10-01-2001

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Form PTO-1594
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

Tab settings ⇨⇨⇨ ▼ ▼ ▼ ▼ ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): 09/24/01

KIRKLAND RANCH, LLC, a California limited liability company

☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation-State
☒ Other Limited Liability Company

Additional name(s) of conveying party(ies) attached? ☐ Yes ☐ No

2. Name and address of receiving party(ies)

Name: THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

Internal Address:

Street Address: 2998 Douglas Blvd., Suite 26

City: Roseville State: CA Zip: 95661

☐ Individual(s) citizenship
☐ Association
☐ General Partnership
☐ Limited Partnership
☒ Corporation-State New Jersey
☐ Other

If assignee is not domiciled in the United States, a domestic representative designation is attached ☐ Yes ☐ No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? ☐ Yes ☐ No

3. Nature of conveyance

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other

Execution Date: September 14, 2001

4. Application number(s) or registration number(s):

A. Trademark Application No (s)

76-079966

B. Trademark Registration No (s)

76-079967

Additional number(s) attached ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: James F. Eastman, Esq.

Internal Address: Steefel, Levitt & Weiss

Street Address: One Embarcadero Center
30th Floor

City: San Francisco State: CA Zip: 94111

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41) $ 65

☒ Enclosed

☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

James F. Eastman — Name of Person Signing

Signature

September 14, 2001 — Date

Total number of pages including cover sheet, attachments, and document: 41

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 20231

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
Steefel, Levitt & Weiss
One Embarcadero Center, 30th Floor
San Francisco, California 94111
Attention: James F. Eastman, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST, SECURITY AGREEMENT, CROP FILING AND FIXTURE FILING WITH ASSIGNMENT OF RENTS AND PROCEEDS, LEASES AND AGREEMENTS

THIS DEED OF TRUST, SECURITY AGREEMENT, CROP FILING AND FIXTURE FILING WITH ASSIGNMENT OF RENTS AND PROCEEDS, LEASES AND AGREEMENTS (this "Deed of Trust") is made as of September 14, 2001 by KIRKLAND CATTLE CO., a California general partnership, having a mailing address at P.O. Box 5387, Napa, California 94581 ("Kirkland Cattle"), KIRKLAND RANCH, LLC, a California limited liability company, having a mailing address at P.O. Box 5387, Napa, California 94581 ("Kirkland Ranch," and together with Kirkland Cattle, collectively, "Trustor"), FIRST AMERICAN TITLE COMPANY OF NAPA, having offices at 1700 Second Street, Napa, California 94559 ("Trustee"), and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, having offices at 2998 Douglas Boulevard, Suite 260, Roseville, California 95661 ("Beneficiary").

WITNESSETH:

Trustor HEREBY IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO Trustee, IN TRUST, WITH POWER OF SALE all of Trustor's right, title and interest now owned or hereafter acquired in and to the following property, together with the Personalty (as hereinafter defined), all of which is hereinafter collectively defined as the "Property":

A. That certain real property (collectively, the "Land") (i) located in the County of Napa, California as more particularly described on Exhibit A-1 attached hereto and (ii) located in the County of Solano, California as more particularly described on Exhibit A-2 attached hereto;

B. All Improvements (as hereinafter defined) and all appurtenances, easements, rights and privileges thereof, including all minerals, oil, gas and other hydrocarbon substances thereon or therein, air rights, water, and Water Rights (whether riparian, appropriative, or pursuant to state entitlements or allotments, or otherwise and whether or not appurtenant) in or hereafter relating to or used in connection with the Land, and development rights, and any land lying in the streets, roads or avenues adjoining the Land or any part thereof;

C. All Fixtures (as hereinafter defined), whether now or hereafter installed, being hereby declared to be for all purposes of this Deed of Trust a part of the Land;

D. All Easement Agreements (as hereinafter defined) and all other rights of ingress, egress, reciprocal agreements and other appurtenances relating to the Land; and

E. The Rents and Proceeds (as hereinafter defined), whether by sale or otherwise;

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary may determine: (i) payment of the Indebtedness (as hereinafter defined); and (ii) payment (with interest as provided) and performance by Trustor of the Obligations (as hereinafter defined). Notwithstanding the foregoing, or any other term contained herein or in the Loan Documents, none of Trustor's obligations under or pursuant to the Hazardous Substances Remediation and Indemnification Agreement of even date herewith executed by Trustor in favor of Beneficiary (the "Hazardous Substances Agreement") shall be secured by the lien of this Deed of Trust.

ARTICLE 1

DEFINITIONS

Certain Defined Terms: As used in this Deed of Trust the following terms shall have the following meanings:

1.1. Application: Collectively, (i) that certain First Deed of Trust Loan Application relating to the Loan dated March 10, 1998, executed by Kirkland Cattle and accepted by Beneficiary, including all attachments thereto and/or commitments issued in connection therewith, (ii) that certain Rate Lock Letter and Termsheet dated March 29, 1999 accepted by Kirkland Cattle (referred to as "Borrower" therein), and (iii) that certain Rate Lock Letter and Termsheet dated August 16, 2001 accepted by Trustor (referred to as "Borrower" therein).

1.2. Collateral: As defined in Paragraph 7.1 hereof.

1.3. Costs: As defined in Paragraph 9.21 hereof.

1.4. Easement Agreements: Any and all ingress or egress easements or agreements, water agreements, reciprocal easements or operating agreements or other appurtenances, easements or real property rights or interests relating to the Land, whether now owned or hereafter acquired.

1.5. Existing Deed of Trust: That certain Construction/Permanent Deed of Trust, Security Agreement, Crop Filing and Fixture Filing with Assignment of Rents and Proceeds, Leases and Agreements dated as of April 28, 1998 and recorded on May 1, 1998 in the Official Records of Napa County, California as Instrument No. 1998 011740, as amended by that certain First Amendment to Construction/Permanent Deed of Trust, Hazardous Substances Agreement and Loan Documents dated as of April 14, 1999 and recorded on April 22, 1999 in the Official Records of Napa County, California as Instrument No. 99-0013065 (the "First Amendment"), as assumed and modified by that certain Assumption and Modification Agreement by and between Trustor and Beneficiary dated February 22, 2000 and recorded on February 28, 2000 in the Official Records of Napa County, California as Instrument No. 00-0004638 (the "Assumption

TRADEMARK
REEL: 002376 FRAME: 0111

Agreement") and as further amended by that certain Second Amendment to Construction/Permanent Deed of Trust, Hazardous Substances Agreement and Loan Documents dated as of even date herewith (the "Second Amendment"), encumbering the Existing Property as security for repayment of the Note.

1.6. Existing Property: That certain real property located in Napa County, California as more particularly described on Exhibit C attached hereto and encumbered by the Existing Deed of Trust.

1.7. Event of Default: As defined in Paragraph 6.1 hereof.

1.8. Fixtures: Any and all property affixed to the Land and/or located upon or within the Improvements which are so related to the Land that an interest in such property arises under applicable real estate or real property law, including, without limitation, any Improvements and/or any items set forth in the Inventory which become so related or attached to the Land.

1.9. Hazardous Substances Agreement: As defined in the Securing paragraph of this Deed of Trust.

1.10. Impositions: All real estate and personal property and other taxes and assessments, and any and all other charges, expenses, water standby charges, water district assessments, payments, claims, mechanics' or material suppliers' liens or assessments of any nature that at any time prior to or after the execution of the Loan Documents may be assessed, levied, imposed, or become a lien upon the Property or the rent or income received therefrom, or any use or occupancy thereof.

1.11. Improvements: All (i) building improvements ("Buildings") and fixtures now or hereafter located on the Land, including, without limitation, all buildings, winery buildings, houses, sheds, warehouses, storage facilities and other buildings, (ii) irrigation and drainage equipment located on or used in connection with the Land, including, without limitation, wells, pumps, motors, engines, gearheads, sprinklers, drip irrigation systems, tow lines, hand lines, irrigation pipe, drainage pipe, culverts and well casings, (iii) enclosures of the Land or any part thereof, including, without limitation, fences, gates, shuts, posts, poles, barbed wire and electric wire, (iv) crop protection equipment and apparatus located on or used in connection with the Land, including, without limitation, frost protection equipment and wind machines, (v) electric, gas and water lines and equipment located on the Land, including, without limitation, transformers, circuit breakers, switch boxes, fuse and breaker panels, regulators, cut on/off valves, wiring and pipe, and (vi) trees, vines and other permanent plantings (whether Fructus Naturales or Fructus Industriales (Emblements)), whether mature or immature, now or hereafter growing on the Land, together with all trellises, wires, endposts, and stakes relating thereto.

1.12. Indebtedness: The indebtedness evidenced by the Note (and each and every one of them) (including, without limitation, the applicable Prepayment Premium (as defined in the Note) due thereunder) and all other amounts due from Trustor to Beneficiary evidenced or secured by the Loan Documents, plus interest on all such amounts as provided in the Loan Documents.

1.13. Inventory: The personal property described in Exhibit B attached hereto.

1.14. Laws and Restrictions: All laws, regulations, orders, codes, ordinances, rules, statutes and policies, restrictive covenants and other title encumbrances, permits and approvals, leases and other rental agreements, relating to the development, occupancy, ownership, management, use, and/or operation of the Property or otherwise affecting the Property or Trustor.

1.15. Leases: Any and all leasehold interests, including subleases and tenancies following attornment, now or hereafter affecting or covering any part of the Property.

1.16. Loan: The loan from Beneficiary to Trustor evidenced by the Note.

1.17. Loan Documents: The Note, this Deed of Trust, the Existing Deed of Trust, the First Amendment, the Assumption Agreement, the Second Amendment, the Application, and all other documents (excluding the Hazardous Substances Agreement), evidencing, securing or relating to the Loan, the payment of the Indebtedness or the performance of the Obligations.

1.18. Material Adverse Change: Any material and adverse change in (i) the financial condition of Trustor, or (ii) the condition or operation of the Property.

1.19. Note: Collectively, Note A, Note B, Note C and Note D.

1.20. Note A: The Promissory Note [Note A] dated as of April 28, 1998 executed by Kirkland Cattle in the original principal amount of $3,500,000, payable to Beneficiary or its order, as amended by the First Amendment and the Second Amendment and as assumed and modified by the Assumption and Modification, and all further modifications, renewals or extensions thereof.

1.21. Note B: The Promissory Note [Note B] dated as of April 28, 1998 executed by Kirkland Cattle in the original principal amount of $4,500,000, payable to Beneficiary or its order, as amended by the First Amendment and the Second Amendment and as assumed and modified by the Assumption and Modification, and all further modifications, renewals or extensions thereof.

1.22. Note C: The Promissory Note [Note C] dated as of April 14, 1999 executed by Kirkland Cattle in the original principal amount of $3,000,000, payable to Beneficiary or its order, as assumed and modified by the Assumption and Modification and as amended by the Second Amendment, and all further modifications, renewals or extensions thereof.

1.23. Note D: The Promissory Note [Note D] dated as of even date herewith executed by Trustor in the original principal amount of $1,000,000, payable to Beneficiary or its order, and all modifications, renewals or extensions thereof.

1.24. Obligations: Any and all of the covenants, promises and other obligations (including payment of the Indebtedness) made or owing by Trustor to Beneficiary as provided in the Loan Documents and all of the material covenants, promises and other obligations made or owing by Trustor to any other Person relating to the Property.

1.25. Permitted Exceptions: All of those title exceptions set forth in Schedule B, Part I of the title insurance policy issued in favor of Beneficiary that insures the priority of this Deed of Trust.

