

RECEIVED

JAN 17 2017

DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**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.

1. Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.	Water Right/Claim No.
47-4361	47-7870		

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

Farm Credit West, FLCA

200 E. Cartmill Avenue

Tulare, CA 93274

Phone 559-684-1478

Email www.linda.sousa@farmcreditwest.com

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

The Vander Poel Family Trust

5. Expiration Date of Notification Period

6. Is this a Renewal of Request for Notification?

☐ YES☒ NO

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

Title, if applicable

By: Phil Kemp, Sr. Vice President

SUPPORT DATA

IN FILE # 47-4361

For Office Use Only

Received by DM

Date

1-17-2017

Receipt No.

S035887

Fee

\$50-

Processed by AJ

Date

WR

Date

Recording Requested by:

WHEN RECORDED MAIL TO:

Farm Credit West, FLCA
200 E. Cartmill Avenue
Tulare, CA 93274

TWIN FALLS COUNTY
RECORDED FOR:
ALLIANCE TITLE - TWIN FALLS OF
12:43 32 PM 12-30-2016
2016022632
NO. PAGES 13 FEE: \$46.00
KRISTINA GLASCOCK
COUNTY CLERK
DEPUTY: JWD
Electronically Recorded by Simplifile

AT 335048

Space Above This Line For Recorder's Use

Loan No. 8353387

**REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS and FIXTURE FILING
(Secures Revolving Line of Credit)**

THIS MORTGAGE, ASSIGNMENT OF RENTS and FIXTURE FILING ("Mortgage"), made this 7th day of December, 2016, between Brian T. Vander Poel and Kerri A. Vander Poel, Trustees of the Vander Poel Family Trust, dated February 16, 2006, as "Mortgagor", and Farm Credit West, FLCA, as "Mortgagee", a corporation organized under the laws of the United States of America, with its office at 200 E. Cartmill Avenue, Tulare, CA 93274.

1. **GRANT IN TRUST.** Mortgagor IRREVOCABLY GRANTS, CONVEYS AND ASSIGNS to Mortgagee, with power of sale together with right of entry and possession, the property described below in Sections 1.1 through 1.5 inclusive (collectively, the "Property").

1.1. The real property (the "Real Property") situated in the County of Twin Falls, State of Idaho, described as follows:

Township 10 South, Range 13 East of the Boise Meridian, Twin Falls Count, Idaho. Section 34: West Half of the Northwest Quarter; North west Quarter of the Southwest Quarter and the West 40 feet of the Northeast Quarter of the Northwest Quarter

Together with water rights as follows:

Water Right No. 47-4361 and Water Right 47-7870; and

Together with 120 Shares of Twin Falls Canal Company Stock

1.2. **BUILDINGS, FIXTURES, AND OTHER IMPROVEMENTS.** All buildings, structures, equipment, goods that are or will become fixtures (including, but not limited to, trees, vines and shrubs, or other permanent plantings) upon or under the Real Property and improvements of every kind and description now or hereafter constructed or placed on the Real Property; all standing timber and timber to be cut located on the Real Property; and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the Property, all of which are hereby declared to be fixtures. Without limiting the generality of the foregoing, a description of some fixtures may also be included with the description of the Real Property or in an exhibit hereto.

- 1.3. LEASES AND OTHER RIGHTS.** All existing and future leases, subleases, licenses, permits, agreements, and concessions relating to the use or enjoyment of the Real Property, including those related to grazing rights, all oil, gas, and minerals and interests, and payments therefrom in, under, on or with the Real Property; and all tenements, hereditaments, easements, rights-of-way and appurtenances to the Property.
- 1.4. WATER ASSETS.** All right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws, rules, ordinances, permits and regulations of all local, regional, county, state and federal governmental authorities ("Applicable Laws"), and however arising in, including without limitation, the water, water rights and other assets and items described below in Sections 1.4(a) through 1.4(i) inclusive, which shall collectively be called "Water Assets". References to "water" and "water rights" are used herein in the broadest and most comprehensive sense of the term(s). The term "water" includes water rights and rights to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's share of any Water Assets in any water bank or with any water authority, or any other water reallocation rights. Without limiting the generality of the foregoing, a description of some Water Assets may also be included with the description of the Property set forth above or in an exhibit hereto.
- (a) All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including: (a) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual rights or otherwise; (b) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easement, covenant, agreement, or contract with any person or entity; (c) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water; (d) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity; (e) all water and existing and future water rights, however evidenced, to the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Property, all of which rights are or are hereby made appurtenant to the Property; (f) without limiting the generality of the foregoing, all rights of Mortgagee under Water Right No's. 47-4361 and 47-7870.
 - (b) All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Assets.
 - (c) All licenses, permits, approvals, contracts, decrees, rights and interests to acquire or appropriate any Water Assets, water bank or other credits evidencing any right to Water Assets, to store, carry, transport or deliver Water Assets, to sell, lease, exchange, or otherwise transfer any Water Asset, or to change the point for diversion of water, the location of any Water Assets, the place of use of any Water Assets, or the purpose of the use of any Water Assets.
 - (d) All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any Water Assets.
 - (e) All storage and treatment rights for any Water Assets, whether on or off the Property or other property of Mortgagor, together with all storage tanks, and other equipment used or usable in connection with such storage

and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any Water Assets.

- (f) All rights to transport, carry, allocate or otherwise deliver Water Assets by any means wherever located.
- (g) All irrigation and watering equipment, including all pumps, pumping plants, storage tanks, motors, electrical generators (all of which are declared to be fixtures) and all systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Property.
- (h) All guaranties, warranties, marketing, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights, all insurance policies regarding or relating to any Water Assets.
- (i) All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Assets.

1.5. ADDITIONS AND PROCEEDS. All additions, accretions substitutions and replacements of any of the Property; all proceeds of the Property, including all proceeds of present and future insurance policies; and all condemnation awards or payments now or later made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any misrepresentation, damage or injury to, or defect in, the Property; and all books and records and files relating to the Property.

2. ASSIGNMENT OF RENTS. MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents including prepaid rents, royalties, issues, profits, revenue, income, security deposits, and other benefits of the Property arising from the use, non-use, enjoyment, sale, transfer or other disposition of all or any portion thereof, including those set forth in Section 1.4(i) above, or from any lease, mineral lease, or agreement pertaining to the Property (collectively the "Rents"); whether now existing or hereafter arising and whether now due, past due or to become due; SUBJECT, HOWEVER, to the right and authority given to Mortgagor by Section 19 hereof. This assignment of the Rents shall be perfected automatically without appointment of a receiver or Mortgagee becoming a mortgagee in possession.

3. OBLIGATIONS SECURED. Mortgagor makes the grant, conveyance, and assignment of the Property for purposes of securing the following indebtedness and other obligations (collectively, "Indebtedness") in any order of priority that Mortgagee may choose:

- (a) payment of the indebtedness and performance of the obligations of Mortgagor evidenced by the following promissory note(s) (collectively "Notes") and/ or the following continuing guaranty(s) (collectively "Guaranty"), and any other documents executed by Mortgagor in conjunction with the Notes or Guaranty:

☒ a Promissory Note or a Supplement to Master Loan Agreement dated as of December 7, 2016, in the stated principal amount of \$2,795,240.00.

☐ a Revolving Line of Credit Promissory Note or a Revolving Credit Supplement to a Master Loan Agreement dated as of _____, in the stated principal amount of _____.

☐ a continuing guaranty dated as of (date) _____, executed by Mortgagor in favor of Mortgagee, guaranteeing the indebtedness of the borrowers as defined in the Guaranty.

- (b) the payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to or guaranteed by Mortgagor, or Mortgagor's successors or assigns, evidenced by a promissory note, guaranty, loan agreement or otherwise; PROVIDED HOWEVER, THAT, such additional loans or advances will be secured by this Mortgage only if the promissory note, guaranty, loan agreement or other document evidencing the obligations of Mortgagor relative to such loans or advances recites that it is to be secured by this Mortgage;

- (c) the payment and performance of the obligations set forth in any document evidencing an extension, renewal, modification, replacement, reamortization, conversion, or restatement of any Indebtedness secured by this Mortgage, including without limitation renewal and/or substitute notes, guaranties, and loan agreements.
- (d) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan agreement, loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan or advance secured by this Mortgage; and
- (e) the payment of all sums expended or advanced by Mortgagee pursuant to the terms of this Mortgage, together with interest thereon as herein provided.

The Notes are payable by Mortgagor and/or others to the Mortgagee as therein set forth. The Notes and other documents evidencing the Indebtedness may contain variable or adjustable interest rate provisions.

The continuing validity and priority of this Mortgage as security for future loans or advances will remain in full force and effect even though the Indebtedness outstanding may be zero from time to time.

4. PERSONAL PROPERTY SECURITY AGREEMENT. The Property will be considered to the fullest extent of the law to be real property for purposes of this Mortgage. To the extent any of the Property, (including without limitation any Water Assets or fixtures), is deemed to be personal property, this Mortgage shall also be a security agreement. Mortgagor does hereby grant to Mortgagee a security interest in all such personal property and shall not grant any security interest in such personal property to any other third party. Mortgagor authorizes Mortgagee to file financing statements in all jurisdictions as Mortgagee may elect and further, grants to Mortgagee all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable state law (collectively "UCC"), which rights are cumulative. This Mortgage also constitutes a fixture filing under the UCC covering any Property which now is or later may become a fixture attached to the Real Property.

TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES TO EACH OF THE FOLLOWING:

5. USE OF PROCEEDS. To use loan proceeds solely for the purposes set forth in the loan application(s) or Notes or as otherwise required by Mortgagee.

6. CONDITION OF PROPERTY. To keep the Property in good condition, working order and repair; to care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to sell, transfer, assign, encumber or convey any Water Assets, or to enter into an agreement for the nonuse of or permit any action resulting in the loss of any Water Assets, without the prior written consent of Mortgagee; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove any oil, gas, minerals, or top soil which impairs soil fertility; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub or other permanent plantings thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to promptly complete or restore promptly and in good and workmanlike manner any portion of the Property which may be constructed, damaged or destroyed thereon; to comply with all Applicable Laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, or permit any act upon the Property in violation of Applicable Laws; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; and to perform all obligations of Mortgagor under any lease of the Property.

7. INSURANCE. To provide, maintain and deliver to Mortgagee, fire, extended coverage, flood, and all other types of insurance issued by companies acceptable to Mortgagee, and on terms and amounts as may be required by Applicable Laws or Mortgagee, with loss payable endorsements (including lender loss payable endorsements) solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its option, to reduce the Indebtedness or promptly restore or repair the property damaged. Failure to obtain, maintain or deliver to Mortgagee the insurance required is an event of default under this Mortgage.

At least thirty (30) days prior to the expiration of any such policy of insurance, Mortgagor will deliver a policy renewing or extending such expiring insurance and written evidence of payment of the premium for such insurance. If any such policy and evidence of payment (or copies of same, if originals cannot be delivered to Mortgagee) are not so delivered to Mortgagee, without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation under this Mortgage, Mortgagee may (but is not obligated to), at Mortgagor's expense, obtain insurance in such types, on such terms and in such amounts as Mortgagee in its sole discretion shall decide, from any insurance agency or company acceptable to it. Any insurance obtained by Mortgagee shall be for its sole benefit and to protect the security of this Mortgage. The expense and cost of such insurance shall, at Mortgagee's sole option, be payable on demand or added to the Indebtedness as provided herein. Mortgagee shall not be responsible for the maintenance of any such insurance, the collection of any proceeds from such insurance, or the insolvency of any insurance company or underwriter. Mortgagor shall promptly notify Mortgagee in writing of any damage caused by fire or other casualty to the Property and if Mortgagee so instructs, shall promptly at Mortgagor's expense, whether insurance proceeds are sufficient, commence diligently to complete restoration of the Property to its same value and condition existing before such loss.

8. DEFENSE OF TITLE. To appear in and litigate any action or proceeding which may affect the Property, or the rights of Mortgagee. Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs arising therefrom.

9. TAXES, LIENS AND ASSESSMENTS. To pay on or before the due date all taxes and assessments, encumbrances, charges, rents, and liens affecting all or any part of the Property, including all Water Assets.

10. FEES AND COSTS. If Mortgagee uses the services of attorneys, accountants, appraisers, consultants, or other professional or outside assistance, including the services of in-house counsel or any other professional who is an employee of Lender, the reasonable amount of fees, costs and expenses ("Expenses") incurred by Mortgagee to use such persons in connection with any of the following, or as indicated elsewhere in this Mortgage, shall be payable by Mortgagor on demand. Mortgagee may, at its option, add the amount of such Expenses to any portion of the Indebtedness plus an appropriate amount of Mortgagee's stock or participation certificates required in connection with the loan (as required by federal law or regulation or Mortgagee's bylaws), and charge interest on such amount at the interest rate applicable to such portion of the Indebtedness. These services include:

- (a) The preparation, modification or enforcement of this Mortgage, and any other document related to the Indebtedness or to the Property;
- (b) Advising Mortgagee concerning its rights and obligations with regard to this Mortgage and any other document related to the Indebtedness, or to the Property, including advising Mortgagee with regard to any applicable provisions of the Farm Credit Act of 1971, as amended, ("Act"), Farm Credit Administration ("FCA") regulations, any policy or program of Mortgagee, or any other Applicable Laws;
- (c) Any litigation, dispute, proceeding, or action (whether or not dismissed, reduced to judgment, or otherwise resolved), and whether instituted by Mortgagee, or Mortgagor or any other person, relating to the Indebtedness, the Property or Mortgagor's affairs;
- (d) The furtherance of Mortgagee's 's interest in any bankruptcy, insolvency, or reorganization case or proceeding instituted by or against Mortgagor, including any steps to (i) modify or terminate the automatic stay, (ii) prohibit or condition Mortgagor's use of cash collateral, (iii) object to any disclosure statement or plan, (iv) propose or confirm a plan, and (v) prosecute or defend adversary proceedings or contested matters, and take or defend examinations or discovery, whether or not related to any adversary proceeding or contested matter and whether or not dismissed, reduced to judgment, or otherwise resolved;
- (e) The inspection, verification, protection, collection, processing, or disposition of the Property; and
- (f) Any of the type of Expenses incurred by Mortgagee in connection with any guaranty of the Indebtedness.

The Expenses shall be in addition to those set forth in any security instrument or any other written agreement between Mortgagee and Mortgagor.

11. MORTGAGEE MAY ACT FOR MORTGAGOR. Should Mortgagor fail to make any payment or perform an obligation herein then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may cure such default: in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the Property or the rights of Mortgagee, including any bankruptcy proceeding; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be senior hereto; pay such fees, charges, rents or other payments accruing under or relating to the Property and in exercising any such rights, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary, including attorney's, accountant's, and appraisal fees, environmental fees and costs of related thereto, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage and shall at Mortgagee's option, be payable upon demand or added to the Indebtedness with interest on such amount at the interest rate applicable to such portion of the Indebtedness. Nothing herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring any obligations whatsoever, for the sole purpose of inspecting the Property.

12. SUMS EXPENDED BY MORTGAGEE. To pay immediately and without demand all sums expended by Mortgagee hereunder, with interest from date of expenditure at the same rate as is provided for in the Notes. All such sums shall be secured hereby.

13. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.

13.1. DEFINITIONS. Defined Terms as used in this Section 13:

- (a) "Environmental Laws" shall mean all Applicable Laws now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, industrial hygiene or protection of the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC §§9601-9675); the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC §§6901-6992k); the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub L 99-499, 100 Stat 1613); the Hazardous Materials Transportation Act of 1985 (49 USC §§5101-5128); the Solid Waste Disposal Act (42 USC §§6901-6992k); the Clean Water Act (33 USC §§1251-1387); the Clean Air Act (42 USC §§7401-7671q); the Toxic Substances Control Act (15 USC §§2601-2629); and the Hazardous Waste Control Act (CA Health & S C §§25100-25258.2), as amended from time to time.
- (b) "Hazardous Substances" shall mean any substance or material that is described, or regulated as a toxic or hazardous substance, waste or material or a pollutant or contaminant, or words of similar import, in any of the Environmental Laws.
- (c) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including continuing migration, of Hazardous Substances into, onto or through the soil, surface water or groundwater of the Property, whether caused by, contributed to, permitted by, or known to Mortgagor.
- (d) "User" means any person other than Mortgagor who occupies, uses or comes onto or has occupied, used or come onto the Property or any part thereof and any agent or contractor of such a person.

13.2 MORTGAGOR ENVIRONMENTAL REPRESENTATIONS. Mortgagor represents to Mortgagee that, as of the date of this Mortgage and to the best of Mortgagor's knowledge, based on due inquiry and investigation:

- (a) Except as previously disclosed in writing by Mortgagor to Mortgagee and acknowledged in writing by Mortgagee: (i) no Hazardous Substances in excess of permitted levels or reportable quantities under applicable

Environmental Laws are present in, on or under the Property or any nearby real property which could migrate to the Property; (ii) no Release or threatened Release exists or has occurred; (iii) neither Mortgagor nor any User has ever used the Property or any part thereof for the production, manufacture, generation, treatment, handling, storage, transportation or disposal of Hazardous Substances; (iv) no underground, surface or elevated storage tanks of any kind, wells (except domestic water wells), septic tanks, pits, ponds or other impoundments ("Tanks") are or ever have been located in or on the Property; and (v) no investigation, claim, demand, action or proceeding of any kind relating to any Release or threatened Release or any past or present violation of any Environmental Laws relating to the Property has been made or commenced, or is pending, or is being threatened by any governmental authority or other person;

- (b) All operations and activities at, and the use and occupancy of, the Property comply with all applicable Environmental Laws;
- (c) Mortgagor and every User has, and is in strict compliance with, every permit, license and approval required by all applicable Environmental Laws for all activities and operations at, and the use and occupancy of, the Property;
- (d) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed as a Superfund or other hazardous waste site under CERCLA as amended, or any similar applicable Environmental Laws; and
- (e) Any written disclosure submitted by or on behalf of Mortgagor to Mortgagee at Mortgagee's request concerning any Release or threatened Release, past or present compliance by Mortgagor, User or any other person of any environmental Laws applicable to the Property, the past and present use and occupancy of the Property, any environmental concerns relating to the Property was true and complete when submitted and continues to be true and complete as of the date of this Mortgage.

