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06/21/2019 04:14 PM Pages: 1 of 23 Fees: \$418.00
Skagit County Auditor

When Recorded Return to:

Andrew W. Martin
AXA Equitable AgriFinance, LLC
6300 C Street SW, MS 3B-CR
Cedar Rapids, Iowa 52499-5223

LAND TITLE OF SKAGIT COUNTY

01-172581-0E

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document **must** be filled in)

MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) (Last name, first name, initials)

1. Dirk and Sons, LLC
2. Vander Kooy, Dirk aka Dick Vander Kooy and Dick J Vander Kooy
3. Vander Kooy, Olga Marie aka Olga Vander Kooy and Olga M. Vander Kooy

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

AXA Equitable Life Insurance Company

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

SE ¼ SE ¼, 3-33-3 E W.M.
 ptn Gov. Lot 10, 10-33-3 E W.M.
 ptn South 1/2 of SW 1/4 & ptn South 1/2 of North 1/2 34-34-3 E W.M.
 Gov Lot 3, 3-33-3 E W.M.
 East 1/2 SW 1/4 16-34-3 E W.M.
 ptn North 1/2 of N 1/4 21-34-3 E W.M.
 Lot 2 SP 93-077 (ptn Gov Lots 1 & 3-33-3 E W.M.)
 Gov Lot 8, 2-33-3 E W.M.
 ptn Gov Lot 1, 11-33-3 E W.M.
 NE 1/4 SE 1/4, 3-33-3 E W.M.
 ptn South 1/2 of NW 1/4 34-34-3 E W.M.
 SE 1/4 of NW 1/4; SW 1/4 of NE 1/4; ptn NE 1/4 of NW 1/4; ptn NW 1/4 of NE 1/4 16-34-3 E W.M.

P15626

Additional legal is on page ____ of document.

Assessor's Property Tax Parcel/Account Number

Assessor Tax # not yet assigned

Tax Parcel No.: 330310-0-009-0007, P15626, 330303-4-006-0001, P15363, 330310-0-007-0009, P15621, 330303-0-003-0002, P15339, 340334-3-008-0003, P23137, 340334-3-007-0004, P23136, 340334-3-006-0005, P23135, 330302-0-012-0002, P15308, 330303-0-001-0100, P104197, 330303-0-002-0003, P15338, 330303-4-001-0048, P15354, 330311-2-001-0103, P15687, 340316-3-001-0002, P22060, 340316-3-005-0008, P22064, 340321-2-001-0007, P22234, 340321-2-004-0004, P22236, 340334-4-004-0005, P23141, 340334-4-005-0004, P23142, 340316-1-005-0002, P22049, 340316-1-006-0001, P22050, 340316-2-002-0003, P22053, 340316-2-006-0009, P22059

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

Loan No. 60719242

**MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE
FILING**

NOTICE TO RECORDER: THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH THE UNIFORM COMMERCIAL CODE.

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND FIXTURE FILING (“Mortgage”) is made the 21st day of June, 2019 between Dirk and Sons, LLC, a Washington limited liability company, Dirk Vander Kooy aka Dick Vander Kooy aka Dick R. Vander Kooy and Olga Marie Vander Kooy aka Olga M. Vander Kooy aka Olga Vander Kooy, whose principal residence is 15000 Van Pelt Lane, Mount Vernon, Washington 98273, hereinafter called “**Mortgagor**,” and AXA Equitable Life Insurance Company, a New York corporation, whose address is Sixteenth Floor, 1290 Avenue of the Americas, New York, NY 10104, hereinafter called “**Lender**.”

WHEREAS, Dirk and Sons, LLC, a Washington limited liability company, Harmony Dairy, LLC, a Washington limited liability company, Harmony Land Company, LLC, a Washington limited liability company, Dirk Vander Kooy, Olga Marie Vander Kooy, Jason L. Vander Kooy, Shelby R. Vander Kooy, Eric R. Vander Kooy and Theresa Vander Kooy (“**Borrower**”) are justly indebted to the Lender in the sum of One Million One Hundred Thousand and No/100 Dollars (\$1,100,000.00) (“**Loan**”) with interest, all as set forth in that certain promissory note (as may be amended, modified, restated or replaced from time to time, the “**Note**”) of even date herewith maturing July 1, 2029.

NOW, THEREFORE, THIS MORTGAGE WITNESSETH, that, to secure (i) the payment of the principal of and interest on the Note, (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other loan documents delivered by Mortgagor or any other obligor in favor of Lender in connection with the Loan (collectively, the “**Loan Documents**”), and (iii) the reimbursement to Lender of any and all sums incurred, expended or advanced by Lender pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents,

and in consideration of the premises the Mortgagor by these presents does grant, bargain, sell, convey, transfer, assign, mortgage, pledge, warrant and confirm unto the Lender the following described real estate ("**Real Estate**") situate in Skagit County, State of Washington, to wit:

See attached **Exhibit "A"**, which is incorporated herein by reference.

