

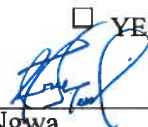
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RECEIVED
APR 23 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**Notice of Security Interest in a Water Right****And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, 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.1. Water Right No(s): 36-14674, 36-14675, 36-15509, 36-16201, 36-7364, 36-8223, 36-16186, 36-16188

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 rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**B) A **FEE of \$25.00 per water right** or adjudication claim.

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

Wells Fargo Bank - Credit Resolution Group333 Market Street, 3rd FloorMAC A 0109-030San Francisco, CA 941634. Name of Water Right Owner/Claimant(s) Jane Felice Miller fka Jane F. Ledbetter dba C Bar M Dairy5. Expiration Date of Notification Period August 20, 20216. Is this a Renewal of Request for Notification? ☐ YES ☒ NO7. Signature(s) of Security Interest holder(s) 
(and title if applicable) Fru Ngwa
Vice President**For Office Use Only**Received by  Date 4/24/12 Fee \$200.00
Received by Date Receipt No. 5032513
Processed by AJ Date WR Date

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED
APR 23 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

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.

1. Water Right No(s): 36-16187, 36-16189
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 rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
 - B) A **FEE of \$25.00 per water right** or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest

Wells Fargo Bank - Credit Resolution Group
333 Market Street, 3rd Floor
MAC A 0109-030
San Francisco, CA 94163
4. Name of Water Right Owner/Claimant(s) Ted Miller Dairy, LLC
5. Expiration Date of Notification Period August 20, 2021
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) of Security Interest holder(s)
(and title if applicable) Fru Ngwa
Vice President

For Office Use Only

Received by _____	Date <u>4/24/12</u>	Fee <u>\$ 50.00</u>
Received by <u>[Signature]</u>	Date <u>4/24/12</u>	Receipt No. <u>3032513</u>
Processed by _____	AJ Date _____	WR _____ Date _____

Recording Requested By,
And After Recording, Return To:

WELLS FARGO BANK,
NATIONAL ASSOCIATION
Credit Resolution Group
Wells Fargo Wholesale Banking
333 Market Street, 3rd Floor
San Francisco, CA 94163
MAC A0109-030
Attn: Fru Ngwa, Vice President

Instrument # 2121568

JEROME COUNTY, JEROME, IDAHO
4-13-2012 02:18:33 No. of Pages: 25
Recorded for : LAND TITLE AND ESCROW
MICHELLE EMERSON Fee: 82.00
Ex-Officio Recorder Deputy J. Wilson

This Mortgage is also to serve as a fixtures and as-extracted collateral (minerals, oil and gas) filing and is to be indexed as such in the appropriate records of Jerome County, Idaho.

MODIFICATION TO AND RESTATEMENT OF
MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURES FILING
(Jerome County, Idaho)
[Fixtures Filing and As-Extracted Collateral Filing]

THIS MODIFICATION TO AND RESTATEMENT OF MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURES FILING (this "Mortgage") is executed effective as of August 19, 2011, by JANE FELICE MILLER, fka Jane F. Ledbetter, aka Jane F. Miller, sometimes doing business as C Bar M Dairy ("Mortgagor"), TED MILLER DAIRY, LLC, an Idaho limited liability company of which Mortgagor is the sole member and the manager ("Borrower"), to and for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Mortgagee").

This Instrument modifies and restates that certain Mortgage and Assignment of Rents and Leases dated as of June 25, 2010, recorded on June 25, 2010 as Instrument No. 2102775, as amended by that First Amendment to Mortgage and Assignment of Rents and Leases dated as of December 6, 2010, recorded on December 9, 2010, as Instrument No. 2105309, real property records of Jerome County, Idaho. This Instrument adds to, but does not release or reduce, the "Secured Obligations"; adds to, but does not release, "Subject Property"; and adds security agreement provisions.

ARTICLE I. MORTGAGE

1.1 Grant. For the purposes and upon the terms and conditions in this Mortgage, Mortgagor, and Borrower to the extent of Borrower's interest therein, irrevocably mortgages, grants, conveys and assigns to Mortgagee, with the right of entry and possession, and, to the extent such property is fixtures, as-extracted collateral, and other personal property security interests in which can be granted pursuant to the Uniform Commercial Code as in effect in the State of Idaho ("UCC"), hereby grants to Mortgagee a security interest in, all of Mortgagor's and Borrower's rights, title and interests, now owned or hereafter acquired, in and to all of the following (collectively, the "Subject Property"): (a) all real property located in Jerome County, Idaho, and described on Exhibit A attached hereto ("Real Property"); (b) all easements, rights-of-way and rights used in connection with or as a means of access to any portion of said real

property; (c) all tenements, hereditaments and appurtenances thereof and thereto; (d) land lying within the right-of-way of any street, open or proposed, adjoining said real property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with said real property; (e) all buildings, improvements, barns, milking parlors, sheds, corrals, pens, fences, milking equipment, stock watering equipment, irrigation equipment (including all pivots and piping), pumps and pump houses, farming equipment and all other equipment and all fixtures and goods that may become fixtures and landscaping now or hereafter erected or located thereon; (f) all development rights and to the extent assignable, dairy permits, livestock confinement operation permits, milk permits, land use permits, and other governmental or quasi-governmental licenses, permits, plans or approvals, and other agreements relating to said real property and the dairy and farm business located and operated thereon (the "Dairy Business"), zoning rights and other similar rights or interests which relate to the development, use or operation of, or that benefit or are appurtenant to, said real property, including but not limited to all nutrient management plans and the like required for the lawful operation of the Dairy Business; (g) all mineral rights, oil and gas rights, air rights, and geothermal rights; (h) all water and water rights (including decrees, claims, permits and licenses, and including but not limited to water right license 36-8223 and water rights 36-14674, 36-14675, 36-15509 for irrigation, commercial dairy, stock water and all other uses), and including without limitation, all wells, canals, ditches and reservoirs of any nature and all rights thereto, appurtenant to or associated with said real property, whether decreed or undeclared, tributary or non-tributary, surface or underground, appropriated or unappropriated, and all shares of stock, membership units, and other rights in any water, canal, ditch or reservoir company, including but not limited to any and all shares in the North Side Canal Company ("Water Stock"), and all well permits, water service contracts, drainage rights and other evidences of any such rights (collectively, "Water Rights"); (i) all farm products of all kinds, and all crops growing and to be grown on said real property and as harvested therefrom wherever located; and (j) all interest or estate which Mortgagor now has or may hereafter acquire in the described property, and all additions, accretions, improvements, replacements, and accessions thereto and embedded software included therein, all awards or payments made for the taking of all or any portion of said real property by eminent domain or any proceeding or purchase in lieu thereof, or any damage to any portion of said real property, together with whatever is receivable or received when any of said property or proceeds thereof are sold, leased, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including without limitation, (i) all accounts, contract rights, chattel paper (whether electronic or tangible), instruments, promissory notes, documents, general intangibles, payment intangibles and other rights to payment of every kind now or at any time hereafter arising out of any such sale, lease, collection, exchange or other disposition of any of the foregoing, (ii) all rights to payment, including returned premiums, with respect to any insurance relating to any of the foregoing, and (iii) all rights to payment with respect to any claim or cause of action affecting or relating to any of the foregoing. The listing of specific rights or property shall not be interpreted as a limitation of general terms.

1.2 Address. The address of the Real Property (if known) is: 268-A South 500 West, Jerome, Idaho 83338. Neither the failure to designate an address nor any inaccuracy in the address designated or this representation shall affect the validity or priority of the lien of this Mortgage on the Real Property as described on Exhibit A. In the event of any conflict between the provisions of Exhibit A and said address, Exhibit A shall control.

1.3 Senior Mortgage. This Mortgage and the grants contained in Section 1.1 and 1.4 are intended to be junior to the following encumbrance, and only the following encumbrance: that certain Mortgage dated December 27, 2006, recorded on December 28, 2006 as Instrument No.2067836, real estate records of Jerome County, Idaho, in favor of Northwest Farm Credit Services (the "Senior Mortgage," and the mortgagee thereunder, the "Senior Mortgagee").

1.4 Security Agreement. Mortgagor and Borrower hereby grant to Mortgagee a security interest in all of their individual and collective rights, title and interest in and to each item of the Subject Property that is personal property, goods that are or may become fixtures, fixtures, and as-extracted collateral and

all other dairy, farm, and irrigation equipment, machinery, fuel and fuel tanks, bulk tanks, piping, pumps, ancillary equipment, and all tangible and intangible property now or in the future located on or at or used in connection with, or generated at or from, the dairy and farm operations conducted on or with the Subject Property, in each case in which a security interest may be created under Article 9 of the UCC, and all proceeds and products thereof, and in and to the Leases and Rents (as such terms are defined below) (collectively, the "UCC Collateral"). This security agreement and the security interests created hereby are in addition to, and do not replace or reduce, any other security agreement or security interest given or granted by Mortgagor or Borrower in favor of Mortgagee.

1.5 Fixtures and As-Extracted Collateral Filings. For purposes of the security interests granted hereby in fixtures and as-extracted collateral, this Mortgage shall also serve as a fixtures and as-extracted collateral filing and is to be indexed as such in the real property records. Mortgagor and Borrower are the debtors; Mortgagor is the owner of record of the Real Property; and Mortgagee is the secured party. Borrower's entity number in Idaho is W27010; Mortgagor's dba number in Idaho is D69815.

1.6 Financing Statements. Mortgagor and Borrower hereby agree to prepare, execute, record, and file, and hereby authorize Mortgagee to prepare, record and file, this Mortgage and such other financing statements or instruments as deemed necessary by Mortgagee to perfect and maintain perfection of the security interests created hereby.

1.7 UCC Remedies. Upon a Default hereunder, in addition to all other rights and remedies hereunder, under the Loan Agreement and other Loan Documents (as defined below), under other documents executed in connection with the Secured Obligations, and at law, Mortgagee shall have all of the rights and remedies available to secured parties under the UCC.

1.8 Landlord Waiver and Agreement. Pursuant to the Dairy Lease (defined below), Mortgagor leases to Borrower and allows Borrower to use portions of the Real Property in connection with Borrower's dairy business. Mortgagor acknowledges that, in addition to the security interests and liens granted by Borrower to Mortgagee hereunder, Borrower has granted security interests and liens in favor of Mortgagee in and to livestock, feed and other collateral that may be kept at or which may be located on the Real Property from time to time (the "Personal Property Collateral"). Mortgagor acknowledges and agrees that: (i) Mortgagee's security interests in and liens on the Personal Property Collateral are senior to and have priority over any and all interests and liens which Mortgagor may have therein or thereto, if any; (ii) Mortgagor waives any and all interests Mortgagor has or may have in Mortgagee's Personal Property Collateral; (iii) Mortgagor agrees to provide Mortgagee with notices of any default by Borrower in the payment of rent or other payments owing to Mortgagor for Borrower's use and possession of the Real Property; (iv) all Personal Property Collateral located on the Real Property is and shall remain the property of the Borrower, subject to the Mortgagee's liens thereon, and that Mortgagor shall have no right to sell any of such Personal Property Collateral; and (v) Mortgagor grants to Mortgagee of the right to enter onto the Real Property at any reasonable time to inspect, care for and remove the Personal Property Collateral, including but not limited to the right to grow, harvest and remove crops, and to conduct other dairy and agricultural activities on the Real Property.

ARTICLE II. OBLIGATIONS SECURED

2.1 Obligations Secured. Mortgagor and Borrower make their grants and assignments for the purpose of securing the following obligations (each, a "Secured Obligation" and collectively, the "Secured Obligations"):

(a) payment to Mortgagee of all sums at any time owing and performance of all other obligations arising under or in connection with (i) that certain Term Note dated as of August 19, 2011, made by Borrower and payable to Mortgagee, in the principal amount of ~~\$5,720,000.00~~ \$5,720,000.00, with interest thereon as

provided therein; and (ii) that certain Promissory Note dated as of August 19, 2011 (with the foregoing Term Note, the "Notes"), made by Borrower and payable to Mortgagee, in the principal amount of ~~\$600,000.00~~, with interest thereon as provided therein; and (iii) the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by said Notes, whether or not specifically referenced therein; and

(b) payment to Mortgagee of all sums at any time owing and performance of all other Obligations arising under or in connection with and as defined in that certain Amended and Restated Credit Agreement dated effective as of August 19, 2011 entered into by and between Mortgagee, Mortgagor and Borrower, amending and restating the credit accommodations provided by Mortgagee to Borrower as amended and restated from time to time, (as amended, modified, supplemented or restated from time to time the "Loan Agreement"), together with the payment and performance of any and all other indebtedness and obligations incurred in connection with the Loan Agreement and under all of the other Loan Documents (as defined in the Loan Agreement) whether or not specifically referenced therein; and

(c) payment and performance of all obligations of Mortgagor and Borrower under this Mortgage, together with all advances, payments or other expenditures made by Mortgagee as or for the payment or performance of any such obligations of Mortgagor; and

(d) payment and performance of all obligations, if any, and the contracts under which they arise, which any rider attached to and recorded with this Mortgage recites are secured hereby; and

(e) payment to Mortgagee of all liability, whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, arising under any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement howsoever described or defined) at any time entered into with Mortgagee in connection with any Secured Obligation; and

(f) payment and performance of all future advances and other obligations that the then record owner of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when any such advance or other obligation is evidenced by a writing which recites that it is secured by this Mortgage; and

(g) all modifications, extensions and renewals of any of the Secured Obligations approved by Mortgagor (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 Obligations. The term "obligations" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Borrower or Mortgagor may be liable individually or jointly with others, or whether recover upon such indebtedness and obligations may be or hereafter becomes unenforceable, and, includes without limitation, all principal, interest, charges, including prepayment charges and late charges, and loan fees at any time accruing or assessed on any Secured Obligation.

2.3 Incorporation. All terms of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property are hereby deemed to have notice of the terms of the Secured Obligations and to have notice, if provided therein, that: (a) the Notes, the Loan Agreement, or other Secured Obligations may permit borrowing, repayment and

reborrowing; and (b) the rate of interest on one or more of the Secured Obligations may vary from time to time. The Loan Agreement and Notes are given in connection with Borrower's Bankruptcy Case (as defined in the Loan Agreement) and pursuant to the Fourth Amended Plan of Reorganization for Borrower and the Bankruptcy Court's Order confirming such Plan, all as defined and described in the Loan Agreement. This Mortgage, and additional Mortgages recorded in Custer County and Gooding County, Idaho, secure the Secured Obligations.

ARTICLE III. ASSIGNMENT OF RENTS

3.1 Assignment. For the purposes and upon the terms and conditions set forth herein, and subject to the Senior Mortgage described in Section 1.3, Mortgagor irrevocably assigns to Mortgagee all of Mortgagor's right, title and interest in, to and under all leases, licenses, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Subject Property, whether existing as of the date hereof or at any time hereafter entered into, together with all guarantees of and security for any tenant's or lessee's performance thereunder, and all amendments, extensions, renewals and modifications thereto (each, a "Lease" and collectively, the "Leases"), together with any and all other rents, issues and profits of the Subject Property (collectively, "Rents"). The Leases include, without limitation, that certain Dairy Lease dated effective as of August 20, 2011 and all other lease and other agreements between Borrower (as tenant) and Mortgagor (as landlord) (collectively, the "Dairy Lease") for Borrower's use of and possession of the Subject Property for Borrower's dairy business, and that the Rents include, without limitation, all payments owing to Mortgagee from Borrower in connection therewith. This assignment shall not impose upon Mortgagee any duty to produce Rents from the Subject Property, nor cause Mortgagee to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor or landlord under any Lease; or (c) responsible for any waste committed by any person or entity at any time in possession of the Subject Property or any part thereof, or for any dangerous or defective condition of the Subject Property, or for any negligence in the management, upkeep, repair or control of the Subject Property. This is an absolute assignment, subject to the Senior Mortgage, not an assignment for security only, and Mortgagee's right to Rents is not contingent upon and may be exercised without taking possession of the Subject Property. Mortgagor agrees to execute and deliver to Mortgagee, within five (5) days of Mortgagee's written request, such additional documents as Mortgagee may reasonably request to further evidence the assignment to Mortgagee of any and all Leases and Rents. Mortgagee, at Mortgagee's option and without notice, may notify any lessee or tenant of this assignment of the Leases and Rents.

