

PRESERVATION AND CONSERVATION EASEMENT

THIS PRESERVATION AND CONSERVATION EASEMENT, made this ____ day of July, 2007, by and between [REDACTED] and Adirondack Architectural Heritage, Inc, ("Grantee"), a non-profit corporation with offices located at the Civic Center, Suite 37, 1790 Main Street Keeseville, New York, 12944.

W I T N E S S E T H.

WHEREAS, the Grantee is organized as a not for profit corporation under the laws of the State of New York and is a qualifying recipient of qualified conservation contributions under Sections 170 (b), (f) and (h) of the Internal Revenue Code of 1986 as amended (hereinafter the "Code");

WHEREAS, the Grantee is authorized to accept preservation and conservation easements to protect property significant in Adirondack regional history, culture and environment under the provisions of Section 49-0303(2) of the Environmental Conservation Law of New York State (hereinafter the "Act");

WHEREAS, the Grantor is owner in fee simple of certain real property in the [REDACTED] [REDACTED] (hereinafter "the Premises"), said Premises including a structure commonly known as [REDACTED] (hereinafter "the Building"), and is more particularly described below;

WHEREAS, the presently existing facades and certain designated interior spaces of said Building are documented in photographs taken in the month of May 2007 and said photographs are on file in the offices of the Grantee;

WHEREAS, the Grantor and Grantee recognize the historical, cultural, aesthetic and environmental value and significance of the Premises, and have the common purpose of conserving and preserving the aforesaid value and significance of the Premises;

WHEREAS, the grant of a preservation and conservation easement by Grantor to Grantee on the real property referred to herein will assist in preserving and maintaining the Premises and its architectural, historical, cultural and environmental features;

WHEREAS, the preservation and conservation of the Premises will yield significant benefits to the public by preserving an architectural landmark;

WHEREAS, to that end, Grantor desires to grant to Grantee, and Grantee desires to accept a preservation and conservation easement on the Premises, pursuant to Article 49, Title 3, of the Environmental Conservation Law of New York State.

NOW, THEREFORE, In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, [REDACTED] does hereby irrevocably grant and convey unto the Grantee a preservation and conservation easement in gross in perpetuity (which easement is more particularly described below and is hereinafter "the Easement") in and to that certain real property, the exterior surfaces, and limited interior portions of [REDACTED] located thereon, owned by the Grantor, and more particularly described as the same land conveyed by [REDACTED] by deed dated April 7, 1965, and recorded in the Essex County Clerk's Office on May 28, 1965, in Book 432 of Deeds, Page 113 (see attached Schedule A)

The Easement, to be of the nature and character hereinafter further expressed, shall constitute a binding servitude upon said Premises of the Grantor, and to that end Grantor covenants on behalf of the Grantor, Grantor's successors, heirs and assigns, with Grantee, its successors, heirs and assigns, such covenants being deemed to run as a binding servitude, in perpetuity, with the land, to do upon the Premises each of the following covenants and stipulations, which contribute to the public purpose in that they aid significantly in the preservation of the Building and surrounding land area, and which help maintain and assure the present and future historic integrity of the Building and its setting:

.1. Grantor's Covenants. In furtherance of the easement herein granted, Grantor undertakes, of itself, to do (and to refrain from doing as the case may be) upon the Premises each of the following covenants, which contribute to the public purpose of significantly protecting and preserving the Premises:

.1.1. Grantor shall not demolish, remove or raze [REDACTED] or the Facades thereof except as provided in Paragraph 1.6.

.1.2. Without the prior express written permission of the Grantee, signed by a duly authorized representative thereof, Grantor shall not undertake any of the following actions:

.1.2.1. make any changes in the Facades of the Building including the alteration, partial removal, construction, remodeling or other physical or structural change with respect to the appearance or construction of the Facades. This provision is not intended to prohibit the restoration of the exterior facades provided that credible evidence of the original character of the elements to be restored is presented to the Grantee. Permission to perform such restoration work shall not be unreasonably withheld;

.1.2.2. erect anything on the Premises or on the Facades of the Building which would prohibit them from being visible from street level, except for a temporary structure during any period of approved alteration or restoration;

.1.2.3. permit any significant reconstruction or repair of the Facades of the Building that alters their state from the existing condition;

.1.2.4. make any changes to the designated interior spaces, including the alteration, partial removal, construction, remodeling or other physical or structural changes with respect to the appearance or construction of the designated interior spaces;

.1.2.5. erect, construct, or move anything on the Premises that would encroach on the open land area surrounding the Building and interfere with a view of the Facades of the Building or be incompatible with the historic or architectural character of the Building or the Facades.