TOGETHER WITH (1) all easements, rights-of-way, hereditaments, and rights appurtenant to said Real Estate or used in connection therewith or as a means of access thereto; (2) all water, water rights, water permits, water stock or licenses, culverts, ditches, ponds, waterways and drainage rights appertaining to said Real Estate, whether riparian or appropriative; (3) all leases (including, but not limited to, oil, gas and mineral leases), subleases or occupancy agreements now or hereafter affecting said Real Estate; (4) all buildings, structures, improvements, fixtures, watering and irrigation apparatus, pumps, motors, generators, pipes, center pivot irrigators and sprinklers, wells, windmills, fences, attachments, and other articles now or hereafter erected on, affixed or attached to, or on said Real Estate which are real property, and all substitutions, replacements, additions and accessions thereof or thereto; (5) all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Real Estate (subject, however, to the assignment of rents and profits to Lender herein); (6) all awards made for the taking by condemnation or the power of eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of said Real Estate; (7) all timber standing or to be cut, minerals or the like (including oil and gas), any and all fruit or nut bearing bushes, trees or vines presently or hereafter located on the above described Real Estate; and (8) all claims or demands to the proceeds of all insurance now or hereafter in effect with respect to any and all of the foregoing, which Mortgagor now has or may hereafter acquire, Mortgagor hereby agrees, acknowledges and confirms that such fruit or nut bearing bushes, trees or vines are part of the "real estate" comprising the above described Real Estate and will remain a part of the above described Real Estate throughout the term of the Loan made by Lender to Borrower that is secured by this Mortgage.

AND ALSO, Mortgagor, as debtor, irrevocably grants and assigns to Lender, as secured party, a security interest in all of the following collateral which is personal property now or hereafter owned by Mortgagor or in which Mortgagor now or hereafter has any rights and which is now or hereafter located on or at, or affixed or attached to, or produced from, or used in connection with said Real Estate, including: all (a) crops growing or to be grown; (b) permits and licenses used in the operation of the Real Estate; (c) all personal property listed on **Exhibit "B"** attached hereto and made a part hereof; and (d) personal property of the same general kind or class as otherwise described in this paragraph which Mortgagor may now own or hereafter acquire, used or usable in the operation of or relating to the Real Estate; and all products and proceeds from the sale or other disposal thereof, including, without limitation, all payments or unearned premiums on or under any insurance policies, substitutions and replacements, additions, accessions of or to said collateral and any indemnity, warranty or guaranty relating to any of the foregoing (all of the foregoing property shall be hereinafter collectively referred to as the "**Collateral**"; the Real Estate and the Collateral shall hereinafter be collectively referred to as the "**Property**"). **PROVIDED HOWEVER**, that nothing in this Mortgage shall prevent Mortgagor from obtaining secured crop financing which may include the perfection of a lien by the crop lender on the crops growing or to be grown for a period not to exceed the beginning of

the next crop year. If Mortgagor exercises its right to place a single crop lien on the crops grown or to be grown on the Real Estate hereunder, such crop lien shall automatically be a superior lien to the lien on such crop created hereby without the need for any consent or subordination from Lender.

TO HAVE AND TO HOLD the same unto the Lender, its successors and assigns, forever.

PROVIDED, ALWAYS, that if the Mortgagor, Mortgagor's heirs, personal representatives, successors or assigns, shall pay unto the Lender, its successors or assigns, the said sum of money mentioned in the Note and the interest thereon at the times and place and in the manner specified in the Note, and all other sums that may become due and owing to the Lender pursuant to any of the terms, covenants and conditions hereof, and perform all the conditions and covenants contained in this Mortgage, then these presents and the estate hereby granted shall cease, terminate and be void, and shall be released by the Lender at the expense of the Mortgagor, otherwise to remain in full force and effect.

AND SUBJECT to the covenants and conditions hereinafter set forth.

1. Covenants of Mortgagor. The Mortgagor hereby covenants and agrees, to the extent permitted by law, as follows:

(a) Principal and Interest: To pay or cause to be paid promptly when due the principal and interest and other sums of money provided for in the Note and in this Mortgage;

(b) Taxes and Assessments: To pay all taxes, assessments and other charges (including ditch, canal, reservoir, or other water charges, taxes or assessments) imposed by law upon the Property, the Lender's interest therein, or upon the Mortgage or the Note; provided however, in the event of the passage of any law changing the laws for the taxation of mortgages or debts secured by mortgages so as to affect this Mortgage, the entire indebtedness secured hereby shall, at the option of the Lender, become due and payable;

(c) Good Condition and Repair: To keep the Property and any improvements to the Real Estate in good condition and repair and not to commit or suffer waste thereof, and except as authorized in any schedule annexed hereto and forming a part hereof, neither to remove nor permit the removal of any timber, buildings, oil, gas, minerals, stone, rock, clay, fertilizer, gravel or top soil from the Real Estate without the prior written consent of the Lender;

(d) Location of Collateral: To keep the Collateral located on the Real Estate;

(e) Irrigation and Water Practices: To use and manage any irrigated lands in accordance with sound irrigation and water use practice and in a manner that will maintain all of the water rights appurtenant to the Real Estate in full force and effect, and

not, without the prior written consent of the Lender, (i) to permit the transfer, diversion, and/or use of said water rights to lands not mortgaged hereunder, or (ii) to change the point or points of diversion of such water;

(f) Property Insurance: To maintain and deliver to the Lender policies of insurance against such hazards on the buildings now or hereafter located on the Real Estate as the Lender may require from time to time, in such companies and amounts and with such loss payable clauses as shall be satisfactory to the Lender; in the event of loss the Lender is expressly authorized to settle or compromise claims under said policies and the proceeds shall be paid to the Lender who may apply same or any part thereof on the indebtedness secured hereby or towards the reconstruction or repair of said buildings or release same to the Mortgagor;

