

TRUST AGREEMENT

THIS AGREEMENT made and entered into by and between the Whitman County Historical Society, a non-profit corporation of the State of Washington, Trustor, and B. Joan Hubbard, Harold S. Herman, and Lawrence Hickman, Trustees, WITNESSETH:

1. Trustor does hereby create a charitable trust to be known as the Whitman County Historical Society Trust for the purpose and as a means of providing Trustor with an irreducible endowment fund to provide income to fund its activities and operations, particularly to enable it to establish and operate a public museum serving and of interest to the entire county of Whitman.

2. Said Trustor does hereby appoint B. Joan Hubbard for a term ending December 31, 1989, Harold S. Herman for a term ending December 31, 1988, and Lawrence Hickman for a term ending December 31, 1987, (all of whom are members of the Whitman County Historical Society and none of whom is an officer or director thereof), as joint Trustees of the said Whitman County Historical Society Trust.

3. The Trust property shall consist of the sum of \$100.00 to be forthwith paid to said Trust concurrent with the execution of this agreement, plus such other money and property of every kind and nature as may be from time to time conveyed, transferred, and/or paid to said trust from any and all sources, and including all of the rents, issues, interest, profits, and proceeds thereof, provided that said Trustees in their discretion may require that all gifts and donations for said endowment fund be made to the Trustor and by it transferred to the Trustees.

4. The said Trustees each hereby join herein and each hereby accepts said Trust and agrees to act as a joint Trustee in accordance with the terms and provisions hereof and to accept, hold, manage, and care for all of the Trust property, including any and all additions thereto which may be hereafter made, all of which shall be held for the uses and purposes and in the manner hereinafter set forth and in accordance with the terms and provisions hereof.

5. All of the said Trust property, now or hereafter acquired, shall be held by said Trustees for the exclusive use and benefit of the Whitman County Historical Society, the Trustor

herein, and such successor beneficiaries as may be hereinafter provided. No portion of the corpus of the Trust shall be paid, transferred, or conveyed to any beneficiary, it being the intent of the parties hereto that the corpus of the Trust shall constitute an endowment fund from which only the income, as hereinafter defined, shall be distributed to any Trust beneficiary excepting only distributions made in the event of a termination of the Trust.

6. So long as the Trustor, Whitman County Historical Society, shall continue to exist, said Trustees shall hold all of the Trust property and all income therefrom in accordance with the terms and provisions of this agreement for the use and benefit of said Society and/or such other beneficiaries as may be entitled thereto under the terms and provisions of this agreement.

7. The expenses of the said Trust and of said Trustees in the care, handling, and protection of the Trust property, taxes, and other obligations of the said Trust shall be a first claim against the property of the said Trust (including both the income and corpus) to be deducted from the income of the Trust prior to the payment of any income to any Trust beneficiary. Said Trustees shall be allowed all of their reasonable expenses incurred in the management and handling of the Trust property to and including the distribution thereof. The cost of obtaining facts, information, and investment assistance and advice for the making of investments shall be such an expense. No compensation shall be paid to any of said Trustees or to any individual acting as a successor to any of said Trustees. Provided, however, that when authorized in writing by the Board of Directors of the Whitman County Historical Society said Trustees may each be paid such fee from the Trust income as may be so authorized. All amounts so paid shall be charged against income.

8. All net income received by the Trust after payment of all expenses, as aforesaid, shall be paid within 30 days after the end of each calendar quarter to the Whitman County Historical Society provided that said Trustees may in their sole and absolute discretion retain up to and including 20% thereof to be held as a part of the corpus to offset any past capital loss and/or as a reserve for any future capital loss to assure the preservation of the Trust corpus and a reserve for Trust expenses. Net income

shall be determined in accordance with generally accepted accounting principles exclusive of capital gains and losses and distributions of income. Except where in conflict with the provisions here, the Washington Principal and Income Act, R.C.W. 11.104, shall govern provided that where there may be reasonable difference of opinion as to what is principal and what is income, the Trustees may, in their sole and absolute discretion, allocate the receipts to income or corpus or in part to each. In so doing, the Trustees shall bear in mind that it is intended that the corpus of the Trust fund be fully maintained at all times and that a reasonable amount of appreciation is desired whenever obtainable with due consideration of the income requirements of the Whitman County Historical Society.

9. Capital gains and losses shall be added to or deducted from the Trust corpus provided that in the event the retention of any capital gain may result in a Trust income tax liability to the Internal Revenue Service said Trustees may in their sole and absolute discretion distribute the same as additional distributable income to the extent necessary to eliminate any taxable income otherwise subject to income tax to be paid by the Trust. In the event that the Trust operations (exclusive of capital gains and losses) for any calendar quarter shall result in a net loss, said loss shall be deducted from the income of the following quarter or quarters in the determination of distributable net income. If not fully eliminated in the following quarter, the same shall be carried forward to the succeeding quarter or quarters until entirely eliminated. It is intended that no distribution of Trust corpus shall be made during the duration of the Trust except that distributions of capital gains may be made to avoid payment of income tax, as aforesaid.

