WHEN RECORDED RETURN TO:
Thomas J. Foley, P.C.
P.O. Box 609
Yancouver, WA 98666
(360) 696-8990

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Page 1 of 27
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SKAMANIA COUNTY AUDITOR
J MICHAEL GARVISON
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DOCUMENT TITLE(S) Amended Carleton Whitehead
Living Trust dated 11-12-2003
REFERENCE NUMBER(S) of Documents assigned or released:
original trust never recorded
Additional numbers on page of document.
GRANTOR(S):
carleton Whitehead Trustere
Hnn S. Whitehead Trustee
Additional names on page or document.
GRANTEE(S):
Marian N. Whitehead, Successor [] Additional names on page of document.
LEGAL DESCRIPTION (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter):
SE /4 SW /4 SEC 26 THNR9 E
TAX PARCEL NUMBER(S):
1AX PARCEL NUMBER(S): 310 g-2107 04-09-26-0009000
Additional parcel numbers on page of document.
The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to
verify the accuracy or completeness of the indexing information.

REAL ESTATE EXCISE TAX

27208

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SKAMANIA COUNTY TREASURER

THE AMENDED CARLETON WHITEHEAD LIVING TRUST

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RECORDER'S NOTE:
NOT AN ORIGINAL DOCUMENT

SECOND AMENDMENT (AND RESTATEMENT OF) DECLARATION OF TRUST

WHEREAS, the undersigned has previously established a trust known as the CARLETON WHITEHEAD LIVING TRUST (created by that certain DEC-LARATION OF TRUST dated March 20, 2001 (as previously amended on May 21, 2001), by the undersigned as both Trustor and Trustee); and

WHEREAS, in Article XI A. (on page 21) of said DECLARATION OF TRUST, the undersigned reserved to himself the right to revoke and/or amend said DECLARATION OF TRUST in any way, at any time by an agreement in writing executed by the Trustor and delivered to the Trustee; and

WHEREAS, the undersigned presently desires to amend the aforesaid

CARLETON WHITEHEAD LIVING TRUST and, in the process, restate said

Trust in its entirety (to facilitate both reference to, and comprehension of, the same);

NOW, THEREFORE, in consideration of the premises, the undersigned hereby amends the aforementioned CARLETON WHITEHEAD LIVING TRUST dated March 20, 2001 (as previously amended on May 21, 2001), as follows:

Article I

The Trustor has heretofore transferred to the Trustee various of his assets--receipt of which is hereby acknowledged by the Trustee--which, together with any property which may hereafter become subject to the Trust, shall constitute the trust property and is hereinafter referred to as the trust estate.

The Trustee may at any time during the existence of this Trust receive other property from any person. The Trustee may particularly receive such property under

RECORDER'S NOTE: NOT AN ORIGINAL DOCUMENT the Will of the Trustor. Any property so received shall be held, administered, and distributed by the Trustee in accordance with the terms which govern this Trust.

Article II

The Trustee shall apply and distribute the Trust estate and the income therefrom in the following manner:

- A. 1. During the lifetime of the Trustor, the Trustee shall in quarterly or more frequent installments pay to, or apply for the benefit of, the Trustor the entire net income from the trust estate and so much of the principal thereof, up to the whole thereof, as either: (i) the Trustee determines the Trustor needs for his health, comfort, welfare, maintenance, education and/or support or (ii) the Trustor may request.
- 2. If at any time during the lifetime of the Trustor during which the Trustor is not the Trustee of this Trust, the Trustor's wife ANN S. WHITEHEAD and/or any of the Trustor's issue should be in need of funds for his or her health, welfare, maintenance, education, support and/or start in life, then the Trustee may (but need not) pay to, or apply for the benefit of, such issue so much of the trust estate as the Trustee (in the exercise of his/ her free and absolute discretion) deems necessary or desirable for such purposes.

The Trustee may (but need not) keep records of any such payment to any of the Trustor's various issue for their respective starts in life (if any), and charge any such payments as an advance against the benefited issue's (or his/her successor's, as the case may be) ultimate distributive share of the trust estate so long as the Trustee advises the benefited issue in writing of the Trustee's intent to so charge the payment at the time the payment is made.

3. In exercising the discretion herein granted the Trustee with respect to payments of trust principal hereunder, the Trustee should keep in mind that the

health, maintenance, comfort and support of the Trustor is more important to the Trustor than any other purposes of this trust.

