

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.

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DEPARTMENT OF WATER RESOURCES

1. Water Right No(s): 35-7540

Adjudication Claim No(s): _____

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

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

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

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

Idaho AgCredit, FLCA

P.O. Box 300

American Falls, ID 83211

4. Name of Water Right Owner/Claimant(s) Lynn W. Kendell, Tamara Kendell, Kevin Johns, Tracy Johns

5. Expiration Date of Notification Period February 1, 2026

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

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

Bail Brown
Vice President

For Office Use Only

Received by _____	Date _____	Fee <u>\$25.00</u>
Receipted by <u>jc</u>	Date <u>3-20-06</u>	Receipt No. <u>E031712</u>
Processed by _____	AJ Date _____	WR _____ Date _____

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Department of Water Resources
Eastern Region

MORTGAGE LOAN PROMISSORY NOTE AND LOAN AGREEMENT

Loan Number: 5570085-101

January 31, 2006
(Date)

Blackfoot, Idaho
(City, State)

1. PROMISE TO PAY.

For value received the undersigned KENDELL FARMS, A Partnership, By: LYNN W. KENDELL, TAMARA KENDELL, KEVIN JOHNS, and TRACY JOHNS, Partners; and Individually By: LYNN W. KENDELL and TAMARA KENDELL, and KEVIN JOHNS and TRACY JOHNS, husbands and wives ("Borrower", whether one or more) as principals, jointly and severally, promise to pay to the order of Idaho AgCredit, FLCA ("Lender"), a wholly owned subsidiary of Idaho Agricultural Credit Association, a corporation organized and existing under the laws of the United States of America, at its principal office at 188 W. Judicial, Blackfoot, Idaho 83221 or at such other place as may be designated in writing by Lender, the principal sum of One hundred twenty-one thousand nine hundred seventy-five and no/100 dollars (\$121,975.00) together with interest as specified in Section 3 below of this Mortgage Loan Promissory Note and Loan Agreement ("Note"). "Indebtedness" means principal, interest and all other sums owed hereunder of whatever kind evidenced by this Note and any other supplemental note(s) or agreement(s) attached hereto. All Indebtedness owed hereunder shall be payable only in lawful money of the United States of America.

() **REVOLVING LINE OF CREDIT.** If this paragraph is marked, Lender shall make available to Borrower a revolving line of credit exclusive of amounts advanced to purchase stock or participation certificates in the principal amount not to exceed NA Dollars, (NA) outstanding at any one time, or the borrowing base or other guidelines, where applicable, whichever is less. Subject to the terms and conditions of this Note, as amounts advanced hereunder are repaid, they may be reborrowed. Each advance shall be made upon a verbal, written, or electronic (FAX, Email, or other) request from Borrower to Lender. Such request shall specify the date on which to make the requested advance and the amount thereof. Upon fulfillment of the applicable conditions for making an advance, Lender shall disburse the amount of the requested advance to Borrower in such manner as Lender and Borrower may from time to time agree. Lender may rely on any verbal or electronic request for an advance as fully as if such request were in writing.

Advances or re-advances by Lender to Borrower shall be conditioned upon there being no event of default under this Note or any loan agreement, deed of trust, mortgage, or security agreement, or an event which upon a lapse of time or giving of notice or both would become an event of default under this Note or any other loan agreement, deed of trust, mortgage, or security agreement. Borrower represents and warrants that any funds advanced on this Note will be used primarily for business and agricultural purposes and not for personal, family or household purposes. Borrower acknowledges that Lender has relied upon this representation in establishing this revolving line of credit and in making any advance hereunder. If Borrower is in default under this Note or Lender determines Borrower has not fulfilled other terms of this Note, Lender may terminate the revolving nature of this Note at any time with or without notice to Borrower.

Borrower understands, acknowledges and agrees that capital stock or participation certificates of Lender may only be redeemed upon approval of Lender's board of directors, and shall be retired at book value not to exceed par value. With each draw, Borrower shall purchase capital stock or participation certificates of Lender in the amount required by Lender's bylaws.

2. PAYMENTS.

On February 1, 2007, Borrower shall pay principal in the amount of \$2,975.33 and all interest then accrued on the outstanding principal balance; and commencing on February 1, 2008, and every 12 months thereafter, Borrower shall pay principal and interest installments in the amount of \$11,513.58 each, until February 1, 2026, at which time Borrower shall pay the unpaid principal balance and all accrued interest in full.

