

RECEIVED
JAN 24 2013
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Security Interest in a Water Right

And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

Water Right No: 22-2187 / 22-7021 / 22-10971 / 22-10973

Adjudication Claim No(s):

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 right or claim 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:

ZIONS FIRST NATIONAL BANK
2460 SOUTH 3270 WEST
WEST VALLEY CITY, UTAH 84119

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

5. Expiration Date of Notification Period _____

6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO

7. Signature(s) (and title if applicable)

Mark Polson
Mark Polson, Vice President

For Office Use Only

Received by JPS Date 1/27/2013 Fee \$100.-
Received by JPS Date 2/4/2013 Receipt # 25038351
Processed by _____ AJ Date _____ WR _____

SUPPORT DATA
IN FILE # 22-2187

RECORDATION REQUESTED BY:
ZIONS FIRST NATIONAL BANK
IDAHO FALLS COMMERCIAL BANKING CENTER
1235 S UTAH AVENUE
IDAHO FALLS, ID 83402

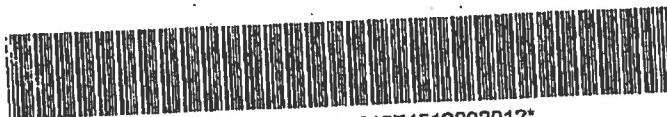
Microfile No. 379466
24 DAY Dec 2012
At 12 O'Clock 03 PM
KIM H. MUIR
MADISON CO RECORDER
Fee \$46.00
KEngland Deputy
Recorded at Request of
FIRST AMERICAN TITLE - REXBURG

WHEN RECORDED MAIL TO:

Zions First National Bank
Commercial Banking
1235 South Utah Avenue
Idaho Falls, ID 83402

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

FA 445 938 RX



000000000000009001074512202012

MORTGAGE AND FIXTURE FILING

THIS MORTGAGE dated December 20, 2012, is made and executed between ASHTON FARMS, LLC, an Idaho Limited Liability Company whose address is 327 SOUTH 3000 EAST, SUGAR CITY, ID 83448 (referred to below as "Grantor") and ZIONS FIRST NATIONAL BANK, whose address is 1235 S UTAH AVENUE, IDAHO FALLS, ID 83402 (referred to below as "Lender").

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

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION OF PROPERTY, TOGETHER WITH ANY AND ALL WATER RIGHTS, INCLUDING BUT NOT LIMITED TO WATER RIGHTS NUMBERS: 22-2187, 22-7021, 22-10971 AND 22-10973, NOW OWNED OR HEREAFTER ACQUIRED WHICH ARE APPURTENANT THERETO.

The Real Property or its address is commonly known as ADJACENT TO 244 SOUTH 500 EAST, REXBURG, ID 83440. The Real Property tax identification number is RP06N40E257321 / RP06N40E360001 / RP06N41E196630 / RP06N41E196620 / RP06N41E307492 / RP06N41E300630 / RP06N41E310002.

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

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

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

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

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may: (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property.

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

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any

find by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws, Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

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

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

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

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

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

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

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

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

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

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property

is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

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

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

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

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

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

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

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

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

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

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

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

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

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

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

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the

same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

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

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

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

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

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

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee, as determined by Lender from time to time.

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

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

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

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

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the indebtedness or Grantor's ability to perform Grantor's obligations under this Mortgage or any of the Related Documents.

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

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

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

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

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

obligation of Grantor to Lender, whether existing now or later.

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

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

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

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

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

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

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

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

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

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

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

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

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or

registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

DISPUTE RESOLUTION. This section contains a jury waiver, arbitration clause, and a class action waiver. **READ IT CAREFULLY.**

This dispute resolution provision shall supersede and replace any prior "Jury Waiver," "Judicial Reference," "Class Action Waiver," "Arbitration," "Dispute Resolution," or similar alternative dispute agreement or provision between or among the parties.

JURY TRIAL WAIVER; CLASS ACTION WAIVER. As permitted by applicable law, each party waives their respective rights to a trial before a jury in connection with any Dispute (as "Dispute" is hereinafter defined), and Disputes shall be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Dispute, but not later than 30 days after entry of the order determining this provision is unenforceable, any party shall be entitled to move the court for an order compelling arbitration and staying or dismissing such litigation pending arbitration ("Arbitration Order"). If permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any Dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

ARBITRATION. If a claim, dispute, or controversy arises between us with respect to this Agreement; related agreements, or any other agreement or business relationship between any of us whether or not related to the subject matter of this Agreement (all of the foregoing, a "Dispute"), and only if a jury trial waiver is not permitted by applicable law or ruling by a court, any of us may require that the Dispute be resolved by binding arbitration before a single arbitrator at the request of any party. By agreeing to arbitrate a Dispute, each party gives up any right that party may have to a jury trial, as well as other rights that party would have in court that are not available or are more limited in arbitration, such as the rights to discovery and to appeal.

Arbitration shall be commenced by filing a petition with, and in accordance with the applicable arbitration rules of, JAMS or National Arbitration Forum ("Administrator") as selected by the initiating party. If the parties agree, arbitration may be commenced by appointment of a licensed attorney who is selected by the parties and who agrees to conduct the arbitration without an Administrator. Disputes include matters (i) relating to a deposit account, application for or denial of credit, enforcement of any of the obligations we have to each other, compliance with applicable laws and/or regulations, performance or services provided under any agreement by any party, (ii) based on or arising from an alleged tort, or (iii) involving either of our employees, agents, affiliates, or assigns of a party. However, Disputes do not include the validity, enforceability, meaning, or scope of this arbitration provision and such matters may be determined only by a court. If a third party is a party to a Dispute, we each will consent to including the third party in the arbitration proceeding for resolving the Dispute with the third party. Venue for the arbitration proceeding shall be at a location determined by mutual agreement of the parties or, if no agreement, in the city and state where lender or bank is headquartered.