(g) Liens and Charges: To pay any lien, claim or charge against the Real Estate which might take precedence over the lien hereof;

(h) Legal and Title Expenses: To pay on demand all legal expenses, title searches, or attorneys' fees reasonably incurred or paid by the Lender to collect the Note or foreclose or protect the lien of the Mortgage;

(i) UCC Security Interests: To do any and all acts all in a timely and proper manner and in a form satisfactory to Lender, requested by Lender to protect and preserve the security interests granted hereunder pursuant to the Uniform Commercial Code ("UCC") as in effect from time to time in the state where the Collateral is located except to the extent the UCC provides for the application of the law of the state of location of the Mortgagor in which event the UCC as in effect from time to time, in such state shall apply, and to pay the cost of filing such statements in all public offices requested by Lender; and to do any and all acts as shall hereafter be reasonably requested by Lender to effectuate the intent hereof and to render all of the Property available for the security and satisfaction of the indebtedness secured hereby and to enable Lender to sell and/or convey the Property pursuant to the terms hereof;

(j) No Sale: Not to sell or transfer the Real Estate or any portion thereof, or, if the Mortgagor is a corporation, partnership, limited liability company or association not more than 0.00% of its corporate stock, partnership interests, membership or equity interests shall be sold, traded or disposed of to persons other than the present owners. If Mortgagor is a limited liability company, it shall not have the power to divide, enter into a plan of division or obtain a certificate of division and any division shall be null and void and of no effect upon the Real Estate, Property or Loan. Provided, however, that in the event the Lender shall in Lender's sole discretion, permit any sale or transfer of the Real Estate or any portion thereof, Lender may condition such permission on the payment of such fees and costs and the providing of such title insurance and documentation as Lender may desire;

(k) Condemnation Awards: If the Real Estate or any portion thereof shall be taken or damaged under the power of eminent domain, the award for any Real Estate so

taken or damaged (including severance damages to the remaining Property) shall be paid to the Lender and applied in full or in part at the option of the Lender in reduction of the indebtedness hereby secured;

(l) Inspection: Lender shall have the right to inspect the Property at such reasonable times as the Lender may desire to determine the Mortgagor's compliance with the covenants contained in this Mortgage; and

(m) Warranty of Title: Mortgagor is lawfully seized of said Property in fee simple, free from encumbrances except as may otherwise be specifically noted herein or waived in writing by the Lender, Mortgagor will execute or procure any further necessary assurances of title and does hereby warrant generally the title to said Property and will forever defend the same against the claims and demands of all persons whomsoever, and Mortgagor's separate estate, whether vested, contingent or in expectancy, is hereby conveyed and Mortgagor does hereby expressly waive, release and relinquish all rights and benefits of any homestead, dower, curtesy, appraisement, exemption and stay laws of the state in which the Real Estate is located.

2. Events of Default. It shall be an "Event of Default" under this Mortgage if any of the following events shall occur:

(a) Payment: failure to pay when due any payment under this Mortgage, the Note or any other Loan Documents;

(b) Performance: Mortgagor and/or Borrower or other obligor fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Mortgagor and/or Borrower and/or other obligor under the Note, this Mortgage or any of the other Loan Documents;

(c) Bankruptcy: Mortgagor, Borrower, or other obligor makes an assignment for the benefit of creditors or files a petition for relief under the United States Bankruptcy Code or any other similar statute as now or hereafter in effect, or is adjudicated, bankrupt or insolvent or an involuntary bankruptcy petition is filed against Mortgagor, Borrower, or other obligor that is not dismissed within 60 days of filing;

(d) Receiver: the appointment of any receiver, liquidator or trustee for Mortgagor;

(e) Dissolution: the dissolution, termination or merger of Mortgagor or any guarantor of the Note or the occurrence of the death or declaration of legal incompetency of any individual guarantor of the Note; or

(f) Representation/Warranty: the existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Mortgage or any of the other Loan Documents or of any statement or certification as to facts delivered to Lender by Mortgagor, Borrower or other obligor.

3. Remedies. Upon the occurrence of an Event of Default:

(a) Acceleration: the entire indebtedness hereby secured shall, at the option of the Lender and without notice to the Mortgagor, be due and collectible at once; and/or

(b) Foreclosure: Lender may institute judicial foreclosure proceedings to sell the Property or, when available under applicable statutes or rules of practice proceed to sell the Property by non-judicial power of sale in accordance with applicable state law, and in such an event this provision shall be deemed as authorizing and constituting a power of sale as mentioned in said statutes or rules; and/or

(c) Legal and Equitable Remedies: Lender may pursue every legal and equitable remedy available at law and equity and including, without limiting the generality of the foregoing, the right, ex parte, to the appointment of a receiver of the Property without consideration of the value of the Property as security for amounts due or the solvency of any person liable for the payment of such amounts, the right to specifically enforce any of the covenants hereof; the remedies of a grantee under the UCC (regardless of whether the UCC has been enacted in the jurisdiction where rights or remedies are asserted), the right to take possession of the Collateral and enter the Real Estate on which the Collateral or any part thereof may be situated and remove the same therefrom, the right to resell the Collateral at any place Lender elects and deliver a bill of sale therefor, the right to require Mortgagor to make the Collateral available to Lender at a place designated by Lender and reasonably convenient to both parties, and without removal, the right to render the Collateral unusable and to dispose of the Collateral; provided that unless the Collateral is perishable or threatens to decline speedily in value Lender shall send Mortgagor at least ten (10) days prior written notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition is to be made, by United States mail, postage prepaid, to the address set forth above, and Lender may bid and purchase Collateral at public or private sale; and/or