The actual payment amount may change in accordance with other terms of this Note. Lender may apply any payment received from or on behalf of Borrower and any proceeds of collateral to principal, interest, or any part of the indebtedness as Lender, in its sole discretion, may choose. Any payment received by Lender after Lender has closed its books for the day will be applied on the subsequent business day.

3. INTEREST -- FIXED RATE UNTIL CONVERSION.

(a) **Initial Interest Rate.** The rate of interest applicable to this Note shall change in accordance with Paragraphs 3 (b) through (d) below. Interest will be charged at a **FIXED INTEREST RATE** of 7.00% per annum commencing on the date Lender disburses principal and continuing until February 1, 2026, when the fixed interest rate on this Note shall automatically convert to Lender's current **VARIABLE INTEREST RATE** for the interest rate group to which this loan is eligible and assigned by Lender. Interest will be charged on that part of outstanding principal which has not been paid and shall be calculated on the basis of a 360-day year. Interest charged hereunder, including any accelerated interest rate described in Section 5 below, shall not be limited by the laws of any state relating to a legal rate or other rate of interest, but shall be governed solely by the then applicable federal laws.

(b) **Change in Interest Rate and Interest Rate Group.** Commencing when the interest rate of this Note is automatically converted from a fixed rate to a variable rate, the interest rate applicable to this Note may be adjusted automatically as of the first day of any month to the rate then made applicable to this Note's assigned interest rate group under the provisions of Lender's variable interest rate plan in effect at that time. In adjusting the rate, Lender considers certain specific factors set forth in the plan, including but not limited to, changes in its costs of funds, operating expenses, earnings requirements to meet certain capital objectives, credit risk factors, and the competitive environment, which factors may change during the term of the loan. Upon any adjustment to the rate of interest, the installments of principal and/or interest due hereunder shall be increased or decreased so that the indebtedness will be repaid within the remaining loan term. Borrower understands and agrees that the interest rate group to which this Note is assigned may be changed at any time to any other interest rate group.

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based on Lender's evaluation of the change in Borrower's credit quality, quality of collateral, costs of servicing the loan, and other factors which are set forth in Lender's interest rate plan in effect at that time.

- (c) **Notice.** If Lender changes Borrower's interest rate, Lender will give Borrower notice of the change in rate as required by applicable law.
- (d) () [Applies only to consumer loans secured by a dwelling.] The maximum interest rate which can be charged on this loan is twenty percent (20%) per annum.

4. **INTEREST AND LATE CHARGES FOR OVERDUE PAYMENTS.** Any installment of principal or interest not received by Lender by the end of the fifteenth (15th) calendar day after the date it is due shall bear interest from such due date until such amount is fully paid at an interest rate equal to the interest rate in effect at that time plus 4.000% per annum.
5. **DEFAULT.** Borrower is in default of this Note under the following circumstances: (a) Borrower fails to pay principal or interest as set forth in this Note; (b) Borrower breaches any term, condition or representation in this Note or in any document in connection with this Note or in connection with any other loan of this Lender, or any other lender; (c) If any of Borrower's representations to this, or any other lender in connection with any loan prove to be materially false or misleading; (d) Lender determines that Borrower is unable to repay the sums owed Lender under this Note as agreed or Lender in good faith otherwise deems itself insecure; (e) If, in Lender's reasonable determination, there shall occur any material adverse change in the financial condition of Borrower or in the value of the collateral; (f) Borrower's death, dissolution, incapacity or termination of existence; (g) Borrower's insolvency, business failure, application for or consent to appointment of a receiver/custodian or trustee for itself or any of its assets, assignment to an agent authorized to liquidate any substantial amount of assets, assignment for the benefit of creditors by, or commencement of any proceeding under any bankruptcy or insolvency law by or against Borrower, or any guarantor, endorser, or surety for Borrower; (h) Any judgment, writ, levy, lien, attachment, notice of tax lien, tax lien, or similar process shall be entered or filed against Borrower or any guarantor or any of Borrower's or any of guarantor's properties and is not vacated, bonded, or stayed to the satisfaction of Lender; (i) An event of default shall occur under any guaranty given to Lender as security for this Note, or any guarantor shall purport to terminate, repudiate or contest any such guaranty; any guarantor who is a natural person shall die; or any guarantor that is not a natural person shall be dissolved or terminated; (j) Borrower sells, leases, conveys, alienates, or transfers, or enters into any agreement for the sale, lease, conveyance, alienation, transfer or nonuse of any water or water right, or similar term such as Water Asset, as may be defined in any deed of trust, mortgage, security agreement or other agreement relating to the pledge of water or water rights.