After entry of an Arbitration Order, the non-moving party shall commence arbitration. The moving party shall, at its discretion, also be entitled to commence arbitration but is under no obligation to do so, and the moving party shall not in any way be adversely prejudiced by electing not to commence arbitration. The arbitrator: (i) will hear and rule on appropriate dispositive motions for judgment on the pleadings, for failure to state a claim, or for full or partial summary judgment; (ii) will render a decision and any award applying applicable law; (iii) will give effect to any limitations period in determining any Dispute or defense; (iv) shall enforce the doctrines of compulsory counterclaim, res judicata, and collateral estoppel, if applicable; (v) with regard to motions and the arbitration hearing, shall apply rules of evidence governing civil cases; and (vi) will apply the law of the state specified in the agreement giving rise to the Dispute. Filing of a petition for arbitration shall not prevent any party from (i) seeking and obtaining from a court of competent jurisdiction (notwithstanding ongoing arbitration) provisional or ancillary remedies including but not limited to injunctive relief, property preservation orders, foreclosure, eviction, attachment, replevin, garnishment, and/or the appointment of a receiver, (ii) pursuing non-judicial foreclosure, or (iii) availing itself of any self-help remedies such as setoff and repossession. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration.

Judgment upon an arbitration award may be entered in any court having jurisdiction except that, if the arbitration award exceeds \$4,000,000, any party shall be entitled to a de novo appeal of the award before a panel of three arbitrators. To allow for such appeal, if the award (including Administrator, arbitrator, and attorney's fees and costs) exceeds \$4,000,000, the arbitrator will issue a written, reasoned decision supporting the award, including a statement of authority and its application to the Dispute. A request for de novo appeal must be filed with the arbitrator within 30 days following the date of the arbitration award; if such a request is not made within that time period, the arbitration decision shall become final and binding. On appeal, the arbitrators shall review the award de novo, meaning that they shall reach their own findings of fact and conclusions of law rather than deferring in any manner to the original arbitrator. Appeal of an arbitration award shall be pursuant to the rules of the Administrator or, if the Administrator has no such rules, then the JAMS arbitration appellate rules shall apply.

Arbitration under this provision concerns a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. sec. 1 et seq. This arbitration provision shall survive any termination, amendment, or expiration of this Agreement. If the terms of this provision vary from the Administrator's rules, this arbitration provision shall control.

RELIANCE. Each party (i) certifies that no one has represented to such party that the other party would not seek to enforce jury and class action waivers in the event of suit, and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, the mutual waivers, agreements, and certifications in this section.

ASSIGNMENT, DUE ON SALE OR CHANGE OF CONTROL. For all Loans secured by Real Property, this provision shall control, supersede and replace all conflicting provisions in any of the Related Documents. Trustor shall not, without the prior written consent of Lender, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber the Real Property or the Personal Property or the Collateral (as each is defined in the Loan Agreement or in this Mortgage or the other Related Documents, as the case may be) or Borrower's interest or ownership in the Real Property or Personal Property or the Collateral, or any part of the Real Property or the Personal Property or the Collateral, or the income to be derived from the Real Property or the Personal Property or the Collateral. Lender has approved the Loan in material reliance upon the ownership and control of Borrower and the Real Property being the same as exists as of the closing date (which is the date of the Note unless stated differently in the Related Documents). Accordingly, other than with the prior written consent of Lender, it is and shall be a default under this Mortgage, the Note and all of the Related Documents for there to be any sale, transfer or conveyance or change in control (collectively a "conveyance") of (1) any ownership interest or beneficial interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) or (2) any controlling interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) in any of the following: (i) Trustor or in the Real

Property, or (ii) the operation, management, income, or profits of or fee title to the Real Property (whether held directly or indirectly), or (iii) any entity holding an ownership or beneficial or controlling interest in the Trustor or in the Real Property or (iv) any entity which through one or more intermediaries holds any ownership interest or beneficial interest, or controlling interest (direct or indirect) in the Trustor or the Real Property. "Control" or a "controlling interest" hereunder means the ability of any person or entity to (1) direct the business operations or voting procedures for any entity, (2) cause the election, selection or the appointment of entity officers or managers, (3) cause the appointment of the management managing any entity or (4) cast a majority of the votes in any election or decision making process for any entity or (5) do any of the foregoing for any intermediary entity holding any ownership or beneficial or majority interest (whether direct or indirect) in the Trustor or in the Real Property. This Assignment, Due On Sale or Change Of Control provision does not prohibit (a) a conveyance of personal property which is part of the Collateral under the Loan due to obsolescence or ordinary wear and tear or fire or casualty and which is promptly replaced by Trustor with personal property of equal or greater value, or (b) Trustor leasing any portion of the Real Property to a tenant which is expressly permitted pursuant to (i) the Related Documents, and/or (ii) any assignment of leases which is part of the Related Documents, provided, however, Lender holds a security interest in the lease and a subordination and non-disturbance agreement is granted in favor of Lender on a Lender approved form (unless the same is waived or not required pursuant to the Related Documents or the assignment of leases or this Mortgage).

If this Assignment, Due On Sale or Change Of Control provision is breached, at the option of Lender and without demand or notice, the full principal indebtedness of the Note and the other obligations of the Mortgage and Related Documents shall immediately become due and payable to Lender. Any acceleration of the indebtedness secured by the Real Property because of a default under this provision, shall be deemed a prepayment for all purposes whether or not the accelerated Loan balance is actually paid at the time of the subject conveyance; and if the Note or any Related Document contains a yield maintenance provision or a prepayment fee or prepayment premium (collectively a "yield maintenance clause"), such yield maintenance clause and all sums due thereunder shall also be immediately due and payable upon such acceleration.

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

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

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

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

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

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of ADA County, State of Idaho.

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

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

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

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

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

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all indebtedness secured by this Mortgage.

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

Borrower. The word "Borrower" means ASHTON FARMS LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

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

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and

Reauthorization Act of 1986, Pub. L. No. 99-493 (CERCLA), the Hazardous Materials Transportation Act, 49 U.S.C. Section 301, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

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

Grantor. The word "Grantor" means ASHTON FARMS LLC.

