

FILED FOR RECORD AT REQUEST OF:

WHEN RECORDED RETURN TO

Bradley W. Andersen, Esq.  
Schwabe, Williamson & Wyatt  
700 Washington Street, Suite 701  
Vancouver, Washington 98660

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**AMENDED DEED OF TRUST**

THIS AMENDED DEED OF TRUST, made this 17<sup>th</sup> day of October 2008, between, DAWN M. NIELSON AND KENT O. NIELSON, husband and wife, and PENNY A. EDLUND, a single person, and KDP, LLC, a Washington Limited Liability Company, (collectively referred to as "Grantor"), FIRST AMERICAN TITLE INSURANCE, a California Company ("Trustee"), and DAVID AND GRETCHEN L'HOMMEDIEU, husband and wife, and STEVE AND KAY HOODENPYL, husband and wife, (collectively referred to as "Beneficiary"), for the purpose of amending that Jan, 18, 2006 Deed of Trust, Recorded in Skamania County, Washington, under Recorder's No. 2006160262

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WITNESSETH: Grantor hereby bargains, sells, and conveys to Trustee in Trust, with power of sale, the following described real property in Clark County, Washington:

**Lots 27 and 28 of Block 7 of the Plat of Stevenson,  
According to the Recorded Plat thereof, Recorded in  
Book "A" of Plats, Page 11, in the County of Skamania,  
State of Washington**

which real property is not used principally for agricultural or farming purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter thereunto belonging or in anywise appertaining, and the rents, issues, and profits thereof.

This Deed is for the purpose of securing performance of each agreement of Grantor herein contained, and payment of the sum of THREE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$360,000.00) with interest, in accordance with the terms of an AMENDED PROMISSORY NOTE of even date herewith, payable to Beneficiary or order, and made by Grantor, and all renewals, modifications, and extensions thereof, and also such

further sums as may be advanced or loaned by Beneficiary to Grantor, or any of their successors or assigns, together with interest thereon at such rate as shall be agreed upon.

To protect the security of this Deed of Trust, Grantor covenants and agrees:

1. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure, or improvement being built or about to be built thereon; to restore promptly any building, structure, or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the property.

2. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust.

3. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

6. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property herein above described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

IT IS MUTUALLY AGREED THAT:

1. In the event any portion of the property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

3. The Trustee shall reconvey all or any part of the property covered by this Amended Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

4. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Amended Deed of Trust; (3) the surplus, if any, shall be distributed to the persons entitled thereto.

5. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor had or had the power to convey at the time of his execution of this Amended Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Amended Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of *bona fide* purchaser and encumbrancers of value.


6. The power of sale conferred by this Amended Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Amended Deed of Trust to be foreclosed as a mortgage.

7. In the event of the death, incapacity, disability, or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Amended Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The

Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

8. This Amended Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

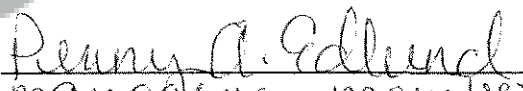
9. This Amended Deed of Trust is intended to replace that Jan 13, 2006 Deed of Trust that was recorded in Skamania County, Washington, under Recorder's No. \_\_\_\_\_.

  
\_\_\_\_\_  
DAWN M. NIELSON

  
\_\_\_\_\_  
KENT O. NIELSON

  
\_\_\_\_\_  
PENNY A. EDLUND

KDP, LLC

By:   
Its: managing member

STATE OF WASHINGTON )  
 ) ss.  
County of Skamania )

On this day personally appeared before me DAWN M. NIELSON AND KENT O. NIELSON, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 17<sup>th</sup> day of October, 2008.

AMY PRICE  
NOTARY PUBLIC  
STATE OF WASHINGTON  
My Commission Expires  
JULY 1, 2010

*Amy Price*  
Amy Price  
NOTARY PUBLIC in and for the State of Washington  
residing at Stevenson  
My commission expires: July 1, 2010

STATE OF WASHINGTON )  
 ) ss.  
County of Skamania )

On this day personally appeared before me PENNY A. EDLUND, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 17<sup>th</sup> day of October, 2008.