(d) Corrective Action: Lender may, but shall have no duty to, take such action as is necessary, in the sole and absolute discretion of the Lender, to remedy any failure of performance by Mortgagor hereunder, and all sums paid by the Lender pursuant hereto with interest at the rate set forth in the Note from time to time or the highest lawful rate permitted by contract under applicable law, whichever is lesser, shall constitute a lien upon the Property, shall be secured by this Mortgage, and shall be immediately due and repayable to the Lender.

4. No Further Liens or Encumbrances. Mortgagor acknowledges that Mortgagor's current financial position is an important factor in Lender's decision to advance the funds represented by the Note. Mortgagor therefore has agreed, in order to provide assurance to Lender with regard to Mortgagor's financial position, that Mortgagor shall not allow any lien or encumbrance other than the following items to be placed on all or any part of the Real Estate described above: (i) this Mortgage; (ii) the lien for taxes which are not yet due and payable; and (iii) that certain first lien Mortgage, Security Agreement, Assignment of Rents and Fixture Filing

in favor of Lender securing the principal amount of Three Million and No/100 Dollars (\$3,000,000.00), recorded on January 31, 2019, as Instrument No. 201901310012 in Skagit County, Washington.

5. Successors and Assigns. The covenants herein contained shall bind, and the benefits and the advantages thereof shall inure to the respective heirs, personal representatives, successors, and assigns of the parties hereto. In this Mortgage, unless the context otherwise requires, words in the singular include the plural, words in the plural include the singular, and words in the masculine gender shall include the feminine and the neuter. Whenever the term "**Mortgagor**" shall include more than one person or entity, their liability hereunder shall be joint and several.

6. Mortgagor Waivers. Notwithstanding the existence of any other liens in said Real Estate or security interests in said Collateral held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the said Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which the indebtedness secured hereby is satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor, any party who consents to this Mortgage, and any party who now or hereafter acquires a lien or security interest in said Property and who has actual or constructive notice of this Mortgage hereby expressly waives and relinquishes any and all rights to demand or require the marshaling of liens or the marshaling of assets by Lender in connection with the exercise of any of the remedies provided herein or permitted by applicable law. Mortgagor expressly waives and relinquishes any and all rights and remedies Mortgagor may have or be able to assert by reason of laws relating to the rights and remedies of sureties or guarantors.

7. Rents and Profits. Mortgagor absolutely and irrevocably assigns and transfers to Lender all rents, issues, profits, royalties, bonuses, income and other benefits derived from or produced by said Property (all of the foregoing are herein collectively referred to as the "**Rents and Profits**"). Mortgagor hereby gives to and confers upon Lender the right, power and authority to collect said Rents and Profits. Mortgagor irrevocably appoints Lender its true and lawful attorney-in-fact, at the option of Lender at any time and from time to time, either with or without taking possession of said Property, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Lender, for all said Rents and Profits and apply the same to the indebtedness secured hereby. Mortgagor shall, nevertheless, have a license to collect and retain said Rents and Profits as the same become due and payable but only before the occurrence of an Event of Default under this Mortgage and as long as no such Event of Default exists. The assignment of said Rents and Profits is intended to be a present and absolute assignment from Mortgagor to Lender and not merely the creation of a security interest. Lender's license to collect said Rents and Profits is not contingent upon Lender's taking possession of said Property. Upon the occurrence of an Event of Default under this Mortgage, Mortgagor's right, power and authority to collect the Rents and Profits shall automatically terminate without notice, and Lender may, and as long as any such Event of Default exists, either in person, by agent or by a receiver appointed by a court, and without regard to the value of said, Property, or any part thereof, in its own name sue for or otherwise collect said Rents and Profits, including those past due and unpaid, and apply the same, less costs and

expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Lender may determine. The collection of said Rents and Profits, or the entering upon and taking possession of said Real Estate, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

8. Partial Invalidity. The invalidity of any provision of this Mortgage shall not affect the remaining provisions of this Mortgage or any part thereof and this Mortgage shall be construed as if such invalid provision, if any, had not been inserted herein.

9. Environmental Matters. Mortgagor shall not permit or suffer any waste to or on the Property and will not permit or conduct either the generation, treatment, storage or disposal of hazardous waste, as defined in the Resource Conservation and Recovery Act, or the disposal on the Real Estate of petroleum or any hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and will perform all remedial actions reasonably necessary as the result of the presence of any such hazardous wastes, petroleum or hazardous substances on, at or near the Real Estate. Mortgagor shall be personally liable for and agrees to indemnify, defend with counsel satisfactory to Lender and hold Lender harmless against any loss, damage, or liability suffered by the Lender, including but not limited to attorneys' fees, due to the presence of any such hazardous waste, petroleum or hazardous substance at, on or near the Real Estate, and Mortgagor shall be liable for compliance (and for costs associated therewith) with any directive or order by any governmental entity relating to the presence of any such hazardous waste, petroleum or hazardous substance on, at, or near the Real Estate. Mortgagor will deliver promptly to the Lender (i) copies of any documents received from the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning the Mortgagor's operations upon the Real Estate and (ii) copies of any documents submitted by the Mortgagor to the United States Environmental Protection Agency and/or any state, county or municipal environmental or health agency concerning operations on the Real Estate. Mortgagor agrees that, notwithstanding any provision to the contrary in this Mortgage, this indemnification and hold harmless shall survive the release or reconveyance of this Mortgage, whether pursuant to payment in full of the Note, or judicial or non-judicial foreclosure under this Mortgage, or otherwise.