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

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

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

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

Indebtedness. The word "Indebtedness" means and includes without limitation all Loans, together with all other obligations, debts and liabilities of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them; whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable individually or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations; and whether such indebtedness may be or hereafter may become otherwise unenforceable.

Lender. The word "Lender" means ZIONS FIRST NATIONAL BANK, its successors and assigns.

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

Note. The word "Note" means the promissory note dated December 20, 2012, in the original principal amount of \$2,208,350.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.

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

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

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

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness; except that the words do not mean any guaranty or environmental agreement, whether now or hereafter existing, executed in connection with the indebtedness.

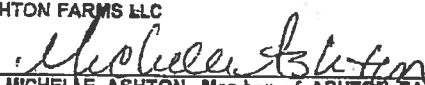
Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

ASHTON FARMS LLC

By:


MICHELLE ASHTON, Member of ASHTON FARMS LLC

By:


JOEL R. ASHTON, Member of ASHTON FARMS LLC

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF IdahoCOUNTY OF Bonanza

On this 21st day of December, in the year 20 12, before me Marilyn Walker, a notary public in and for the State of Idaho, personally appeared MICHELLE ASHTON, Member of ASHTON FARMS LLC and JOEL R. ASHTON, Member of ASHTON FARMS LLC known or identified to me (or proved to me on the oath of Mark Palacios), to be members or designated agents in the limited liability company of ASHTON FARMS LLC, and the members or designated agents who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that they executed the same in said limited liability company name.

Notary Public for Idaho

Residing at Louisville, IdahoMy commission expires 7/22/2014MARILYN WALKER
NOTARY PUBLIC
STATE OF IDAHO

Date: December 24, 2012

File No.: 445938-RX (ss)

EXHIBIT 'A'

LEGAL DESCRIPTION:

PARCEL 1:

TOWNSHIP 6 NORTH, RANGE 40 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 25: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 25, RUNNING THENCE WEST ALONG THE SECTION LINE APPROXIMATELY 2564.5 FEET TO THE WEST RIM OF ROCKY HOLLOW, THENCE FOLLOWING THE MEANDERINGS OF SAID RIM AS FOLLOWS: NORTH 28°40' EAST 866.4 FEET, THENCE NORTH 49°20' EAST 1265 FEET. THENCE NORTH 33° EAST 925 FEET, THENCE NORTH 48°10' EAST 445 FEET, THENCE NORTH 52°30' EAST APPROXIMATELY 445.5 FEET TO A POINT WHERE SAID RIM INTERSECTS THE EAST LINE OF SAID SECTION 25, THENCE SOUTH ALONG THE SECTION LINE APPROXIMATELY 2928 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

TOWNSHIP 6 NORTH, RANGE 40 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 36: NE $\frac{1}{4}$ AND THE E $\frac{1}{2}$ SW $\frac{1}{4}$.

PARCEL 3:

TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 19: GOVERNMENT LOT 4 AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE WEST 48 RODS OF THE WEST HALF OF THE SOUTHEAST QUARTER.

LESS AND EXCEPTING:

PART OF THE S $\frac{1}{2}$ OF SECTION 19 AND THE N $\frac{1}{2}$ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 E.B.M., MADISON COUNTY, IDAHO DESCRIBED AS:

BEGINNING AT A POINT THAT IS S. 00°49'48" W. 1314 FEET ALONG THE SECTION LINE FROM THE W¹/₄ CORNER OF SAID SECTION 19, SAID POINT BEING THE SW CORNER OF GOVERNMENT LOT 3 OF SAID SECTION 19, AND RUNNING THENCE S. 89°14'49" E. 1314.12 FEET ALONG THE SOUTH LINE OF SAID LOT 3 TO THE SE CORNER OF SAID LOT 3; THENCE S. 89°14'49" E. 1313.32 FEET ALONG THE SOUTH LINE OF THE NE¹/₄SW¹/₄ OF SAID SECTION 19 TO THE SE CORNER OF SAID NE¹/₄; THENCE N. 00°50'11" E. 254.86 FEET ALONG THE EAST LINE OF SAID NE¹/₄ TO THE WESTERLY RIM OF AN EXISTING CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING EIGHT (8) COURSES; (1) N. 30°23'37" E. 223.19 FEET; (2) N. 27°42'16" E. 120.08 FEET; (3) N. 21°35'20" E. 150.89 FEET; (4) N. 28°30'52" E. 100.75 FEET; (5) N. 31°27'12" E. 128.46 FEET; (6) N. 34°42'32" E. 193.81 FEET; (7) N. 40°33'44" E. 196.84 FEET; (8) N. 41°06'42" E. 138.58 FEET TO THE NORTH LINE OF THE SE¹/₄ OF SAID SECTION 19; THENCE S. 89°14'35" E. 133.88 FEET ALONG SAID NORTH LINE TO THE EAST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NO. 136254; THENCE S. 00°51'55" W. 473.80 FEET ALONG SAID EAST BOUNDARY TO THE EASTERLY RIM OF AN EXISTING CANYON; THENCE ALONG SAID EASTERLY RIM THE FOLLOWING TWENTY THREE (23) COURSES; (1) S. 36°37'27" W. 64.03 FEET; (2) S. 50°48'15" W. 73.76 FEET; (3) S. 38°00'57" W. 79.04 FEET; (4) S. 29°44'34" W. 114.28; (5) S. 28°39'34" W. 313.92 FEET; (6) S. 28°52'52" W. 180.01 FEET; (7) S. 29°31'40" W. 141.39 feet; (8) S. 23°37'00" W. 217.23 feet; (9) S. 29°09'03" W. 179.48 feet; (10) S. 16°56'10" W. 162.50 feet; (11) S. 21°16'54" W. 54.02 FEET; (12) S. 12°23'50" W. 122.04 FEET; (13) S. 00°45'11" W. 188.31 FEET; (14) S. 15°57'09" W. 60.18 FEET; (15) S. 08°35'06" W. 59.94 FEET; (16) S. 00°00'00" W. 94.32 FEET; (17) S. 02°46'31" W. 183.69 FEET; (18) S. 06°15'53" W. 409.32 FEET; (19) S. 10°55'24" W. 172.84 FEET; (20) S. 06°03'34" W. 173.43 FEET; (21) S. 04°33'02" W. 154.51 FEET; (22) S. 18°41'25" W. 79.94 FEET; (23) N. 87°13'40" W. 62.94 FEET ALONG THE SOUTHERLY RIM OF SAID CANYON TO THE WESTERLY RIM OF SAID CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING SEVEN (7) COURSES; (1) N. 38°35'25" W. 80.13 FEET; (2) N. 30°06'47" W. 191.22 FEET; (3) N. 03°58'24" E. 199.76 FEET; (4) N. 00°15'12" W. 100.74 FEET; (5) N. 13°24'38" W. 355.43 FEET; (6) N. 21°44'09" W. 78.52 FEET; (7) N. 73°34'48" W. 52.95 FEET TO AN EXISTING FENCE LINE; THENCE ALONG SAID FENCE LINE THE FOLLOWING TWO (2) COURSES; (1) N. 14°00'09" E. 271.77 FEET; (2) N. 49°55'00" W. 347.93 FEET TO THE WESTERLY RIM OF SAID CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING SIX (6) COURSES; (1) N. 32°44'10" E. 308.07 FEET; (2) N. 36°14'38" E. 238.17 FEET; (3) N. 37°02'14" E. 174.65 FEET; (4) N. 21°16'42" E. 67.12 FEET; (5) N. 06°53'49" W. 40.27 FEET; (6) N. 34°21'03" W. 32.39 FEET; THENCE N. 89°14'49" W. 2337.32 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE N. 00°49'48" E. 60.00 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

