

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
MAR 15 2021
DEPT OF WATER RESOURCES
SOUTHERN REGION

Notice of Security Interest in a Water Right
and a request to be notified of a change in ownership or any proposed
or final action to amend, transfer, or otherwise modify the water right(s)

Attach pages with additional information. Incomplete forms will be returned.

Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.
36-8584			

2. The following **REQUIRED** information must be submitted with this form:

A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**

B) A **FEE of \$25.00 per** water right or adjudication claim.

3. Name and Mailing Address of Person or Company Holding Security Interest

AXA Equitable Life Insurance Company

c/o AXA Equitable Agrifinance

6300 C. St. SW

Cedar Rapids, Ia 52499

Phone 319-355-2861

Email

4. Name of Water Right Owner/Claimant(s)

Evers Brothers, Properties, LLC

5. Expiration Date of Notification Period

7/1/2040

6. Is this a Renewal of Request for Notification?

☐ YES

☐ NO

7. Signature(s) of Security Interest Holder(s)

Title, if applicable

Steph Ho
Investment Officer

For Office Use Only

Received by P. SKINNER

Date 3/15/2021

Receipt No. 5038461

Fee \$25.00

Processed by AJ

Date

WR DM

Date 10.10.2021

RETURN RECORDED DOCUMENT TO

Andrew W. Martin, Esq./sl
AXA Equitable AgriFinance, LLC
6300 C Street SW, MS 3B-CR
Cedar Rapids, Iowa 52499

Instrument # 268796

GOODING COUNTY, GOODING, IDAHO
06-08-2020 10:02:27 No. of Pages: 18
Recorded for: TITLEONE - TWIN FALLS
DENISE GILL Fee: \$45.00
Ex-Officio Recorder Deputy: DAL
Electronically Recorded by Simplifile

20362869

Loan No. 60720215

**MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE
FILING**

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING ("Mortgage") is made the 8 day of June, 2020 between Evers Brothers Properties, LLC, an Idaho limited liability company, whose chief executive office is 3109 South 2000 E., Wendell, Idaho 83355, hereinafter called "**Mortgagor**," and AXA Equitable Life Insurance Company, a New York corporation, whose address is Sixteenth Floor, 1290 Avenue of the Americas, New York, NY 10104, hereinafter called "**Lender**."

WHEREAS, Evers Brothers Properties, LLC, an Idaho limited liability company ("**Borrower**") is justly indebted to the Lender in the sum of ("Loan") with interest, all as set forth in that certain promissory note (as may be amended, modified, restated or replaced from time to time, the "**Note**") of even date herewith maturing July 1, 2040.

NOW, THEREFORE, THIS MORTGAGE WITNESSETH, that, to secure (i) the payment of the principal of and interest on the Note, (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other loan documents delivered by Mortgagor or any other obligor in favor of Lender in connection with the Loan (collectively, the "**Loan Documents**"), and (iii) the reimbursement to Lender of any and all sums

incurred, expended or advanced by Lender pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents, and in consideration of the premises the Mortgagor by these presents does grant, bargain, sell, convey, transfer, assign, mortgage, pledge, warrant and confirm unto the Lender the following described real estate ("**Real Estate**") situate in Gooding County, State of Idaho, to wit:

See attached **Exhibit "A"**, which is incorporated herein by reference.

TOGETHER WITH (1) all easements, rights-of-way, hereditaments, and rights appurtenant to said Real Estate or used in connection therewith or as a means of access thereto; (2) all water, water rights, water permits, water stock or licenses, culverts, ditches, ponds, waterways and drainage rights appertaining to said Real Estate, whether riparian or appropriative; (3) all leases (including, but not limited to, oil, gas and mineral leases), subleases or occupancy agreements now or hereafter affecting said Real Estate; (4) all buildings, structures, improvements, fixtures, watering and irrigation apparatus, pumps, motors, generators, pipes, center pivot irrigators and sprinklers, wells, windmills, fences, attachments, and other articles now or hereafter erected on, affixed or attached to, or on said Real Estate which are real property, and all substitutions, replacements, additions and accessions thereof or thereto; (5) all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Real Estate (subject, however, to the assignment of rents and profits to Lender herein); (6) all awards made for the taking by condemnation or the power of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of said Real Estate; (7) all timber standing or to be cut, minerals or the like (including oil and gas), any and all fruit or nut bearing bushes, trees or vines presently or hereafter located on the above described Real Estate; and (8) all claims or demands to the proceeds of all insurance now or hereafter in effect with respect to any and all of the foregoing, which Mortgagor now has or may hereafter acquire, Mortgagor hereby agrees, acknowledges and confirms that such fruit or nut bearing bushes, trees or vines are part of the "real estate" comprising the above described Real Estate and will remain a part of the above described Real Estate throughout the term of the Loan made by Lender to Borrower that is secured by this Mortgage.