10. No Unlawful Activity. Mortgagor, its successors and assigns and each of them, represent and warrant that; (a) the Property involved in this transaction does not represent and was not purchased with the proceeds of any unlawful activity under any state, federal or foreign law; and (b) the Property is not and will not be used for or involved with unlawful drug or controlled substance production, distribution or ancillary operations and no unlawful activity under any state, federal or foreign law is or will be conducted on the Property.

11. Mortgage as a Security Agreement. This Mortgage constitutes a security agreement within the meaning of the UCC with respect to any part of the Property which may now or hereafter be characterized by law as personal property, and in the event of the occurrence of any Event of Default under this Mortgage which continues beyond the applicable notice and cure period, if any, the Lender shall have all the rights and remedies of a secured party under the UCC, as well as all other rights and remedies available hereunder or under this Mortgage at law

or in equity. Mortgagor authorizes Lender to file one or more financing statements and continuation statements describing the Collateral and hereby ratifies any such financing statement or continuation statement previously filed by Lender. Mortgagor will, from time to time, within ten (10) days after request by the Lender, execute, acknowledge and deliver any financing statement, continuation statement or other document that the Lender might request in order to perfect, protect, preserve, continue, extend or maintain the security interest created by and the priority of this Mortgage and will, on demand, pay any expenses incurred by the Lender in the preparation, execution and filing of any such documents. Mortgagor represents and warrants that: (a) all Collateral is located in the state in which the Real Estate is located; (b) Mortgagor's chief executive office or principal residence is Mortgagor's address set forth in the first paragraph of this Mortgage; (c) Mortgagor's state of organization, if applicable, is as set forth in the first paragraph of this Mortgage; and (d) Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage.

12. Governing Law. This Mortgage shall be governed by and construed and interpreted in accordance with the internal laws of the state in which the Real Estate is located except and only to the extent the UCC provides otherwise.

13. Notice. Each notice, consent, request, report or other communication under this Mortgage or any of the other Loan Documents (each a "Notice") which any party hereto may desire or be required to give to the other shall be deemed to be an adequate and sufficient notice if given in writing and service is made by either (i) registered or certified mail, postage prepaid, in which case notice shall be deemed to have been received three (3) business days following deposit to U.S. mail; or (ii) nationally recognized overnight air courier, next day delivery, prepaid, in which case such notice shall be deemed to have been received one (1) business day following delivery to such nationally recognized overnight air courier. All notices shall be addressed to Mortgagor at its address given on the first page hereof, or to Lender at **c/o AXA Equitable AgriFinance, LLC, 6300 C Street SW, MS 3B-CR, Cedar Rapids, Iowa 52499, Attn: Investment Officer, Loan 60719242**, or to such other place as any party may by written notice to the other parties hereafter designate as a place for service of notice. Mortgagor shall not be permitted to designate more than one place for service of Notice concurrently.

14. Multiple Counties. To the extent the Real Estate covers property located in more than one county in the state in which the Real Estate is located, then upon the occurrence of an event of default, Mortgagor agrees that a foreclosure sale of the Property may be held in any one or more of the counties where any part of the Real Estate lies and that any other action or proceeding, judicial or nonjudicial, including, without limitation, a non-judicial foreclosure action in connection with the Loan Documents, or any one of them, may be prosecuted, brought and maintained in any one or more of the counties in which the Real Estate is located. The Note may be collected as part of any foreclosure proceedings or in separate litigation, as determined by the Lender in its sole and absolute discretion. To the extent permitted by law, Lender shall have the full power to select the county or counties in which sale of the Property is to be made, and Lender's selection shall be binding upon Mortgagor and shall permit the sale of the whole or any part of the Real Estate and Collateral (if applicable) to be made in any one of the counties in which part of the Real Estate is located. The Property may be sold in parcels or as a whole, without taking possession of the same, and in any order, and to the extent permitted by applicable

law, at public auction to the highest bidder for cash or cash equivalent in lawful money of the United States payable at the time of sale. Mortgagor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers or remedies Lender may have under this Mortgage or any of the duplicates of this Mortgage in any particular manner or order or in any particular county. Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided in this Mortgage or any duplicate of this Mortgage or applicable law. Mortgagor and any party who now has or may in the future have a security or other interest in any of the Property waives any and all right to require the marshaling of assets or to require that any of the Real Estate be sold in parcels, or as an entirety, or in any combination, in connection with the exercise of any of the remedies permitted by applicable law. If the lien of this Mortgage, or any of the duplicates of this Mortgage is invalid or unenforceable as to any parcel of the Real Estate, the unsecured or partially secured portion of the indebtedness secured by this Mortgage, or any duplicate of this Mortgage shall be completely paid prior to the payment of the remaining secured or partially secured portions of such indebtedness.