- B. Upon the death of the Trustor, the Trustee shall pay any local, federal or state taxes that may be due as a result of the Trustor's death--including death, income, property or other taxes due; the Trustor's last illness and funeral expenses; and the expenses of administering the Trustor's estate. In addition, the Trustee may--but need not (unless legally compelled to do so)--pay all of the Trustor's just debts (not legally barred).
- C. Upon the death of the Trustor, the Trustee shall distribute the Trustor's personal effects in accordance with the directives contained in a Letter of Instructions which the Trustor may address to the Trustee. Said letter may be written either before or after this Declaration of Trust is executed and may be changed from time to time in the future. The Trustee should follow the directives contained in the last such letter written prior to the Trustor's death.

As to any personal effects remaining in the Trust estate after the Trustee makes the distributions requested, the Trustor hereby directs the Trustee to dispose of such items in such manner as the Trustee deems best (including keeping such of the same as the Trustee may wish for him/herself).

To the extent that the Trustor's aforesaid letter directs the Trustee to distribute personal effects to persons residing outside the immediate area of the Trustor's final residence, the Trustee may arrange for the shipping of such items to such persons and pay all reasonable charges incurred in connection therewith as an expense of administration.

D. Upon the death of the Trustor, the Trustee shall distribute the then remaining balance of the Trust estate--after making the distributions and payments re-

quired under Article II subparagraphs B. and C. hereof above, and including any property received by the Trust as a result of the Trustor's death--as follows:

- 1. The Trustee shall distribute the following sums of money to the following organizations:
- a. The sum of **TWO THOUSAND DOLLARS** (\$2,000) therefrom to **REED COLLEGE** (of Portland, Oregon); and
- b. The sum of TWO THOUSAND DOLLARS (\$2,000) therefrom to the SIERRA CLUB (currently headquartered in San Francisco, California).
- 2. The Trustee shall distribute any interest the Trust may then own (or which the Trust may acquire as a result of the Trustor's demise) in real property located in Moss Creek, Washington, to the Trustor's son ERIC J. WHITEHEAD (currently of Winnetka, California); and should he be then deceased, then this devise shall lapse.
- 3. The Trustee shall set aside the then remaining balance thereof (including failed and lapse gifts) in *FURTHER TRUST* for the benefit of the Trustor's spouse **ANN S. WHITEHEAD** upon the following terms:
- i. The Trustee shall in annual or more frequent installments pay to, or apply for the benefit of, ANN S. WHITEHEAD so much of the income and principal of this *FURTHER TRUST* estate--up to the whole thereof--as the Trustee (in the exercise of the Trustee's reasonable discretion) deems necessary or desirable for her health, maintenance, education and/or support.
- ii. If at any time during the existence of this *FURTHER*TRUST any of the issue of the Trustor should be in need of funds for his or her health, maintenance, education, support and/or start in life then the Trustee may (but

need not) pay to, or apply for the benefit of, such issue so much of this *FURTHER TRUST* estate as the Trustee (in the exercise of the Trustee's free and absolute discretion) deems necessary or desirable for such purposes.

The Trustee may (but need not) keep records of any such payment to any of the Trustor's various issue for their respective starts in life (if any), and charge any such payments as an advance against the benefited issue's (or his/her successor's, as the case may be) ultimate distributive share of this **FURTHER TRUST** so long as the Trustee advises the benefited issue in writing of the Trustee's intent to so charge the payment at the time the payment is made.

iii. In exercising the discretion herein granted the Trustee with respect to payments of *FURTHER TRUST* principal hereunder, the Trustee should keep in mind that the health, maintenance, and support of **ANN S. WHITEHEAD** are more important to the Trustor than any other purposes of this *FURTHER TRUST*.

iv. Upon the death of ANN S. WHITEHEAD (or upon the Trustor's death if she has predeceased him), the Trustee shall distribute the then remaining balance of this FURTHER TRUST to the Trustor's living issue, by right of representation—subject to the FURTHER TRUST provisions set forth in Article II subparagraph E. hereof, below, with respect to any share thus allocated to any such benefited issue of the Trustor who is then under the age of twenty-three (23) years.

The Trustor's living issue presently are his three children: CYNTHIA L. WHITEHEAD (currently of Berkeley, California), born June 6, 1945; LISA W. PEACOCK (currently of Tucson, Arizona), born November 22, 1952; and ERIC J. WHITEHEAD (currently of Winnetka, California), born January 13, 1955; and LISA W. PEACOCK's two children LAUREL and COLIN.