AND ALSO, Mortgagor, as debtor, irrevocably grants and assigns to Lender, as secured party, a security interest in all of the following collateral which is personal property now or hereafter owned by Mortgagor or in which Mortgagor now or hereafter has any rights and which is now or hereafter located on or at, or affixed or attached to, or produced from, or used in connection with said Real Estate, including: all (a) crops growing or to be grown; (b) permits and licenses used in the operation of the Real Estate; (c) all personal property listed on **Exhibit "B"** attached hereto and made a part hereof; and (d) personal property of the same general kind or class as otherwise described in this paragraph which Mortgagor may now own or hereafter acquire, used or usable in the operation of or relating to the Real Estate; and all products and proceeds from the sale or other disposal thereof, including, without limitation, all payments or unearned premiums on or under any insurance policies, substitutions and replacements, additions, accessions of or to said collateral and any indemnity, warranty or guaranty relating to any of the foregoing (all of the foregoing property shall be hereinafter collectively referred to as the "**Collateral**"; the Real Estate and the Collateral shall hereinafter be collectively referred to as the "**Property**"). **PROVIDED HOWEVER**, that nothing in this Mortgage shall prevent

Mortgagor from obtaining secured crop financing which may include the perfection of a lien by the crop lender on the crops growing or to be grown for a period not to exceed the beginning of the next crop year. If Mortgagor exercises its right to place a single crop lien on the crops grown or to be grown on the Real Estate hereunder, such crop lien shall automatically be a superior lien to the lien on such crop created hereby without the need for any consent or subordination from Lender.

TO HAVE AND TO HOLD the same unto the Lender, its successors and assigns, forever.

PROVIDED, ALWAYS, that if the Mortgagor, Mortgagor's heirs, personal representatives, successors or assigns, shall pay unto the Lender, its successors or assigns, the said sum of money mentioned in the Note and the interest thereon at the times and place and in the manner specified in the Note, and all other sums that may become due and owing to the Lender pursuant to any of the terms, covenants and conditions hereof, and perform all the conditions and covenants contained in this Mortgage, then these presents and the estate hereby granted shall cease, terminate and be void, and shall be released by the Lender at the expense of the Mortgagor, otherwise to remain in full force and effect.

AND SUBJECT to the covenants and conditions hereinafter set forth.

1. Covenants of Mortgagor. The Mortgagor hereby covenants and agrees, to the extent permitted by law, as follows:

(a) Principal and Interest: To pay or cause to be paid promptly when due the principal and interest and other sums of money provided for in the Note and in this Mortgage;

(b) Taxes and Assessments: To pay all taxes, assessments and other charges (including ditch, canal, reservoir, or other water charges, taxes or assessments) imposed by law upon the Property, the Lender's interest therein, or upon the Mortgage or the Note; provided however, in the event of the passage of any law changing the laws for the taxation of mortgages or debts secured by mortgages so as to affect this Mortgage, the entire indebtedness secured hereby shall, at the option of the Lender, become due and payable;

(c) Good Condition and Repair: To keep the Property and any improvements to the Real Estate in good condition and repair and not to commit or suffer waste thereof, and except as authorized in any schedule annexed hereto and forming a part hereof, neither to remove nor permit the removal of any timber, buildings, oil, gas, minerals, stone, rock, clay, fertilizer, gravel or top soil from the Real Estate without the prior written consent of the Lender;

(d) Location of Collateral: To keep the Collateral located on the Real Estate;

(e) Irrigation and Water Practices: To use and manage any irrigated lands in accordance with sound irrigation and water use practice and in a manner that will

maintain all of the water rights appurtenant to the Real Estate in full force and effect, and not, without the prior written consent of the Lender, (i) to permit the transfer, diversion, and/or use of said water rights to lands not mortgaged hereunder, or (ii) to change the point or points of diversion of such water;

(f) Property Insurance: To maintain and deliver to the Lender policies of insurance against such hazards on the buildings now or hereafter located on the Real Estate as the Lender may require from time to time, in such companies and amounts and with such loss payable clauses as shall be satisfactory to the Lender; in the event of loss the Lender is expressly authorized to settle or compromise claims under said policies and the proceeds shall be paid to the Lender who may apply same or any part thereof on the indebtedness secured hereby or towards the reconstruction or repair of said buildings or release same to the Mortgagor;

(g) Liens and Charges: To pay any lien, claim or charge against the Real Estate which might take precedence over the lien hereof;

(h) Legal and Title Expenses: To pay on demand all legal expenses, title searches, or attorneys' fees reasonably incurred or paid by the Lender to collect the Note or foreclose or protect the lien of the Mortgage;

(i) UCC Security Interests: To do any and all acts all in a timely and proper manner and in a form satisfactory to Lender, requested by Lender to protect and preserve the security interests granted hereunder pursuant to the Uniform Commercial Code ("UCC") as in effect from time to time in the state where the Collateral is located except to the extent the UCC provides for the application of the law of the state of location of the Mortgagor in which event the UCC as in effect from time to time, in such state shall apply, and to pay the cost of filing such statements in all public offices requested by Lender; and to do any and all acts as shall hereafter be reasonably requested by Lender to effectuate the intent hereof and to render all of the Property available for the security and satisfaction of the indebtedness secured hereby and to enable Lender to sell and/or convey the Property pursuant to the terms hereof;

(j) No Sale: Not to sell or transfer the Real Estate or any portion thereof, or, if the Mortgagor is a corporation, partnership, limited liability company or association not more than 0.00% of its corporate stock, partnership interests, membership or equity interests shall be sold, traded or disposed of to persons other than the present owners. If Mortgagor is a limited liability company, it shall not have the power to divide, enter into a plan of division or obtain a certificate of division and any division shall be null and void and of no effect upon the Real Estate, Property or Loan. Provided, however, that in the event the Lender shall in Lender's sole discretion, permit any sale or transfer of the Real Estate or any portion thereof, Lender may condition such permission on the payment of such fees and costs and the providing of such title insurance and documentation as Lender may desire;