ALSO LESS: PART OF GOVERNMENT LOT 4, SECTION 19, TOWNSHIP 6 NORTH, RANGE 41 E.B.M., MADISON COUNTY, IDAHO DESCRIBED AS:

File No.: 445938-RX (ss)

Date: December 24, 2012

BEGINNING AT A POINT THAT IS N. 00°49'48" E. 979.76 FEET ALONG THE SECTION LINE, FROM THE SW CORNER OF SAID SECTION 19, AND RUNNING THENCE N. 00°49'48" E. ALONG SAID SECTION LINE 274.54 FEET; THENCE S. 89°14'49" E. 446.20 FEET; THENCE S. 00°49'48" W. 274.42 FEET; THENCE N. 89°15'47" W. 446.20 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 30: GOVERNMENT LOTS 1,2,3, AND 4 AND THE EAST HALF OF THE WEST HALF; AND THE WEST 48 RODS OF THE WEST HALF OF THE EAST HALF.

ALSO: COMMENCING AT A POINT ON THE EAST LINE OF THE UNION PACIFIC RAILROAD'S SNAKE RIVER BELT LINE R/W 1824 FEET NORTH 39°12' EAST FROM THE INTERSECTION OF THE EAST LINE OF SAID R/W AND THE NORTH FENCE LINE OF THE ROAD ON THE SOUTH BOUNDARY LINE OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, THENCE SOUTH 50°48' EAST 100 FEET, THENCE NORTH 39°12' EAST 100 FEET, THENCE NORTH 50°48' WEST 100 FEET, THENCE SOUTH 39°12' WEST 100 FEET TO THE POINT OF BEGINNING.

LESS: BEGINNING AT A POINT THAT IS 443.55 FEET NORTH OF THE SOUTHWEST CORNER OF THE NW¼ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, AND RUNNING THENCE EAST 420 FEET; THENCE NORTH 500 FEET; THENCE WEST 420 FEET; THENCE SOUTH 500 FEET TO THE POINT OF BEGINNING.

ALSO LESS: COMMENCING AT A POINT THAT IS 943.55 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EAST OF THE BOISE MERIDIAN, MADISON COUNTY, IDAHO, AND RUNNING THENCE EAST 420 FEET; THENCE NORTH 500 FEET; THENCE WEST 420 FEET; THENCE SOUTH 500 FEET TO THE POINT OF BEGINNING.

ALSO LESS: BEGINNING 800 FEET SOUTH AND 250 FEET WEST OF THE NORTHEAST CORNER OF LOT 1 (NW¼NW¼), THENCE WEST 350 FEET; THENCE SOUTH 520 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID LOT 1; THENCE EAST 350 FEET ALONG THE SOUTH LINE OF SAID LOT 1; THENCE NORTH 520 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ALSO LESS: PART OF THE NW¼ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EBM, MADISON COUNTY, IDAHO DESCRIBED AS:

File No.: 445938-RX (ss)

Date: December 24, 2012

BEGINNING AT A POINT THAT IS S. 00°50'51" W. 793.52 FEET ALONG THE SECTION LINE, FROM THE NW CORNER OF SAID SECTION 30, AND RUNNING THENCE S. 89°16'02" E. 718.88 FEET TO THE WEST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 146611; THENCE S. 00°43'45" W. ALONG SAID WEST BOUNDARY 520.00 FEET; THENCE S. 39°50'40" W. 476.66 FEET TO THE SE CORNER OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 173154; THENCE N. 00°50'51" E. 500.00 FEET ALONG THE EAST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 173154 TO THE NORTH BOUNDARY OF SAID PROPERTY; THENCE N. 89°17'02" W. 420.00 FEET ALONG SAID NORTH BOUNDARY TO THE WEST LINE OF SAID SECTION 30; THENCE N. 00°50'51" E. 389.97 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

PARCEL 5:

TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 31: ALL OF THE LAND LYING NORTH AND WEST OF THE UNION PACIFIC RAILROAD'S SNAKE RIVER BELT LINE.