- E. Any gift or devise hereunder to any beneficiary who is under the age of twenty-three (23) years at the time the gift/devise to said beneficiary vests shall thereafter be held, administered, and distributed as follows:
- 1. The Trustee shall pay to, or apply for the benefit of, the beneficiary of each such share so much of the net income and/or principal of the beneficiary's share of the trust estate (up to the whole thereof) as the Trustee—in the exercise of the Trustee's free and absolute discretion—deems necessary or desirable for the health, education, comfort, maintenance, support and/or start in life of such beneficiary.
- 2. Upon the *twenty-third* (23rd) birthday of each beneficiary (or as soon thereafter as is reasonably possible), the Trustee shall distribute--outright and free of trust--the entire then remaining balance of the Trust share then held by the Trustee for such beneficiary.
- 3. Should any beneficiary of any such share die during the existence of the Trust for his or her benefit leaving issue surviving, then the share of such beneficiary shall be distributed to the beneficiary's then living issue, by right of representation--subject to the FURTHER TRUST provisions set forth in this Article II subparagraph E. with respect to any share thus allocated to a benefited issue who is then still under the age of twenty-three (23) years.
- 4. Should any beneficiary of such a share die during the existence of the Trust for his or her benefit without leaving issue surviving, then the share of such beneficiary shall be added to the shares of his/her siblings hereunder (or of their issue, or the survivor[s] of them--as the case may be), if any, in the same proportions which said shares or subshares bore to each other at the time they were initially created; and should there be no such siblings (or siblings' issue), then the share

of such beneficiary shall be distributed to the Trustor's then living issue, by right of representation--in the manner set forth herein.

The Trustee is empowered to resolve (in the exercise of the Trustee's reasonable discretion) any dispute that may arise with regard to any division pursuant to this provision.

Should any of the contingent shares hereunder be distributed, then the distribution hereunder shall be made directly to the distributee of such share (or to his or her guardian or successors, as the case may be).

- 5. Notwithstanding any of the foregoing provisions, if at any time any share of this Trust shall be worth \$75,000 or less, the Trustee may, but need not (in the exercise of the Trustee's free and absolute discretion) elect to distribute such share to the beneficiary of the same (or to the guardian of such beneficiary, if at the time the beneficiary is either a minor or incompetent) outright and free of trust.
- F. The Trustees may distribute the trust estate among the several beneficiaries of the same in such manner as the Trustees deem best and make up the shares of different beneficiaries of property or cash (or partly of each) without being under a duty to distribute the same kind of property to each beneficiary and with the power to keep together units of property to such extent as the Trustees deem best.
- G. Any beneficiary hereof who is entitled to receive a distribution from the trust estate upon the death of another must actually survive the designated individual by sixty (60) days--otherwise, said beneficiary shall be deemed to have predeceased said individual for purposes of distribution hereunder.
- H. Anything contained herein to the contrary notwithstanding, at the time appointed hereunder for distribution of any property of the Trust, the Trustee may

withhold from distribution--without the payment of interest--any part, or all, of such property, as long as the Trustee shall determine (in the exercise of the Trustee's reasonable discretion) that such property may be subject to conflicting claims, to tax deficiencies or tax liabilities--contingent or otherwise--properly incurred in the administration of the trust estate.

I. Each of the trusts (and shares thereof) created by or pursuant to the terms of this Declaration shall for all purposes be considered as separate trusts. The Trustee is hereby authorized, however, to hold and administer assets of the trust herein created as a single unit for purposes of convenience.

If by the terms of this Declaration of Trust any beneficiary shall become beneficially interested in more than one share of this trust, then and in that event all such shares of the trust shall (to the extent of his/ her interest therein) be combined and administered as a single share of the trust.

Article III

A. In the event that the initial Trustee named herein should be or become unable or unwilling to serve, then the Trustor's spouse ANN S. WHITEHEAD (currently of El Cerrito, California) shall become the successor Trustee hereof; and should she also be or become unable or unwilling to serve, then the Trustor's sister MARIAN N. WHITEHEAD (currently of Oakland, California) shall become the successor Trustee hereof; and should she also be or become unable or unwilling to serve, then the Trustor's brother-in-law JOHN R. STEARNS (currently of Manhattan, California) shall become the successor Trustee hereof; and should he also be or become unable or unwilling to serve, then the Trustor's son ERIC H. WHITE-HEAD (currently of Winnetka, California) shall become the successor Trustee hereof; and should he also be or become unable or unwilling to serve, then the

Trustor's daughter LISA W. PEACOCK (currently of Tucson, Arizona) shall become the successor Trustee hereof; and should she also be or become unable or unwilling to serve, then her successor shall be selected as follows:

Upon qualifying as Trustee, the initial Trustees (and any successor Trustees) shall appoint in writing one or more successor Trustees who, upon the death, resignation, or inability to serve of both the appointing Trustee[s] and any successor Trustee[s] specifically designated herein, shall become Trustee in the appointing Trustee's stead—to serve without bond. The Trustee may appoint several persons who shall serve in the order designated by the Trustee. The same power to appoint successor Trustees is hereby granted successor Trustees. As soon as a successor Trustee has started to serve, the appointments made by said Trustee's predecessor, except said Trustee's own appointment, shall become void, and it shall be up to the successor Trustee to make new appointments of further successor Trustees—all of whom may serve without bond. Any Trustee having designated the Trustee's successor in writing shall have the power to revoke any such designation in writing at any time before the appointing Trustee's office as Trustee has terminated and make other appointments if the Trustee desires to do so.

