

THIS INDENTURE OF TRUST, made this 22nd day of June, 1989, by and between N.C.W.G., INC., a California corporation, as Trustor, and SEAN DOWLING, GEORGE FOSTER, SAMUEL GIRDLER, ALLAN HALEY, and MARION HOLLOWAY, as Trustees,

W I T N E S S E T H :

1. This Trust shall be known as the "NEVADA COUNTY CULTURAL PRESERVATION TRUST." The purpose of the trust is to foster and to promote culture and the arts among the people of Nevada County, to maintain Nevada County's historical heritage, as it relates to culture and the arts, and to establish, fund, own, maintain and operate facilities for the arts and for related cultural, historical and artistic non-profit organizations in Nevada County.

2. Trustor has deposited with Trustees the sum of One Dollar, together with other good and valuable consideration, to be held in perpetuity in trust upon the terms and conditions hereinafter set forth, for the continuous use and benefit of the CITY OF NEVADA CITY and the COUNTY OF NEVADA.

3. The initial Board of Trustees of the Trust shall consist of the individuals named in the preamble hereto, with further Trustees to be named as described in this paragraph. The first five trustees shall name two additional trustees as soon as

practicable, in their discretion, but in no event later than October 1, 1989. The number of Trustees shall continue to be seven unless and until modified by a vote of the Trustees in accordance with paragraph 12 below, but shall in no event be less than three. The Trustees in office from time to time shall appoint successor Trustees within ninety days of the date(s) on which vacancies occur, and in the event of their failure to do so, any Trustee or any beneficiary of the Trust may apply to a court of competent jurisdiction to appoint successor Trustees. Trustees shall serve for a term of five years, provided, that the first seven Trustees shall draw lots among themselves, or use any other suitable procedure, to determine which two of them shall serve initial terms of four and three years each, and which one of them shall serve an initial term of six, five, and two years, respectively. Exclusive of the initial staggered terms for periods of less than five years, trustees may be reappointed for a maximum of two consecutive terms in any twelve-year period. No trustee may be appointed or continue to serve who is at the same time serving (or who within the year preceding served) as an officer, director, member, or employee of any grantee or tenant for years of the Trust, or who is at the same time serving (or who within the year preceding served) as an official, council member, supervisor, or employee of the CITY OF NEVADA CITY, or of the COUNTY OF NEVADA.

4. The Trustees shall hold, manage and maintain real and personal property conveyed to the Trust for the uses and

purposes, and for the benefit of the named beneficiaries, above set forth. In their discretion, the Trustees may charge and collect suitable rents and fees for use and occupancy of the real and personal property in the Trust, and give appropriate credits against rents due for services, improvements, goods, or other value received from tenants; may invest and reinvest rents and other income of the Trust, and any other monies or securities or assets conveyed to the Trust, in such property, real, personal, or mixed, and in such manner as they deem proper, and from time to time change investments as they deem advisable; may invest in or retain or exchange securities, money market and mutual funds, bonds, notes, or obligations, and any other investments in which trustees are permitted to invest under the laws of the State of California; may buy, sell, lease, option, pledge, mortgage and hypothecate Trust real and personal property may make such contracts and enter into such undertakings, insurance, bonds, sureties and other arrangements relating to the Trust property and purposes, as they shall deem advisable; may borrow money for such periods, at such rates of interest, and on such terms as the Trustees consider advisable; may own, operate, and manage such business enterprises as are incidental, necessary, or beneficial to the stated purposes of the trust or trust property, including theatres, restaurants, cafes, bars, concessions, boutiques, to the extent compatible with the trust's non-profit status; and may exercise fully, as though expressly set forth herein, any other power that is, usual or customary for trustees of public

charitable trusts, or that is necessary or incidental to the powers set forth above, or that is otherwise permitted to trustees under California law applicable at the time of the exercise of the power. Trustees shall from time to time, and in such amounts as in their discretion trustees shall deem proper, devote and apply the trust fund and income thereof exclusively to the charitable uses and purposes described above, either by means of direct expenditures for the benefit of assets in the Trust, their preservation, protection, rehabilitation, remodeling, refurbishing, development and management, or by means of contributions, grants, gifts and other dispositions to any charitable corporation, trust, community chest, fund or foundation which at the time of the contribution by trustees is one of those organizations specified in the Internal Revenue Code of the United States, contributions to which are deductible for income tax purposes. In carrying out their duties and the purposes of this Trust as above set forth, the Trustees are empowered to contract with and employ such staff and such professional advisers and consultants, and upon such terms, as they shall in their discretion deem advisable.