AMY PRICE  
NOTARY PUBLIC  
STATE OF WASHINGTON  
My Commission Expires  
JULY 1, 2010  
AMY PRICE  
NOTARY PUBLIC  
STATE OF WASHINGTON  
My Commission Expires  
JULY 1, 2010

*Amy Price*  
Amy Price  
NOTARY PUBLIC in and for the State of Washington  
residing at Stevenson  
My commission expires: July 1, 2010

STATE OF WASHINGTON )  
 ) ss.  
County of Skamania )

On this 17<sup>th</sup> day of October, 2008, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared Penny Edlund, known to be the Managing Member of KDP, LLC, the limited liability company that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that limited liability company for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the limited liability company.

WITNESS my hand and official seal hereto affixed the day and year first above written.

AMY PRICE  
NOTARY PUBLIC  
STATE OF WASHINGTON  
My Commission Expires  
JULY 1, 2010

*Amy Price*  
NOTARY PUBLIC in and for the State of Washington  
residing at Severson  
My commission expires: July, 2010

## AMENDED PROMISSORY NOTE

**\$360,000.00**

**October \_\_, 2008  
Vancouver, Washington**

DAWN M. NIELSON and KENT O. NIELSON, husband and wife, and PENNY A. EDLUND, a single person, and KDP, LLC, a Washington Limited Liability Company, (collectively referred to as the "Maker"), as an amendment to the Promissory Note signed by the Maker on January 18, 2006, promises to pay to the Order of GRETCHEN AND DAVID L'HOMMEDIEU, husband and wife, and STEVEN AND KAY HOODENPYL, husband and wife, (collectively referred to as the "Holder"), the principal sum of THREE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$360,000.00), together with interest on that amount, upon the agreements, terms, and conditions provided in this Amended Promissory Note (the "Note"):

1. Definitions.

(a) Cure Period. The term "Cure Period" means a period of ten (10) days from the time the Maker receives notice of a Default.

(b) Default. The term "Default" means any of the following events:

(i) the Maker at any time fails to pay, when due, any sum owing on this Note; or

(ii) the Maker breaches or fails to perform any obligation under this Note or any other agreement between the Maker and the Holder; or

(iii) the Maker files or is served with any petition for relief under the 11 U.S.C. § 1 *et seq.* or any similar federal or state statute, or a proceeding is instituted against the Maker seeking a readjustment of the Maker's indebtedness; or

(iv) the Maker assigns any of its assets for the benefit of its creditors; or

(v) an action is commenced to appoint, or the Maker consents to the appointment of a receiver or trustee for all or any part of the Maker's property; or

(vi) the Maker admits, in writing, its inability to pay its debts as they become due; or

(vii) the Maker becomes insolvent; or

(viii) a court of competent jurisdiction enters an order approving a petition seeking a reorganization of the Maker or appointing a receiver, trustee, or other similar official of substantially all of Maker's assets.

(c) Default Rate. The term "Default Rate" means the rate of interest otherwise payable on this Note plus five percent (5%).

2. Interest. All sums owing on this Note shall bear interest from the date of this Note until paid, at a fixed rate of seven percent (7%) per annum. Should the Maker default on any of the obligations specified in this Note, all sums owing on the Note shall bear interest at the Default Rate.

3. Payment. The Maker shall pay monthly installments of ONE THOUSAND NINE HUNDRED DOLLARS (\$1,900.00) to the Holder beginning on the 1<sup>st</sup> day of October, 2008 and on the same day of each month thereafter for a period of eleven months (11 months). On the 1<sup>st</sup> day of October, 2009, Maker shall pay all unpaid principal and interest remaining due on the Note, and shall pay any and all costs, expenses, and other charges due and payable on this Note

to the Holder. Payment shall be applied first to costs, expenses, and other charges provided for in this Note or incurred by the Holder in realizing on this Note, second to interest then accrued, and then to principal. All payments shall be made in the lawful currency of the United States of America. All payments shall be made to the Holder at P.O. Box 130, Stevenson, WA 98648 or at such other place as the Holder may specify in writing.

4. **Prepayment.** The Maker may prepay any amount owing on this Note without incurring any additional charge, provided that the Maker gives the Holder written notice of the amount to be prepaid at least three (3) days before the date of prepayment. Notwithstanding any prepayment, the Maker shall continue to make all other payments as they become due, until this Note is completely paid.

5. **Late Payment Charge.** If any payment of principal or interest shall not be paid within five (5) days after the date it becomes due, the Maker shall pay a late charge equal to five percent (5%) of the delinquent installment. The late charge shall be in addition to, and not in lieu of, any other rights or remedies the Holder may have by virtue of any breach or default.

