Form 42-248(6) July, 2000

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

# Notice of Security Interest in a Water Right

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

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

1. Water Right No(s).: See Attached Document

   Adjudication Claim No(s).: See Attached Document

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

   KeyBank National Association

   501 Broadway

   Idaho Falls, Idaho 83405

4. Name of Water Right Owner/Claimant(s) See Attached list of Water Right Owners/Claimants

5. Expiration Date of Notification Period Does Not Expire

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

7. Signature(s) (and title if applicable) W. Lee Bean

   KeyBank National Association - W. Lee Bean, Vice President

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**For Office Use Only**

Received by M Date 5.17.05 Fee $275.00

Receipted by M Date 5.17.05 Receipt No. C077956

Processed by AJ Date _____ WR _____ Date _____

**SUPPORT DATA**

IN FILE # 36-20586

**List of Water Rights**
**(111 Total)**

**Water rights held in the names of Steven D. Young, Maria Young, and Roy Young (36)**

36-16309
36-2090B
36-~~7264~~A 7246A
36-~~7264~~B 7246B
36-2582A
36-2582B
36-10850A
36-10850B 16042
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A SRBA listed twice
36-15264B SRBA
36-10863A SRBA
36-10863B
36-15566 < 16354 16355
36-15612
36-15614 < 16356 16357
36-15620
36-15622 < 16358 16359
36-2479A
36-2480
36-7476B
36-15234
36-15618
36-15616
36-15264B SRBA
36-8663

**Water rights held in the name of Young & Young Partnership (64)**

36-2454D
36-~~2630D~~ B
36-7007D

36-7956B
36-8619B

See attachment A hereto, for a list of 59 water right.

**Water rights held in the name of North Ridge, LLC (6)**

36-10090 SRBA
36-2449
36-7835
36-7523
36-7523 duplicate
36-~~7394~~ 7934

**Water rights held in the names of Samuel C. and Margaret Large (1)**

36-2268A

**Water rights held in the name of Rustic Ag, Inc.** (of which Ken Patterson and Don Chisolm are the owners) **(1)**

36-2479B

**Water rights held in the name of William Kerbs (1)**

36-7476A

**Water rights held in the name of C&B Farms, Inc. (1)**

36-10491

**Water rights held in name of Steven Young (1)**

36-15264A listed twice

**Purpose of Transfer (Changes Proposed)**

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

**Summary of Water Rights After the Approved Change**

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

L. Glen Saxton

Chief, Water Allocation Bureau

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JUN 18 2002

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MAY 17 2005
478226 DEPARTMENT OF WATER RESOURCES

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

**Instrument # 478226**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:21:00 No. of Pages: 19
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 57.00
Ex-Officio Recorder Deputy

*SEND TAX NOTICES TO:*

*Nature's Best Produce, Inc.*
*P.O. Box 707*
*Rupert, Idaho 83350*

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 40)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26th, 2005, by **Nature's Best Produce, Inc.**, an Idaho corporation, whose address is P.O. Box 707, Rupert, Idaho 83350 ("Grantor"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

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

Grantor also presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantor grants Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantor under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

2. **DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantor.** The word "Grantor" means Nature's Best Produce, Inc.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantor, or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantor may now or at any time owe to the Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

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

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantor represents and warrants to Lender that: (1) during the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages,

penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantor's covenants as provided herein, Grantor shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At its sole cost and expense, Grantor shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantor shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantor shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantor shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantor's expense.

**4.3.4** Grantor shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantor or, to Grantor's knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and

upon receipt of any such notice, Grantor shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantor's expense. In the event Grantor fails to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insured in such liability insurance policies. Additionally, Grantor shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor shall obtain and

maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds that have not been disbursed within 180 days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not Grantor's agent for payment of the taxes and assessments required to be paid by Grantor.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantor fails to comply with any provision of this Mortgage or any Related Document, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Nature's Best Produce warrants that it (a) has the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) holds good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

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

**11. CONDEMNATION.**

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantor that Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

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

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

**16.1.3 Compliance Default.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantor.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantor, defaults under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantor's, ability to repay the Notes or perform its obligations under this Mortgage or any of the Related Documents. Grantor defaults under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantor's ability to perform Grantor's obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantor's Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantor and the failure by Grantor to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

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

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantor,

to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTOR AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

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

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

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

**19.7 Multiple Parties.** All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantor and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantor. Grantor is exercising Grantor's own judgment with respect to Grantor's business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantor of any matter with respect to Grantor's business. Lender and Grantor intend that Lender may reasonably rely on all information supplied by Grantor to

Lender, together with all representations and warranties given by Grantor to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

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

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

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

**GRANTOR:**

**NATURE'S BEST PRODUCE, INC.**

By: Roy M Young
Its: Pres.

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared Roy M. Young known or identified to me (or proved to me on the oath of ) to be the President, of **NATURE'S BEST PRODUCE, INC.**, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 40:**

TOWNSHIP 9 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 1: follows: SE¼NW¼, Lot 6, EXCEPTING THEREFROM that portion of Lot 6 described as

Commencing at the Southeast corner of the NW¼ of said Section 1, and running South 0°16' West 388.3 feet, more or less, to a point on the Northwesterly right of way of the Union Pacific Railroad; Thence along the Union Pacific Railroad right of way North 45°30' East 552.11 feet, more or less to the Northeast corner of Lot 6; Thence North 89°53' West 392.5 feet, more or less, to the Point Of Beginning.

AND ALSO EXCEPTING THEREFROM that portion of Lot 6 described as follows:

Commencing at the Southwest corner of Lot 6, Section 1 Township 9 South, Range 24 East, Boise Meridian; Thence North 0°16' East along the West line of said Lot 6 a distance of 380.0 feet; Thence South 89°52' East, 225.0 feet to the True Point Of Beginning;

Thence continuing as follows:
North 55°55' East 120.2 feet;

Thence North 45°30' East 1170.0 feet, more or less, to a point in a line parallel with and 40.0 feet Northwesterly from the survey center line of said State Highway 24, Project No. S-2790(2) Highway Survey;

Thence along said parallel line as follows:

Southwesterly along an 11,419.2 foot radius curve right 743.0 feet more or less, to a point opposite Station 126+60.92 of said Highway Survey, South 51°27'40" West 182.76 feet Southwesterly along an 11,499.2 foot radius curve left 470.0 feet, more or less, to a point;

Thence leaving said parallel line, South 89°52' East 130.0, more or less, to the Point Of Beginning, (Highway Station reference: 120+55 to 134+00.21

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

COPY

STATE OF IDAHO
COUNTY OF LINCOLN 178770
Recorded at the request of Moffatt Thomas Law Office
MAY 05 2005
at 52 minutes past 11 A.M.
recorded by Helen Jackson Dep.
Fee: 6.00 Return to: Above

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCELS 6-7)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, a married man contracting with his sole and separate property, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Lincoln County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, and Roy M. Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Lincoln County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**

**GRANTOR:**

**MARIA YOUNG**

**GRANTOR:**

**ROY M. YOUNG**

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Alma
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Alma
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-15566
36-15612
36-15614
36-15620
36-15622

Located in Lincoln County and appurtenant to the mortgaged premises.

RECEIVED
MAY 17 2005
DEPARTMENT OF WATER RESOURCES

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

COPY

STATE OF IDAHO
COUNTY OF LINCOLN
Recorded at the request of
Moffatt Thomas Law Office
MAY 05 2005
at 50 minutes past 4 P.M.
recorded in Book Allen Jackson Dep
Fee: 18.00 Return to: Above

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 5)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, an undivided 50% interest, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, an undivided 50% interest, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Lincoln County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, and Roy M. Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Lincoln County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

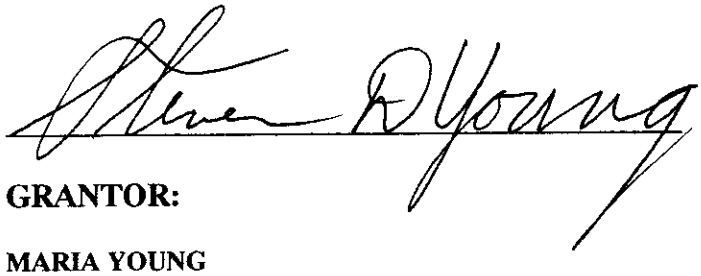
execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

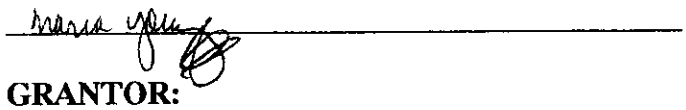
**GRANTOR:**

**STEVEN D. YOUNG**



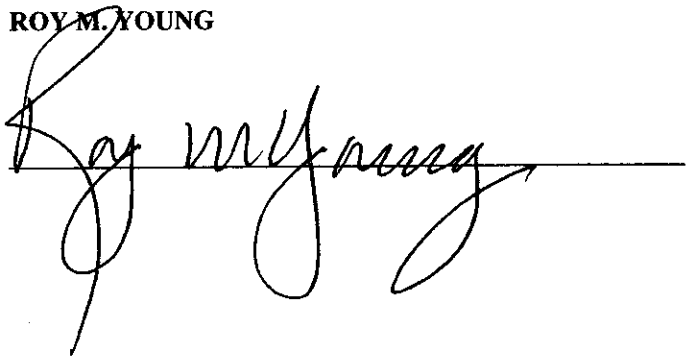
**GRANTOR:**

**MARIA YOUNG**



**GRANTOR:**

**ROY M. YOUNG**



STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR). Those water rights are more particularly described as follows and on the attachment to this Exhibit B:

36-2454D
36-2630D
36-7007D
36-7956B
36-8619B

Located in Lincoln County and appurtenant to the mortgaged premises.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR). Those water rights are more particularly described as follows and on the attachment to this Exhibit B:

36-2454D
36-2630D
36-7007D
36-7956B
36-8619B

Located in Lincoln County and appurtenant to the mortgaged premises.

**Purpose of Transfer (Changes Proposed)**

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

**Summary of Water Rights After the Approved Change**

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 20 02

J. Glen Saxton

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

RECEIVED

MAY 17 2005

DEPARTMENT OF
WATER RESOURCES

*RECORDING REQUESTED BY AND*
*WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock &*
*Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

*S&R Inv.*
*P.O. Box 307*
*Rupert, Idaho 83350*

**Instrument # 519888**
HAILEY, BLAINE, IDAHO
2005-05-10 11:52:00 No. of Pages: 31
Recorded for : MOFFATT THOMAS BARRETT ROCK
MARSHA RIEMANN Fee: 93.00
Ex-Officio Recorder Deputy
Index to: UCC & MORTGAGES

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, **Roy M. Young**, a married man, whose address is 198 West 400 North, Rupert, Idaho 83350, and **S&R Inv.**, an Idaho general partnership, whose address is P.O. Box 307, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Blaine County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, Roy M. Young and S&R Inv.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantors, and now or

hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in

compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

**6. TAXES AND LIENS.**

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

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

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

**7. PROPERTY DAMAGE INSURANCE.**

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an

additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying

it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy Young and S&R Inv. warrant that they each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors' default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether

election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's

estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

**17.5 Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's

right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

foreclosure reports), surveyors' reports, appraisal fees and title insurance, to the extent permitted by applicable law. Grantors also will pay any court costs, in addition to all other sums provided by law.