10. Said Trustees shall have the full and absolute management of all of the Trust property with the sole and absolute discretion to pledge, sell, mortgage, assign, lease, convey, liquidate, trade, and exchange all of the Trust property. They shall also have such additional power and authority as may be provided by law, particularly R.C.W. 11.98.070, and not inconsistent with this agreement. Said Trustees shall not purchase corporation and/or municipal bonds unless those purchased have a rating by a nationally accepted ratings organization such as Moodys of A or better or the equivalent thereof. No common or

preferred stocks or mutual funds shall be purchased unless regular dividends have been paid thereon for at least 5 consecutive years immediately prior to purchase. No business shall be engaged in by the Trust. The investment of Trust money or property and/or the sale thereof shall not be considered a business for the purposes of this agreement. No general partnership interest shall be acquired. Said Trustees in the handling of the Trust assets shall do so as prudent investors and not as market speculators. The parties hereto are fully aware that many stocks frequently purchased by prudent investors involve some element of speculation. It is not intended herein to bar all risk taking, only that which prudent investors in the investment of their own funds would avoid. It is intended that the acquiring of assets producing no current income or substantially none for the primary purpose of making gains from changes in market price shall not be engaged in, examples being the purchase of commodity futures and stock options, together with any and all outright gambling and wagering activities.

11. In view of the fact that distributable income is not to include capital gains, said Trustees shall make no investment primarily for the purpose of obtaining capital gains. Nevertheless, so long as a reasonable current return can be obtained, said Trustees shall give prudent consideration to the capital gain potential of any investment in arriving at an investment decision and they may accept a reasonable lower current income where justified by the appreciation possibilities.

12. Said Trustees in their sole and absolute discretion may purchase real and/or personal property and make the same available for use and possession by the Whitman County Historical Society at no charge other than such as may be incident to the expense arising in connection therewith such as, but not exclusive of, taxes, insurance, and repairs.

13. In the making of any Trust investment, the Whitman County Historical Society may make such suggestions and requests as it may desire and Trustees shall give the same their good faith consideration.

14. Said Trustees are authorized to execute proxies on securities held in Trust and to join in any reorganization plan and to deposit securities with any bondholder committee and participate in assignments for benefit of creditors. In addition,

with all sales, transfers, leases, pledges, mortgages and purchases made annually to the Whitman County Historical

said Trustees are hereby authorized to bring any action for the collection of any money due the Trust or to collect any Trust property, and to preserve and/or protect any Trust property, and to settle and/or compromise any dispute, claim, account, chose in action, or lawsuit, together with the right to appear and defend all actions relating to said Trust and Trust property.

15. Except as may be specifically otherwise stated herein, said Trustees shall have all of the power and authority given by the laws of the state of Washington pertaining to Trustees and said Trustees shall be subject to and comply with all the provisions thereof except as may be otherwise specifically provided herein or as may be in conflict with the provisions hereof. Except as may be lawfully otherwise provided herein, said Trustees shall comply with all laws pertaining to said Trust.

16. Said Trustees shall keep written records and accounts of all of the Trust receipts and expenditures, investment transactions, assets and liabilities adequate to enable an auditor to verify the accuracy of the same and to determine net income or loss, assets, liabilities, and net worth, together with such other records as the Whitman County Historical Society Board of Directors may in writing direct. All of the said records shall be available for inspection at any reasonable time by any officer of said Society or successor beneficiary and by any auditor acting in behalf of the said Society or of any Trust beneficiary. Said records shall be audited annually following the end of each calendar year by an auditor selected and employed by the said Society. A copy of the audit shall be furnished to both Trustor and the Trustees.

17. No Trust money or property shall be co-mingled with the individual property of any Trustee nor shall the property of any Trustee be loaned, leased, transferred or sold to the trust, any trust beneficiary, any officer or director of any corporate beneficiary and/or any member of the immediate family of any such individual. Said Trustees shall not borrow, lease, or buy any property from the trust, any Trust beneficiary, and/or any officer or director of any corporate beneficiary and/or of any immediate family relative of any of said parties. The provisions of this paragraph may be waived by the Whitman County Historical Society in writing.

18. An annual report in writing of all the receipts, expenditures, assets, and liabilities of said Trust property together

with all sales, transfers, leases, pledges, mortgages and purchases shall be made annually to the Whitman County Historical Society and to any beneficiary succeeding to the right of the said Society to the distribution of income. Said reports shall be made within 60 days after the end of each calendar year. No other reports to the Trustor or any beneficiary shall be required but full information shall be promptly given as to any Trust property or business with respect to all reasonable inquiries of the Whitman County Historical Society or of any successor beneficiary.