Remedies. If an event of default shall occur, Lender shall have all rights, powers and remedies available under this Note or any other loan document, or accorded by law or at equity, including the right to foreclose on any and all collateral and to exercise any or all of the rights of a mortgagee, trust deed beneficiary, or secured party pursuant to applicable law. All rights, powers, and remedies of Lender may be exercised at any time by Lender and from time to time after the occurrence of an event of default. All rights, powers, and remedies of Lender in connection with this Note and any loan document are cumulative and not exclusive and shall be in addition to any other rights, powers, or remedies provided by law or equity. Lender may enforce any security interest or lien given or provided for under this Note or any other document in such manner and in such order, as to all or any part of the collateral as Lender, in its sole judgment, deems to be necessary or appropriate, and Borrower, to the extent Borrower can, waives any and all rights, obligations, or defenses now or hereafter established by law relating to the foregoing. The mortgage, deed of trust or security agreement provides that advances made by Lender shall become a part of the principal evidenced by this Note, and also states additional conditions under which the entire Note may be accelerated and become immediately due and payable and will be subject to interest and acceleration interest.

Acceleration and Interest on Acceleration. On Borrower's default, and at Lender's option, all unpaid principal, including amounts advanced for taxes, insurance, and other expenses provided herein, accrued unpaid interest and amounts charged in Section 4, shall become immediately due and payable without presentment, demand, protest, or notice of non-payment. Interest on said accelerated amount shall be 4.000% per annum above the interest rate in effect at the time as stated in Section 3 above.

Waiver. Any delay, failure or discontinuance of Lender in exercising any right or remedy and/or any election by Lender in exercising a specific right or remedy, shall not waive that right or remedy or any other right or remedy. Any explicit waiver of default by Lender must be in writing and signed by Lender. No waiver of default by Lender shall operate as a waiver of any other default or of the same default on a future occasion.

6. **PREPAYMENTS, REFINANCES, CONVERSIONS AND REAMORTIZATIONS.** A payment, in any amount, made in advance of the scheduled payment date is a "prepayment". A prepayment made by paying part or all of this Note with another Note from Lender is a "refinance". A change in the interest rate program for this Note (including a conversion to a different interest rate in the same interest rate program) is a "conversion". A change in the repayment schedule for this Note is a "reamortization". The period of time in which a prepayment, refinance, conversion, or reamortization is subject to a Prepayment Penalty is a "prepayment restricted period". Lender will only accept/approve a prepayment and/or refinance and/or conversion and/or reamortization with concurrent payment of any Prepayment Penalty and/or any other fees required by Lender.

Provided that no prepayment restricted period is in effect and provided Borrower is not in default under this Note, Borrower has the right to make payments in advance of the scheduled payment dates without the Prepayment Penalty. If Borrower, in making a prepayment, intends the prepayment to be applied to reduce the principal balance of the loan, Borrower must so inform Lender in writing accompanying the prepayment. Absent such a writing, or unless agreed to in writing otherwise, Lender may apply all payments, including regular installments, received from or on behalf of Borrower and all proceeds of real or personal property collateral to principal, interest or any part of the Indebtedness as Lender, in its sole discretion, may choose. If Borrower makes a partial prepayment, there will be no delays in the due dates of Borrower's installment payments unless Lender agrees in writing to those delays. Unless Borrower and Lender agree otherwise, Lender at its sole discretion may reamortize this Note on the basis of the new principal balance; otherwise, the making of a prepayment will operate only to discharge this Note at an earlier date.

Prepayment Restricted Period. The prepayment restricted period begins at the time the loan or conversion is first disbursed and ends upon the passage of the prepayment restricted period. During the prepayment restricted period, the Prepayment Penalty applies. The prepayment restricted period is separate from the Refinance, Conversion, and Reamortization restrictions, which may continue for the life of this Note regardless of the prepayment restricted period. The prepayment restriction that applies to this Note is marked below:

- () Prepayment is not restricted (Loan may be prepaid at any time).
(X) Prepayment is restricted until February 1, 2026 (entire term of this Note).