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Blaine County, state of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a

waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**

Steven D Young

**GRANTOR:**

**MARIA YOUNG**

maria young

**GRANTOR:**

**ROY M. YOUNG**

Roy M Young

**GRANTOR:**

**S&R INV.**

By: Steven D Young
Its: partner

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26 day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09-08-2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26 day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09-08-2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26 day of April, 2005, before me Susan M Keck, personally appeared **ROY M. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09-08-2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26 day of April, 2005, before me Susan M Keck, personally appeared Steven D. Young known or identified to me (or proved to me on the oath of _____), to be one of the partners of **S&R INV.**, an Idaho General Partnership and the partner who subscribed said name to the foregoing instrument, and acknowledged to me that he executed the same in said _____ name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09-08-2005

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

Parcel I

TOWNSHIP 7 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTION 20: NE¼; S½; AND S½NW¼

SECTION 21: ALL

SECTION 22: NE¼; N½SE¼; AND W½

SECTION 27: W½

SECTION 28: ALL

SECTION 29: NE¼; S½; S½NW¼; AND NE¼NW¼

SECTION 32: E½; N½NW¼; SE¼NW¼ AND SE¼SW¼

SECTION 33: ALL

SECTION 34: W½

TOWNSHIP 8 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY IDAHO

SECTION 4: Lots 1, 2, 3, all of Lot 4, EXCEPT beginning at a point 25 feet South and 25 feet East of the Government Survey Stake placed on the Northwest corner of Section 4, Township 8 South, Range 26 East, Boise Meridian; thence 70 yards due South; thence 140 yards due East; thence 70 yards due North and; thence 140 yards due West to the place of beginning, designated as Tax Lot 1175 on Blaine County Tax Assessor's Rolls.

S½N½; N½SE¼; SW¼SE¼; E½SW¼; W½SW¼

SECTION 5: Lots 1, 2, 3, SE¼NE¼; E½SE¼

SECTION 8: NE¼NE¼

SECTION 9: N½ NW¼; NW¼NE¼

TOWNSHIP 8 SOUTH, RANGE 26 EAST OF THE BOISE MERIDIAN, BLAINE COUNTY, STATE OF IDAHO

A parcel of land being a portion of the SE¼NE¼ of Section 8, and part of the SW¼NW¼ of Section 9 more particularly described as follows:

Beginning at the Northwest corner of the SW¼NW¼ of Section 9 of Township 8 South, Range 26 East, Boise Meridian, said corner marked by a 5/8" rebar which shall be the Point of Beginning; thence
South 89°59'48" East along the North Line of the SW¼NW¼ for a distance of 1320.27 feet to the Northeast corner of the SW¼NW¼ marked by a 5/8" rebar; thence
South 00°03'42" East along the East line of the SW¼NW¼ for a distance of 1022.00 feet to a 1/2" rebar on the North right-of-way of the Union Pacific Railroad; thence
North 73°06'18" West along said line for a distance of 2724.50 feet; thence
Continuing along said line along a tangent curve to the right for a distance of 37.54 feet to a ½" rebar on the West line of the SE¼NE¼ of Section 8, said curve having a radius of 17044.52 feet and a central angle of 0°07'34" and a long chord bearing of North 73°02'31" West for a distance of 37.54 feet; thence
North 00°03'57" West along the West line of the SE¼NE¼ for a distance of 217.84 feet to the Northwest corner of the SE¼NE¼ marked by a 5/8" rebar; thence
North 89°56'05" East along the North line of the SE¼NE¼ for a distance of 1321.70 feet to the Point of Beginning.

Also known as Tax Lot 7618 on the Blaine County Assessor's Rolls.

Parcel II

TOWNSHIP 8 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTION 6: A portion of the S½ more particularly described as follows:

Beginning at the Southwest section corner of Section 6 of Township 8 South, Range 26 East, Boise Meridian, said corner marked by a U.S. General Land Office iron pipe with a brass cap on top which shall be the Point of Beginning; thence
North 00°06'35" East along the West section line for a distance of 315.24 feet to the Southeast corner of Section 1 of Township 8 South, Range 25 East, Boise Meridian, said corner marked by a U.S. General Land Office iron pipe with a brass cap on top; thence
North 00°30'58" East along the West section line for a distance of 857.12 feet to the South Rail Road Right of way; thence
South 73°07'43" East along said right of way for a distance of 4029.09 feet to the South section line; thence
South 89°57'20" West along said line for a distance of 1184.90 feet to the South ¼ section corner; thence
South 89°57'20" West along the South section line for a distance of 2679.09 feet to the Point of Beginning.

Also known as Tax Lot 7908 on the Blaine County Assessor's Rolls.

AND

SECTION 7: Lots 1, 2, 3, 4, E½W½, SE¼ and that part of the NE¼ more particularly described as follows:

Beginning at the Northwest corner of the NE¼ of said Section 7 which point shall be known as the True Point of Beginning; thence
North 89°57'20" East along the section line for 1184.90 feet to a point on the Southerly line of the railroad right-of-way, thence
South 73°07'43" East along the railroad right-of-way for 1518.11 feet to a point on the East line of said Section 7; thence
South 00°05'59" East for 2200.24 feet to the Southeast corner of the NE¼; thence
South 89°57'41" West for 2639.20 feet to the Southwest corner of the NE¼; thence
North 00°02'59" West for 2641.68 feet to the True Point of Beginning

Also known as Tax Lot 7909 on the Blaine County Assessor's Rolls.

AND

SECTIONS 8 and 9:

That part of Section 8 and W½SW¼, SW¼NW¼ of Section 9 that lies South of the railroad right-of-way, more particularly described as follows:

Beginning at the Southwest corner of Section 8, Township 8 South, Range 26 East, Boise Meridian, Blaine County, Idaho which point shall be known as the True Point of Beginning; thence
North 00°05'59" West along the West section line for 4842.19 feet to a point on the Southerly right-of-way of the railroad; thence
South 73°07'43" East for 446.83 feet to a point; thence
along a curve with a delta angle of 01°41'37" with a radius of 18579.79 and an arc of 549.20, a tangent of 274.62, chord of 549.18 with a chord bearing of South 72°16'55" East to a point; thence

South 71°26'06" East for 1787.15 feet to a point on the East line of the NE¼ of said Section 8; thence
South 00°04'52" East for 10.17 feet; thence
North 89°55'43" East for 30.14 feet; thence
South 71°26'06" East along the Southerly railroad right-of-way for a distance of 834.10 feet; thence
along a Curve with a delta angle of 01°40'15" with a radius of 17244.52 and an arc of 502.85, a tangent of 251.44, chord of 502.83 with a chord bearing South 72°16'43" East to a point; thence
South 73°06'50" East for a distance of 2785.47 feet to a point on the East line of the SW¼NW¼ of Section 9, Township 8 South, Range 26 East, Boise Meridian, Blaine County, Idaho; thence
South 00°04'11" East for 89.47 feet to the Northeast corner of the W½SW¼; thence
South 00°04'45" East along the East Line of the W½SW¼ for 2640.54 feet to a point on the South line of Said Section 9; thence

South 89°57'49" West for 1321.23 feet to the Southwest corner of said Section 9; thence South 89°55'00" West along the South Boundary line of said Section 8, Township 8 South, Range 26 East, Boise Meridian, Blaine County, Idaho for a distance of 5284.18 feet to the Point of Beginning.

EXCEPTING all potato cellars and grain storage facilities located on the herein described property.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto.

Also known as Tax Lot 7907 on the Blaine County Assessor's Rolls.

Parcel III

TOWNSHIP 8 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTION 1: SW¼SW¼

SECTION 2: SE¼SW¼, SW¼SE¼ AND SE¼SE¼

SECTION 11: SE¼NE¼, SE¼, SE¼SW¼, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, NE¼NE¼, NW¼NE¼ AND NE¼NW¼

SECTION 12: ALL

SECTION 13: N½NW, E½NE, NWNE

And the following described Parcels:

TOWNSHIP 8 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

A parcel of land located within a portion of the SWNE and S½NW of Section 13 and a portion of the SENE and a portion of the N½NE of Section 14, more particularly described as follows:

Beginning at the Northeast Section corner of Section 14 of Township 8 South, Range 26 East Boise Meridian, said corner marked by a 5/8" rebar which shall be the Point of Beginning; thence
South 00°00'08" West, along the East Section line for a distance of 1320.87 feet to the Southeast corner of the NENE marked by a 5/8" rebar; thence
South 89°59'56" East along the North line of the S½NW and SWNE for a distance of 3960.39 feet to the Northeast corner of the SWNE marked by a 5/8" rebar; thence
South 00°01'38" East, along the East line of the SWNE for a distance of 1281.17 feet to a ½" rebar on the North right-of-way of the Union Pacific Railroad; thence
North 73°05'34" West, along said line for a distance of 6907.75 feet to a ½" rebar on the West line of the NWNE; thence
North 00°04'45" West, along said line for a distance of 594.69 feet to the N¼ Section corner of Section 14 marked by a 5/8" rebar; thence

South 89°58'04" East, along the North Section line for a distance of 2649.06 feet to the Point of Beginning.

Also known as Tax Lot 7620 on the Blaine County Assessor's Rolls.

TOWNSHIP 8 SOUTH, RANGE 26 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

A parcel of land located within a portion of the SWNE S½NW of Section 13, and a portion of the N½NE and SENE of Section 14 described as follows:

Beginning at the East ¼ Section corner of Section 14 of Township 8 South, Range 26 East, Boise Meridian, said corner marked by a 5/8" rebar which shall be the Point of Beginning; thence
North 89°59'27" West along the South line of the SENE of Section 14 for a distance of 1322.65 feet to the Southwest corner of the SENE marked by a 5/8" rebar; thence
North 00°02'19" West along the West line of the SENE for a distance of 1321.14 feet to the Northwest corner of the SENE marked by a 5/8" rebar; thence
North 89°58'45" West, along the North line of the NWNE for a distance of 1323.59 feet to the Southwest corner of the NWNE marked by a 5/8" rebar; thence
North 00°04'45" West, along the West line of the NWNE for a distance of 517.59 feet to a ½" rebar on the South right-of-way of the Union Pacific Railroad; thence
South 73°05'34" East, along said line for a distance of 6324.87 feet to a ½" rebar on the East-West ¼ section line of Section 13; thence
South 90°00'00" West, along said line for a distance of 3403.65 feet to the Point of Beginning.

Also known as Tax Lot 7621 on the Blaine County Assessor's Rolls.

TOWNSHIP 8 SOUTH, RANGE 27 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

SECTION 7: Lots 1, 2, 3, 4; E½ NW¼

SECTION 18: Lots 1 and 2

EXCEPTING THEREFROM the former Rail Road Right-of-Way and Highway Right-of-Way.

