**UNITED STATES BANKRUPTCY COURT**
**FOR THE DISTRICT OF SOUTH DAKOTA**

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| **In Re:** | **Bankruptcy No. 15-40057** |
| **HEPAR BIOSCIENCE LLC,** | **Chapter 11** |
| **Debtor.** | **FOURTH JOINT STIPULATION AND AGREEMENT FOR USE OF CASH COLLATERAL AND FOR ADEQUATE PROTECTION THROUGH SEPTEMBER 30, 2015** |

Hepar Bioscience LLC ("Debtor"), the Debtor and Debtor in Possession herein, by and through its General Reorganization Counsel, Clair Gerry, and Northwest Bank, ("Bank") by and through its attorneys of record, Roger W. Damgaard of Woods Fuller Shultz & Smith P.C. and G. Mark Rice of the law firm of Whitfield & Eddy, P.L.C., hereby stipulate and agree to the following for the use of cash collateral and for adequate protection through September 30, 2015, ("Fourth Stipulation"):

1. On February 20, 2015, the Debtor filed its Voluntary Petition under Chapter 11 of the Bankruptcy Code, (the "Petition Date"). The Debtor is now duly acting as a Debtor in Possession pursuant to Bankruptcy Code §§ 1107 and 1108.

2. On February 20, 2015 the Debtor also filed a Motion for Authorization to Use Cash Collateral and Request for a Preliminary Hearing, (Document 8). On February 23, 2015, the Bank filed its objection to the Debtor's Motion, (Document 32) and thereafter on the same day the Bank filed a Joint Stipulation and Agreement for Use of Cash Collateral, (Document 34), as thereafter supplemented, (Document 38), agreeing to the use of cash collateral through March 11, 2015, ("First Stipulation").

3. On February 23, 2015, the Court entered a Docket Text Order (Document 39) approving the use of cash collateral as set forth in the First Stipulation.

4. On March 9, 2015, the Bank filed a Limited Objection to the Debtor's Motion For Authorization to Use Cash Collateral (Final Request), (Document 58) with regard to the Debtor's use of cash collateral through April 30, 2015.

5. On March 9, 2015, the Bank and the Debtor filed a Joint Stipulation and Agreement for Use of Cash Collateral and for Adequate Protection through April 30, 2015, (Document 59), ("Second Stipulation"). On March 10, 2015, this Court entered an Order approving the Second Stipulation, (Document 60).

6. On April 6, 2015, the Debtor filed a Motion for Authorization to Use Cash Collateral through June 30, 2015, (Document 93), and the Bank filed an Objection to the Motion on April 21, 2015, (Document 100).

7. On April 22, 2015, the Bank and the Debtor filed a Joint Stipulation and Agreement for Use of Cash Collateral and for Adequate Protection through June 30, 2015, (Document 102), ("Third Stipulation"). On April 28, 2015, this Court entered an Order approving the Third Stipulation, (Document 109).

8. On May 11, 2015, the Debtor filed a Motion for Authorization to Use Cash Collateral through September 30, 2015, (Document 121), and the Bank filed an Objection to the Motion on May 27, 2015 (Document 130).

9. The Bank and the Debtor now stipulate and agree to the following terms and conditions for the Debtor's continued use of cash collateral.

10. The Bank[1] holds validly perfected, enforceable and non-avoidable first priority liens on and security interests in, among other things, all of Debtor's Inventory, Accounts and other rights to payment, Instruments, Documents and Chattel Paper, General Intangibles, Equipment and Deposit Accounts and such other assets all as more particularly described and evidenced by the attached three security agreements (the "Security Agreements") executed by the Debtor on various dates and perfected by the attached Financing Statement(s), as amended, and filed with the South Dakota Secretary of State, collectively attached as Exhibit "A".[2] The parties acknowledge that the Bank is not secured by livestock, (more specifically buffalo), titled vehicles, or the proceeds thereof.