15. Merger. No merger shall occur as a result of Lender's acquiring any other estate in or any other lien on the Property unless Lender consents to a merger in writing.

16. Cross-Default and Cross-Collateralization. In addition to all other indebtedness and obligations secured hereby, this Mortgage also secures the following described other loans (the "**Other Loan**"), including without limitation, the indebtedness evidenced by the Secured Promissory Note (the "**Other Note**") described below, and the payment and performance of all other indebtedness and obligations (including any other advances) (collectively, the "**Other Indebtedness**") under the Other Note and all agreements, instruments, deed of trust and/or mortgage recorded in favor of Lender (the "**Other Mortgage**") and other documents evidencing, securing or relating to the Other Loan (each an "**Other Loan Document**"), together with any and all amendments, renewals, replacements, extensions or other modifications to any of the foregoing:

(a) Loan No. 60719141 in the original principal amount of Three Million and No/100 Dollars (\$3,000,000.00) evidenced by a Fixed Interest Rate Promissory Note executed by Dirk Vander Kooy, Olga Vander Kooy, Jason L. Vander Kooy, Shelby R. Vander Kooy, Eric R. Vander Kooy, Theresa Vander Kooy, Harmony Dairy, LLC and Harmony Land Company, LLC, and payable to the Lender dated January 31, 2019, in such original principal amount, secured by property located in the County of Skagit, State of Washington.

By Mortgagor's execution of this Mortgage, Mortgagor is deemed to have agreed to and does hereby modify the Other Mortgage to add this section titled "**Cross-Default and Cross-Collateralization**" to the Other Mortgage as if fully set forth therein but adding reference to this Loan as being an "Other Loan" as described in this section.

The holder of the Other Note shall be entitled to the benefits of this Mortgage to the same extent as the holder of the Note. Accordingly, all references in this Mortgage to the Loan, the

Note, or the Loan Documents shall be construed to include, respectively, the Other Loan, the Other Note, and the Other Loan Documents.

Any default or event of default under any Other Loan Documents shall constitute an Event of Default under this Mortgage and any of the Loan Documents, including without limitation, the Note. Any Event of Default hereunder or under any of the Loan Documents shall constitute a default or event of default under this Mortgage and the Other Loan Documents, including without limitation the Other Note. In the Event of a Default, Lender may declare all of the principal, interest and other sums which may be outstanding under the Note, this Mortgage or the Loan Documents, or the Other Indebtedness (collectively, the "**Indebtedness**") to be immediately due and payable without further demand, and Lender may exercise any and all rights and remedies provided in any of this Mortgage, the Loan Documents or any Other Loan Documents, whether or not Lender exercises its right to accelerate the Indebtedness secured by this Mortgage, the Loan Documents or the Other Loan Documents.

The property secured by the Other Loan Documents commonly described above and which is more particularly described in the Other Loan Documents are herein referred to as the "**Other Premises**". Lender may, from time to time, at its sole election, release the Loan and/or the Other Loan from the cross-collateralization and cross-default provisions set forth above.

The "**Total Property**" (which shall be the "**Property**" as that term is defined herein, together with the Other Premises shall secure to Lender the payment of the Indebtedness and the performance of the covenants and agreements set forth in this Mortgage, the Loan Documents and the Other Loan Documents, all of which are secured to Lender by this Mortgage without apportionment or allocation of any part or portion of the Property and without apportionment or allocation of any part or portion of the Total Property.

In addition to the rights and remedies provided to Lender elsewhere in this Mortgage, upon the breach of any covenant or agreement of this Mortgage, the Loan Documents or the Other Loan Documents, Lender shall be allowed to enforce the payment of the Indebtedness and performance of the obligations hereunder, and to exercise all of the rights, remedies and powers provided under this Mortgage or any of the Loan Documents and the Other Loan Documents, or any of them, or under any provision of law, in one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender in its sole and absolute discretion. Lender may enforce its rights against any one or more parcels of the Total Property in such order and manner as Lender may elect in its sole and absolute discretion. The enforcement of this Mortgage, the Loan Documents or the Other Loan Documents, or any of them against any one or more parcel of the Total Property, whether by court action, power of sale, or otherwise, shall not constitute an election of remedies, and shall not prejudice or in any way limit or preclude the enforcement of this Mortgage, the Loan Documents or any of the Other Loan Documents, or any of them, through one or more additional proceedings. No judgment obtained by Lender in any one or more enforcement proceedings shall merge the debt secured hereby into such judgment, and all of such debt which shall remain unpaid shall be a continuing obligation of Borrower and Mortgagor, not merged into any such judgment. This Mortgage shall secure to Lender the repayment of any amount which Borrower and Mortgagor may owe to Lender, including without limitation the amount of any judgment, together with any interest thereon,

which may be rendered in connection with the enforcement of the Note secured hereby, the Loan Documents or any of the Other Loan Documents. Borrower and Mortgagor waives and relinquishes any and all rights it may have, whether at law or equity, to require Lender to proceed to enforce or exercise any rights, powers or remedies Lender may have under this Mortgage, the Loan Documents or any of the Other Loan Documents in any particular manner or order or in any particular state or county. Lender may bring any action or proceeding, including without limitation foreclosure through judicial proceedings or by power of sale in state or federal courts, and such proceeding may relate to all or any part of the Total Property without regard to the fact that any one or more prior or contemporaneous proceeding has been commenced elsewhere with respect to the same or any other part of the Total Property.