EXCEPTING THEREFROM all potato cellars and grain storage facilities located on the herein described property.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May 20 02

L. Glen Saxton

Chief, Water Allocation Bureau

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JUN 18 2002

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*North Ridge, LLC*
*P.O. Box 707*
*Rupert, Idaho 83350*

STATE OF IDAHO
COUNTY OF LINCOLN 178768
Recorded at the request of
Moffatt Thomas Law Office
MAY 05 2005
at 48 minutes past 11 A.M.
recorded by Allen Jackson Dep.
Fee: 6.00 Return to: Above

COPY

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCELS 1-4)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **North Ridge, LLC**, an Idaho corporation, whose address is P.O. Box 307, Rupert, Idaho 83350, **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

**1. CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Lincoln County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and

(2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means North Ridge, LLC, Steven D. and Maria Young, and Roy Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to the Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby

(1) release and waive any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At its sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state,

condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale,

assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other

person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within 180 days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in

writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** North Ridge, LLC warrants that it (a) has the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) holds good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and has the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**11. CONDEMNATION.**

**11.1 Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the

award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall

reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', ability to repay the Notes or perform its obligations under this Mortgage or any of the Related Documents. Grantors defaults under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of

the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cures the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for

notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

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

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantors.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors is exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the State of Idaho as to all Indebtedness secured by this Mortgage.

**GRANTORS ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE AND GRANTORS AGREE TO ITS TERMS.**

**GRANTOR:**

**NORTH RIDGE, LLC**

By: _____
Its: member

**GRANTOR:**

**STEVEN D. YOUNG**

_____

**GRANTOR:**

**MARIA YOUNG**

_____

**GRANTOR:**

**ROY M. YOUNG**

_____

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared David J. Young known or identified to me (or proved to me on the oath of _____) to be the member of **NORTH RIDGE, LLC**, the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 1:**

TOWNSHIP 6 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, LINCOLN COUNTY, IDAHO

Section 29: SE¼SW¼, S½SE¼, EXCEPTING THEREFROM that portion of the SE¼SE¼ deeded to the State of Idaho for highway purposes by Deed recorded October 19, 1959 in Book 47 Page 153 as Instrument Number 109301, Lincoln County records.

Section 32: N½NE¼; N½NW¼; SW¼NW¼.

**PARCEL NO. 2:**

TOWNSHIP 6 SOUTH, RANGE 23, EAST OF THE BOISE MERIDIAN, LINCOLN COUNTY, IDAHO

Section 31: Lots 1, 2, 3 and 4; E½NW¼; E½SW¼;

**PARCEL NO. 3:**

TOWNSHIP 7 SOUTH, RANGE 23, EAST OF THE BOISE MERIDIAN, LINCOLN COUNTY, IDAHO

Section 4: SE¼;

**PARCEL NO. 4:**

TOWNSHIP 7 SOUTH, RANGE 23, EAST OF THE BOISE MERIDIAN, LINCOLN COUNTY, IDAHO

Section 4: Lots 1 and 2 and S½NE¼;

## Exhibit B
## Water Rights

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of North Ridge, LLC, Steven D. Young, Maria Young, and Roy Young. Those water rights are more particularly described as follows:

36-10090
36-2268A
36-2449
36-7835
36-7523
36-7523
36-7394

Located in Lincoln County and appurtenant to the mortgaged premises.

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

478227

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*Roy M. Young*
*198 West 400 North*
*Rupert, Idaho 83350*

**Instrument # 478227**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:23:00 No. of Pages: 26
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 78.00
Ex-Officio Recorder Deputy

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 34)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Roy M. Young**, whose address is 198 West 400 North, Rupert, Idaho 83350, **Steven D. Young** and **Maria Young**, husband and wife, an undivided 50% interest, whose address is 230 North 500 East, Rupert, Idaho 83350, (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

**1. CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and

(2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Roy M. Young, Steven D. Young and Maria Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby

(1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state,

condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale,

assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other

assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

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person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in

writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Roy M. Young, Steven D. Young and Maria Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**11. CONDEMNATION.**

**11.1 Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of

condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed

counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of

the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for

notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**ROY M. YOUNG**

**GRANTOR:**

**STEVEN D. YOUNG**

**GRANTOR:**

**MARIA YOUNG**

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 34:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 2: W½NW¼ of Lot 1, EXCEPTING THEREFROM the following described parcel:

Beginning at the Northeast corner of Section 2, Township 7 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence North 89°14'13" West along section line for 892.31 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 00°45'47" West for a distance of 240.00 feet to a ½ inch rebar;

Thence North 89°16'22" West for a distance of 419.69 feet to a ½ inch rebar;

Thence North 00°41'19" East for a distance of 240.00 feet to a ½ inch rebar on section line;

Thence South 89°18'41" East along section line for a distance of 202.08 feet to a 5/8 inch rebar at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian;

Thence South 89°14'13" East along section line for a distance of 217.92 feet to the Point of Beginning.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

**Purpose of Transfer (Changes Proposed)**

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

**Summary of Water Rights After the Approved Change**

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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[illegible] 2002

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

L. Glen Saxton

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

478225

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

**Instrument # 478225**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:17:00 No. of Pages: 37
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 111.00
Ex-Officio Recorder Deputy

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCELS 1-10, 11, 12, 36, 37 & 39)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, a married man contracting with his sole and separate property, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, and Roy M. Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy M. Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000 00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, state of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**

**GRANTOR:**

**MARIA YOUNG**

**GRANTOR:**

**ROY M. YOUNG**

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY M. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 1:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 2: SE¼NW¼, SW¼ and Lots 3 & 4

SECTION 3: SW¼SE¼

**PARCEL NO. 2:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 8: SE¼

**PARCEL NO. 3:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 9: ALL

**PARCEL NO. 4:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 17: NE¼

**PARCEL NO. 5:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 3: SW¼; N½SE¼; SE¼SE¼

**PARCEL NO. 6:**

TOWNSHIP 8 SOUTH, RANGE 22 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 1: All

SECTION 2: E½

SECTION 12: NW¼

**PARCEL NO. 7:**

TOWNSHIP 9 SOUTH, RANGE 22 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 4: Lots 1, 2, 3 and 4 and S½NW¼, **AND** Part of Farm Unit A, Tract A of the North Side Pumping Division of the Minidoka Project, Idaho (as shown by plat, dated September 27, 1957, filed in the office of the County Recorder, Minidoka County, Idaho), more particularly described as follows:

Beginning at the Southwest corner of the NE¼ of said Section 4, which point shall be the TRUE POINT OF BEGINNING;

Thence North 0°09' West along the quarter section line for 1320.0 feet;

Thence South 89°20' East along the 1/16th section line for 2102.1 feet;

Thence South 0°31' East for 1009.0 feet;

Thence North 89°20' West for 688.0 feet;

Thence South 0°09' East for 311.0 feet;

Thence North 89°20' West along the quarter section line for 1421.2 feet to the TRUE POINT OF BEGINNING;

**EXCEPTING THEREFROM** the following described tract:

Beginning at the West quarter corner of Section 4, said corner marked by a ⅝ inch rebar which shall be the POINT OF BEGINNING;

Thence North 00°20'24" West along the West line of Section 4 for a distance of 45.24 feet to a ⅝ inch rebar;

Thence South 89°20'53" East for a distance of 4053.20 feet;

Thence South 00°09'48" East for a distance of 45.24 feet to a point on the South line of the N½ of Section 4;

Thence North 89°20'53" West along the South line of the N½ of Section 4 for a distance of 4053.06 feet to the POINT OF BEGINNING.

**PARCEL NO. 8:**

TOWNSHIP 9 SOUTH, RANGE 22 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 4: Part of Farm Unit A, Tract A of the North Side Pumping Division of the Minidoka Project, Idaho (as shown by plat, dated September 27, 1957, filed in the office of the County Recorder, Minidoka County, Idaho), more particularly described as follows:

Beginning at Corner 1 of Tract "A" in Section 4, said corner marked by a ⅝ inch rebar; thence South 00°30'38" East (South 0°31' East, recorded) along the East line of Tract "A" for a distance of 1274.89 feet to a ⅝ inch rebar which shall be the POINT OF BEGINNING;

Thence North 89°20'53" West for a distance of 689.95 feet;

Thence North 00°09'48" West (North 0°09' West, recorded) for a distance of 266.43 feet to a ½ inch rebar;

Thence South 89°20'07" East (South 89°20' East, recorded) for a distance of 688.33 feet (688.00 feet, recorded) to the East line of Tract "A";

Thence South 00°30'38" East (South 0°31' East, recorded) along said line for a distance of 266.30 feet to the POINT OF BEGINNING.

**PARCEL NO. 9:**

TOWNSHIP 8 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 4: A portion of Farm Unit E Tract E as shown on the official plat thereof accepted by the Bureau of Land Management May 4, 1956 and more particularly described as follows:

Commencing at the W¼ corner of said Section 4 (marked by a ½ inch rebar) and running thence along the west line thereof South 0°00'00" East 1111.27 feet to a PK nail and washer at Corner No. 4 of the aforesaid, Farm Unit E Tract E; Thence along the northern line thereof North 87°39'44" East 175.15 feet to a ½ inch rebar at the intersection thereof with the eastern line of that real property conveyed to Young by the Warranty Deed recorded June 5, 2000 as Instrument No. 448179, Minidoka County records, said intersection being the TRUE POINT OF BEGINNING;

Thence along said eastern line South 0°00'24" East 657.06 feet to a ½ inch rebar at the intersection thereof with the northern line of that real property

conveyed to Kinsey by the Warranty Deed recorded July 10, 1998 as Instrument No. 436317, Minidoka County records;
Thence along last said northern line North 89°59'24" East 293.68 feet to the Northeast corner thereof (marked by a 3 inch iron fence post);

Thence along the eastern line thereof South 0°00'14" West 243.68 feet to a ½ inch rebar at an angle point therein;

Thence continuing along last said eastern line South 26°51'48" East 168.70 feet to a ½ inch rebar set at the intersection thereof with the northern easement line of the county road commonly known as 900 North Road;

Thence continuing along last said eastern line South 26°51'48" East 30.74 feet to the intersection thereof with the centerline of said county road easement;

Thence along said centerline North 50°30'41" East 612.52 feet;

Thence continuing along said county road centerline North 46°53'02" East 420.30 feet;

Thence continuing along said centerline along a curve to the right having a radius of 260.00 feet, a central angle of 35°56'07", and an arc length of 163.07 feet to the intersection of said centerline with the northern line of the aforesaid Farm Unit E Tract E;

Thence along said northern line of Farm Unit E Tract E North 70°41'37" West 98.91 feet to a ½ inch rebar at Corner No. 2 thereof;

Thence continuing along said northern line North 4°15'56" West 350.47 feet to a 1 inch iron pipe at Corner No. 3 thereof;

Thence continuing along said northern line South 87°39'44" West 1190.15 feet to the TRUE POINT OF BEGINNING.