Prepayment Penalty. Borrower agrees to pay Lender a prepayment penalty in the event of a voluntary or involuntary unscheduled prepayment, in whole or in part during the prepayment restricted period. The prepayment penalty will include any amount charged to Lender by Lender's provider of financing or funding for any loss of earnings incurred over the then remaining term of the prepayment restricted period, any other cost or loss suffered by Lender, plus any fee or fees required by Lender. Prepayment penalties are charged to at least partially compensate Lender for interest rate risk, additional costs and other operating expenses associated with the accounting and funding adjustments necessitated by prepayment on a fixed rate loan. For example, Lender may have borrowed specific funds for this Note which Lender must repay at a fixed future date and at a specific bond interest rate.

Refinance, Conversion, or Reamortization. Lender may from time to time offer other interest rate products for which Borrower qualifies and/or Borrower may request a refinance and/or reamortization of this Note. If Lender approves Borrower's request for one or more of these actions, Borrower must pay to Lender any amount charged to Lender by Lender's provider of financing or funding for a refinance, conversion, or reamortization of this Note. This amount is in addition to any fees charged by Lender and in addition to any Prepayment Penalty which may also apply.

Acceleration. On any default by Borrower and following the acceleration of the maturity of this Note, a tender of payment of the amount necessary to satisfy the entire indebtedness made at any time by Borrower, its successors or assigns, or by anyone on behalf of Borrower, or its successors or assigns, shall activate the prepayment terms of this Note and any such payment, to the extent permitted by law, will, therefore, include the additional payment(s) required under the Prepayments, Refinances, Conversions and Reamortizations Section set forth above.

7. ADDITIONAL TERMS AND CONDITIONS.

STANDARD CONDITIONS

While this Note is in effect Borrower will: (1) at Lender's request, furnish information to Lender relating to Borrower's business and financial affairs and permit Lender to examine Borrower's books and records; (2) maintain all other loans with Lender in a current status; (3) allow Lender to inspect and appraise Lender's collateral; (4) promptly notify Lender of any potential material adverse change in financial condition or notify Lender in writing of any possible default under this Note or any other loan agreement with Lender or with any other lender or of any event which would become an event of default upon the lapse of time or the giving of notice or both; (5) execute all other documents as Lender may lawfully require in connection with this Note; and (6) comply with all terms and conditions of all other documents executed in connection with this Note.

STOCK, VOTING RIGHTS AND ALLOCATION. Pursuant to the Farm Credit Act of 1971, as it may from time to time be amended, Borrower shall acquire and maintain capital stock or participation certificates of Lender, subject to change from time to time at the discretion of Lender. Any increased capital stock or participation certificate requirements of Lender shall be added to Borrower's principal indebtedness in such amounts as Lender may from time to time require. At the option of Lender, any amounts borrowed to purchase capital stock or participation certificates, and any amounts repaid from retirement of such stock or certificates, may be recorded as part of the loan accounting in the Transaction Summary referred to herein, or in a separate stock or loan account.

Borrower hereby grants to Lender a security interest in and lien upon all capital stock and participation certificates as Collateral for the Indebtedness. Upon an Event of Default, Lender may, but is not required to, apply all or part of the proceeds from such capital stock or participation certificates against the sums owed Lender. As required by Lender's bylaws and the federal and any state income tax law(s), Borrower agrees that the amount of any distribution of patronage made by written notice of allocation to Borrower after the date of this Note will be included in Borrower's gross income for the purpose of federal income tax for the year in which the notice is received.

TRANSFER BY LENDER. Lender may sell, transfer or assign this Note or any portion thereof, and deliver to the transferee(s) ("Noteholder") all or any portion of the property then held by it as security hereunder, and the Noteholder shall thereupon become vested with all the power and rights herein given to Lender with respect thereto and at such time the term "Lender" as herein used shall be deemed to mean and include the "Noteholder"; and Lender shall thereafter be forever relieved and fully discharged from any and all liability or responsibility to Borrower, but Lender shall retain all rights and powers hereby given with respect to property not so transferred, sold or assigned.

FINANCIAL REPORTS. Borrower shall furnish Lender as soon as possible, but in no event later than 120 days after each fiscal year, financial reports for each of the undersigned, including a balance sheet and a profit and loss statement.