1.26. Person: Any natural person, corporation, firm, association, government, governmental agency or any other entity, whether acting in an individual, fiduciary or other capacity.

1.27. Personalty: Trustor's right, title and interest in and to all personal property now or hereafter located in, upon or about or collected or used in connection with the Property, together with all present and future attachments, accessions, replacements, substitutions and additions thereto or therefor, and the cash and noncash products and proceeds thereof, including, without limitation: all property listed in the Inventory, all equipment, the Easement Agreements, the Agreements, the Agreement for Provision of Water Service (as hereinafter defined), the State Water Resource Control Board Permit No. 20762, all crops now or hereafter grown or growing on the Land, all crops and farm products now or hereafter generated by the Land (whether Fructus Naturales or Fructus Industriales (Emblements), including, all such crops and farm products now or hereafter harvested and/or severed from the Land, whether or not then stored on the Land), all Leases and contracts related to or pertaining to the Property and any and all guaranties thereof, all causes of action and recoveries now or hereafter existing for any loss or diminution in value of the Property, all other tangible and intangible property and rights relating to the Property or its operation, or to be used in connection with the Property, including, but not limited to all agreements, licenses, governmental authorizations or permits pertaining to the Property or the development, ownership, management or operation thereof, all trademarks, service marks, designs, logos, names or similar identifications pertaining to the Property or under which the Property may be known or operated or which are otherwise owned by Trustor, whether registered or unregistered, and all rights to carry on business under such names, and any related goodwill associated in any way with such names or the Property, and all accounts, contract rights and general intangibles (including any rents, issues, profits, insurance proceeds and condemnation awards or compensation) arising out of or incident to the ownership, development or operation of the Property encumbered hereby and all construction materials and supplies, leasehold interests in personal property, all water stock relating to, and all Water Rights appurtenant to the Property, contractual rights for the use of water, drainage rights, and rights to receive or transport water to, the Property, including, without limitation, any right to receive water or subsidies with respect to the price thereof under any contract with, or program administered by, the State of California Department of Water Resources.

1.28. Principal Party: Any Trustor, any general partner of a partnership Trustor, any managing member of a limited liability company Trustor, any parent company of any corporate Trustor or any such general partner or managing member, any Person owning directly or indirectly 50% or more of the outstanding shares of a corporate Trustor or any parent company of such Trustor, any trustee or beneficiary with a direct or indirect beneficial interest of 50% or more in any Trustor or the Property, any owner of the Property, or any guarantor of Trustor's obligations under the Loan Documents.

1.29. Property: As defined in the above granting paragraph of this Deed of Trust.

1.30. Receiver: Any trustee, receiver, custodian, fiscal agent, liquidator or similar officer.

1.31. Rents and Proceeds: All rents, royalties, revenues, security deposits, termination payments, issues, profits, proceeds (including, without limitation proceeds from the sale of all or any portion of the Property or interest therein) and other income from the Property.

1.32. Secondary Interest Rate: As defined in the Note.

1.33. Transfer: The occurrence of (i) any sale, conveyance, assignment, transfer, alienation, mortgage, conveyance of security title, encumbrance or other disposition of the Property, of any kind, or any other transaction the result of which is, directly or indirectly, to divest any Trustor of any portion of its title to the Property, voluntarily or involuntarily, (ii) any merger, consolidation or dissolution involving, or the sale or transfer of all or substantially all of the assets of, a Principal Party, (iii) the transfer (at one time or over any period of time) of ten percent (10%) or more of the shares of, or the beneficial interest in or of, a Principal Party, (iv) the transfer of ownership interests of any Trustor if such Trustor is a limited liability company or in any limited liability company which is a direct or indirect general partner of any Trustor, (v) the transfer of any general partnership interest in any Trustor or in any partnership which is a direct or indirect general partner of any Trustor, (vi) the removal or resignation of the trustee of any Trustor which is a trust, (vii) the conversion of any general partnership interest in any Trustor to a limited partnership interest, or (viii) a Water Transfer.

1.34. Water Rights: Trustor's right, title and interest in all water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature, including, without limitation, (i) the groundwater on, under, pumped from or otherwise available to the Property, whether as a result of groundwater rights, contractual rights or otherwise; (ii) the right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity; (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, contractual or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water; (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency or other governmental entity or within the boundaries of any private water company, mutual water company or other non-governmental entity; (v) any drainage rights appurtenant or otherwise applicable to the Property; (vi) all rights, including contractual rights, to transport, carry, allocate or otherwise deliver water or any of the foregoing rights from or to the Property by any means, wherever located; (vii) all rights under the Agreement for Provision of Water Service dated February 28, 1995 by and between Trustor and City of American Canyon ("Agreement for Provision of Water Service"); (viii) all rights under the State Water Resource Control Board Permit No. 20762; and (ix) any shares (or any rights under such shares) of any private water company, mutual water company or other non-governmental entity pursuant to which Trustor or the Property may receive any of the rights referred to in subparagraphs (i) through (viii) above.

1.35. Water Transfer: Any transfer, assignment, sale, 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, (i) the groundwater on, under, pumped from or otherwise available to the Land, (ii) Trustor's right to remove and extract any such groundwater including any permits, rights or licenses granted by

TRADEMARK
REEL: 002376 FRAME: 0115

any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity, (iii) any rights to which the Land is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water related entitlement appurtenant or otherwise applicable to the Land by virtue of the Land's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Trustor or the Land may receive any of the rights referred to in subparagraphs (i) through (iv) above.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

Trustor hereby represents and warrants to Beneficiary and Trustee that as of the date of this Deed of Trust and as of the date of any subsequent disbursement pursuant to the Loan Documents:

2.1. Authorization and Validity. Trustor (i) is duly organized, and validly existing under the laws of the State of California and is duly qualified to do business in the State of California, (ii) is the lawful owner of the Property and holds good and marketable title to the Property free and clear of all defects, liens, encumbrances, easements, exceptions and assessments, except the Permitted Exceptions, (iii) has the power and authority to grant the Property as provided in and by this Deed of Trust, to own and operate the Property, and to execute and deliver, and perform the obligations under, the Loan Documents, (iv) is in compliance with all Laws and Restrictions, and (v) has authorized by all requisite action the execution, delivery and performance by Trustor of the Loan Documents and the borrowings evidenced by the Note and such execution, delivery and performance will not violate any Laws and Restrictions or any agreement or other instrument.

2.2. Statements, Information and Litigation. All financial statements and other information given to Beneficiary with respect to the Property and/or Trustor are true, accurate, complete and correct and except as expressly noted to the contrary therein, have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods covered thereby. There has been no Material Adverse Change since the date of the most recent financial statement given to Beneficiary. There is not now pending against or affecting Trustor or the Property, nor to the best of Trustor's knowledge is there threatened, any action, suit or proceeding that might result in a Material Adverse Change.

2.3. Additional Representations and Warranties. (i) The Property is used principally or primarily for agricultural purposes, (ii) all costs for labor and materials for the construction of the Improvements have been paid in full, (iii) Trustor is not aware of any assessment for public improvements which is pending and which could become a lien upon the Property, (iv) no event has occurred which with the giving of notice or the passage of time, or both, would constitute an Event of Default under any of the Loan Documents, (v) Trustor is not in default under any

material agreement or instrument to which it is a party which default would have a material and adverse effect on the Property or Trustor's ability to timely perform the Obligations, (vi) neither the Property, nor any part thereof, has sustained, incurred or suffered any material damage or destruction, (vii) subject to the Permitted Exceptions, the Personalty and the Fixtures are owned by Trustor free and clear of any liens, encumbrances, mortgages, security interests, claims and rights of others, (viii) the Property and the current use thereof complies with all Laws and Restrictions, (ix) Trustor has received no notices of violations of any Laws and Restrictions, (x) Trustor has paid for and is the owner of all Fixtures and Personalty, free and clear of any security interests or liens other than security interests and/or liens in favor of Beneficiary, (xi) other than tenants under the Leases which have been disclosed to Beneficiary in writing, if any, there are no occupants or tenants that have or are entitled to possession of the Property or any part thereof, and (xii) no petition in bankruptcy, petition or answer seeking assignment for the benefit of creditors or appointment of a Receiver or similar proceeding with respect to any Principal Party has occurred or is contemplated.

2.4. FIRPTA Certification. Trustor declares and certifies, under penalty of perjury, that: (i) Kirkland Cattle's Taxpayer Identification Number is 94-2694339 and Kirkland Ranch's Taxpayer Identification Number is 68-0405671; (ii) the business mailing address of Trustor is as set forth on page 1 hereof; (iii) Trustor is not a "foreign person" within the meaning of Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended (the "Code"); and (iv) Trustor understands that the information and certification contained in this Paragraph 2.4 may be disclosed to the Internal Revenue Service and that any false statement contained herein could be punished by fine, imprisonment or both. Trustor agrees (a) to provide Beneficiary with a new certification containing the provisions of this Paragraph 2.4 immediately upon any change in such information, and (b) upon any Transfer which is permitted by the terms of this Deed of Trust, to cause such transferee to execute and deliver to Beneficiary a certificate concerning the non-foreign status of such transferee substantially in the form of this Paragraph 2.4.

2.5. Water Rights.

A. The Property has, and will continue to have, the continuing, enforceable right to receive irrigation water from such sources, in such quantities, and at such times and locations as is reasonably satisfactory for the purposes of farming, without interruption and in such quantities, and at such times and locations as has been historically available to the Property. Trustor has filed with the Department of Water Resources all notices and other documents required under the California Water Code in connection with the supply of water to and use of water upon the Property.

B. Trustor represents and warrants to Beneficiary that: (i) all water used in the irrigation and cultivation of crops on the Land is derived from wells located upon the Land; (ii) Trustor has filed with the Department of Water Resources all notices and other documents required under the California Water Code in connection with such wells; and (iii) to the best of Trustor's knowledge, all water drawn from such wells are derived from a ground water basin lying wholly beneath the Land upon which such well is located.

C. The rights of Trustor to share in the reasonable beneficial use of the natural flow of water passing any portion of the Land (together with all other rights to water located

upon or supplied to such portion of the Property, the "Riparian Rights") have not been transferred by grant, contract, condemnation or otherwise. There has been no apportionment of the Riparian Rights with similar rights of any other Person. None of the Riparian Rights have been lost or impaired through, nor are the same threatened by loss due to, prescription, action of the California State Water Resources Control Board or otherwise. None of the Riparian Rights are subject to appropriative rights of any Person. The Riparian Rights are derived from water originating in the watershed supplying such Riparian Rights and no other watershed. Trustor has complied with all applicable Laws and Restrictions concerning the Riparian Rights including, without limitation, Part 5.1 of Division 2 of the Water Code of the State of California and any other Laws and Restrictions concerning the diversion of surface water.

ARTICLE 3

AFFIRMATIVE COVENANTS

Trustor hereby covenants and agrees as follows:

3.1. Obligations of Trustor. Trustor will timely perform, or cause to be timely performed, all the Obligations.

3.2. Insurance.

A. Trustor, at its sole cost and expense, will keep and maintain for the mutual benefit of Trustor and Beneficiary: (i) with respect to all Buildings, Improvements and permanent plantings, insurance against loss or damage thereto by fire and other risks covered by insurance commonly known as the broad form of extended coverage, in an amount equal to one hundred percent (100%) of the then-current "full replacement cost" of such Buildings and plantings, with a waiver of depreciation provisions; (ii) Comprehensive General Liability insurance including broad form property damage, contractual liability and personal injury or death coverage; and (iii) such other insurance, and in such amounts, as may from time to time be reasonably required by Beneficiary.