Mortgagor represents that she farms portions of the Real Property that are not used by Borrower for its dairy business and that Borrower uses such Real Property during certain times of the year to maintain compliance with its nutrient management plan. Except for the Dairy Lease and as described in this paragraph, Mortgagor hereby certifies to Mortgagee that she has not entered into, and will not enter into without Mortgagee's prior written consent, any oral or written agreement with any person regarding the lease, use, possession, purchase or sale of the Subject Property, or any item thereof. Further, Mortgagor agrees that any lease to or use of the Real Property by third parties shall comply with the conditions of Section 5.1(c) of the Loan Agreement.

3.2 Protection of Security. To protect the security of this assignment, Mortgagor agrees:

(a) That if Mortgagor leases the Subject Property or a portion thereof to third parties, such lease (A) shall be of a term no longer than one year; (B) shall be on arm's-length, market rate terms; and (C) Mortgagor shall deliver a copy of any written lease or a written summary of the lease terms for any unwritten lease to Bank within ten (10) days of the lease being executed or the lease terms being finalized, as applicable. The fact that the consideration paid by the tenant of the Subject Property may be paid in full or in part in crops and farm products shall not mean in and of itself that the lease is not on

arm's-length, market rate terms. Any lease consistent with the terms of this Section 3.2(a) shall be a "Lease" for purposes of this Mortgage.

(b) At Mortgagor's sole cost and expense: (i) to perform each obligation to be performed by the lessor or landlord under each Lease and to enforce or secure the performance of each obligation to be performed by the lessee or tenant under each Lease; (ii) not to modify any Lease in any material respect, nor accept surrender under or terminate the term of any Lease; (iii) not to anticipate the Rents under any Lease; and (iv) not to waive or release any lessee or tenant of or from any Lease obligations. Mortgagor assigns to Mortgagee all of Mortgagor's right and power to modify the terms of any Lease, to accept a surrender under or terminate the term of or anticipate the Rents under any Lease, and to waive or release any lessee or tenant of or from any Lease obligations, and any attempt on the part of Mortgagor to exercise any such rights or powers without Mortgagee's prior written consent shall be a breach of the terms hereof.

(c) At Mortgagor's sole cost and expense, to defend any action in any manner connected with any Lease or the obligations thereunder, and to pay all costs of Mortgagee, including reasonable attorneys' fees, in any such action in which Mortgagee may be required to appear.

(d) That, should Mortgagor fail to do any act required to be done by Mortgagor under a Lease, then Mortgagee, but without obligation to do so and without notice to Mortgagor and without releasing Mortgagor from any obligation hereunder, may make or do the same in such manner and to such extent as Mortgagee deems necessary to protect the security hereof, and, in exercising such powers, Mortgagee may employ attorneys and other agents, and Mortgagor shall pay necessary costs and reasonable attorneys' fees incurred by Mortgagee, or its agents, in the exercise of the powers granted herein. Mortgagor shall give prompt notice to Mortgagee of any default by any lessee or tenant under any Lease, and of any notice of default on the part of Mortgagor under any Lease received from a lessee or tenant thereunder, together with an accurate and complete copy thereof.

(e) To pay to Mortgagee immediately upon demand all sums expended under the authority hereof, including reasonable attorneys' fees, together with interest thereon at the highest rate per annum payable under any Secured Obligation, and the same, at Mortgagee's option, may be added to any Secured Obligation and shall be secured hereby.

3.3 License. Mortgagee confers upon Mortgagor a license ("License") to collect and retain the Rents as, but not before, they come due and payable, until the occurrence of any Default. Upon the occurrence of any Default, the License shall be automatically revoked, and Mortgagee may, subject to the rights of the Senior Mortgagee, at Mortgagee's option and without notice, either in person or by agent, with or without bringing any action, or by a receiver to be appointed by a court: (a) enter, take possession of, manage and operate the Subject Property or any part thereof; (b) make, cancel, enforce or modify any Lease; (c) obtain and evict tenants, fix or modify Rents, and do any acts which Mortgagee deems proper to protect the security hereof; and (d) either with or without taking possession of the Subject Property, in its own name, sue for or otherwise collect and receive all Rents, including those past due and unpaid, and apply the same in accordance with the provisions of this Mortgage. The entering and taking possession of the Subject Property, the collection of Rents and the application thereof as aforesaid, shall not cure or waive any Default, nor waive, modify or affect any notice of default hereunder, nor invalidate any act done pursuant to any such notice. The License shall not grant to Mortgagee the right to possession, except as provided in this Mortgage.

ARTICLE IV. RIGHTS AND DUTIES OF THE PARTIES

4.1 Title. Mortgagor warrants that, except as disclosed to Mortgagee prior to the date hereof in a writing which refers to this warranty, Mortgagor lawfully possess and hold fee simple title to the Real Property without limitation on the right to encumber as herein provided (except as provided in the Senior

Mortgage), and that this Mortgage is a valid lien on the Subject Property and all of Mortgagor's interest therein. Senior Mortgagee has consented to the recording of this Mortgage.

4.2 Taxes and Assessments. Subject to the right, if any, of Mortgagor to contest payment of the following pursuant to any other agreement between Mortgagor and Mortgagee, including the "Right to Contest" provision set forth in Section 4.4 if prior to a delinquency, Mortgagor shall pay prior to delinquency all taxes, assessments, levies and charges imposed: (a) by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein; or (b) by any public authority upon Mortgagee by reason of its interest in any Secured Obligation or in the Subject Property, or by reason of any payment made to Mortgagee pursuant to any Secured Obligation; provided however, that Mortgagor shall have no obligation to pay any income taxes of Mortgagee. Promptly upon request by Mortgagee, Mortgagor shall furnish to Mortgagee satisfactory evidence of the payment of all of the foregoing. Mortgagee is hereby authorized to request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of any of the foregoing.

4.3 Performance of Secured Obligations. Mortgagor shall, or shall cause Borrower to, promptly pay and perform each Secured Obligation when due.

4.4 Liens, Encumbrances and Charges. Mortgagor shall immediately discharge any lien on the Subject Property not approved by Mortgagee in writing (except the Senior Mortgage). Except as otherwise provided in any Secured Obligation or other agreement with Mortgagee, Mortgagor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber the Subject Property, whether senior or subordinate hereto, including without limitation, any mechanics' liens. Right to Contest: Mortgagor may contest in good faith and pursuant to applicable law and proceedings, any such lien or (prior to a delinquency) any such obligation and, during any such proceeding including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests in the Subject Property are not jeopardized, Mortgagor will not be in default of this Section 4.4 pending resolution in the proceeding. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interests.

4.5 Insurance. Mortgagor shall insure the Subject Property against loss or damage by fire and such other risks as Mortgagee shall from time to time require. Mortgagor shall carry public liability insurance, flood insurance as required by applicable law and such other insurance as Mortgagee may reasonably require, including without limitation, business interruption insurance or loss of rental value insurance. Mortgagor shall maintain all required insurance at Mortgagor's expense, under policies issued by companies and in form and substance satisfactory to Mortgagee. Mortgagee, by reason of accepting, rejecting, approving or obtaining insurance, shall not incur any liability for: (a) the existence, nonexistence, form or legal sufficiency thereof; (b) the solvency of any insurer; or (c) the payment of losses. All policies and certificates of insurance shall name Mortgagee as loss payee, and shall provide that the insurance cannot be terminated as to Mortgagee except upon a minimum of ten (10) days' prior written notice to Mortgagee. Immediately upon any request by Mortgagee, Mortgagor shall deliver to Mortgagee the original of all such policies or certificates, with receipts evidencing annual prepayment of the premiums.

4.6 Tax and Insurance Impounds. [intentionally deleted]

4.7 Damages: Insurance and Condemnation Proceeds.

(a) (i) All awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation (or transfer in lieu thereof) for public or private use affecting the Subject Property; (ii) all other claims and awards for damages to or decrease in value of the

Subject Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to the Subject Property; and (iv) all interest which may accrue on any of the foregoing, are all absolutely and irrevocably assigned to and shall be paid to Mortgagee, subject to the rights of the Senior Mortgagee. At the absolute discretion of Mortgagee, whether or not its security is or may be impaired, but subject to applicable law if any, and without regard to any requirement contained in any other Section hereof, Mortgagee may apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any such claim and apply the balance to the Secured Obligations in any order, and release all or any part of the proceeds to Mortgagor upon any conditions Mortgagee may impose. Mortgagee may commence, appear in, defend or prosecute any assigned claim or action, and may adjust, compromise, settle and collect all claims and awards assigned to Mortgagee; provided however, that in no event shall Mortgagee be responsible for any failure to collect any claim or award, regardless of the cause of the failure.

(b) At its sole option, Mortgagee may permit insurance or condemnation proceeds held by Mortgagee to be used for repair or restoration but may impose any reasonable conditions on such use as Mortgagee deems necessary.

4.8 Maintenance and Preservation of Subject Property. Subject to the provisions of any Secured Obligation, Mortgagor covenants:

- (a) to keep the Subject Property in good condition and repair;
- (b) except with Mortgagee's prior written consent, not to remove or demolish the Subject Property, or alter, restore or add to the Subject Property, or initiate or acquiesce in any change in any zoning or other land classification which affects the Subject Property;
- (c) to restore promptly and in good workmanlike manner any portion of the Subject Property which may be damaged or destroyed, unless Mortgagee reasonably requires that all of the insurance proceeds be used to reduce the Secured Obligations as provided in the Section hereof entitled Damages; Insurance and Condemnation Proceeds;
- (d) to comply with and not to suffer violation of any or all of the following which govern acts or conditions on, or otherwise affect the Subject Property: (i) laws, ordinances, regulations, standards and judicial and administrative rules and orders; (ii) covenants, conditions, restrictions and equitable servitudes, whether public or private; and (iii) requirements of insurance companies and any bureau or agency which establishes standards of insurability;
- (e) not to commit or permit waste of the Subject Property; and
- (f) to do all other acts which from the character or use of the Subject Property may be reasonably necessary to maintain and preserve its value.

4.9 Hazardous Substances; Environmental Provisions. Each of Mortgagor and Borrower (and for purposes of this Section 4.9, the term "Mortgagor" includes Mortgagor and Borrower) represents and warrants to Mortgagee as follows:

- (a) To the best of Mortgagor's knowledge and except as disclosed to Mortgagee in writing prior to the date hereof or as set forth in the Reports, as hereinafter defined, the Subject Property is not and has not been a site for the use, generation, manufacture, storage, treatment, disposal, release or threatened release, transportation or presence of any substances which are "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under Environmental Laws, as defined below. Further, to the best of Mortgagor's knowledge, the Subject Property is in material compliance with all requirements under Environmental Laws pertaining to "Hazardous Materials." Hazardous Materials

shall include, without limitation, pollutants, contaminants and other materials, substances and wastes which are hazardous, toxic, caustic, harmful or dangerous to human health or the environment, including petroleum and petroleum products and byproducts, radioactive materials, asbestos, polychlorinated biphenyls and all materials, substances and wastes which are classified or regulated as "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" or similar descriptions under any Environmental Laws. The term Hazardous Materials also shall include the following materials ("Operations Materials") to the extent such Operations Materials are not kept and handled in compliance with applicable Environmental Laws: (i) animal, agricultural and dairy wastes (including carcasses) regulated by Environmental Laws, (ii) dairy cleaning and sanitizing materials, (iii) pesticides (including insecticides, herbicides, and fungicides) and used in the Dairy Business, (iv) veterinary medicines and other materials used in the Dairy Business, and (v) chemicals, pesticides, herbicides and other materials used in the preparation of soil, planting of crops, maintenance of crops and removal of crops; *provided that* all provisions hereunder providing for remediation, cost reimbursement and indemnification of Mortgagee, or pertaining to Environmental Damages in connection with Hazardous Materials, *shall apply* to Operations Materials regardless of compliance with Environmental Laws. As used herein, "Reports" means (i) that Limited Phase II Subsurface Investigation dated November 4, 2011 prepared by Western Geologic, LLC; and (ii) Phase I Environmental Site Assessment dated May 6, 2011 prepared by Brown and Caldwell.

(b) To the best of Mortgagor's knowledge, the Subject Property is in compliance with all laws, ordinances and regulations relating to Hazardous Materials (collectively, the "Environmental Laws"), including without limitation, shall mean the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980 (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; and all other Governmental Rules relating to environmental, health, safety and land use matters, including all Governmental Rules pertaining to the reporting, licensing, permitting, transportation, storage, disposal, investigation or remediation of emissions, discharges, releases or threatened releases of Hazardous Materials into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation or handling of Hazardous Materials, and including federal, state or local laws, regulations and ordinances governing dairies, confined animal facilities, or agricultural activities.

(c) To the best of Mortgagor's knowledge, there are no claims or actions pending or threatened against Mortgagor or the Subject Property by any governmental entity or agency, or any other person or entity, relating to any Hazardous Materials or pursuant to any Environmental Laws.

(d) Mortgagor hereby agrees to defend, indemnify and hold harmless Mortgagee, its directors, officers, employees, agents, successors and assigns, from and against any and all losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including without limitation, attorneys' fees and expenses) which Mortgagee may incur as a direct or indirect consequence of the use, generation, manufacture, storage, treatment, disposal, release or threatened release, transportation or presence of Hazardous Materials in, on, under or about the Subject Property. Mortgagor shall pay to Mortgagee immediately upon demand any amounts owing under this indemnity, together with interest from the date of demand until paid in full at the highest rate of interest applicable to any Secured Obligation. MORTGAGOR'S DUTY AND OBLIGATION TO DEFEND, INDEMNIFY AND HOLD HARMLESS MORTGAGEE SHALL SURVIVE THE CANCELLATION OF THE SECURED OBLIGATIONS AND THE RELEASE OR PARTIAL RELEASE OF THIS MORTGAGE.

(e) Mortgagor shall immediately advise Mortgagee in writing upon Mortgagor's discovery of any occurrence or condition on the Subject Property, or on any real property adjoining or in the vicinity of the Subject Property, that does or could cause all or any part of the Subject Property to be contaminated with any Hazardous Materials or otherwise be in violation of any Environmental Laws, or cause the Subject Property to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws.

(f) Mortgagor is the permittee under a valid livestock confinement operation permit issued by Jerome County, Idaho sufficient to cover the operations of the Dairy Business as currently conducted. Mortgagor has provided a true and complete copy of the permit to Mortgagee.