Microfile No. 379467
24 DAY Dec 2012
At 12 O'Clock 03 PM
KIM H. MUIR
MADISON CO RECORDER
Fee \$46.00
KEngland Deputy
Recorded at Request of
FIRST AMERICAN TITLE - REXBURG

RECORDATION REQUESTED BY:
ZIONS FIRST NATIONAL BANK
IDAHO FALLS COMMERCIAL BANKING CENTER
1235 S UTAH AVENUE
IDAHO FALLS, ID 83402

WHEN RECORDED MAIL TO:

Zions First National Bank
Commercial Banking
1235 South Utah Avenue
Idaho Falls, ID 83402

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

FA 445938 RX



00000000000009002074512202012

MORTGAGE AND FIXTURE FILING

THIS MORTGAGE dated December 20, 2012, is made and executed between ASHTON FARMS, LLC, an Idaho Limited Liability Company whose address is 327 SOUTH 3000 EAST, SUGAR CITY, ID 83448 (referred to below as "Grantor") and ZIONS FIRST NATIONAL BANK, whose address is 1235 S UTAH AVENUE, IDAHO FALLS, ID 83402 (referred to below as "Lender").

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

SEE EXHIBIT "A" FOR LEGAL DESCRIPTION OF PROPERTY, TOGETHER WITH ANY AND ALL WATER RIGHTS, INCLUDING BUT NOT LIMITED TO WATER RIGHTS NUMBERS: 22-2187, 22-7021, 22-10971 AND 22-10973, NOW OWNED OR HEREAFTER ACQUIRED WHICH ARE APPURTENANT THERETO.

The Real Property or its address is commonly known as ADJACENT TO 244 SOUTH 500 EAST, REXBURG, ID 83440. The Real Property tax identification number is RP06N40E257321 / RP06N40E360001 / RP06N41E196630 / RP06N41E196620 / RP06N41E307492 / RP06N41E300630 / RP06N41E310002.

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

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

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

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

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property.

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

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any

kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage (r as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

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

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

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

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

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

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

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

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

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

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

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

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain such other insurance, including but not limited to hazard, business interruption and boiler insurance as Lender may require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property

**MORTGAGE
(Continued)**

Loan No: 9002

Page 3

is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

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

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

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

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

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

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

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

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

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

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

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

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

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

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

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the

same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

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

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

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

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

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

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

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

FULL PERFORMANCE. If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

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

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

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

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

Default in Favor of Third Parties. Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the indebtedness or Grantor's ability to perform Grantor's obligations under this Mortgage or any of the Related Documents.

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

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

Death or Insolvency. The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

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

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

obligation of Grantor to Lender, whether existing now or later.

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

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

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

Accelerate indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

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

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

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

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

Nonjudicial Sale. If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

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

Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

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

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

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

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

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

NOTICES. Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or

registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

DISPUTE RESOLUTION. This section contains a jury waiver, arbitration clause, and a class action waiver. **READ IT CAREFULLY.**

This dispute resolution provision shall supersede and replace any prior "Jury Waiver," "Judicial Reference," "Class Action Waiver," "Arbitration," "Dispute Resolution," or similar alternative dispute agreement or provision between or among the parties.

JURY TRIAL WAIVER; CLASS ACTION WAIVER. As permitted by applicable law, each party waives their respective rights to a trial before a jury in connection with any Dispute (as "Dispute" is hereinafter defined), and Disputes shall be resolved by a judge sitting without a jury. If a court determines that this provision is not enforceable for any reason and at any time prior to trial of the Dispute, but not later than 30 days after entry of the order determining this provision is unenforceable, any party shall be entitled to move the court for an order compelling arbitration and staying or dismissing such litigation pending arbitration ("Arbitration Order"). If permitted by applicable law, each party also waives the right to litigate in court or an arbitration proceeding any Dispute as a class action, either as a member of a class or as a representative, or to act as a private attorney general.

ARBITRATION. If a claim, dispute, or controversy arises between us with respect to this Agreement, related agreements, or any other agreement or business relationship between any of us whether or not related to the subject matter of this Agreement (all of the foregoing, a "Dispute"), and only if a jury trial waiver is not permitted by applicable law or ruling by a court, any of us may require that the Dispute be resolved by binding arbitration before a single arbitrator at the request of any party. By agreeing to arbitrate a Dispute, each party gives up any right that party may have to a jury trial, as well as other rights that party would have in court that are not available or are more limited in arbitration, such as the rights to discovery and to appeal.

Arbitration shall be commenced by filing a petition with, and in accordance with the applicable arbitration rules of, JAMS or National Arbitration Forum ("Administrator") as selected by the initiating party. If the parties agree, arbitration may be commenced by appointment of a licensed attorney who is selected by the parties and who agrees to conduct the arbitration without an Administrator. Disputes include matters (i) relating to a deposit account, application for or denial of credit, enforcement of any of the obligations we have to each other, compliance with applicable laws and/or regulations, performance or services provided under any agreement by any party, (ii) based on or arising from an alleged tort, or (iii) involving either of our employees, agents, affiliates, or assigns of a party. However, Disputes do not include the validity, enforceability, meaning, or scope of this arbitration provision and such matters may be determined only by a court. If a third party is a party to a Dispute, we each will consent to including the third party in the arbitration proceeding for resolving the Dispute with the third party. Venue for the arbitration proceeding shall be at a location determined by mutual agreement of the parties or, if no agreement, in the city and state where lender or bank is headquartered.