(k) Condemnation Awards: If the Real Estate or any portion thereof shall be taken or damaged under the power of eminent domain, the award for any Real Estate so

taken or damaged (including severance damages to the remaining Property) shall be paid to the Lender and applied in full or in part at the option of the Lender in reduction of the indebtedness hereby secured;

(l) Inspection: Lender shall have the right to inspect the Property at such reasonable times as the Lender may desire to determine the Mortgagor's compliance with the covenants contained in this Mortgage; and

(m) Warranty of Title: Mortgagor is lawfully seized of said Property in fee simple, free from encumbrances except as may otherwise be specifically noted herein or waived in writing by the Lender, Mortgagor will execute or procure any further necessary assurances of title and does hereby warrant generally the title to said Property and will forever defend the same against the claims and demands of all persons whomsoever, and Mortgagor's separate estate, whether vested, contingent or in expectancy, is hereby conveyed and Mortgagor does hereby expressly waive, release and relinquish all rights and benefits of any homestead, dower, curtesy, appraisement, exemption and stay laws of the state in which the Real Estate is located.

2. Events of Default. It shall be an "Event of Default" under this Mortgage if any of the following events shall occur:

(a) Payment: failure to pay when due any payment under this Mortgage, the Note or any other Loan Documents;

(b) Performance: Mortgagor and/or Borrower or other obligor fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor and/or Borrower and/or other obligor under the Note, this Mortgage or any of the other Loan Documents;

(c) Bankruptcy: Mortgagor, Borrower, or other obligor makes an assignment for the benefit of creditors or files a petition for relief under the United States Bankruptcy Code or any other similar statute as now or hereafter in effect, or is adjudicated, bankrupt or insolvent or an involuntary bankruptcy petition is filed against Mortgagor, Borrower, or other obligor that is not dismissed within 60 days of filing;

(d) Receiver: the appointment of any receiver, liquidator or trustee for Mortgagor;

(e) Dissolution: the dissolution, termination or merger of Mortgagor or any guarantor of the Note or the occurrence of the death or declaration of legal incompetency of any individual guarantor of the Note; or

(f) Representation/Warranty: the existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Mortgage or any of the other Loan Documents or of any statement or certification as to facts delivered to Lender by Mortgagor, Borrower or other obligor.

3. Remedies. Upon the occurrence of an Event of Default:

(a) Acceleration: the entire indebtedness hereby secured shall, at the option of the Lender and without notice to the Mortgagor, be due and collectible at once; and/or

(b) Foreclosure: Lender may institute judicial foreclosure proceedings to sell the Property or, when available under applicable statutes or rules of practice proceed to sell the Property by non-judicial power of sale in accordance with applicable state law, and in such an event this provision shall be deemed as authorizing and constituting a power of sale as mentioned in said statutes or rules; and/or

(c) Legal and Equitable Remedies: Lender may pursue every legal and equitable remedy available at law and equity and including, without limiting the generality of the foregoing, the right, ex parte, to the appointment of a receiver of the Property without consideration of the value of the Property as security for amounts due or the solvency of any person liable for the payment of such amounts, the right to specifically enforce any of the covenants hereof; the remedies of a grantee under the UCC (regardless of whether the UCC has been enacted in the jurisdiction where rights or remedies are asserted), the right to take possession of the Collateral and enter the Real Estate on which the Collateral or any part thereof may be situated and remove the same therefrom, the right to resell the Collateral at any place Lender elects and deliver a bill of sale therefor, the right to require Mortgagor to make the Collateral available to Lender at a place designated by Lender and reasonably convenient to both parties, and without removal, the right to render the Collateral unusable and to dispose of the Collateral; provided that unless the Collateral is perishable or threatens to decline speedily in value Lender shall send Mortgagor at least ten (10) days prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition is to be made, by United States mail, postage prepaid, to the address set forth above, and Lender may bid and purchase Collateral at public or private sale; and/or

(d) Corrective Action: Lender may, but shall have no duty to, take such action as is necessary, in the sole and absolute discretion of the Lender, to remedy any failure of performance by Mortgagor hereunder, and all sums paid by the Lender pursuant hereto with interest at the rate set forth in the Note from time to time or the highest lawful rate permitted by contract under applicable law, whichever is lesser, shall constitute a lien upon the Property, shall be secured by this Mortgage, and shall be immediately due and repayable to the Lender.

4. No Further Liens or Encumbrances. Mortgagor acknowledges that Mortgagor's current financial position is an important factor in Lender's decision to advance the funds represented by the Note. Mortgagor therefore has agreed, in order to provide assurance to Lender with regard to Mortgagor's financial position, that Mortgagor shall not allow any lien or encumbrance other than this Mortgage and the lien for taxes which are not yet due and payable to be placed on all or any part of the Real Estate described above.

5. Successors and Assigns. The covenants herein contained shall bind, and the benefits and the advantages thereof shall inure to the respective heirs, personal representatives, successors, and assigns of the parties hereto. In this Mortgage, unless the context otherwise requires, words in the singular include the plural, words in the plural include the singular, and words in the masculine gender shall include the feminine and the neuter. Whenever the term "**Mortgagor**" shall include more than one person or entity, their liability hereunder shall be joint and several.