13.3 MORTGAGOR AGREES THAT:

- (a) Except in the ordinary course of business, in a good and husbandlike manner and in strict compliance with all applicable Environmental Laws, Mortgagor agrees that neither Mortgagor nor any User shall use, produce, manufacture, generate, treat, handle, store, transport, or dispose of any Hazardous Substances in, on or under the Property, or use the Property or any adjacent property of Mortgagor for any such purposes;
- (b) Mortgagor shall not cause, contribute to, permit or acquiesce to any Release or threatened Release;
- (c) Mortgagor shall comply and shall cause every User to comply, with all Environmental Laws applicable to the Property or any adjacent property of Mortgagor, and all other Applicable Laws relating to the use or occupancy thereof, or any operations or activities thereon;
- (d) With respect to any Tanks disclosed in writing to Mortgagee, Mortgagor shall comply with all Environmental Laws and any Applicable Laws of city or county fire departments or any other local governmental agency having jurisdiction thereof, applicable to the maintenance and use of such Tanks;
- (e) Mortgagor shall regularly inspect the Property, monitor the activities and operations of every User and confirm that Mortgagor and every User has obtained and complies with all permits, licenses and approvals required by all applicable Environmental Laws;
- (f) Immediately after Mortgagor obtains any information indicating any Release or threatened Release, or that Hazardous Substances in, on or under any nearby property could migrate to the Property or a violation of any Environmental Laws may have occurred or could occur regarding the Property or adjacent property owned by Mortgagor, Mortgagor shall give notice to Mortgagee with a reasonably detailed description of the event, or condition in question;

- (g) If Mortgagee obtains any information that Mortgagee believes in good faith indicates a reasonable possibility of a Release or threatened Release, or that Hazardous Substances in, on or under any nearby real property could migrate to the Property or any violation of any Environmental Laws may have occurred or could occur regarding the Property, then Mortgagor shall, at the expense of Mortgagor, promptly after a request by Mortgagee, or Mortgagee may at Mortgagor's expense any time prior to completion of a judicial or nonjudicial foreclosure, engage a qualified environmental engineer to conduct an environmental assessment of the Property as deemed appropriate by Mortgagee and prepare and submit to Mortgagee an acceptable written report from such investigation. Mortgagor shall, on demand, pay to Mortgagee all sums expended by Mortgagee in connection with any such environmental assessment, together with interest thereon after such demand at the interest rate as set forth in Notes;
- (h) Mortgagor shall permit, or cause any User to permit, Mortgagee or its agents or independent contractors to enter and inspect the Property (including the taking of building materials, soil and groundwater samples) at any reasonable time and after reasonable notice, except in an emergency, whether or not a default has occurred under this Mortgage, and including after the commencement of judicial or nonjudicial foreclosure proceedings, for purposes of determining, as Mortgagee deems desirable: the existence, location or nature of any Hazardous Substances into, onto, or under or from the Property, that is located or has been spilled, disposed of, discharged or released on, under or about the Property. Mortgagor acknowledges that all inspections and reviews undertaken by Mortgagee are solely for the benefit and protection of Mortgagee and agrees that Mortgagee shall have no duty to Mortgagor with respect to Hazardous Substances or Environmental Laws as a result of any such inspections, which shall not result in a waiver of any default by Mortgagor. If Mortgagor or any User fails to comply with this section, Mortgagee may obtain affirmative injunctive relief to compel such compliance; and
- (i) If any Release or threatened Release exists or occurs before this Mortgage is reconveyed or foreclosed upon, or if Mortgagor is in breach of any of its representations, or covenants in this Section 13, Mortgagor shall immediately give notice of the condition to Mortgagee, and Mortgagor shall at its own expense cause any Hazardous Substances to be cleaned up and removed from the Property, and the Property shall be restored, in compliance with all applicable Environmental Laws (the "Remediation Work"). If requested by Mortgagee, Mortgagor shall submit to Mortgagee, for Mortgagee's prior approval, complete plans and specifications for all Remediation Work to be done before any Remediation Work is performed, except in an emergency. Alternatively, Mortgagee may cause such Remediation Work to be completed at Mortgagor's expense.

13.4 NOTICE TO GOVERNMENTAL AUTHORITIES. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgagor's obligations hereunder.

13.5 INDEMNITY OF MORTGAGEE. Mortgagor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, and/or, its affiliates, and their directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, foreseeable and unforeseeable consequential damages, liens, losses, liabilities, interest, judgments, cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs, sums paid in settlement of claims, and all consultant, expert and the reasonable fees and expenses of counsel, including in-house legal services) of any kind whatsoever ("Claims") paid, incurred or suffered by, or asserted against Mortgagee, by any third party or Mortgagor or any other party to the loan documents related to the Indebtedness, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damage to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgagor on the Property, Mortgagor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgagor, any adjoining landowner, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgagor or within the control of Mortgagor, including without limitation: (a) the presence, use, generation, treatment, storage, disposal, Release, threatened Release, or discharge of any Hazardous Material or Contaminant at or from said Property and/or the cleanup of Hazardous Materials or Contaminants

within, on or under said Property; (b) Mortgagor's breach of any of the representations, warranties and covenants herein; and (c) Mortgagor's violation or alleged violation of any applicable Environmental Laws.

13.6 SURVIVAL. NOTWITHSTANDING ANY OTHER PROVISION OF THIS MORTGAGE, THE NOTES OR GUARANTY OR ANY LOAN DOCUMENTS, MORTGAGOR'S REPRESENTATIONS, COVENANTS AND INDEMNITIES CONTAINED IN THIS SECTION 13 SHALL SURVIVE THE OCCURRENCE OF ANY EVENT WHATSOEVER, INCLUDING WITHOUT LIMITATION THE PAYOFF OF THE NOTES, THE RECONVEYANCE OR FORECLOSURE OF THIS MORTGAGE, THE ACCEPTANCE BY MORTGAGEE OF A DEED IN LIEU OF FORECLOSURE, OR ANY TRANSFER OR ABANDONMENT OF THE PROPERTY.

14. GRAZING RIGHTS. If any portion of the Property is used by Mortgagor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitation the U.S. Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgagor agrees as follows:

- (a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee;
- (b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all Applicable Laws;
- (c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights as they expire during the term thereof. Mortgagor agrees the failure to renew or cause the reissuance of any said permits for any reason, is an event of default hereunder and Mortgagee shall have the right to exercise the rights in this Mortgage; and
- (d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the Indebtedness and shall be immediately due and payable.

15. WATER TRANSFERS. Mortgagor represents that Mortgagor is not in the business of transferring water and, therefore, any sale or transfer of any Water Assets is not a transfer of goods in the ordinary course of business. Mortgagor further agrees that in no event will any Water Assets be goods identified to a contract. Mortgagor represents the Water Assets are sufficient to satisfy all water requirements for the Property, including proper cultivation for all vines, trees, shrubs, and other permanent plantings thereon as of the date hereof. Mortgagor hereby acknowledges that the availability of the Water Assets to the Property was a significant factor in Mortgagee's decision to extend credit to Mortgagor and any other persons obligated on the Indebtedness, and that any severance of any Water Assets from the Property would materially harm the Property.

16. FINANCIAL INFORMATION. At Mortgagee's request, Mortgagor shall provide to Mortgagee financial information in a form acceptable to Mortgagee, including, when so required, a current balance sheet and profit and loss statement. In the case of multiple Mortgagors, financial information must be provided for each Mortgagor or otherwise as requested by Mortgagee. Financial information shall be provided at such times during the term of this Mortgage as Mortgagee may request.

IT IS MUTUALLY AGREED THAT:

17. CONDEMNATION AWARDS. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms of this Mortgage. Upon receipt of such money, Mortgagee may apply the same on the Indebtedness. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require. Mortgagor waives all rights of a property owner under California code of Civil Procedure Section 1265.225

as may be amended, or similar Applicable State Laws, which provides for allocation of condemnation proceeds between the owner and the lienholder.

18. MORTGAGEE ACTIONS. At any time, without affecting the liability of any person for the payment of the Indebtedness, and without otherwise affecting the security hereof, Mortgagee may: (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) reconvey without warranty, all or any part of the Property. Mortgagor agrees to pay reasonable Mortgagee's fees for any of the foregoing services.

19. COLLECTION OF RENTS. Prior to any default by Mortgagor in the payment, performance and discharge of any condition, obligation, or agreement of Mortgagor herein, Mortgagor may, as the agent and fiduciary representative of Mortgagee for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, the balance, if any, shall be distributed to the account of Mortgagor. However, Mortgagee shall have the right before or after the occurrence of any default to notify any account debtor to pay all amounts owing with respect to Rents directly to Mortgagee. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the Indebtedness, enter upon and take possession of the Property or any part thereof, in its own name, sue for or otherwise collect such Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any Indebtedness, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions acceptable to Mortgagee; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the Indebtedness.

20. MORTGAGEE'S EXERCISE OF REMEDIES IS NO CURE OF DEFAULT. The entering upon and taking possession of the Property, the collection of such Rents, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release hereunder, shall not waive any default.

