

FILED CUMING CO. NE
INSTRUMENT NUMBER

201600339

2016 Mar 04 PM 01:05

Bonnie Vogtman

CUMING COUNTY CLERK

FEE \$ 46.00

By: RO

Electronically Recorded

Do not write/type above this line. For filing purposes only.

FORM 5011 (12-2015)

RETURN TO Farm Credit Services of America, PO Box 80298
PREPARER: Lincoln, NE 68501

Noonan, Nancy J
(402) 473-4300

Farm Credit Services of America

TRUST DEED AND ASSIGNMENT OF RENTS

Date:

March 4, 2016

Trustor:

Monterey Investments, L.L.C., a Limited Liability Company
233 S 13th St
Ste 1900
Lincoln, NE 68508

Lender/Beneficiary:

Farm Credit Services of America, FLCA
5015 S 118th Street, PO Box 2409
Omaha, NE 68103-2409

Trustee:

AgriBank, FCB
PO Box 64949
St. Paul, Minnesota 55164-0940

Defined Terms:

Beneficiary: As set forth above and used interchangeably with the term Lender.

Borrower: Maker or co-maker, signer or co-signer of any Loan Document representing any Obligations secured by this trust deed.

Lender: As set forth above and used interchangeably with the term Beneficiary.

Loan Documents: The described notes and any and all other notes, credit agreements, security agreements, UCC financing statements, lease agreements, mortgages, deeds of trust, any other document granting a lien to secure the Obligations, and any other document or instrument executed in connection with or evidencing any Obligation (including any amendment, restatement or modification thereto).

Obligations: Includes, without limitation, all credit including principal and any advances, interest and other amounts due to Lender under the Loan Documents whether or not this trust deed is specifically referred to in the evidence of debt, including without limitation, fees, costs, and expenses, together with all renewals, extensions, or refinancing of same and any future and additional loans or advances made at Lender's option to or on behalf of Borrower by Lender or under any other Loan Document for any purpose whether related or unrelated to the purpose of the original credit, including advances for the protection of the Property, all attorney fees, costs and expenses incurred by Lender to the extent permitted by law in the collection of any loan or in the enforcement or preservation of the rights of Lender in and to the Property, regardless of whether Trustor is obligated thereon as a maker or co-maker, signer or co-signer, or as a guarantor, endorser, surety or other accommodation party.

Personal Property: All equipment, fixtures and other personal property that are now or hereafter attached or affixed to the Real Property; together with all accessions, parts and additions to, all replacements of and all substitutions for any of such property.

Real Property: Together with the below legally described real estate, all existing or subsequently erected or affixed buildings, structures, improvements or fixtures; all crops, timber, timber to be cut, trees, plants, vines or other plantings; all water, water rights, including riparian rights and surface water rights, watercourses, irrigation, drainage and ditch rights; all rents, issues, uses, income, profits and royalties; all leases, permits, licenses, privileges, easements, rights of way, rights to possession; all rights in and to the lands lying in streets, alleys and roads adjoining the Real Property and appurtenances; all leases, permits, licenses, or privileges, appurtenant or non-appurtenant to the property, now or hereafter issued, extended, or renewed by Trustor, any State, the United States, or any department, bureau, instrumentality, or agency thereof; all proceeds in eminent domain, insurance payments, proceeds or refunds of premiums or any other payment or settlement relating to the Property; all oil, gas, gravel, rock, geothermal and similar resources or other mineral rights of whatever nature; and any and all other rights related to the real property.

Property: Collectively the Real Property and the Personal Property, including without limitation all insurance proceeds and refunds of insurance premiums related to said Property.

Trustee: As set forth above.

Trustor: As set forth above.

The above named Trustor for good and valuable consideration, hereby irrevocably transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of the Beneficiary, its successors and assigns, an assignment and security interest in all of Trustor's right, title and interest whether currently existing or hereinafter acquired in and to the following-described Real Property in Cuming County(ies), Nebraska, to wit:

The W1/2W1/2NE1/4 of Section 3, Township 21 North, Range 5 East of the 6th P.M., Cuming County, Nebraska, except that part thereof conveyed to the State of Nebraska and used for right of way purposes; said tract is also described for taxation purposes as the "W1/2SW1/4NE1/4 and Tax Lot 9" of said Section 3.