FEES AND CHARGES OF ATTORNEYS AND OTHERS. In the event that Lender employs attorneys, accountants, appraisers, consultants, or other professional assistance, including the services of any such person who is a direct employee of Lender, in connection with any of the following, then, the reasonable amount of costs, expenses and fees incurred by Lender shall be payable on demand. Lender may, at its option, add the amount of such costs, expenses and reasonable fees to the principal amount of the loan and an appropriate amount of capital stock or participation certificates as required by Lender's bylaws and Farm Credit Administration ("FCA") regulations. Lender thereafter may charge interest on such amount at the interest rate then applicable to the principal.

Costs, expenses and reasonable fees of professionals covered by this provision include such charges for the following:

- (A) The preparation, modification, or renewal of this Note, security agreement, deed of trust, mortgage, or any other documentation incident to the loan transaction;

- (B) Advising Lender subsequent to the initial disbursement of loan proceeds concerning its legal rights and obligations with regard to this Note or security given for this Note, including advising Lender with regard to Borrower's exercise of any rights under the provisions of the Farm Credit Act, as amended, FCA regulations, any policy or program of Lender, or any state or federal law or regulation and bankruptcy laws and rules;
- (C) Any litigation, dispute, proceeding or action, whether instituted by Lender, Borrower, or any other person, relating to this Note, security given for this Note, or Borrower's affairs, including representation of Lender in any bankruptcy, insolvency, or reorganization case or proceeding instituted by or against Borrower, and any attempt by Lender to enforce any rights against Borrower;
- (D) Fees and Costs associated with any controversy, claim or dispute relating to this Note, security given for this Note, any security instrument or other agreements between Borrower and Lender, including but not limited to any action to construe or enforce the terms of the loan obligations and security agreements. The prevailing party shall be entitled to recover its reasonable costs, expenses, and reasonable attorney fees;
- (E) Fees and Costs associated with bankruptcy or insolvency proceedings (whether state or federal) instituted by or against Borrower or third parties with whom Borrower has entered contractual relationships. The Lender may recover all costs, expenses and reasonable attorney fees incurred to protect or defend Lender's right under this Note, any security instrument and other documents underlying the loan transactions whether such costs, expenses, and attorney fees be contractual or bankruptcy related, including costs, expenses, and attorney fees for meetings, sessions, matters, proceedings and litigation involving issues solely distinct to federal bankruptcy law, rules and proceedings as well as other federal and state litigation and proceedings;
- (F) The inspection, verification, protection, collection, processing, sale, liquidation, or disposition of security given for this Note;
- (G) The cost of any appraisal or collateral evaluation of all or any part of the real property security, which Lender may from time to time obtain as part of Lender's reasonable administration of this Note;
- (H) Any of the type of expenses referred to in (A) through (G) above incurred by Lender in connection with any guaranty of this Note.

TRANSACTION SUMMARY. All disbursements and repayments of indebtedness shall be posted on Lender's accounting records. Periodically, Lender shall send Borrower a transaction summary or a similar loan accounting. If Borrower fails to object to the accounting in writing within 30 days of its mailing by Lender, Borrower shall have waived any right to object to the accuracy of the accounting and the accounting may be admitted into evidence by Lender for the purpose of establishing the balance due Lender in any legal proceeding arising between the parties.

NOTICES. Borrower shall promptly give written notice to Lender of: (a) any enforcement action brought against Borrower by any governmental regulatory body or law enforcement authority or any dispute between Borrower and any such authority or body; (b) any pending or threatened litigation or court proceeding brought against Borrower; (c) the death or disability of any Borrower or guarantor; (d) any material adverse change in Borrower's financial condition; (e) the occurrence of any event of default or any event that with a lapse of time or the giving of notice or both would become an event of default; (f) any change in management or ownership of Borrower's business or operations; (g) any default on loans or credit arrangements with any other creditors; (h) any location change or new location of Borrower's office or site of operation; (i) any change to an out of state location for any Collateral; and (j) restriction, suspension, revocation or other change in any permit(s), license(s) or authority(ies) required to conduct Borrower's business.

LOAN CHARGES. If a law, which applies to this Note and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this Note exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected which exceeded permitted limits will be refunded to Borrower, without interest thereon. Lender may choose to make this refund by reducing the principal Borrower owes under this Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment.