In the event that there shall be a vacancy in the Trusteeship of this Trust that has not been filled in the foregoing manner, then any beneficiary of this Trust shall be authorized to apply to a Court of competent jurisdiction for the appointment of a successor to the Trusteeship which has been terminated.

No person (other than the Trustor) who is both a Trustee and a beneficiary of the Trust shall have any power to make any distribution to (or for the benefit of) him/herself during the lifetime of the Trustor hereunder unless such distribution is made exclusively for the recipient's necessary health, support, education or maintenance and further provided that no person who is a Trustee of

this Trust shall have any power to make any distribution for the support of any person whom that Trustee has a legal obligation to support.

- B. Any successor Trustee shall succeed without further act or deed to full and complete title to the property of the trust estate and to all powers, rights, discretions, obligations and immunities of the initial Trustee hereunder with the same effect as though such successor had been originally named as Trustee.
- C. No successor Trustee shall be liable for any act, omission, or default of a predecessor Trustee. Unless requested in writing within ninety (90) days of appointment by an adult beneficiary of this Trust, no successor Trustee shall have any duty to investigate or review any action of a predecessor Trustee and may accept the accounting records of the predecessor Trustee showing assets on hand without further investigation and without incurring any liability to any person claiming or having an interest in this Trust.
- D. Any person dealing with a Trustee may rely on a written statement by the Trustee that said Trustee is a present acting Trustee of the Trust.
- E. 1. If a Trustee wishes to resign, the resigning Trustee shall deliver a written statement, acknowledged before a notary, of intent to resign to the Successor Trustee(s). The resignation shall become effective upon the written acceptance of the Trusteeship by the designated Successor Trustee(s).
- 2. If a Trustee dies, the deceased Trustee's successor shall record an Affidavit of Death (with a certified copy of the deceased Trustee's death certificate attached) with the County Recorder of the County in which the Trust had its principal situs at the time of the Trustee's death. Said Affidavit shall attest to both the death of the Trustee and the assumption of office of his/her successor.

3. If a Trustee cannot administer the Trust because of physical or mental incapacity, such incapacity shall be conclusively established by a certification, acknowledged before a notary, by a physician who has attended the incapacitated Trustee for a period of not less than one year preceding the incapacity attesting to the Trustee's incapacity, accompanied by a Statement from the Successor Trustee declaring the successor's incumbency as Successor Trustee of the Trust. Otherwise the Successor Trustee shall obtain an order from a Court of competent jurisdiction declaring the Trustee's incapacity and the successor's assumption of office.

Article IV

- A. The term "education," as used in this Declaration, shall be construed to include art, music and trade school study and apprenticeship programs—as well as college, graduate and postgraduate study (not necessarily limited to the United States) so long as pursued to advantage by the beneficiary at an institution of the beneficiary's choice; and any other means of education (including travel) which seems reasonable to the Trustee. In determining payments to be made for such education, the Trustee shall take into consideration the beneficiary's related travel and living expenses to the extent that they are reasonable.
- B. The words "issue," "child," and "children" as used herein shall include children and issue legally adopted during minority, but not "children" adopted after the "child" has reached majority.
- C. The term "start in life" as used in this Declaration of Trust shall mean the purchase of a house, commencement of a career, family, occupation, or other endeavor substantially related to, or having the potential of becoming, a beneficiarry's life's work. The Trustor is aware that, under certain circumstances, some or all of the Trustor's issue may reasonably have more than one "start in life" (as said

term is defined hereinabove) and request that the Trustee sympathetically consider the Trustor's issue's needs accordingly.

- D. The phrase "right of representation" as used herein shall require distribution in the manner provided in Section 240 of the California Probate Code.
- E. The term "health" as used in this Declaration of Trust shall include elective as well as required treatment.
- F. As used in this Declaration of Trust, the masculine, feminine, and neuter genders and the singular and plural numbers shall each be deemed to include the others whenever the context and/or circumstances indicate or require.