.1.2.6. No buildings or structures, including satellite receiving dishes, camping accommodations or mobile homes, not presently on the Premises, shall be erected or placed on the Premises hereafter without prior express written permission of the Grantee.

.1.2.7. No signs, billboards, or advertisements shall be displayed or placed on the Premises or Building; provided, however, that Grantor may, with prior written approval from the Grantee, erect such signs as are compatible with the preservation and conservation purposes of this easement and appropriate to identify the Premises and Building and any activities on the Premises or in the Building.

.1.2.8. No topographical changes, including but not limited to excavation, or mining of minerals, sand or other materials shall occur on the Premises; provided, however, that Grantor may, with prior written approval from and in the sole discretion of Grantee, make such topographical changes as are consistent with and reasonable necessary to promote the preservation and conservation purposes of this easement.

.1.2.9. No dumping of ashes, trash, rubbish or any other unsightly or offensive materials shall be permitted on the Premises.

.1.2.10. The Premises shall be used only for purposes consistent with the preservation and conservation purposes of this easement.

.1.2.11. The Premises shall not be subdivided and the Premises shall not be devised or conveyed except as a unit.

.1.2.12. No aboveground utility transmission lines, may be created on said land, subject to utility easements already recorded.

.1.3. Public View. Grantor agrees not to obstruct the substantial and regular opportunity of the public to view the exterior architectural features of any building, structure or improvements of the Premises from adjacent publicly accessible areas such as public roads.

.1.3.1 Grantee shall have the right to show the Premises, including both the exteriors and the designated interior spaces, to individuals and groups for educational or research purposes; provided, without permission of the Grantor, visitations for this purpose shall not take

place more than two times per year and Grantee will provide Grantor with at least thirty (30) days' notice of said visitation.

.1.4. Casualty Damage or Destruction. In the event that the Premises or any part thereof shall be damaged or destroyed by casualty, the Grantor shall notify the Grantee in writing within seven (7) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. For purposes of this instrument, the term "casualty" is defined as such sudden damage or loss as would qualify for a loss deduction pursuant to Section 165 (c) (3) of the Code (construed without regard to the legal status, trade or business of the Grantor or any applicable dollar limitation). No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by Grantor without the Grantee's prior written approval of the work.

.1.5. Grantee's Remedies Following Casualty Damage. In the event of damage resulting from casualty, as defined at Paragraph 1.4, which is of such magnitude and extent as to render repairs or reconstruction of the Building impossible using all applicable insurance proceeds, as determined by Grantee by reference to bona fide cost estimates, then the Grantee may elect to reconstruct the Building using insurance proceeds, donation or other funds received by Grantor or Grantee on account of such casualty, but otherwise at its own expense. Grantee shall complete said reconstruction with one year of the date of the casualty damage. Grantee is not required by this Easement to contribute to such reconstruction.

.1.6. Review After Casualty Loss. If in the opinion of the Grantee, restoration/reconstruction would not serve the purpose and intent of the Easement, then the Grantor shall continue to comply with the open space and conservation provisions of the Easement. Grantor shall obtain the prior written consent of the Grantee in the event the Grantor wishes to alter, demolish, remove or raze the Building, and/or construct one replacement single-family residence on the property. In the event of a bona fide casualty loss, permission to construct one single-family replacement residence shall not be unreasonably withheld.

.2. Reserved Rights. Grantor reserves for himself, and his successors in interest, all rights, with respect to the Premises or any part thereof, including, without limitation, the right of exclusive use, possession and enjoyment of the Property or any part thereof, and the right to sell, transfer, lease, mortgage or otherwise encumber the Premises or any part thereof, as owner, subject to the restrictions and covenants set forth in this Preservation and Conservation Easement. Nothing herein shall be construed as a grant to the general public of any right to enter upon any part of the Premises except as is specifically set forth herein.

.3. Grantee's Covenants. The Grantee hereby warrants and covenants that:

.3.1. Grantee is and will remain a Qualified Organization for purposes of Section 170 (h) of the Internal Revenue Code. In the event that the Grantee's status as a Qualified Organization is successfully challenged by the Internal Revenue Service, the Grantee shall promptly select another Qualified Organization and transfer all of its rights and obligations under the Easement to it.

.3.2. In the event that the Grantee shall at any time in the future become the fee simple owner of the Premises, Grantee for itself, its successors and assigns, covenants and agrees, in the event of a subsequent conveyance of the same to another, to create a new preservation and conservation easement containing the same restrictions and provisions as are contained herein, and either to retain such easement in itself or to convey such easement to a similar unit of federal, state or local government or local or national organization whose purpose, inter alia, are to promote preservation or conservation of historical, cultural, or architectural resources, and which is a qualified organization under Section 170 (h) (3) of the Internal Revenue Code.