In addition, Trustor hereby grants to Lender a Uniform Commercial Code security interest in all Personal Property; and all proceeds from any sale or other disposition of the Property. The trust deed is also effective as a financing statement filed as a fixture filing under the Uniform Commercial Code. It is understood and agreed between Trustor and Lender that this trust deed is given to secure the repayment in full of the Obligations as set forth in this trust deed and any Loan Document. All amounts shall be paid when due as provided for in the Loan Documents creating the Obligations secured by this trust deed.

This trust deed secures all Obligations, including, but not limited to the following:

<u>Date of Note(s) or other Loan Document(s)</u>	<u>Principal Amount</u>
03/04/2016	\$125,000.00

Provided, however, that the total principal indebtedness outstanding and secured hereby at any one time will not exceed the sum of ONE HUNDRED TWENTY-FIVE THOUSAND (\$125,000.00), exclusive of interest and protective advances authorized herein or in any Loan Document and such other amounts allowed by law.

NOTHING CONTAINED HEREIN SHALL CONSTITUTE A COMMITMENT TO MAKE FURTHER OR ADDITIONAL ADVANCES IN ANY AMOUNT AT ANY TIME, WHETHER OR NOT THE TOTAL PRINCIPAL INDEBTEDNESS ABOVE HAS BEEN ADVANCED.

This trust deed will be due March 1, 2026.

Trustor hereby warrants that Trustor holds good and marketable title in fee simple to the above described Property, that Trustor has good and lawful authority to trust deed the same, that the Property is free and clear of all liens and encumbrances, except those set forth in a title policy or title opinion purchased by Lender and deemed acceptable by Lender, in its sole discretion, in relation to this trust deed and that Trustor will warrant and defend the Property at Trustor's expense against all claimants whomsoever. Trustor also hereby waives and relinquishes all rights of dower, homestead, distributive share, and exemption in and to the above described Real Property.

It is understood and agreed between Trustor and Lender that this trust deed is given to secure the repayment in full of the all Obligations, regardless of whether Trustor is liable thereon, and all future and additional loans or advances, protective or otherwise, which may be made by Lender, at its option, at the request of, and to or for the account of Trustor, any of the parties liable under any of the Loan Documents, for any purpose, plus interest thereon, all payable according to the terms of the Loan Documents. Any Obligations secured by this trust deed shall be payable when due as set forth in the Loan Documents.

Trustor hereby assigns, transfers, and conveys to Lender all rents, issues, income, profits, royalties, bonuses, and delay moneys or other proceeds that may from time to time become due and payable under any real estate lease or under any oil, gas, gravel, rock, or other mineral lease of any kind including geothermal resources now existing or that may hereafter come into existence, covering the Property or any part thereof. All such sums so received by Lender will be applied to the Obligations secured hereby; or Lender, at its option, may turn over and deliver to Trustor(s) or their successors in interest, any or all of such sums without prejudice to any of Lender's rights to take and retain future sums, and without prejudice to any of its other rights under this trust deed. This assignment will be construed to be a provision for the payment or reduction of the Obligations, subject to the Lender's option as hereinbefore provided, independent of the trust deed on the Property.

Trustor and each of them further covenants and agrees with, or certifies and represents to Lender as follows:

1. To pay all liens, judgments, or other assessments against the Property, and to pay when due all assessments, taxes, rents, utilities, fees, charges or encumbrances upon the Property or under any lease, permit, license, or privilege assigned to Lender as additional security to this trust deed, including those in or on public domain.
2. To insure and keep insured all buildings and other improvements, including fixtures and attachments now on or hereafter placed on the Real Property to the satisfaction of Lender. Such insurance will contain an endorsement showing Lender as Beneficiary. On demand, Trustor will furnish said policies or proof of insurance to Lender and the insurance carrier shall be satisfactory to Lender. Trustor shall give written notice to Lender immediately of any claim or loss. Any sums so received by Lender may be applied in payment of any matured or unmatured Obligations secured by this trust deed, or at the option of Lender may be used to pay for reconstruction of the destroyed improvements. Such insurance will be in an amount at least equal to the lesser of the loan balance, the actual cash value of the Property, or the replacement cost of the Property, and will at a minimum, cover losses caused by fire, lightning, explosion, riot, aircraft, vehicles, vandalism, civil commotion, smoke, windstorm, and hail.