19. No Trustee shall be held personally liable for any loss arising from any act and/or failure to act as Trustee as long as said act and/or failure to act is in good faith with honest judgment, involves the use of reasonable care and diligence, and does not involve a deliberate violation of this agreement. No Trustee shall be held as assuring the success of any investment or management decision. Every Trustee may rely with acquittance on the advice of legal counsel on questions of law and upon professional investment advisors as to investments. No successor Trustee shall be held for the acts of his predecessor nor held to question any account, record, or report issued prior to his qualification as Trustee.

20. No bond shall be required of any Trustee unless requested in writing by the Whitman County Historical Society or a successor beneficiary of said Society. In the event a bond is required, the cost thereof shall be a part of the Trust expenses. It shall also be a proper Trust expense to pay the cost of any errors and omissions insurance which said Trustees may reasonably deem advisable to purchase.

21. Neither the income from said Trust estate or any part thereof, whatsoever, or the principal fund shall be liable for the debts, present or future, of the Whitman County Historical Society or of any subsequent beneficiary of the said Trust and the same shall not be subject to the right on the part of any creditor or any beneficiary to be seized or reached under any writ or by any proceeding at law or in equity. No right of disposition of any Trust property shall vest in any beneficiary until the same shall have been actually transferred or paid.

22. In the event that the Whitman County Historical Society shall cease to exist and/or in the event that said Society no

longer maintains and operates any of the following, being the Perkins House in Colfax, Washington, the Roy Chatters Printing and Newspaper Museum in Palouse, Washington, and any museum or other historical property hereafter acquired and maintained and operated by said Society, then and in that event, all income to which the said Society would otherwise be entitled to under the terms and provisions of this agreement shall be paid to such organization exempt from payment of income tax as may then be maintaining and operating the said facilities for the benefit of the public or may be carrying on the activities and projects of said Society for the benefit of the public. If more than one organization is involved, said Trustees shall in their sole and absolute discretion pay said income to each of said organizations in such portion as they may determine in taking into consideration the financial requirements involved in the operation and maintenance of said projects, provided that if through some unforeseeable event said property has ceased to exist, such as through destruction by fire, and said Trustees determine in their sole and absolute discretion that the same cannot be replaced or that it is not economically practical to do so, said Trustees may cease to pay any portion of the Trust income to any organization for that purpose.

23. Said Trustees shall act jointly and no action shall be taken or decision made unless at least two Trustees concur therein. In the event that only one Trustee is capable or available to act upon any Trust matter, said sole Trustee is authorized alone to take any action necessary for the preservation of the Trust property but not including the authority alone to make any new investment and/or to liquidate any existing investment not due and/or matured. For the purposes of this paragraph, the depositing of money in any interest bearing bank account subject to withdrawal upon demand and/or within 30 days of any demand, shall not be deemed an investment.

24. Nevertheless, the Trustees may in writing authorize among themselves any one of them acting alone to perform any ministerial act or to carry out and implement any decision made by them or a majority of them. Said Trustees are hereby specifically authorized to utilize all powers granted to Trustees under the provisions of R.C.W. 11.98.070(31) of the laws of the State of Washington.

25. In the event of the death or disability of any Trustee or upon any Trustee ceasing to act as a Trustee, a successor shall be appointed to serve for the remainder of the term of the preceeding Trustee. So long as said Society shall continue to exist, all successor Trustees shall be members thereof and not be an officer or director of Trustor. Any Trustee may be reappointed to serve an additional three years immediately following the expiration of his or her term. If not reappointed, a successor shall be appointed to serve for a term of three years. All appointments of Trustees shall be made by the Board of Directors of the Whitman County Historical Society so long as said Society may continue to exist and function as a society. If said Society ceases to exist and/or no longer functions as a society, appointments of Trustees shall be made by such organization or organizations as may succeed said Society as a Trust beneficiary or beneficiaries. In the event that there is no such organization or said organization fails or refuses to make an appointment, all Trustees shall be appointed by the Superior Court of Whitman County, State of Washington, upon application of any Trustee or interested party. Any Trustee hereafter appointed, prior to assuming any duty as Trustee, shall execute and file with the secretary of the Whitman County Historical Society or with such other appointing authority as may have made the appointment, an affidavit agreeing to act as a Trustee and to comply with the terms and provisions of this agreement, together with any amendment hereof. A duplicate original of said affidavit shall be filed and kept with the Trust records.