5. Trustees shall not loan any Trust funds to any person or entity that is not a tax-exempt charitable organization under section 501(c)(3) of the Internal Revenue Code (or under any successor provision), and shall not loan any Trust funds even to any such tax-exempt charitable organization unless the Trustees have independently determined that the making of such loan will

further, and not hinder, the purposes for which the Trust has been formed and which it is obligated to carry out under this indenture of trust.

6. The trust funds and property, and the income thereof, shall be devoted exclusively to the purposes described above and shall in no part and in no event be given or contributed to or inure to the benefit of any private person or corporation, except to the extent of a reasonable compensation for services duly performed. No part of the trust funds shall be used to carry on propaganda or otherwise attempt to influence legislation, or to participate in any political campaign, or to carry on any other activity not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Revenue Code or under any successor provision.

7. Either the Trustor or any other person or organizations may, from time to time, make additional gifts of money or property to the Trust to become part of the trust fund; but no gift, bequest or devise shall be received or accepted if it is conditioned or limited in such manner as to require the disposition of the income or its principal: (a) to any person or organization other than a charitable organization that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or under the corresponding section of any future federal tax code; or (b) for other than the charitable purposes which this Trust is then furthering, pursuant to said section 501(c)(3) or any successor provision; or (c) for any use or

purpose as shall, in the opinion of the Trustees, jeopardize the federal or state income tax exemption of this Trust under said section 501(c)(3), or under any comparable provision of state law or of any future federal tax code. In their discretion, the Trustees may also decline any gift, bequest, offer or devise which in their judgment is not suitable for trust purposes, is impractical to manage, or is otherwise deemed incompatible with the trust for any reason.

8. Trustees shall be chargeable only with the exercise of good faith in carrying out the provisions of the trust. Trustees shall not, in the absence of bad faith, be responsible or accountable for error of judgment in making contributions and gifts pursuant to the provisions of paragraph 4 above, or in otherwise carrying out their duties and obligations under this trust. A trustee may be removed in advance of the expiration of his or her regular term only for cause shown in a proceeding instituted by the remaining Trustees or by a beneficiary of the Trust pursuant to Probate Code Section 17200, or any successor provision of California law. No bond shall be required from any person serving as Trustee, but nothing herein shall preclude the Trustees from bonding employees and agents of the Trust, including themselves.

9. Trustees shall be reimbursed by the Trust for all expenses reasonably incurred by them in the administration of the Trust, but shall serve without compensation for their services in administering this Trust. No compensation shall be paid to any

Trustee for professional services rendered separately to the Trust unless pursuant to a contract approved in advance by all of the remaining Trustees, and then only if in the opinion of outside counsel such contract does not jeopardize the tax-exempt status of the Trust or subject it to the likelihood of a claim on any reasonable basis to void the contract.

10. A quorum of the Trustees shall consist of a majority of the Trustees then sitting, and except as set forth below, the actions of a majority of those Trustees attending a meeting where at least a quorum is present shall be conclusive and binding on all Trustees and upon the Trust. In making any decision to convey, sell, mortgage or pledge property of the trust, to borrow funds, to lease or to let for more than five years, or to contract for any services for more than one year or for any obligation or in any amount exceeding five percent (5%) of the net worth of the trust as shown in its most recent financial statement, the vote of a majority of all Trustees then holding office, whether or not present, shall be required. Evidence of such majority actions shall be in writing and shall be kept in permanently available form. To the maximum extent feasible with the orderly and businesslike conduct of the trust, meetings of the Trustees shall be regularly and publically noticed, and shall be generally open to the public, though the Trustees may meet in closed session as necessary to consider confidential matters.