Trustor will obtain and keep flood insurance in force to cover losses by flood as required by Lender and by the National Flood Insurance Act of 1968, as amended, and by regulations implementing the same. Trustor further agrees that Lender is not and will not be liable for any failure by Trustor or by any insurer, for whatever reason, to obtain and keep this insurance in force. Trustor shall give written notice to Lender immediately of any cancellation, termination or material modification of any such insurance. If Trustor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Trust Deed.

3. To keep all buildings, fixtures, attachments, and other improvements now on or hereafter placed on the Real Property occupied and in good repair, maintenance, and condition and to neither commit nor permit any acts of waste or any impairment of the value of the Property. Trustor shall not remove or demolish any improvement without prior written approval of the Lender. Trustor shall give immediate notice to Lender of any material damage to or construction on or related to any of the Property. Lender may enter upon the Real Property to inspect the same or to perform any acts authorized herein or in the Loan Documents. Any inspections, reports or samples conducted by Lender shall be for their own use and benefit, and Lender shall not be required to disclose the results of any inspections to Trustor for any reason, regardless of whether Lender has done so on any other occasion unless Lender agrees to do so in a separate writing. Trustor is responsible for monitoring, preserving and inspecting the Property independently of Lender, and Lender makes no representation, statement or warranty regarding the accuracy of any inspection, reports or statements related to the Property's condition, quantity, or quality of any nature, and Trustor agrees it shall not rely upon statements related thereto made by a representative of Lender.

4. That Trustor is, and shall continue to be, duly organized, validly existing and legally qualified to do business under the laws of the states in which Trustor operates, in compliance with federal, state and local laws or regulations, and have legal authority in such states to conduct Trustor's business operations and to own agricultural real estate. No change has been made in the name, ownership, control, relationship, legal status, or organizational and formation documents of any undersigned since the time any such information was last provided to Lender. Any borrowing resolution or similar document provided to the Lender, whether on Lender's form or otherwise, has been executed by all those with an ownership interest in the Trustor's entity and such designated signor as set forth in the borrowing resolution is duly authorized to execute any and all Loan Documents on behalf the entity, including this trust deed.

5. All known sources of existing or potential environmental contamination on or near any Real Property owned or operated by Trustor has been fully disclosed to Lender; the operations of Trustor comply, and during the term of this trust deed will at all times comply in all respects, with all environmental laws; Trustor has obtained and will maintain all licenses, permits, authorizations and registrations required under any environmental law and necessary for its ordinary course operations, all such environmental permits are in good standing, and Trustor is in compliance with all material terms and conditions of such environmental permits; neither Trustor nor any of its present Property or operations is subject to any outstanding written order from or agreement with any governmental authority or subject to any judicial or docketed administrative proceeding, respecting any environmental law, environmental claim or hazardous material; there are no hazardous materials or other conditions or circumstances existing, or arising from operations prior to the date of this trust deed, with respect to any Property of Trustor that would reasonably be expected to give rise to material environmental claims. In addition, Trustor shall hold Lender harmless from any liability for environmental waste or contamination on any Property owned or operated by Trustor or liability imposed as a consequence by reason of Trustor's activities and will defend and indemnify Lender against all claims, losses, liabilities, and expenses incurred by Lender as a result thereof. This covenant will survive cancellation, expiration or termination of this trust deed.

6. Each of the following shall constitute an event of default:

- a.** Failure to make any payment when due under any Loan Document or other Obligation secured by this trust deed.
- b.** Failure to pay any liens, judgments, assessments, taxes, rents, fees, or charges or maintain any insurance on the Property, buildings, fixtures, attachments, or improvements as provided in this trust deed, or in any other Loan Document.
- c.** Any breach or material misrepresentation of any term, agreement, covenant, condition, certification, representation or warranty as provided in this trust deed, or any other Loan Document.

d. Sale, transfer, or conveyance of the Property described herein without prior written consent of Lender.

e. Any use of loan proceeds for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce or to make possible the production of an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M.

f. The death, dissolution or insolvency of any Trustor; the appointment of a receiver for any Trustor or their Property; any assignment for the benefit of creditors by the Trustor; or application of any debtor relief law to Trustor, including any type of workout or commencement of proceeding under any bankruptcy or insolvency laws by or against any Trustor or Borrower on any Loan Document or other Obligation secured by this trust deed.

g. Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the Obligations or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the Obligations.