Article V

The rights, powers, and duties of the Trustee with respect to the management of the Trust estate shall be as follows:

- A. The Trustee is authorized to retain in the Trust for such time as the Trustee may deem advisable any of the property received by them during the existence of this Trust, whether or not of the character permitted by law for the investment of Trust funds.
- B. The Trustee shall have the power, with respect to the property of the Trust estate or any part thereof, and upon such terms and in such manner as the Trustee may deem advisable, to: sell, convey, exchange, convert, improve, repair, manage, and control the same; to participate in foreclosures; to lease Trust property on terms within or beyond the Trust, and for any purpose; to borrow money for any Trust purpose and to encumber Trust property or hypothecate the same by mortgage, deed of trust, pledge, or otherwise; to carry insurance, at the expense of the Trust, of such kinds and in such amounts as the Trustee may deem advisable; to lend Trust assets to such one or more persons, at such times and on such terms as the Trustee may deem advisable; to commence, defend, settle, or compromise such litigation with respect to the Trust, or any property of the Trust estate, at the expense of the Trust, as the Trustee may deem advisable; to invest and reinvest the Trust funds in such properties as the Trustee may deem advisable (including non income-producing properties and/ or common trust funds managed and/or administered by the Trustee), whether or not of the character permitted by law for the investment of Trust funds; and, with respect to securities, partnership interests, joint

ventures and other assets held in the Trust: to vote, give proxies, and pay assessments or other charges; to participate in reorganizations, consolidations, mergers, and liquidations, and, incident thereto, to deposit securities with (and transfer title to) any protective or other committee upon such terms as the Trustee may deem advisable, and to exercise or sell stock subscriptions or conversion rights; to operate any business or other enterprise that is held in the Trust; and to abandon any property or interest in property belonging to any Trust created pursuant to this Declaration of Trust when in the Trustee's discretion, such abandonment is in the best interest of the Trusts created hereunder and of the beneficiaries of the same.

In addition, the Trustee shall be authorized to: (i) purchase assets from, (ii) sell assets at net fair market value to, (iii) borrow money from or (iv) loan money (with adequate security and interest) to: (a) the estate of the Trustor, (b) the issue of the Trustor (c) any other Trust established by the Trustor and/or (c) the Trustee individually. In addition, the Trustee shall be authorized to engage in such transaction between the separate trusts established hereunder. The terms of any such transaction shall be solely within the reasonable discretion of the Trustee--and the Trustee shall incur no liability with regard thereto except that any such transaction between the Trust and the Trustee shall be a bona fide transaction for adequate and full consideration in money or money's worth.

In addition to the foregoing powers listed, the Trustee shall have such further powers as may now or hereafter be conferred upon the Trustee by law (specifically including those contained in Calif. Probate Code Sections 16220 et seq.) and such additional powers as may be necessary to enable the Trustee to administer this Trust in a reasonable business-like manner in accordance with the provisions and intentions of this Declaration of Trust as a whole.

- C. The Trustee may hold securities or other property of the Trust estate in the Trustee's name as Trustee hereunder, or in the name of the Trustee's nominee, or the nominee of a custodian selected by the Trustee; or, with regard to real property, by means of any holding agreement which may be executed by and between the Trustee and a title insurance company, bank, Trust company, or other appropriate corporation or person of the Trustee's choice. The Trustee may hold securities as above stated or unregistered in such condition that ownership will pass by delivery.
- D. All taxes, assessments, fees, charges, and other expenses incurred by the Trustee in the administration or protection of this Trust, including any compensation of the Trustee, the Trustee's attorney, the Trustee's accountant, or other agents employed by the Trustee, shall be paid by the Trustee in full out of the principal or in full out of the income of the Trust estate, or partially out of each of them, in such

manner and proportions as the Trustee, in the Trustee's free and absolute discretion, may determine to be advisable prior to the final distribution of the Trust estate.

- E. The Trustee may employ such brokers, banks, custodians, investment counsel, attorneys, accountants, real property managers and/or other agents (and delegate to them such of the duties, rights and powers of the Trustee, for such periods, as the Trustee thinks fit) and may pay such agents such reasonable compensation out of either income or principal of the trust estate as the Trustee deems appropriate for all services performed by such parties. The Trustee shall not be liable in any way for any neglect, omission, misconduct, or default of any broker, bank, custodian, investment counsel, attorney, accountant, real property manager and/or other agent employed by the Trustee.
- F. Except as provided in Article V subparagraphs D. and N. hereof, all matters relating to principal and income shall be governed by the provisions of the California Revised Uniform Principal and Income Act (§§16300 et seq. of the California Probate Code)—and its successors—as the same shall from time to time be in effect, except that the Trustee shall always have the power to:

1. credit to principal distributions by mutual funds and similar entities

all gains from the sale or the disposition of property;

2. charge to income from time to time a reasonable amortization reserve for all intangible property having a limited economic life (including, but not limited to, patents and copyrights); and

3. amortize all premiums paid and discounts received in connection with the purchase of any bond or any other obligation by making an appropriate

charge or credit to income as the case may be.