11. Annually before June 30 of each year, the Trustees shall cause to be prepared and filed with the CITY OF NEVADA

CITY, as a public record, and in addition to any periodic filings required by any other government or entity, a balance sheet and an accounting of all of their receipts and disbursements on behalf of the Trust, and of any gains and losses over the previous calendar year, and shall furnish copies thereof to any other Trust beneficiary requesting the same. Within sixty days of the date of transmittal of such annual accounting, any Trust beneficiary may request in writing a meeting with the Trustees to review the accounting or of the reasonableness of any disbursement therein disclosed. The Trustees shall set a date for meeting with representatives of the requesting beneficiary within thirty (30) days of the receipt of such request. Notification of the meeting shall at the same time be made public and be given to all of the other Trust beneficiaries, who shall have the right to attend and to participate. If the concerns of any beneficiary be not satisfied by the actions of the Trustees following such meeting, such beneficiary may request of the Attorney General of the State of California, or of a court having jurisdiction in a proceeding pursuant to Section 17200 of the Probate Code, a review of the accounting, or of the reasonableness of any disbursement therein disclosed. In any such review, the final decision of the Attorney General, or of any court having jurisdiction of the matter, shall be binding upon the Trust. The foregoing rights shall be in addition to any other rights afforded to the beneficiaries and other public organizations with respect to charitable trusts under the laws of the State of California.



12. This Declaration of Trust may be amended: (a) by a vote of the Trustees only with the written consent of the beneficiaries of the Trust; (b) pursuant to a final order of any court having jurisdiction over the Trust; or (c) by a simple vote of the Trustees, if such vote is to modify the number of Trustees to another odd number (provided, that no amendment may be made under this clause which reduces the number of Trustees to less than three, or which changes their number to an even number), or if in the opinion of counsel such amendment is necessary to bring the Trust into compliance with Federal or State tax laws, rules or regulations, or does not affect in any substantial way the rights of any beneficiary of the Trust. Gifts made to trustees and accepted shall be irrevocable, and the duration of this Trust shall be perpetual. However, if in their discretion the Trustees determine that the purposes and objects of this Trust cannot be achieved or accomplished, or if it shall be determined by the Internal Revenue Service, subsequent to the creation of this Trust and the transfer of any funds or property to the Trustees by the donor or any other person, that the Trust is not exempt from the payment of income tax upon its income or that the donors to the fund are not entitled to charitable deductions for income tax purposes for contributions made thereto in the manner and to the full extent provided by the Internal Revenue Code, then any property or other gifts as remain in the Trust at the time of such determination shall be given by the Trustees to a qualified tax-exempt charitable organization (under said section 501(c)(3)

or any successor provision of the Internal Revenue Code), or to the federal, state or any local government, for a public purpose, which organization or government shall be selected by the Trustees to best carry out the purposes of this Trust. This Trust shall thereupon terminate.

In witness whereof, the parties hereto have signed and sealed this instrument the 22nd day of June, 1989.

TRUSTOR: N.C.W.G., INC.

Sandra J. Woods  
SANDRA J. WOODS

TRUSTEES:

Sean Dowling  
SEAN DOWLING

George Foster  
GEORGE FOSTER

Marion Holloway  
MARION HOLLOWAY

Allan Haley  
ALLAN HALEY

Samuel Girdler  
SAMUEL GIRDLER

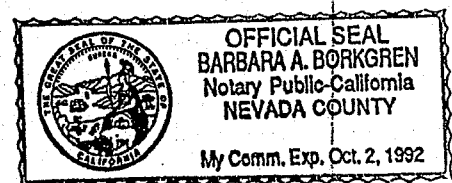
STATE OF CALIFORNIA )  
COUNTY OF NEVADA ) ss.