B. All policies of insurance required by this Deed of Trust (i) shall be prepaid annually and otherwise satisfactory in form, substance, amount and deductible to Beneficiary and written with companies satisfactory to Beneficiary, (ii) shall name Beneficiary as an additional insured as its interest may appear and contain a Standard Lender's Loss Payable endorsement and other non-contributory standard mortgagee protection clauses acceptable to Beneficiary, and at Beneficiary's option, a waiver of subrogation rights by the insurer, (iii) shall contain an agreement by the insurer that such policy shall not be amended or canceled without at least thirty (30) days' prior written notice to Beneficiary, and (iv) shall contain such other provisions as Beneficiary deems reasonably necessary or desirable to protect its interests.

C. All of Trustor's right, title and interest in and to all policies of property insurance and any unearned premiums paid thereon are hereby assigned (to the fullest extent assignable) to Beneficiary who shall have the right, but not the obligation, to assign the same to any purchaser of the Property at any foreclosure sale.

3.3. Maintenance, Waste and Repair. At its sole cost and expense, Trustor will (i) preserve, repair, replace and maintain the Property in a good and businesslike or farmerlike manner and condition, (ii) promptly make all necessary structural and non-structural repairs to the Property that are required to avert a material diminution of their value, (iii) not destroy, remove, abandon, or materially diminish or alter the Improvements situated on the Property during the existence of this Deed of Trust, except for replacement of dead or diseased vines or trees in the normal course of farming and caring for the Property, nor erect any new buildings, structures or building additions on the Land, in each case without the prior written consent of Beneficiary, (iv) preserve, repair, replace and maintain the Property and all Improvements now or hereafter located thereon and/or affixed thereto, in a good and businesslike or farmerlike manner, (v) during the existence of this Deed of Trust, cultivate, produce and harvest crops on the Property employing the usual and normal standards and practices of husbandry customarily employed to produce similar crops in the general vicinity, and (vi) not permit any waste of the Property or make any change in the use thereof, nor do or permit to be done thereon anything, that may in any way impair the security of this Deed of Trust. Without limiting the foregoing, Trustor shall not (a) remove or permit the removal of sand, gravel or topsoil, (b) permit any portion of the Property to be used as a borrow pit, land fill or dump, (c) request or permit a change in zoning or land use classification from agricultural use, (d) transfer from the Property or permit the transfer of any crop allotments or crop bases, or (e) in any way diminish any of Trustor's Water Rights (whether riparian, appropriative or otherwise and whether or not appurtenant).

3.4. Impositions. Trustor will pay when due all Impositions. Trustor will deliver to Beneficiary, within seven (7) days after demand therefor, receipts showing the payment of any Impositions.

3.5. Compliance with Law. Trustor will promptly and faithfully comply with all present and future Laws and Restrictions.

3.6. Books and Records and Other Information. Trustor, without expense to Beneficiary, will maintain full and complete books of account and records reflecting the results of the operations of the Property in accordance with generally accepted accounting principles consistently applied, and will furnish or cause to be furnished to Beneficiary such financial information concerning the condition of Trustor and the Property as Beneficiary shall reasonably request, including, without limitation, the following records, as prepared by certified public accountants and in form and substance satisfactory to Beneficiary:

A. Within thirty (30) days after the close of each fiscal year of Trustor, annual operating statements, showing all elements of income and expenses for the operation of the Property, which include summaries of sales, production and price information for each grape variety and each parcel; and

B. Within ninety (90) days after the close of each fiscal year of Trustor, balance sheets and an income statement of Trustor.

TRADEMARK
REEL: 002376 FRAME: 0119

C. Within thirty (30) days after the close of each month, monthly operating statements. Such operating statements shall include (i) all yield information by variety for the vineyards and (ii) case good sales by volume and price for the applicable winery.

3.7. Further Assurances/Additional Information. Trustor, at any time upon the reasonable request of Beneficiary, will at Trustor's expense, execute, acknowledge and deliver all such additional papers and instruments (including, without limitation, a declaration of no setoff) and perform all such further acts as may be reasonably necessary to perform the Obligations and, as Beneficiary deems necessary, to preserve the priority of the lien of this Deed of Trust and to carry out the purposes of the Loan Documents. In addition, Trustor will furnish to Beneficiary (i) within seven (7) days after written request therefor, any and all information that Beneficiary may reasonably request concerning the Property or the performance by Trustor of the Obligations, and (ii) immediately upon receipt, copies of all (a) notices of violation relating to the Property that Trustor receives from any governmental agency or authority, and (b) notices of default that Trustor shall give or receive under any agreement that Trustor covenants to perform hereunder.

3.8. Litigation. Trustor will promptly give notice in writing to Beneficiary of any litigation or other event or occurrence which might result in a Material Adverse Change.

3.9. Inspection of Property. Trustor hereby grants to Beneficiary, its agents, employees, consultants and contractors, the right to enter upon the Property (i) for the purpose of making any and all inspections, reports, tests (including, without limitation, soils borings, ground water testing, inspection of wells, orchards, trees and fields, or soils analysis), inquiries and reviews as Beneficiary (in its sole and absolute discretion) deems necessary to assess the then current condition of the Property, (ii) for the purpose of inspecting the construction of the Improvements during any and all phases of construction, and/or (iii) for the purpose of performing any of the other acts Beneficiary is authorized to perform hereunder or under the Hazardous Substances Agreement. Trustor shall cooperate with Beneficiary to facilitate such entry and the accomplishment of such purposes.

3.10. Contest. Notwithstanding the provisions of Paragraphs 3.4 and 3.5, Trustor may, at its expense, contest the validity or application of any Impositions or Laws and Restrictions by appropriate legal proceedings promptly initiated and diligently conducted in good faith, provided that (i) Beneficiary is reasonably satisfied that the priority of this Deed of Trust shall be maintained and neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, or lost as a result of such contest, and (ii) Trustor shall have posted a bond or furnished such other security as may be reasonably required from time to time by Beneficiary.

3.11. Prepayment. Trustor may prepay the Loan only on the terms and conditions set forth in the Note and Trustor shall pay Beneficiary any Prepayment Premium in respect of any such prepayment, whether voluntary or involuntary, as required by and on the terms and conditions set forth in the Note.

3.12. Tax Service Contract. Throughout the term of the Loan, at Trustor's sole expense, Beneficiary shall be furnished tax service contracts issued by a tax reporting agency satisfactory to Beneficiary.

3.13. Water. Throughout the term of the Loan, at Trustor's sole expense, Trustor shall ensure that the Property will continue to have the continuing, enforceable right to receive irrigation water from such sources, in such quantities, and at such times and locations as is reasonably satisfactory for the purposes of farming, without substantially increased cost, and in such quantities, and at such times and locations as has been historically available to the Property.

3.14. Crops. Trustor will, during the existence of the Loan, cultivate, produce and harvest crops on the Property employing the usual and normal standards and practices of husbandry customarily employed to produce similar crops in the general vicinity, as well as maintain all buildings and crop handling and processing facilities in a prudent, businesslike manner.

ARTICLE 4

NEGATIVE COVENANTS

Trustor hereby covenants to and agrees as follows:

4.1. Restrictive Uses. Trustor will not initiate, join in, or consent to any change in the current use of the Property or in any zoning ordinance, private restrictive covenant, assessment proceedings or other public or private restriction limiting or restricting the uses that may be made of the Property or any part thereof or in any way change the boundaries of the Property (including without limitation, any agreed boundary line changes or lot line adjustments) without the prior written consent of Beneficiary.

4.2. Prohibited Transfers.

A. Trustor shall not participate in, and shall not cause, allow or otherwise permit, a Transfer without the prior written consent of Beneficiary, which consent may be given or withheld for any reason (or for no reason) or given conditionally, as determined by Beneficiary in its sole and absolute discretion, and any default, failure to observe, or breach of the provisions of this Paragraph 4.2 shall constitute an immediate Event of Default hereunder and, at the option of Beneficiary, Beneficiary may accelerate the Indebtedness whereby the entire Indebtedness (including, without limitation, any Prepayment Premium) shall become immediately due and payable. Any permitted transferee shall, as a condition of the effectiveness of any consent or waiver by Beneficiary hereunder, assume all of Trustor's obligations under the Loan Documents and the Hazardous Substances Agreement and agree to be bound thereby. Such assumption shall not, however, release Trustor from any liability under the Loan Documents or the Hazardous Substances Agreement. This provision shall not apply to (i) transfers of title or interest under any will or testament or applicable law of descent or (ii) transfers of partnership interests in Borrower to the children and/or grandchildren of Larry D. Kirkland or Lonnie R. Kirkland for estate planning purposes. Consent to any such Transfer by Beneficiary shall not be deemed a waiver of Beneficiary's right to require such consent to any further or future Transfers.

4.3. Partnership Agreement. Trustor, if a partnership, will not terminate, alter, modify or amend or permit the termination, alteration, modification or amendment of its Partnership Agreement without Beneficiary's prior written consent.

4.4. Operating Agreement. Trustor, if a limited liability company, will not terminate, alter, modify or amend or permit the termination, alteration, modification or amendment of its Operating Agreement without Beneficiary's prior written consent.

ARTICLE 5

CASUALTIES AND CONDEMNATION

5.1. Insurance and Condemnation Proceeds.

A. Trustor shall notify Beneficiary in writing immediately upon the occurrence of any loss or damage by fire or other casualty to the Property or upon commencement of any proceedings for condemnation of any portion of the Property. Beneficiary shall be entitled to (i) participate in any such condemnation proceedings and Trustor from time to time will deliver to Beneficiary all instruments reasonably necessary to permit such participation, and (ii) settle and adjust all insurance claims relative to any such damage or destruction, deducting from any insurance proceeds the amount of all expenses incurred by Beneficiary in connection with any such settlement or adjustment. All proceeds paid to Trustor under any insurance policies relating to the Property shall immediately be delivered to Beneficiary. All condemnation proceeds from the Property are hereby assigned to and shall be paid to Beneficiary.

B. The proceeds of any insurance policy received by Beneficiary shall, at the option of Beneficiary, either be applied to the prepayment of the Indebtedness or satisfaction of any Obligation or be paid over to Trustor for restoration of the Improvements. If Beneficiary elects to make such proceeds available for repair or reconstruction, Beneficiary shall, through a disbursement procedure established by Beneficiary, make available to Trustor the net amount of all insurance proceeds or condemnation awards received by Beneficiary after deduction of Beneficiary's reasonable costs and expenses, if any, in collection of the same (the "Net Proceeds"). In the event Beneficiary elects not to make the Net Proceeds available for repair or reconstruction, Beneficiary, at its sole option, may apply the Net Proceeds in payment of the Indebtedness or in satisfaction of any other Obligation in such order as Beneficiary may determine. Notwithstanding the foregoing, Beneficiary shall make the Net Proceeds available to Trustor for repair or reconstruction provided that (i) there shall then be no default under any Loan Document, (ii) Beneficiary shall be reasonably satisfied that (a) the Property can and will be restored to the condition of the Property immediately prior to such casualty or condemnation within 18 months of the date of such casualty or condemnation in accordance with plans and specifications approved by Beneficiary, and such completion shall occur at least 24 months prior to the Maturity Date, and (b) no material agreements are terminated or terminable as a result of such casualty or condemnation, (iii) Trustor shall have entered into a general construction contract reasonably acceptable in all respects to Beneficiary for completion of the repair or reconstruction, (iv) in Beneficiary's reasonable judgment, the security for the Loan has not been materially impaired as a result of such casualty or condemnation, and (v) prior to any disbursement of Net Proceeds and throughout the restoration period, Beneficiary shall have determined, in its sole and absolute discretion, that such repair or reconstruction can be completed at a cost (which cost shall include all payments coming

TRADEMARK
REEL: 002376 FRAME: 0122

due under the terms of the Loan) which does not exceed the aggregate of the then remaining Net Proceeds and any funds deposited with Beneficiary by Trustor.