DISCLOSURE AND INQUIRIES. By signing this Note, Borrower agrees that Lender may disclose financial information to other Farm Credit System institutions. Borrower further authorizes Lender from time to time, to make such inquiries and gather such information as Lender deems necessary and reasonable to administer this Note. Lender is also authorized from time to time to make credit inquiries, verify credit, verify employment, and obtain credit agency reports regarding Borrower, Borrower's spouse and/or Borrower's business.

BORROWER'S AUTHORITY. By signing this Note, Borrower warrants that Borrower has legal authority to enter into this transaction, that the terms and conditions of this contract do not contravene the terms and conditions of any other contract(s) of Borrower, that Borrower's representations in connection with this loan are true and accurate, and that Borrower is not involved in, or has any expectations of involvement in, any legal action that might impair Borrower's financial condition or ability to continue business.

SUCCESSORS AND ASSIGNS. This Note is binding on Borrower's and Lender's successors and assignees. Borrower shall not assign this Note without Lender's prior written consent. Lender may sell participations in or assign this Note, and may exchange financial information about Borrower with actual or potential participants or assignees. If a participation is sold or this Note is assigned, the purchaser will have the right of set-off against Borrower.

SEVERABILITY. In the event that one or more of the provisions of this Note or any other loan documents should be deemed or held to be invalid, illegal, unenforceable or against public policy in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

CAPTIONS. Captions used in this Note are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any term or provision.

APPLICABLE LAW. Enforcement of this Note, any security instrument, and any other loan document executed in connection herewith shall be governed by and construed in accordance with federal laws to the extent applicable, and shall otherwise be governed by the laws of the state of Idaho. In the event a security instrument specifies that it shall be governed by the laws of a different state, the law of the state specified in the security instrument shall govern regarding that security instrument.

INTEGRATION CLAUSE; AMENDMENTS MUST BE IN WRITING. This Note, any security instruments and modifications thereof, executed by Lender and Borrower in connection herewith, or as required by this Note constitute the entire agreement between Borrower and Lender and supersede all prior negotiations, communications, discussions, oral agreements, and promises concerning this loan. This Note shall not include any loan application or any written correspondence submitted by Borrower to Lender that has not been agreed to by Lender in writing. To the extent that any of the terms or provisions contained in this Note are inconsistent with those contained in any previous loan agreement or security agreement or any other agreements executed prior to this Note, the terms and provisions contained herein shall control. Otherwise, such provisions shall be considered cumulative. This Note may be amended or modified only by a written instrument executed by each party hereto.

HAZARDOUS SUBSTANCE INDEMNITY. Borrower indemnifies and agrees to hold Lender harmless from any losses or damages suffered by Lender that arise from the release, threatened release, discharge, manufacture, use, storage, transportation or presence of any hazardous substance in connection with the business of Borrower or on any real property owned or occupied by Borrower, whether pledged as security for this Note or not. The indemnity covers the officers, directors, agents, and attorneys of Lender and extends to attorneys' fees and other costs and expenses incurred by Lender in connection with the foregoing. The term "hazardous substance" shall mean any material or substance which is now or hereafter considered "hazardous" or "toxic" or subject to any other deleterious classification under any federal, state, or local law. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS NOTE OR THE LOAN DOCUMENTS, THIS INDEMNITY SHALL SURVIVE REPAYMENT OF THE INDEBTEDNESS.**

REIMBURSEMENT OF CHARGES. If any farm credit bank or any other provider of financing or funding to Lender shall assess against Lender any fee, cost, charge, or other amount with respect to the indebtedness, Borrower shall reimburse Lender on demand for the amount thereof, regardless of whether such assessment arose from actions taken by Borrower.

OBLIGATIONS OF PERSONS UNDER THIS NOTE. The liability of each Borrower executing this Note shall be that of co-maker and not that of an endorser, guarantor or accommodation party and shall be joint and several. The separate property of any married person executing this Note shall be liable for the indebtedness evidenced hereby.