21. REMEDIES. Upon default by Mortgagor in payment of all or a portion of the Indebtedness or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with Applicable Laws for the state ("Applicable State Laws") in which the Property is located. In the event of default, Mortgagee may employ counsel to enforce payment of the Indebtedness, may cause the Mortgagee to sell the Property in accordance with the power of sale granted herein and the Applicable State Laws, and may exercise such other rights and remedies granted under this Mortgage or by law and equity, including but not limited to California Code of Civil Procedure Sections 726.5 and 736 or Applicable State Laws.

If allowed under applicable state law, Mortgagee may sell the Property either as a whole or in separate parcels, and in such order as it may determine. The purchase price shall be payable in lawful money of the United States at the time of the sale. In exercising the power of sale herein, Mortgagee may hold one or more sales of all or any portion of the Property by public announcement at the time and place of sale set forth in the notice thereof, and from time to time thereafter may postpone such sale or sales of all or any portion of the Property to the same or separate days by public announcement at such time fixed by the preceding postponement. Any person, including Mortgagee, may purchase at such sale. Mortgagee may credit bid at any such sale, and if Mortgagee is the successful purchaser, it may apply any of the outstanding Indebtedness in settlement of the purchase price.

Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine; or may resort to any or all such security which may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the Indebtedness is also secured by personal property, fixtures or crops, Mortgagee may enforce its security

interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order permitted by applicable law.

All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor, or any party to the loan documents related to the Indebtedness or any guarantor to pay all Indebtedness or perform in full all obligations to Mortgagee. The foreclosure procedures and provisional remedies against Mortgagor shall be governed by Applicable State Laws, except that Mortgagee's rights and the Mortgagor's obligations under the Notes, this Mortgage or the Guaranty shall continue to be governed by and construed under the substantive law of the state in which such documents were executed without regard to its conflict of laws principles.

22. NON-WAIVER. The failure of Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right. Any waiver by Mortgagee of any default must be in writing and shall not constitute a waiver of any other defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Mortgagor or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

23. SUCCESSORS AND ASSIGNS. This Mortgage is binding on all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. In this Mortgage, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

24. [INTENTIONALLY DELETED].

25. DUE ON SALE OR TRANSFER.

25.1 In the event the Property, (including any existing or subsequently acquired or created Water Assets), or any interest therein, is transferred or agreed to be transferred or any right to drill is exercised for any oil, gas, or minerals in, on or under the Property, without Mortgagee's prior written consent, all Indebtedness, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. As used herein, "transferred" means sold, conveyed, alienated, exchanged, transferred by gift, further encumbered, pledged, hypothecated, made subject to an option to purchase, or otherwise disposed of, directly or indirectly, or in trust, voluntarily or involuntarily, by Mortgagor or by operation of law or otherwise. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of any subsequent transfer or subsequent agreement to transfer.

25.2 If Mortgagor is an entity other than a natural person then all Indebtedness, irrespective of the maturity date, at the option of Mortgagee, and without demand or notice, shall become immediately due and payable if: (a) a beneficial interest in Mortgagor is transferred; (b) there is a withdrawal or removal of a general partner of a partnership or a manager of a limited liability company; (c) there is a transfer in the aggregate of more than 25% of the voting stock of Mortgagor if Mortgagor is a corporation, or there is a transfer in the aggregate of more than 25% of the partnership interests or membership interests if Mortgagor is a partnership, limited liability company or similar entity; or (d) Mortgagor is dissolved or its existence as a legal entity is terminated.

26. SEVERABILITY. If any one or more of the provisions in this Mortgage or in any promissory note, guaranty, or other document secured hereby shall for any reason be held to be unenforceable, such unenforceability shall not affect any other provision of this Mortgage or said promissory note or guaranty, but this Mortgage and said promissory notes or guaranties shall be construed as if such unenforceable provision had never been herein or therein

27. NOTICES. The Mortgagor agrees that he/she is entitled only to those notices required by Applicable Laws and requests that a copy of any notices, including notice of default and of any notice of sale hereunder be delivered to Mortgagor at the address set forth below and any notices to Mortgagee shall be at the address set forth in the first paragraph of this Mortgage. Any notices to either party, including a change of address for receiving any notices,

shall be given in accordance with the notice section of the Notes, or master loan agreement or Guaranty or other loan document relating to the Indebtedness.

28. EXHIBITS. All exhibits to this Mortgage are made a part of this Mortgage.

29. JOINT AND SEVERAL LIABILITY AND LEGAL ENTITY WARRANTY AND CERTIFICATION. If Mortgagor consists of more than one person, each will be jointly and severally liable for the performance of all of Mortgagor's obligations under this Mortgage. If Mortgagor is a legal entity, Mortgagor (and any person signing this Mortgage in a representative capacity on behalf of Mortgagor) represents, that Mortgagor is duly constituted under Applicable Laws and in good standing; that Mortgagor has the power, authority, and appropriate authorization to execute this Mortgage and enter into the transactions herein and that, when executed, this Mortgage, and any document executed by Mortgagor in connection herewith, shall be legally binding on Mortgagor. If Mortgagor is a trust, each trustee executing this Mortgage on behalf of the trust also represents, that this Mortgage and any document executed in connection herewith is authorized and being executed by all the currently acting trustees of the trust and that the trust has not been revoked, modified, or amended in any manner which would cause any of the foregoing to be incorrect.

30. NON-MERGER. No merger will occur as a result of Mortgagee acquiring any other estate in or any other lien on the Property, unless Mortgagee consents to a merger in writing.

31. WAIVER OF JURY TRIAL/JUDICIAL REFERENCE. AS A SPECIFICALLY BARGAINED INDUCEMENT FOR MORTGAGEE TO ENTER INTO THE NOTES AND TO EXTEND CREDIT TO BORROWER, MORTGAGOR WAIVES, TO THE EXTENT PERMITTED BY LAW, TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, DISPUTE, SUIT OR PROCEEDING IN RESPECT OF OR ARISING OUT OF THIS MORTGAGE ALL AS FURTHER SET FORTH IN THE NOTES, MASTER LOAN AGREEMENT, ANY OTHER LOAN DOCUMENT EVIDENCING THE INDEBTEDNESS OR GUARANTY, AS APPLICABLE. IN THE EVENT THIS JURY TRIAL WAIVER IS DEEMED UNENFORCEABLE, THEN MORTGAGOR AGREES THAT ALL ACTIONS SHALL BE RESOLVED BY JUDICIAL REFERENCE UNDER THE JUDICIAL REFERENCE PROVISIONS OF THE NOTES, MASTER LOAN AGREEMENT OR GUARANTY, AS APPLICABLE, WHICH ARE HEREBY INCORPORATED INTO THIS MORTGAGE BY REFERENCE.

32. MISCELLANEOUS. As used herein, the word "including" means "including without limitation." The captions used in this Mortgage are for convenience only and do not define or limit any terms or provisions. No listing of any specific collateral, items, or other matters in any way limits the scope or generality of any language of this Mortgage.

ADDRESSES WHERE NOTICES TO MORTGAGOR ARE TO BE SENT:

The Vander Poel Family Trust, 15147 Mooresville Place, Bakersfield, CA 93314

By signing below, Mortgagor agrees to all of the terms of this Mortgage.

Signature(s):


Brian Vander Poel, Trustee of The Vander
Poel Family Trust dated February 16, 2006


Kerri Vander Poel, Trustee of The Vander
Poel Family Trust dated February 16, 2006

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Kern)

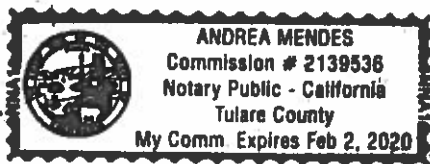
On December 14, 2016 before me, Andrea Mendes, notary public
Date Here Insert Name and Title of the Officer

personally appeared Brian Vander Poel and Kerri Vander Poel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Andrea Mendes
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Real Estate Mortgage Document Date: 12-7-16

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

AFTER RECORDING MAIL TO:

Sandton Capital Partners, LP
16 West 46th Street, 11th Floor
New York, NY 10036

SATISFACTION OF MORTGAGE

Know All Persons, That

Sandton Credit Solutions Master Fund III, LP

hereby certify that a certain mortgage executed by,

Agnes Schilder

to

Wells Fargo Bank, National Association

Recorded **March 24, 2010** as Instrument No. **2010005750** of the record of Mortgages for **Twin Falls** County, Idaho, together with the debt thereby secured is fully paid, satisfied and discharged.