**PARCEL NO. 10:**

TOWNSHIP 8 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

SECTION 4: A portion of Farm Unit E, Tract E, more particularly described as follows:

Commencing at the Northwest corner of said Tract E;

Thence South 650 feet;

Thence East 175 feet;

Thence North 650 feet;

Thence West 175 feet to the POINT OF BEGINNING.

**PARCEL NO. 11:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 28: S½SW¼ and NW¼SW¼

Section 29: SE¼SE¼

Section 32: SE¼NE¼ and NE¼SE¼

Section 33: W½, SAVE AND EXCEPT the following described tracts:

Tract No. 1:
W½SW¼SE¼SW¼SW¼

Tract No. 2:
Beginning at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar;
Thence South 89°14'13" East along section line for 1048.05 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence North 01°26'39" East for a distance of 453.92 feet to a ½ inch rebar;

Thence South 89°14'40" East for a distance of 240.00 feet to a ½ inch rebar;

Thence South 01°26'39" West for a distance of 191.25 feet to a point;

Thence North 88°33'21" West for a distance of 42.02 feet to a point;

Thence South 01°26'39" West for a distance of 20.00 feet to a point;

Thence South 88°33'21" East for a distance of 42.02 feet to a point;

Thence South 01°26'39" West for a distance of 242.66 feet to a ½ inch rebar on section line;

Thence North 89°14'50" West along section line for a distance of 177.82 feet to a 5/8 inch rebar at the Northwest corner of Section 1 in Township 7 South, Range 24 East of the Boise Meridian;

Thence North 89°14'13" West along section line for a distance of 62.18 feet to the Point of Beginning.

Tract No. 3:

Beginning at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence South 89°48'00" East (basis of bearing) along section line for 667.14 feet to a ½ inch rebar which shall be the Point of Beginning.

Thence North 0°52'30" West for 339.25 feet to a ½ inch rebar;

Thence North 89°23'49" East for 157.56 feet to a ½ inch rebar;

Thence South 0°34'30" East for 341.43 feet to a ½ inch rebar on Section line;

Thence North 89°48'00" West along section line for 155.80 feet to the Point of Beginning.

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 2: Lot 2, SW¼NE¼, N½SE¼NE¼ and SW¼SE¼NE¼

**PARCEL NO. 12:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 31: NE¼

**PARCEL NO. 36:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 33: Part of the SW¼, more particularly described as follows:

Beginning at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence South 89°14'13" East along section line for 1048.05 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence North 01°26'39" East for a distance of 453.92 feet to a ½ inch rebar;

Thence South 89°14'40" East for a distance of 240.00 feet to a ½ inch rebar;

Thence South 01°26'39" West for a distance of 191.25 feet to a point;

Thence North 88°33'21" West for a distance of 42.02 feet to a point;

Thence South 01°26'39" West for a distance of 20.00 feet to a point;

Thence South 88°33'21" East for a distance of 42.02 feet to a point;

Thence South 01°26'39" West for a distance of 242.66 feet to a ½ inch rebar on section line;

Thence North 89°14'50" West along section line for a distance of 177.82 feet to a 5/8 inch rebar at the Northwest corner of Section 1 in Township 7 South, Range 24 East of the Boise Meridian;

Thence North 89°14'13" West along section line for a distance of 62.18 feet to the Point of Beginning.

**PARCEL NO. 37:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 33: Part of the SW¼SW¼, more particularly described as follows:

Beginning at the Southwest corner of Section 33, of Township 6 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence South 89°48'00" East basis of bearing along section line for 667.14 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence North 0°52'30" West for 339.25 feet to a ½ inch rebar;

Thence North 89°23'49" East for 157.56 feet to a ½ inch rebar;

Thence South 0°34'30" East for 341.43 feet to a ½ inch rebar on section line;

Thence North 89°48'00" West along section line for 155.80 feet to the Point of Beginning.

EXCEPTING THEREFROM the W½SW¼SE¼SW¼SW¼

**PARCEL NO. 39:**

TOWNSHIP 8 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 1: That part of the S½S½ of said Section 1, lying South of the Union Pacific Railroad right of way, SAVE AND EXCEPT the following described tracts:

Tract No. 1:

Beginning at the Northwest corner of SW¼SW¼ of said Section 1, which point shall be known as the True Point of Beginning;

Thence East for 700 feet;

Thence South for 300 feet;

Thence West for 700 feet;

Thence North for 300 feet to the True Point of Beginning.

Tract No. 2:

Beginning at the quarter corner common to Sections 1 and 12, Township 8 South, Range 25 East of the Boise Meridian, Minidoka County, Idaho; thence along the boundary common to said Sections 1 and 12, South 89°59' East for 40.0 feet; thence North 1°59' West for 45.00 feet to the True Point of Beginning;

Thence continuing North 1°59' West for 510.00 feet;

Thence North 88°00'36.9" East for 199.88 feet;

Thence South 1°59' East for 510.00 feet;

Thence South 88°00'36.9" West for 199.88 feet to the True Point of Beginning.

Section 1: That part of the NE¼SW¼ of said Section 1, lying South of the Union Pacific Railroad right of way,

SAVE AND EXCEPT the W½SW¼NE¼SW¼

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-10491
36-7476A Kerbs
36-7476A
36-2479B Rustic Ag
36-2479A
36-2480
36-7476B
36-15234
36-15618
36-15616
36-15264A
36-15264B
36-2090A — MTN VIEW
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B
36-16309

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

MICROFILMED
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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | **36-8274A** | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | **36-8275B** | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | **36-8778** | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | **36-15366B** | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | **36-15366D** | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | **36-2653B** | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | **36-2653Q** | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | **36-4006** | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | **36-7021C** | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | **36-7042** | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | **36-7580C** | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | **36-8068B** | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | **36-8068E** | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | **36-8069N** | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | **36-8069Q** | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | **36-8274B** | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | **36-8775** | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | **36-11340** | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | **36-15366C** | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | **36-7021A** | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | **36-2530A** | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| **TOTALS** | | **119.01 cfs** | **34296 af** | **8574** | **8644.0** | | N/A | N/A | N/A | N/A |

MICROFILMED

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

L. Glen Saxton

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

MICROFILMED
JUN 18 2002

Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

J. Glen Taylor

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

MICROFILMED

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES
478224

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

**Instrument # 478224**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:15:00 No. of Pages: 26
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 78.00
Ex-Officio Recorder Deputy

(Space Above For Recorder's Use)

Parcel 31 & 5

**MORTGAGE AND FIXTURE FILING (~~PARCELS 27-30~~)**

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26th, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, an undivided 50% interest, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, an undivided 50% interest, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

**1. CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, and Roy M. Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

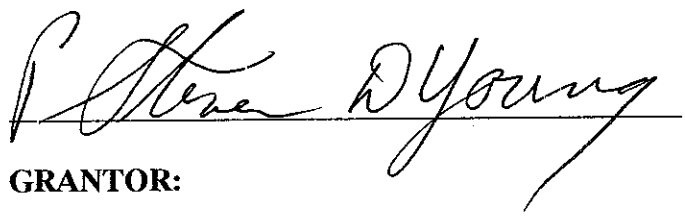
execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**



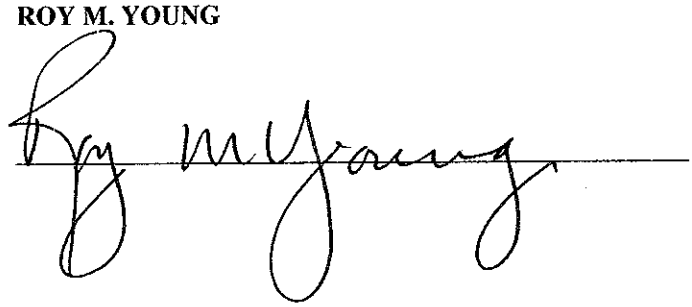
**GRANTOR:**

**MARIA YOUNG**



**GRANTOR:**

**ROY M. YOUNG**



STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 31:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 2: ALL

Section 3: ALL

Section 10: ALL

Section 11: ALL

Section 14: N½

Section 15: That portion lying North of the Union Pacific Railroad right of way.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

L. Glen Saxton

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

478223

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO*

*Steven D and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

**Instrument # 478223**
**MINIDOKA COUNTY, RUPERT, IDAHO**
**2005-05-05 12:13:00 No. of Pages: 33**
**Recorded for : MOFFATT THOMAS**
**DUANE SMITH Fee: 99.00**
**Ex-Officio Recorder Deputy**

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCELS 13, 15, 16, 18, 20, 21-25, 26, 32, & 33)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26th, 2005, by **Steven D. Young**, also known as Steven Young, and **Maria Young**, also known as Marie Young, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, also known as Roy Young, also known as Roy Milton Young, a married man contracting with his sole and separate property, whose address is 198 West 400 North, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below)

from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, also known as Steven Young, Maria Young, also known as Marie Young, and Roy M. Young, also known as Roy Young, also known as Roy Milton Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantors, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and

additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances,

including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

**6. TAXES AND LIENS.**

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

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

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

**7. PROPERTY DAMAGE INSURANCE.**

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability

insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items,

and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young also known as Steven Young, Maria Young also known as Marie Young, and Roy Young also known as Roy M. Young and Roy Milton Young, warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

**10.2 Defense of Title.** Subject to the paragraph above, Grantors warrant and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantors' title or the interest of Lender under this Mortgage, Grantors shall defend the action at Grantors' expense. Grantors may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and

Grantors will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether

election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's

estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

**17.5 Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership,

against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

**17.11 Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Notes' rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including

efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees and title insurance, to the extent permitted by applicable law. Grantors also will pay any court costs, in addition to all other sums provided by law.