4.10 Protection of Security. Mortgagor shall, at Mortgagor's sole expense: (a) protect, preserve and defend the Subject Property and Mortgagor's title and right to possession of the Subject Property against all adverse claims; (b) if Mortgagor's interest in the Subject Property is a leasehold interest or estate, pay and perform in a timely manner all obligations to be paid and/or performed by the lessee or tenant under the lease or other agreement creating such leasehold interest or estate; and (c) protect, preserve and defend the security of this Mortgage and the rights and powers of Mortgagee under this Mortgage against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing of the assertion of any claim, the filing of any action or proceeding, or the occurrence of any damage, condemnation offer or other action relating to or affecting the Subject Property and, if Mortgagor's interest in the Subject Property is a leasehold interest or estate, of any notice of default or demand for performance under the lease or other agreement pursuant to which such leasehold interest or estate was created or exists.

4.11 Powers and Duties of Mortgagee. Mortgagee may, upon written request, without obligation to do so or liability therefor and without notice: (a) release all or any part of the Subject Property from the lien of this Mortgage; (b) consent to the making of any map or plat of the Subject Property; and (c) join in any grant of easement or declaration of covenants and restrictions with respect to the Subject Property, or any extension agreement or any agreement subordinating the lien or charge of this Mortgage. Mortgagee may from time to time apply to any court of competent jurisdiction for aid and direction in the exercise or enforcement of its rights and remedies available under this Mortgage, and may obtain orders or decrees directing, confirming or approving acts in the exercise or enforcement of said rights and remedies. Mortgagee has no obligation to notify any party of any pending sale or any action or proceeding (including, but not limited to, actions in which Mortgagor or Mortgagee shall be a party) unless held or commenced and maintained by Mortgagee under this Mortgage.

4.12 Compensation; Exculpation; Indemnification.

(a) Mortgagor shall pay Mortgagee reasonable compensation for services rendered concerning this Mortgage, including without limitation, the providing of any statement of amounts owing under any Secured Obligation, the perfecting or continuing of security interests and liens, the performance or discharge of any obligation of Mortgagor, and other actions taken to preserve the Mortgaged Property. Mortgagee shall not directly or indirectly be liable to Mortgagor or any other person as a consequence of: (i) the exercise of any rights, remedies or powers granted to Mortgagee in this Mortgage; (ii) the failure or refusal of Mortgagee to perform or discharge any obligation or liability of Mortgagor under this Mortgage or any Lease or other agreement related to the Subject Property; or (iii) any loss sustained by Mortgagor or any third party as a result of Mortgagee's failure to lease the Subject Property after any Default or from any other act or omission of Mortgagee in managing the Subject Property after any Default unless such loss is caused by the willful misconduct or gross negligence of Mortgagee; and no such liability shall be asserted or enforced against Mortgagee, and all such liability is hereby expressly waived and released by Mortgagor.

(b) Mortgagor shall indemnify Mortgagee against, and hold Mortgagee harmless from, any and all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, costs of evidence of title, costs of evidence of value, and other expenses which Mortgagee may suffer or incur: (i) by reason of this Mortgage; (ii) by reason of the performance of any act required or permitted hereunder or by law; (iii) as a result of any failure of Mortgagor to perform Mortgagor's obligations; or (iv) by reason of any alleged obligation or undertaking of Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Subject Property, including without limitation, the payment of any taxes, assessments, rents or other lease obligations, liens, encumbrances or other obligations of Mortgagor under this Mortgage. Mortgagor's duty to indemnify Mortgagee shall survive the payment, discharge or cancellation of the Secured Obligations and the release or satisfaction, in whole or in part, of this Mortgage.

(c) Mortgagor shall pay all indebtedness arising under this Section immediately upon demand by Mortgagee, together with interest thereon from the date of demand until paid in full at the highest rate per annum payable under any Secured Obligation. Mortgagee may, at its option, add any such indebtedness to any Secured Obligation.

4.13 Due on Sale or Encumbrance. Except as permitted by the provisions of any Secured Obligation or applicable law, if the Subject Property or any interest therein shall be sold, transferred (including without limitation, where applicable, through sale or transfer of a majority or controlling interest of the corporate stock, or any general partnership, limited liability company or other similar interests, of Mortgagor), mortgaged, assigned, encumbered or leased (other than pursuant to a Lease as defined herein), whether voluntarily, involuntarily or by operation of law (each of which actions and events is called a "Transfer"), without Mortgagee's prior written consent, THEN Mortgagee may, at its sole option, declare all Secured Obligations immediately due and payable in full. Mortgagor shall notify Mortgagee in writing of each Transfer within ten (10) business days of the date thereof.

4.14 Releases, Extensions, Modifications and Additional Security. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Subject Property or in any manner obligated under any Secured Obligation (each, an "Interested Party"), Mortgagee may, from time to time, release any Interested Party from liability for the payment of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, accept additional security, and enforce, waive, subordinate or release all or a portion of the Subject Property or any other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any Interested Party, or release or impair the priority of the lien of this Mortgage upon the Subject Property.

4.15 Release of Mortgage. Upon satisfaction in full of the Secured Obligations, which satisfaction shall be determined by Mortgagee, Mortgagee, without warranty, shall deliver for recording in the appropriate real property records a satisfaction or release of Mortgage for the Subject Property, or that portion thereof then covered hereby, from the lien of this Mortgage.

4.16 Subrogation. Mortgagee shall be subrogated to the lien of all encumbrances, whether or not released of record, paid in whole or in part by Mortgagee pursuant to this Mortgage or by the proceeds of any Secured Obligation.

4.17 Mortgagor Different From Obligor ("Third Party Mortgagor"). As used in this Section, the term "Obligor" shall mean Borrower, Mortgagor, and each person or entity obligated in any manner under any of the Secured Obligations; and the term "Third Party Mortgagor" shall mean (1) each person or entity included in the definition of Mortgagor herein or executing this Mortgage and which or who is not an Obligor under all of the Secured Obligations, and (2) each person or entity included in the definition of Mortgagor herein if any Obligor is not included in said definition.

(a) Representations and Warranties. Each Third Party Mortgagor represents and warrants to Mortgagee that: (i) this Mortgage is executed at an Obligor's request in accordance with the terms of the confirmed bankruptcy plan of Borrower; (ii) this Mortgage complies with all agreements between each Third Party Mortgagor and any Obligor regarding such Third Party Mortgagor's execution hereof; (iii) Mortgagee has made no representation to any Third Party Mortgagor as to the creditworthiness of any Obligor; and (iv) each Third Party Mortgagor has established adequate means of obtaining from each Obligor on a continuing basis financial and other information pertaining to such Obligor's financial condition. Each Third Party Mortgagor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect such Third Party Mortgagor's risks hereunder. Each Third Party Mortgagor further agrees that Mortgagee shall have no obligation to disclose to any Third Party Mortgagor any information or material about any Obligor which is acquired by Mortgagee in any manner. The liability of each Third Party Mortgagor hereunder shall be reinstated and revived, and the rights of Mortgagee shall continue if and to the extent that for any reason any amount at any time paid on account of any Secured Obligation is rescinded or must otherwise be restored by Mortgagee, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Mortgagee in its sole discretion; provided however, that if Mortgagee chooses to contest any such matter at the request of any Third Party Mortgagor, each Third Party Mortgagor agrees to indemnify and hold Mortgagee harmless from and against all costs and expenses, including reasonable attorneys' fees, expended or incurred by Mortgagee in connection therewith, including without limitation, in any litigation with respect thereto.

(b) Waivers.

(i) Each Third Party Mortgagor waives any right to require Mortgagee to: (A) proceed against any Obligor or any other person; (B) marshal assets or proceed against or exhaust any security held from any Obligor or any other person; (C) give notice of the terms, time and place of any public or private sale or other disposition of personal property security held from any Obligor or any other person; (D) take any other action or pursue any other remedy in Mortgagee's power; or (E) make any presentment or demand for performance, or give any notice of nonperformance, protest, notice of protest or notice of dishonor hereunder or in connection with any obligations or evidences of indebtedness held by Mortgagee as security for or which constitute in whole or in part the Secured Obligations, or in connection with the creation of new or additional obligations.

(ii) Each Third Party Mortgagor waives any defense to its obligations hereunder based upon or arising by reason of: (A) any disability or other defense of any Obligor or any other person; (B) the cessation or limitation from any cause whatsoever, other than payment in full, of any Secured Obligation; (C) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of any Obligor which is a corporation, partnership or other type of entity, or any defect in the formation of any such Obligor; (D) the application by any Obligor of the proceeds of any Secured Obligation for purposes other than the purposes represented by any Obligor to, or intended or understood by, Mortgagee or any Third Party Mortgagor; (E) any act or omission by Mortgagee which directly or indirectly results in or aids the discharge of any Obligor or any portion of any Secured Obligation by operation of law or otherwise, or which in any way impairs or suspends any rights or remedies of Mortgagee against any Obligor; (F) any impairment of the value of any interest in any security for the Secured Obligations or any portion thereof, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; (G) any modification of any Secured Obligation, in any form whatsoever, including without limitation the renewal, extension, acceleration or other change in time for payment of, or other change in the terms of, any Secured Obligation or any portion thereof, including increase or decrease of the rate of interest thereon; or (H) any requirement that Mortgagee give any notice of

acceptance of this Mortgage. Until all Secured Obligations shall have been paid in full, no Third Party Mortgagor shall have any right of subrogation, and each Third Party Mortgagor waives any right to enforce any remedy which Mortgagee now has or may hereafter have against any Obligor or any other person, and waives any benefit of, or any right to participate in, any security now or hereafter held by Mortgagee. Each Third Party Mortgagor further waives all rights and defenses it may have arising out of: (1) any election of remedies by Mortgagee, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Secured Obligations, destroys such Third Party Mortgagor's rights of subrogation or such Third Party Mortgagor's rights to proceed against any Obligor for reimbursement; or (2) any loss of rights any Third Party Mortgagor may suffer by reason of any rights, powers or remedies of any Obligor in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging any Obligor's obligations.

(iii) If any of said waivers is determined to be contrary to any applicable law or public policy, such waiver shall be effective to the extent permitted by applicable law or public policy.

ARTICLE V. DEFAULT PROVISIONS

5.1 Default. The occurrence of any of the following shall constitute a "Default" under this Mortgage: (a) Mortgagor shall fail to observe or perform any obligation or agreement contained herein; (b) any representation or warranty of Mortgagor, Borrower or any other person under or in connection with this Mortgage or any Secured Obligation, shall prove to be incorrect, false or misleading in any material respect when made; (c) any default in the payment or performance of any obligation, or any defined Event of Default, under any provisions of the Notes, Loan Agreement or any other contract, instrument or document executed in connection with, or with respect to, any Secured Obligation; or (d) any default under the Senior Mortgage.

5.2 Rights and Remedies. Upon the occurrence of any Post-Confirmation Event of Default, as defined in the Loan Agreement, and at any time thereafter, Mortgagee shall have all the following rights and remedies, in addition to remedies Mortgagee has under the Loan Agreement, other Loan Documents, and at law:

(a) With or without notice, to declare all Secured Obligations immediately due and payable in full.

(b) With or without notice, without releasing Mortgagor or Borrower from any Secured Obligation and without becoming a mortgagee in possession, to cure any Default of Mortgagor or Borrower and, in connection therewith: (i) to enter upon the Subject Property and to do such acts and things as Mortgagee deems necessary or desirable to protect the security of this Mortgage, including without limitation, to appear in and defend any action or proceeding purporting to affect the security of this Mortgage or the rights or powers of Mortgagee hereunder; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of Mortgagee, is senior in priority to this Mortgage, the judgment of Mortgagee being conclusive as between Mortgagee and the Parties hereto; (iii) to obtain, and to pay any premiums or charges with respect to, any insurance required to be carried hereunder; and (iv) to employ counsel, accountants, contractors and other appropriate persons to assist Mortgagee.

(c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Mortgage or to obtain specific enforcement of the covenants of Mortgagor under this Mortgage, and Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy. For the purposes of any suit brought under this subsection, Mortgagor waives the defenses of laches and any applicable statute of limitations.

(d) To request appointment of a receiver by a court of competent jurisdiction, to which appointment Mortgagor hereby consents. The service of a receiver shall be without bond and the

issuance of a replevin order shall be without bond; *provided, however*, that the order for appointment of a receiver shall provide: (1) that the receiver is a special receiver for the Subject Property and the UCC Collateral, and is not a general receiver, and is not responsible for managing Mortgagor's or Borrower's business affairs, conducting meetings of Mortgagor's or Borrower's managers, conducting meetings of Mortgagor's or Borrower's members, investigating or prosecuting claims against Mortgagor's or Borrower's officers, managers, or fiduciaries, evaluating whether or not Mortgagor or Borrower should file bankruptcy, filing any tax returns or reports, including any federal, state or local tax returns or Workmen's Compensation reports, paying, processing, investigating or defending any unsecured claims occurring prior to the date of his appointment or claims against Mortgagor or Borrower; (2) that the receiver is not responsible for paying any pre-receivership expenses, contracts, or leases of Mortgagor or Borrower, except that the receiver shall, if the receiver deems it appropriate, pay any pre-receivership wages and related 941 taxes (federal wage withholding, FICA, and Medicare only) for Mortgagor's or Borrower's employees if the payment of such wages is necessary to maintain the labor pool to preserve, protect and liquidate the Subject Property and the UCC Collateral, and except if an emergency exists to require a payment of a pre-receivership expense to preserve the Subject Property or the UCC Collateral; and (3) that the receiver shall be bound or obligated under any pre-receivership leases or contracts of Mortgagor or Borrower.

(e) To take and possess all documents, books, records, papers and accounts of Mortgagor or the then owner of the Subject Property or Borrower; to make or modify Leases of, and other agreements with respect to, the Subject Property upon such terms and conditions as Mortgagee deems proper; and to make repairs, alterations and improvements to the Subject Property deemed necessary, in Mortgagee's judgment, to protect or enhance the security hereof.

(f) Subject to the Idaho one-action rule, to resort to and realize upon the security hereunder and any other security now or later held by Mortgagee concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received in accordance with the Section hereof entitled Application of Foreclosure Sale Proceeds, all in such order and manner as Mortgagee shall determine in its sole discretion.

(g) Upon sale of the Subject Property at any judicial foreclosure, Mortgagee may credit bid (as determined by Mortgagee in its sole discretion) all or any portion of the Secured Obligations. In determining such credit bid, Mortgagee may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Subject Property as such appraisals may be discounted or adjusted by Mortgagee in its sole underwriting discretion; (ii) expenses and costs incurred by Mortgagee with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Mortgagee anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including without limitation, costs of structural reports and other due diligence, costs to carry the Subject Property prior to resale, costs of resale (e.g., commissions, attorneys' fees, and taxes), Hazardous Materials clean-up and monitoring, deferred maintenance, repair, refurbishment and retrofit, and costs of defending or settling litigation affecting the Subject Property; (iv) declining trends in real property values generally and with respect to properties similar to the Subject Property; (v) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; (vi) the existence of additional collateral, if any, for the Secured Obligations; and (vii) such other factors or matters that Mortgagee deems appropriate. Mortgagor and Borrower acknowledge and agree that: (A) Mortgagee is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (B) this Section does not impose upon Mortgagee any additional obligations that are not imposed by law at the time the credit bid is made; (C) the amount of Mortgagee's credit bid need not have any relation to any loan-to-value ratios specified in any agreement between Mortgagor or Borrower and Mortgagee or previously discussed by Mortgagor or Borrower and Mortgagee; and (D) Mortgagee's credit bid may be, at Mortgagee's sole discretion, higher or lower than any appraised value of the Subject Property.