Any release of this Mortgage with respect to any one parcel of the Total Property shall not in any event prevent or impair Lender from enforcing all of its rights and remedies with respect to any other parcel of the Total Property. Borrower and Mortgagor shall pay Lender's reasonable costs incurred in releasing this Mortgage.

Lender shall have the right to determine the order in which any or all of the Total Property shall be subjected to the remedies provided in this Mortgage, the Loan Documents or any of the Other Loan Documents or applicable law. Lender shall have the right to determine the order in which any of the Indebtedness is satisfied from the proceeds realized upon the exercise of such remedies. Borrower and Mortgagor and any party who now has or may in the future have a security or other interest in any of the Total Property waives any and all right to require the marshaling of assets or to require that any of the Total Property be sold in the inverse order of alienation, or that any of the Total Property be sold in parcels, or as an entirety, or in any combination, in connection with the exercise of any of the remedies permitted by applicable law, this Mortgage or any of the Loan Documents and/or the Other Loan Documents.

If the lien of this Mortgage, the Loan Documents or any other of the Loan Documents is invalid or unenforceable as to any parcel of the Total Property, the unsecured or partially secured portion of the Indebtedness secured by this Mortgage, the Loan Documents or any other of the Loan Documents shall be completely paid prior to the payment of the remaining secured or partially secured portions of such Indebtedness.

17. Attorneys' Fees. Under Section 1(h), all legal expenses or attorneys' fees include those fees and costs whether or not incurred in connection with litigation, arbitration, mediation, including such fees, expenses, and costs as are incurred at trial and on appeal or discretionary review.

18. NOTICE IS HEREBY GIVEN TO MORTGAGOR THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, MODIFY LOAN TERMS OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

Dirk Vander Kooy

Dirk Vander Kooy aka Dick Vander Kooy
and Dick R. Vander Kooy

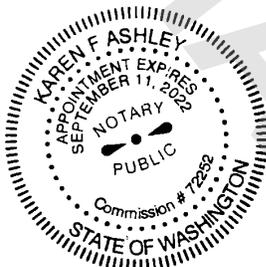
Olga M. Vander Kooy

Olga Marie Vander Kooy aka Olga M.
Vander Kooy

STATE OF WASHINGTON)
) SS.
COUNTY OF Skagit)

This record was acknowledged before me on June 21st, 2019 by Dirk Vander Kooy.

(STAMP)



Karen Ashley
(Signature of notary public)

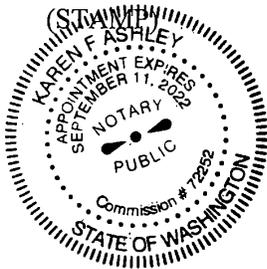
Notary Public
(Title of office)

My commission expires: 9-11-2022
(Date)

STATE OF WASHINGTON)
) SS.
COUNTY OF Skagit)

This record was acknowledged before me on June 21st, 2019 by Olga Marie Vander Kooy.

(STAMP)



Karen Ashley
(Signature of notary public)

Notary Public
(Title of office)

My commission expires: 9-11-2022
(Date)

Tax statements for the real property described in this instrument should be sent to:

Dirk and Sons, LLC
1500 Van Pelt Lane
Mount Vernon, Washington 98273

This document drafted by:

Zachary Terwilleger, Esq./tm
AXA Equitable AgriFinance, LLC
6300 C Street SW, MS 3B-CR
Cedar Rapids, Iowa 52499

EXHIBIT A**LEGAL DESCRIPTION OF REAL ESTATE****PARCEL "A":**

The East 330 feet of the East ½ of Government Lot 3, Section 10, Township 33 North, Range 3 East, W.M., EXCEPT County road and dike right of way.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

The Southeast ¼ of the Southeast ¼ of Section 3, Township 33 North, Range 3 East, W.M., EXCEPT the North 10 feet thereof conveyed to Drainage Ditch No. 15 for drainage ditch, AND EXCEPT that portion lying within the boundaries of the as built and existing County road commonly known as the Beaver-Marsh Road running along the East line thereof, AND EXCEPT dike rights of way.

TOGETHER WITH the South 230 feet of the East 330 feet of the East ½ of the Southwest ¼ of the Southeast ¼ of Section 3, Township 33 North, Range 3 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

Government Lot 4 in Section 10, Township 33 North, Range 3 East, W.M., EXCEPT that portion lying within the boundaries of the as built and existing County road commonly known as the Beaver-Marsh Road running along the East line thereof, AND EXCEPT dike rights of way.

Situate in the County of Skagit, State of Washington.

PARCEL "D":

The South 16.5 feet of the Southwest ¼ of the Southwest ¼ of Section 34, Township 34 North, Range 3 East, W.M., EXCEPT Bradshaw Road along the West line thereof. (Also shown as Parcel A of Survey recorded March 14, 2007, under Auditor's File No. 200703140049.)

Situate in the County of Skagit, State of Washington.

PARCEL "E":

The Southeast ¼ of the Southwest ¼ of Section 34, Township 34 North, Range 3 East, W.M. (Also shown as Parcel A of Survey recorded March 14, 2007, under Auditor's File No. 200703140049.)

Situate in the County of Skagit, State of Washington.

