



**TRUST DEED**

Recording requested and  
when recorded return to:

Thomas J. Sayeg  
Karnopp Petersen LLP  
1201 NW Wall Street, Suite 300  
Bend, Oregon 97701-1957

Until a change is requested,  
all tax statements shall be  
sent to the following address:

No change

**Grantor**      **JH ROCKER, LLC, an Oregon limited liability company**

**Beneficiary**    **HOWARD D. MILTENBERGER**

**Trustee**        **WESTERN TITLE**

**1.    Agreement.**

For valuable consideration, Grantor grants, bargains, sells and conveys to Trustee in trust for Beneficiary, with power of sale, the real property, together with appurtenances, described on Exhibit "A" attached hereto and incorporated herein by reference.

The described real property, together with all improvements, fixtures and personal property now or hereafter located on or about such property, is referred to in this Trust Deed as the "Property." The Property is not currently used for agricultural, timber or grazing purposes.

**2.    Security.**

**2.1**      This Trust Deed secures a trust deed note between Grantor as Promisor and Beneficiary as Promisee, dated this same date, a copy of which is attached hereto as Exhibit "B" and the terms of which are hereby made a part of this Trust Deed (the "Note").

**2.2**      As additional security, Grantor hereby assigns to Beneficiary during the continuance of this trust, all rents, issues, royalties and profits of the Property. Until Grantor shall default in the payment of any indebtedness secured by this Trust Deed or in the performance of any other promise by Grantor under this Trust Deed, Grantor shall have the right to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable.

**3. Warranties of Title.**

Grantor warrants and represents to Beneficiary that Grantor owns the Property in fee simple free from all liens and encumbrances except for the usual printed exceptions in title insurance policies.

**4. Grantor's Duties.**

Grantor shall:

4.1 Forever defend the Property against all persons;

4.2 Pay the Note according to all its terms and conditions;

4.3 Pay all taxes and assessments and all charges of every nature which may be levied or assessed against the Property;

4.4 Pay and otherwise cause to be removed according to their terms and conditions any and all other liens and encumbrances that are or may become charges against the Property or any part thereof;

4.5 Complete or restore promptly and in good workmanlike manner any building or improvement on the Property which may be constructed, damaged or destroyed and pay when due all costs incurred for such repairs; and

4.6 Not remove or demolish any building or improvement on the described Property without the prior written consent of Beneficiary.

**5. Beneficiary's Right to Perform on Behalf of Grantor.**

If Grantor fails to perform Grantor's obligations under this Trust Deed, Beneficiary may render such performance without waiving the default. All monies expended by Beneficiary in connection with such performance shall become additional indebtedness of Grantor secured by this Trust Deed, shall bear interest from the date of expenditure at the rate payable from time to time on the outstanding principal under the Note, and shall be immediately due and payable without demand by Beneficiary. Nothing contained in this paragraph shall be construed to require Beneficiary to incur any expense or perform any act on behalf of Grantor.

**6. Insurance.**

Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsement on a replacement cost basis covering all improvements on the Property, if any, with loss payable to Beneficiary and Grantor, as their respective interests may appear. The policy shall be written in such form with such terms and by such insurance company that is reasonably acceptable to Beneficiary. Grantor shall deliver to Beneficiary a certificate of coverage from the insurer containing a stipulation that coverage will not be canceled or

diminished without a minimum of 10 days' written notice to Beneficiary. Beneficiary may inspect the policy at any time. In the event of loss, Grantor shall give immediate notice to Beneficiary and Beneficiary may make proof of loss if Grantor fails to do so within 15 days of the casualty.

**6.1     Insurance Warning.** Unless Grantor provides Beneficiary with evidence of the insurance coverage required by this Trust Deed, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the Property becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to Grantor's loan balance. If the cost is added to Grantor's loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage Beneficiary purchases may be considerably more expensive than insurance Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

**7.     Use of Property.**

Grantor agrees not to abuse, misuse or waste the Property, real or personal, and to maintain the Property in good condition.

