b/a The Bohemian  
c/o John M. Heckel, Its Attorney  
5250 North Park Place NE, Ste. 114  
Cedar Rapids, IA 52402

NewBohemian, Inc. d/b/a The Bohemian  
c/o Michael A. Richards, Its Registered Agent  
1106 8<sup>th</sup> Street SE  
Cedar Rapids, IA 52401

LBC5, Inc. d/b/a Bouslog Insurance  
c/o J. Michael Weston, Its Attorney  
118 Third Ave SE, Suite 700  
Cedar Rapids, IA 52406

620 Development, LLC  
c/o Melissa Richards, Registered Agent  
600 Briggs St  
Erie, CO 80516

**IN THE IOWA DISTRICT COURT FOR LINN COUNTY****FIRST INTERSTATE BANK****Plaintiff(s),****CASE NO. 06571 EQCV101968****vs.****NOTICE RE: FILING OF MOTION FOR  
SUMMARY JUDGMENT****PARTIES IN POSSESSION  
ESCO ELECTRIC COMPANY  
LBC5, INC D/B/A BOUSLOG INSURANCE  
PHYTO GENESIS, INC  
THE BOHEMIAN AKA PROMETHEUS INC  
620 DEVELOPMENT, LLC  
NEW BOHEMIAN, INC D/B/A THE BOHEMIAN****Defendant(s).**

On this date, the Court is in receipt of a Motion for Summary Judgment that was filed by Plaintiff on December 11, 2023. In the event that Defendant intend(s) to file a resistance to the Motion for Summary Judgment, the resistance must be filed within fifteen days from the time when a copy of the motion was served, unless otherwise ordered by the court, as required by Iowa Rule of Civil Procedure 1.981. The resistance also must include a statement of disputed facts, if any, and a memorandum of authorities supporting the resistance. See I.R.Civ.P. 1.981(3). If there are affidavits in support of the resistance, they must be filed with the resistance. Id.

If no resistance is filed within fifteen days from the time when a copy of the motion was served, unless otherwise ordered by the court, the Motion for Summary Judgment may be granted without further notice to the parties. If the Motion is resisted, it may be ruled on without a hearing, unless the Court, in its discretion, determines oral argument is necessary. The timelines and requirements of Rule 1.981 must be met by parties represented by an attorney, as well as self-represented litigants.

Clerk to notify.



State of Iowa Courts

**Case Number**  
EQCV101968

**Case Title**  
FIRST INTERSTATE BANK VS PHYTO GENESIS, INC. ET

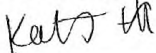
**Type:**

AL  
Other Order

So Ordered

I, Jennifer Schrader do hereby certify that I am the Clerk of District Court in and for Linn County, Iowa and that I have the possession and control of official records in and for said County and am charged with the duty of keeping said records and that this is a true copy of said records.

Jennifer Schrader, Clerk of District Court, Linn County Iowa

By:  \_\_\_\_\_, Designee  
Katie Hopfensperger

Electronically signed on 2023-12-11 15:21:04



IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRT INTERSTATE BANK

Plaintiff

Vs.

PHYTOGENESIS,PROMETHEUS INC  
ESCO ELECTRIC COMPANY,LBCS INC  
620 DEVELOPMENT LLC AND PARTIES IN  
POSESSION.

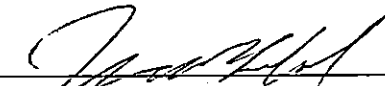
Defendant

)  
)  
)  
) EQCV101968  
)

RESISTANCE TO SUMMARY JUDGMENT MOTION

Comes now the defendant and resists the motion as follows:

- 1] The defendants Phyto Genesis resists the motion for the following grounds:
- 2] There was \$27000 corresponding balance held in the name of the defendant.
- 3] The Plaintiff accounting of the loan does not credit the \$27000 toward the loan, but Defendant has been denied access to those funds.
- 4] Plaintiff should clarify the account balance disposition as it may or may be included in the foreclosure accounting.
- 5] Attached to this resistance is the affidavit of the defendant and a copy of the bank statement,

/s/   
 John M. Heckel AT0003289  
 5250 North Park Place NE  
 Ste 114  
 Cedar Rapids, Iowa 52402  
 319-373-1989  
[Heckellaw@JMHeckel.com](mailto:Heckellaw@JMHeckel.com)  
 319-373-1989  
 ATTORNEY FOR DEFENDANT

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FIRT INTERSTATE BANK  
Plaintiff

Vs.