.3.3. Grantee may, at its discretion and without prior notice to Grantor, convey, assign or transfer this easement to a unit of federal, state or local government or to a similar local, state or national organization whose purpose, inter alia, are to promote preservation or conservation of historical, cultural, or architectural resources, and which at the time of the conveyance, assignment or transfer is a qualified organization under section 170 (h) (3) of the Internal Revenue Code, provided that any such conveyance, assignment or transfer requires that the preservation and conservation purpose for which the Easement was granted will continue to be carried out.

.3.4. Grantee shall exercise reasonable judgment and care in performing its obligations and exercising its rights under the terms of the Easement.

.4. Inspection. Grantor hereby agrees that representatives of Grantee shall, upon reasonable advance notice, be permitted to inspect the Premises, including the Facades of the Building.

.5. Grantee's Remedies. Grantee has the following legal remedies to correct any violation of any covenant, stipulation or restriction herein, in addition to any remedies now or hereafter provided by law:

.5.1. Grantee may, following reasonable written notice to Grantor, institute suit(s) to enjoin such violation by ex parte, temporary, preliminary and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Premises to the condition and appearance required under this instrument.

.5.2. Grantee shall also have available all legal and equitable remedies to enforce Grantor's obligations hereunder.

.5.3. Exercise by Grantee of one remedy hereunder shall not have the effect of waiving or limiting any other remedy, and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

.6. Notice of Proposed Transfer of Title. Grantor shall promptly notify Grantee in writing of any transfer of title of the Premises to provide the opportunity for Grantee to explain the terms of the Easement to new owners.

.7. Runs with the Land. The obligations imposed by this Easement shall be effective in perpetuity and shall be deemed to run as a binding servitude with the premises. This Easement

shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument where such person shall cease to have any interest in the premises by reason of a Bona fide transfer. Restrictions, stipulations and covenants contained in this instrument shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests himself of either the fee simple title to or any lesser estate in the premises or any part thereof.

.8. Recording. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this instrument in the land records of Essex County, New York. This instrument is effective only upon recording in the land records of Essex County, New York.

.9. Subordination of Mortgages. Grantor and Grantee agree that all mortgages and rights in the property of all Mortgagees are subject and subordinate at all times to the rights of the Grantee to enforce the purposes of the preservation and conservation easement. The following provisions apply to all Mortgagees now existing or hereafter holding a mortgage on the Premises:

.9.1. If a mortgage grants to a Mortgagee the right to receive the proceeds of condemnation proceedings arising from any exercise of the power of eminent domain as to all or any part of the Premises or the right to receive insurance proceeds as a result of any casualty, hazard or accident occurring to or about the Premises, the Mortgagee shall have a prior claim to the insurance and condemnation proceeds and shall be entitled to same in preference to Grantee until the mortgage is paid off and discharged, notwithstanding that the mortgage is subordinate in priority to the Easement.

.9.2. If a Mortgagee has received an assignment of the leases, rents and profits of the Premises as security or additional security for a loan, then the Mortgagee shall have a prior claim to the leases, rents and profits of the Premises and shall be entitled to receive same in preference to Grantee until said Mortgagee's debt is paid off, notwithstanding that the Mortgage is subordinate to the Easement.

.9.3. Until a Mortgagee or purchaser at foreclosure obtains ownership of the Premises following foreclosure of its Mortgage or deed in lieu of foreclosure, the Mortgagee or purchaser shall have no obligation, debt or liability under the Easement.

.9.4. Nothing contained in the above paragraphs or in the Easement shall be construed to give any Mortgagee the right to extinguish this Easement by taking title to the Premises by foreclosure or otherwise.

.10. Plaques. Grantor agrees that Grantee may provide and maintain a plaque on the Facades of the Building, which plaque shall not exceed eight by ten inches in size, giving notice of the significance of the Building or the Premises and the existence of this perpetual preservation and conservation easement.

.11. Written Notice. Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by registered or certified mail with return receipt requested, or hand delivered; if to Grantor, then at 2244 Maitland Street, Halifax, Nova Scotia B3K 2Z9 Canada, and if to Grantee, then to Civic Center, Suite 37, 1790 Main Street, Keeseville, New York 12944. Each party may change its address set forth herein by a notice to such effect to the other party. Any notice, consent, approval, agreement, or amendment permitted or required of Grantee under the Easement may be given by the Chairperson of the Board of Directors of the Grantee or by any duly authorized representative of the Grantee. Any such notice shall be effective on the date that it is received.