C. The Net Proceeds and any additional funds deposited by Trustor with Beneficiary shall constitute additional security for the Loan. Trustor shall execute, deliver, file and/or record, at its own expense, such documents and instruments as Beneficiary requires to grant to Beneficiary a perfected, first priority security interest in the Net Proceeds and such additional funds.

5.2. Additional Provisions Relating to Condemnation. In any condemnation proceedings, Beneficiary may be represented by counsel selected by Beneficiary. The proceeds of any award or compensation so received by Beneficiary as set forth in Paragraph 5.1.A above shall, at the option of Beneficiary, either be applied to the prepayment of the Indebtedness or satisfaction of any Obligation or be paid over to Trustor for restoration of the Improvements in accordance with the provisions of Paragraph 5.1. Trustor hereby unconditionally and irrevocably waives all rights of a property owner under Section 1265.225(a) of the California Code of Civil Procedure or any successor statute providing for the allocation of condemnation proceeds between a property owner and a lien holder.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES OF BENEFICIARY

6.1. Events of Default.

A. It shall constitute an "Event of Default" hereunder if any of the following events shall occur and Beneficiary, by written notice delivered to Trustor, declares an Event of Default: (i) Trustor shall fail to pay within five (5) days of the date when due any part of the Indebtedness; (ii) Trustor shall fail to timely observe, perform or discharge any Obligation, other than as described in Paragraphs 6.1.A(i),(iii),(iv),(v),(vi), (vii), (viii), (ix), and (x), and any such failure shall remain unremedied for thirty (30) days or such lesser period as may be otherwise specified in the applicable Loan Document or agreement (the "Grace Period") after notice to Trustor of the occurrence of such failure; provided, however, that Beneficiary may extend the Grace Period up to ninety (90) days if (a) Beneficiary determines in good faith that (1) such default cannot be cured within the Grace Period but can be cured within ninety (90) days, (2) no lien or security interest created by the Loan Documents shall be impaired prior to the completion of such cure, and (3) Beneficiary's immediate exercise of any remedies provided hereunder or by law is not necessary for the protection or preservation of the Property or Beneficiary's security interest therein, and (b) Trustor shall immediately commence and diligently pursue the cure of such default; (iii) Trustor, as lessor or sublessor, as the case may be, shall assign all or any part of the Rents and Proceeds or any interest therein without first obtaining the written consent of Beneficiary; (iv) default by Trustor after the expiration of all applicable grace or cure periods under any agreement to which Trustor is a party, other than the Loan Documents, which agreement relates to the borrowing of money by Trustor from any Person, and such default might give rise to a Material Adverse Change or adversely affect the security for the Loan; (v) any representation or warranty made by

TRADEMARK
REEL: 002376 FRAME: 0123

Trustor in, under or pursuant to the Loan Documents was false or misleading in any material respect as of the date on which such representation or warranty was made or deemed remade; (vi) any of the Loan Documents shall cease to be in full force and effect or be declared null and void, or shall cease to constitute valid and subsisting liens and/or valid and perfected security interests in and to the Property, or Trustor shall contest or deny in writing that it has any further liability or obligation under any of the Loan Documents; (vii) the declaration of an Event of Default hereunder pursuant to Section 6 of the Hazardous Substances Agreement; (viii) Trustor or any successor in interest is estopped or denied from receiving irrigation water for use upon any portion of the Property for any reason, or if existing water permits or certificates or other water rights shall be revoked or suspended, and Beneficiary reasonably determines that such loss of interruption of the right to receive irrigation water, materially and adversely affects the value of the Property and/or the security for the Loan; (ix) a Material Adverse Change shall have occurred; or (x) any default under the Existing Deed of Trust.

B. It shall constitute an Event of Default hereunder without the requirement of any notice if any of the following events shall occur: (i) any Principal Party shall generally not pay its debts as they become due or shall admit in writing its inability to pay its debts, or shall have made a general assignment for the benefit of creditors; (ii) any Principal Party shall commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking to have an order for relief entered against it as debtor, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property (collectively, a "Proceeding"); (iii) any Principal Party shall take any action to authorize any of the actions set forth above in clauses (i) or (ii); (iv) any Proceeding shall be commenced against any Principal Party, and such Proceeding (a) results in the entry of an order for relief against it which is not fully stayed within seven (7) business days after the entry thereof or (b) remains undismissed for a period of forty-five (45) days; (v) failure to pay any insurance premiums relating to, failure to provide renewal certificates or renewal policies of insurance at least fifteen (15) days prior to expiry of, and/or the lapse or expiration of, any insurance policy or policies required to be obtained or maintained under the terms of the Loan Documents; or (vi) failure to timely observe, perform or discharge any provision of Paragraph 4.2 hereof or the occurrence of a Transfer without Beneficiary's prior written consent.

6.2. Remedies.

A. Upon the occurrence of any Event of Default, Beneficiary may at any time declare all of the Indebtedness (including, without limitation, any Prepayment Premium due under the terms of the Note in connection with such acceleration) to be due and payable and the same shall thereupon become immediately due and payable, together with all payments due in accordance with the terms of the Note, without any further presentment, demand, protest or notice of any kind. Beneficiary may, in its sole discretion, also do any of the following: (i) in person, by agent, or by a Receiver, without regard to the adequacy of security, the solvency of Trustor or the condition of the Property, without obligation so to do and without notice to or demand upon Trustor, enter upon and take possession of the

Property, or any part thereof, in its own name or in the name of Trustee and do any acts which Beneficiary deems necessary to preserve the value or marketability of the Property; sue for or otherwise collect the Rents and Proceeds, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, against the Obligations, all in such order as Beneficiary may determine; appear in and defend any action or proceeding purporting to affect, in any manner whatsoever, the Obligations, the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase or compromise any encumbrance, charge or lien that in the judgment of Beneficiary or Trustee is prior or superior hereto; and in exercising any such powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees; (ii) as a matter of strict right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Property or the danger of loss, removal, or material injury to the Property, apply ex parte to any court having jurisdiction to appoint a Receiver to enter upon and take possession of the Property, and Trustor hereby waives notice of any application therefor, provided a hearing to confirm such appointment with notice to Trustor is set within the time required by law (any such Receiver shall have all the powers and duties of Receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale, unless such Receivership is sooner terminated); (iii) commence an action to foreclose this Deed of Trust in any manner provided hereunder or by law; (iv) with respect to any Personalty, proceed as to both the real and personal property in accordance with Beneficiary's rights and remedies in respect of the Land, or proceed to sell said Personalty separately and without regard to the Land in accordance with Beneficiary's rights and remedies as to personal property; and/or (v) deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record.

B. If Trustor shall at any time fail to perform or comply with any of the terms, covenants and conditions required on Trustor's part to be performed and complied with under any of the Loan Documents or any other agreement that, under the terms of this Deed of Trust, Trustor is required to perform, then Beneficiary may, in its sole discretion: (i) make any payments hereunder or thereunder payable by Trustor and take out, pay for and maintain any of the insurance policies provided for herein or therein; and/or (ii) after the expiration of any applicable grace period and subject to Trustor's rights to contest certain obligations specifically granted hereby, perform any such other acts thereunder on the part of Trustor to be performed and enter upon the Property for such purpose.

C. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require. Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such notice of default and notice of sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Property at the time and place of sale fixed by it in said notice of

TRADEMARK
REEL: 002376 FRAME: 0125

sale, either as a whole, or in separate lots or parcels or items as Beneficiary shall determine, and in such order as Beneficiary may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any Person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers. After deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale in the following priority, to payment of: (i) first, all sums expended under the terms hereof, not then repaid, with accrued interest at the Secondary Interest Rate; (ii) second, all other sums then secured hereby; and (iii) the remainder, if any, to the person or persons legally entitled thereto. Trustor waives its rights, if any, to required that the Property be sold as separate tracts or units, in the event of foreclosure. Beneficiary may, in its sole discretion, designate the order in which the Property shall be offered for sale or sold through a single sale or through two or more successive sales, or in any other manner Beneficiary deems to be in its best interest. If Beneficiary elects more than one sale or other disposition of the Property, Beneficiary may at its option cause the same to be conducted simultaneously or successively, on the same day or at such different days or times and in such order as Beneficiary may deem to be in its best interests, and no such sale shall terminate or otherwise affect the lien of this Deed of Trust on any part of the Property not then sold until all Indebtedness secured hereby has been fully paid. If Beneficiary elects to dispose of the Property through more than one sale, Trustor shall pay the costs and expenses of each such sale of its interest in the Property and of any proceedings where the same may be made. Trustee may postpone the sale of all or any part of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement, and without further notice make such sale at the time fixed by the last postponement; or Trustee may, in its discretion, give a new notice of sale. Beneficiary may rescind any such notice of default at any time before Trustee's sale by executing a notice of rescission and recording the same. The recordation of such notice shall constitute a cancellation of any prior declaration of default and demand for sale and of any acceleration of maturity of Indebtedness affected by any prior declaration or notice of default. The exercise by Beneficiary of the right of rescission shall not constitute a waiver of any default then existing or subsequently occurring, or impair the right of Beneficiary to execute other declarations of default and demand for sale, or notices of default and of election to cause the Property to be sold, nor otherwise affect the Note or this Deed of Trust, or any of the rights, obligations or remedies of Beneficiary or Trustee hereunder.

D. In the event of a sale of the Property, or any part thereof, and the execution of a deed therefor, the recital therein of default, and of recording notice of default and notice of sale, and of the elapse of the required time (if any) between the recording and the notice, and of the giving of notice of sale, and of a demand by Beneficiary, or its successors or assigns, that such sale should be made, shall be conclusive proof of such default,

recording, election, elapse of time, and giving of such notice, and that the sale was regularly and validly made on due and proper demand by Beneficiary, its successors or assigns. Any such deed or deeds with such recitals therein shall be effective and conclusive against Trustor, its successors and assigns, and all other Persons. The receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligations to see to the proper application of the purchase money.

E. All remedies of Beneficiary provided for herein are cumulative and shall be in addition to any and all other rights and remedies provided in the other Loan Documents or by law, including any right of offset. The exercise of any right or remedy by Beneficiary hereunder shall not in any way constitute a cure or waiver of default hereunder or under the Loan Documents, or invalidate any act done pursuant to any notice of default, or prejudice Beneficiary in the exercise of any of its rights hereunder or under the Loan Documents.

ARTICLE 7

SECURITY AGREEMENT AND FIXTURE FILING

7.1. Grant of Security Interest. Trustor hereby grants to Beneficiary a security interest in and to all Trustor's right, title and interest now owned or hereafter acquired in and to the Improvements, Personalty and the Fixtures and all of the products and proceeds thereof (collectively, the "Collateral") to secure payment and performance of the Obligations.