PHYTOGENESIS,PROMETHEUS INC  
ESCO ELECTRIC COMPANY,LBCS INC  
620 DEVELOPMENT LLC AND PARTIES IN  
POSSESSION.  
Defendant

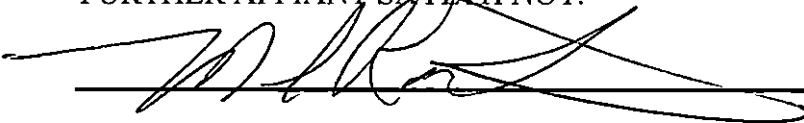
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AFFIAVIT IN SUPPORT OF RESISTANCE TO SUMMARY JUDGMENT.

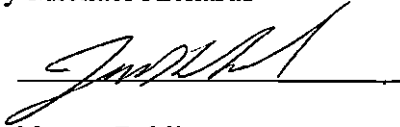
I, MICHAEL RICHARDS, do hereby state that the balance of the motion for summary judgment is incorrect. There was \$25000 the bank seized when the default occurred from An account under the Philo Genesis name. That credit is not reflected in the balance due.

FURTHER AFFIANT SAYETH NOT.



Michael Richards

Swore and subscribed before me , a notary public by Michael Richards



Notary Public

John M Heckel  
Notary Public # N119149  
Expires April 11, 2026



**Great Western Bank**  
Member FDIC

# Online Statement

North Liberty  
655 Community Dr, PO Box 306  
North Liberty, IA 52317

(319)471-4570

Date 5/27/21  
Primary Account  
Enclosures

Page 4937  
1

Phyto Genesis Inc  
Michael A Richards  
1029 3rd Street SE  
Cedar Rapids IA 52401

**CHECKING ACCOUNTS**

Money Market Commercial		Number of Enclosures	0
Account Number	13551633	Statement Dates	4/30/21 thru 5/27/21
Previous Balance	28,589.52	Days This Statement Period	28
Deposits/Credits	.00	Average Ledger	27,226.28
1 Checks/Debits	3,817.05	Average Collected	27,226.28
Service Charge	.00	Interest Earned	.21
Interest Paid	.21	Annual Percentage Yield Earned	0.01%
Current Balance	24,772.68	2021 Interest Paid	1.26

**DEPOSITS AND OTHER CREDITS**

DATE	DESCRIPTION	AMOUNT
5/27	Interest Deposit	.21

**CHECKS AND DEBITALS**

DATE	DESCRIPTION	AMOUNT
5/18	Loan payment	3,817.05-DB

**DAILY BALANCE INFORMATION**

DATE	BALANCE	DATE	BALANCE
4/30	28,589.52	5/18	24,772.47
		5/27	24,772.68



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## Trial Court Case Details

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### Property/Lis Pendens

Title: FIRST INTERSTATE BANK VS PHYTO GENESIS, INC. ET AL

Case: 06571 EQCV101968 (LINN)

Citation Number:

<u>Seq</u>	<u>Date</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>County No</u>	<u>County</u>
18766	04/03/2023				57	LINN
<b>Quarter :</b>	Quarter of the Quarter					
<b>Description :</b>	LOT 6, BLOCK 21, CARPENTERS THIRD ADDITION TO THE TOWN OF CEDAR RAPIDS, LINN COUNTY, IOWA					
<b>Town :</b>	CEDAR RAPIDS	<b>Addition :</b>	CARPENTERS THIRD ADDITION			
<b>Lot :</b>	6	<b>Outlot :</b>		<b>Block :</b>	21	

**Miscellaneous :**

CN=npdodgeco,O=JUDICIAL

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Financials

Title: FIRST INTERSTATE BANK VS PHYTO GENESIS, INC. ET AL

Case: 06571 EQCV101968 (LINN)

Citation Number:

<u>Summary</u>	<u>Orig</u>	<u>Paid</u>	<u>Due</u>
COSTS	255.00	255.00	0.00
FINE	0.00	0.00	0.00
SURCHARGE	0.00	0.00	0.00
RESTITUTION	0.00	0.00	0.00
OTHER	0.00	0.00	0.00
<hr/>			
	\$255.00	\$255.00	\$0.00
SUPPORT/ALIMONY	N/A	0.00	N/A

<u>Detail</u>	<u>Payor/Payee</u>	<u>Obligor/Obligee</u>	<u>Original Amount</u>	<u>Paid Amount</u>	<u>Date</u>	<u>Receipt</u>	<u>Type</u>
FILING AND DOCKETING PETITION EXCL DISO	CAMILLE HAWK / STATE OF IOWA	CAMILLE HAWK / STATE OF IOWA	195.00	195.00	04/03/2023	<a href="#">633289</a>	EDM
FILING/ENTERING A LIS PENDENS	CAMILLE HAWK / STATE OF IOWA	CAMILLE HAWK / STATE OF IOWA	60.00	60.00	04/03/2023	<a href="#">633290</a>	EDM

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