11. The Bank also holds a valid and perfected first priority mortgage on certain real estate located in Union County, South Dakota that is dated September 17, 2014 and was filed with the Union County Register of Deeds on September 18, 2014 in Book 164 page 634, a copy of which is attached and marked as Exhibit "B", covering the following described real estate, and leases and rents from the property, (the "Real Estate"):

> Hepar Tract 1 in Lot A in Section 10, Township 89 North, Range 48 West of the 5th P.M., Union County, South Dakota, according to the Recorded Plat thereof

Commonly known as 3148 N. Hwy 105, North Sioux City, SD 57047-3051.

12. Debtor is liable to the Bank pursuant to a Promissory Note dated September 17, 2014, in the initial principal sum of $19,678,345.72, a copy of which is attached as Exhibit "C". As of May 19, 2015, there is due and owing the following amounts to Bank by the Debtor:

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[1] Northwest Bank, (an Iowa state bank) is successor by merger to First National Bank in Sioux City, which was effective October 12, 2013. See OCC Control Number: 2013-WE-Termination-135106.

[2] The Bank's lien/security interest is subject to any valid and perfected purchase money security interests and any true leases.

| Loan No. | Principal | Interest | Total | Per Diem |
|---|---|---|---|---|
| XXX0905 | $18,561,612.25 | $8,765.20 | $18,570,377.45 | $1,753.04 |

13. The Debtor's obligations to Bank constitute legal, valid and binding obligations of the Debtor, enforceable in accordance with the terms of the loan documents applicable thereto, including, without limitation, the Promissory Note, Security Agreements, and Mortgage. The Debtor has no objection, offset, defense or counterclaim of any kind or nature to such obligations, which, together with any amounts previously paid to the Bank on account thereof, are not, and will not be, subject to avoidance, recovery, reduction, disallowance, disgorgement, or subordination pursuant to the Bankruptcy Code or applicable non-bankruptcy law.

14. Proceeds from the sale of inventory, collection of accounts and any other sums, cash or cash equivalents, received from any source constitute cash collateral pursuant to Bankruptcy Code § 363, which comprise the cash collateral of the Bank (the "Cash Collateral"). The Bank is entitled to adequate protection of its interests in the pre-petition collateral (including Cash Collateral) and the Debtor may not use the Cash Collateral for any purpose without the Bank's written consent or upon order of the Court.

15. In consideration for the Bank's consent to the Debtor's use of the Cash Collateral, as provided herein, and as adequate protection for any diminution in the value of the Bank's security interests, Debtor grants the Bank:

(a) a validly perfected first priority lien on and security interest in all of Debtor's post-petition property and proceeds thereof, excepting therefrom livestock, titled vehicles and the proceeds thereof, (the "Collateral"). The rights, liens and interests granted to the Bank hereunder shall be based on the Bank's relative rights, liens and interests in the Debtor's Cash Collateral pre-petition. Upon entry of an Order approving

this Stipulation, the post-petition security interests and liens proposed to be granted hereunder shall be valid, perfected and enforceable and shall be deemed effective and perfected as of the Petition Date pursuant to the Debtor's post-petition security agreement dated February 23, 2015, as perfected by the post-petition UCC-1 financing statement that was filed with the South Dakota Secretary of State on February 24, 2015, true and correct copies of which are attached and marked as Exhibits "D" and "E";

(b) a super-priority claim that shall have priority in the Debtor's bankruptcy case over all priority claims and unsecured claims against the Debtor and its estate, now existing or hereafter arising, of any kind or nature whatsoever including, without limitation, administrative expenses of the kinds specified in or ordered pursuant to §§ 105, 326, 328, 330, 331, 503(a), 503(b), 506(c), 507(a), 507(b), 546(c), 726(b) and 1114 of the Bankruptcy Code or otherwise. The Bank's super-priority claim shall be subject to any fees due to the U.S. Trustee pursuant to 28 U.S.C. § 1930 and fees and expenses incurred by the Debtor's professionals and approved by the Court.

16. As additional adequate protection, the Debtor shall pay the regularly scheduled monthly principal and interest payment due under the terms of the Promissory Note.