After entry of an Arbitration Order, the non-moving party shall commence arbitration. The moving party shall, at its discretion, also be entitled to commence arbitration but is under no obligation to do so, and the moving party shall not in any way be adversely prejudiced by electing not to commence arbitration. The arbitrator: (i) will hear and rule on appropriate dispositive motions for judgment on the pleadings, for failure to state a claim, or for full or partial summary judgment; (ii) will render a decision and any award applying applicable law; (iii) will give effect to any limitations period in determining any Dispute or defense; (iv) shall enforce the doctrines of compulsory counterclaim, res judicata, and collateral estoppel, if applicable; (v) with regard to motions and the arbitration hearing, shall apply rules of evidence governing civil cases; and (vi) will apply the law of the state specified in the agreement giving rise to the Dispute. Filing of a petition for arbitration shall not prevent any party from (i) seeking and obtaining from a court of competent jurisdiction (notwithstanding ongoing arbitration) provisional or ancillary remedies including but not limited to injunctive relief, property preservation orders, foreclosure, eviction, attachment, replevin, garnishment, and/or the appointment of a receiver, (ii) pursuing non-judicial foreclosure, or (iii) availing itself of any self-help remedies such as setoff and repossession. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration.

Judgment upon an arbitration award may be entered in any court having jurisdiction except that, if the arbitration award exceeds \$4,000,000, any party shall be entitled to a de novo appeal of the award before a panel of three arbitrators. To allow for such appeal, if the award (including Administrator, arbitrator, and attorney's fees and costs) exceeds \$4,000,000, the arbitrator will issue a written, reasoned decision supporting the award, including a statement of authority and its application to the Dispute. A request for de novo appeal must be filed with the arbitrator within 30 days following the date of the arbitration award; if such a request is not made within that time period, the arbitration decision shall become final and binding. On appeal, the arbitrators shall review the award de novo, meaning that they shall reach their own findings of fact and conclusions of law rather than deferring in any manner to the original arbitrator. Appeal of an arbitration award shall be pursuant to the rules of the Administrator or, if the Administrator has no such rules, then the JAMS arbitration appellate rules shall apply.

Arbitration under this provision concerns a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. sec. 1 et seq. This arbitration provision shall survive any termination, amendment, or expiration of this Agreement. If the terms of this provision vary from the Administrator's rules, this arbitration provision shall control.

RELIANCE. Each party (i) certifies that no one has represented to such party that the other party would not seek to enforce jury and class action waivers in the event of suit, and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, the mutual waivers, agreements, and certifications in this section.

ASSIGNMENT, DUE ON SALE OR CHANGE OF CONTROL. For all Loans secured by Real Property, this provision shall control, supersede and replace all conflicting provisions in any of the Related Documents. Trustor shall not, without the prior written consent of Lender, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber the Real Property or the Personal Property or the Collateral (as each is defined in the Loan Agreement or in this Mortgage or the other Related Documents, as the case may be) or Borrower's interest or ownership in the Real Property or Personal Property or the Collateral, or any part of the Real Property or the Personal Property or the Collateral, or the income to be derived from the Real Property or the Personal Property or the Collateral. Lender has approved the Loan in material reliance upon the ownership and control of Borrower and the Real Property being the same as exists as of the closing date (which is the date of the Note unless stated differently in the Related Documents). Accordingly, other than with the prior written consent of Lender, it is and shall be a default under this Mortgage, the Note and all of the Related Documents for there to be any sale, transfer or conveyance or change in control (collectively a "conveyance") of (1) any ownership interest or beneficial interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) or (2) any controlling interest (regardless of the percentage interest conveyed or whether such interest is held as a partner, member, shareholder, beneficiary or otherwise) in any of the following: (i) Trustor or in the Real

Property, or (ii) the operation, management, income, or profits of or fee title to the Real Property (whether held directly or indirectly), or (iii) any entity holding an ownership or beneficial or controlling interest in the Trustor or in the Real Property or (iv) any entity which through one or more intermediaries holds any ownership interest or beneficial interest, or controlling interest (direct or indirect) in the Trustor or the Real Property. "Control" or a "controlling interest" hereunder means the ability of any person or entity to (1) direct the business operations or voting procedures for any entity, (2) cause the election, selection or the appointment of entity officers or managers, (3) cause the appointment of the management managing any entity or (4) cast a majority of the votes in any election or decision making process for any entity or (5) do any of the foregoing for any intermediary entity holding any ownership or beneficial or majority interest (whether direct or indirect) in the Trustor or in the Real Property. This Assignment, Due On Sale or Change Of Control provision does not prohibit (a) a conveyance of personal property which is part of the Collateral under the Loan due to obsolescence or ordinary wear and tear or fire or casualty and which is promptly replaced by Trustor with personal property of equal or greater value, or (b) Trustor leasing any portion of the Real Property to a tenant which is expressly permitted pursuant to (i) the Related Documents, and/or (ii) any assignment of leases which is part of the Related Documents, provided, however, Lender holds a security interest in the lease and a subordination and non-disturbance agreement is granted in favor of Lender on a Lender approved form (unless the same is waived or not required pursuant to the Related Documents or the assignment of leases or this Mortgage).

If this Assignment, Due On Sale or Change Of Control provision is breached, at the option of Lender and without demand or notice, the full principal indebtedness of the Note and the other obligations of the Mortgage and Related Documents shall immediately become due and payable to Lender. Any acceleration of the indebtedness secured by the Real Property because of a default under this provision, shall be deemed a prepayment for all purposes whether or not the accelerated Loan balance is actually paid at the time of the subject conveyance; and if the Note or any Related Document contains a yield maintenance provision or a prepayment fee or prepayment premium (collectively a "yield maintenance clause"), such yield maintenance clause and all sums due thereunder shall also be immediately due and payable upon such acceleration.

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

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

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

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

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

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of ADA County, State of Idaho.

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

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

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

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

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

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all indebtedness secured by this Mortgage.

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

Borrower. The word "Borrower" means ASHTON FARMS LLC and includes all co-signers and co-makers signing the Note and all their successors and assigns.

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

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and

Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

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

Grantor. The word "Grantor" means ASHTON FARMS LLC.

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

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

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

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

Indebtedness. The word "Indebtedness" means and includes without limitation all loans, together with all other obligations, debts and liabilities of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them; whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable individually or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations; and whether such indebtedness may be or hereafter may become otherwise unenforceable.

Lender. The word "Lender" means ZIONS FIRST NATIONAL BANK, its successors and assigns.