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is

in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

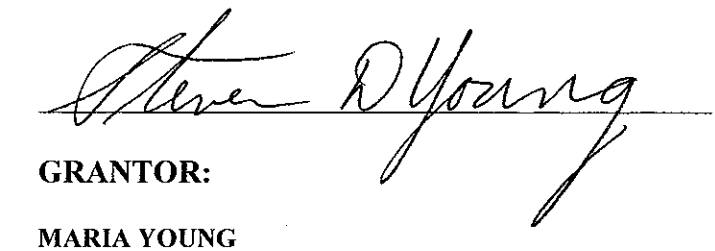
**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**



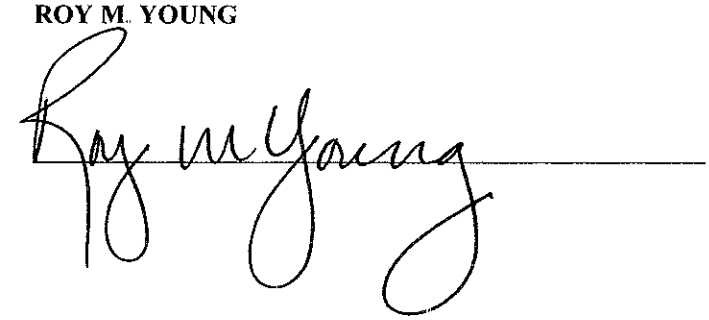
**GRANTOR:**

**MARIA YOUNG**



**GRANTOR:**

**ROY M. YOUNG**



STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Gemo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 13:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 30: SE¼SE¼

Section 31: N½SE¼; SW¼SE¼; and Lots 7, 8, 9, 10, 11 and 12

Section 32: W½; NE¼NE¼

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 4: N½SE¼; S½SE¼; S½NE¼; S½NW¼ and Lots 1 and 2

Section 6: Lots 1 and 2; S½NE¼; SE¼

**PARCEL NO. 15:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 20: That part of the SE¼SE¼, more particularly described as follows:

Beginning at the Southeast corner of Section 20, said corner marked by a 5/8" rebar; Thence South 89°49'06" West along section line for 130.00 feet to a ½" rebar which shall be the POINT OF BEGINNING;

Thence South 89°49'06" West along section line for 171.00 feet to a ½" rebar;

Thence North 0°01'48" West for 432.24 feet to a ½" rebar;

Thence North 0°01'48" West for 2.08 feet to a point on the South right of way of State Highway 24;

Thence South 73°16'35" East along said Highway right of way for 313.35 feet to a ½" rebar on the East line of Section 20;

Thence South 0°11'20" East along section line for 133.20 feet to a ½" rebar;

Thence South 89°49'06" West for 130.00 feet to a ½" rebar;

Thence South 0°11'20" East for 210.00 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM the following described tract:

Beginning at the Southeast corner of said Section 20, said corner marked by a 5/8 inch rebar with cap attached; thence South 89°49'06" West along section line for 130.00 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 89°49'06" West along section line for a distance of 56.61 feet to a ½ inch rebar;

Thence North 00°54'26" East for a distance of 250.41 feet to a ½ inch rebar;

Thence South 86°01'42" East for a distance of 182.30 feet to a ½ rebar on section line;

Thence South 00°11'20" East along section line for a distance of 27.16 feet to a ½ inch rebar;

Thence South 89°49'06" West for a distance of 130.00 feet to a ½ inch rebar;

Thence South 00°11'20" East for a distance of 210.00 feet to the Point of Beginning.

**PARCEL NO. 16:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 20: That part of the SE¼SE¼, more particularly described as follows:

Beginning at the Southeast corner of the SE¼SE¼ of said Section 20, said corner marked by a 5/8 inch rebar; thence South 89°49'06" West (West rec.) along section line for 301.00 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 89°49'06" West (West rec.) along section line for 350.00 feet to a ½ inch rebar;

Thence North 0°01'48" West (North rec.) for 535.91 feet (557 feet rec.) to a ½ inch rebar on the Southerly right-of-way of State Highway 24;

Thence South 73°40'13" East along the Southerly right-of-way of State Highway 24 for 364.77 feet to a ½ inch rebar;

Thence South 0°01'48" East for 432.24 feet to the Point of Beginning.

**PARCEL NO. 18:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 20: That part of the SE¼SE¼, more particularly described as follows:

Beginning 1296 feet West of the Southeast corner of said Section 20;

Thence North 752 feet to the South boundary of the Roosevelt State Highway right-of-way;

Thence Southeasterly along said boundary for 224.6 feet;

Thence South 687 feet to the South boundary of Section 20;

Thence West for 215 feet to the POINT OF BEGINNING.

**PARCEL NO. 20:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 12: W½

**PARCEL NO. 21:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 11: W½, SAVE AND EXCEPTING the following described parcel:

Beginning at the W¼ Section corner of said Section 11, said corner marked by a 5/8 inch rebar which shall be the Point Of Beginning;

Thence North 00°18'57" East along Section line for 1113.13 feet to a ½ inch rebar;

Thence South 89°41'34" East for 700.00 feet to a ½ inch rebar;

Thence South 00°19'12" West for 1125.00 feet to a ½ inch rebar;

Thence North 89°41'34" West for 700.00 feet to a ½ inch rebar on Section line;

Thence North 00°43'50" East along Section line for 11.87 feet to the Point Of Beginning.

**PARCEL NO. 22:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 16: All, SAVE AND EXCEPT the following described parcel:

Beginning at the Southwest corner of the SW¼SW¼ of said Section 16;

Thence North 89°40' East for 406 feet; Thence North 0°20' West for 30 feet to a point, which point shall be know as the True Point Of Beginning;

Thence North 89°40' East for 350 feet;

Thence North 0°20' West for 350 feet;

Thence South 89°40' West for 350 feet;

Thence South 0°20' East for 350 feet to the True Point Of Beginning

**PARCEL NO 23:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 20: All that part of Section 20, lying North of the Union Pacific Railroad right-of-way:

SAVE AND EXCEPT the following described parcel:

Beginning at the Northeast corner of the SE¼ of Section 20, which point shall be known as the True Point Of Beginning;

Thence South 89°42'45" West for 1084.27 feet;

Thence South 11°07'56" East for 560.00 feet;

Thence South 33°27'23" East for 274.52 feet;

Thence North 90°00'00" East for 257.00 feet;

Thence South 0°00'00" East for 300.00 feet;

Thence South 70°19'00" East for 274.00 feet;

Thence South 8°43'00" East for 150.00 feet;

Thence North 89°45'55" East for 14.42 feet;

Thence South 1°31'00" West for 165.00 feet;

Thence South 27°25'00" East for 541.98 feet;

Thence South 73°40'13" East for 35.40 feet to a point on the East Section line of said Section 20;

Thence North 0°11'19" West along said East Section line to the True Point Of Beginning.

**PARCEL NO. 24:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 21: N½

**PARCEL NO. 25:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 20: That part of the E½SE¼, more particularly described as follows:

Beginning at the Northeast corner of the SE¼ of Section 20, which point shall be known as the True Point Of Beginning;

Thence South 89°42'45" West for 1084.27 feet;

Thence South 11°07'56" East for 560.00 feet;

Thence South 33°27'23" East for 274.52 feet;

Thence North 90°00'00" East for 257.00 feet;

Thence South 0°00'00" East for 300.00 feet;

Thence South 70°19'00" East for 274.00 feet;

Thence South 8°43'00" East for 150.00 feet;

Thence North 89°45'55" East for 14.42 feet;

Thence South 1°31'00" West for 165.00 feet;

Thence South 27°25'00" East for 541.98 feet;

Thence South 73°40'13" East for 35.40 feet to a point on the East Section line of said Section 20;

Thence North 0°11'19" West along said East Section line to the True Point Of Beginning.

**PARCEL NO. 26:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 33: W½SW¼SE¼SW¼SW¼

EXCEPTING THEREFROM, the following described tract:

Beginning at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence South 89°48'00" East (basis of bearing) along section line for 667.14 feet to a ½ inch rebar which shall be the Point of Beginning.

Thence North 0°52'30" West for 339.25 feet to a ½ inch rebar;

Thence North 89°23'49" East for 157.56 feet to a ½ inch rebar;

Thence South 0°34'30" East for 341.43 feet to a ½ inch rebar on Section line;

Thence North 89°48'00" West along section line for 155.80 feet to the Point of Beginning.

**PARCEL NO. 32:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 13: ALL.

Section 14: That part of the S½, lying North of the Union Pacific Railroad right-of-way.

Section 24: That part of the N½, lying North of the Union Pacific Railroad right-of-way.

**PARCEL NO. 33:**

TOWNSHIP 7 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 2: Lot 1, EXCEPTING THEREFROM the W½NW¼ of said Lot 1;

ALSO EXCEPTING THEREFROM, the following described tract:

Beginning at the Northeast corner of Section 2, Township 7 South, Range 24 East of the Boise Meridian, said corner marked by a 5/8 inch rebar; Thence North 89°14'13" West along section line for 892.31 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 00°45'47" West for a distance of 240.00 feet to a ½ inch rebar;

Thence North 89°16'22" West for a distance of 419.69 feet to a ½ inch rebar;

Thence North 00°41'19" East for a distance of 240.00 feet to a ½ inch rebar on section line;

Thence South 89°18'41" East along section line for a distance of 202.08 feet to a 5/8 inch rebar at the Southwest corner of Section 33 of Township 6 South, Range 24 East of the Boise Meridian;

Thence South 89°14'13" East along section line for a distance of 217.92 feet to the Point of Beginning.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B
36-8663

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46 5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,844.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0 04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

L. Glen Saxton

Chief, Water Allocation Bureau

MICROFILMED

JUN 18 2002

RECEIVED

MAY 17 2005

DEPARTMENT OF
WATER RESOURCES

478222

*RECORDING REQUESTED BY AND*
*WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock &*
*Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

**Instrument # 478222**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:11:00 No. of Pages: 22
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 66.00
Ex-Officio Recorder Deputy

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 38)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26th, 2005, by **Roy Young**, also known as Roy M. Young, whose address is 198 West 400 North, Rupert, Idaho 83350, and **Steven Young**, also known as Steven D. Young, and **Maria Young**, also known as Marie Young, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350 (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

**1. CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Roy Young, also known as Roy M. Young, Steven Young, also known as Steven D. Young, and Maria Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Roy Young, also known as Roy M. Young, Steven Young also known as Steven D. Young, and Maria Young, warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**ROY YOUNG**

**GRANTOR:**

**STEVEN YOUNG**

**GRANTOR:**

**MARIA YOUNG**

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 38:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 1: ALL

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

RECEIVED

MAY 17 2005

478221

DEPARTMENT OF WATER RESOURCES

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

*SEND TAX NOTICES TO:*

*S&R Inv*
*Attn: Steven and Maria Young*
*Roy Young*
*P.O. Box 307*
*Rupert, Idaho 83350*

**Instrument # 478221**
**MINIDOKA COUNTY, RUPERT, IDAHO**
**2005-05-05 12:09:00 No. of Pages: 22**
**Recorded for : MOFFATT THOMAS**
**DUANE SMITH Fee: 66.00**
**Ex-Officio Recorder Deputy**

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 19)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26th, 2005, by **S&R Inv.**, an Idaho general partnership, whose address is P.O. Box 307, Rupert, Idaho 83350, consisting of **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, an undivided half interest, and **Roy M. Young**, a married man dealing with his sole and separate property, whose address is 198 West 400 North, Rupert, Idaho 83350, an undivided half interest ("Grantor"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

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

Grantor also presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantor grants Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantor under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantor.** The word "Grantor" means S&R Investments, a general partnership, consisting of Steven D. Young and Maria Young husband and wife, an undivided half interest, and Roy M. Young, an undivided half interest.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantor, or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantor may now or at any time owe to the Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

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

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantor represents and warrants to Lender that: (1) during the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantor's covenants as provided herein, Grantor shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At its sole cost and expense, Grantor shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantor shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantor shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantor shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantor's expense.