7. In the event of a default and at any time thereafter, Lender, at its option, subject to any requirements under the Farm Credit Act or other applicable federal or state law, may exercise one or more of the following rights and remedies, in addition to any other rights or remedies permitted by law:

a. Declare all Obligations secured hereby to be immediately due and payable and the whole will bear interest at the default rate as provided in the Loan Documents.

b. Lender may immediately authorize Trustee to exercise the power of sale granted herein in the manner provided in the Nebraska Trust Deeds Act, or, at the option of the Lender, may foreclose the trust deed in the manner provided by law for the foreclosure of mortgages on real property, including the appointment of a receiver upon ex parte application, notice being hereby expressly waived, without regard to the value of the property or the sufficiency thereof to discharge the indebtedness secured hereby or in the Loan Documents.

Should Lender elect to exercise the power of sale granted herein, Lender will notify Trustee who will record, publish, and deliver to Trustor(s) such Notice of Default and Notice of Sale as then required by law and will in the manner provided by law, sell the property at the time and place of sale fixed in the notice of sale, either as a whole or in separate lots, parcels, or items and in such order as Trustee will deem expedient. Any person may bid at the sale including Trustor, Trustee, or Lender.

c. Lender, either in person or by agent, with or without bringing any action or proceeding and with or without regard to the value of the Property or the sufficiency thereof to discharge the Obligations secured hereby, is authorized and entitled to enter upon and take possession of the Property in its own name or in the name of the Trustee and do any acts or expend any sums it deems necessary or desirable to protect or preserve the value of the Property or any interest therein, or increase the income therefrom; and with or without taking possession of the Property is authorized to sue for or otherwise collect the rents, issues, crops, profits, and income thereof, including those past due and unpaid, and apply the same upon any Obligations secured hereby or in the Loan Documents.

d. Lender will be entitled to a receiver to take immediate possession of the Property and all rents, issues, crops, profits, and income thereof, without regard to the value of the Property, or the sufficiency thereof to discharge the trust deed debt and the foreclosure costs, fees, and expenses. Such receiver may be immediately appointed by any court of competent jurisdiction upon ex parte application, notice being hereby expressly waived and shall serve without bond if the law allows. The receiver will apply all rents, issues, crops, profits, and income of the Property to keep the same in good repair and condition, pay all taxes, rents, fees, charges, and assessments, pay insurance premiums necessary to keep the Property insured, pay the expense of the receivership and attorney's fees incurred by the receiver, and apply the net proceeds to the payment of the Obligations secured hereby. Such receiver will have all the other usual powers of receivers authorized by law and as the court may direct.

e. In the event Trustor fails to pay any liens, judgments, assessments, taxes, rents, fees, or charges or maintain any insurance on the Property, buildings, fixtures, attachments, or improvements as provided herein or in the Loan Documents. Lender, at its option, may make such payments or provide insurance, maintenance, or repairs and any amounts paid therefor will become part of the principal Obligations secured hereby, be immediately due and payable and bear interest at the default rate provided in the Loan Documents from the date of payment until paid. The advancement by Lender of any such amounts will in no manner limit the right of Lender to declare Trustor in default or exercise any of Lender's other rights and remedies.