On JUNE 22, 1989, before me, the undersigned, a Notary Public in and for said State, personally appeared GEORGE FOSTER

known to me to be the person(s) whose name(s) IS subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

Barbara A. Borkgren  
BARBARA A. BORKGREN



THIS FIRST AMENDMENT to that certain Indenture of Trust originally made by and among N.C.W.G., Inc., as Trustor, and Sean Dowling, George Foster, Samuel Girdler, Allan Haley and Marion Holloway, as Trustees, and dated June 22, 1989, is now made this 14th day of February, 1990, by and with the advice of counsel, pursuant to Article 12 of said Indenture of Trust, for the purpose of adding at the request of the California Board of Equalization language clarifying, but not changing in substance, the charitable purposes of the Trust; so that the following Amendments are deemed to state explicitly terms that have been implicit in the Trust since its inception, to wit:

THE TRUSTEES DO HEREBY AMEND Article 4 of the said Indenture of Trust dated June 22, 1989, by changing the first sentence thereof to read: "The Trustees shall hold, manage and maintain all property of whatever kind conveyed to the Trust as irrevocably dedicated to charitable and educational purposes only, which in addition meet the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, or any successor provision thereto, for the benefit of the above-named beneficiaries."

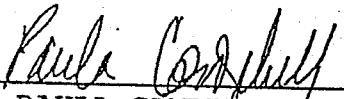
THE TRUSTEES DO HEREBY ALSO AMEND Article 7 of the said Indenture of Trust dated June 22, 1989, by changing the first sentence thereof to read: "Either the Trustor or any other person or organization may, from time to time, make additional gifts of money or property to the Trust to become part of the trust fund; but no gift, bequest or devise shall be received or accepted if it is conditioned or limited in such manner as to require the

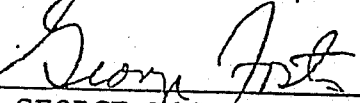
disposition of the income or principal thereof: (a) to any person or organization other than a charitable organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, or under the corresponding section of any future federal tax code; and (b) for other than the charitable and educational purposes meeting the requirements for exemption provided by both said Section 501(c)(3) and by Section 214 of the California Revenue and Taxation Code, or any successor provisions thereto; or (c) for any use or purpose as shall, in the opinion of the Trustees, jeopardize the federal or state income tax exemption of this Trust or its property under said sections 501(c)(3), 214, or under any comparable or successor provisions of federal or state laws and regulations."

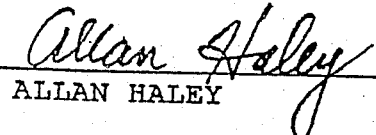
THE TRUSTEES DO ALSO HEREBY AMEND Article 12 of the said Indenture of Trust dated June 22, 1989, by changing the next to last sentence thereof to read: "However, if in their discretion the Trustees determine that the charitable purposes and objects of this Trust cannot be achieved or accomplished, or if it shall be determined by the Internal Revenue Service, subsequent to the creation of this Trust and the transfer of any funds or property to the Trustees by the Trustor or any other person, that the Trust is not exempt from the payment of income tax upon its income or that the donors to the Trust are not entitled to charitable deductions for income tax purposes for contributions made thereto in the manner and to the full extent provided by the Internal Revenue Code, then any property or other gifts as remain in the Trust at the time of such determination shall be given by the

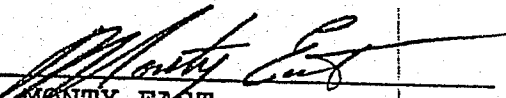
Trustees to a qualified entity which is organized exclusively for charitable purposes, or for charitable and educational purposes meeting the requirements for exemption provided by Section 214 of the California Revenue and Taxation Code, or any successor provision, and which has established its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, or any successor provision under any future federal tax code; or to the federal, state, or any local government, for exclusively charitable purposes (or for charitable and educational purposes meeting the requirements for exemption under said Section 214, or any successor provision); which entity or organization shall be selected by the Trustees to best carry out the purposes of this Trust as set forth above."

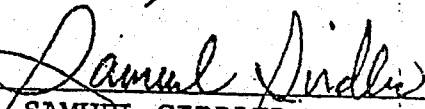
IN WITNESS WHEREOF, the Trustees now in office have executed this First Amendment to Indenture of Trust this fourteenth day of February, in the year 1991, at Nevada City, California.