**4.3.4** Grantor shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantor or, to Grantor's knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantor shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantor's expense. In the event Grantor fails to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insured in such liability insurance policies. Additionally, Grantor shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender

and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor shall obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds that have not been disbursed within 180 days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not Grantor's agent for payment of the taxes and assessments required to be paid by Grantor.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantor fails to comply with any provision of this Mortgage or any Related Document, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young, Maria Young, Roy Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and has the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

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

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantor that Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

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

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

**16.1.3 Compliance Default.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantor.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantor, defaults under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantor's, individually or collectively, ability to repay the Notes or perform its obligations under this Mortgage or any of the Related Documents. Grantor defaults under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantor's ability to perform Grantor's obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantor's Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantor and the failure by Grantor to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

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

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantor, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a

reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTOR AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the

United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

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

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

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

**19.7 Multiple Parties.** All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so

modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantor and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantor. Grantor is exercising Grantor's own judgment with respect to Grantor's business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantor of any matter with respect to Grantor's business. Lender and Grantor intend that Lender may reasonably rely on all information supplied by Grantor to Lender, together with all representations and warranties given by Grantor to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

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

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

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

**GRANTOR:**

**STEVEN D. YOUNG, MARIA YOUNG, ROY M. YOUNG, DBA S&R INVESTMENTS**

By: Steven D Young
Its: Pres.

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared Steven D. Young known or identified to me (or proved to me on the oath of _____), to be one of the partners of **S&R INV.**, an Idaho general partnership, and the partner who subscribed said name to the foregoing instrument, and acknowledged to me that he/she executed the same in said S&R INV. name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 19:**

TOWNSHIP 6 SOUTH, RANGE 23 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 26: W½

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

RECEIVED
MAY 17 2005
DEPARTMENT OF WATER RESOURCES

478220

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

**Instrument # 478220**
MINIDOKA COUNTY, RUPERT, IDAHO
2005-05-05 12:07:00 No. of Pages: 26
Recorded for : MOFFATT THOMAS
DUANE SMITH Fee: 78.00
Ex-Officio Recorder Deputy

*SEND TAX NOTICES TO:*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCEL 14)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young**, and **Maria Young**, husband and wife, whose address is 230 North 500 East, Rupert, Idaho 83350, and **Roy M. Young**, a married man, whose address is 198 West 400 North, Rupert, Idaho 83350 ("Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender").

**1. CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below)

from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below).

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, and Maria Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantors, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with

all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents

to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation,

attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer,

without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance

companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with

respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D. Young and Maria Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

**16. DEFAULT.**

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether

election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's

estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

**17.5 Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's

right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

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

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

foreclosure reports), surveyors' reports, appraisal fees and title insurance, to the extent permitted by applicable law. Grantors also will pay any court costs, in addition to all other sums provided by law.

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a

waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

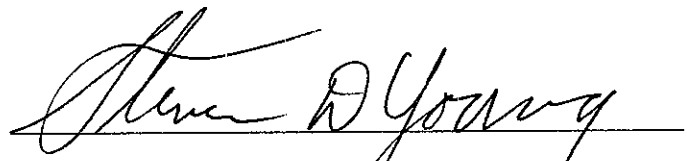
**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

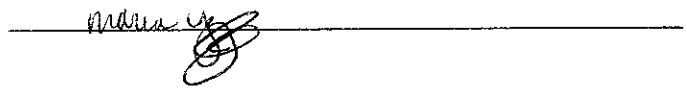
**GRANTOR:**

**STEVEN D. YOUNG**



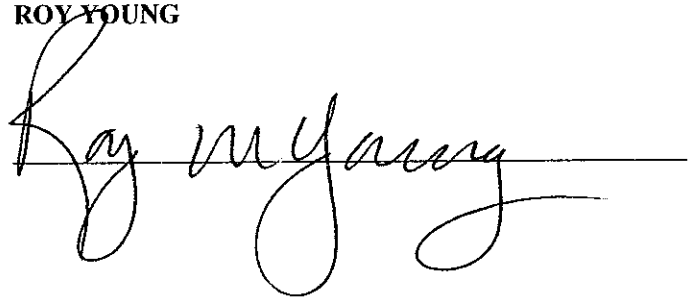
**GRANTOR:**

**MARIA YOUNG**



**GRANTOR:**

**ROY YOUNG**



STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 14:**

TOWNSHIP 6 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 32: W½E½ and SE¼SE¼

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

**Purpose of Transfer (Changes Proposed)**

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

**Summary of Water Rights After the Approved Change**

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 20 02

J. Glen Saxton

Chief, Water Allocation Bureau

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JUN 18 2002

RECEIVED
MAY 17 2005
DEPARTMENT OF
WATER RESOURCES

478219

*RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:*

*Moffatt, Thomas, Barrett, Rock & Fields, Chartered*
*101 S. Capitol Boulevard, 10th Floor*
*Post Office Box 829*
*Boise, Idaho 83701-0829*
*Attention: John C. Ward*

**Instrument # 478219**
**MINIDOKA COUNTY, RUPERT, IDAHO**
**2005-05-05 12:05:14 No. of Pages: 30**
**Recorded for : MOFFATT THOMAS**
**DUANE SMITH Fee: 90.00**
**Ex-Officio Recorder Deputy**

*SEND TAX NOTICES TO*

*Steven D. and Maria Young*
*230 North 500 East*
*Rupert, Idaho 83350*

*Roy Young*
*198 West 400 North*
*Rupert, Idaho 83350*

(Space Above For Recorder's Use)

## MORTGAGE AND FIXTURE FILING (PARCELS 27-30)

**THIS MORTGAGE AND FIXTURE FILING** is made effective as of April 26, 2005, by **Steven D. Young** and **Maria Young**, husband and wife, whose address is 230 N 500 E. Rupert, ID 83350, an undivided one-half interest, and **Roy M. Young**, a married man dealing with his sole and separate property, whose address is 198 W 400 N. Rupert, ID 83350, an undivided one-half interest (collectively "Grantors"); and **KeyBank National Association**, whose address is 501 Broadway, Idaho Falls, Idaho 83405 ("Lender")

1. **CONVEYANCE AND GRANT.** For valuable consideration, Grantors mortgage, grant, bargain, sell, and convey to Lender all of Grantors' right, title, and interest in and to the real property located in Minidoka County, Idaho, more particularly described in the attached *Exhibit A*, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses, and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters (the "Real Property").

Grantors also presently assign to Lender all of Grantors' right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantors grant Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of Rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of the Grantors under the Notes, the Related Documents, and this Mortgage (as such terms are defined below)

**2. DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Grantors.** The word "Grantors" means Steven D. Young, Maria Young, and Roy M. Young.

**Guarantor.** The word "Guarantor" means and includes without limitation any and all guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Credit Agreement, all obligations under any related agreement, and any amounts expended or advanced by Lender to discharge obligations of Grantors, or expenses incurred by Lender to enforce obligations of Grantors under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantors may now or at any time owe to Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

**Lender.** The word "Lender" means KeyBank National Association, its successors and assigns.

**Mortgage.** The word "Mortgage" means this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

**Notes.** The term "Notes" means: the 2004 Loan, the 2005 Loan, and Nature's Best Loan, of even date herewith, as defined further in the Credit Agreement.

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

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

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

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

**3. PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantors shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantors' obligations under the Notes, this Mortgage, and the Related Documents.

**4. POSSESSION AND MAINTENANCE OF THE PROPERTY.**

**4.1 Possession and Use.** Until the occurrence of an Event of Default, Grantors may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

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

**4.3 Hazardous Substances.** Grantors represent and warrant to Lender that: (1) during the period of Grantors' ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantors have no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing (a) neither Grantors nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantors authorize Lender and its agents to enter upon the Property to make such inspections and tests, at Grantors' expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and

shall not be construed to create any responsibility or liability on the part of Lender to Grantors or to any other person. The representations and warranties contained herein are based on Grantors' due diligence in investigating the Property for Hazardous Substances. Grantors hereby (1) release and waive any future claims against Lender for indemnity or contribution in the event Grantors become liable for cleanup or other costs under any such laws; and (2) agree to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantors' ownership or interest in the Property, whether or not the same was or should have been known to Grantors. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**4.3.1** Without otherwise limiting Grantors' covenants as provided herein, Grantors shall not, without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury, or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the Environmental Protection Agency or any state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

**4.3.2** At their sole cost and expense, Grantors shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste, and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Substances, and pay immediately when due the cost of removal of any such wastes or substances from the Property, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

**4.3.3** Grantors shall not install or permit to be installed in or on the Property friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantors shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantors shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantors' expense.

**4.3.4** Grantors shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Substance, or compliance with any

Environmental Law. No notice from any governmental body has ever been served upon Grantors or, to Grantors' knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantors shall take any and all steps and shall perform any and all actions necessary or appropriate to comply with the same, at Grantors' expense. In the event Grantors fail to do so, Lender may declare this Mortgage to be in default.

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

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

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

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

**4.8 Duty to Protect.** Grantors agree neither to abandon nor leave unattended the Property. Grantors shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**5. DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right,

title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

## 6. TAXES AND LIENS.

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

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

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

## 7. PROPERTY DAMAGE INSURANCE.

**7.1 Maintenance of Insurance.** Grantors shall procure and maintain policies of fire insurance, with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantors shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender being named as an additional insured in such liability insurance policies. Additionally, Grantors shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantors shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to

Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantors or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantors shall obtain and maintain Federal Flood Insurance, if available, within forty-five (45) days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the Property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

**7.2 Application of Proceeds.** Grantors shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds $10,000. Lender may make proof of loss if Grantors fail to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantors shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantors from the proceeds for the reasonable cost of repair or restoration if Grantors are not in default under this Mortgage. Any proceeds that have not been disbursed within one hundred eighty days (180) days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantors as Grantors' interests may appear.

**7.3 Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

**8. TAX AND INSURANCE RESERVES.** Subject to any limitations set by applicable law, Lender may require Grantors to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantors, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantors as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantors shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the

Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantors, and Lender is not Grantors' agent for payment of the taxes and assessments required to be paid by Grantors.

**9. EXPENDITURES BY LENDER.** If any action or proceeding is commenced that would materially affect Lender's interests in the Property, or if Grantors fail to comply with any provision of this Mortgage or any Related Document, Lender on Grantors' behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Notes from the date incurred or paid by Lender to the date of repayment by Grantors. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Notes and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Notes, or (c) be treated as a balloon payment that will be due and payable at the Notes' maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had

**10. WARRANTY AND DEFENSE OF TITLE.**

**10.1 Title.** Steven D Young, Maria Young, Roy Young warrant that they, each individually or collectively, as the case may be (a) have the full right, power, and authority to execute and deliver this Mortgage to Lender; and (b) hold good and marketable title of record to the following described tracts more particularly described in *Exhibit A* in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and have the authority to grant this Mortgage, and accepted by, Lender in connection with this Mortgage.

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

**10.3 Compliance with Laws.** Grantors warrant that the Property and Grantors' use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

## 11. CONDEMNATION.

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

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

## 12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

**12.1 Current Taxes, Fees and Charges.** Grantors shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**12.2 Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantors that Grantors are authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Notes; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantors.