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

Note. The word "Note" means the promissory note dated December 20, 2012, in the original principal amount of \$389,750.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

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

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

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

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness; except that the words do not mean any guaranty or environmental agreement, whether now or hereafter existing, executed in connection with the indebtedness.

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

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

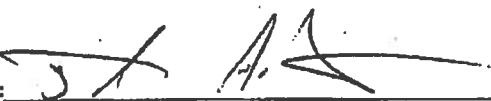
GRANTOR:

ASHTON FARMS LLC

By:


MICHELLE ASHTON, Member of ASHTON FARMS
LLC

By:


JOEL R. ASHTON, Member of ASHTON FARMS LLC

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF IdahoCOUNTY OF Bonanza

) SS

On this 21st day of December, in the year 20 13, before me Marilyn Walker, a notary public in and for the State of Idaho, personally appeared MICHELLE ASHTON, Member of ASHTON FARMS LLC and JOEL R. ASHTON, Member of ASHTON FARMS LLC, known or identified to me (or proved to me on the oath of Mark Johnson), to be members or designated agents in the limited liability company of ASHTON FARMS LLC, and the members or designated agents who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that they executed the same in said limited liability company name.

Notary Public for Idaho Marilyn WalkerResiding at Lewistown, IdahoMy commission expires 7/22/2014MARILYN WALKER
NOTARY PUBLIC
STATE OF IDAHO

Date: December 24, 2012

File No.: 445938-RX (ss)

EXHIBIT 'A'

LEGAL DESCRIPTION:

PARCEL 1:

TOWNSHIP 6 NORTH, RANGE 40 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 25: COMMENCING AT THE SOUTHEAST CORNER OF SECTION 25, RUNNING THENCE WEST ALONG THE SECTION LINE APPROXIMATELY 2564.5 FEET TO THE WEST RIM OF ROCKY HOLLOW, THENCE FOLLOWING THE MEANDERINGS OF SAID RIM AS FOLLOWS: NORTH 28°40' EAST 866.4 FEET, THENCE NORTH 49°20' EAST 1265 FEET. THENCE NORTH 33° EAST 925 FEET, THENCE NORTH 48°10' EAST 445 FEET, THENCE NORTH 52°30' EAST APPROXIMATELY 445.5 FEET TO A POINT WHERE SAID RIM INTERSECTS THE EAST LINE OF SAID SECTION 25, THENCE SOUTH ALONG THE SECTION LINE APPROXIMATELY 2928 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

TOWNSHIP 6 NORTH, RANGE 40 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 36: NE¼ AND THE E½ SW¼.

PARCEL 3:

TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 19: GOVERNMENT LOT 4 AND THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, AND THE WEST 48 RODS OF THE WEST HALF OF THE SOUTHEAST QUARTER.

LESS AND EXCEPTING:

PART OF THE S½ OF SECTION 19 AND THE N½ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 E.B.M., MADISON COUNTY, IDAHO DESCRIBED AS:

BEGINNING AT A POINT THAT IS S. 00°49'48" W. 1314 FEET ALONG THE SECTION LINE FROM THE W¼ CORNER OF SAID SECTION 19, SAID POINT BEING THE SW CORNER OF GOVERNMENT LOT 3 OF SAID SECTION 19, AND RUNNING THENCE S. 89°14'49" E. 1314.12 FEET ALONG THE SOUTH LINE OF SAID LOT 3 TO THE SE CORNER OF SAID LOT 3; THENCE S. 89°14'49" E. 1313.32 FEET ALONG THE SOUTH LINE OF THE NE¼SW¼ OF SAID SECTION 19 TO THE SE CORNER OF SAID NE¼; THENCE N. 00°50'11" E. 254.86 FEET ALONG THE EAST LINE OF SAID NE¼ TO THE WESTERLY RIM OF AN EXISTING CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING EIGHT (8) COURSES; (1) N. 30°23'37" E. 223.19 FEET; (2) N. 27°42'16" E. 120.08 FEET; (3) N. 21°35'20" E. 150.89 FEET; (4) N. 28°30'52" E. 100.75 FEET; (5) N. 31°27'12" E. 128.46 FEET; (6) N. 34°42'32" E. 193.81 FEET; (7) N. 40°33'44" E. 196.84 FEET; (8) N. 41°06'42" E. 138.58 FEET TO THE NORTH LINE OF THE SE¼ OF SAID SECTION 19; THENCE S. 89°14'35" E. 133.88 FEET ALONG SAID NORTH LINE TO THE EAST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NO. 136254; THENCE S. 00°51'55" W. 473.80 FEET ALONG SAID EAST BOUNDARY TO THE EASTERLY RIM OF AN EXISTING CANYON; THENCE ALONG SAID EASTERLY RIM THE FOLLOWING TWENTY THREE (23) COURSES; (1) S. 36°37'27" W. 64.03 FEET; (2) S. 50°48'15" W. 73.76 FEET; (3) S. 38°00'57" W. 79.04 FEET; (4) S. 29°44'34" W. 114.28; (5) S. 28°39'34" W. 313.92 FEET; (6) S. 28°52'52" W. 180.01 FEET; (7) S. 29°31'40" W. 141.39 feet; (8) S. 23°37'00" W. 217.23 feet; (9) S. 29°09'03" W. 179.48 feet; (10) S. 16°56'10" W. 162.50 feet; (11) S. 21°16'54" W. 54.02 FEET; (12) S. 12°23'50" W. 122.04 FEET; (13) S. 00°45'11" W. 188.31 FEET; (14) S. 15°57'09" W. 60.18 FEET; (15) S. 08°35'06" W. 59.94 FEET; (16) S. 00°00'00" W. 94.32 FEET; (17) S. 02°46'31" W. 183.69 FEET; (18) S. 06°15'53" W. 409.32 FEET; (19) S. 10°55'24" W. 172.84 FEET; (20) S. 06°03'34" W. 173.43 FEET; (21) S. 04°33'02" W. 154.51 FEET; (22) S. 18°41'25" W. 79.94 FEET; (23) N. 87°13'40" W. 62.94 FEET ALONG THE SOUTHERLY RIM OF SAID CANYON TO THE WESTERLY RIM OF SAID CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING SEVEN (7) COURSES; (1) N. 38°35'25" W. 80.13 FEET; (2) N. 30°06'47" W. 191.22 FEET; (3) N. 03°58'24" E. 199.76 FEET; (4) N. 00°15'12" W. 100.74 FEET; (5) N. 13°24'38" W. 355.43 FEET; (6) N. 21°44'09" W. 78.52 FEET; (7) N. 73°34'48" W. 52.95 FEET TO AN EXISTING FENCE LINE; THENCE ALONG SAID FENCE LINE THE FOLLOWING TWO (2) COURSES; (1) N. 14°00'09" E. 271.77 FEET; (2) N. 49°55'00" W. 347.93 FEET TO THE WESTERLY RIM OF SAID CANYON; THENCE ALONG SAID WESTERLY RIM THE FOLLOWING SIX (6) COURSES; (1) N. 32°44'10" E. 308.07 FEET; (2) N. 36°14'38" E. 238.17 FEET; (3) N. 37°02'14" E. 174.65 FEET; (4) N. 21°16'42" E. 67.12 FEET; (5) N. 06°53'49" W. 40.27 FEET; (6) N. 34°21'03" W. 32.39 FEET; THENCE N. 89°14'49" W. 2337.32 FEET TO THE WEST LINE OF SAID SECTION 19; THENCE N. 00°49'48" E. 60.00 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