7.2. Remedies. This Deed of Trust constitutes a security agreement with respect to the Collateral in which Beneficiary is hereby granted a security interest. In addition to the rights and remedies provided under this Deed of Trust, Beneficiary shall have all of the rights and remedies of a secured party under the California Uniform Commercial Code as well as all other rights and remedies available at law or in equity. Trustor hereby agrees to execute and deliver on demand and irrevocably constitutes and appoints Beneficiary the attorney-in-fact of Trustor to, at Trustor's expense, execute, deliver and, if appropriate, to file with the appropriate filing officer or office such instruments as Beneficiary may request or require in order to impose, perfect or continue the perfection of the lien or security interest created hereby. Upon the occurrence of any Event of Default, Beneficiary shall have (i) the right to cause any of the Collateral which is personal property to be sold at any one or more public or private sales as permitted by applicable law and to apply the proceeds thereof to the Indebtedness or the satisfaction of any Obligation, and (ii) the right to apply to the Indebtedness or the satisfaction of any Obligation any Collateral which is cash, negotiable documents or chattel paper. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any Person, including both of Trustor and Beneficiary, shall be eligible to purchase any part or all of such Personalty at any such disposition.

7.3. Expenses. Expenses of retaking, holding, preparing for sale, selling or the like pertaining to the Collateral shall be borne by Trustor and shall include Beneficiary's and Trustee's reasonable attorneys' fees and legal expenses. Trustor, upon demand of Beneficiary shall assemble the Collateral and make it available to Beneficiary at the Property, a place which is

TRADEMARK
REEL: 002376 FRAME: 0127

hereby deemed to be reasonably convenient to Beneficiary and Trustor. Beneficiary shall give Trustor at least ten (10) days' prior written notice of the time and place of any public sale or other disposition of the Collateral or of the time after which any private sale or any other intended disposition is to be made. Any such notice sent to Trustor in the manner provided for the mailing of notices herein is hereby deemed to be reasonable notice to Trustor.

7.4. Fixture Filing. This Deed of Trust covers certain goods which are or are to become fixtures related to the Land and constitutes a fixture filing with respect to such goods executed by Trustor as debtor in favor of Beneficiary as secured party.

7.5. Crop Filing. The Security Agreement set forth in this Deed of Trust covers all crops now or hereafter growing on the Land and all crops and farm products now or hereafter generated by the Land (whether Fructus Naturales or Fructus Industriales (Emblements), including, all such crops and farm products now or hereafter harvested and/or severed from the Land, whether or not then stored on the Land), and all the products and proceeds thereof, and this Deed of Trust constitutes a financing statement with respect to such crops executed by Trustor as debtor in favor of Beneficiary as secured party.

7.6. Waivers. Trustor waives any right to require Beneficiary to (i) proceed against any Person, (ii) proceed against or exhaust any Collateral or (iii) pursue any other remedy in its power; and (b) any defense arising by reason of any disability or other defense of Trustor or any other Person, or by reason of the cessation from any cause whatsoever of the liability of Trustor or any other Person. Until the Indebtedness shall have been paid in full, Trustor shall not have any right to subrogation, and Trustor waives any right to enforce any remedy which Beneficiary now has or may hereafter have against Trustor or against any other Person and waives any benefit of and any right to participate in any Collateral or security whatsoever now or hereafter held by Beneficiary.

7.7. Further Assurances. Trustor hereby agrees that, immediately upon Beneficiary's demand, Trustor shall execute and deliver to Beneficiary (and cause any necessary third parties to execute and deliver to Beneficiary) all documents and filings (including, without limitation "control agreements"), and otherwise take all other actions as may be requested by Beneficiary, in order to maintain and provide to Beneficiary a first priority perfected security interest in the Personalty provided hereby and by the Loan Documents, and Trustor hereby agrees to pay all fees and costs associated therewith (including, without limitation, the reasonable fees and costs of Beneficiary's outside counsel). Trustor expressly authorizes Beneficiary to file any and all UCC financing statements relating to the Loan and/or the Property.

ARTICLE 8

ASSIGNMENT OF RENTS AND PROCEEDS, LEASES AND AGREEMENTS

8.1. Assignment of Rents and Proceeds and Leases. Trustor absolutely and unconditionally assigns and transfers to Beneficiary (i) the Leases and (ii) the Rents and Proceeds whether now due, past due or to become due, and gives to and confers upon Beneficiary any and all rights and claims of any kind that Trustor may have against lessees under the Leases and the right, power and authority to collect such Rents and Proceeds, and apply the same to the Indebtedness or the

satisfaction of any Obligation. Trustor irrevocably appoints Beneficiary its agent to, at any time, demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in the name of Trustor or in the name of Beneficiary, for all such Rents and Proceeds. Neither the foregoing assignment of Leases and Rents and Proceeds to Beneficiary or the exercise by Beneficiary of any of its rights or remedies under this Deed of Trust shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation of all or any part thereof, unless and until Beneficiary, in person or by its own agent, assumes actual possession thereof, nor shall appointment of a Receiver for the Property by any court at the request of Beneficiary or by agreement with Trustor or the entering into possession of the Property by such Receiver be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Property or the use, occupancy, enjoyment or operation thereof.

8.2. Assignment of Agreements. Trustor hereby sells, assigns, transfers, sets over and delivers to Beneficiary all of Trustor's right, title and interest in and to any and all agreements, contracts, supply contracts, reports, surveys, maintenance agreements, water-sharing agreements, water agreements, including but not limited to the Agreement for Provision of Water Service and the State Water Resource Control Board Permit No. 20762, purchase contracts, construction contracts, architectural contracts, architectural plans, engineering contracts, and governmental approvals whatsoever pertaining to the operation of the Property, as the same may be amended or otherwise modified from time to time (collectively, the "Agreements"). The foregoing assignment encompasses the right of Trustor to (i) terminate any of the Agreements, (ii) perform or compel performance and otherwise exercise all remedies under the Agreements, and (iii) collect and receive all sums which may become due Trustor or which Trustor may now or shall hereafter become entitled to demand or claim, under the Agreements.

8.3. Revocable License. Notwithstanding anything to the contrary contained herein or in the Note, so long as no Event of Default shall have occurred, Trustor shall have a license to collect all Rents and Proceeds and all other sums which may become payable to Trustor under the Agreements, and to first apply the same to the payment or performance of the Obligations as and when due. Upon the occurrence of an Event of Default, (i) Beneficiary shall have the right, on written notice to Trustor, to terminate and revoke the license herein granted to Trustor and shall have the right and authority then or thereafter to exercise and enforce any and all of its rights and remedies provided in this Article 8 or by law or at equity, and (ii) Trustor shall immediately forward and turn over to Beneficiary all Rents and Proceeds (including, without limitation, all security deposits and termination payments) then held or thereafter received by Trustor.

8.4. Nonresponsibility. The acceptance by Beneficiary of the assignments with all the rights, powers, privileges and authority so granted shall not obligate Beneficiary to assume any obligations in respect of the Rents and Proceeds or under the Agreements or take any action thereunder or to expend any money or incur any expense or perform or discharge any obligation, duty or liability in respect of the Rents and Proceeds or under the Agreements or to assume any obligation or responsibility for the nonperformance of the provisions thereof by Trustor.

8.5. Affirmative Covenants re: Leases and Agreements. Trustor shall (i) observe, perform and discharge, all the obligations, terms, covenants, conditions and warranties of the Leases and

Agreements, on the part of Trustor to be kept, and shall promptly notify Beneficiary of any default thereunder, (ii) upon written request of Beneficiary, direct the obligors under the Agreements and the Lessees to deliver all Rents and Proceeds and other payments due thereunder to Beneficiary, (iii) enforce or secure in the name of Beneficiary the performance of each and every obligation, term, covenant, condition and agreement of the Leases and Agreements to be performed by Lessees and obligors thereunder, (iv) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the Agreements or the obligations, duties, or liabilities of Trustor, Lessees and obligors thereunder and, upon request by Beneficiary, to do so in the name and on behalf of Beneficiary but at the expense of Trustor, and to pay all costs and expenses of Beneficiary, including, attorneys' fees.

8.6. Negative Covenants re Leases and Agreements. Trustor shall not, without the prior written consent of Beneficiary: (i) lease any part of the Property or renew or extend any Leases; (ii) terminate, amend, modify or alter in any manner any Leases, or waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge Lessees from any obligations, covenants, conditions and agreements by such Lessees to be kept, or accept or consent to any surrender of the Leases; (iii) receive or collect any Rents and Proceeds for a period of more than one month in advance (whether in cash or by promissory note); (iv) further assign the Leases or pledge, transfer, mortgage or otherwise encumber or assign future payments of Rents and Proceeds; (v) commence an action of ejectment or summary proceedings for dispossession of the Lessees under any Leases; or (vi) consent to any modification of the express purposes for which the Property has been leased, or consent to any subletting of the Property or any part thereof, or to assignment of the Leases by Lessees thereunder or to any assignment or further subletting by any sublessees.

ARTICLE 9

MISCELLANEOUS

9.1. Successor Trustee. Beneficiary may remove Trustee or any successor trustee at any time or times and appoint a successor trustee by recording a written substitution in the county where the Property is located, or in any other manner permitted by law.

9.2. No Waiver. No failure by Beneficiary to insist upon strict, full and complete (i) payment when due of any portion of the Indebtedness or (ii) performance of any Obligation, nor failure to exercise any right or remedy hereunder, shall constitute a waiver of any such failure to pay or breach of any such Obligation, or of the later exercise of such right or remedy.

9.3. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged, (ii) one business day after having been deposited for overnight delivery with Federal Express or another comparable overnight courier service, or (iii) three business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, addressed to the addresses set forth on page 1 hereof or addressed as such party may from time to time hereafter designate by written notice to the other parties.

TRADEMARK
REEL: 002376 FRAME: 0130

9.4. Severability. If any provision hereof should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and in no way affect the validity of this Deed of Trust except that if such provision relates to the payment of any monetary sum, then Beneficiary may, at its option, declare the Indebtedness immediately due and payable.

9.5. Joinder of Foreclosure. Should Beneficiary hold any other or additional security for the performance of the Obligations, its sale or foreclosure, upon any default in such performance, in the sole discretion of Beneficiary, may be prior to, subsequent to, or joined or otherwise contemporaneous with any sale or foreclosure hereunder.

9.6. Governing Law. This Deed of Trust shall be governed by and construed in accordance with the laws of the state in which the Land is located.

9.7. Subordination. At the option of Beneficiary, this Deed of Trust shall become subject and subordinate in whole or in part (but not with respect to priority of entitlement to any insurance proceeds, damages, awards, or compensation resulting from damage to the Property or condemnation or exercise of power of eminent domain), to any and all contracts of sale and/or any and all Leases upon the execution by Beneficiary and recording thereof in the Official Records of the county where the Land is located of a unilateral declaration to that effect.

9.8. Waiver of Statute of Limitations and Rights to Trial by Jury. Trustor hereby waives, to the full extent allowed by law, the right to plead any statute of limitations as a defense to any obligation secured by this Deed of Trust and the right to a jury trial in any action under or relating to the Loan Documents.

9.9. Entire Agreement. The Loan Documents and the Hazardous Substances Agreement set forth the entire understanding between Trustor and Beneficiary relative to the Loan and the same shall not be amended except by a written instrument duly executed by each of Trustor and Beneficiary. The foregoing notwithstanding, the terms and the conditions of the Application shall survive the funding of the Loan but in the event of any conflict between the provisions of the Application and any of the other Loan Documents or the Hazardous Substances Agreement, except as otherwise specifically provided herein, the terms of such other Loan Documents and Hazardous Substances Agreement shall control.