PARCEL "F":

Government Lot 3, Section 3, Township 33 North, Range 3 East, W.M.

EXCEPT from the above described Parcels a, b AND c, all ditch and dike rights of way. (Also shown as Parcel A of Survey recorded March 14, 2007, under Auditor's File No. 200703140049.)

Situate in the County of Skagit, State of Washington.

PARCEL "G":

The East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 16 and the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 21, all in Township 34 North, Range 3 East, W.M.,

EXCEPT the West 30 feet of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 21, as conveyed to Skagit County by Deeds recorded February 2, 1904 in Volume 54 of Deeds, page 122 and recorded November 20, 1967, under Auditor's File No. 707100, records of Skagit County, Washington,

AND EXCEPT drainage ditch rights of way, if any.

Situate in the County of Skagit, State of Washington.

PARCEL "H":

A non-exclusive easement for ingress and egress, over and across the West 20 feet of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 21, Township 34 North, Range 3 East, W.M., as conveyed by Deed from Joseph E. Ewing, et ux, recorded May 13, 1997, under Auditor's File No. 9705130028, records of Skagit County, Washington.

Situate in the County of Skagit, State of Washington.

PARCEL "I":

Lot 2 of Skagit County Short Plat No. 93-077, approved November 3, 1993 and recorded November 4, 1993, in Volume 11 of Short Plats, pages 9 and 10, under Auditor's File No. 9311040064, records of Skagit County, Washington; being a portion of Government Lots 1 and 2, Section 3, Township 33 North, Range 3 East, W.M., and the Southeast $\frac{1}{4}$ of Section 34, Township 34 North, Range 3 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "J":

Government Lot 8 in Section 2, Township 33 North, Range 3 East, W.M. and Government Lot 1 in Section 11, Township 33 North, Range 3 East, W.M.,

EXCEPT Dike District No. 1 as condemned by decree entered in Skagit County Superior Court Cause No. 3049.

ALSO EXCEPT a tract of land in Government Lot 1 of Section 11, Township 33 North, Range 3 East, W.M., and in Government Lot 8 of Section 2, Township 33 North, Range 3 East, W.M., described as follows:

Beginning at a point on the West line of said Lot 1 of Section 11, 362.82 feet South of the Northwest corner thereof; (the West line of said Section 11 bears South 02°06' West);
thence North 85°23'20" East 355.72 feet to the P.C. of an 03° curve to the left;
thence along said 03° curve to the left a distance of 240.35 feet;
thence North 66°09'70" East a distance of 261.41 feet to the P.C. of a 07°30' curve to the left;
thence along said 07°30' curve to the left a distance of 242.50 feet to an intersection with the North line of said Section 11;
thence continuing along said 07°30' curve to the left in said Section 2, a distance of 560.95 feet to the P.T. of said curve and an intersection with the existing dike of Diking District No. 1;
thence South and Southwesterly along the existing dike to the West line of said Lot 1 of Section 11;
thence North along the West line of said Lot 1 to the point of beginning.

ALSO EXCEPT the West 30 feet of the South 272 feet to the North 390 feet of Government Lot 1, Section 11, Township 33 North, Range 3 East, W.M., as conveyed to Skagit County for road purposes by Deed recorded November 18, 1974, under Auditor's File No. 810184, records of Skagit County, Washington.

ALSO EXCEPT Tract A, Short Plat No. 59-74, as approved November 19, 1974, recorded in Volume 1 of Short Plats, page 7, under Auditor's File No. 810207, records of Skagit County, Washington; being a portion of Government Lot 1 in Section 11, Township 33 North, Range 3 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "K"

The Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 3, Township 33 North, Range 3 East, W.M.

Situate in the County of Skagit, State of Washington.

PARCEL "L":

The Southeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ Section 16, Township 34 North, Range 3 East, W.M.;

EXCEPT all ditch and dike rights of way,

Situate in the County of Skagit, State of Washington.

PARCEL "M":

The Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 16, Township 34 North, Range 3 East, W.M.;

EXCEPT all ditch and dike rights of way,

Situate in the County of Skagit, State of Washington.

PARCEL "N":

That portion of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 16, Township 34 North, Range 3 East, W.M., described as follows:

Beginning at the Southwest corner of said subdivision;

thence North along the West line thereof 150 feet, more or less, to the center of Higgens Slough;

thence Southeasterly along the center of Higgens Slough to the South line of said Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$;

thence West along said South line 165 feet, more or less, to the point of beginning,

EXCEPT that portion, if any, lying within the boundaries of the following described tract:

The West 20 feet of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of said Section 16, EXCEPT the South 150 feet thereof,

AND ALSO EXCEPT all ditch and dike rights of way, if any;

Situate in the County of Skagit, State of Washington.

PARCEL "O":

The West 10 feet of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and the East 10 feet of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$, lying South of the road, Section 16, Township 34 North, Range 3 East, W.M.;

AND ALSO EXCEPT all ditch and dike rights of way, if any;

Situate in the County of Skagit, State of Washington.

EXHIBIT B**PERSONAL PROPERTY**

All of the following collateral which is now or hereafter owned by Mortgagor, as debtor, attached to, or produced from, or used in connection with the Real Estate described on Exhibit A attached hereto (the "**Real Estate**"), and the products and proceeds thereof:

1. All dairy parlor equipment and fixtures