5.3 Application of Foreclosure Sale Proceeds. After deducting all costs, fees and expenses of sale, including costs of evidence of title and reasonable attorneys' fees in connection with a sale, all proceeds of any foreclosure sale shall be applied first, to payment of all Secured Obligations (including without limitation, all sums expended by Mortgagee under the terms hereof and not then repaid, with accrued interest at the highest rate per annum payable under any Secured Obligation), in such order and amounts as Mortgagee in its sole discretion shall determine; and the remainder, if any, to the person or persons legally entitled thereto.

5.4 Application of Other Sums. All Rents or other sums received by Mortgagee or any agent or receiver hereunder, less all costs and expenses incurred by Mortgagee or such agent or receiver, including reasonable attorneys' fees, shall be applied to payment of the Secured Obligations in such order as Mortgagee shall determine in its sole discretion; provided however, that Mortgagee shall have no liability for funds not actually received by Mortgagee.

5.5 No Cure or Waiver. Neither Mortgagee's or any receiver's entry upon and taking possession of the Subject Property, nor any collection of Rents, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Mortgagee or any receiver shall impair the status of the security of this Mortgage, or cure or waive any breach, Default or notice of default under this Mortgage, or nullify the effect of any notice of default or sale (unless all Secured Obligations and any other sums then due hereunder have been paid in full and Borrower and Mortgagor have cured all other Defaults), or prejudice Mortgagee in the exercise of any right or remedy, or be construed as an affirmation by Mortgagee of any tenancy, lease or option of the Subject Property or a subordination of the lien of this Mortgage.

5.6 Costs, Expenses and Attorneys' Fees. Mortgagor and Borrower agree to pay to Mortgagee immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including court costs and reasonable attorneys' fees, expended or incurred by Mortgagee pursuant to this Article V, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Mortgagee or any other person) relating to Mortgagor or Borrower or in any way affecting any of the Subject Property or Mortgagee's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Mortgagor and Borrower with interest from the date of demand until paid in full at the highest rate per annum payable under any Secured Obligation.

5.7 Power to File Notices and Cure Defaults. Mortgagor and Borrower each hereby irrevocably appoints Mortgagee and its successors and assigns as Mortgagor's true attorney-in-fact to perform any of the following powers, which agency is coupled with an interest: (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Mortgagee deems appropriate to protect Mortgagee's interest; and (b) upon the occurrence of any event, act or omission which with the giving of notice or the passage of time, or both, would constitute a Default, to perform any obligation of Mortgagor or Borrower hereunder; provided however, that Mortgagee, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Mortgagee, and Mortgagee shall not be liable to Mortgagor, Borrower or any other person or entity for any failure to act under this Section.

5.8 Remedies Cumulative; No Waiver. All rights, powers and remedies of Mortgagee hereunder are cumulative and are in addition to all rights, powers and remedies provided by law or in any other agreements between Mortgagor and Mortgagee and between Borrower and Mortgagee. No delay, failure or discontinuance of Mortgagee in exercising any right, power or remedy hereunder shall affect or operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power or remedy.

5.9 Relationship to Liquidation of Borrower's Livestock. Mortgagee acknowledges that it has entered into certain agreements with Borrower with respect to the liquidation of Borrower's livestock, in which Mortgagee holds a security interest. Those agreements include the Loan Agreement and the Security Agreement: Livestock dated as of the date hereof. Mortgagee agrees that it shall not liquidate the Subject Property in such a manner as to interfere with the joint efforts of Borrower and Mortgagee to liquidate Borrower's livestock, but only to the extent Mortgagee is obligated to participate in such joint efforts under the terms of the Loan Agreement and the Security Agreement: Livestock.

ARTICLE VI. MISCELLANEOUS PROVISIONS

6.1 No Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in, or any other lien on, the Subject Property unless Mortgagee specifically consents to a merger in writing.

6.2 Execution of Documents. Mortgagor and Borrower each agree, upon demand by Mortgagee, to execute any and all documents and instruments required to effectuate the provisions hereof.

6.3 Right of Inspection. Mortgagee or its agents or employees may enter onto the Subject Property at any reasonable time for the purpose of inspecting the Subject Property and ascertaining Mortgagor's and Borrower's compliance with the terms hereof.

6.4 Notices. All notices, requests and demands which Mortgagor, Borrower or Mortgagee is required or may desire to give to the other party must be in writing, delivered to Mortgagee at the address set forth on page one of this Mortgage, and to Mortgagor and Borrower at the address set forth at the signature lines below, or at such other address as either party shall designate by written notice to the other party in accordance with the provisions hereof.

6.5 Successors; Assignment. This Mortgage shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the Mortgagee and the Parties; provided however, that this Section does not waive the provisions of the Section hereof entitled "Due on Sale or Encumbrance." Mortgagee reserves the right, in accordance with the Loan Agreement, to sell, assign, transfer, negotiate or grant participations in all or any part of, or any interest in, Mortgagee's rights and benefits under the Notes, the Loan Agreement, any and all other Secured Obligations and this Mortgage. In connection therewith, Mortgagee may disclose all documents and information which Mortgagee now has or hereafter acquires relating to the Subject Property, all or any of the Secured Obligations and/or Mortgagor and Borrower and, as applicable, any partners, joint venturers or members of Mortgagor or Borrower, whether furnished by Mortgagor, Borrower or otherwise.

6.6 Rules of Construction. (a) When appropriate based on the identity of the parties or other circumstances, the masculine gender includes the feminine or neuter or both, and the singular number includes the plural; (b) the term "Subject Property" means all and any part of or interest in the Subject Property; (c) all Section headings herein are for convenience of reference only, are not a part of this Mortgage, and shall be disregarded in the interpretation of any portion of this Mortgage; (d) if more than one person or entity has executed this Mortgage, the obligations all such persons hereunder shall be joint and several; and (e) all terms of Exhibit A, and each other exhibit and/or rider attached hereto and recorded herewith, are hereby incorporated into this Mortgage by this reference.

6.7 Severability of Provisions. If any provision of this Mortgage shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Mortgage.

6.8 Recourse to Separate Property. Any married person who executes this Mortgage and who is obligated under any Secured Obligation agrees that any money judgment which Mortgagee obtains pursuant to the terms of this Mortgage or any other obligation of that married person secured by this Mortgage may be collected by execution upon that person's separate property and community property.

6.9 Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Idaho.

6.10 Arbitration.

(a) Arbitration. The Parties hereto agree, upon demand by any Party or Mortgagee, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise arising out of or relating to this Mortgage and its negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination. For purposes of this Section 6.10, the Parties and Mortgagee are referred to as the "Arbitration Parties."

(b) Governing Rules. Any arbitration proceeding will (i) proceed in a location in Idaho selected by the American Arbitration Association ("AAA"); (ii) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the Arbitration Parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. § 91 or any similar applicable state law.

(c) No Waiver of Provisional Remedies, Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding; or (iv) invoke the jurisdiction of the United States Bankruptcy Court for the District of Idaho to the extent provided in Section 7.2(e) or 7.3(f) of the Loan Agreement. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of Idaho or a neutral retired judge of the state or federal judiciary of Idaho, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's

discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of Idaho and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Idaho Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) Discovery. In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) Class Proceedings and Consolidations. No Party shall be entitled to join or consolidate disputes by or against others in any arbitration, except Parties who have executed this Mortgage or any other contract, instrument or document relating to any Secured Obligation, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity. The resolution of any dispute arising pursuant to the terms of this Mortgage shall be determined by a separate arbitration proceeding and such dispute shall not be consolidated with other disputes or included in any class proceeding.

(g) Payment of Arbitration Costs and Fees. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) Real Property Collateral. Notwithstanding anything herein to the contrary, no dispute shall be submitted to arbitration if the dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, and (ii) all Arbitration Parties waive any rights or benefits that might accrue to them by virtue of the single action rule statute of Idaho, thereby agreeing that all indebtedness and obligations of the Arbitration Parties (including, without limitation, the Secured Obligations), and all mortgages, liens and security interests securing such indebtedness and obligations (including, without limitation, the Secured Obligations), shall remain fully valid and enforceable.

(i) Miscellaneous. To the maximum extent practicable, the AAA, the arbitrators and the Arbitration Parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the Arbitration Parties potentially applies to a dispute, the arbitration provision most directly related to the documents between the Arbitration Parties or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of any of the documents or any relationship between the Arbitration Parties.

By signing below, Borrower confirms its agreement with the terms of this Mortgage regarding Borrower's obligations with respect to, and Mortgagee's rights and remedies with respect to, the Subject Property in which Borrower has rights, title or interests, and agrees to take such action and to execute such other documents, instruments and agreements relating to such obligations, rights, and interests as Mortgagee or Mortgagor may require from time to time in order to effectuate the provisions hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Mortgage as of the date first set forth above.

MORTGAGOR

**Address: 268-A South 500 West
Jerome, ID 83338**


Jane Felice Miller

BORROWER

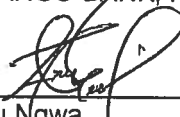
Ted Miller Dairy, LLC

By: 
Jane Felice Miller

Title: Manager and Sole Member

Mortgagee

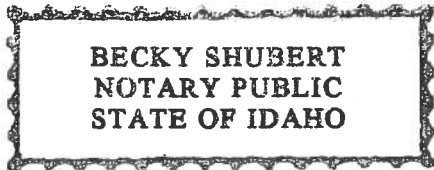
WELLS FARGO BANK, NATIONAL ASSOCIATION

By: 
Name: Fru Ngwa
Title: Vice President

STATE OF IDAHO)
) ss.
County of Jerome)

Before me, the undersigned Notary Public in and for the state and county noted above, personally appeared JANE FELICE MILLER, fka JANE F. LEDBETTER, aka Jane F. Miller, sometimes doing business as C Bar M Dairy, known or proved to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

SUBSCRIBED and sworn to this 13th day of April, 2012.

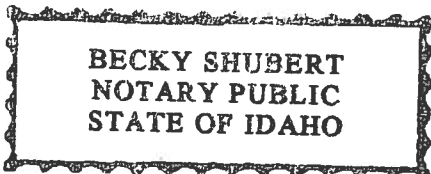


Becky Shubert
Notary Public for Idaho
Residing at: Jerome ID
My Commission Expires: 02-23-2017

STATE OF IDAHO)
) ss.
County of Jerome)

Before me, the undersigned Notary Public in and for the state and county noted above, personally appeared JANE FELICE MILLER, fka JANE F. LEDBETTER, aka Jane F. Miller, sometimes doing business as C Bar M Dairy, known or proved to me to be the Manager and sole Member of **Ted Miller Dairy, LLC, an Idaho limited liability company**, the limited liability company whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in such capacity for and on behalf of said limited liability company.

SUBSCRIBED and sworn to this 13th day of April, 2012.



Becky Shubert
Notary Public for Idaho
Residing at: Jerome ID
My Commission Expires: 02-23-2017

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Francisco }

On 4/10/2012 before me, Evelyn Howard, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Fru Ngwa
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Signature: Evelyn Howard
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

☐ Corporate Officer — Title(s): _____ ☐ Corporate Officer — Title(s): _____

☐ Individual ☐ Individual

☐ Partner — ☐ Limited ☐ General ☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact ☐ Attorney in Fact

☐ Trustee ☐ Trustee

☐ Guardian or Conservator ☐ Guardian or Conservator

☐ Other: _____ ☐ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

EXHIBIT A

**Mortgage, Assignment of Rents, Security Agreement, and Fixtures Filing
Legal Description of the Real Property**

5373156_4.DOC

EXHIBIT A

Legal Description of Real Property

PARCEL

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 32: N $\frac{1}{4}$ SW $\frac{1}{4}$

Section 32: SE $\frac{1}{4}$ SW $\frac{1}{4}$

PARCEL

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 32: SW $\frac{1}{4}$ SW $\frac{1}{4}$; EXCEPTING THEREFROM the following described parcel of land:

Commencing at the Southwest corner of Section 32;
Thence South 89°41' East, 1,121.09 feet along the Southerly boundary of Section 32 to THE TRUE POINT OF BEGINNING;
Thence North 0°03'28" West, 303.00 feet;
Thence South 89°41' East, 150.00 feet to a point 50.0 feet West of the East boundary of said SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Thence South 0°03'28" East parallel to and 50.0 feet West of the East boundary of said SW $\frac{1}{4}$ SW $\frac{1}{4}$, 303.00 feet to a point on the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along the Southerly boundary of Section 32 to THE TRUE POINT OF BEGINNING.

AND EXCEPTING THEREFROM the following described parcel of land:

Commencing at the Southwest corner of Section 32;
Thence South 89°41' East, 971.09 feet along the Southerly boundary of Section 32 to THE TRUE POINT OF BEGINNING;
Thence North 0°03'28" West, 303.00 feet;
Thence South 89°41' East, 150.00 feet;
Thence South 0°03'28" East, 303.00 feet to the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along said Southerly boundary to THE TRUE POINT OF BEGINNING.

AND EXCEPTING THEREFROM the following described parcel of land:

Commencing at the Southwest corner of Section 32;
Thence South 89°41' East, 821.09 feet along the Southerly boundary of Section 32 to THE TRUE POINT OF BEGINNING;
Thence North 0°03'28" West, 303.00 feet;
Thence South 89°41' East, 150.00 feet;
Thence South 0°03'28" East, 303.00 feet to the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along said Southerly boundary to THE TRUE POINT OF BEGINNING.

AND EXCEPTING THEREFROM the following described parcel of land:

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Thence North 0°03'28" West, 303.00 feet;
Thence South 89°41' East, 150.00 feet;
Thence South 0°03'28" East, 303.00 feet to the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along said boundary to THE TRUE POINT OF BEGINNING.

PARCEL

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 32: That part of the SW¼SW¼, described as follows:

Commencing at the Southwest corner of Section 32;
Thence South 89°41' East, 1,121.09 feet along the Southerly boundary of Section 32 to THE TRUE
POINT OF BEGINNING;
Thence North 0°03'28" West, 303.00 feet;
Thence South 89°41' East, 150.00 feet to a point 50.0 feet West of the East boundary of said
SW¼SW¼;
Thence South 0°03'28" East parallel to and 50.0 feet West of the East boundary of said SW¼SW¼,
303.00 feet to a point on the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along the Southerly boundary of Section 32 to THE TRUE
POINT OF BEGINNING.

AND

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 32: That part of the SW¼SW¼, described as follows:

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Thence South 89°41' East, 150.00 feet;
Thence South 0°03'28" East, 303.00 feet to the Southerly boundary of Section 32;
Thence North 89°41' West, 150.00 feet along said Southerly boundary to THE TRUE POINT OF
BEGINNING.

AND

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 32: That part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, described as follows:

Commencing at the Southwest corner of Section 32;

Thence South 89°41' East, 821.09 feet along the Southerly boundary of Section 32 to THE TRUE
POINT OF BEGINNING;

Thence North 0°03'28" West, 303.00 feet;

Thence South 89°41' East, 150.00 feet;

Thence South 0°03'28" East, 303.00 feet to the Southerly boundary of Section 32;

Thence North 89°41' West, 150.00 feet along said Southerly boundary to THE TRUE POINT OF
BEGINNING.

Recording Requested By,
And After Recording, Return To:

WELLS FARGO BANK,
NATIONAL ASSOCIATION
Credit Resolution Group
Wells Fargo Wholesale Banking
333 Market Street, 3rd Floor
San Francisco, CA 94163
MAC A0109-030
Attn: Fru Ngwa, Vice President

Instrument # 240851

GOODING COUNTY, GOODING, IDAHO
04-16-2012 15:14:05 No. of Pages: 23
Recorded for: LAND TITLE AND ESCROW - JEROME
DENISE GILL Fee: \$76.00
Ex-Officio Recorder Deputy: MJS
Electronically Recorded by Simplifile

This Mortgage is also to serve as a fixtures and as-extracted collateral (minerals, oil and gas) filing and is to be indexed as such in the appropriate records of Gooding County, Idaho.