  
PAULA CAMPBELL

  
GEORGE FOSTER

  
ALLAN HALEY

  
MONTY EAST

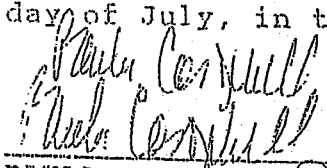
  
SAMUEL GIRDLER

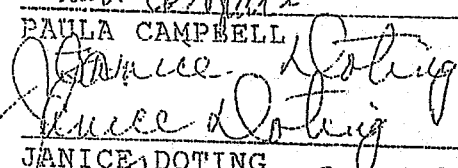
  
MARION HOLLOWAY

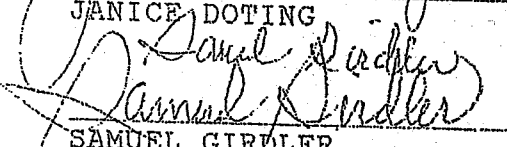
THIS SECOND AMENDMENT to that certain Indenture of Trust, originally made by and among N.C.W.G., Inc., as Trustor, and Sean Dowling, George Foster, Samuel Girdler, Allan Haley, and Marion Holloway, as Trustees, and dated June 22, 1989, is now made <sup>effective as of the</sup> ~~this~~ 16th day of <sup>June</sup> ~~July~~, 1993, by and with the advice of counsel, pursuant to Article 12 of said Indenture of Trust, for the purpose of modifying the number of Trustees to another odd number, by changing the wording, but not changing in substance, the charitable purposes of the Trust; so that the following Amendment is deemed to state explicitly what is changed, to wit:

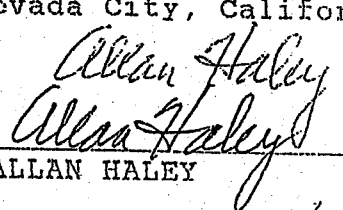
THE TRUSTEES DO HEREBY AMEND Article 3 of the said Indenture of Trust dated June 22, 1989, by changing the third sentence thereof to read: "The number of Trustees shall be <sup>by July 31, 1994</sup> increased from the original seven to fifteen unless and until modified by a vote of the Trustees in accordance with paragraph 12 below, but shall in no event be less than three."

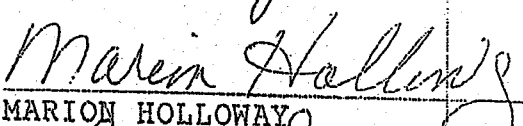
IN WITNESS WHEREOF, the Trustees now in office have executed this Second Amendment to Indenture of Trust this sixteenth day of July, in the year 1993, at Nevada City, California.

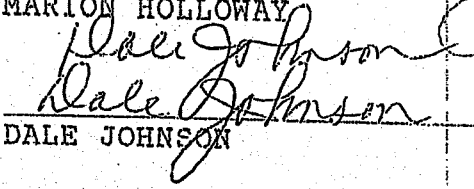
  
PAULA CAMPBELL

  
JANICE DOTTING

  
SAMUEL GIRDLER

  
ALLAN HALEY

  
MARION HOLLOWAY

  
DALE JOHNSON

*Robert Liddle*  
*Robert Liddle*  
ROBERT LIDDLE

*Gregory Seghezzi*  
GREGORY SEGHEZZI

*Robert Stone*  
*Robert Stone*  
ROBERT STONE  
*Robert Swanson*  
ROBERTA SWANSON

STATE OF CALIFORNIA )  
COUNTY OF NEVADA ) ss.

On \_\_\_\_\_, before me, the undersigned, a Notary  
Public in and for the said State, personally appeared

known to me to be the person(s) whose name(s) \_\_\_\_\_  
subscribed to the within instrument and acknowledged that they  
executed the same.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

Name (Typed or Printed) \_\_\_\_\_

STATE OF CALIFORNIA )  
COUNTY OF NEVADA ) ss.

On \_\_\_\_\_, before me, the undersigned, a Notary  
Public in and for the said State, personally appeared

known to me to be the person(s) whose name(s) \_\_\_\_\_  
subscribed to the within instrument and acknowledged that they  
executed the same.

WITNESS my had and official seal.

Signature: \_\_\_\_\_

Name (Typed or Printed) \_\_\_\_\_