Dated: August 5, 20 16

Sandton Credit Solutions Master Fund III, LP

By: Drew Dampier
Drew Dampier
Authorized Signatory

AFTER RECORDING MAIL TO:

Sandton Capital Partners, LP
16 West 46th Street, 11th Floor
New York, NY 10036

TWIN FALLS COUNTY
RECORDED FOR:
DOCUMENT PROCESSING SOLUT
02:46:55 PM 08-18-2016
2016014420
NO. PAGES 2 FEE: \$13.00
KRISTINA GLASCOCK
COUNTY CLERK
DEPUTY: SM
Electronically Recorded by Simplifile

SATISFACTION OF MORTGAGE

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Sandton Credit Solutions Master Fund III, LP

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Dated: August 5, 20 16

Sandton Credit Solutions Master Fund III, LP

By: Drew Dampier

Drew Dampier

Authorized Signatory

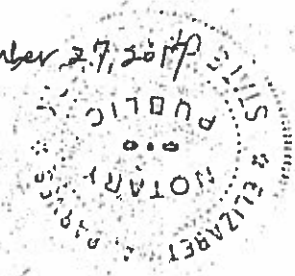
STATE OF New York)
SS.
COUNTY OF Queens)

On this 5th day of **August, 2016**, before me, a Notary Public in and for said State, personally appeared **Drew Dampier**, known or identified to me to be the **Authorized Signatory** of the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Elizabeth A. Barnes
Notary Public for the State of New York
Residing at: New York
My Commission Expires: December 27, 2017

Elizabeth A. Barnes
Notary Public, State of New York
No. 01BA6066273
Qualified in Queens County
Certificate Filed in New York County
Commission Expires December 27, 2017



Recording Requested by:

WHEN RECORDED MAIL TO:

Farm Credit West, PCA
200 E. Cartmill Avenue
Tulare, CA 93274

TWIN FALLS COUNTY
RECORDED FOR
DOCUMENT PROCESSING SOLUT
02:46:51 PM 08-18-2016
2016014419
NO. PAGES 13 FEE: \$46.00
KRISTINA GLASCOCK
COUNTY CLERK
DEPUTY: SM
Electronically Recorded by Simplifile

Space Above This Line For Recorder's Use

REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS and FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF RENTS and FIXTURE FILING ("Mortgage"), made this 21st day of July, 2016, between Brian T. Vander Poel and Kerri A. Vander Poel, Trustees of the Vander Poel Family Trust dated February 16, 2006, who acquired title as Vander Poel Family Trust, as "Mortgagor", and Farm Credit West, PCA, as "Mortgagee", a corporation organized under the laws of the United States of America, with its office at 200 E. Cartmill Avenue, Tulare, CA 93274.

1. **GRANT IN TRUST.** Mortgagor IRREVOCABLY GRANTS, CONVEYS AND ASSIGNS to Mortgagee, with power of sale together with right of entry and possession, the property described below in Sections 1.1 through 1.5 inclusive (collectively, the "Property").

1.1. The real property (the "Real Property") situated in the County of Twin Falls, State of Idaho, described as follows:

Township 10 South, Range 13 East of the Boise Meridian, Twin Falls Count, Idaho Section 34: W $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and the West 40 feet of the NE $\frac{1}{4}$ NW $\frac{1}{4}$. Commonly Known as: 621 East 3600 North, Castleford, ID 83321

Together with water rights as follows:

Water Right No. 47-4361 and Water Right 47-7870; and

Together with 120 Shares of Twin Falls Canal Company Stock

1.2. **BUILDINGS, FIXTURES, AND OTHER IMPROVEMENTS.** All buildings, structures, equipment, goods that are or will become fixtures (including, but not limited to, trees, vines and shrubs, or other permanent plantings) upon or under the Real Property and improvements of every kind and description now or hereafter constructed or placed on the Real Property; all standing timber and timber to be cut located on the Real Property; and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the Property, all of which are hereby declared to be fixtures. Without limiting the generality of the foregoing, a description of some fixtures may also be included with the description of the Real Property or in an exhibit hereto.

1.3. **LEASES AND OTHER RIGHTS.** All existing and future leases, subleases, licenses, permits, agreements, and concessions relating to the use or enjoyment of the Real Property, including those related to grazing rights,

Recording Requested by:

WHEN RECORDED MAIL TO:

Farm Credit West, PCA
200 E. Cartmill Avenue
Tulare, CA 93274

Space Above This Line For Recorder's Use

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1.3. LEASES AND OTHER RIGHTS. All existing and future leases, subleases, licenses, permits, agreements, and concessions relating to the use or enjoyment of the Real Property, including those related to grazing rights,

all oil, gas, and minerals and interests, and payments therefrom in, under, on or with the Real Property; and all tenements, hereditaments, easements, rights-of-way and appurtenances to the Property.

1.4. WATER ASSETS. All right, title, and interest at any time of Mortgagor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws, rules, ordinances, permits and regulations of all local, regional, county, state and federal governmental authorities ("Applicable Laws"), and however arising in, including without limitation, the water, water rights and other assets and items described below in Sections 1.4(a) through 1.4(i) inclusive, which shall collectively be called "Water Assets". References to "water" and "water rights" are used herein in the broadest and most comprehensive sense of the term(s). The term "water" includes water rights and rights to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's share of any Water Assets in any water bank or with any water authority, or any other water reallocation rights. Without limiting the generality of the foregoing, a description of some Water Assets may also be included with the description of the Property set forth above or in an exhibit hereto.

- (a) All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including: (a) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual rights or otherwise; (b) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easement, covenant, agreement, or contract with any person or entity; (c) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water; (d) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity; (e) all water and existing and future water rights, however evidenced, to the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Property, all of which rights are or are hereby made appurtenant to the Property; (f) without limiting the generality of the foregoing, all rights of Mortgagee under Water Right No's. 47-4361 and 47-7870.
- (b) All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Assets.
- (c) All licenses, permits, approvals, contracts, decrees, rights and interests to acquire or appropriate any Water Assets, water bank or other credits evidencing any right to Water Assets, to store, carry, transport or deliver Water Assets, to sell, lease, exchange, or otherwise transfer any Water Asset, or to change the point for diversion of water, the location of any Water Assets, the place of use of any Water Assets, or the purpose of the use of any Water Assets.
- (d) All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any Water Assets.
- (e) All storage and treatment rights for any Water Assets, whether on or off the Property or other property of Mortgagor, together with all storage tanks, and other equipment used or usable in connection with such storage and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any Water Assets.

- (f) All rights to transport, carry, allocate or otherwise deliver Water Assets by any means wherever located.
- (g) All irrigation and watering equipment, including all pumps, pumping plants, storage tanks, motors, electrical generators (all of which are declared to be fixtures) and all systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Property.
- (h) All guaranties, warranties, marketing, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights; all insurance policies regarding or relating to any Water Assets.
- (i) All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Assets.

1.5. ADDITIONS AND PROCEEDS. All additions, accretions substitutions and replacements of any of the Property; all proceeds of the Property, including all proceeds of present and future insurance policies; and all condemnation awards or payments now or later made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any misrepresentation, damage or injury to, or defect in, the Property; and all books and records and files relating to the Property.

2. ASSIGNMENT OF RENTS. MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents including prepaid rents, royalties, issues, profits, revenue, income, security deposits, and other benefits of the Property arising from the use, non-use, enjoyment, sale, transfer or other disposition of all or any portion thereof, including those set forth in Section 1.4(i) above, or from any lease, mineral lease, or agreement pertaining to the Property (collectively the "Rents"); whether now existing or hereafter arising and whether now due, past due or to become due; SUBJECT, HOWEVER, to the right and authority given to Mortgagor by Section 19 hereof. This assignment of the Rents shall be perfected automatically without appointment of a receiver or Mortgagee becoming a mortgagee in possession.

3. OBLIGATIONS SECURED. Mortgagor makes the grant, conveyance, and assignment of the Property for purposes of securing the following indebtedness and other obligations (collectively, "Indebtedness") in any order of priority that Mortgagee may choose:

- (a) payment of the indebtedness and performance of the obligations of Mortgagor evidenced by the following promissory note(s) (collectively "Notes") and/ or the following continuing guaranty(s) (collectively "Guaranty"), and any other documents executed by Mortgagor in conjunction with the Notes or Guaranty:

☒ a Promissory Note and Supplement to Master Loan Agreement dated as of July 21, 2016, in the stated principal amount of \$2,050,000.00

☒ a Promissory Note and Supplement to Master Loan Agreement dated as of July 21, 2016, in the stated principal amount of \$450,000.00

☐ a continuing guaranty dated as of (date) _____, executed by Mortgagor in favor of Mortgagee, guaranteeing the indebtedness of the borrowers as defined in the Guaranty.

- (b) the payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to or guaranteed by Mortgagor, or Mortgagor's successors or assigns, evidenced by a promissory note, guaranty, loan agreement or otherwise; PROVIDED HOWEVER, THAT, such additional loans or advances will be secured by this Mortgage only if the promissory note, guaranty, loan agreement or other document evidencing the obligations of Mortgagor relative to such loans or advances recites that it is to be secured by this Mortgage;

- (c) the payment and performance of the obligations set forth in any document evidencing an extension, renewal, modification, replacement, reamortization, conversion, or restatement of any Indebtedness secured by this Mortgage, including without limitation renewal and/or substitute notes, guaranties, and loan agreements.
- (d) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan agreement, loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan or advance secured by this Mortgage; and
- (e) the payment of all sums expended or advanced by Mortgagee pursuant to the terms of this Mortgage, together with interest thereon as herein provided.

The Notes are payable by Mortgagor and/or others to the Mortgagee as therein set forth. The Notes and other documents evidencing the Indebtedness may contain variable or adjustable interest rate provisions.

The continuing validity and priority of this Mortgage as security for future loans or advances will remain in full force and effect even though the Indebtedness outstanding may be zero from time to time.