6. Mortgagor Waivers. Notwithstanding the existence of any other liens in said Real Estate or security interests in said Collateral held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the said Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which the indebtedness secured hereby is satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor, any party who consents to this Mortgage, and any party who now or hereafter acquires a lien or security interest in said Property and who has actual or constructive notice of this Mortgage hereby expressly waives and relinquishes any and all rights to demand or require the marshaling of liens or the marshaling of assets by Lender in connection with the exercise of any of the remedies provided herein or permitted by applicable law. Mortgagor expressly waives and relinquishes any and all rights and remedies Mortgagor may have or be able to assert by reason of laws relating to the rights and remedies of sureties or guarantors.

7. Rents and Profits. Mortgagor absolutely and irrevocably assigns and transfers to Lender all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Property (all of the foregoing are herein collectively referred to as the "**Rents and Profits**"). Mortgagor hereby gives to and confers upon Lender the right, power and authority to collect said Rents and Profits. Mortgagor irrevocably appoints Lender its true and lawful attorney-in-fact, at the option of Lender at any time and from time to time, either with or without taking possession of said Property, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Lender, for all said Rents and Profits and apply the same to the indebtedness secured hereby. Mortgagor shall, nevertheless, have a license to collect and retain said Rents and Profits as the same become due and payable but only before the occurrence of an Event of Default under this Mortgage and as long as no such Event of Default exists. The assignment of said Rents and Profits is intended to be a present and absolute assignment from Mortgagor to Lender and not merely the creation of a security interest. Lender's license to collect said Rents and Profits is not contingent upon Lender's taking possession of said Property. Upon the occurrence of an Event of Default under this Mortgage, Mortgagor's right, power and authority to collect the Rents and Profits shall automatically terminate without notice, and Lender may, and as long as any such Event of Default exists, either in person, by agent or by a receiver appointed by a court, and without regard to the value of said, Property, or any part thereof, in its own name sue for or otherwise collect said Rents and Profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Lender may determine. The collection of said Rents and Profits, or the entering upon and taking possession of said Real Estate, or the application thereof

as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

8. Partial Invalidity. The invalidity of any provision of this Mortgage shall not affect the remaining provisions of this Mortgage or any part thereof and this Mortgage shall be construed as if such invalid provision, if any, had not been inserted herein.

9. Environmental Matters. Mortgagor shall not permit or suffer any waste to or on the Property and will not permit or conduct either the generation, treatment, storage or disposal of hazardous waste, as defined in the Resource Conservation and Recovery Act, or the disposal on the Real Estate of petroleum or any hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and will perform all remedial actions reasonably necessary as the result of the presence of any such hazardous wastes, petroleum or hazardous substances on, at or near the Real Estate. Mortgagor shall be personally liable for and agrees to indemnify, defend with counsel satisfactory to Lender and hold Lender harmless against any loss, damage, or liability suffered by the Lender, including but not limited to attorneys' fees, due to the presence of any such hazardous waste, petroleum or hazardous substance at, on or near the Real Estate, and Mortgagor shall be liable for compliance (and for costs associated therewith) with any directive or order by any governmental entity relating to the presence of any such hazardous waste, petroleum or hazardous substance on, at, or near the Real Estate. Mortgagor will deliver promptly to the Lender (i) copies of any documents received from the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning the Mortgagor's operations upon the Real Estate and (ii) copies of any documents submitted by the Mortgagor to the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning operations on the Real Estate. Mortgagor agrees that, notwithstanding any provision to the contrary in this Mortgage, this indemnification and hold harmless shall survive the release or reconveyance of this Mortgage, whether pursuant to payment in full of the Note, or judicial or non-judicial foreclosure under this Mortgage, or otherwise.

10. No Unlawful Activity. Mortgagor, its successors and assigns and each of them, represent and warrant that; (a) the Property involved in this transaction does not represent and was not purchased with the proceeds of any unlawful activity under any state, federal or foreign law; and (b) the Property is not and will not be used for or involved with unlawful drug or controlled substance production, distribution or ancillary operations and no unlawful activity under any state, federal or foreign law is or will be conducted on the Property.

11. Mortgage as a Security Agreement. This Mortgage constitutes a security agreement within the meaning of the UCC with respect to any part of the Property which may now or hereafter be characterized by law as personal property, and in the event of the occurrence of any Event of Default under this Mortgage which continues beyond the applicable notice and cure period, if any, the Lender shall have all the rights and remedies of a secured party under the UCC, as well as all other rights and remedies available hereunder or under this Mortgage at law or in equity. Mortgagor authorizes Lender to file one or more financing statements and continuation statements describing the Collateral and hereby ratifies any such financing statement or continuation statement previously filed by Lender. Mortgagor will, from time to time, within ten (10) days after request by the Lender, execute, acknowledge and deliver any

financing statement, continuation statement or other document that the Lender might request in order to perfect, protect, preserve, continue, extend or maintain the security interest created by and the priority of this Mortgage and will, on demand, pay any expenses incurred by the Lender in the preparation, execution and filing of any such documents. Mortgagor represents and warrants that: (a) all Collateral is located in the state in which the Real Estate is located; (b) Mortgagor's chief executive office or principal residence is Mortgagor's address set forth in the first paragraph of this Mortgage; (c) Mortgagor's state of organization, if applicable, is as set forth in the first paragraph of this Mortgage; and (d) Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage.

12. Governing Law. This Mortgage shall be governed by and construed and interpreted in accordance with the internal laws of the state in which the Real Estate is located except and only to the extent the UCC provides otherwise. The parties agree that the state in which the Real Estate is located has a substantial relationship to the parties and to the underlying transactions embodied by the Loan Documents. Mortgagor hereby consents and submits to the nonexclusive personal jurisdiction and venue of any state or Federal court located within the state in which the Real Estate is located.