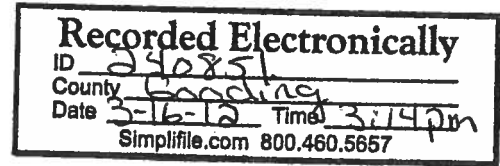
MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURES FILING
(Gooding County, Idaho)
[Fixtures Filing and As-Extracted Collateral Filing]

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURES FILING (this "Mortgage") is executed effective as of August 19, 2011, by JANE FELICE MILLER, fka Jane F. Ledbetter, aka Jane F. Miller, sometimes doing business as C Bar M Dairy ("Mortgagor"), TED MILLER DAIRY, LLC, an Idaho limited liability company of which Mortgagor is the sole member and the manager ("Borrower"), to and for the benefit of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Mortgagee").

ARTICLE I. MORTGAGE

1.1 Grant. For the purposes and upon the terms and conditions in this Mortgage, Mortgagor, and Borrower to the extent of Borrower's interest therein, irrevocably mortgages, grants, conveys and assigns to Mortgagee, with the right of entry and possession, and, to the extent such property is fixtures, as-extracted collateral, and other personal property security interests in which can be granted pursuant to the Uniform Commercial Code as in effect in the State of Idaho ("UCC"), hereby grants to Mortgagee a security interest in, all of Mortgagor's and Borrower's rights, title and interests, now owned or hereafter acquired, in and to all of the following (collectively, the "Subject Property"): (a) all real property located in Gooding County, Idaho, and described on Exhibit A attached hereto ("Real Property"); (b) all easements, rights-of-way and rights used in connection with or as a means of access to any portion of said real property; (c) all tenements, hereditaments and appurtenances thereof and thereto; (d) land lying within the right-of-way of any street, open or proposed, adjoining said real property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with said real property; (e) all buildings, improvements, barns, milking parlors, sheds, corrals, pens, fences, milking equipment, stock watering equipment, irrigation equipment (including all pivots and piping), pumps and pump houses, farming equipment and all other equipment and all fixtures and goods that may become fixtures and landscaping now or hereafter erected or located thereon; (f) all development rights and to the extent assignable, dairy permits, livestock confinement operation permits, milk permits, land use permits, and other governmental or quasi-governmental licenses, permits, plans or approvals, and other agreements

Recording Requested By,
And After Recording, Return To:



WELLS FARGO BANK,
NATIONAL ASSOCIATION
Credit Resolution Group
Wells Fargo Wholesale Banking
333 Market Street, 3rd Floor
San Francisco, CA 94163
MAC A0109-030
Attn: Fru Ngwa, Vice President

This Mortgage is also to serve as a fixtures and as-extracted collateral (minerals, oil and gas) filing and is to be indexed as such in the appropriate records of Gooding County, Idaho.

MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURES FILING
(Gooding County, Idaho)
[Fixtures Filing and As-Extracted Collateral Filing]

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relating to said real property and the dairy and farm business located and operated thereon (the "Dairy Business"), zoning rights and other similar rights or interests which relate to the development, use or operation of, or that benefit or are appurtenant to, said real property, including but not limited to all nutrient management plans and the like required for the lawful operation of the Dairy Business; (g) all mineral rights, oil and gas rights, air rights, and geothermal rights; (h) all water and water rights (including decrees, claims, permits and licenses, and including but not limited to water rights 36-7364, 36-16186, 36-16187, 36-16188, 36-16189, and water right permit 36-16201 for irrigation, commercial dairy, stock water and all other uses), and including without limitation, all wells, canals, ditches and reservoirs of any nature and all rights thereto, appurtenant to or associated with said real property, whether decreed or undeclared, tributary or non-tributary, surface or underground, appropriated or unappropriated, and all shares of stock, membership units, and other rights in any water, canal, ditch or reservoir company, including but not limited to any shares in the North Side Canal Company ("Water Stock") and all well permits, water service contracts, drainage rights and other evidences of any such rights (collectively, "Water Rights"); (i) all farm products of all kinds, and all crops growing and to be grown on said real property and as harvested therefrom wherever located; and (j) all interest or estate which Mortgagor now has or may hereafter acquire in the described property, and all additions, accretions, improvements, replacements, and accessions thereto and embedded software included therein, all awards or payments made for the taking of all or any portion of said real property by eminent domain or any proceeding or purchase in lieu thereof, or any damage to any portion of said real property, together with whatever is receivable or received when any of said property or proceeds thereof are sold, leased, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including without limitation, (i) all accounts, contract rights, chattel paper (whether electronic or tangible), instruments, promissory notes, documents, general intangibles, payment intangibles and other rights to payment of every kind now or at any time hereafter arising out of any such sale, lease, collection, exchange or other disposition of any of the foregoing, (ii) all rights to payment, including returned premiums, with respect to any insurance relating to any of the foregoing, and (iii) all rights to payment with respect to any claim or cause of action affecting or relating to any of the foregoing. The listing of specific rights or property shall not be interpreted as a limitation of general terms.

1.2 Address. Mortgagor represents that the Real Property has no street address. Neither the failure to designate an address nor any inaccuracy in this representation shall affect the validity or priority of the lien of this Mortgage on the Real Property as described on Exhibit A. In the event of any conflict between the provisions of Exhibit A and said address, Exhibit A shall control.

1.3 Senior Mortgage. This Mortgage and the grants contained in Section 1.1 and 1.4 are intended to be junior to the following encumbrance, and only the following encumbrance: that certain Mortgage dated December 27, 2006, recorded on December 28, 2006 as Instrument No. 219680, real estate records of Gooding County, Idaho, in favor of Northwest Farm Credit Services (the "Senior Mortgage," and the mortgagee thereunder, the "Senior Mortgagee").

1.4 Security Agreement. Mortgagor and Borrower hereby grant to Mortgagee a security interest in all of their individual and collective rights, title and interest in and to each item of the Subject Property that is personal property, goods that are or may become fixtures, fixtures, and as-extracted collateral and all other dairy, farm, and irrigation equipment, machinery, fuel and fuel tanks, bulk tanks, piping, pumps, ancillary equipment, and all tangible and intangible property now or in the future located on or at or used in connection with, or generated at or from, the dairy and farm operations conducted on or with the Subject Property, in each case in which a security interest may be created under Article 9 of the UCC, and all proceeds and products thereof, and in and to the Leases and Rents (as such terms are defined below) (collectively, the "UCC Collateral"). This security agreement and the security interests created hereby are in addition to, and do not replace or reduce, any other security agreement or security interest given or granted by Mortgagor or Borrower in favor of Mortgagee.

1.5 Fixtures and As-Extracted Collateral Filings. For purposes of the security interests granted hereby in fixtures and as-extracted collateral, this Mortgage shall also serve as a fixtures and as-extracted collateral filing and is to be indexed as such in the real property records. Mortgagor and Borrower are the debtors; Mortgagor is the owner of record of the Real Property; and Mortgagee is the secured party. Borrower's entity number in Idaho is W27010; Mortgagor's dba number in Idaho is D69815.

1.6 Financing Statements. Mortgagor and Borrower hereby agree to prepare, execute, record, and file, and hereby authorize Mortgagee to prepare, record and file, this Mortgage and such other financing statements or instruments as deemed necessary by Mortgagee to perfect and maintain perfection of the security interests created hereby.

1.7 UCC Remedies. Upon a Default hereunder, in addition to all other rights and remedies hereunder, under the Loan Agreement and other Loan Documents (as defined below), under other documents executed in connection with the Secured Obligations, and at law, Mortgagee shall have all of the rights and remedies available to secured parties under the UCC.

1.8 Landlord Waiver and Agreement. Pursuant to the Dairy Lease (defined below), Mortgagor may lease to Borrower or allow Borrower to use portions of the Real Property in connection with Borrower's dairy business. Mortgagor acknowledges that, in addition to the security interests and liens granted by Borrower to Mortgagee hereunder, Borrower has granted security interests and liens in favor of Mortgagee in and to livestock, feed and other collateral that may be kept at or which may be located on the Real Property from time to time (the "Personal Property Collateral"). Mortgagor acknowledges and agrees that: (i) Mortgagee's security interests in and liens on the Personal Property Collateral are senior to and have priority over any and all interests and liens which Mortgagor may have therein or thereto, if any; (ii) Mortgagor waives any and all interests Mortgagor has or may have in Mortgagee's Personal Property Collateral; (iii) Mortgagor agrees to provide Mortgagee with notices of any default by Borrower in the payment of rent or other payments owing to Mortgagor for Borrower's use and possession of the Real Property; (iv) all Personal Property Collateral located on the Real Property is and shall remain the property of the Borrower, subject to the Mortgagee's liens thereon, and that Mortgagor shall have no right to sell any of such Personal Property Collateral; and (v) Mortgagor grants to Mortgagee of the right to enter onto the Real Property at any reasonable time to inspect, care for and remove the Personal Property Collateral, including but not limited to the right to grow, harvest and remove crops, and to conduct other dairy and agricultural activities on the Real Property.

ARTICLE II. OBLIGATIONS SECURED

2.1 Obligations Secured. Mortgagor and Borrower make their grants and assignments for the purpose of securing the following obligations (each, a "Secured Obligation" and collectively, the "Secured Obligations"):

(a) payment to Mortgagee of all sums at any time owing and performance of all other obligations arising under or in connection with (i) that certain Term Note dated as of August 19, 2011, made by Borrower and payable to Mortgagee, in the principal amount of \$5,722,492.00, with interest thereon as provided therein; and (ii) that certain Promissory Note dated as of August 19, 2011 (with the foregoing Term Note, the "Notes"), made by Borrower and payable to Mortgagee, in the principal amount of \$100,000.00, with interest thereon as provided therein; and (iii) the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by said Notes, whether or not specifically referenced therein; and

(b) payment to Mortgagee of all sums at any time owing and performance of all other Obligations arising under or in connection with and as defined in that certain Amended and Restated Credit Agreement dated effective as of August 19, 2011 entered into by and between

Mortgagee, Mortgagor and Borrower, amending and restating the credit accommodations provided by Mortgagee to Borrower as amended and restated from time to time, (as amended, modified, supplemented or restated from time to time the "Loan Agreement"), together with the payment and performance of any and all other indebtedness and obligations incurred in connection with the Loan Agreement and under all of the other Loan Documents (as defined in the Loan Agreement) whether or not specifically referenced therein; and

(c) payment and performance of all obligations of Mortgagor and Borrower under this Mortgage, together with all advances, payments or other expenditures made by Mortgagee as or for the payment or performance of any such obligations of Mortgagor; and

(d) payment and performance of all obligations, if any, and the contracts under which they arise, which any rider attached to and recorded with this Mortgage recites are secured hereby; and

(e) payment to Mortgagee of all liability, whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, arising under any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement howsoever described or defined) at any time entered into with Mortgagee in connection with any Secured Obligation; and

(f) payment and performance of all future advances and other obligations that the then record owner of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when any such advance or other obligation is evidenced by a writing which recites that it is secured by this Mortgage; and

(g) all modifications, extensions and renewals of any of the Secured Obligations approved by Mortgagor (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 Obligations. The term "obligations" is used herein in its most comprehensive sense and includes any and all advances, debts, obligations and liabilities heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether Borrower or Mortgagor may be liable individually or jointly with others, or whether recover upon such indebtedness and obligations may be or hereafter becomes unenforceable, and, includes without limitation, all principal, interest, charges, including prepayment charges and late charges, and loan fees at any time accruing or assessed on any Secured Obligation.

2.3 Incorporation. All terms of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property are hereby deemed to have notice of the terms of the Secured Obligations and to have notice, if provided therein, that: (a) the Notes, the Loan Agreement, or other Secured Obligations may permit borrowing, repayment and reborrowing; and (b) the rate of interest on one or more of the Secured Obligations may vary from time to time. The Loan Agreement and Notes are given in connection with Borrower's Bankruptcy Case (as defined in the Loan Agreement) and pursuant to the Fourth Amended Plan of Reorganization for Borrower and the Bankruptcy Court's Order confirming such Plan, all as defined and described in the Loan Agreement. This Mortgage, and additional Mortgages recorded in Jerome County and Custer County, Idaho, secure the Secured Obligations.

ARTICLE III. ASSIGNMENT OF RENTS

3.1 Assignment. For the purposes and upon the terms and conditions set forth herein, and subject to the Senior Mortgage described in Section 1.3, Mortgagor irrevocably assigns to Mortgagee all of Mortgagor's right, title and interest in, to and under all leases, licenses, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Subject Property, whether existing as of the date hereof or at any time hereafter entered into, together with all guarantees of and security for any tenant's or lessee's performance thereunder, and all amendments, extensions, renewals and modifications thereto (each, a "Lease" and collectively, the "Leases"), together with any and all other rents, issues and profits of the Subject Property (collectively, "Rents"). The Leases include, without limitation, all lease and other agreements between Borrower (as tenant) and Mortgagor (as landlord) (collectively, the "Dairy Lease") for Borrower's use of and possession of the Subject Property and the Rents include, without limitation, all payments owing to Mortgagor from Borrower in connection therewith. This assignment shall not impose upon Mortgagee any duty to produce Rents from the Subject Property, nor cause Mortgagee to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor or landlord under any Lease; or (c) responsible for any waste committed by any person or entity at any time in possession of the Subject Property or any part thereof, or for any dangerous or defective condition of the Subject Property, or for any negligence in the management, upkeep, repair or control of the Subject Property. This is an absolute assignment subject to the Senior Mortgage described in Section 1.3, not an assignment for security only, and Mortgagee's right to Rents is not contingent upon and may be exercised without taking possession of the Subject Property. Mortgagor agrees to execute and deliver to Mortgagee, within five (5) days of Mortgagee's written request, such additional documents as Mortgagee may reasonably request to further evidence the assignment to Mortgagee of any and all Leases and Rents. Mortgagee, at Mortgagee's option and without notice, may notify any lessee or tenant of this assignment of the Leases and Rents.

Mortgagor represents that she farms the Real Property or leases it to third parties for farming and that Borrower uses the Real Property during certain times of the year to maintain compliance with its nutrient management plan. Except as described in this paragraph, Mortgagor hereby certifies to Mortgagee that she has not entered into, and will not enter into without Mortgagee's prior written consent, any oral or written agreement with any person regarding the lease, use, possession, purchase or sale of the Subject Property, or any item thereof. Further, Mortgagor agrees that any lease to or use of the Real Property by third parties for farming shall comply with the conditions of Section 5.1(d) of the Loan Agreement.

3.2 Protection of Security. To protect the security of this assignment, Mortgagor agrees:

(a) That if Mortgagor leases the Subject Property or a portion thereof to third parties, such lease (A) shall be of a term no longer than one year; (B) shall be on arm's-length, market rate terms; and (C) Mortgagor shall deliver a copy of any written lease or a written summary of the lease terms for any unwritten lease to Bank within ten (10) days of the lease being executed or the lease terms being finalized, as applicable. The fact that the consideration paid by the tenant of the Subject Property may be paid in full or in part in crops and farm products shall not mean in and of itself that the lease is not on arm's-length, market rate terms. Any lease consistent with the terms of this Section 3.2(a) shall be a "Lease" for purposes of this Mortgage.