4. PERSONAL PROPERTY SECURITY AGREEMENT. The Property will be considered to the fullest extent of the law to be real property for purposes of this Mortgage. To the extent any of the Property, (including without limitation any Water Assets or fixtures), is deemed to be personal property, this Mortgage shall also be a security agreement. Mortgagor does hereby grant to Mortgagee a security interest in all such personal property and shall not grant any security interest in such personal property to any other third party. Mortgagor authorizes Mortgagee to file financing statements in all jurisdictions as Mortgagee may elect and further, grants to Mortgagee all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable state law (collectively "UCC"), which rights are cumulative. This Mortgage also constitutes a fixture filing under the UCC covering any Property which now is or later may become a fixture attached to the Real Property.

TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES TO EACH OF THE FOLLOWING:

5. USE OF PROCEEDS. To use loan proceeds solely for the purposes set forth in the loan application(s) or Notes or as otherwise required by Mortgagee.

6. CONDITION OF PROPERTY. To keep the Property in good condition, working order and repair; to care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to sell, transfer, assign, encumber or convey any Water Assets, or to enter into an agreement for the nonuse of or permit any action resulting in the loss of any Water Assets, without the prior written consent of Mortgagee; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove any oil, gas, minerals, or top soil which impairs soil fertility; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub or other permanent plantings thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to promptly complete or restore promptly and in good and workmanlike manner any portion of the Property which may be constructed, damaged or destroyed thereon; to comply with all Applicable Laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, or permit any act upon the Property in violation of Applicable Laws; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; and to perform all obligations of Mortgagor under any lease of the Property.

7. INSURANCE. To provide, maintain and deliver to Mortgagee, fire, extended coverage, flood, and all other types of insurance issued by companies acceptable to Mortgagee, and on terms and amounts as may be required by Applicable Laws or Mortgagee, with loss payable endorsements (including lender loss payable endorsements) solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its option, to reduce the Indebtedness or promptly restore or repair the property damaged. Failure to obtain, maintain or deliver to Mortgagee the insurance required is an event of default under this Mortgage.

At least thirty (30) days prior to the expiration of any such policy of insurance, Mortgagor will deliver a policy renewing or extending such expiring insurance and written evidence of payment of the premium for such insurance. If any such policy and evidence of payment (or copies of same, if originals cannot be delivered to Mortgagee) are not so delivered to Mortgagee, without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation under this Mortgage, Mortgagee may (but is not obligated to), at Mortgagor's expense, obtain insurance in such types, on such terms and in such amounts as Mortgagee in its sole discretion shall decide, from any insurance agency or company acceptable to it. Any insurance obtained by Mortgagee shall be for its sole benefit and to protect the security of this Mortgage. The expense and cost of such insurance shall, at Mortgagee's sole option, be payable on demand or added to the Indebtedness as provided herein. Mortgagee shall not be responsible for the maintenance of any such insurance, the collection of any proceeds from such insurance, or the insolvency of any insurance company or underwriter. Mortgagor shall promptly notify Mortgagee in writing of any damage caused by fire or other casualty to the Property and if Mortgagee so instructs, shall promptly at Mortgagor's expense, whether insurance proceeds are sufficient, commence diligently to complete restoration of the Property to its same value and condition existing before such loss.

8. DEFENSE OF TITLE. To appear in and litigate any action or proceeding which may affect the Property, or the rights of Mortgagee. Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs arising therefrom.

9. TAXES, LIENS AND ASSESSMENTS. To pay on or before the due date all taxes and assessments, encumbrances, charges, rents, and liens affecting all or any part of the Property, including all Water Assets.

10. FEES AND COSTS. If Mortgagee uses the services of attorneys, accountants, appraisers, consultants, or other professional or outside assistance, including the services of in-house counsel or any other professional who is an employee of Lender, the reasonable amount of fees, costs and expenses ("Expenses") incurred by Mortgagee to use such persons in connection with any of the following, or as indicated elsewhere in this Mortgage, shall be payable by Mortgagor on demand. Mortgagee may, at its option, add the amount of such Expenses to any portion of the Indebtedness plus an appropriate amount of Mortgagee's stock or participation certificates required in connection with the loan (as required by federal law or regulation or Mortgagee's bylaws), and charge interest on such amount at the interest rate applicable to such portion of the Indebtedness. These services include:

- (a) The preparation, modification or enforcement of this Mortgage, and any other document related to the Indebtedness or to the Property;
- (b) Advising Mortgagee concerning its rights and obligations with regard to this Mortgage and any other document related to the Indebtedness, or to the Property, including advising Mortgagee with regard to any applicable provisions of the Farm Credit Act of 1971, as amended, ("Act"), Farm Credit Administration ("FCA") regulations, any policy or program of Mortgagee, or any other Applicable Laws;
- (c) Any litigation, dispute, proceeding, or action (whether or not dismissed, reduced to judgment, or otherwise resolved), and whether instituted by Mortgagee, or Mortgagor or any other person, relating to the Indebtedness, the Property or Mortgagor's affairs;
- (d) The furtherance of Mortgagee's interest in any bankruptcy, insolvency, or reorganization case or proceeding instituted by or against Mortgagor, including any steps to (i) modify or terminate the automatic stay, (ii) prohibit or condition Mortgagor's use of cash collateral, (iii) object to any disclosure statement or plan, (iv) propose or confirm a plan, and (v) prosecute or defend adversary proceedings or contested matters, and take or defend examinations or discovery, whether or not related to any adversary proceeding or contested matter and whether or not dismissed, reduced to judgment, or otherwise resolved;
- (e) The inspection, verification, protection, collection, processing, or disposition of the Property; and
- (f) Any of the type of Expenses incurred by Mortgagee in connection with any guaranty of the Indebtedness.

The Expenses shall be in addition to those set forth in any security instrument or any other written agreement between Mortgagee and Mortgagor.

11. MORTGAGEE MAY ACT FOR MORTGAGOR. Should Mortgagor fail to make any payment or perform an obligation herein then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may cure such default: in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the Property or the rights of Mortgagee, including any bankruptcy proceeding; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be senior hereto; pay such fees, charges, rents or other payments accruing under or relating to the Property and in exercising any such rights, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary, including attorney's, accountant's, and appraisal fees, environmental fees and costs of related thereto, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage and shall at Mortgagee's option, be payable upon demand or added to the Indebtedness with interest on such amount at the interest rate applicable to such portion of the Indebtedness. Nothing herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring any obligations whatsoever, for the sole purpose of inspecting the Property.

12. SUMS EXPENDED BY MORTGAGEE. To pay immediately and without demand all sums expended by Mortgagee hereunder, with interest from date of expenditure at the same rate as is provided for in the Notes. All such sums shall be secured hereby.

13. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.

13.1. DEFINITIONS. Defined Terms as used in this Section 13:

- (a) "Environmental Laws" shall mean all Applicable Laws now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, industrial hygiene or protection of the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC §§9601-9675); the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC §§6901-6992k); the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub L 99-499, 100 Stat 1613); the Hazardous Materials Transportation Act of 1985 (49 USC §§5101-5128); the Solid Waste Disposal Act (42 USC §§6901-6992k); the Clean Water Act (33 USC §§1251-1387); the Clean Air Act (42 USC §§7401-7671q); the Toxic Substances Control Act (15 USC §§2601-2629); and the Hazardous Waste Control Act (CA Health & S C §§25100-25258.2), as amended from time to time.
- (b) "Hazardous Substances" shall mean any substance or material that is described, or regulated as a toxic or hazardous substance, waste or material or a pollutant or contaminant, or words of similar import, in any of the Environmental Laws.
- (c) "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including continuing migration, of Hazardous Substances into, onto or through the soil, surface water or groundwater of the Property, whether caused by, contributed to, permitted by, or known to Mortgagor.
- (d) "User" means any person other than Mortgagor who occupies, uses or comes onto or has occupied, used or come onto the Property or any part thereof and any agent or contractor of such a person.

13.2 MORTGAGOR ENVIRONMENTAL REPRESENTATIONS. Mortgagor represents to Mortgagee that, as of the date of this Mortgage and to the best of Mortgagor's knowledge, based on due inquiry and investigation:

- (a) Except as previously disclosed in writing by Mortgagor to Mortgagee and acknowledged in writing by Mortgagee: (i) no Hazardous Substances in excess of permitted levels or reportable quantities under applicable

Environmental Laws are present in, on or under the Property or any nearby real property which could migrate to the Property; (ii) no Release or threatened Release exists or has occurred; (iii) neither Mortgagor nor any User has ever used the Property or any part thereof for the production, manufacture, generation, treatment, handling, storage, transportation or disposal of Hazardous Substances; (iv) no underground, surface or elevated storage tanks of any kind, wells (except domestic water wells), septic tanks, pits, ponds or other impoundments ("Tanks") are or ever have been located in or on the Property; and (v) no investigation, claim, demand, action or proceeding of any kind relating to any Release or threatened Release or any past or present violation of any Environmental Laws relating to the Property has been made or commenced, or is pending, or is being threatened by any governmental authority or other person;

- (b) All operations and activities at, and the use and occupancy of, the Property comply with all applicable Environmental Laws;
- (c) Mortgagor and every User has, and is in strict compliance with, every permit, license and approval required by all applicable Environmental Laws for all activities and operations at, and the use and occupancy of, the Property;
- (d) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed as a Superfund or other hazardous waste site under CERCLA as amended, or any similar applicable Environmental Laws; and
- (e) Any written disclosure submitted by or on behalf of Mortgagor to Mortgagee at Mortgagee's request concerning any Release or threatened Release, past or present compliance by Mortgagor, User or any other person of any environmental Laws applicable to the Property, the past and present use and occupancy of the Property, any environmental concerns relating to the Property was true and complete when submitted and continues to be true and complete as of the date of this Mortgage.