13. Notice. Each notice, consent, request, report or other communication under this Mortgage or any of the other Loan Documents (each a "Notice") which any party hereto may desire or be required to give to the other shall be deemed to be an adequate and sufficient notice if given in writing and service is made by either (i) registered or certified mail, postage prepaid, in which case notice shall be deemed to have been received three (3) business days following deposit to U.S. mail; or (ii) nationally recognized overnight air courier, next day delivery, prepaid, in which case such notice shall be deemed to have been received one (1) business day following delivery to such nationally recognized overnight air courier. All notices shall be addressed to Mortgagor at its address given on the first page hereof, or to Lender at c/o AXA Equitable AgriFinance, LLC, 6300 C Street SW, MS 3B-CR, Cedar Rapids, Iowa 52499, Attn: Investment Officer, Loan 60720215, or to such other place as any party may by written notice to the other parties hereafter designate as a place for service of notice. Mortgagor shall not be permitted to designate more than one place for service of Notice concurrently.

14. Multiple Counties. To the extent the Real Estate covers property located in more than one county in the state in which the Real Estate is located, then upon the occurrence of an event of default, Mortgagor agrees that a foreclosure sale of the Property may be held in any one or more of the counties where any part of the Real Estate lies and that any other action or proceeding, judicial or nonjudicial, including, without limitation, a non-judicial foreclosure action in connection with the Loan Documents, or any one of them, may be prosecuted, brought and maintained in any one or more of the counties in which the Real Estate is located. The Note may be collected as part of any foreclosure proceedings or in separate litigation, as determined by the Lender in its sole and absolute discretion. To the extent permitted by law, Lender shall have the full power to select the county or counties in which sale of the Property is to be made, and Lender's selection shall be binding upon Mortgagor and shall permit the sale of the whole or any part of the Real Estate and Collateral (if applicable) to be made in any one of the counties in which part of the Real Estate is located. The Property may be sold in parcels or as a whole, without taking possession of the same, and in any order, and to the extent permitted by

applicable law, at public auction to the highest bidder for cash or cash equivalent in lawful money of the United States payable at the time of sale. Mortgagor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers or remedies Lender may have under this Mortgage or any of the duplicates of this Mortgage in any particular manner or order or in any particular county. Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided in this Mortgage or any duplicate of this Mortgage or applicable law. Mortgagor and any party who now has or may in the future have a security or other interest in any of the Property waives any and all right to require the marshaling of assets or to require that any of the Real Estate be sold in parcels, or as an entirety, or in any combination, in connection with the exercise of any of the remedies permitted by applicable law. If the lien of this Mortgage, or any of the duplicates of this Mortgage is invalid or unenforceable as to any parcel of the Real Estate, the unsecured or partially secured portion of the indebtedness secured by this Mortgage, or any duplicate of this Mortgage shall be completely paid prior to the payment of the remaining secured or partially secured portions of such indebtedness.

15. Merger. No merger shall occur as a result of Lender's acquiring any other estate in or any other lien on the Property unless Lender consents to a merger in writing.

16. Cross-Default and Cross-Collateralization. In addition to all other indebtedness and obligations secured hereby, this Mortgage also secures the following described other loans (the "Other Loan"), including without limitation, the indebtedness evidenced by the Secured Promissory Note (the "Other Note") described below, and the payment and performance of all other indebtedness and obligations (including any other advances) (collectively, the "Other Indebtedness") under the Other Note and all agreements, instruments, deed of trust and/or mortgage recorded in favor of Lender (the "Other Mortgage") and other documents evidencing, securing or relating to the Other Loan (each an "Other Loan Document"), together with any and all amendments, renewals, replacements, extensions or other modifications to any of the foregoing:

(a) Loan No. 60719344 in the original principal amount of One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00) evidenced by a Fixed Interest Rate Promissory Note executed by Evers Brothers, Properties, LLC, an Idaho limited liability company, and payable to the Lender dated February 21, 2020, in such original principal amount, secured by property located in the County of Gooding, State of Idaho.

By Mortgagor's execution of this Mortgage, Mortgagor is deemed to have agreed to and does hereby modify the Other Mortgage to add this section titled "**Cross-Default and Cross-Collateralization**" to the Other Mortgage as if fully set forth therein but adding reference to this Loan as being an "Other Loan" as described in this section.

The holder of the Other Note shall be entitled to the benefits of this Mortgage to the same extent as the holder of the Note. Accordingly, all references in this Mortgage to the Loan, the Note, or the Loan Documents shall be construed to include, respectively, the Other Loan, the Other Note, and the Other Loan Documents.

Any default or event of default under any Other Loan Documents shall constitute an Event of Default under this Mortgage and any of the Loan Documents, including without limitation, the Note. Any Event of Default hereunder or under any of the Loan Documents shall constitute a default or event of default under this Mortgage and the Other Loan Documents, including without limitation the Other Note. In the Event of a Default, Lender may declare all of the principal, interest and other sums which may be outstanding under the Note, this Mortgage or the Loan Documents, or the Other Indebtedness (collectively, the "**Indebtedness**") to be immediately due and payable without further demand, and Lender may exercise any and all rights and remedies provided in any of this Mortgage, the Loan Documents or any Other Loan Documents, whether or not Lender exercises its right to accelerate the Indebtedness secured by this Mortgage, the Loan Documents or the Other Loan Documents.