- G. Upon any division of the property of the Trust estate, or partial or final distribution thereof as herein provided, the Trustee may divide or distribute such property in kind (including undivided interests therein) or, in the Trustee's free and absolute discretion, the Trustee may sell all or any part of such property to make such division or distribution partly in cash and partly in kind; and the decision of the Trustee as to what constitutes a proper division of the Trust estate, either prior to or upon any distribution thereof, shall be binding upon all persons interested in this Trust.
- H. In the event that this Trust is ever administered by more than one Trustee, the Trustees may, by mutual agreement, designate any one or more of themselves to exercise any or all of the powers granted them hereunder and to otherwise act on behalf of, and in the name of, the Trust without requiring the specific concurrence of the other Trustee in the exercise of such designated powers or the undertaking of the designated act(s).

In the event of any dispute between the Trustees of this Trust, said dispute shall be resolved by binding arbitration by a full-time arbitrator with expertise in the filed to be selected by the parties to the dispute or, failing such agreement, by a Court of competent jurisdiction.

I. The Trustee may hire professional investment counsel (such as a bank, stock brokerage house, a reputable financial planner or other like financial advisor or institution) to consult with respect to the management and investment of the Trust estate and/or to act as custodian of any or all Trust assets, and the Trustee may further delegate the Trustee's management and/or investment duties under this Declaration of Trust to any such reasonable investment counsel or financial institution.

In addition the Trustee may, by written delegation, delegate any or all of the Trustee's powers under this Declaration of Trust to such one or more of the following persons, for such period and upon such terms, as the Trustee may stipulate: the Trustor's spouse ANN S. WHITEHEAD (currently of El Cerrito, California), the Trustor's sister MARIAN N. WHITEHEAD (currently of Oakland, California), the Trustor's brother-in-law JOHN R. STEARNS (currently of Manhattan, California) and/or any one or more of the Trustor's issue who is then past the age of twenty-three (23) years.

- J. The Trustee may release or restrict the scope of any power granted the Trustee, whether such power is expressly granted or implied by law. The Trustee shall exercise this power in a written instrument executed by the Trustee and delivered to the then income beneficiaries of the Trust (or, if there are none, then to the beneficiaries then entitled to distributions from the trust in the discretion of the Trustee) specifying the powers to be released or restricted and the nature of the restriction.
- K. The Trustee is authorized to carry insurance of such kinds and in such amounts as the Trustee, in the exercise of the Trustee's free and absolute discretion, considers advisable (at the expense of the Trust) to protect the Trust estate, the Trustee or any beneficiary of the Trust estate against any hazard reasonably expected. The Trustee may, for example, use Trust funds to purchase health insurance for the benefit of any beneficiary for whose health Trust funds may properly be expended.
- L. The Trustee is vested with the power and authority to open, operate, and maintain a securities brokerage account wherein any securities may be bought and/ or sold on margin; and to hypothecate, borrow upon, purchase, and/or sell existing securities in such account as the Trustee may deem appropriate or useful.

M. The Trustee is also vested with the power and authority to write, buy, and/or sell options (whether covered or not) on any security held by the trust and/or regularly traded on a recognized securities exchange.

N. The Trustee is further authorized to invest in partnerships and joint ventures and to comply with all the terms and provisions of every partnership and joint venture agreement which is or may become a part of the principal of any trust herein created. The Trustee may treat as income all distributions actually received from any partnership or joint venture which is part of the principal of any trust hereunder, and derived from rent or receipts from operations, even though a portion of any such distribution may be regarded as a return of capital for accounting purposes. The Trustee may maintain reasonable reserves for depreciation and amortization, but such reserves shall not prevent the distribution as trust income of the amounts described in the preceding sentence.

Article VI

A. No beneficiary of this Trust shall have any right to alienate, encumber, or hypothecate his or her interest in the principal or income of the Trust in any manner—provided, however, that such transactions shall be permissible with the written consent of the Trustee, which consent may be given if the Trustee (in the exercise of the Trustee's free and absolute discretion) determines that such a transaction would be beneficial to the respective beneficiary and not have a serious adverse effect on the interest of any other beneficiary of the Trust. The Trustee shall not be under any obligation whatsoever to consent to any such transaction and need not justify any refusal to do so.

The interest of any beneficiary in principal or income of the Trust shall not in any manner be subject to claims of his or her creditors, liable to attachment, or execution, or to any other such processes of law, including bankruptcy proceedings; and, in the event that any creditor shall threaten or attempt to attach, garnishee or sequestrate any such interest, the Trustee--so long as said threat or effort on the part of such creditor continues--shall, instead of paying the principal or income due here-

under to said beneficiary, apply the same for his or her health, support, maintenance and/or education.