**12.3 Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantors either (a) pay the tax before it becomes delinquent, or (b) contest the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

## 13. SECURITY AGREEMENT; FINANCING STATEMENTS.

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

**13.2 Security Interest.** Upon request by Lender, Grantors shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantors, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantors shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantors shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantors and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

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

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

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

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

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

## 16. DEFAULT.

**16.1 Events of Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

**16.1.1 Payment Default.** Grantors fail to make any payment when due under the Indebtedness.

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

**16.1.3 Compliance Default.** Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, or Grantors fail to comply with or to perform any other term, obligation, covenant or condition contained in the Notes or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantors.

**16.1.4 Default in Favor of Third Parties.** Any party to that Credit Agreement, individually or collectively, or Grantors, individually or collectively, default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of the Real Property or other items of Lender's Collateral, or that impacts any party to that Credit Agreement, individually or collectively, or Grantors', individually or collectively, ability to repay the Notes or perform their obligations under this Mortgage or any of the Related Documents. Grantors default under any loan, extension of credit, security agreement, purchase or sale agreement, or any other agreement, in favor of any other creditor or person that may materially affect Grantors' ability to perform Grantors' obligations under this Mortgage.

**16.1.5 False Statements.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantors under this Mortgage, or with respect to the Credit Agreement, the Notes or the Related Documents, is false or misleading in any material respect, either now or at the time made or furnished.

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

**16.1.7 Death/Dissolution or Insolvency.** The dissolution of any entity that is a party to the Credit Agreement or Related Documents (regardless of whether election to continue is made) or any other termination of a member of any entity that is a party to the Credit Agreement or Related Documents, the appointment of a receiver for any part of Grantors' Property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantors.

**16.1.8 Foreclosure or Forfeiture.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantors or by any governmental agency against any Property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantors as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantors give Lender written notice of such claim and furnish reserves or a surety bond for the claim satisfactory to Lender.

**16.1.9 Execution; Attachment.** Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

**16.1.10 Change in Zoning or Public Restriction.** Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed, or, in the opinion of Lender, the value of the Property is substantially decreased by changes in the zoning ordinance, regulations or any other public restriction.

**16.1.11 Default Under Other Lien Documents.** A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

**16.1.12 Judgment.** Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars ($10,000.00) against Grantors and the failure by Grantors to discharge the same, or cause it to be discharged or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

**16.1.13 Breach of Other Agreement.** Any breach by Grantors under the terms of any other agreement between Grantors and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantors to Lender, whether existing now or later.

**16.1.14 Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. Lender, at its option may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender and, in doing so, cure the Event of Default.

**16.2 Right to Cure.** If an Event of Default is curable and if Grantors have not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantors, after Lender sends written notice demanding cure of such failure: (a) cure the failure

within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiate steps sufficient to cure the failure and thereafter continue and complete all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**17.1 Accelerate Indebtedness.** Lender shall have the right at its option, without notice to any party to the Credit Agreement or Related Documents or to Grantors, to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that any party to the Credit Agreement or Related Documents would be required to pay.

**17.2 Foreclosure.** With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

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

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

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

**17.6 Tenancy at Sufferance.** If Grantors remain in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantors, Grantors shall become a tenant at sufferance

of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

**17.7 Other Remedies.** Lender shall have any other right or remedy provided in this Mortgage or the Notes or by law.

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

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

**17.10 Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights or otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Notes, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantors under this Mortgage after failure of Grantors to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

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

**18. NOTICES TO GRANTORS AND OTHER PARTIES.** Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally

recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantors agree to keep Lender informed at all times of Grantors' current addresses.

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

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

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

**19.3 Governing Law.** This Mortgage has been delivered to Lender and accepted by Lender in the state of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the state of Idaho.

**19.4 Choice of Venue.** If there is a lawsuit, Grantors agree upon Lender's request to submit to the jurisdiction of the courts of Minidoka County, State of Idaho.

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

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

**19.7 Multiple Parties.** All obligations of Grantors under this Mortgage shall be joint and several, and all references to Grantor and/or Grantors shall mean each and every Grantor.

**19.8 Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be

within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**19.9 Non-Liability of Lender.** The relationship between Grantors and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantors. Grantors are exercising Grantors' own judgment with respect to Grantors' business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantors of any matter with respect to Grantors' business. Lender and Grantors intend that Lender may reasonably rely on all information supplied by Grantors to Lender, together with all representations and warranties given by Grantors to Lender, without investigation or confirmation by Lender, and that any investigation or failure to investigate will not diminish Lender's right to so rely.

**19.10 Sole Discretion of Lender.** Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

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

**19.12 Time Is of the Essence.** Time is of the essence in the performance of this Mortgage.

**19.13 Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantors, shall constitute a waiver of any of Lender's rights or any of Grantors' obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**19.14 Survival of Representations and Warranties.** All representations, warranties, and agreements made by Grantors in this Mortgage shall survive the

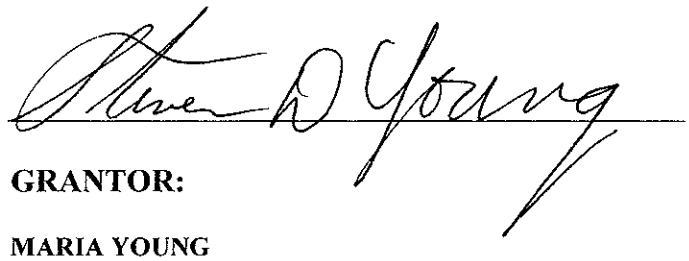
execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

**19.15 Waiver of Homestead Exemption.** Grantors hereby release and waive all rights and benefits of the homestead exemption laws of the state of Idaho as to all Indebtedness secured by this Mortgage.

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

**GRANTOR:**

**STEVEN D. YOUNG**



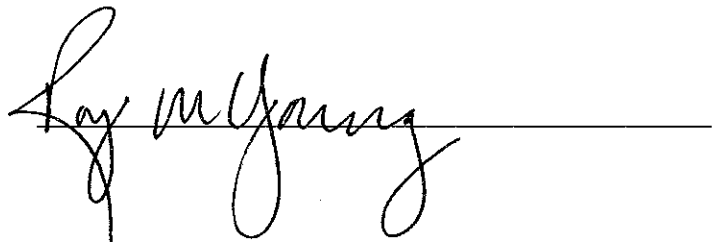
**GRANTOR:**

**MARIA YOUNG**



**GRANTOR:**

**ROY M. YOUNG**



STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **STEVEN D. YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka)

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **MARIA YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 09/08/2009

STATE OF IDAHO )
) ss.
County of Minidoka )

On this 26th day of April, 2005, before me Susan M. Keck, personally appeared **ROY YOUNG**, known or identified to me (or proved to me on the oath of _____), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

SUSAN M. KECK
NOTARY PUBLIC
STATE OF IDAHO

Susan M Keck
NOTARY PUBLIC FOR IDAHO
Residing at Almo
My Commission Expires 08/08/2007

## EXHIBIT A

### Description of the Real Property

All real property described below

together with:

All tenements, hereditaments, rights, privileges, appurtenances and all fixtures now or hereafter belonging to, located on, or used in connection with the above described premises, including but not limited to the following: sprinkler and irrigation equipment, including but not limited to all pumps, motors, columns, tubes, shafts, bowls, panels, and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, together with all water and mineral rights of every kind and description and however evidenced and all rights of way thereof, or appurtenant there to or used in connection therewith.

together with

All buildings, structures, equipment, fixtures (including trees, vines, and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, for the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of way used to convey such water or to drain the above described property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, all of which are to be considered fixtures; all grazing rights, leases, permits and licenses; all oil, gas and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights of-way and appurtenances to the property.

together with

All water rights and all entitlements to receive water that have been placed to beneficial use upon this parcel or are appurtenant to or associated with it, including without limitations, all licenses, permits, claims, permit applications, and storage entitlements; all ditch or canal company shares and/or entitlements to receive water from any such company or from any irrigation district or other water delivery entity; all ditch rights, easements or rights of way associated with any irrigation or other water delivery ditch, canal, lateral or pipeline. A further description of the water rights is attached hereto as Exhibit B.

together with

All rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof from any lease, mineral lease, or agreement pertaining thereto.

together with

All rights, interests, easements, hereditaments and appurtenances there unto belonging, including the rests, issues and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, all water, water rights, and water stock pertaining thereto, and all payments at any time owing by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

**PARCEL NO. 27:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 24: That part of the NW¼, lying South and West of Idaho State Highway No. 24, **SAVE AND EXCEPT** the following described tracts:

Tract No. 1:

Beginning at the intersection of the Union Pacific Railroad right of way and the West section line of said Section 24; thence South 73°21' East along the center line of said railroad right of way for 130.74 feet; thence South 16°39' West for 150.0 feet to a point, which point shall be known as the TRUE POINT OF BEGINNING;

Thence South 73°21' East and parallel to center line of said railroad right of way along the South right of way boundary of Idaho State Highway No. 24 for 2100.00 feet;

Thence South 16°39' West and perpendicular to said highway right of way boundary for 235.0 feet;

Thence North 73°21' West and parallel to center line of said railroad right of way for 2100.0 feet;

Thence North 16°39' East and perpendicular to said highway boundary for 235.0 feet, more or less, to the TRUE POINT OF BEGINNING.

Tract No. 2:

Beginning at the point where the centerline of the Union Pacific Railroad right of way intersects the West section line of said Section 24; thence South 73°21' East for 130.7 feet along said centerline of the Union Pacific Railroad right of way; thence South 16°39' West for 150.0 feet to a point, which point shall be known as the TRUE POINT OF BEGINNING;

Thence South 16°39' West for 235.0 feet;

Thence South 73°21' East parallel to said railroad right of way center line for 2100.0 feet;

Thence South 16°39' West for 50.0 feet;

Thence North 73°21' West parallel to said railroad right of way for 37.0 feet;

Thence West for 1211.9 feet;

Thence South 0°1' East for 600.0 feet;

Thence West for 765.0 feet to a point on the West section line of said Section 24;

Thence North 0°1' West along said West section line for 1488.77 feet to a point on the South right of way of Idaho State Highway No. 24;

Thence South 73°21' East parallel to said railroad right of way and State Highway right of way for 85.32 feet to the TRUE POINT OF BEGINNING.

Tract No. 3:
Commencing at the Northwest section corner; thence South 00°03'30" East for 541.05 feet along the West section line to a ½ inch rebar which shall be the TRUE POINT OF BEGINNING;

Thence continuing South 00°03'30" East for 52.03 feet along the West section line to an existing ½ inch rebar;

Thence South 73°22'17" East (recorded as South 73°21'00" East within Deed Clawson Farms to Neibaur dated December 15, 1986, Document No. 369713) for 380.46 feet to an existing ½ inch rebar;

Thence continuing South 73°22'17" East for 5.06 feet to a point;

Thence North 16°36'45" East for 49.95 feet (recorded as North 16°39' East for 50.00 feet) to a ½ inch rebar;

Thence North 73°23'15" West (recorded as South 73°21' West within Quitclaim Deed Young to Neibaur and Stevenson, dated December 29, 1980, Document No. 310279) for 400.45 feet to the TRUE POINT OF BEGINNING.