13.3 MORTGAGOR AGREES THAT:

- (a) Except in the ordinary course of business, in a good and husbandlike manner and in strict compliance with all applicable Environmental Laws, Mortgagor agrees that neither Mortgagor nor any User shall use, produce, manufacture, generate, treat, handle, store, transport, or dispose of any Hazardous Substances in, on or under the Property, or use the Property or any adjacent property of Mortgagor for any such purposes;
- (b) Mortgagor shall not cause, contribute to, permit or acquiesce to any Release or threatened Release;
- (c) Mortgagor shall comply and shall cause every User to comply, with all Environmental Laws applicable to the Property or any adjacent property of Mortgagor, and all other Applicable Laws relating to the use or occupancy thereof, or any operations or activities thereon;
- (d) With respect to any Tanks disclosed in writing to Mortgagee, Mortgagor shall comply with all Environmental Laws and any Applicable Laws of city or county fire departments or any other local governmental agency having jurisdiction thereof, applicable to the maintenance and use of such Tanks;
- (e) Mortgagor shall regularly inspect the Property, monitor the activities and operations of every User and confirm that Mortgagor and every User has obtained and complies with all permits, licenses and approvals required by all applicable Environmental Laws;
- (f) Immediately after Mortgagor obtains any information indicating any Release or threatened Release, or that Hazardous Substances in, on or under any nearby property could migrate to the Property or a violation of any Environmental Laws may have occurred or could occur regarding the Property or adjacent property owned by Mortgagor, Mortgagor shall give notice to Mortgagee with a reasonably detailed description of the event, or condition in question;

- (g) If Mortgagee obtains any information that Mortgagee believes in good faith indicates a reasonable possibility of a Release or threatened Release, or that Hazardous Substances in, on or under any nearby real property could migrate to the Property or any violation of any Environmental Laws may have occurred or could occur regarding the Property, then Mortgagor shall, at the expense of Mortgagor, promptly after a request by Mortgagee, or Mortgagee may at Mortgagor's expense any time prior to completion of a judicial or nonjudicial foreclosure, engage a qualified environmental engineer to conduct an environmental assessment of the Property as deemed appropriate by Mortgagee and prepare and submit to Mortgagee an acceptable written report from such investigation. Mortgagor shall, on demand, pay to Mortgagee all sums expended by Mortgagee in connection with any such environmental assessment, together with interest thereon after such demand at the interest rate as set forth in Notes;
- (h) Mortgagor shall permit, or cause any User to permit, Mortgagee or its agents or independent contractors to enter and inspect the Property (including the taking of building materials, soil and groundwater samples) at any reasonable time and after reasonable notice, except in an emergency, whether or not a default has occurred under this Mortgage, and including after the commencement of judicial or nonjudicial foreclosure proceedings, for purposes of determining, as Mortgagee deems desirable: the existence, location or nature of any Hazardous Substances into, onto, or under or from the Property, that is located or has been spilled, disposed of, discharged or released on, under or about the Property. Mortgagor acknowledges that all inspections and reviews undertaken by Mortgagee are solely for the benefit and protection of Mortgagee and agrees that Mortgagee shall have no duty to Mortgagor with respect to Hazardous Substances or Environmental Laws as a result of any such inspections, which shall not result in a waiver of any default by Mortgagor. If Mortgagor or any User fails to comply with this section, Mortgagee may obtain affirmative injunctive relief to compel such compliance; and
- (i) If any Release or threatened Release exists or occurs before this Mortgage is reconveyed or foreclosed upon, or if Mortgagor is in breach of any of its representations, or covenants in this Section 13, Mortgagor shall immediately give notice of the condition to Mortgagee, and Mortgagor shall at its own expense cause any Hazardous Substances to be cleaned up and removed from the Property, and the Property shall be restored, in compliance with all applicable Environmental Laws (the "Remediation Work"). If requested by Mortgagee, Mortgagor shall submit to Mortgagee, for Mortgagee's prior approval, complete plans and specifications for all Remediation Work to be done before any Remediation Work is performed, except in an emergency. Alternatively, Mortgagee may cause such Remediation Work to be completed at Mortgagor's expense.

13.4 NOTICE TO GOVERNMENTAL AUTHORITIES. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgagor's obligations hereunder.

13.5 INDEMNITY OF MORTGAGEE. Mortgagor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, and/or, its affiliates, and their directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, foreseeable and unforeseeable consequential damages, liens, losses, liabilities, interest, judgments, cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs, sums paid in settlement of claims, and all consultant, expert and the reasonable fees and expenses of counsel, including in-house legal services) of any kind whatsoever ("Claims") paid, incurred or suffered by, or asserted against Mortgagee, by any third party or Mortgagor or any other party to the loan documents related to the Indebtedness, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damage to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgagor on the Property, Mortgagor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgagor, any adjoining landowner, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgagor or within the control of Mortgagor, including without limitation: (a) the presence, use, generation, treatment, storage, disposal, Release, threatened Release, or discharge of any Hazardous Material or Contaminant at or from said Property and/or the cleanup of Hazardous Materials or Contaminants

within, on or under said Property; (b) Mortgagor's breach of any of the representations, warranties and covenants herein; and (c) Mortgagor's violation or alleged violation of any applicable Environmental Laws.

13.6 SURVIVAL. NOTWITHSTANDING ANY OTHER PROVISION OF THIS MORTGAGE, THE NOTES OR GUARANTY OR ANY LOAN DOCUMENTS, MORTGAGOR'S REPRESENTATIONS, COVENANTS AND INDEMNITIES CONTAINED IN THIS SECTION 13 SHALL SURVIVE THE OCCURRENCE OF ANY EVENT WHATSOEVER, INCLUDING WITHOUT LIMITATION THE PAYOFF OF THE NOTES, THE RECONVEYANCE OR FORECLOSURE OF THIS MORTGAGE, THE ACCEPTANCE BY MORTGAGEE OF A DEED IN LIEU OF FORECLOSURE, OR ANY TRANSFER OR ABANDONMENT OF THE PROPERTY.

14. GRAZING RIGHTS. If any portion of the Property is used by Mortgagor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitation the U.S. Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgagor agrees as follows:

- (a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee;
- (b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all Applicable Laws;
- (c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights as they expire during the term thereof. Mortgagor agrees the failure to renew or cause the reissuance of any said permits for any reason, is an event of default hereunder and Mortgagee shall have the right to exercise the rights in this Mortgage; and
- (d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the Indebtedness and shall be immediately due and payable.

15. WATER TRANSFERS. Mortgagor represents that Mortgagor is not in the business of transferring water and, therefore, any sale or transfer of any Water Assets is not a transfer of goods in the ordinary course of business. Mortgagor further agrees that in no event will any Water Assets be goods identified to a contract. Mortgagor represents the Water Assets are sufficient to satisfy all water requirements for the Property, including proper cultivation for all vines, trees, shrubs, and other permanent plantings thereon as of the date hereof. Mortgagor hereby acknowledges that the availability of the Water Assets to the Property was a significant factor in Mortgagee's decision to extend credit to Mortgagor and any other persons obligated on the Indebtedness, and that any severance of any Water Assets from the Property would materially harm the Property.

16. FINANCIAL INFORMATION. At Mortgagee's request, Mortgagor shall provide to Mortgagee financial information in a form acceptable to Mortgagee, including, when so required, a current balance sheet and profit and loss statement. In the case of multiple Mortgagors, financial information must be provided for each Mortgagor or otherwise as requested by Mortgagee. Financial information shall be provided at such times during the term of this Mortgage as Mortgagee may request.

IT IS MUTUALLY AGREED THAT:

17. CONDEMNATION AWARDS. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms of this Mortgage. Upon receipt of such money, Mortgagee may apply the same on the Indebtedness. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require. Mortgagor waives all rights of a property owner under California code of Civil Procedure Section 1265.225

as may be amended, or similar Applicable State Laws, which provides for allocation of condemnation proceeds between the owner and the lienholder.

18. MORTGAGEE ACTIONS. At any time, without affecting the liability of any person for the payment of the Indebtedness, and without otherwise affecting the security hereof, Mortgagee may: (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) reconvey without warranty, all or any part of the Property. Mortgagor agrees to pay reasonable Mortgagee's fees for any of the foregoing services.

19. COLLECTION OF RENTS. Prior to any default by Mortgagor in the payment, performance and discharge of any condition, obligation, or agreement of Mortgagor herein, Mortgagor may, as the agent and fiduciary representative of Mortgagee for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, the balance, if any, shall be distributed to the account of Mortgagor. However, Mortgagee shall have the right before or after the occurrence of any default to notify any account debtor to pay all amounts owing with respect to Rents directly to Mortgagee. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the Indebtedness, enter upon and take possession of the Property or any part thereof, in its own name, sue for or otherwise collect such Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any Indebtedness, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions acceptable to Mortgagee; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the Indebtedness.