9.10. Charges for Statements. Trustor agrees to pay Beneficiary's charge, up to the maximum amount permitted by law, for any statement regarding the Obligations requested by Trustor or in its behalf.

9.11. Usury. In the event that Beneficiary determines that any charge, fee or interest paid or agreed to be paid in connection with the Loan may, under the applicable usury laws, cause the interest rate on the Loan to exceed the maximum permitted by law, then such charges, fees or interest shall be reduced and any amounts actually paid in excess of the maximum interest permitted by such laws shall be applied by Beneficiary to reduce the outstanding principal balance of the Loan. The parties intend that Trustor shall not be required to pay, and Beneficiary shall not be entitled to collect, interest in excess of the maximum legal rate permitted under the applicable usury laws.

9.12. Information Reporting Under IRS Section 6045(e). Any information returns or certifications that must be filed with the Internal Revenue Service and/or provided to other parties pursuant to Internal Revenue Code Section 6045(e) shall be prepared, filed by and sent to the appropriate parties by Trustor. To the extent permitted by law, Beneficiary shall have no responsibility to perform such services; provided however, that upon demand Trustor shall pay such fee to Beneficiary as Beneficiary may reasonably and lawfully request. Beneficiary shall, where requested by Trustor, promptly supply Trustor with all information pertaining to Beneficiary reasonably required by Trustor to prepare and file any such return or certification.

9.13. ERISA.

A. Beneficiary represents and warrants to Trustor that, as of the date of this Deed of Trust and throughout the term of the Loan, the source of funds from which Beneficiary extends the Loan is its General Account, which is subject to the claims of its general creditors under state law. For so long as The Prudential Insurance Company of America is the holder of the Note and Beneficiary hereunder, it shall not allocate all or any portion of the Loan to any account other than its General Account.

B. Trustor represents and warrants to Beneficiary that, as of the date of this Deed of Trust and covenants that, throughout the term of the Loan, (i) Trustor is not and will not become an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which is subject to Title I of ERISA, and (ii) the assets of Trustor do not and will not constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101.

C. Trustor represents and warrants to Beneficiary that, as of the date of this Deed of Trust (i) Trustor is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (ii) transactions by or with Trustor are not subject to state statutes regulating investment of and fiduciary obligations with respect to governmental plans.

D. Trustor covenants and agrees to deliver to Beneficiary such certifications or other evidence from time to time throughout the term of the Loan, as requested by Beneficiary in its sole discretion, that (i) Trustor is not an "employee benefit plan" or a "governmental plan," and (ii) Trustor is not subject to state statutes regulating investments and fiduciary obligations with respect to governmental plans, and (iii) one or more of the following circumstances is true: (a) equity interests in Trustor are publicly offered securities, within the meaning of 29 C.F.R. Section 2510.3-101(b)(2); (b) less than twenty-five percent (25%) of all equity interests in Trustor are held by "benefit plan investors" within the meaning of 29 C.F.R. Section 2510.3-101(f)(2); (c) Trustor qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. Section 2510.3-101(c) or (e); or (d) no equity interest in Trustor is held directly or indirectly by an employee benefit plan subject to ERISA.

E. Any of the following shall constitute an Event of Default entitling Beneficiary to exercise any and all remedies to which it may be entitled under the Loan Documents: (i) the failure of any representation or warranty made by Trustor under this Paragraph 9.13 to be true and correct in all respects; (ii) the failure of Trustor to provide

Beneficiary with the written certifications and evidence referred to above; or (iii) the consummation by Trustor of a transaction which would cause the Deed of Trust or any exercise of Beneficiary's rights under the Loan Documents to constitute a non-exempt prohibited transaction under ERISA or a violation of a state statute regulating governmental plans, subjecting Beneficiary to liability for violation of ERISA or such state statute.

F. Trustor shall indemnify, protect and defend and hold Beneficiary harmless from and against all loss, fee, cost, damage and expense (including attorneys' fees and costs incurred in the investigation, defense and settlement of claims and losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Beneficiary's sole discretion) that Beneficiary may incur, directly or indirectly, as a result of a default under Paragraph 9.13.E. This indemnity shall survive any termination, satisfaction or foreclosure of the Deed of Trust.

G. Notwithstanding anything to the contrary contained in this Deed of Trust, no Transfer otherwise permitted hereunder shall be permitted if such Transfer would negate the representations contained in this Paragraph 9.13 or cause this Deed of Trust (or the exercise by Beneficiary of any of its rights and/or remedies under any Loan Document) to constitute a violation of any provision of ERISA or of any applicable state statute regulating a governmental plan, as determined by Beneficiary in its sole and absolute discretion.

H. Notwithstanding anything to the contrary contained in this Deed of Trust, not less than fifteen (15) days prior to any Transfer permitted hereunder pursuant to the terms and provisions hereof, Trustor shall obtain from the proposed transferee or lienholder, (i) a representation, in form and substance satisfactory to Beneficiary, that all provisions of this Paragraph 9.13 shall be true and correct after giving effect to any such Transfer, and (ii) such transferees agreement in writing, which agreement must be in form and substance satisfactory to Beneficiary in its sole and absolute discretion, that any transfer of such transferee's interest shall be governed by the terms and provisions of this Paragraph 9.13.

9.14. Indemnification and Defense.

A. Trustor will indemnify, defend, and hold Beneficiary and its agents harmless from and against all liability, loss, claims, damage, fee, cost or expense (including reasonable attorneys' fees) that Beneficiary might incur in connection with the making or administering of the Loan, the enforcement of any of Beneficiary's rights or remedies under the Loan Documents, by reason of any failure of any representation or warranty made by Trustor or the failure of Trustor to perform any Obligation or by reason or in defense of any and all claims and demands whatsoever that may be asserted against Beneficiary arising out of or in connection with the Property or the Loan.

B. Trustor shall appear in and defend (with counsel acceptable to Beneficiary) any action or proceeding purporting to affect the security of the Deed of Trust, or of any additional

TRADEMARK
REEL: 002376 FRAME: 0133

or other security for the Obligations, the interest of Beneficiary or the rights, powers and duties of Trustee hereunder.

C. Whenever, under any Loan Document, Trustor is obligated to indemnify and/or defend Beneficiary, or Trustor is obligated to defend or prosecute any action or proceeding, then Beneficiary shall have the right to participate in such prosecution or defense using counsel of Beneficiary's choice, and all costs and expenses incurred by Beneficiary in connection with such participation (including reasonable attorneys' fees) shall be reimbursed by Trustor to Beneficiary. In addition, Beneficiary shall have the right to approve any counsel retained by Trustor in connection with the prosecution or defense of any such action or proceeding by Trustor. Trustor shall give notice to Beneficiary of the initiation of all proceedings prosecuted or required to be defended by Trustor, or which are subject to Trustor's indemnity obligations, under this Deed of Trust, promptly after the receipt by Trustor of notice of the existence of any such proceeding, but in no event later than five (5) days thereafter.

D. Should Beneficiary incur any liability, loss, claim, damage, cost or expense required to be reimbursed by Trustor to Beneficiary hereunder, the amount thereof with interest thereon at the Secondary Interest Rate shall constitute part of the Indebtedness, shall be payable by Trustor upon demand and shall be secured by this Deed of Trust.

9.15. Destruction of Note. Trustor shall, if the Note is mutilated or destroyed by any cause whatsoever, or otherwise lost or stolen and regardless of whether due to the act or neglect of Beneficiary or Trustee, execute and deliver to Beneficiary in substitution therefor a duplicate promissory note containing the same terms and conditions as the Note, within ten (10) days after Beneficiary notifies Trustor of any such mutilation, destruction, loss or theft of the Note.

9.16. Heirs and Assigns. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

9.17. Interpretation. When the identity of the parties or other circumstances make it appropriate, the masculine gender shall include the feminine and/or neuter, and the singular number shall include the plural. Specific enumeration of rights, powers and remedies of Trustee and Beneficiary and of acts which they may do and of acts Trustor must do or not do shall not exclude or limit the general. The headings of each Article and Paragraph are for convenience and do not limit or construe the contents of any provision hereof. The provisions of the Loan Documents and the Hazardous Substances Agreement shall be construed as a whole according to their common meaning, not strictly for or against any party and consistent with the provisions herein contained, in order to achieve the objectives and purposes of such documents. Each party and its counsel has reviewed and revised the Loan Documents and the Hazardous Substances Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of such document. The use in the Loan Documents and the Hazardous Substances Agreement of the words "including", "such as", or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, whether or not language of non-limitation such as "without limitation" or "but not limited to", or words of similar import are used with reference thereto, but rather shall be

deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter. The term "Trustor" shall be deemed to refer to each and every Trustor, both individually and collectively, when more than one Trustor exists, and to the original Trustor, and its or their successors and assigns (whether or not such assign assumed the Obligations hereunder); the term "Beneficiary" includes Beneficiary named herein or any future owner or holder, including pledgee and participants, of the Note, or any other instrument secured hereby, or any participation therein; and the term "Trustee" includes the original Trustee and its successors and assigns. The references to the "Property" shall be deemed to refer to all or any portion of the Property and any interest therein. References to "foreclosure" and related phrases shall be deemed references to the appropriate procedure in connection with Trustee's private power of sale as well as any judicial foreclosure proceeding or a conveyance in lieu of foreclosure.

9.18. Information to Third Persons. If, at any time, Beneficiary desires to sell or transfer, or grant a participation interest in, all or any portion of, or any interest in, the Note or any other Loan Document to any Person, Trustor shall furnish in a timely manner any and all financial information concerning the Property and Leases, and concerning Trustor's financial condition, requested by Beneficiary or such person in connection with any such sale or transfer.

9.19. Commingling of Funds. Any and all sums collected or retained by Beneficiary hereunder (including insurance and condemnation proceeds and any amounts paid by Trustor to Beneficiary under Paragraph 3.4 hereof), shall not be deemed to be held in trust, and Beneficiary may commingle such funds or proceeds with its general assets and shall not be liable for the payment of any interest or other return thereon, except to the extent otherwise required by law.

9.20. Certain Obligations Unsecured. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Deed of Trust shall not secure the following obligations (the "Unsecured Obligations"): (i) any obligations evidenced by or arising under the Hazardous Substances Agreement; and (ii) any other obligations in this Deed of Trust or in any of the other Loan Documents to the extent that such other obligations relate specifically to the presence on the Property of Hazardous Materials (as defined in the Hazardous Substances Agreement) and are the same or have the same effect as any of the obligations evidenced by or arising under the Hazardous Substances Agreement. Nothing in this section shall, in itself, impair or limit Beneficiary's right to obtain a judgment in accordance with applicable law after foreclosure for any deficiency in recovery of all obligations that are secured by this Deed of Trust following foreclosure.

9.21. Costs and Fees of Trustor. All costs, fees and expenses (including those of Beneficiary's legal counsel and consultants) (collectively, "Costs") incurred by Beneficiary in making, administering or collecting the Loan including, without limitation, costs incurred by Beneficiary in connection with any inspections (including any and all inspections of the Improvements during construction or development), reports, tests, inquiries and reviews, condemnation proceedings, endorsements to the title policy, actions or proceedings in which Beneficiary and/or Trustee may appear or be made a party (including foreclosure or other proceedings commenced by those claiming a right to any part of the Property or any action to partition all or part of the Property, whether or not pursuant to final judgment and exercise of the power of sale contained herein, whether or not the sale is actually consummated) and all sums expended by Trustee or

TRADEMARK
REEL: 002376 FRAME: 0135

Beneficiary in the exercise of any of their rights or remedies under this Deed of Trust shall be immediately due and payable by Trustor to Beneficiary upon demand, shall accrue interest at the Secondary Interest Rate from the date of expenditure until paid, and shall be added to the Indebtedness secured by the Loan Documents prior to any right, title or interest in or claim upon the Property attaching or accruing subsequent to the lien of this Deed of Trust.