6. **Notice of Default; Cure.** Upon a Default, the Holder shall deliver written notice of the Default to the Maker. The Maker shall have the right to cure, within the Cure Period, any Default described in Section 1(b)(i) or (ii) of this Note. The Maker may not cure a Default described in Section 1(b)(iii) through (viii) of this Note. If the Maker cures the Default within the Cure Period, the Maker shall nonetheless remain liable for any late charge properly assessed pursuant to Section 5 of this Note. If the Maker fails to cure a Default within the Cure Period, or is prohibited from curing the Default, the Holder may accelerate all amounts owing on the Note. Such accelerated amounts shall become immediately due and payable. If the Holder accelerates the amounts due under this Note, the Holder shall have the right to pursue any or all of the remedies provided in this Note, including, but not limited to, the right to bring suit on the Note.

7. **Remedies.** Upon a Default and expiration of any applicable Cure Period, the Holder shall have all rights available to it at law or in equity, including all rights available under the Washington Uniform Commercial Code. Any unpaid balance outstanding at the time of a Default, and any costs or other expenses incurred by the Holder in realizing on this Note, shall bear interest at the Default Rate. All rights and remedies granted under this Note shall be deemed cumulative and not exclusive of any other right or remedy available to the Holder.

8. **Attorneys' Fees, Costs, and Other Expenses.** Maker agrees to pay all costs and expenses which the Holder may incur by reason of any Default, including, but not limited to, reasonable attorneys' fees, expenses, and costs incurred in any action undertaken with respect to this Note, or any appeal of such an action. Any judgment recovered by the Holder shall bear interest at the Default Rate.

9. **Transfer; Obligations Binding on Successors.** The Maker may not transfer any of its rights, duties, or obligations under this Note without the prior written consent of the Holder. This Note, and the duties set forth in the Note, shall bind the Maker and its successors and assigns. All rights and powers established in this Note shall benefit the Holder and its successors and assigns.

10. **Notices.** Any notice, consent, or other communication required or permitted under this Note shall be in writing and shall be deemed to have been duly given or made either (1) when delivered personally to the party to whom it is directed (or any officer or agent of such party), or (2) three days after being deposited in the United States' certified or registered mail, postage prepaid, return receipt requested, and properly addressed to the party. A communication will be deemed to be properly addressed if sent to the Maker at \_\_\_\_\_ or if sent to the Holder at P.O. Box 130, Stevenson, WA 98648. The Maker or the Holder may at any time during the term of this Note change the address to which notices and other communications must be sent by providing written notice of a new address within the United



States to the other party. Any change of address will be effective ten (10) days after notice is given.

11. Governing Law. This Note will be construed and the rights, duties, and obligations of the parties will be determined in accordance with the laws of the state of Washington.

12. Headings. Headings used in this Note have been included for convenience and ease of reference only, and will not in any manner influence the construction or interpretation of any provision of this Note.

13. Entire Agreement. This Note represents the entire understanding of the parties with respect to the subject matter of the Note. There are no other prior or contemporaneous agreements, either written or oral between the parties with respect to this subject.

14. Waiver. No right or obligation under this Note will be deemed to have been waived unless evidenced by a writing signed by the party against whom the waiver is asserted, or by its duly authorized representative. Any waiver will be effective only with respect to the specific instance involved, and will not impair or limit the right of the waiving party to insist upon strict performance of the right or obligation in any other instance, in any other respect, or at any other time.

15. Severability. The parties intend that this Note be enforced to the greatest extent permitted by applicable law. Therefore, if any provision of this Note, on its face or as applied to any person or circumstance, is or becomes unenforceable to any extent, the remainder of this Note and the application of that provision to other persons, circumstances, or extent, will not be impaired.


16. References. Except as otherwise specifically indicated, all references in this Note to numbered or lettered sections or subsections refer to sections or subsections of this Note. All references to this Note include any subsequent amendments to the Note.

17. Venue. The Maker agrees that any action on this Note must be brought in a court of appropriate jurisdiction in Clark County, Washington.

18. Maximum Interest. Notwithstanding any other provisions of this Note, any interest, fees, or charges payable by reason of the indebtedness evidenced by this Note shall not exceed the maximum permitted by law.

19. The parties intend for this Amended Promissory Note to fully replace the January 18, 2006 Promissory Note between the parties.

MAKER:

  
\_\_\_\_\_  
DAWN M. NIELSON

  
\_\_\_\_\_  
KENT O. NIELSON

  
\_\_\_\_\_  
PENNY A. EDLUND

KDP, LLC

By: Penny Edlund  
Its: managing member

Unofficial  
Copy