20. MORTGAGEE'S EXERCISE OF REMEDIES IS NO CURE OF DEFAULT. The entering upon and taking possession of the Property, the collection of such Rents, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release hereunder, shall not waive any default.

21. REMEDIES. Upon default by Mortgagor in payment of all or a portion of the Indebtedness or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with Applicable Laws for the state ("Applicable State Laws") in which the Property is located. In the event of default, Mortgagee may employ counsel to enforce payment of the Indebtedness, may cause the Mortgagee to sell the Property in accordance with the power of sale granted herein and the Applicable State Laws, and may exercise such other rights and remedies granted under this Mortgage or by law and equity, including but not limited to California Code of Civil Procedure Sections 726.5 and 736 or Applicable State Laws.

If allowed under applicable state law, Mortgagee may sell the Property either as a whole or in separate parcels, and in such order as it may determine. The purchase price shall be payable in lawful money of the United States at the time of the sale. In exercising the power of sale herein, Mortgagee may hold one or more sales of all or any portion of the Property by public announcement at the time and place of sale set forth in the notice thereof, and from time to time thereafter may postpone such sale or sales of all or any portion of the Property to the same or separate days by public announcement at such time fixed by the preceding postponement. Any person, including Mortgagee, may purchase at such sale. Mortgagee may credit bid at any such sale, and if Mortgagee is the successful purchaser, it may apply any of the outstanding Indebtedness in settlement of the purchase price.

Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine; or may resort to any or all such security which may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the Indebtedness is also secured by personal property, fixtures or crops, Mortgagee may enforce its security

interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order permitted by applicable law.

All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor, or any party to the loan documents related to the Indebtedness or any guarantor to pay all Indebtedness or perform in full all obligations to Mortgagee. The foreclosure procedures and provisional remedies against Mortgagor shall be governed by Applicable State Laws, except that Mortgagee's rights and the Mortgagor's obligations under the Notes, this Mortgage or the Guaranty shall continue to be governed by and construed under the substantive law of the state in which such documents were executed without regard to its conflict of laws principles.

22. NON-WAIVER. The failure of Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right. Any waiver by Mortgagee of any default must be in writing and shall not constitute a waiver of any other defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Mortgagor or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

23. SUCCESSORS AND ASSIGNS. This Mortgage is binding on all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. In this Mortgage, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

24. [INTENTIONALLY DELETED].

25. DUE ON SALE OR TRANSFER.

25.1 In the event the Property, (including any existing or subsequently acquired or created Water Assets), or any interest therein, is transferred or agreed to be transferred or any right to drill is exercised for any oil, gas, or minerals in, on or under the Property, without Mortgagee's prior written consent, all Indebtedness, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. As used herein, "transferred" means sold, conveyed, alienated, exchanged, transferred by gift, further encumbered, pledged, hypothecated, made subject to an option to purchase, or otherwise disposed of, directly or indirectly, or in trust, voluntarily or involuntarily, by Mortgagor or by operation of law or otherwise. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of any subsequent transfer or subsequent agreement to transfer.

25.2 If Mortgagor is an entity other than a natural person then all Indebtedness, irrespective of the maturity date, at the option of Mortgagee, and without demand or notice, shall become immediately due and payable if: (a) a beneficial interest in Mortgagor is transferred; (b) there is a withdrawal or removal of a general partner of a partnership or a manager of a limited liability company; (c) there is a transfer in the aggregate of more than 25% of the voting stock of Mortgagor if Mortgagor is a corporation, or there is a transfer in the aggregate of more than 25% of the partnership interests or membership interests if Mortgagor is a partnership, limited liability company or similar entity; or (d) Mortgagor is dissolved or its existence as a legal entity is terminated.

26. SEVERABILITY. If any one or more of the provisions in this Mortgage or in any promissory note, guaranty, or other document secured hereby shall for any reason be held to be unenforceable, such unenforceability shall not affect any other provision of this Mortgage or said promissory note or guaranty, but this Mortgage and said promissory notes or guaranties shall be construed as if such unenforceable provision had never been herein or therein

27. NOTICES. The Mortgagor agrees that he/she is entitled only to those notices required by Applicable Laws and requests that a copy of any notices, including notice of default and of any notice of sale hereunder be delivered to Mortgagor at the address set forth below and any notices to Mortgagee shall be at the address set forth in the first paragraph of this Mortgage. Any notices to either party, including a change of address for receiving any notices,

shall be given in accordance with the notice section of the Notes, or master loan agreement or Guaranty or other loan document relating to the Indebtedness.

28. EXHIBITS. All exhibits to this Mortgage are made a part of this Mortgage.

29. JOINT AND SEVERAL LIABILITY AND LEGAL ENTITY WARRANTY AND CERTIFICATION. If Mortgagor consists of more than one person, each will be jointly and severally liable for the performance of all of Mortgagor's obligations under this Mortgage. If Mortgagor is a legal entity, Mortgagor (and any person signing this Mortgage in a representative capacity on behalf of Mortgagor) represents, that Mortgagor is duly constituted under Applicable Laws and in good standing; that Mortgagor has the power, authority, and appropriate authorization to execute this Mortgage and enter into the transactions herein and that, when executed, this Mortgage, and any document executed by Mortgagor in connection herewith, shall be legally binding on Mortgagor. If Mortgagor is a trust, each trustee executing this Mortgage on behalf of the trust also represents, that this Mortgage and any document executed in connection herewith is authorized and being executed by all the currently acting trustees of the trust and that the trust has not been revoked, modified, or amended in any manner which would cause any of the foregoing to be incorrect.

30. NON-MERGER. No merger will occur as a result of Mortgagee acquiring any other estate in or any other lien on the Property, unless Mortgagee consents to a merger in writing.

31. WAIVER OF JURY TRIAL/JUDICIAL REFERENCE. AS A SPECIFICALLY BARGAINED INDUCEMENT FOR MORTGAGEE TO ENTER INTO THE NOTES AND TO EXTEND CREDIT TO BORROWER, MORTGAGOR WAIVES, TO THE EXTENT PERMITTED BY LAW, TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, DISPUTE, SUIT OR PROCEEDING IN RESPECT OF OR ARISING OUT OF THIS MORTGAGE ALL AS FURTHER SET FORTH IN THE NOTES, MASTER LOAN AGREEMENT, ANY OTHER LOAN DOCUMENT EVIDENCING THE INDEBTEDNESS OR GUARANTY, AS APPLICABLE. IN THE EVENT THIS JURY TRIAL WAIVER IS DEEMED UNENFORCEABLE, THEN MORTGAGOR AGREES THAT ALL ACTIONS SHALL BE RESOLVED BY JUDICIAL REFERENCE UNDER THE JUDICIAL REFERENCE PROVISIONS OF THE NOTES, MASTER LOAN AGREEMENT OR GUARANTY, AS APPLICABLE, WHICH ARE HEREBY INCORPORATED INTO THIS MORTGAGE BY REFERENCE.

32. MISCELLANEOUS. As used herein, the word "including" means "including without limitation." The captions used in this Mortgage are for convenience only and do not define or limit any terms or provisions. No listing of any specific collateral, items, or other matters in any way limits the scope or generality of any language of this Mortgage.

ADDRESSES WHERE NOTICES TO MORTGAGOR ARE TO BE SENT:

The Vander Poel Family Trust, 15147 Mooresville Place, Bakersfield, CA 93314

By signing below, Mortgagor agrees to all of the terms of this Mortgage.

Signature(s):


Brian Vander Poel, Trustee of The Vander
Poel Family Trust dated February 16, 2006


Kerri Vander Poel, Trustee of The Vander
Poel Family Trust dated February 16, 2006

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

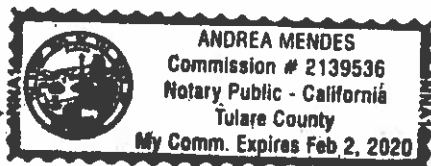
State of California)
County of Kern)

On August 1, 2016 before me, Andrea Mendes, notary public,
Date Here Insert Name and Title of the Officer
personally appeared Brian VanderPoel and Kerri Vander Poel
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Andrea Mendes
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Real Estate Mortgage, Assignment of Rents & Fixture Filing Document Date: 7-24-16
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 26, 2017

VANDER POEL FAMILY TRUST
BRIAN & KERRI VANDER POEL TRUSTEES
15147 MOORESVILLE PL
BAKERSFIELD CA 93314

FARM CREDIT WEST FLCA
200 E CATMULL AVE
TULARE CA 93274

RE: Change of Ownership and Notice of Security Interest in a Water Right for Water Right Nos.
47-4361 and 47-7870

Dear Water Right Holders and Party Holding a Security Interest:

The department acknowledges receipt of correspondence changing ownership of and adding a security interest holder to the above referenced water rights. The department has modified its records to reflect the changes and has enclosed computer-generated reports for your records.

Updating the ownership record for a water right does not reconfirm the validity of the right. When processing an ownership change notice, the department does not review the history of water use to determine if the right has been forfeited 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 Sections 42-222 and 42-223, Idaho Code.

Also, please note that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office, or at the department's website at: www.idwr.idaho.gov.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

Trish Fawcett
Technical Records Specialist

Enclosure(s)

Cc: McFinney AgriFinance