The property secured by the Other Loan Documents commonly described above and which is more particularly described in the Other Loan Documents are herein referred to as the "**Other Premises**". Lender may, from time to time, at its sole election, release the Loan and/or the Other Loan from the cross-collateralization and cross-default provisions set forth above.

The "**Total Property**" (which shall be the "**Property**" as that term is defined herein, together with the Other Premises shall secure to Lender the payment of the Indebtedness and the performance of the covenants and agreements set forth in this Mortgage, the Loan Documents and the Other Loan Documents, all of which are secured to Lender by this Mortgage without apportionment or allocation of any part or portion of the Property and without apportionment or allocation of any part or portion of the Total Property.

In addition to the rights and remedies provided to Lender elsewhere in this Mortgage, upon the breach of any covenant or agreement of this Mortgage, the Loan Documents or the Other Loan Documents, Lender shall be allowed to enforce the payment of the Indebtedness and performance of the obligations hereunder, and to exercise all of the rights, remedies and powers provided under this Mortgage or any of the Loan Documents and the Other Loan Documents, or any of them, or under any provision of law, in one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender in its sole and absolute discretion. Lender may enforce its rights against any one or more parcels of the Total Property in such order and manner as Lender may elect in its sole and absolute discretion. The enforcement of this Mortgage, the Loan Documents or the Other Loan Documents, or any of them against any one or more parcel of the Total Property, whether by court action, power of sale, or otherwise, shall not constitute an election of remedies, and shall not prejudice or in any way limit or preclude the enforcement of this Mortgage, the Loan Documents or any of the Other Loan Documents, or any of them, through one or more additional proceedings. No judgment obtained by Lender in any one or more enforcement proceedings shall merge the debt secured hereby into such judgment, and all of such debt which shall remain unpaid shall be a continuing obligation of Borrower and Mortgagor, not merged into any such judgment. This Mortgage shall secure to Lender the repayment of any amount which Borrower and Mortgagor may owe to Lender, including without limitation the amount of any judgment, together with any interest thereon, which may be rendered in connection with the enforcement of the Note secured hereby, the Loan Documents or any of the Other Loan Documents. Borrower and Mortgagor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to

proceed to enforce or exercise any rights, powers or remedies Lender may have under this Mortgage, the Loan Documents or any of the Other Loan Documents in any particular manner or order or in any particular state or county. Lender may bring any action or proceeding, including without limitation foreclosure through judicial proceedings or by power of sale in state or federal courts, and such proceeding may relate to all or any part of the Total Property without regard to the fact that any one or more prior or contemporaneous proceeding has been commenced elsewhere with respect to the same or any other part of the Total Property.

Any release of this Mortgage with respect to any one parcel of the Total Property shall not in any event prevent or impair Lender from enforcing all of its rights and remedies with respect to any other parcel of the Total Property. Borrower and Mortgagor shall pay Lender's reasonable costs incurred in releasing this Mortgage.

Lender shall have the right to determine the order in which any or all of the Total Property shall be subjected to the remedies provided in this Mortgage, the Loan Documents or any of the Other Loan Documents or applicable law. Lender shall have the right to determine the order in which any of the Indebtedness is satisfied from the proceeds realized upon the exercise of such remedies. Borrower and Mortgagor and any party who now has or may in the future have a security or other interest in any of the Total Property waives any and all right to require the marshaling of assets or to require that any of the Total Property be sold in the inverse order of alienation, or that any of the Total Property be sold in parcels, or as an entirety, or in any combination, in connection with the exercise of any of the remedies permitted by applicable law, this Mortgage or any of the Loan Documents and/or the Other Loan Documents.

If the lien of this Mortgage, the Loan Documents or any other of the Loan Documents is invalid or unenforceable as to any parcel of the Total Property, the unsecured or partially secured portion of the Indebtedness secured by this Mortgage, the Loan Documents or any other of the Loan Documents shall be completely paid prior to the payment of the remaining secured or partially secured portions of such Indebtedness.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE ON FOLLOWING PAGE(S)]**

IN WITNESS WHEREOF, each of the undersigned has signed, sealed and delivered this Mortgage as of the day and year first above written.

Evers Brothers Properties, LLC, an Idaho
limited liability company

By: John E. Evers
John Evers, Manager

By: Jerry R. Evers
Jerry Evers, Manager

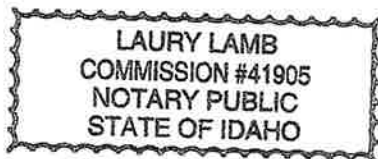
STATE OF IDAHO)
) SS.
COUNTY OF Jerome)

On this 4 day of June, 2020, before me, the undersigned notary public in and for said county and state, personally appeared John Evers to me personally known, who, being by me duly sworn, did say that he is the Manager of the limited liability company that executed the within instrument; that he signed said instrument on behalf of said limited liability company by authority of its members; and that he acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company.

(SEAL)
Residing In: Jerome, Idaho
Commission Expires: 04/02/2022

My Commission Expires:

Laury Lamb
Notary Public



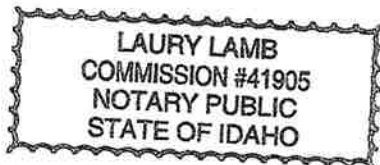
STATE OF IDAHO)
) SS.
COUNTY OF Jerome)

On this 4 day of June, 2020, before me, the undersigned notary public in and for said county and state, personally appeared Jerry Evers to me personally known, who, being by me duly sworn, did say that he is the Manager of the limited liability company that executed the within instrument; that he signed said instrument on behalf of said limited liability company by authority of its members; and that he acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company.