**PARCEL NO. 28:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 24: That part of the NE¼, lying South and West of Idaho State Highway No. 24, **SAVE AND EXCEPT** the following described tracts:

Tract No. 1:
Beginning at the East quarter section corner of said Section 24, marked by a ⅝ inch rebar; thence North 0°00'00" East (basis of bearing) along section line for 696.38 feet to a P.K. Nail which shall be the POINT OF BEGINNING;

Thence North 73°35'09" West for 517.61 feet to a ½ inch rebar;

Thence North 16°39'57" East for 76.16 feet to a ½ inch rebar;

Thence South 73°34'56" East for 494.85 feet to a P.K. Nail on section line;

Thence South 0°00'00" West along said section line for 79.36 feet to the POINT OF BEGINNING.

Tract No. 2:
Beginning at the East quarter section corner of said Section 24, marked by a ⅝ inch rebar; thence North 0°00'00" East along section line for 599.82 feet to a P.K. Nail which shall be the POINT OF BEGINNING;

Thence North 73°34'07" West for 600.79 feet to a ½ inch rebar;

Thence North 16°24'51" East for 92.62 feet to a ½ inch rebar;

Thence South 73°35'09" East for 573.50 feet to a P.K. Nail on section line;

Thence South 0°00'00" West along said section line for 96.56 feet to the POINT OF BEGINNING.

**ALSO SAVE AND EXCEPTING FROM PARCELS 27 AND 28** the following described tracts:

Tract No. 3
Commencing at the Northwest section corner; thence South 00°03'30" East for 295.60 feet along the West section line to a point on the Southerly right of way of State Highway 24; thence South 73°23'02" East for 2910.82 feet along the Southerly right of way of State Highway 24 to a ½ inch rebar which shall be the TRUE POINT OF BEGINNING;

Thence South 73°23'15" East for 790.28 feet along said right of way to a ½ inch rebar;

Thence South 13°23'41" West for 587.07 feet to a ½ inch rebar;

Thence North 73°23'15" West for 1044.27 feet to a ½ inch rebar;

Thence along a curve to the left with a central angle of 45°56'10" radius of 1397.00 feet, arc length of 1120.03 feet and chord length of 1090.27 feet with chord bearing of North 68°52'01" West to a ½ inch rebar;

Thence North 73°23'15" West for 162.69 feet to a point;

Thence North 89°58'17" East for 739.11 feet to an existing ½ inch rebar;

Thence South 73°22'17" East for 37.61 feet to an existing ½ inch rebar;

Thence South 16°36'45" West (recorded as South 16°39' West) for 14.43 feet to an existing ½ inch rebar;

Thence South 73°23'15" East (recorded as South 73°21' East) for 725.00 feet to an existing ½ inch rebar;

Thence North 16°36'45" East (recorded as North 16°39' East) for 300.00 feet along said property line to the TRUE POINT OF BEGINNING.

Tract No. 4

Beginning at the intersection of the Union Pacific Railroad right of way and the West section line of said Section 24; thence South 73°21' East along the center line of said railroad right of way for 2230.7 feet; thence South 16°39' West for 150.0 feet to a point, which point shall be known as the TRUE POINT OF BEGINNING;

Thence South 73°21' East for 725.0 feet;

Thence South 16°39' West for 300.0 feet;

Thence North 73°21' West for 725.0 feet;

Thence North 16°39' East for 300.0 feet to the TRUE POINT OF BEGINNING.

**PARCEL NO. 29:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 24: The S½, **SAVE AND EXCEPT** the following described tract:

Beginning at the South quarter corner of said Section 24, which point shall be known as the TRUE POINT OF BEGINNING;

Thence East along the South section line of said Section 24 for 29.006 chains;

Thence North 33°30' West for 4.894 chains;

Thence North 71°35' West for 5.996 chains;

Thence North 81°28' West for 3.978 chains;

Thence South 87°37' West for 6.217 chains;

Thence North 64°04' West for 2.214 chains;

Thence North 82°21' West for 3.590 chains;

Thence South 47°29' West for 2.780 chains;

Thence South 26°06' West for 6.537 chains to the TRUE POINT OF BEGINNING.

**PARCEL NO. 30:**

TOWNSHIP 7 SOUTH, RANGE 23 EAST, BOISE MERIDIAN, MINIDOKA COUNTY, IDAHO

Section 24: That part of the SE¼, more particularly described as follows:

Beginning at the South quarter corner of said Section 24, which point shall be known as the TRUE POINT OF BEGINNING;

Thence East along the South section line of said Section 24 for 29.006 chains;

Thence North 33°30' West for 4.894 chains;

Thence North 71°35' West for 5.996 chains;

Thence North 81°28' West for 3.978 chains;

Thence South 87°37' West for 6.217 chains;

Thence North 64°04' West for 2.214 chains;

Thence North 82°21' West for 3.590 chains;

Thence South 47°29' West for 2.780 chains;

Thence South 26°06' West for 6.537 chains to the TRUE POINT OF BEGINNING.

**Exhibit B**
**Water Rights**

Including without limitation the water rights evidenced by the Idaho Department of Water Resources (IDWR) with right numbers in the names of Steven D. and Maria Young and Roy Young. Those water rights are more particularly described as follows:

36-16309
36-2090B
36-7264A
36-7264B
36-2582A
36-2582B
36-10850A
36-10850B
36-8227
36-2097
36-10515
36-2434
36-2435
36-2618
36-2092
36-2259
36-2433
36-7209
36-7627
36-15264A
36-15264B
36-10863A
36-10863B

Located in Blaine and Minidoka Counties and appurtenant to the mortgaged premises.

## Purpose of Transfer (Changes Proposed)

| Current Number | Split | POD | POU | Add POD | Period of Use | Nature of Use |
|---|---|---|---|---|---|---|
| 36-15366C | NO | NO | YES | NO | NO | NO |
| 36-7021A | NO | NO | YES | NO | NO | NO |
| 36-2530A | NO | NO | YES | NO | NO | NO |

## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2058D | 36-2058D | 0.36 cfs | 104 af | 26.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075D | 36-2075D | 0.12 cfs | 32 af | 8.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075F | 36-2075F | 0.16 cfs | 41.6 af | 10.4 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2193 | 36-2193 | 4.26 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233G | 36-2233G | 0.20 cfs | 48 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410C | 36-2410C | 2.23 cfs | 446 af | 111.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2591 | 36-2591 | 2.90 cfs | 636 af | 159.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2620 | 36-2620 | 7.13 cfs | 1760 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795A | 36-7795A | 1.58 cfs | 316 af | 79.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8404 | 36-8404 | 2.10 cfs | 524 af | 131.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8777 | 36-8777 | 1.12 cfs | 473.1 af | 253.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11290 | 36-11290 | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456B | 36-15456B | 0.07 cfs | 29.6 af | 16.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058C | 36-2058C | 5.13 cfs | 1496 af | 374.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075B | 36-2075B | 0.16 cfs | 52 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2075E | 36-2075E | 7.11 cfs | 1846.4 af | 461.6 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2191 | 36-2191 | 2.56 cfs | 640 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2233D | 36-2233D | 0.01 cfs | 4.2 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2410B | 36-2410B | 0.05 cfs | 10 af | 2.5 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-2410D | 36-2410D | 0.20 cfs | 40 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2619 | 36-2619 | 12.80 cfs | 2560 af | 640.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7391 | 36-7391 | 0.11 cfs | 46.5 af | 160.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7795B | 36-7795B | 0.06 cfs | 12 af | 3.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8776 | 36-8776 | 6.10 cfs | 2240 af | 560.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8251E | 36-8251E | 8.31 cfs | 2256 af | 564.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15456A | 36-15456A | 1.93 cfs | 815.4 af | 455.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2058B | 36-2058B | 0.11 cfs | 46.5 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530B | 36-2530B | 0.19 cfs | 39.6 af | 9.9 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2454B | 36-2454B | 0.45 cfs | 120 af | 30.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653P | 36-2653P | 6.75 cfs | 1980 af | 495.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653N | 36-2653N | 0.05 cfs | 16 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7007B | 36-7007B | 1.32 cfs | 264 af | 66.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7041 | 36-7041 | 4.40 cfs | 1128 af | 282.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580B | 36-7580B | 0.07 cfs | 14 af | 3.5 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580D | 36-7580D | 0.32 cfs | 62.8 af | 15.7 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068D | 36-8068D | 0.04 cfs | 16.9 af | 10.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068F | 36-8068F | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069P | 36-8069P | 3.34 cfs | 1400.8 af | 557.0 | 8,644.0 | | N/A | N/A | | N/A |

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## Summary of Water Rights After the Approved Change

| Existing Right | New No. (changed portion) | Transfer Rate | Transfer Volume | Acre Limit | Total Acres | New No. (remaining portion) | Remaining Rate | Remaining Volume | Remaining Acre Limit | Remaining Total Acres |
|---|---|---|---|---|---|---|---|---|---|---|
| 36-8274A | 36-8274A | 0.28 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8275B | 36-8275B | 2.46 cfs | 492 af | 123.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8778 | 36-8778 | 0.67 cfs | 196 af | 49.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366B | 36-15366B | 0.05 cfs | 21.1 af | 12.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366D | 36-15366D | 0.16 cfs | 56 af | 14.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653B | 36-2653B | 0.68 cfs | 200 af | 50.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2653Q | 36-2653Q | 0.09 cfs | 28 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-4006 | 36-4006 | 1.70 cfs | 718.2 af | 1,240 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021C | 36-7021C | 0.54 cfs | 108 af | 27.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7042 | 36-7042 | 5.12 cfs | 1260 af | 315.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7580C | 36-7580C | 3.53 cfs | 691.2 af | 172.8 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068B | 36-8068B | 0.05 cfs | 21.1 af | 13.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8068E | 36-8068E | 2.17 cfs | 916.8 af | 584.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069N | 36-8069N | 0.03 cfs | 12.5 af | 4.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8069Q | 36-8069Q | 0.05 cfs | 21.1 af | 7.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8274B | 36-8274B | 2.04 cfs | 408 af | 102.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-8775 | 36-8775 | 23.11 cfs | 6528 af | 1,632 | 8,644.0 | | N/A | N/A | | N/A |
| 36-11340 | 36-11340 | 0.97 cfs | | 90.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-15366C | 36-15366C | 2.31 cfs | 800 af | 200.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-7021A | 36-7021A | 0.42 cfs | 84 af | 21.0 | 8,644.0 | | N/A | N/A | | N/A |
| 36-2530A | 36-2530A | 5.27 cfs | 1100.4 af | 275.1 | 8,644.0 | | N/A | N/A | | N/A |
| TOTALS | | 119.01 cfs | 34296 af | 8574 | 8644.0 | | N/A | N/A | N/A | N/A |

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Detailed Water Right Description(s) attached

Dated this 14th day of May, 2002

J. Glen Saxton

Chief, Water Allocation Bureau

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JUN 18 2002