.12. Qualified Appraisal. In the event Grantor claims a federal income tax deduction for donation of a "qualified real property interest" as that term is defined in Section 170 (h) of the Internal Revenue Code, Grantor shall provide Grantee with a copy of all appraisals (hereinafter, the "Qualified Appraisal" as that term is defined in P.L. 98-369, Section 155 (a), 98 Stat. 691 (1984), and by reference therein Section 170 (a) (1) of the Internal Revenue Code) of the fair market value of the Easement. Upon receipt of the Qualified Appraisal, this fully executed easement, and any endowment requested hereunder by Grantee, Grantee shall sign any appraisal summary form prepared by the Internal Revenue Service and submitted to the Grantee by Grantor.

.13. Extinguishment. Extinguishment of this easement must be the result of a final judicial proceeding.

.14. Interpretation and Enforcement. The following provisions shall govern the effectiveness, interpretation, and duration of the Easement.

.14.1. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this instrument, and this instrument shall be interpreted broadly to effect its preservation and conservation purposes and the transfer rights and the restrictions on use herein contained as provided in the Act.

.14.2. This instrument shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor, and the word "Grantor" when used herein shall include all such persons, whether or not such persons have signed this instrument or then have an interest in the premises. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument where such person shall cease to have any interest (present, partial, contingent, collateral or future) in the premises by reason of a bona fide transfer for full value. Any right, title or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

.14.3. To the extent that Grantor owns or is entitled to development rights which may exist now or at some time hereafter by reason of the fact that under any applicable zoning or similar ordinance the Premises may be developed to use more intensive (in terms of height, bulk or other objective criteria regulated by such ordinances) than the Premises are devoted as of the

date hereof, such development rights shall not be exercisable on, above, or below the Premises during the term of the Easement, nor shall they be transferred to any adjacent parcel and exercised in a manner that would interfere with the preservation and conservation purposes of the Easement.

.14.4. For purposes of furthering the preservation of the Premises and Building and furthering the other purposes of this instrument, and to meet changing conditions, Grantor and Grantee are free to amend jointly the terms of this instrument in writing without notice to any party; provided, however, that no such amendment shall limit the perpetual duration or interfere with the preservation and conservation purposes of the donation. Such amendment shall become effective upon recording among the land records of Essex County, New York. Grantee shall not be required to agree to any amendment, and it shall not agree to any amendment that does not conform to Grantee's amendment policy, or to any amendment that it deems, in its discretion, to be inconsistent with the conservation and preservation of the Premises and Building. Grantor shall reimburse Grantee for all of its expenses related to any amendment, including, but not limited to, legal fees.

.14.5. The terms and conditions of this easement shall be referenced in any transfer of the property by the Grantor, his heirs, successors and assigns.

.14.6. This instrument is made pursuant to Article 49 of Title 3 of the Environmental Conservation Law of New York State, but the invalidity of such statute or any part thereof shall not affect the validity and enforceability of this instrument according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law private agreement either in existence now or at any time subsequent hereto. This instrument may be re-recorded at any time by any person if the effect of such re-recording is to make more certain the enforcement of this instrument or any part thereof. The invalidity or unenforceability of any provision of this instrument shall not affect the validity or enforceability or any other provision of this instrument or any ancillary or supplementary agreement relating to the subject matter hereof.

.14.7. This instrument reflects the entire agreement of Grantor and Grantee. Any prior or simultaneous correspondence, understandings, agreements and representations are null and void upon execution hereof, unless set out in this instrument.

IN WITNESS WHEREOF, on the date first shown above, Grantor has caused this preservation and conservation easement to be executed, sealed and delivered; and Grantee has caused this instrument to be accepted, sealed and executed in its corporate name by its Chairman and attested by its Secretary.

GRANTOR:



GRANTEE:

David Hislop, Chairman

ATTEST:

, Secretary

STATE OF NEW YORK

ss:

COUNTY OF ESSEX

On this day of July, 2007, before me, the undersigned, personally appeared [REDACTED] personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted; executed the instrument.

(Signature and office of the individual taking acknowledgement)

STATE OF NEW YORK

ss:

COUNTY OF ESSEX

On this day of July, 2007, before me, the undersigned, personally appeared David Hislop, personally known to me, who by me duly sworn did depose and say that he resides in Essex, New York, that he is the Chairman of Adirondack Architectural Heritage, Inc., the corporation described in and which executed, the within instrument; that he knows the seal of said corporation; the seal affixed to this instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that he signed her name thereto by like order.

(Signature and office of the individual taking acknowledgement)

Schedule A:
Legal Description of the Property