- f. In the event Lender is a party to any litigation affecting the Property or this trust deed, including any action by Lender to enforce this trust deed or any suit in which Lender is named a defendant (including eminent domain and bankruptcy proceedings), Lender may incur expenses and advance payments for abstract fees, attorney's fees (to the extent allowed by law), costs, expenses, appraisal fees, and other charges and any amounts so advanced will become part of the principal Obligations secured hereby, be immediately due and payable and bear interest at the default rate provided in the Loan Documents from the date of advance until paid.
8. Delay by Lender in exercising its rights upon default will not be construed as a waiver thereof, and any act of Lender waiving any specific default will not be construed as a waiver of any future default. If the proceeds under sale or foreclosure as set forth above are insufficient to pay the total Obligations secured hereby, Lender will be entitled to a deficiency judgment.
9. Any awards made to Trustor or their successors by the exercise of eminent domain are hereby assigned to Lender; and Lender is hereby authorized to collect and apply the same in payment of any indebtedness, matured or un-matured, secured by this trust deed. Trustor shall immediately notify Lender of any action in eminent domain.
10. This trust deed constitutes a security agreement with respect to all the Property described herein.
11. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each will be cumulative, will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised concurrently, independently or successively.
12. Trustor acknowledges that the duties and obligations of Trustee will be determined solely by the express provisions of this trust deed or the Nebraska Trust Deeds Act and Trustee will not be liable except for the performance of such duties and obligations as are specifically set forth therein, and no implied covenants or obligations will be imposed upon Trustee; Trustee will not be liable for any action by it in good faith and reasonably believed by it to be authorized or within the discretion or rights of powers conferred upon it by this trust deed or state law.
13. The covenants contained in this trust deed will be deemed to be severable; in the event that any portion of this trust deed is determined to be void or unenforceable, that determination will not affect the validity of the remaining portions of the trust deed.
14. Trustor hereby requests a copy of any notice of default or notice of sale hereunder to be mailed by certified mail to Trustor at the address set forth herein.
15. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered by hand, or three days after being deposited in the mail, postage prepaid, or, in the case of delivery by a nationally recognized overnight courier, when received, addressed to one or more of the individuals executing this trust deed on behalf of such party at the address set forth above, or to such other address as such party may designate for itself by like notice.
16. Trustor shall promptly provide and/or execute and deliver to Lender such further instruments, including, but not limited to, mortgages, deeds of trust, security agreements, financing statements, continuation statements, assignments, certificates, affidavits, addendums, amendments or resolutions in form and substance satisfactory to Lender that Lender may require to effectuate, complete, perfect, continue or preserve this trust deed or any other Loan Documents, Obligations or liens related thereto.
17. This trust deed and all of the Loan Documents constitute the entire and complete understanding of the parties hereto and supersede all prior agreements and understandings relative to the subject matter hereof. This trust deed may not be effectively amended, changed, altered or modified, except in writing executed by all parties. To the extent the provisions contained in this trust deed are inconsistent with those contained in any other Loan Documents, the terms and provisions contained herein shall control. Otherwise, such provisions shall be considered cumulative.
18. This trust deed may be executed in any number of counterparts and by either party on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
19. Time is of the essence in the performance of this trust deed.
20. The terms of this trust deed shall bind and benefit the heirs, legal representatives, successors, and assigns of the parties; provided, however, that Trustor may not assign this trust deed, or any advances made hereunder, or assign or delegate any of its rights or obligations, without the prior written consent of Lender.
21. The trust deed shall be governed by, and construed in accordance with, the laws of the State of Nebraska, except to the extent that the law of any other jurisdiction applies as to the perfection or

enforcement of Lender's security interest in or lien on any Property and except to the extent expressly provided to the contrary in any Loan Document. In the event that any provision or clause of any of the Loan Documents conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Documents which can be given effect without the conflicting provision, and to this end the provisions of the Loan Documents are declared to be severable. This instrument can be waived, changed, discharged or terminated only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

22. The acceptance by Lender of any sum in an amount less than the sum then due shall not be deemed a waiver of any default and the Lender's remedies set forth in any Loan Document shall not be impaired or waived by acceptance of any such partial payment, whether such payment is accepted before or after any notice of default or notice of sale. Consent by Lender to any transaction or action of Trustor which is subject to consent or approval of Lender in any Loan Document shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions.

23. Upon satisfaction of all of Trustor's obligations under the Loan Documents, and upon written request of Lender stating that all sums secured hereby have been paid, and upon surrender of this deed of trust and the Note to Trustee for cancellation and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

WAIVER OF JURY TRIAL. TRUSTOR HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS TRUST DEED OR ANY RELATED LOAN DOCUMENT.

Monterey Investments, L.L.C., A Limited Liability Company

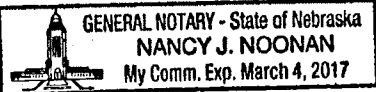
By *Michael G Ulrich*
Michael G Ulrich, Manager

LLC ACKNOWLEDGMENT – MANAGER(S)

STATE OF NEBRASKA)
)ss
COUNTY OF LANCASTER)

On this 4th day of March, 2015 before me, a Notary Public, personally appeared Michael G. Ulrich

to me known to be the person(s) named in and who executed the foregoing instrument, who did say that he/she/they is/are the manager(s) of Monterey Investments, L.L.C. a limited liability company; that the instrument was signed on behalf of the limited liability company by authority of its members and the manager(s) acknowledged the execution of the instrument to be voluntary act and deed of the limited liability company by it and by him/her/them voluntarily executed.

(SEAL) 

Nancy J. Noonan
Nancy J. Noonan
(Type name under signature)

My commission expires March 4, 2017 Notary Public in and for said County and State