(b) At Mortgagor's sole cost and expense: (i) to perform each obligation to be performed by the lessor or landlord under each Lease and to enforce or secure the performance of each obligation to be performed by the lessee or tenant under each Lease; (ii) not to modify any Lease in any material respect, nor accept surrender under or terminate the term of any Lease; (iii) not to anticipate the Rents under any Lease; and (iv) not to waive or release any lessee or tenant of or from any Lease obligations. Mortgagor assigns to Mortgagee all of Mortgagor's right and power to modify the terms of any Lease, to accept a surrender under or terminate the term of or anticipate the Rents under any Lease, and to waive or release

any lessee or tenant of or from any Lease obligations, and any attempt on the part of Mortgagor to exercise any such rights or powers without Mortgagee's prior written consent shall be a breach of the terms hereof

(c) At Mortgagor's sole cost and expense, to defend any action in any manner connected with any Lease or the obligations thereunder, and to pay all costs of Mortgagee, including reasonable attorneys' fees, in any such action in which Mortgagee may be required to appear.

(d) That, should Mortgagor fail to do any act required to be done by Mortgagor under a Lease, then Mortgagee, but without obligation to do so and without notice to Mortgagor and without releasing Mortgagor from any obligation hereunder, may make or do the same in such manner and to such extent as Mortgagee deems necessary to protect the security hereof, and, in exercising such powers, Mortgagee may employ attorneys and other agents, and Mortgagor shall pay necessary costs and reasonable attorneys' fees incurred by Mortgagee, or its agents, in the exercise of the powers granted herein. Mortgagor shall give prompt notice to Mortgagee of any default by any lessee or tenant under any Lease, and of any notice of default on the part of Mortgagor under any Lease received from a lessee or tenant thereunder, together with an accurate and complete copy thereof.

(e) To pay to Mortgagee immediately upon demand all sums expended under the authority hereof, including reasonable attorneys' fees, together with interest thereon at the highest rate per annum payable under any Secured Obligation, and the same, at Mortgagee's option, may be added to any Secured Obligation and shall be secured hereby.

3.3 License. Mortgagee confers upon Mortgagor a license ("License") to collect and retain the Rents as, but not before, they come due and payable, until the occurrence of any Default. Upon the occurrence of any Default, the License shall be automatically revoked, and Mortgagee may, subject to the rights of the Senior Mortgage described in Section 1.3, at Mortgagee's option and without notice, either in person or by agent, with or without bringing any action, or by a receiver to be appointed by a court: (a) enter, take possession of, manage and operate the Subject Property or any part thereof; (b) make, cancel, enforce or modify any Lease; (c) obtain and evict tenants, fix or modify Rents, and do any acts which Mortgagee deems proper to protect the security hereof; and (d) either with or without taking possession of the Subject Property, in its own name, sue for or otherwise collect and receive all Rents, including those past due and unpaid, and apply the same in accordance with the provisions of this Mortgage. The entering and taking possession of the Subject Property, the collection of Rents and the application thereof as aforesaid, shall not cure or waive any Default, nor waive, modify or affect any notice of default hereunder, nor invalidate any act done pursuant to any such notice. The License shall not grant to Mortgagee the right to possession, except as provided in this Mortgage.

ARTICLE IV. RIGHTS AND DUTIES OF THE PARTIES

4.1 Title. Mortgagor warrants that, except as disclosed to Mortgagee prior to the date hereof in a writing which refers to this warranty, Mortgagor lawfully possess and hold fee simple title to the Real Property without limitation on the right to encumber as herein provided (except as provided in the Senior Mortgage), and that this Mortgage is a valid lien on the Subject Property and all of Mortgagor's interest therein. Senior Mortgagee has consented to the recording of this Mortgage.

4.2 Taxes and Assessments. Subject to the right, if any, of Mortgagor to contest payment of the following pursuant to any other agreement between Mortgagor and Mortgagee, including the "Right to Contest" provision set forth in Section 4.4 if prior to a delinquency, Mortgagor shall pay prior to delinquency all taxes, assessments, levies and charges imposed: (a) by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein; or (b) by any public authority upon Mortgagee by reason of its

interest in any Secured Obligation or in the Subject Property, or by reason of any payment made to Mortgagee pursuant to any Secured Obligation; provided however, that Mortgagor shall have no obligation to pay any income taxes of Mortgagee. Promptly upon request by Mortgagee, Mortgagor shall furnish to Mortgagee satisfactory evidence of the payment of all of the foregoing. Mortgagee is hereby authorized to request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of any of the foregoing.

4.3 Performance of Secured Obligations. Mortgagor shall, or shall cause Borrower to, promptly pay and perform each Secured Obligation when due.

4.4 Liens, Encumbrances and Charges. Mortgagor shall immediately discharge any lien on the Subject Property not approved by Mortgagee in writing (except the Senior Mortgage). Except as otherwise provided in any Secured Obligation or other agreement with Mortgagee, Mortgagor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber the Subject Property, whether senior or subordinate hereto, including without limitation, any mechanics' liens. Right to Contest: Mortgagor may contest in good faith and pursuant to applicable law and proceedings, any such lien or (prior to a delinquency) any such obligation and, during any such proceeding including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests in the Subject Property are not jeopardized, Mortgagor will not be in default of this Section 4.4 pending resolution in the proceeding. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interests.

4.5 Insurance. Mortgagor shall insure the Subject Property against loss or damage by fire and such other risks as Mortgagee shall from time to time require. Mortgagor shall carry public liability insurance, flood insurance as required by applicable law and such other insurance as Mortgagee may reasonably require, including without limitation, business interruption insurance or loss of rental value insurance. Mortgagor shall maintain all required insurance at Mortgagor's expense, under policies issued by companies and in form and substance satisfactory to Mortgagee. Mortgagee, by reason of accepting, rejecting, approving or obtaining insurance, shall not incur any liability for: (a) the existence, nonexistence, form or legal sufficiency thereof; (b) the solvency of any insurer; or (c) the payment of losses. All policies and certificates of insurance shall name Mortgagee as loss payee, and shall provide that the insurance cannot be terminated as to Mortgagee except upon a minimum of ten (10) days' prior written notice to Mortgagee. Immediately upon any request by Mortgagee, Mortgagor shall deliver to Mortgagee the original of all such policies or certificates, with receipts evidencing annual prepayment of the premiums.

4.6 Tax and Insurance Impounds. [intentionally deleted]

4.7 Damages; Insurance and Condemnation Proceeds.

(a) (i) All awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation (or transfer in lieu thereof) for public or private use affecting the Subject Property; (ii) all other claims and awards for damages to or decrease in value of the Subject Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to the Subject Property; and (iv) all interest which may accrue on any of the foregoing, are all absolutely and irrevocably assigned to and shall be paid to Mortgagee subject to the rights of the Senior Mortgage described in Section 1.3. At the absolute discretion of Mortgagee, whether or not its security is or may be impaired, but subject to applicable law if any, and without regard to any requirement contained in any other Section hereof, Mortgagee may apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any such claim and apply the balance to the Secured Obligations in any order, and release all or any part of the proceeds to Mortgagor upon any conditions Mortgagee may impose. Mortgagee may commence, appear in, defend or prosecute any assigned claim or action, and

may adjust, compromise, settle and collect all claims and awards assigned to Mortgagee; provided however, that in no event shall Mortgagee be responsible for any failure to collect any claim or award, regardless of the cause of the failure.

(b) At its sole option, Mortgagee may permit insurance or condemnation proceeds held by Mortgagee to be used for repair or restoration but may impose any reasonable conditions on such use as Mortgagee deems necessary.

4.8 Maintenance and Preservation of Subject Property. Subject to the provisions of any Secured Obligation, Mortgagor covenants:

(a) to keep the Subject Property in good condition and repair;

(b) except with Mortgagee's prior written consent, not to remove or demolish the Subject Property, or alter, restore or add to the Subject Property, or initiate or acquiesce in any change in any zoning or other land classification which affects the Subject Property;

(c) to restore promptly and in good workmanlike manner any portion of the Subject Property which may be damaged or destroyed, unless Mortgagee reasonably requires that all of the insurance proceeds be used to reduce the Secured Obligations as provided in the Section hereof entitled Damages; Insurance and Condemnation Proceeds;

(d) to comply with and not to suffer violation of any or all of the following which govern acts or conditions on, or otherwise affect the Subject Property: (i) laws, ordinances, regulations, standards and judicial and administrative rules and orders; (ii) covenants, conditions, restrictions and equitable servitudes, whether public or private; and (iii) requirements of insurance companies and any bureau or agency which establishes standards of insurability;

(e) not to commit or permit waste of the Subject Property; and

(f) to do all other acts which from the character or use of the Subject Property may be reasonably necessary to maintain and preserve its value.

4.9 Hazardous Substances; Environmental Provisions. Each of Mortgagor and Borrower (and for purposes of this Section 4.9, the term "Mortgagor" includes Mortgagor and Borrower) represents and warrants to Mortgagee as follows:

(a) To the best of Mortgagor's knowledge and except as disclosed to Mortgagee in writing prior to the date hereof or as set forth in the Reports, as hereinafter defined, the Subject Property is not and has not been a site for the use, generation, manufacture, storage, treatment, disposal, release or threatened release, transportation or presence of any substances which are "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" under Environmental Laws, as defined below. Further, to the best of Mortgagor's knowledge, the Subject Property is in material compliance with all requirements under Environmental Laws pertaining to "Hazardous Materials." Hazardous Materials shall include, without limitation, pollutants, contaminants and other materials, substances and wastes which are hazardous, toxic, caustic, harmful or dangerous to human health or the environment, including petroleum and petroleum products and byproducts, radioactive materials, asbestos, polychlorinated biphenyls and all materials, substances and wastes which are classified or regulated as "hazardous substances," "hazardous wastes," "hazardous materials" or "toxic substances" or similar descriptions under any Environmental Laws. The term Hazardous Materials also shall include the following materials ("Operations Materials") to the extent such Operations Materials are not kept and handled in compliance with applicable Environmental Laws: (i) animal, agricultural and dairy wastes (including carcasses) regulated by Environmental Laws, (ii) dairy cleaning and sanitizing materials, (iii) pesticides (including

insecticides, herbicides, and fungicides) and used in the Dairy Business, (iv) veterinary medicines and other materials used in the Dairy Business, and (v) chemicals, pesticides, herbicides and other materials used in the preparation of soil, planting of crops, maintenance of crops and removal of crops; *provided that* all provisions hereunder providing for remediation, cost reimbursement and indemnification of Mortgagee, or pertaining to Environmental Damages in connection with Hazardous Materials, *shall apply* to Operations Materials regardless of compliance with Environmental Laws. As used herein, "Reports" means (i) that Limited Phase II Subsurface Investigation dated November 4, 2011 prepared by Western Geologic, LLC; and (ii) Phase I Environmental Site Assessment dated May 6, 2011 prepared by Brown and Caldwell.

(b) To the best of Mortgagor's knowledge, the Subject Property is in compliance with all laws, ordinances and regulations relating to Hazardous Materials (collectively, the "Environmental Laws"), including without limitation, shall mean the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq.; the Comprehensive Environment Response, Compensation and Liability Act of 1980 (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; and all other Governmental Rules relating to environmental, health, safety and land use matters, including all Governmental Rules pertaining to the reporting, licensing, permitting, transportation, storage, disposal, investigation or remediation of emissions, discharges, releases or threatened releases of Hazardous Materials into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transportation or handling of Hazardous Materials, and including federal, state or local laws, regulations and ordinances governing dairies, confined animal facilities, or agricultural activities.

(c) To the best of Mortgagor's knowledge, there are no claims or actions pending or threatened against Mortgagor or the Subject Property by any governmental entity or agency, or any other person or entity, relating to any Hazardous Materials or pursuant to any Environmental Laws.

(d) Mortgagor hereby agrees to defend, indemnify and hold harmless Mortgagee, its directors, officers, employees, agents, successors and assigns, from and against any and all losses, damages, liabilities, claims, actions, judgments, court costs and legal or other expenses (including without limitation, attorneys' fees and expenses) which Mortgagee may incur as a direct or indirect consequence of the use, generation, manufacture, storage, treatment, disposal, release or threatened release, transportation or presence of Hazardous Materials in, on, under or about the Subject Property. Mortgagor shall pay to Mortgagee immediately upon demand any amounts owing under this indemnity, together with interest from the date of demand until paid in full at the highest rate of interest applicable to any Secured Obligation. MORTGAGOR'S DUTY AND OBLIGATION TO DEFEND, INDEMNIFY AND HOLD HARMLESS MORTGAGEE SHALL SURVIVE THE CANCELLATION OF THE SECURED OBLIGATIONS AND THE RELEASE OR PARTIAL RELEASE OF THIS MORTGAGE.

(e) Mortgagor shall immediately advise Mortgagee in writing upon Mortgagor's discovery of any occurrence or condition on the Subject Property, or on any real property adjoining or in the vicinity of the Subject Property, that does or could cause all or any part of the Subject Property to be contaminated with any Hazardous Materials or otherwise be in violation of any Environmental Laws, or cause the Subject Property to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws.

4.10 Protection of Security. Mortgagor shall, at Mortgagor's sole expense: (a) protect, preserve and defend the Subject Property and Mortgagor's title and right to possession of the Subject Property against all adverse claims; (b) if Mortgagor's interest in the Subject Property is a leasehold interest or

estate, pay and perform in a timely manner all obligations to be paid and/or performed by the lessee or tenant under the lease or other agreement creating such leasehold interest or estate; and (c) protect, preserve and defend the security of this Mortgage and the rights and powers of Mortgagee under this Mortgage against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing of the assertion of any claim, the filing of any action or proceeding, or the occurrence of any damage, condemnation offer or other action relating to or affecting the Subject Property and, if Mortgagor's interest in the Subject Property is a leasehold interest or estate, of any notice of default or demand for performance under the lease or other agreement pursuant to which such leasehold interest or estate was created or exists.

4.11 Powers and Duties of Mortgagee. Mortgagee may, upon written request, without obligation to do so or liability therefor and without notice: (a) release all or any part of the Subject Property from the lien of this Mortgage; (b) consent to the making of any map or plat of the Subject Property; and (c) join in any grant of easement or declaration of covenants and restrictions with respect to the Subject Property, or any extension agreement or any agreement subordinating the lien or charge of this Mortgage. Mortgagee may from time to time apply to any court of competent jurisdiction for aid and direction in the exercise or enforcement of its rights and remedies available under this Mortgage, and may obtain orders or decrees directing, confirming or approving acts in the exercise or enforcement of said rights and remedies. Mortgagee has no obligation to notify any party of any pending sale or any action or proceeding (including, but not limited to, actions in which Mortgagor or Mortgagee shall be a party) unless held or commenced and maintained by Mortgagee under this Mortgage.

4.12 Compensation; Exculpation; Indemnification.

(a) Mortgagor shall pay Mortgagee reasonable compensation for services rendered concerning this Mortgage, including without limitation, the providing of any statement of amounts owing under any Secured Obligation, the perfecting or continuing of security interests and liens, the performance or discharge of any obligation of Mortgagor, and other actions taken to preserve the Mortgaged Property. Mortgagee shall not directly or indirectly be liable to Mortgagor or any other person as a consequence of: (i) the exercise of any rights, remedies or powers granted to Mortgagee in this Mortgage; (ii) the failure or refusal of Mortgagee to perform or discharge any obligation or liability of Mortgagor under this Mortgage or any Lease or other agreement related to the Subject Property; or (iii) any loss sustained by Mortgagor or any third party as a result of Mortgagee's failure to lease the Subject Property after any Default or from any other act or omission of Mortgagee in managing the Subject Property after any Default unless such loss is caused by the willful misconduct or gross negligence of Mortgagee; and no such liability shall be asserted or enforced against Mortgagee, and all such liability is hereby expressly waived and released by Mortgagor.