17. The Debtor shall maintain its Debtor in Possession Account (the "DIP Account") at the Bank. The existing rights, liens and interests of the Bank shall attach to the funds deposited into the DIP Account, excepting therefrom proceeds from the sale of livestock and titled vehicles with the same priority, dignity and effect that such rights, liens and interests had in the underlying collateral, and other accounts at Bank pre-petition. The Bank's security interests in such funds shall be valid, perfected, enforceable, and non-avoidable consistent with the Debtor's post-petition perfection as described above.

18. The Debtor is authorized to use Cash Collateral for the payment of its usual, ordinary, customary, regular, and necessary post-petition expenses incurred in the ordinary course of Debtor's business as set forth in Debtor's budgets attached as Exhibit "F" (as applicable, the "Budget") and not otherwise. Any of the following payments shall not be considered ordinary and usual expenses necessary to continue the operation of the Debtor's business unless the Bank consents to any such payment in writing prior to such payment being made and provided approval of this Court is obtained: (l) operation of the Debtor's business at any fixed location other than 3148 N. Hwy 105, North Sioux City, SD 57047-3051; (2) payment of any claims, debts or judgments owed by Debtor's Manager to any third parties, including but not limited to any claims, debts or judgments owed to Mary Ellen Nylen; (3) payment of any salary or employee monetary or non-monetary benefits to Mary Ellen Nylen; (4) payment of trade debt incurred prior to the commencement of this case, unless approved by Order of the Bankruptcy Court; (5) payment of any taxes owed prior to the date the Petition was filed by the Debtor, unless such taxes owed are duly characterized as payroll or sales tax trust fund taxes; and (6) payment of any other debt incurred prior to the commencement of this case, except as provided for in Debtor's confirmed Plan. The foregoing payments are merely illustrative and not the exclusive list of payments that will not be considered ordinary and usual expenses. Such authorization shall continue from July 1, 2015, through September 30, 2015, subject to the following additional terms and conditions:

(a) Debtor is not in material default under this Fourth Joint Stipulation Agreement for Use of Cash Collateral.

(b) All proceeds received from the sale of Collateral in the ordinary course of business, and the collection of accounts receivable and profits, shall be deposited in the

DIP Account. The Debtor's expenses may not exceed 125% of the monthly sum set forth on Exhibit "F" without the prior written consent of the Bank and checks written for expenses should reference the category of expenses as shown on the Budgets. Only the ordinary and usual expenses necessary to continue operation of the business, incurred after the commencement of the bankruptcy case, monthly payments due to the Bank on the Promissory Note, the Debtor's attorney and other professional fees as approved by the court and such other payments as the court shall allow from time to time to be paid from the DIP Account;

(c) The Bank and the Debtor agree that the ordinary and usual expenses necessary for the continued operation of the business are the expenses which the Debtor listed on attached Exhibit "F";

(d) The individual expense items depicted on Exhibit F for July 1 thru September 30, are not cumulative from July to September. Moreover, neither may individually budgeted amounts for specific categories be moved to other categories of expense. Bank reserves the right to stop payment on any check(s) that would exceed the actual budgeted expense for the specific monthly or partial monthly period by 125% or more;

(e) The accounts receivable and accounts payable and a list of all inventory, plus total current operating expenses and total current collections report (the "Reports"), shall be updated and provided to the Bank weekly;

(f) Bank shall, at any time, be permitted to conduct a full inspection of all inventory, equipment and accounts of the Debtor by visiting the Debtor's premises to inspect, verify and photocopy all such records and to inspect, appraise and document the

Collateral. Debtor proposes to grant the Bank, their agents and employees, a license to enter upon all such premises for such purposes during its regular, customary and ordinary business hours. Bank shall also have access, within 3 business days of any request, to the Debtor and its management, personnel and advisors;

(g) Within twenty-one (21) days of each successive month, Debtor shall provide an updated balance sheet and income statement along with a copy of all monthly reports provided to the Court and/or the United States Trustee;

(h) Any debt incurred in excess of 125% of the budgeted expense shall constitute a default hereunder;

(i) All Collateral and the Real Estate shall be insured to its full value, and Debtor shall otherwise comply with the terms and conditions of the Security Agreements and Mortgage of the Bank. Evidence of insurance listing the Bank as insured mortgagee/loss payees shall be immediately provided;