26. Any Trustee upon the expiration of the term of his appointment shall, nevertheless, continue to be an authorized and acting Trustee until a successor Trustee has been appointed and qualified as aforesaid. Any Trustee may be removed as a Trustee and a successor appointed by the Whitman County Historical Society for failure to perform the duties of a Trustee and/or to do so competently. Any such removal shall be made by the giving of a written notice of removal, a duplicate copy of which shall be delivered to each of said Trustees, including the Trustee being removed. Any such notice shall set forth the reason for and effective time of said removal. A Trustee may resign by the execution of a written resignation executed in duplicate one copy of which shall be delivered to said Society and one copy deli-

vered for the Trust records. Any such resignation shall not be effective until accepted by said Society.

27. Said Trust is intended as a charitable trust exempt from income tax under the Internal Revenue Code. As such its duration may be perpetual. Nevertheless, in the event that the Whitman County Historical Society shall cease to exist and in the further event that there is no successor organization carrying on the work of the Society or any portion thereof, as hereinbefore set forth, the then existing Trustees, upon determining that the purposes of this Trust can no longer be reasonably accomplished, may terminate this Trust and after the payment of all Trust obligations and expenses they shall distribute all remaining Trust property whatsoever to Whitman County, State of Washington, to be used exclusively in furtherance of local historical purposes and for the preservation of historical artifacts and properties for the use and benefit of the public. Said Trust herein created shall thereupon cease to exist.

28. Should any question as to the interpretation of this agreement arise during the existence of the Whitman County Historical Society, then by joint agreement of the Trustees then in office with said Society this agreement may be amended to clarify the intent and meaning of any provision herein. Also, in the event that this agreement is found to be deficient, some necessary provision is found to have been omitted, or some change is desirable to better accomplish the purposes for which this agreement is made, then in any such event this agreement may be amended by the joint agreement of said Society and/or any successor beneficiary or beneficiaries and the then existing Trustees. No such agreement, clarification or amendment shall change any of the purposes for which the said fund is to be used though the Trust beneficiary may be changed. If it should be determined by said Society and said Trustees that the purposes for which this agreement is entered into can no longer be served or upon it being determined by said Society and Trustees that said purposes can better be served in some other way and/or handled in a more efficient, better, or more practical way, this agreement may be modified and/or said Trust terminated with distributions to be made as then agreed, so long as all of the Trust property is kept as an endowment fund to be held for and used for charitable and/or public purposes in furtherance of the

purposes of the Whitman County Historical Society and of this agreement. Any such modification or change may provide for the establishment of a new or different fund for said purposes to be held and managed in such manner as may then be agreed upon but with the corpus of the fund to be held and not distributed except upon a termination.

29. The administration of said Trust shall be kept within the State of Washington and not transferred elsewhere. No real estate or tangible personal property shall be acquired or kept outside the State of Washington, except when acquired by gift. All legal proceedings involving Trust administration shall be held in the Superior Court of Whitman County, State of Washington.

All of the provisions hereof pertaining to the Whitman County Historical Society shall apply to any successor beneficiary of the Trust property and to any and all Trustees hereafter appointed.

EXECUTED in duplicate this 18th day of May, 1986.

WHITMAN COUNTY HISTORICAL SOCIETY

By Walter N. Nelson
Walter N. Nelson, President

ATTEST:

Vivian M. Hamm
Vivian M. Hamm, Secretary

B. Joan Hubbard

Harold S. Herman

Lawrence Hickman

STATE OF WASHINGTON)
County of Whitman) ss.

On this day personally appeared before me Walter N. Nelson, to me known to be the President of the Whitman County Historical Society, a Corporation of the State of Washington, the Corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the said corporation has no corporate seal.

GIVEN under my hand and official seal this 18th day of May,
1986.

K. B. Mykelbust
NOTARY PUBLIC in and for the State
of Washington, residing at Pullman.

STATE OF WASHINGTON)
 : ss.
County of Whitman)

On this day personally appeared before me B. Joan Hubbard, to me known to be the individual described herein, 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 set forth.

GIVEN under my hand and official seal this 12th day of May, 1986.

LS

Don McKune
NOTARY PUBLIC in and for the State
of Washington, residing at Colfax.

STATE OF WASHINGTON)
 : ss.
County of Whitman)

On this day personally appeared before me Harold S. Herman, to me known to be the individual described herein, who executed the within and foregoing instrument and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 12TH day of May, 1986.

William Fox
NOTARY PUBLIC in and for the State
of Washington, residing at 615 E. 4th

STATE OF WASHINGTON)
 : ss.
County of Whitman)

On this day personally appeared before me Lawrence Hickman, to me known to be the individual described herein, who executed the within and foregoing instrument and acknowledged that he signed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 12th day of May, 1986.

Karen L. Carter
NOTARY PUBLIC in and for the State
of Washington, residing at Colfax