(SEAL) *Residing In: Jerome, Idaho*
Commission Expires: 04/02/2022

Laury Lamb
Notary Public

My Commission Expires:



Tax statements for the real property described in this instrument should be sent to:

Evers Brothers Properties, LLC
3109 South 2000 E.
Wendell, Idaho 83355

This document drafted by:

Andrew W. Martin, Esq./sl
AXA Equitable AgriFinance, LLC
6300 C Street SW, MS 3B-CR
Cedar Rapids, Iowa 52499

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

TRACT I

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 11: NW $\frac{1}{4}$ NE $\frac{1}{4}$

TRACT II

PARCEL NO. 1:

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 9: NE $\frac{1}{4}$

EXCEPT a parcel of land for county road right of way purposes as set forth in Warranty Deed deeded to Wendell Highway District recorded July 26, 2007 as Instrument No. 222668, being generally described as a strip of land adjacent to and along the West boundary of the W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 9, Township 8 South, Range 15 East Boise Meridian in Gooding County, Idaho, and being more specifically described as follows:

The West Fifty (50) feet of the W $\frac{1}{2}$ NE $\frac{1}{4}$, Section 9, Township 8 South, Range 15 East Boise Meridian, from Project Station 232+00.92 Right to Project Station 258+40.82 Right, Excepting the North Twenty-Five (25) feet thereof.

The above described Project Parcel No. GG-06529 from Project Station 231+98.29 Right to Station 258+37.41 Right contains an area of 3.03 acres, more or less, of which 1.53 acres more or less is acknowledged as existing county road right of way and the area for the new rights of way being 1.50 acres more or less.

(Basis of Bearings: The North-South Quarter line from the South Quarter corner of Section 9 to the North Quarter corner of Section 9 all in Township 8 South, Range 15 East Boise Meridian, Gooding County, Idaho, said North-South centerline being on a bearing of North 0°27'33" East)

AND EXCEPT a parcel of land located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, described as follows:

Beginning at the Northeast corner of Section 9, Township 8 South, Range 15 East Boise Meridian;
Thence South along the East boundary of Section 9, 450 feet to THE TRUE POINT OF BEGINNING;
Thence West 400 feet;
Thence South 500 feet;
Thence East 400 feet;
Thence North 500 feet to THE TRUE POINT OF BEGINNING.

PARCEL NO. 2:

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 10: N $\frac{1}{2}$ SW $\frac{1}{4}$, EXCEPTING THEREFROM the following described tract of land:

Commencing at the Northwest corner of said N $\frac{1}{2}$ SW $\frac{1}{4}$;
Thence South 368.17 feet along the Westerly boundary of said N $\frac{1}{2}$ SW $\frac{1}{4}$ to the center of the Northside Canal Company S-12 ditch and THE TRUE POINT OF BEGINNING;
Thence South 268.27 feet along the Westerly boundary of said N $\frac{1}{2}$ SW $\frac{1}{4}$;
Thence South 87°30'00" East, 354.90 feet;
Thence North 390.42 feet to the center of the Northside Canal Company S-12 ditch;
Thence South 52°59'22" West, 108.91 feet along the center of said S-12 ditch;

Thence South 68°32'00" West, 94.66 feet along the center of said S-12 ditch;
Thence South 87°56'08" West, 179.62 feet along the center of said S-12 ditch to THE TRUE POINT OF BEGINNING.

AND EXCEPTING THEREFROM the following described tract of land:

Beginning at the Northwest corner of said N½SW¼, which point shall be known as THE TRUE POINT OF BEGINNING;
Thence South 368.17 feet along the Westerly boundary of said N½SW¼ to the center of the Northside Canal Company S-12 ditch;
Thence along the center of said S-12 ditch the following courses and distances:
North 87°56'08" East, 179.62 feet;
Thence North 68°32'00" East, 94.66 feet;
Thence North 52°59'22" East, 199.55 feet;
Thence North 37°59'09" East, 133.26 feet;
Thence North 65°31'04" East, 235.51 feet to a point on the Northerly boundary of said N½SW¼;
Thence leaving said S-12 ditch North 89°39'31" West, 723.31 feet along the Northerly boundary of the N½SW¼ to THE POINT OF BEGINNING.

PARCEL NO. 3:

An irrigation easement as created by Grant of Easement in favor of J. Ray Evers and Darlene A. Evers, husband and wife, recorded August 21, 1992 as Instrument Number 149806, Gooding County records, over the following described property:

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 10: The North 25 feet of the East 25 feet and the North 10 feet of the East 1400 feet of the S½SW¼.