SPECIFIC WAIVERS OF EACH BORROWER. The indebtedness of each Borrower is independent of the indebtedness of all other Borrowers. Each Borrower expressly waives any right to require Lender to proceed against any other Borrower, to proceed against or exhaust any collateral and to pursue any remedy Lender may have at any time. Each Borrower waives any and all defenses by reason of (a) any disability or other defense of any other Borrower with respect to the indebtedness owed to Lender, (b) the termination for any reason whatsoever of the liability of any other Borrower, (c) any act or omission of Lender that directly or indirectly results in or aids the discharge or release of any other Borrower, any guarantor, or any security provided by any Borrower or guarantor, (d) the failure by Lender to perfect any security interest or lien on any collateral, (e) an election of remedies by the Lender, even though that election of remedies, such as a nonjudicial foreclosure with respect to security for this Note, has destroyed the Borrower's rights of subrogation, contribution, reimbursement, indemnity, set off, or other recourse against another Borrower by the operation of Section 580d of the California Code of Civil Procedure and similar laws in other jurisdictions and (f) any statute of limitations affecting Borrower's liability under this Note or any other loan document.

Each Borrower agrees that Lender may at any time, without notice, release all or any part of the security for this Note (including all or any part of the premises covered by the referenced mortgage or deed of trust), grant extensions, change terms of payment, deferments, renewals or reamortizations of any part of the debt evidenced by this Note, and release from personal liability any one or more of the parties who are or may become liable for this debt; all without affecting the personal liability of any other party. The Borrower and endorser of this Note also severally waive any and all other defense or right of offset against the holder hereof. No Borrower shall have any right of subrogation, contribution, reimbursement, indemnity, set off, or other recourse and waives the benefit of, or any right to participate in, any collateral until such time as all of the obligations owed by Borrower to Lender under this Note shall have been paid in full. Each Borrower, to the extent it may lawfully do so, waives any defense under California anti-deficiency statutes, or comparable provisions of the laws of any other state to the recovery of a deficiency after a foreclosure sale of such property.

Each Borrower represents and warrants to Lender that it has established adequate means of obtaining from each other Borrower, on a continuing basis, information pertaining to the businesses, operations and conditions (financial and otherwise) of each other Borrower and its properties, and each Borrower now is and will be familiar with the businesses, operations and conditions (financial or otherwise) of each other Borrower and its properties. Each Borrower waives and relinquishes any duty on the part of Lender (if such duty exists) to disclose to any Borrower any matter, fact or thing related to the businesses, operations, or conditions (financial or otherwise) of any other Borrower or its properties. Without limiting the generality of the foregoing, each Borrower waives any defenses or rights arising under or of the kind described in California Civil Code sections 2795, 2808, 2809, 2810, 2815, 2819 through 2825 (inclusive), 2832, 2839, and 2845 through 2850 (inclusive) and similar laws in other jurisdictions.

UNIFORM SECURED NOTE. This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to Lender under this Note, the security instrument securing this Note protects Lender from possible losses which might result if Borrower does not keep the promises made in this Note. That security instrument describes how and under what conditions Borrower may be required to make immediate payment in full of all amounts owed under this Note. One of those conditions relates to any transfer of the property covered by the Mortgage or Deed of Trust, which provides in part as follows:

- (a) In the event the herein-described Property, or any part thereof, or any interest therein, is sold, agreed to be sold, conveyed, alienated or further encumbered or transferred, including any water transfer as defined in subsection (b) below, by Mortgagee or Trustor, or by operation of law or otherwise, without Mortgagee's or Beneficiary's prior written consent, all Indebtedness, irrespective of maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent sale, agreement to sell, conveyance or alienation.
- (b) A water transfer is any transfer, assignment, sale, agreement to sell, conveyance, exchange, gift, encumbrance, pledge, hypothecation, alienation, grant of option to purchase, or other disposition of, directly, indirectly, or in trust, voluntarily or involuntarily, by operation of law or otherwise, or the entry into a binding agreement to do any of the foregoing with respect to all or any part of any existing or hereafter created or acquired Water Assets.

DISCLOSURE ACKNOWLEDGEMENT. I certify that the following documents have been provided to me with this Note, or I have received them previously and now waive any requirement for Lender to furnish another copy to me. These documents include Lender's Capitalization Bylaws, most recent Quarterly Report, most recent Annual Report, current letter entitled "Notice to Borrowers/Prospective Borrowers Concerning Your Investment", Disclosure of Loan Information brochure, and Interest Rate Disclosure Statement (or Truth in Lending Disclosure, if applicable).