**8.     Performance.**

**8.1** If Grantor performs the terms and conditions of this Trust Deed and pays the obligation secured hereby according to all its terms and conditions, this conveyance shall be void, but otherwise shall remain in full force to secure the performance of this Trust Deed and the payment of the obligation it secures. The parties agree that in the event Grantor fails to perform any term or condition of this Trust Deed or the obligation it secures, or if proceedings of any kind are taken by anyone to foreclose any prior lien or encumbrance or any lien which Grantor is bound by this Trust Deed to remove on the Property or any part thereof, Beneficiary shall have the option to declare the whole unpaid amount of the obligation secured by this Trust Deed at once due and payable, and this Trust Deed may be foreclosed at any time thereafter.

**8.2** Upon performance of the obligation secured hereby, Trustee shall, upon written request of Beneficiary, reconvey the Property to Grantor.

**9. Default.**

**9.1** Upon default by Grantor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice of default and election to sell the Property, which notice Trustee shall cause to be duly filed for record. If Beneficiary desires the Property to be sold, Beneficiary shall deposit with Trustee this Trust Deed, the Note and all documents evidencing expenditures secured hereby, whereupon the Trustee shall fix the time and place of sale and give notice thereof as then required by law. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee shall, if Grantor's default has not been cured in the manner then provided by law, sell said Property at the time and place fixed by the notice of sale in the manner then provided by law. Trustee shall deliver to its purchaser its deed in the form as required by law conveying the Property, but without any covenant or warranty, express or implied.

**9.2** Upon any default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property, in Beneficiary's own name, sue for or otherwise collect such rents, issues and profits of the Property, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney fees at trial and on appeal, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

**9.3** Nothing herein shall be construed as a waiver by Beneficiary of the right to elect to foreclose in the manner provided by law for the foreclosure of mortgages on real property. If suit or action is instituted to enforce any of the provisions of this Trust Deed, the prevailing party shall be entitled to such sums as the court may adjudge reasonable as attorney fees in said suit or action in any court including any appellate court in addition to costs and disbursements provided by statute. The prevailing party shall also recover the cost of a title report issued for purposes of the foreclosure.

**10. Condemnation.**

Should the Property or any part thereof be taken under the right of eminent domain or condemnation, or in any other manner, Beneficiary shall have the right, if Beneficiary so elects, to require all or any portion of the monies payable as compensation for such taking, which are in excess of the amount required to pay all reasonable costs, expenses and attorney fees necessarily paid or incurred by Grantor in such proceedings, to be paid to Beneficiary and applied by Beneficiary first upon any reasonable costs and expenses and attorney fees necessarily paid or incurred by Beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and Grantor agrees, at Grantor's own expense, to take such actions and execute

such instruments as shall be necessary in obtaining such compensation, promptly upon Beneficiary's request. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of a threat or probability of the exercise of the power shall be treated for purposes of this paragraph as a taking by condemnation.

**11. Waiver.**

By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive the right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay. Waiver of any provision in this Trust Deed shall not be held a waiver of any subsequent default or of any default in any other provision.

**12. Governing Law; Severability.**

This Trust Deed shall be governed by the law of Oregon. In the event that any provision or clause of this Trust Deed or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Trust Deed or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Trust Deed and the Note are declared to be severable.

**13. Establishment of Trust.**

**13.1** Trustee accepts this trust when this Trust Deed, duly executed and acknowledged, is made public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other trust deed or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party, unless brought by Trustee.

**13.2** Beneficiary may appoint another Trustee in place of Trustee named herein, and thereupon the Trustee so appointed shall be substituted as Trustee with the same effect as if originally named Trustee.

**14. Sale and Transfer of Possession.**

Beneficiary has entered into the transaction for which this Trust Deed is given on the basis of Grantor's personal liability, financial resources and responsibility. Therefore, it is specifically understood and agreed by Grantor that no interest in the Property shall be sold, conveyed, transferred, or otherwise disposed of in any manner by Grantor or Grantor's successor or assigns, directly or indirectly, without Beneficiary's prior written consent, which consent shall not be unreasonably withheld. In the event Beneficiary consents to a transfer, the transferee shall expressly assume all of Grantor's obligations under this Trust Deed and the Note, such consent and assumption shall not in any way relieve or discharge Grantor's obligations under this Trust Deed and the Note. In addition, Grantor shall reimburse all costs and fees reasonably incurred by Beneficiary in reviewing, investigating, and preparing documents in connection with any such transfer, including but not limited to attorney fees. Consent to one transfer shall not constitute consent to subsequent transfers or be deemed a waiver of this Section 14.

