

## **DEED OF EASEMENT**

**THIS DEED OF EASEMENT**, made as of this \_\_ day of \_\_\_\_\_, 200\_, by and between \_\_\_\_\_, (the "Grantor"), and the MARYLAND HISTORICAL TRUST, an instrumentality of the State of Maryland (the "Grantee").

**WHEREAS**, Grantee is a body corporate and instrumentality of the State of Maryland created for the purpose generally of preserving and maintaining historic, aesthetic and cultural properties, all as is more particularly provided for by law; and

**WHEREAS**, the real property as hereinafter described (the "Property") has substantial historic, aesthetic and cultural character and this Deed of Easement (this "Deed") will promote the preservation and maintenance of the Property and its historic, cultural, scenic and aesthetic character; and

**WHEREAS**, Grantee is possessed with the power and duty to accept, hold and administer this Deed; and

**WHEREAS**, Grantee has determined that this Deed is exclusively for conservation purposes.

**NOW, THEREFORE**, in consideration of the foregoing recitals, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grantor hereby grants and conveys to Grantee with Special Warranty of Title an easement (the "Easement") in all of [that][those] certain lot[s] or parcel[s] of land known as [the] \_\_\_\_\_ property, together with all of the improvements thereon, and appurtenances, rights and interests thereunto belonging, which is situate, lying and being in \_\_\_\_\_ County, State of Maryland, and which is more particularly set forth in Exhibit B, attached hereto and incorporated herein.

2. Exhibit A consists of \_\_ pages and includes as page 1 a schedule (which is recorded with this Deed) describing the documents, photographs of selected portions of the Property, and other things that are not recorded herewith but are nonetheless as fully and completely incorporated by reference into this Deed as though recorded herewith. [Grantor acknowledges that Exhibit A may be modified and updated upon the conclusion of the restoration of the Property.]

3. The terms of the Easement are as follows:

(A) Duration and Nature of the Easement. The Easement shall be perpetual in duration. The parties agree that it is and shall be considered an easement in gross and as such is inheritable and assignable and runs with the land as an incorporeal property interest in the

Property enforceable by Grantee and its successors, transferees and assigns with respect to the Property and against Grantor and Grantor's heirs, successors, transferees and assigns, all of whom are collectively referred to herein as "Grantee" and "Grantor", respectively. The Easement is subject to any and all presently existing valid encumbrances, easements and rights-of-way upon the Property.

(B) Public Access. Grantor shall make the Property open to the public on a minimum of 5 days per year from 10:00 a.m. to 5:00 p.m., or the equivalent of 35 hours a year, and at other times by appointment as may be determined by Grantor.

(C) Maintenance and Administration. Grantor shall keep and maintain the Property, including the [Exterior] [Interior] [Exterior and Interior] (as hereinafter defined) of the improvements thereon, in good, clean and safe condition. Grantor shall maintain, repair and administer the Property and the [Exterior] [Interior] [Exterior and Interior] of the improvements thereon in a manner to preserve the historic, aesthetic and cultural character and appearance of the Property and the improvements thereon as shown and described in Exhibit A. The maintenance, repair and administration of the Property and the [Exterior] [Interior] [Exterior and Interior] of the improvements thereon shall further conform to the requirements of Paragraph D below. This covenant does not require reconstruction of any improvements which are destroyed in whole or in part by casualty loss unless insurance proceeds are available for such purposes.

(D) Changes and Alterations.

(i) Without the express written consent of the Director of the Maryland Historical Trust (the "Director"), Grantor shall not cause, permit or suffer any construction which would alter or change the Property or the [Exterior] [Interior] [Exterior or Interior] of any improvements thereon as described and depicted in Exhibit A, provided, however, that if damage has resulted to said [Exterior] [Interior] [Exterior or Interior] from casualty loss, deterioration or wear and tear, then the maintenance, repair, repainting or refinishing to correct the damage shall be permitted without such written permission of the Director, provided that such maintenance, repair, repainting or refinishing is performed in a manner that will not alter the appearance of such improvements upon conclusion of the restoration of the Property.

(ii) The term[s] [Exterior] [Interior] [Exterior and Interior] mean[s] the [exterior] [interior] [exterior and interior] surface[s] of an improvement on the Property including the architectural style, the general design and arrangement, the color, the kind and texture of the building materials and the type and style of all windows, doors, light fixtures, signs and other similar [exterior] [interior] [exterior and interior] features. The term construction shall include all construction, reconstruction, improvement, enlargement, painting and decorating, alteration, demolition, maintenance or repair of any structure or works.

(iii) Without the express written consent of the Director, [or as provided in paragraph 3(D)(iv) below,] no building, structure, or improvement may be constructed or erected on the Property other than those buildings, structures, or improvements which are as of the date of this

Agreement located on the Property, as described and depicted in Exhibit A.

[(iv) INSERT PERMISSIBLE CONSTRUCTION ACTIVITIES]

(E) Archeological Resources. Without the express written consent of the Director, Grantor shall not cause, permit or suffer any grading, excavation, plowing over 12 inches in depth, subsoiling, drainage improvement, or other undertaking which would materially disturb the surface or subsurface of the ground. Prior to granting such consent, the Director may require the Grantor to perform a survey in order to identify and determine the significance of archeological deposits. If subsequently deemed necessary by the Director, the Grantor shall conduct data recovery, excavation, curation, documentation and reporting of the affected deposits, all in a form and substance satisfactory to the Director.