The representatives of Lender are not authorized to make any oral agreements or assurances. Do not sign this Note if you believe that there are any agreements or understandings between you and Lender that are not set forth in writing in this Note or the other loan documents.

BY SIGNING, BORROWER ACKNOWLEDGES THAT BORROWER HAS READ AND AGREES TO THE TERMS OF THIS NOTE, INCLUDING THE STANDARD CONDITIONS, AND HAS RECEIVED A COMPLETED COPY OF THIS NOTE AND THE RELATED MORTGAGE, DEED OF TRUST OR OTHER SECURITY DOCUMENTS WITH ALL APPLICABLE BLANKS FILLED IN PRIOR TO OR AS A PART OF THE CONSUMMATION OF THIS TRANSACTION.

Kendell Farms, A Partnership
2678 W 1200 S
Aberdeen, Idaho 83210

KENDELL FARMS, A Partnership, and LYNN W. KENDELL, individually, and TAMARA KENDELL, individually, and KEVIN JOHNS, individually, and TRACY JOHNS, individually

By: [Signature]
LYNN W. KENDELL, individually and as a Partner

By: [Signature]
KEVIN JOHNS, individually and as a Partner

By: [Signature]
TAMARA KENDELL, individually and as a Partner

By: [Signature]
TRACY JOHNS, individually and as a Partner

BY INITIALING BELOW, BORROWER EXPRESSLY ACKNOWLEDGES AND UNDERSTANDS THAT, PURSUANT TO THE TERMS OF THIS NOTE, IT HAS AGREED THAT IT HAS NO RIGHT TO PREPAY THIS NOTE IN WHOLE OR IN PART WITHOUT PENALTY EXCEPT AS OTHERWISE PROVIDED IN THIS NOTE AND THAT IT SHALL BE LIABLE FOR THE PAYMENT OF A PENALTY FOR PREPAYMENT OF THIS NOTE ON ACCELERATION OF THIS NOTE IN ACCORDANCE WITH ITS TERMS. FURTHERMORE, BY INITIALING BELOW, BORROWER WAIVES ANY RIGHTS IT MAY HAVE UNDER SECTION 2954.10 OF THE CALIFORNIA CIVIL CODE AND SIMILAR LAWS IN OTHER JURISDICTIONS, OR ANY SUCCESSOR STATUTE, AND EXPRESSLY ACKNOWLEDGES AND UNDERSTANDS THAT THE HOLDER HAS MADE OR ACQUIRED THE LOAN EVIDENCED IN RELIANCE ON THE AGREEMENTS AND WAIVER OF BORROWER AND THAT THE HOLDER WOULD NOT HAVE MADE OR ACQUIRED THIS LOAN WITHOUT SUCH AGREEMENTS AND WAIVER OF BORROWER.

Borrower's Initials: KJ TJ TK LK

Lender: Idaho AgCredit, PLLC, a wholly owned subsidiary of Idaho Agricultural Credit Association

By: [Signature]
Title: BART BROWN, Branch Manager

INDORSEMENT - The within Note is hereby indorsed by the payee named in the body of said Note as if the name of the payee were actually executed under the indorsement.

PAY TO THE ORDER OF U.S. AgBANK, FCB, Wichita, Kansas.

The North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 11, Township 4 South, Range 32 East, Boise Meridian, Bingham County, Idaho,

EXCEPTING THEREFROM: The West 25 feet for county road right-of-way.

ALSO EXCEPTING THEREFROM: Part of Section 11, Township 4 South, Range 32 East, Boise Meridian, Bingham County, Idaho, described as:

Beginning at a Point that is South $01^{\circ}12'18''$ East 2666.52 feet along the Section line to the East $\frac{1}{4}$ corner of said Section 11, and North $89^{\circ}10'20''$ West 2316.50 feet along the latitudinal center line to the True Point of Beginning, all from the Northeast corner of said Section 11, and running thence South $00^{\circ}45'47''$ West 722.49 feet; thence North $89^{\circ}10'20''$ West 289.15 feet more or less to the East line of a County road as described in a deed number 3176 recorded on April 18, 1912, of Book I, page 545 in the Bingham County records; thence North $01^{\circ}14'56''$ West 722.96 feet along said road right-of-way; thence South $89^{\circ}10'20''$ East 314.53 feet along said latitudinal center line to the Point of Beginning.

RECEIVED

MAR 21 2006

Department of Water Resource
Eastern Region