Subject to Section 14 above, this Trust Deed shall inure to and bind the heirs, legatees, devisees, administrators, executors, successors, and assigns of the parties hereto. All obligations of Grantor hereunder are joint and several. The term “Beneficiary” shall mean the owner and holder, including pledgors, of the Note secured hereby, whether or not named as beneficiary herein.

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**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A tract of land located in the SW1/4 of the SE1/4 of Section 36, Township 24 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point whence the S1/4 corner of said Section 36 bears South 59° 11' 53" West, 1194.19 feet; thence North 00° 32' 00" East, 257.00 feet; thence South 89° 21' 15" East, 250.72 feet to a point on the Westerly right of way line of the Dallas-California highway No. 97; thence Southerly along said right of way line on a 01° 58' spiral curve left, 153.12 feet; thence Southerly along a 00° 58' circular curve left, 126.45 feet; thence North 89° 21' 15" West 139.30 feet to the point of beginning.

Exhibit B

**TRUST DEED NOTE**

**Amount:** \$164,157.50

**Date:** 11/12/08

**Parties:**

**Grantor:** JH ROCKER, LLC, an Oregon limited liability company

**Beneficiary:** HOWARD D. MILTENBERGER

**Trustee:** WESTERN TITLE

**AGREEMENT**

For value received, Grantor promises to pay to Beneficiary or Beneficiary's order, at such place as Beneficiary designates, the principal sum of \$164,157.50 on or before the ninth (9th) anniversary following the date hereof.

The yearly interest rate on the unpaid balance of the principal sum is 2.97 percent. Interest shall be calculated on the basis of a 365 day year. Interest begins on the date hereof. Until such time as the principal sum herein is paid, Grantor shall pay to Beneficiary on September 1st of each year all accrued but unpaid interest. Grantor, with prior notice to Beneficiary, may skip up to two annual interest payments during the term of this Note without default; provided, however, such interest shall be compounded and added to the principal.

The principal sum and all accrued but unpaid interest shall be payable on the first to occur of the following: (i) the sale of real property owned by Grantor and described in the Trust Deed executed by Grantor dated this same date, which secures this Trust Deed Note ("Note"), (ii) as required pursuant to the Operating Agreement dated of even date herewith of Grantor, or (iii) the maturity date of this Note. Each payment shall be applied first to interest to date of payment, then to principal.

Grantor may prepay the principal amount outstanding in whole or in part at any time without penalty. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent installments or change the amount of such installments, unless the holder of this Note shall otherwise agree in writing.

The obligations of Grantor under this Note are guaranteed or secured by two trust deeds (each, a "Trust Deed" and together, the "Trust Deeds") executed the same date as this Note.



Exhibit B

**DEFAULT**

Each of the following is an event of default under this Note (each, an "Event of Default" and together, "Events of Default"): (i) Grantor fails to make any payment required by this Note upon ten (10) days written notice of such failure to pay, or (ii) a default occurs under either Trust Deed.

Except as otherwise permitted herein, if an Event of Default occurs, the entire principal sum and accrued interest shall become due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default. If an Event of Default occurs, it is agreed that the holder of this Note may recover such reasonable expenses as may be incurred in collection, including reasonable attorney fees, and further including attorney fees in any appeal from a suit or action.

The undersigned and its successors and assigns hereby waive presentment for payment, notice of dishonor, protest, notice of protest, and diligence in collection, and consent that the time of payment on any part of this Note may be extended by the holder without otherwise modifying, altering, releasing, affecting, or limiting their liability.

This Trust Deed Note is the Note described in and secured by the Trust Deeds executed the same date as this Note.

DATED effective the 12 day of November, 2008.

**Grantor**

**JH ROCKER, LLC, an Oregon limited liability company**

  
**HOWARD D. MILTENBERGER, Member**

  
**JUDY L. ROEK, Member**