(b) Mortgagor shall indemnify Mortgagee against, and hold Mortgagee harmless from, any and all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, costs of evidence of title, costs of evidence of value, and other expenses which Mortgagee may suffer or incur: (i) by reason of this Mortgage; (ii) by reason of the performance of any act required or permitted hereunder or by law; (iii) as a result of any failure of Mortgagor to perform Mortgagor's obligations; or (iv) by reason of any alleged obligation or undertaking of Mortgagee to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Subject Property, including without limitation, the payment of any taxes, assessments, rents or other lease obligations, liens, encumbrances or other obligations of Mortgagor under this Mortgage. Mortgagor's duty to indemnify Mortgagee shall survive the payment, discharge or cancellation of the Secured Obligations and the release or satisfaction, in whole or in part, of this Mortgage.

(c) Mortgagor shall pay all indebtedness arising under this Section immediately upon demand by Mortgagee, together with interest thereon from the date of demand until paid in full at the highest rate

per annum payable under any Secured Obligation. Mortgagee may, at its option, add any such indebtedness to any Secured Obligation.

4.13 Due on Sale or Encumbrance. Except as permitted by the provisions of any Secured Obligation or applicable law, if the Subject Property or any interest therein shall be sold, transferred (including without limitation, where applicable, through sale or transfer of a majority or controlling interest of the corporate stock, or any general partnership, limited liability company or other similar interests, of Mortgagor), mortgaged, assigned, encumbered or leased (other than pursuant to a Lease as defined herein), whether voluntarily, involuntarily or by operation of law (each of which actions and events is called a "Transfer"), without Mortgagee's prior written consent, THEN Mortgagee may, at its sole option, declare all Secured Obligations immediately due and payable in full. Mortgagor shall notify Mortgagee in writing of each Transfer within ten (10) business days of the date thereof.

4.14 Releases, Extensions, Modifications and Additional Security. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Subject Property or in any manner obligated under any Secured Obligation (each, an "Interested Party"), Mortgagee may, from time to time, release any Interested Party from liability for the payment of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, accept additional security, and enforce, waive, subordinate or release all or a portion of the Subject Property or any other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any Interested Party, or release or impair the priority of the lien of this Mortgage upon the Subject Property.

4.15 Release of Mortgage. Upon satisfaction in full of the Secured Obligations, which satisfaction shall be determined by Mortgagee, Mortgagee, without warranty, shall deliver for recording in the appropriate real property records a satisfaction or release of Mortgage for the Subject Property, or that portion thereof then covered hereby, from the lien of this Mortgage.

4.16 Subrogation. Mortgagee shall be subrogated to the lien of all encumbrances, whether or not released of record, paid in whole or in part by Mortgagee pursuant to this Mortgage or by the proceeds of any Secured Obligation.

4.17 Mortgagor Different From Obligor ("Third Party Mortgagor"). As used in this Section, the term "Obligor" shall mean Borrower, Mortgagor, and each person or entity obligated in any manner under any of the Secured Obligations; and the term "Third Party Mortgagor" shall mean (1) each person or entity included in the definition of Mortgagor herein or executing this Mortgage and which or who is not an Obligor under all of the Secured Obligations, and (2) each person or entity included in the definition of Mortgagor herein if any Obligor is not included in said definition.

(a) Representations and Warranties. Each Third Party Mortgagor represents and warrants to Mortgagee that: (i) this Mortgage is executed at an Obligor's request in accordance with the terms of the confirmed bankruptcy plan of Borrower; (ii) this Mortgage complies with all agreements between each Third Party Mortgagor and any Obligor regarding such Third Party Mortgagor's execution hereof; (iii) Mortgagee has made no representation to any Third Party Mortgagor as to the creditworthiness of any Obligor; and (iv) each Third Party Mortgagor has established adequate means of obtaining from each Obligor on a continuing basis financial and other information pertaining to such Obligor's financial condition. Each Third Party Mortgagor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect such Third Party Mortgagor's risks hereunder. Each Third Party Mortgagor further agrees that Mortgagee shall have no obligation to disclose to any Third Party Mortgagor any information or material about any Obligor which is acquired by Mortgagee in any manner. The liability of each Third Party Mortgagor hereunder shall be reinstated and revived, and the rights of Mortgagee shall continue if and to the extent that for any reason any amount at any time paid on account of any Secured Obligation is rescinded or must otherwise be restored by

Mortgagee, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Mortgagee in its sole discretion; provided however, that if Mortgagee chooses to contest any such matter at the request of any Third Party Mortgagor, each Third Party Mortgagor agrees to indemnify and hold Mortgagee harmless from and against all costs and expenses, including reasonable attorneys' fees, expended or incurred by Mortgagee in connection therewith, including without limitation, in any litigation with respect thereto.

(b) Waivers.

(i) Each Third Party Mortgagor waives any right to require Mortgagee to: (A) proceed against any Obligor or any other person; (B) marshal assets or proceed against or exhaust any security held from any Obligor or any other person; (C) give notice of the terms, time and place of any public or private sale or other disposition of personal property security held from any Obligor or any other person; (D) take any other action or pursue any other remedy in Mortgagee's power; or (E) make any presentment or demand for performance, or give any notice of nonperformance, protest, notice of protest or notice of dishonor hereunder or in connection with any obligations or evidences of indebtedness held by Mortgagee as security for or which constitute in whole or in part the Secured Obligations, or in connection with the creation of new or additional obligations.

(ii) Each Third Party Mortgagor waives any defense to its obligations hereunder based upon or arising by reason of: (A) any disability or other defense of any Obligor or any other person; (B) the cessation or limitation from any cause whatsoever, other than payment in full, of any Secured Obligation; (C) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of any Obligor which is a corporation, partnership or other type of entity, or any defect in the formation of any such Obligor; (D) the application by any Obligor of the proceeds of any Secured Obligation for purposes other than the purposes represented by any Obligor to, or intended or understood by, Mortgagee or any Third Party Mortgagor; (E) any act or omission by Mortgagee which directly or indirectly results in or aids the discharge of any Obligor or any portion of any Secured Obligation by operation of law or otherwise, or which in any way impairs or suspends any rights or remedies of Mortgagee against any Obligor; (F) any impairment of the value of any interest in any security for the Secured Obligations or any portion thereof, including without limitation, the failure to obtain or maintain perfection or recordation of any interest in any such security, the release of any such security without substitution, and/or the failure to preserve the value of, or to comply with applicable law in disposing of, any such security; (G) any modification of any Secured Obligation, in any form whatsoever, including without limitation the renewal, extension, acceleration or other change in time for payment of, or other change in the terms of, any Secured Obligation or any portion thereof, including increase or decrease of the rate of interest thereon; or (H) any requirement that Mortgagee give any notice of acceptance of this Mortgage. Until all Secured Obligations shall have been paid in full, no Third Party Mortgagor shall have any right of subrogation, and each Third Party Mortgagor waives any right to enforce any remedy which Mortgagee now has or may hereafter have against any Obligor or any other person, and waives any benefit of, or any right to participate in, any security now or hereafter held by Mortgagee. Each Third Party Mortgagor further waives all rights and defenses it may have arising out of: (1) any election of remedies by Mortgagee, even though that election of remedies, such as a non-judicial foreclosure with respect to any security for any portion of the Secured Obligations, destroys such Third Party Mortgagor's rights of subrogation or such Third Party Mortgagor's rights to proceed against any Obligor for reimbursement; or (2) any loss of rights any Third Party Mortgagor may suffer by reason of any rights, powers or remedies of any Obligor in connection with any anti-deficiency laws or any other laws limiting, qualifying or discharging any Obligor's obligations.

(iii) If any of said waivers is determined to be contrary to any applicable law or public policy, such waiver shall be effective to the extent permitted by applicable law or public policy.

ARTICLE V. DEFAULT PROVISIONS

5.1 Default. The occurrence of any of the following shall constitute a "Default" under this Mortgage: (a) Mortgagor shall fail to observe or perform any obligation or agreement contained herein; (b) any representation or warranty of Mortgagor, Borrower or any other person under or in connection with this Mortgage or any Secured Obligation, shall prove to be incorrect, false or misleading in any material respect when made; (c) any default in the payment or performance of any obligation, or any defined Event of Default, under any provisions of the Notes, Loan Agreement or any other contract, instrument or document executed in connection with, or with respect to, any Secured Obligation; or (d) any default under the Senior Mortgage.

5.2 Rights and Remedies. Upon the occurrence of any Post-Confirmation Event of Default, as defined in the Loan Agreement, and at any time thereafter, Mortgagee shall have all the following rights and remedies, in addition to remedies Mortgagee has under the Loan Agreement, other Loan Documents, and at law:

(a) With or without notice, to declare all Secured Obligations immediately due and payable in full.

(b) With or without notice, without releasing Mortgagor or Borrower from any Secured Obligation and without becoming a mortgagee in possession, to cure any Default of Mortgagor or Borrower and, in connection therewith: (i) to enter upon the Subject Property and to do such acts and things as Mortgagee deems necessary or desirable to protect the security of this Mortgage, including without limitation, to appear in and defend any action or proceeding purporting to affect the security of this Mortgage or the rights or powers of Mortgagee hereunder; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of Mortgagee, is senior in priority to this Mortgage, the judgment of Mortgagee being conclusive as between Mortgagee and the Parties hereto; (iii) to obtain, and to pay any premiums or charges with respect to, any insurance required to be carried hereunder; and (iv) to employ counsel, accountants, contractors and other appropriate persons to assist Mortgagee.

(c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Mortgage or to obtain specific enforcement of the covenants of Mortgagor under this Mortgage, and Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy. For the purposes of any suit brought under this subsection, Mortgagor waives the defenses of laches and any applicable statute of limitations.

(d) To request appointment of a receiver by a court of competent jurisdiction, to which appointment Mortgagor hereby consents. The service of a receiver shall be without bond and the issuance of a replevin order shall be without bond; *provided, however*, that the order for appointment of a receiver shall provide: (1) that the receiver is a special receiver for the Subject Property and the UCC Collateral, and is not a general receiver, and is not responsible for managing Mortgagor's or Borrower's business affairs, conducting meetings of Mortgagor's or Borrower's managers, conducting meetings of Mortgagor's or Borrower's members, investigating or prosecuting claims against Mortgagor's or Borrower's officers, managers, or fiduciaries, evaluating whether or not Mortgagor or Borrower should file bankruptcy, filing any tax returns or reports, including any federal, state or local tax returns or Workmen's Compensation reports, paying, processing, investigating or defending any unsecured claims occurring prior to the date of his appointment or claims against Mortgagor or Borrower; (2) that the receiver is not responsible for paying any pre-receivership expenses, contracts, or leases of Mortgagor or Borrower, except that the receiver shall, if the receiver deems it appropriate, pay any pre-receivership wages and related 941 taxes (federal wage withholding, FICA, and Medicare only) for Mortgagor's or Borrower's employees if the payment of such wages is necessary to maintain the labor pool to preserve, protect and liquidate the Subject Property and the UCC Collateral, and except if an emergency exists to require a payment of a pre-receivership expense to preserve the Subject Property or the UCC Collateral; and (3)

that the receiver shall be bound or obligated under any pre-receivership leases or contracts of Mortgagor or Borrower.

(e) To take and possess all documents, books, records, papers and accounts of Mortgagor or the then owner of the Subject Property or Borrower; to make or modify Leases of, and other agreements with respect to, the Subject Property upon such terms and conditions as Mortgagee deems proper; and to make repairs, alterations and improvements to the Subject Property deemed necessary, in Mortgagee's judgment, to protect or enhance the security hereof.

(f) Subject to the Idaho one-action rule, to resort to and realize upon the security hereunder and any other security now or later held by Mortgagee concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received in accordance with the Section hereof entitled Application of Foreclosure Sale Proceeds, all in such order and manner as Mortgagee shall determine in its sole discretion.

(g) Upon sale of the Subject Property at any judicial foreclosure, Mortgagee may credit bid (as determined by Mortgagee in its sole discretion) all or any portion of the Secured Obligations. In determining such credit bid, Mortgagee may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Subject Property as such appraisals may be discounted or adjusted by Mortgagee in its sole underwriting discretion; (ii) expenses and costs incurred by Mortgagee with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Mortgagee anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including without limitation, costs of structural reports and other due diligence, costs to carry the Subject Property prior to resale, costs of resale (e.g., commissions, attorneys' fees, and taxes), Hazardous Materials clean-up and monitoring, deferred maintenance, repair, refurbishment and retrofit, and costs of defending or settling litigation affecting the Subject Property; (iv) declining trends in real property values generally and with respect to properties similar to the Subject Property; (v) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; (vi) the existence of additional collateral, if any, for the Secured Obligations; and (vii) such other factors or matters that Mortgagee deems appropriate. Mortgagor and Borrower acknowledge and agree that: (A) Mortgagee is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (B) this Section does not impose upon Mortgagee any additional obligations that are not imposed by law at the time the credit bid is made; (C) the amount of Mortgagee's credit bid need not have any relation to any loan-to-value ratios specified in any agreement between Mortgagor or Borrower and Mortgagee or previously discussed by Mortgagor or Borrower and Mortgagee; and (D) Mortgagee's credit bid may be, at Mortgagee's sole discretion, higher or lower than any appraised value of the Subject Property.

5.3 Application of Foreclosure Sale Proceeds. After deducting all costs, fees and expenses of sale, including costs of evidence of title and reasonable attorneys' fees in connection with a sale, all proceeds of any foreclosure sale shall be applied first, to payment of all Secured Obligations (including without limitation, all sums expended by Mortgagee under the terms hereof and not then repaid, with accrued interest at the highest rate per annum payable under any Secured Obligation), in such order and amounts as Mortgagee in its sole discretion shall determine; and the remainder, if any, to the person or persons legally entitled thereto.

5.4 Application of Other Sums. All Rents or other sums received by Mortgagee or any agent or receiver hereunder, less all costs and expenses incurred by Mortgagee or such agent or receiver, including reasonable attorneys' fees, shall be applied to payment of the Secured Obligations in such order as Mortgagee shall determine in its sole discretion; provided however, that Mortgagee shall have no liability for funds not actually received by Mortgagee.

5.5 No Cure or Waiver. Neither Mortgagee's or any receiver's entry upon and taking possession of the Subject Property, nor any collection of Rents, insurance proceeds, condemnation proceeds or

damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Mortgagee or any receiver shall impair the status of the security of this Mortgage, or cure or waive any breach, Default or notice of default under this Mortgage, or nullify the effect of any notice of default or sale (unless all Secured Obligations and any other sums then due hereunder have been paid in full and Borrower and Mortgagor have cured all other Defaults), or prejudice Mortgagee in the exercise of any right or remedy, or be construed as an affirmation by Mortgagee of any tenancy, lease or option of the Subject Property or a subordination of the lien of this Mortgage.

5.6 Costs, Expenses and Attorneys' Fees. Mortgagor and Borrower agree to pay to Mortgagee immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including court costs and reasonable attorneys' fees, expended or incurred by Mortgagee pursuant to this Article V, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Mortgagee or any other person) relating to Mortgagor or Borrower or in any way affecting any of the Subject Property or Mortgagee's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Mortgagor and Borrower with interest from the date of demand until paid in full at the highest rate per annum payable under any Secured Obligation.