B. If, during the period when any beneficiary is entitled to receive any payment hereunder, such beneficiary is—in the uncontrolled judgment of the Trustee-mentally or physically incapacitated (irrespective of whether legally so adjudicated), incarcerated, incompetent, placed under conservatorship, in financial trouble or in bankruptcy, the Trustee may apply any such payments for the benefit of such beneficiary rather than distributing the same to him/her directly; and, in the event that such condition shall (in the reasonable judgment of the Trustee) continue, the Trustee may, instead of paying the principal or income due hereunder to said beneficiary, apply the same for his/her health, support, maintenance and/or education until such time as such condition shall cease (if ever). If the trust share held for such beneficiary has not yet been distributed, then upon the death of the given beneficiary, the Trustee shall distribute the then remaining balance of the trust share then held for the benefit of such beneficiary to such person(s) as would have received the given trust share had the Trustor survived the given beneficiary and died on the date of the given beneficiary's death.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, TRUSTEES SHALL NOT HAVE ANY POWERS OR AUTH-ORITY HEREUNDER THAT WILL CAUSE THE FOREGOING SPEND-THRIFT PROVISION TO LOSE THEIR STATUS AS SUCH WITHIN THE MEANING OF SECTIONS 15300 ET SEQ. OF THE CALIFORNIA PROBATE CODE AND SECTION 541 (c)(2) OF THE U.S. BANKRUPTCY ACT.

Article VII

A. The Trustee shall from time to time, but no less often than annually, account to the then principal income beneficiary(ies) of the Trust--provided, how-

ever, that during the lifetime of the Trustor: (i) the Trustee need not account at all if the Trustor and the Trustee are one and the same person and (ii) the Trustee need account only to the Trustor if the Trustor and Trustee are different persons (in which event the Trustor's written approval shall be final and conclusive in respect to transactions disclosed in the account as to all beneficiaries of this Trust--including unborn and contingent beneficiaries).

The sending of regular bank and/or stockbroker's statements shall be considered an accounting within the meaning of this provision.

- B. Trustees shall be entitled to reasonable compensation for services and/or expenses.
 - C. No bond shall be required of any person named as a Trustee herein.
- D. No Trustee designated herein shall be liable to any beneficiary or any heir of either Trustor for the Trustee's acts or failure to act, except for willful misconduct or gross negligence.
- E. Until the Trustee shall have received written notice of any birth, death or other event upon which the right to receive payment from the trust estate may depend, the Trustee shall incur no liability for disbursements or distributions theretofore made in good faith.
- F. No Trustee shall be liable or responsible for any act, omission, or default of any predecessor or Co-Trustee so long as the Trustee had no actual knowledge of facts that might reasonably be expected to put the Trustee on notice of the offending act, omission or default of the predecessor or Co-Trustee at the time the Trustee assumed office.

Article VIII

Should any trust beneficiary, other than the Trustor--no matter how remote or contingent such beneficiary's interest may appear--or any other legal heir of the Trustor, or any person claiming under any of them:

- A. Contest the provisions of this Declaration of Trust, or attack or seek to impair or invalidate any of its provisions, or conspire with or voluntarily assist anyone attempting to do any of those things; and/or
- B. Without the consent of the Trustee: Petition to terminate the trust created for such beneficiary for any reason whatsoever prior to the prescribed termination date of said person's trust (if any) as set forth in this Declaration of Trust-other than to terminate said trust for the reason(s) set forth in California Probate Code Section 15408; and/or
- C. Commence any proceeding in law, equity or arbitration to claim a right to support (whether or not said claim is based upon contract, equity and/or a filed creditors' claim) by reason of said claimant's relationship with the Trustor--unless the claimant has been explicitly granted a right to support hereunder; and/or
- D. Commence any proceeding to challenge the legality of this Declaration of Trust, or any amendment thereto or any trust created hereunder for any reason whatsoever (including, without limitation, any allegations that said Declaration of Trust or any trust created hereunder violates or could violate the "Rule Against Perpetuities" and/or that the Trustor was incompetent or acting under undue influence at the time that this Declaration of Trust--or any amendment theretowas executed);

--then in any such event such person shall not be entitled to any interest in any trust created hereunder; and all benefits, if any, provided for such person

under this Declaration of Trust shall be forfeited and shall augment proportionately the shares of such of the other trust beneficiaries hereunder as shall not have participated in such acts or proceedings; and all benefits theretofore paid to the beneficiary shall be forfeited and shall be paid back to the Trust and shall augment proportionately the shares of such of the other trust beneficiaries hereunder as shall not have participated in such acts or proceedings.