(F) Inspection. Grantee shall have the right to enter the Property on reasonable notice to Grantor for the purpose of inspecting the Property to determine whether there is compliance by the Grantor with the terms of the Easement.

(G) Breach by Grantor. Upon any breach of the terms of the Easement by Grantor, Grantee may, after reasonable notice to Grantor, exercise any or all of the following remedies:

(i) institute suit(s) to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction;

(ii) demand that the Property be restored promptly to the condition required by the Easement; and

(iii) enter upon the Property, correct any breach, and hold Grantor responsible for the resulting cost.

Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee at law or equity. If Grantor is found to have breached any of Grantor's obligations under the Easement, Grantor shall reimburse Grantee for any costs or expenses incurred by Grantee, including court costs and reasonable attorneys' fees.

(H) Waiver. No waiver of any term or condition of the Easement shall have any force or effect unless it be in writing and approved by the parties hereto. No failure on the part of Grantee to enforce any covenant or provision herein nor the waiver of any right thereunder by Grantee shall discharge or invalidate such covenant or provision of any other covenant, condition, or provision hereof, or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

(I) Consent, Disapproval and Appeal. In any event where the terms of the Easement require the consent of the Director, such consent shall be requested by notice to the

Director and consent shall be deemed to have been given within forty-five (45) days after receipt of notice by the Director unless the Director gives notice to the Grantor of specific reason for disapproval. In any event where the Director gives such notice of disapproval, Grantor may appeal the disapproval to the Board of Trustees of the Maryland Historical Trust for review by it or by such person or agency as may be designated by it to make such review. Appeal shall be made by notice to the Director given within forty-five (45) days of receipt of notice of disapproval from the Director.

(J) Notice. Any notice required to be given by the Easement shall be in writing and may be given by certified or registered mail, with postage prepaid and return receipt requested, if to the Grantor, addressed to the Grantor as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to the Grantor at such other address as the Grantor may from time to time designate by notice to the Director, or, if to the Grantee or the Director, addressed to the Grantee or Director as follows:

Director  
Maryland Historical Trust  
100 Community Place  
Crownsville, Maryland 21032-2023

or to the Grantee or the Director at such other address as the Director may from time to time designate by notice to the Grantor. Any notice given in the foregoing manner shall be deemed to have been given upon receipt thereof, which shall be presumed to be two (2) days after the day notice has been deposited with the United States Post Office.

(K) Construction. The Easement is for the purpose of promoting and shall be construed to promote the purposes of the statutes creating and governing Grantee and of Section 2-118 of the Real Property Article of the Annotated Code of Maryland and to preserve the historic, cultural, scenic and aesthetic character of the Property.

(L) Subsequent Conveyance. Grantor agrees that the restrictions of the Easement will be inserted, verbatim or by express reference, in any subsequent deed or other legal instrument by which the Grantor's fee simple title to the Property or any other possessory interest in the Property, or any part thereof, is divested or conveyed.

(M) Transfer of Ownership. The Grantor agrees for itself, its personal representatives, heirs, successors, transferees and assigns, to notify the Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is being transferred before or within forty-five (45) days of the time the transfer is consummated.

(N) Conservation Purposes. Grantee agrees that it will hold this Deed exclusively for conservation purposes i.e., that it will not transfer this Deed whether or not for consideration. However, subject to the provisions of any applicable federal law, Grantee may assign or transfer its interest in this Deed to a governmental unit or organization which qualifies at the time of the transfer as an eligible donee of this Deed under any pertinent provisions of federal law.

(O) Property Right. Grantor agrees that the donation of this Deed gives rise to a property right, immediately vested in the Grantee, with a fair market value equal to the proportionate value that this Deed bears to the value of the Property as a whole.

(P) Governing Law. This Deed is made in, and shall be governed by, the laws of the State of Maryland.

WITNESS THE FOLLOWING SIGNATURES AND SEALS:

WITNESS/ATTEST:

GRANTOR:

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

WITNESS:

ACCEPTED BY THE  
MARYLAND HISTORICAL TRUST

\_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
J. Rodney Little, Director

STATE OF MARYLAND, \_\_\_\_\_ CITY/COUNTY, to wit:

I HEREBY CERTIFY, that on this \_\_\_ day of \_\_\_\_\_, in the year 200\_\_, before

the subscriber, personally appeared \_\_\_\_\_, who acknowledged that (s)he executed the foregoing instrument for the purposes therein contained as the duly authorized \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

STATE OF MARYLAND, \_\_\_\_\_ COUNTY, to wit:

I HEREBY CERTIFY, that on this \_\_\_ day of \_\_\_\_\_, in the year 200\_\_, before the subscriber, personally appeared J. Rodney Little, and acknowledged that he executed the foregoing instrument for the purposes therein contained as the fully authorized Director of the Maryland Historical Trust.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

Approved as to form and legal  
sufficiency this \_\_\_ day of  
\_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Assistant Attorney General

CERTIFICATION

I hereby certify that this instrument has been prepared by me or under my supervision and that I am an attorney admitted to practice before the Court of Appeals of Maryland.

\_\_\_\_\_(SEAL)  
(printed name of attorney)