5.7 Power to File Notices and Cure Defaults. Mortgagor and Borrower each hereby irrevocably appoints Mortgagee and its successors and assigns as Mortgagor's true attorney-in-fact to perform any of the following powers, which agency is coupled with an interest: (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Mortgagee deems appropriate to protect Mortgagee's interest; and (b) upon the occurrence of any event, act or omission which with the giving of notice or the passage of time, or both, would constitute a Default, to perform any obligation of Mortgagor or Borrower hereunder; provided however, that Mortgagee, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Mortgagee, and Mortgagee shall not be liable to Mortgagor, Borrower or any other person or entity for any failure to act under this Section.

5.8 Remedies Cumulative; No Waiver. All rights, powers and remedies of Mortgagee hereunder are cumulative and are in addition to all rights, powers and remedies provided by law or in any other agreements between Mortgagor and Mortgagee and between Borrower and Mortgagee. No delay, failure or discontinuance of Mortgagee in exercising any right, power or remedy hereunder shall affect or operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power or remedy.

5.9 Relationship to Liquidation of Borrower's Livestock. Mortgagee acknowledges that it has entered into certain agreements with Borrower with respect to the liquidation of Borrower's livestock, in which Mortgagee holds a security interest. Those agreements include the Loan Agreement and the Security Agreement: Livestock dated as of the date hereof. Mortgagee agrees that it shall not liquidate the Subject Property in such a manner as to interfere with the joint efforts of Borrower and Mortgagee to liquidate Borrower's livestock, but only to the extent Mortgagee is obligated to participate in such joint efforts under the terms of the Loan Agreement and the Security Agreement: Livestock.

ARTICLE VI. MISCELLANEOUS PROVISIONS

6.1 No Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in, or any other lien on, the Subject Property unless Mortgagee specifically consents to a merger in writing.

6.2 Execution of Documents. Mortgagor and Borrower each agree, upon demand by Mortgagee, to execute any and all documents and instruments required to effectuate the provisions hereof.

6.3 Right of Inspection. Mortgagee or its agents or employees may enter onto the Subject Property at any reasonable time for the purpose of inspecting the Subject Property and ascertaining Mortgagor's and Borrower's compliance with the terms hereof.

6.4 Notices. All notices, requests and demands which Mortgagor, Borrower or Mortgagee is required or may desire to give to the other party must be in writing, delivered to Mortgagee at the address set forth on page one of this Mortgage, and to Mortgagor and Borrower at the address set forth at the signature lines below, or at such other address as either party shall designate by written notice to the other party in accordance with the provisions hereof.

6.5 Successors; Assignment. This Mortgage shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the Mortgagee and the Parties; provided however, that this Section does not waive the provisions of the Section hereof entitled "Due on Sale or Encumbrance." Mortgagee reserves the right, in accordance with the Loan Agreement, to sell, assign, transfer, negotiate or grant participations in all or any part of, or any interest in, Mortgagee's rights and benefits under the Notes, the Loan Agreement, any and all other Secured Obligations and this Mortgage. In connection therewith, Mortgagee may disclose all documents and information which Mortgagee now has or hereafter acquires relating to the Subject Property, all or any of the Secured Obligations and/or Mortgagor and Borrower and, as applicable, any partners, joint venturers or members of Mortgagor or Borrower, whether furnished by Mortgagor, Borrower or otherwise.

6.6 Rules of Construction. (a) When appropriate based on the identity of the parties or other circumstances, the masculine gender includes the feminine or neuter or both, and the singular number includes the plural; (b) the term "Subject Property" means all and any part of or interest in the Subject Property; (c) all Section headings herein are for convenience of reference only, are not a part of this Mortgage, and shall be disregarded in the interpretation of any portion of this Mortgage; (d) if more than one person or entity has executed this Mortgage, the obligations all such persons hereunder shall be joint and several; and (e) all terms of Exhibit A, and each other exhibit and/or rider attached hereto and recorded herewith, are hereby incorporated into this Mortgage by this reference.

6.7 Severability of Provisions. If any provision of this Mortgage shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Mortgage.

6.8 Recourse to Separate Property. Any married person who executes this Mortgage and who is obligated under any Secured Obligation agrees that any money judgment which Mortgagee obtains pursuant to the terms of this Mortgage or any other obligation of that married person secured by this Mortgage may be collected by execution upon that person's separate property and community property.

6.9 Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Idaho.

6.10 Arbitration.

(a) Arbitration. The Parties hereto agree, upon demand by any Party or Mortgagee, to submit to binding arbitration all claims, disputes and controversies between or among them (and their respective employees, officers, directors, attorneys, and other agents), whether in tort, contract or otherwise arising out of or relating to this Mortgage and its negotiation, execution, collateralization, administration,

repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination. For purposes of this Section 6.10, the Parties and Mortgagee are referred to as the "Arbitration Parties."

(b) Governing Rules. Any arbitration proceeding will (i) proceed in a location in Idaho selected by the American Arbitration Association ("AAA"); (ii) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (iii) be conducted by the AAA, or such other administrator as the Arbitration Parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes to be referred to, as applicable, as the "Rules"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any dispute. Nothing contained herein shall be deemed to be a waiver by any party that is a bank of the protections afforded to it under 12 U.S.C. § 91 or any similar applicable state law.

(c) No Waiver of Provisional Remedies, Self-Help and Foreclosure. The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding; or (iv) invoke the jurisdiction of the United States Bankruptcy Court for the District of Idaho to the extent provided in Section 7.2(e) or 7.3(f) of the Loan Agreement. This exclusion does not constitute a waiver of the right or obligation of any party to submit any dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) Arbitrator Qualifications and Powers. Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. The arbitrator will be a neutral attorney licensed in the State of Idaho or a neutral retired judge of the state or federal judiciary of Idaho, in either case with a minimum of ten years experience in the substantive law applicable to the subject matter of the dispute to be arbitrated. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all disputes in accordance with the substantive law of Idaho and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the Idaho Rules of Civil Procedure or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) Discovery. In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the dispute being arbitrated and must be completed no later than 20 days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator

upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) Class Proceedings and Consolidations. No Party shall be entitled to join or consolidate disputes by or against others in any arbitration, except Parties who have executed this Mortgage or any other contract, instrument or document relating to any Secured Obligation, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity. The resolution of any dispute arising pursuant to the terms of this Mortgage shall be determined by a separate arbitration proceeding and such dispute shall not be consolidated with other disputes or included in any class proceeding.

(g) Payment of Arbitration Costs and Fees. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(h) Real Property Collateral. Notwithstanding anything herein to the contrary, no dispute shall be submitted to arbitration if the dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, and (ii) all Arbitration Parties waive any rights or benefits that might accrue to them by virtue of the single action rule statute of Idaho, thereby agreeing that all indebtedness and obligations of the Arbitration Parties (including, without limitation, the Secured Obligations), and all mortgages, liens and security interests securing such indebtedness and obligations (including, without limitation, the Secured Obligations), shall remain fully valid and enforceable.

(i) Miscellaneous. To the maximum extent practicable, the AAA, the arbitrators and the Arbitration Parties shall take all action required to conclude any arbitration proceeding within 180 days of the filing of the dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the Arbitration Parties potentially applies to a dispute, the arbitration provision most directly related to the documents between the Arbitration Parties or the subject matter of the dispute shall control. This arbitration provision shall survive termination, amendment or expiration of any of the documents or any relationship between the Arbitration Parties.

By signing below, Borrower confirms its agreement with the terms of this Mortgage regarding Borrower's obligations with respect to, and Mortgagee's rights and remedies with respect to, the Subject Property in which Borrower has rights, title or interests, and agrees to take such action and to execute such other documents, instruments and agreements relating to such obligations, rights, and interests as Mortgagee or Mortgagor may require from time to time in order to effectuate the provisions hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Mortgage as of the date first set forth above.

MORTGAGOR

**Address: 268-A South 500 West
Jerome, ID 83338**

Jane Felice Miller
Jane Felice Miller

BORROWER

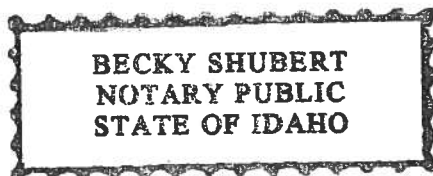
Ted Miller Dairy, LLC

By: Jane Felice Miller
Jane Felice Miller
Title: Manager and Sole Member

STATE OF IDAHO)
) ss.
County of Jerome)

Before me, the undersigned Notary Public in and for the state and county noted above, personally appeared JANE FELICE MILLER, fka JANE F. LEDBETTER, aka Jane. Miller, sometimes doing business as C Bar M Dairy, known or proved to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

SUBSCRIBED and sworn to this 13th day of April, 2012.

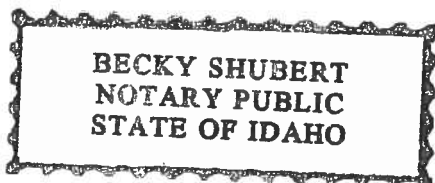


Becky Shubert
Notary Public for Idaho
Residing at: Jerome ID
My Commission Expires: 02-23-2017

STATE OF IDAHO)
) ss.
County of Jerome)

Before me, the undersigned Notary Public in and for the state and county noted above, personally appeared JANE FELICE MILLER, fka JANE F. LEDBETTER, aka Jane F. Miller, sometimes doing business as C Bar M Dairy, known or proved to me to be the Manager and sole Member of **Ted Miller Dairy, LLC, an Idaho limited liability company**, the limited liability company whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in such capacity for and on behalf of said limited liability company.

SUBSCRIBED and sworn to this 13th day of April, 2012.



Becky Shubert
Notary Public for Idaho
Residing at: Jerome ID
My Commission Expires: 02-23-2017

EXHIBIT A

**Mortgage, Assignment of Rents, Security Agreement, and Fixtures Filing
Legal Description of the Real Property**

5373242_5.DOC

EXHIBIT A

Legal Description of Real Property

PARCEL

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 31: A portion of the SE¼, more particularly described as follows:

Beginning at the Southeast corner for Section 31, the TRUE POINT OF BEGINNING;
Thence North 0°12'57" West 2638.28 feet along the Easterly boundary of Section 31 to the East Quarter corner for Section 31;
Thence North 89°53'14" West 1847.21 feet along the Northerly boundary of SE¼;
Thence 1150.54 feet Southwesterly along a curve left having a radius of 1403.00 feet and a chord of South 45°01'44" West 1118.57 feet to the Westerly boundary of SE¼;
Thence South 0°13'39" East 1122.32 feet along the Westerly boundary of SE¼;
Thence North 89°24'47" East 31.83 feet (recorded 34.97) to an existing fence;
Thence Southeasterly along said fence the following courses:
South 30°46'10" East 112.82 feet;
South 32°25'28" East 90.63 feet;
South 34°14'15" East 86.68 feet;
South 38°41'09" East 99.90 feet;
South 45°58'53" East 94.89 feet;
South 46°50'48" East 96.46 feet;
South 51°36'14" East 102.01 feet;
South 55°32'48" East 101.03 feet;
South 49°55'03" East 71.66 feet;
South 15°38'45" East 104.03 feet to the Southerly boundary of SE ¼, Section 31;
Thence South 89°53'05" East 2013.48 feet along the Southerly boundary of Section 31 to THE TRUE POINT OF BEGINNING.

EXCEPTING THE FOLLOWING DESCRIBED WELL SITE:

Beginning at the Southeast corner for Section 31;
Thence North 89°53'05" West (recorded West) 1291.15 feet along the Southerly boundary for Section 31;
Thence North 0°06'55" East (recorded North) to THE TRUE POINT OF BEGINNING;
Thence North 0°06'55" East 37.00 feet;
Thence North 89°53'05" West 35.00 feet;
Thence South 0°06'55" West 35.00 feet;
Thence South 89°53'05" East 37.00 feet to THE TRUE POINT OF BEGINNING.

AND FURTHER EXCEPTING THE FOLLOWING:

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 31: Part of the SE¼SE¼, described as follows:

Beginning at the Southeast corner for Section 31, THE TRUE POINT OF BEGINNING;
Thence North 89°53'05" West, 727.02 feet along the Southerly boundary for Section 31;
Thence North 0°06'54" East, 95.14 feet;
Thence North 56°53'37" East, 313.32 feet;
Thence North 45°30'35" East, 441.17 feet;
Thence North 89°46'55" East, 147.48 feet to the Easterly boundary of Section 31;
Thence South 0°12'57" East, 577.47 feet along the Easterly boundary of Section 31 to THE TRUE POINT OF BEGINNING.

SUBJECT TO a 25.00 feet in width County Road Right of Way along the Southerly and Easterly boundary

PARCEL

TOWNSHIP 8 SOUTH, RANGE 16 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 31: That portion of the NW¼ more particularly described as follows:

Beginning at the Northwest corner for Section 31, THE TRUE POINT OF BEGINNING;
Thence South 0°00'34" East 2069.73 feet along said Westerly boundary;
Thence South 89°53'14" East 45.85 feet;
Thence 833.71 feet Southeasterly on a curve left having a radius of 1242.00 feet and a chord of South 45°50'27" East 818.14 feet to the Southerly boundary of the NW¼;
Thence South 89°52'48" East (recorded South 89°53'14" East) 1042.23 feet along the Southerly boundary of NW¼;
Thence 934.38 feet Northeasterly on a curve left having a radius of 1242.45 feet (recorded 1242.00) and a chord of North 43°46'04" East 912.52 feet;
Thence North 02°44'17" West 633.86 feet;
Thence North 1°28'48" West 908.07 feet to the center of the Northside Canal Company "J" Coulee;
Thence along the center of said Canal the following courses:
South 63°32'18" West 239.45 feet;
South 54°06'30" West 84.32 feet;
South 69°52'48" West 110.41 feet;
North 29°14'49" West 233.57 feet;
North 70°25'50" West 268.03 feet;
North 24°19'18" West 211.89 feet;
North 71°10'10" West 119.09 feet;
North 86°40'36" West 259.07 feet to the Easterly boundary of Government Lot 1;
Thence North 0°14' West 103.56 feet to the Northerly boundary of Section 31;
Thence North 89°51'38" West 1040.83 feet along the Northerly boundary of Section 31 to the Northerly boundary of Section 31 to the TRUE POINT OF BEGINNING.

The subject parcel is subject to a 25.00 feet in width County Road Right-of-Way along the Westerly boundary of Section 31 and Northerly boundary of Government Lot 1.



Linda B. Jones
Phone (208) 342-5000
ljones@hollandhart.com

April 20, 2012

Idaho Department of Water Resources
Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RECEIVED
APR 23 2012
DEPT. OF WATER RESOURCES
SOUTHERN REGION

Re: Notices of Security Interests in Water Rights

Ladies and Gentlemen:

Enclosed for filing on behalf of our client Wells Fargo Bank, N.A are two Notices of Security Interest in Water Rights.

I enclose a copy of two Mortgages, encumbering the dairy and related agricultural properties and all water rights that are appurtenant to these properties.

Enclosed is a check for the filing fees, in the amount of \$250, calculated as \$25.00 per water right times a total of 10 water rights. .

Thank you in advance for processing the Notices. If you have any questions about the Notices or the Bank's interests, please contact me.

Sincerely,

HOLLAND & HART LLP

A handwritten signature in blue ink, appearing to read "Linda B. Jones".

Linda B. Jones

LBJ:tan
Enclosures

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