9.22. Reconveyance. Beneficiary agrees that upon the written request of Trustor, Beneficiary will provide Trustee with a Request for Reconveyance requesting that the lien of this Deed of Trust be reconveyed with respect to the Property, provided that Trustor satisfies each of the following conditions precedent:

A. Such written request is delivered to Beneficiary at least thirty (30) days prior to the recordation date of the requested reconveyance.

B. No Event of Default exists at the time of any such release, nor has any event occurred that with the passage of time or the giving of notice or both would constitute an Event of Default.

C. Trustor pays Beneficiary (i) a principal paydown of $2,600,000, which paydown shall be applied by Beneficiary first to pay off the loan from Beneficiary to Kirkland Cattle, which loan is evidenced by that certain Promissory Note dated as of February 22, 2000 in the original principal amount of $1,200,000 (the "2000 Note"), and then to pay down Note B, (ii) any accrued interest thereon, (iii) a Prepayment Premium (as defined in the 2000 Note) in the amount specified in the 2000 Note, for the portion of such principal paydown applicable to the 2000 Note, and (iv) a Prepayment Premium (as defined in Note B) in the amount specified in the Note B, for the portion of such principal paydown applicable to Note B.

D. Trustor pays Beneficiary a servicing fee to be determined by Beneficiary at the time of Beneficiary's receipt of the request, which fee shall be paid within five (5) days after Beneficiary notifies Trustor of the amount of the fee.

E. Trustor shall pay all reasonable out-of-pocket costs of Beneficiary relating to the release, including, without limitation, Beneficiary's attorneys' fees, escrow fees, and the costs of any title endorsements to insure such matters as Beneficiary shall require.

F. The release of the Property shall be pursuant to such documentation as Beneficiary reasonably deems necessary including, without limitation, modifications to the Loan Documents.

In no event shall a release under this Section 9.22 constitute or trigger a release of the Existing Property from the lien of the Existing Deed of Trust.

9.23. Joint and Several Liability. Each Trustor will be jointly and severally liable to Beneficiary for the faithful performance of this Deed of Trust and the other Loan Documents and all obligations hereunder and thereunder.

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REEL: 002376 FRAME: 0136

IN WITNESS WHEREOF, Trustor has caused this Deed of Trust to be executed as of the day and year first above written.

TRUSTOR:

KIRKLAND CATTLE CO., a California general partnership

By: _____
Larry D. Kirkland, its general partner

By: _____
Lonnie R. Kirkland, its general partner

KIRKLAND RANCH, LLC, a California limited liability company

By: _____
Larry D. Kirkland, its General Manager and Member

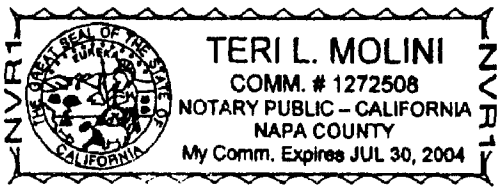
By: _____
Lonnie R. Kirkland, its General Manager and Member

11419:6273262 2

STATE OF CALIFORNIA)
) ss.
COUNTY OF Napa)

On Sept. 14, 2001 before me, Teri L. Molini, Notary Public, personally appeared Larry D. Kirkland, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

Witness my hand and official seal.



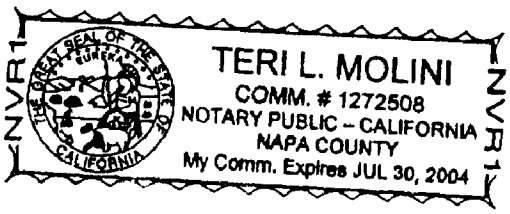
Teri L. Molini
Notary Public

11419:6273262 2

STATE OF CALIFORNIA)
) ss.
COUNTY OF Napa)

On Sept. 14, 2001 before me, Teri L. Molini Notary Public, personally appeared Lonnie R. Kirkland, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

Witness my hand and official seal.



Teri L. Molini
Notary Public

11419.6273262.2

EXHIBIT A-1

Napa County Property - Legal Description

Attached hereto

262.2

TRADEMARK
REEL: 002376 FRAME: 0140

EXHIBIT

A-1

Order No: 120068

The land referred to herein is situated in the State of California, County of Napa, and is described as follows:

TRACT ONE:
COMMENCING at the Southwest corner of the 294.58 acre parcel of land described in the Deed to Basalt Rock Company Inc., recorded February 1, 1966 in Book 739 at page 278 of Official Records of Napa County; thence from said point of commencement along the Southern, Eastern and Southeastern line of said 294.58 acre tract the following courses and distances: due East 1338.83 feet; due North 900.00 feet; due East 256.00 feet; North 47° 00' East 457.00 feet; North 57° 00' East 286.00 feet; North 43° 30' East 770.00 feet; North 78° 00' East 588.00 feet; and due East 676.28 feet to the Southeast corner of said 294.58 acre tract, said point being a point on the North-South quarter section line of Section 30, Township 5 North, Range 3 West Mount Diablo Base and Meridian; thence South along said quarter section line 2056.8 feet, more or less, to the center of said Section 30; thence East 2640.0 feet, more or less, to the Northeast corner of the Southeast quarter of said Section 30; thence South along the East line of the Southeast quarter of said Section 30, 2640.0 feet, more or less, to the Southeast corner of said Section 30; thence West along the South line of said Section 30, 5280.0 feet, more or less, to the Southeast corner of the Southeast quarter of Section 25 in Township 5 North, Range 4 West Mount Diablo Base and Meridian; thence continuing West along the South line of said Section 25, 1320.0 feet, more or less, to the point of intersection of the Tulocay Rancho line; thence North along said Rancho boundary line 2648.5 feet, more or less to the point of commencement.

APN 045-360-006

TRACT TWO:
Commencing at the point of intersection of the East line of the West half of the Northeast quarter of Section 29, in Township 5 North, Range 3 West, Mount Diablo Base and Meridian, with the centerline of a stone fence, said point of commencement is also the Southeast corner of the 138.0 acre tract as described in the Deed to Napa State Hospital, recorded October 19, 1906 in Book 87 of Deeds at page 323, said Napa County Records; thence from said point of commencement and running along the Southern and Southwestern line of said 138.0 acre tract herein above referred to the following courses and distances; thence along said stone fence as follows: North 66° 00' West 528.0 feet, North 84° 30' West 244.2 feet, North 65° 00' West 191.4 feet to the end of said stone fence; thence along a board fence the following courses and distances: South 80° 00' West 336.6 feet, South 75° 30' West 213.84 feet, South 57° 15' West 158.4 feet, South 82° 00' West 297.0 feet, South 87° 00' West 660.0 feet, South 85° 00' West 528.0 feet, North 87° 15' West 132.0 feet to the Easterly line of a stone fence; thence along said stone fence, North 66° 30' West 544.5 feet to the Westerly end of said stone fence; thence continuing North 66° 30' West along a board fence 181.5 feet North 37° 00' West 66.0 feet, North 48° 45' West 323.4 feet, North 54° 00' West 660.0 feet, North 60° 00' West 132.0 feet, South 86° 00' West 72.60 feet to the Easterly end of a stone fence; thence along said stone fence, North 59° 00' West 59.4 feet; North 68° 00' West 198.0 feet to the Westerly end of said stone fence on the edge of a steep bluff; thence along the edge of said bluff North 55° 00' West 231.0 feet, North 24° 00' West 244.2 feet to a point in a stone fence on a line between Sections 19 and 30 in Township 5 North,
(Continued)

DESCRIPTION (Continued)

Range 3 West, Mount Diablo Base and Meridian; thence Westerly along the line between Sections 19 and 30, 1320 feet, more or less, to the intersection of the North-South centerline of Section 30; thence Southerly along said North-South centerline 2640.0 feet, more or less, to the center of said Section 30; thence Easterly 2640.0 feet, more or less, to the intersection of the East quarter corner of Section 30; thence Southerly along the section line common to Sections 29 and 30, 2640.0 feet, more or less, to the South corner common to Sections 29 and 30; thence Easterly along the South line of said Section 29, 5285.4 feet, more or less, to the Southeast corner of said Section 29; thence Northerly along the East line of Section 29, 2640 feet, more or less, to the intersection of the East-West centerline of Section 29; thence Westerly along the North line of Lots 3 and 4 in Section 29, 1320.0 feet, more or less, to the intersection of the Southeast corner of the West half of the Northeast quarter of Section 29; thence Northerly along the East line of the West half of the Northeast Quarter 1122.0 feet to the point of commencement.

EXCEPTING THEREFROM any portion that lies within Solano County.

apn 045-360-007

TRACT THREE:
Commencing at a point on the Southern boundary line of the lands of Peter A. Gasser as shown on the Record of Survey Map filed December 14, 1979 in Book 21 of Record of Survey Maps at page 45, in the Office of the County Recorder of said Napa County, said point being the Northeast corner of Parcel 1 as shown on the Record of Survey Map of the Lands of Kirkland Cattle company, filed May 26, 1983 in Book 23 of Surveys at pages 22-23; thence from said point of commencement along the Southern and Western line of the Peter A. Gasser, parcel herien above referred to the following courses and distances: North 89° 10' East 400.87 feet; North 27° 40' West 2960.90 feet, South 72° 09' West 61.54 feet; North 86° 24' West 63.63 feet, North 55° 54' West 39.25 feet, South 88° 40' West 51.21 feet, North 70° 21' West 94.29 feet, North 87° 40' West 36.64 feet, North 00° 02' 40" West 109.80 feet to the point of intersection of the North line of Section 36 in Township 5 North, Range 4 West Mount Diablo Base and Meridian, with the Tulocay Rancho boundary line; thence East along the North boundary line of said Section 36 and the North boundary line of Section 31 in Township 5 North, Range 3 West to the Northeast corner of said Section 31; thence South along the East line of said Section 31 to a point of intersection with the North line of Parcel 4 as described in the Deed to Larry Kirkland, et al, recorded June 17, 1980 in Book 1166 at page 330 of Official Records of Napa County; thence along the North line of said last mentioned parcel West 2800 feet, more or less, to an angle point in the Northern line of the tract of land as described in the Deed to Larry Kirkland, et al, recorded June 17, 1980 in Book 1166 at page 328 of Official Records of Napa County; thence South 754.38 feet to an angle in the last mentioned parcel; thence West 2219.58 feet, more or less, to the point of intersection of the Southeast corner of Parcel 1 herein above referred to; thence North 00° 25' 48" East along the East line of said Parcel 1, 2966.51 feet to the point of commencement.

APN 057-030-004

EXHIBIT A-2

Solano County - Legal Description

Attached hereto.