Article IX

Unless sooner terminated in accordance with other provisions of this Declaration, each trust created under this Declaration shall terminate twenty-one (21) years after the death of the last survivor of the following persons: the Trustor, all of the Trustor's issue living at the time this Trust becomes irrevocable and all other persons specifically named as beneficiaries of this Trust (and their issue) who are living at the time this Trust becomes irrevocable.

All principal and undistributed income of any Trust so terminated shall be distributed to the then income beneficiary of that Trust. If there are several persons entitled to receive the income, then the remaining principal and undistributed income shall be distributed to such income beneficiaries in the proportions in which they are, at the time of termination, entitled to receive the income. If the rights to income are not then fixed by the terms of this Declaration of Trust, distribution under this Article shall be made—by right of representation—to such of the Trustor's issue as are then entitled to receive income payments. If there are no such issue, then distribution hereunder shall be made in equal shares to such persons as are then entitled to receive income payments.

Article X

- A. All questions relating to the validity and construction of this Declaration and to the administration of any Trust created herein shall be determined in accordance with the laws of the State of California.
- B. If any provision of this Declaration of Trust, or any amendment thereof, should be invalid, the remaining provisions shall remain in effect and be so construed as to effectuate the intents and purposes of this Declaration of Trust and any amendments thereto.

Article XI

- A. This Declaration of Trust shall be revocable and subject to amendment as long as the Trustor is alive. Revocation shall be effected by delivering an instrument in writing to that effect from the Trustor to the Trustee. Amendments shall be effected during the lifetime of the Trustor by an agreement in writing executed by the Trustor and delivered to the Trustee.
- B. Upon the death of the Trustor, this Declaration of Trust, as then amended, shall become irrevocable and shall not be subject to further amendments.

Article XII

In the event that any Trustee (or any other interested party) hereunder shall at any time wish to submit this Trust to the jurisdiction of an appropriate State of California Superior Court for supervision--pursuant to the terms and provisions of Sections 17000 et. seq. of the California Probate Code (or any of them, or their successors)--the Trustee, or interested party, may do so forthwith.

This SECOND AMENDMENT TO (AND RESTATEMENT OF)

DECLARATION OF TRUST has been executed in triplicate. The original copies hereof have been designated as the "First Original," "Second Original," and "Third

Original" and delivered to the Trustor, the Trustee, and the Trustor's attorney,

MICHAEL C. FERGUSON (currently of Berkeley, California), respectively.

IN WITNESS WHEREOF, I have executed this instrument at Berkeley,

California, on November 12, 2003.

Carleton Lotalian

CARLETON WHITEHEAD, Trustor/Trustee

STATE OF CALIFORNIA) ss COUNTY OF ALAMEDA)

On November 12, 2003, before me, the undersigned Notary Public in and for said State, personally appeared **CARLETON WHITEHEAD**, known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

MICHAEL C. FERGUSON
COMM. # 1443012
NOTARY PUBLIC - CALIFORNIA PALAMEDA COUNTY
My Comm. Exp. Oct. 4, 2007

MICHAEL C. FERGUSON, Notary Public My Commission Expires: 10/04/07

Exhibit A

The real property located in the County of Skamania, State of Washington, and the present building and improvements on the real property more particularly described as follows:

A tract of land located in the Southeast Quarter of the Southwest Quarter of Section 26, Township 4 North, Range 9 E. W. M., described as follows:

That portion of the Southeast Quarter of the Southwest Quarter of said Section 26 lying northerly of the center of Moss Creek and westerly of the center of the channel of the Little White Salmon River;

EXCEPT the following described tract: Beginning at the northwest corner of the Southeast Quarter of the Southwest Quarter of the said Section 26; thence south 247.47 feet; thence east 572 feet; thence north 247.47 feet; thence west 572 feet to the point of beginning.

Together with appurtenant pasement,

Skamania County Assessor

Date 8-21-02 Parcell 040926000 90000

Exhibit A

CERTIFICATION OF VITAL RECORD

OFFICE OF RECORDER

COUNTY OF ALAMEDA

OAKLAND, CALIFORNIA

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CERTIFIED COPY OF VITAL RECORDS

ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

This is a true and exact reproduction of the document officially registered

This copy is not valid unless prepared on an engraved border displaying the date, seal and signature of the Recorder.







CERTIFICATION OF VITAL RECORD

OFFICE OF RECORDER

COUNTY OF ALAMEDA

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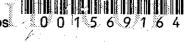


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PATRICK O'CONNELL ALAMEDA COUNTY RECORDER