ALSO LESS: PART OF GOVERNMENT LOT 4, SECTION 19, TOWNSHIP 6 NORTH, RANGE 41 E.B.M., MADISON COUNTY, IDAHO DESCRIBED AS:

BEGINNING AT A POINT THAT IS N. 00°49'48" E. 979.76 FEET ALONG THE SECTION LINE, FROM THE SW CORNER OF SAID SECTION 19, AND RUNNING THENCE N. 00°49'48" E. ALONG SAID SECTION LINE 274.54 FEET; THENCE S. 89°14'49" E. 446.20 FEET; THENCE S. 00°49'48" W. 274.42 FEET; THENCE N. 89°15'47" W. 446.20 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 30: GOVERNMENT LOTS 1,2,3, AND 4 AND THE EAST HALF OF THE WEST HALF; AND THE WEST 48 RODS OF THE WEST HALF OF THE EAST HALF.

ALSO: COMMENCING AT A POINT ON THE EAST LINE OF THE UNION PACIFIC RAILROAD'S SNAKE RIVER BELT LINE R/W 1824 FEET NORTH 39°12' EAST FROM THE INTERSECTION OF THE EAST LINE OF SAID R/W AND THE NORTH FENCE LINE OF THE ROAD ON THE SOUTH BOUNDARY LINE OF SECTION 30, TOWNSHIP, 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, THENCE SOUTH 50°48' EAST 100 FEET, THENCE NORTH 39°12' EAST 100 FEET, THENCE NORTH 50°48' WEST 100 FEET, THENCE SOUTH 39°12' WEST 100 FEET TO THE POINT OF BEGINNING.

LESS: BEGINNING AT A POINT THAT IS 443.55 FEET NORTH OF THE SOUTHWEST CORNER OF THE NW¼ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, AND RUNNING THENCE EAST 420 FEET; THENCE NORTH 500 FEET; THENCE WEST 420 FEET; THENCE SOUTH 500 FEET TO THE POINT OF BEGINNING.

ALSO LESS: COMMENCING AT A POINT THAT IS 943.55 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EAST OF THE BOISE MERIDIAN, MADISON COUNTY, IDAHO, AND RUNNING THENCE EAST 420 FEET; THENCE NORTH 500 FEET; THENCE WEST 420 FEET; THENCE SOUTH 500 FEET TO THE POINT OF BEGINNING.

ALSO LESS: BEGINNING 800 FEET SOUTH AND 250 FEET WEST OF THE NORTHEAST CORNER OF LOT 1 (NW¼NW¼), THENCE WEST 350 FEET; THENCE SOUTH 520 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID LOT 1; THENCE EAST 350 FEET ALONG THE SOUTH LINE OF SAID LOT 1; THENCE NORTH 520 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ALSO LESS: PART OF THE NW¼ OF SECTION 30, TOWNSHIP 6 NORTH, RANGE 41 EBM, MADISON COUNTY, IDAHO DESCRIBED AS:

File No.: 445938-RX (ss)
Date: December 24, 2012

BEGINNING AT A POINT THAT IS S. 00°50'51" W. 793.52 FEET ALONG THE SECTION LINE, FROM THE NW CORNER OF SAID SECTION 30, AND RUNNING THENCE S. 89°16'02" E. 718.88 FEET TO THE WEST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 146611; THENCE S. 00°43'45" W. ALONG SAID WEST BOUNDARY 520.00 FEET; THENCE S. 39°50'40" W. 476.66 FEET TO THE SE CORNER OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 173154; THENCE N. 00°50'51" E. 500.00 FEET ALONG THE EAST BOUNDARY OF PROPERTY DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 173154 TO THE NORTH BOUNDARY OF SAID PROPERTY; THENCE N. 89°17'02" W. 420.00 FEET ALONG SAID NORTH BOUNDARY TO THE WEST LINE OF SAID SECTION 30; THENCE N. 00°50'51" E. 389.97 FEET ALONG SAID SECTION LINE TO THE POINT OF BEGINNING.

PARCEL 5:
TOWNSHIP 6 NORTH, RANGE 41 EAST, BOISE MERIDIAN, MADISON COUNTY, IDAHO.

SECTION 31: ALL OF THE LAND LYING NORTH AND WEST OF THE UNION PACIFIC RAILROAD'S SNAKE RIVER BELT LINE.