EXHIBIT

A-2

Order No. S605895
Customer Reference: 120068

LEGAL DESCRIPTION

REAL PROPERTY in an unincorporated area in the Counties of Solano and Napa, State of California, described as follows:

Commencing at the point of intersection of the East line of the West half of the northeast quarter of Section 29, in Township 5 North, Range 3 West, Mount Diablo base and meridian, with the centerline of a stone fence, said point of commencement is also the southeast corner of the 138.0 acre tract as described in the Deed at Page 323, said Napa County Records; thence from said point of commencement and running along the southern and southwestern line of said 138.0 acre tract herein above referred to the following courses and distances; thence along said stone fence as follows: North 66° 00' West 528.0 feet, North 84° 30' West 244.2 feet, North 65° 00' West 191.4 feet to the end of said stone fence; thence along a board fence the following courses and distances: South 80° 00' West 336.6 feet, South 75° 30' West 213.84 feet, South 57° 15' West 158.4 feet, South 82° 00' West 297.0 feet, South 87° 00' West 660.0 feet, South 85° 00' West 528.0 feet, North 87° 15' West 132.0 feet to the Easterly line of a stone fence; thence along said stone fence, North 66° 30' West 544.5 feet to the westerly end of said stone fence; thence continuing North 48° 45' West 323.4 feet, North 54° 00' West 660.0 feet, North 60° 00' West 132.0 feet South 86° 00' West 72.60 feet to the easterly end of a stone fence; thence along said stone fence, North 59° 00' West 59.4 feet; North 68° 00' West 198.0 feet to the Westerly end of said stone fence on the edge of a steep bluff; thence along the edge of said bluff North 55° 00' West 231.0 feet, North 24° 00' West 244.2 feet to a point in a stone fence on a line between Sections 19 and 30 in Township 5 North, Range 3 West, Mount Diablo Base and Meridian; thence Westerly along the line between Sections 19 and 30, 1320 feet, more or less, to the intersection of the North-South centerline of Section 30; thence Southerly along said North-South centerline 2640.0 feet, more or less, to the center of said Section 30; thence Easterly 2640.0 feet, more or less, to the intersection of the Easter quarter corner of Section 30; thence Southerly along the section line common to Sections 29 and 30, 2640.0 feet, more or less, to the South corner common to Sections 29 and 30, thence easterly along the South line of said Section 29, 5285.4 feet, more or less, to the southeast corner of said Section 29; thence northerly along the East line of Section 29, 2640 feet, more or less, to the intersection of the East-West centerline of Section 29; thence Westerly along the North line of Lots 3 and 4 in Section 29, 1320.0 feet, more or less, to the intersection of the southeast corner of the West half of the northeast quarter of Section 29; thence northerly along the East line of the West half of the northeast quarter 1122.0 feet to the point of commencement.

Excepting therefrom any portion that lies within Napa County.

A.P.No.: 148-010-020

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EXHIBIT B

Inventory

None

EXHIBIT C

LEGAL DESCRIPTION OF THE EXISTING PROPERTY

Policy No: PROFORMA
NAP 115069A

The land referred to herein is situated in the State of California, County of Napa, and is described as follows:

TRACT ONE:
Commencing at a point on the Southern boundary line of the lands of Peter A. Gasser as shown on the Record of Survey Map filed December 14, 1979 in Book 21 of Record of Survey Maps at page 45, in the Office of the County Recorder of said Napa County, said point being the Northeast corner of Parcel 1 as shown on the Record of Survey Map of the Lands of Kirkland Cattle company, filed May 26, 1983 in Book 23 of Surveys at pages 22-23; thence from said point of commencement along the Southern and Western line of the Peter A. Gasser, parcel herien above referred to the following courses and distances: North 89° 10' East 400.87 feet; North 27° 40' West 2960.90 feet, South 72° 09' West 61.54 feet; North 86° 24' West 63.63 feet, North 55° 54' West 39.25 feet, South 88° 40' West 51.21 feet, North 70° 21' West 94.29 feet, North 87° 40' West 36.64 feet, North 00° 02' 40" West 109.80 feet to the point of intersection of the North line of Section 36 in Township 5 North, Range 4 West Mount Diablo Base and Meridian, with the Tulocay Rancho boundary line; thence East along the North boundary line of said Section 36 and the North boundary line of Section 31 in Township 5 North, Range 3 West to the Northeast corner of said Section 31; thence South along the East line of said Section 31 to a point of intersection with the North line of Parcel 4 as described in the Deed to Larry Kirkland, et al, recorded June 17, 1980 in Book 1166 at page 330 of Official Records of Napa County; thence along the North line of said last mentioned parcel West 2800 feet, more or less, to an angle point in the Northern line of the tract of land as described in the Deed to Larry Kirkland, et al, recorded June 17, 1980 in Book 1166 at page 328 of Official Records of Napa County; thence South 754.38 feet to an angle in the last mentioned parcel; thence West 2219.58 feet, more or less, to the point of intersection of the Southeast corner of Parcel 1 herein above referred to; thence North 00° 25' 48" East along the East line of said Parcel 1, 2966.51 feet to the point of commencement.

TRACT TWO:
PARCEL ONE:
Being a portion of Section 6, Township 4 North, Range 3 West, Mount Diablo Base and Meridian, described as follows:

COMMENCING at a point on the Eastern boundary line of the parcel of land conveyed to Harlow V. Greenwood by Deed recorded on March 7, 1932 in Book 67 at page 196, Napa County Records, which point is on the Southern boundary line of California State Highway, and which point of commencement is also 16.328 chains due South of
(Continued)

TRADEMARK
REEL: 002376 FRAME: 0146

DESCRIPTION (Continued)

the Northeast corner of what is commonly known as the George W. Hill Ranch as shown and described in Deed recorded in Volume 140 of Deeds at page 309, Napa County Records; and running thence from said point of commencement, Northwesterly along the said Southern boundary line of said California State Highway, 36.155 chains to the West line of George W. Hill Ranch, as described in Deed recorded in Volume 140 of Deeds at page 309, Napa County Records; and thence following exterior boundary of said George W. Hill Ranch from said last mentioned point, as follows, to wit: North 2.13 chains, East 33 chains, South 16.328 chains to the point of commencement.

EXCEPTING THEREFROM that portion described in the Deed to the State of California, recorded September 3, 1929 in Volume 45 at page 169, of Official Records of Napa County.

PARCEL TWO:
Being a portion of Section 5, Township 4 North, Range 3 West, Mount Diablo Base and Meridian, described as follows:

COMMENCING on the property line common to the 79.80 acre tract of land described as Parcel Two in the Deed to Mary K. Lynch Siglin, recorded October 25, 1926 in Book 20 at page 406 of Official Records of Napa County, and the 80 acre tract of land described in the Deed to John M. Alves, recorded January 28, 1926 in Book 15 at page 449, Napa County Records, at the point of intersection thereof with the Northeastern line of the State Highway described as Parcel One in the Deed from John M. Alves to the State of California, recorded November 8, 1929 in Book 46 at page 104, Napa County Records; and running thence Southeasterly along the Northeastern line of said State Highway to the point of intersection thereof with the Eastern line of the 80 acre tract of land above referred to; thence due North along said last mentioned line to the Northeastern corner of said 80 acre tract, and thence West along the Northern line of said 80 acre tract to the point of commencement.

EXCEPTING THEREFROM any portion thereof lying within the bounds of the County Road or State Highway.

ALSO EXCEPTING THEREFROM that portion described in the Deed to the State of California, recorded December 5, 1969 in Book 778 at page 185 of Official Records of Napa County.

PARCEL THREE:
Being a portion of Section 5, Township 4 North, Range 3 West, Mount Diablo Base and Meridian, described as follows:

(Continued)

TRADEMARK
REEL: 002376 FRAME: 0147

DESCRIPTION (continued)

COMMENCING at the point of intersection formed by the Westerly line of the 79.80 acre tract of land heretofore conveyed to Mary K. Lynch Siglin, by Deed of record in Volume 20 at page 406, Napa County Records, with the Southerly line of the old State Highway leading from Napa to Fairfield; thence along the Southern line of said highway, South 89° 39' East, 1250.42 feet to a BC (beginning of curve); thence along the curve to the right, radius 620 feet, central angle, 27° 40', cord 296.48 feet, bearing South 75° 49' East a distance of 299.38 feet to a PCC (Point of compound curve); thence along the curve to the right, radius 770 feet, central angle 33° and 51', cord 448.33 feet, bearing South 45° 03' 30" East a distance of 454.91 feet to a PCC; thence along the curve to the right, radius 2570 feet, central angle 27° 32', cord 1223.20 feet, bearing South 14° 22' East, a distance of 1235.01 feet to the intersection thereof with the Southerly line of said 79.80 acre tract; thence along said Southerly line of said tract, North 87° West 852.70 feet to the intersection thereof with the Northerly line of the new State Highway leading from Napa to Fairfield; thence along the Northerly line of said highway, North 65° 41' West, 1434.50 feet to the intersection thereof with the aforesaid Westerly line of said 79.80 acre tract; thence along last mentioned line South 946.55 feet, more or less, to the point of commencement.

EXCEPTING THEREFROM that portion described in the Deed to the State of California, recorded December 5, 1969 in Book 778 at page 185 of Official Records of Napa County.

PARCEL FOUR:
Rights to plant, cultivate, irrigate, harvest and retain crops as reserved in the instrument to the State of California, recorded December 5, 1967 in Book 778 at page 185 of Official Records of Napa County.

PARCEL FIVE:
Right to take up to ten acre feet of water annually between January 1 and December 31 free of charge, as contained in the Waterline Easement and Membership Agreement dated June 14, 1988 and recorded June 20, 1988 in Book 1588 at page 890 of Official Records of Napa County.

(Continued)

TRADEMARK
REEL: 002376 FRAME: 0148

DESCRIPTION (continued)

TRACT THREE:
PARCEL ONE:
Commencing at a point on the North line of Lynch Road, said point being the Southwest corner of the 14.437 acre tract of land as described in the Deed to American Canyon County Water District, recorded June 13, 1978 in Book 1084 at page 676 of Official Records of Napa County; thence along the Western and Northern line of said 14.437 acre tract the following courses and distances: due North 1495.76 feet and due East 420.00 feet to the Northwest corner of the 42.406 acre parcel as shown on the Record of Survey Map filed March 7, 1968 in Book 15 of Surveys at page 100, said Napa County Records; thence due East along the North line of said 42.406 acre parcel 1184.35 feet to the Northeast corner thereof. Said point being a point on the East line of Parcel 4 as described in the Deed to Larry Kirland, et al, recorded November 28, 1979 in Book 1147 at page 794 of Official Records of Napa County; thence due North along the East line of said Parcel 4 to the intersection of the channel of a creek as described in said Parcel 4; thence up the centerline of said creek channel to the Northeast corner of said Parcel 4; thence due West along the North line of said Parcel 4 to the intersection of the Northeast corner of the tract of land as described in the Deed to Larry Kirkland, et al, recorded June 17, 1980 in Book 1166 at page 328 of Official Records of Napa County, thence due South along the East line of said last mentioned Parcel 3,200.0 feet, more or less, to the intersection of the North line of said Lynch Road; thence South 89° 40' 49" East 2,061.58 feet, more or less, to the point of commencement.

PARCEL TWO:
A water pipe leading to the above described land from the Green Valley main pipeline and all rights, privileges and Easements now enjoyed by the parties hereto in relation to said water pipe and the rights, privileges and Easements conveyed to Peter Lynch by (a) the Vallejo and Northern R.R. Co., by Agreement recorded November 4, 1911 in Volume L of Miscellaneous Records at page 484, said Napa County Records and (b) by John Madigan, by Agreement recorded November 25, 1911 in Volume L of Miscellaneous Records at page 493, said Napa County Records.

PARCEL THREE:
Rights to plant, cultivate, irrigate, harvest and retain crops as reserved in the instrument to the State of California, recorded December 6, 1967 in Book 778 at page 185, Napa County Records.