PARCEL NO. 4:

TOWNSHIP 6 SOUTH, RANGE 13 EAST OF THE BOISE MERIDIAN, GOODING COUNTY, IDAHO

Section 36: NE½SE¼; Part of the S½SE¼, described as follows:

Beginning at the South ¼ corner of Section 36 in Township 6 South, Range 13 East Boise Meridian, said corner marked by a ½ inch rebar;
Thence North 00°24'47" East along the West line of the S½SE¼ for a distance of 1012.01 feet to a ½ inch rebar which shall be THE POINT OF BEGINNING;
Thence North 00°24'47" East along said ¼ section line for a distance of 319.07 feet to a 5/8 inch rebar at the Northwest corner of the S½SE¼;
Thence South 89°56'23" East along the North line of the S½SE¼ for a distance of 2651.00 feet to a ½ inch rebar;
Thence South 89°56'23" East along said 1/16 section line for a distance of 1.09 feet to the Northeast corner of the S½SE¼;
Thence South 00°05'48" West along the East line of Section 36 for a distance of 1333.81 feet to a 5/8 inch rebar at the Southeast corner of Section 36;
Thence North 89°52'50" West along the South line of Section 36 for a distance of 2298.77 feet;
Thence North 00°24'47" East for a distance of 25.00 feet to a ½ inch rebar;
Thence North 00°24'47" East for a distance of 343.52 feet to a ½ inch rebar;
Thence along a non-tangent curve to the right for a distance of 745.25 feet to a ½ inch rebar, said curve having a radius of 1367.58 feet, a delta angle of 31°13'21", and a long chord bearing of North 28°55'40" West for a distance of 736.06 feet to THE POINT OF BEGINNING.

SUBJECT TO a county road right of way along the East and South sides.

EXHIBIT B

PERSONAL PROPERTY

All of the following collateral which is now or hereafter owned by Mortgagor, as debtor, attached to, or produced from, or used in connection with the Real Estate described on Exhibit A attached hereto (the "**Real Estate**"), and the products and proceeds thereof:

1. Irrigation wells, watering and irrigation equipment including pumps, motors, generators, pipes, center pivot irrigators and sprinklers, water stock and water rights;

Water Rights:

Certificate Numbers: 15666, 16722 and 20871 representing 223.8 shares of the capital stock of North Side Canal Company and the water rights represented thereby.

All water rights represented by Permit or License No, 36-2584, 36-7668, 37-10835 and 36-8584 issued by the Idaho Department of Water Resources.



IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Gary Spackman

October 10, 2021

EVERS BROTHERS PROPERTIES LLC
3109 S 2000 E
WENDELL ID 83355-3518

Re: Change in Ownership for Water Right No(s): 36-2584, 36-7668 and 37-10835
Notice of Security Interest for Water Right No(s): 36-2584, 36-7668, 36-8584 and 37-10835

Dear Water Right Holder(s):

The Department of Water Resources (Department) acknowledges the receipt of correspondence changing ownership of the above referenced water right(s) to you. The Department also acknowledges receipt of correspondence adding security interest of the above referenced water right(s) to AXA Equitable Life Insurance Company. The Department has modified its records and has enclosed a computer-generated report for you.

Please note, we were not able to update the ownership on Water Right No. 36-8584 due to the following reasons:

- This water right is for property in the NE¼ of Section 11, Twp 8S, Rge 15E. The Deeds provided only convey the NW¼ NE¼, Section 11. If this water right needs to be split, we will need an additional \$75 to process the split. If it is not intended to split this water right; please provide the necessary conveyance documents to cover the property in question.
- Northwest Farm Credit Services is also listed as a Current Owner on this water right. If it is intended to remove them as a current owner; please provide the necessary conveyance documents to do this. If it is not intended to remove Northwest Farm Credit Services from this water right, no further action is necessary at this time.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing a Notice of Change in Water Right Ownership, the Department does not review the history of water use to determine if the right has been forfeited or deliberately abandoned through five years or more of non-use. To read more about water right forfeiture, including how to protect a water right from forfeiture, please see Idaho Code §§ 42-222 and 42-223.

Please provide the necessary information within thirty (30) days of the date of this letter. If we do not receive the information within that time, your notice may be returned and not processed; and a refund will be issued at that time.

Thank you in advance for your patience and cooperation. If you have any questions concerning the enclosed information, please contact me at (208) 293-9908.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

c: Northwest Farm Credit Services (36-8584)
AXA Equitable Life Insurance Company
TitleOne, Jerome (File #20362869 & 19352355)
Water District 130



237 N. Lincoln
Jerome, ID 83338
Ph. (208) 324-5613
Fx. (866) 310-3443
www.titleonecorp.com

VIA UPS Overnight Delivery

Idaho Dept of Water Resources
650 Addison Ave W., Ste 500
Twin Falls, ID 83301

RECEIVED
MAR 15 2021
DEPT OF WATER RESOURCES
SOUTHERN REGION

Date: June 19, 2020

Re: Escrow No. 20362869 ~ Evers Brothers Properties, LLC, an Idaho limited liability company

Escrow No 1935255

In connection with the above referenced transaction, I am enclosing the following:

- Check No. 202024568 in the amount of \$50.00
- Check No. 33003 in the amount of \$75.00
- Check No. 32772 in the amount of \$75.00
- Notice of Change in Water Right Ownership
- (2) Notice of Security Interest in a Water Right
- Mortgage, Instrument 267743, Gooding County, Idaho February 21, 2020
- Mortgage, Instrument 268796, Gooding County, Idaho, February 8, 2020
- PR Deed, Instrument 212345, Gooding County, Idaho
- Warranty Deed, Instrument 22668, Gooding County, Idaho
- Letters Testamentary, Instrument 267739, Gooding County, Idaho
- PR Deed, Instrument 267740, Gooding County, Idaho
- QuitClaim Deed, Instrument 267741, Gooding County, Idaho
- PR Deed, Instrument 268795, Gooding County, Idaho

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

Sincerely,

Laury Jo Lamb
(208) 324-5613
llamb@titleonecorp.com