(j) If at any time the Debtor fails to timely make the monthly payments on the Promissory Note described above, or ceases to properly insure the Collateral, fails to pay any local, state or federal taxes as they become due, fails to pay fees required by the U.S. Trustee or fails to comply with any other term of this Stipulation ("Default"), the Bank shall give the Debtor and its attorney written notice that it has ten (10) business days to cure such default after the mailing of written notice of such default. If the default is not cured, then upon the filing of an affidavit of default by the Bank setting forth the events of Default under this Stipulation, the automatic stay of actions against Collateral shall terminate upon the entry of an Order by the Court. Upon such termination, the Bank shall be authorized to terminate the use of Cash Collateral and take such action against

the Collateral as permitted under its respective loan documents, including, without limitation, the Security Agreements and Mortgage, and applicable state law without the necessity of the Bank filing a motion for relief from the automatic stay or obtaining approval of this Court to exercise such rights and remedies;

(k) Unless otherwise notified, all notices hereunder to Debtor and to Bank shall be sent to the following addresses:

Hepar Bioscience, LLC.
ATTN: Mark Nylen, Manager
1000 S. Wynstone Drive.
Jefferson, SD 57049

Northwest Bank, N.A.
ATTN: Don Shiu
14320 Arbor Street
Omaha, NE 68144
dshiu@nwcommercialcredit.com

with a copy to each respective counsel as follows:

For Debtor:

Clair Gerry, Esq.
Gerry & Klum Ask Prof, LLC
507 West 10th Street
Sioux Falls, SD 57104
605/336-6400
Gerry@sgsllc.com

For Bank:

G. Mark Rice, Esq.
Whitfield and Eddy, P.L.C.
317 Sixth Avenue, Suite 1200
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and

Roger W. Damgaard
300 S. Phillips Avenue, Suite 300
Sioux Falls, SD 57104-6322
Phone: 605-336-3890
Fax: 605-339-3357
Roger.Damgaard@woodsfuller.com

(l) Any termination of the automatic stay under this Stipulation shall apply to the above Chapter 11 case and any subsequent conversion.

19. All rights of the Bank to seek additional adequate protection for Debtor's use of Cash Collateral, to file for relief from the automatic stay, to dismiss or to assert any other right or cause of action, or any other matter with respect to the Debtor, whether in this bankruptcy case, or otherwise, are expressly reserved. The failure or delay by the Bank to seek relief or otherwise exercise its rights and remedies under this Stipulation or any loan documents shall not constitute a waiver of any of the rights of the Bank.

20. This Fourth Stipulation, the Promissory Note, Security Agreements, Mortgage and any documents and instruments required of Debtor by this Stipulation are, or when executed and delivered, will be valid, binding and enforceable in accordance with their respective terms upon entry of an Order approving this Fourth Stipulation.

21. No representation or warranty of Debtor contained in this Fourth Stipulation or in any statement, instrument, or other document furnished by Debtor in connection with this Fourth Stipulation, or prior to this Fourth Stipulation contains any untrue statement of material fact or omits to state any material fact.

22. This Fourth Stipulation (and the First, Second and Third Stipulations) constitute the entire agreement between the parties as it relates to use of cash collateral and adequate protection.

GERRY & KULMASK, PROF. LLC

Dated: May 26, 2015

By: _____

Clair R. Gerry
507 West 10th Street
P.O. Box 966
Sioux Falls, SD 57101-0966
Telephone: (605) 336-6400
Fax: (605) 336-6842
Email: gerry@sgsllc.com
ATTORNEY FOR DEBTOR

WOODS, FULLER, SHULTZ & SMITH P.C.

Dated: May 26, 2015

By: _____

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P.O. Box 5027
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ATTORNEYS FOR NORTHWEST BANK

WHITFIELD & EDDY, P.L.C.

Dated: May ____, 2015

By: _____

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ATTORNEYS FOR NORTHWEST BANK

GERRY & KULM ASK, PROF. LLC

Dated: May ___, 2015

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Dated: May ___, 2015

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ATTORNEYS FOR NORTHWEST BANK

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