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This document was prepared by:
Department of Historic Resources
2801 Kensington Avenue
Richmond, VA 23221

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Exempted from recordation taxes
under the Code of Virginia (1950), as amended,
sections 58.1-811(A)(3) and 58.1-811(C)(3)
and from Clerk's Fees under section 17.1-266

DEED OF EASEMENT

THE KURTZ BUILDING
WINCHESTER HISTORIC DISTRICT
CITY OF WINCHESTER

THIS DEED OF EASEMENT, made this 30th day of April, 2001, by **PRESERVATION OF HISTORIC WINCHESTER, INC.**, a Virginia non-stock corporation, and its heirs, successors and assigns, herein collectively referred to as the Grantor, and the **COMMONWEALTH of VIRGINIA, VIRGINIA BOARD OF HISTORIC RESOURCES**, herein referred to as the Grantee,

WITNESSETH:

WHEREAS, Chapter 22 of Title 10.1 of the Code of Virginia of 1950, as amended, was enacted to support the preservation and protection of the Commonwealth of Virginia's significant historic, architectural, archaeological, and cultural resources, and charged the Virginia Board of Historic Resources to designate as historic landmarks, to be listed in the Virginia Landmarks Register, such buildings, structures, districts, and sites which it determines to have local, statewide, or national historic, architectural, archaeological, and/or cultural significance, and to receive properties and easements in gross or interests in properties for the purpose, among other things, the preservation and protection of such designated landmarks; and

WHEREAS, the Grantor is the owner of a property consisting of a tract of land, herein described, which includes a commercial building known as the Kurtz Building which is a

contributing structure in the Winchester Historic District, which district is of historic and architectural significance and is listed in the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, both the Grantor and the Grantee desire to ensure the preservation the Kurtz Building and the protection of the historic and architectural features that led it to be named a contributing structure in the said registers;

NOW THEREFORE, in recognition of the foregoing and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby grant and convey to the Grantee an easement in gross with right in perpetuity to restrict the use of the property described in "Attachment A" (hereinafter called the Easement Property).

The restrictions hereby imposed on the use of the Easement Property are in accord with the policy of the Commonwealth of Virginia, as set forth in Chapter 22 of Title 10.1 of the Code of Virginia of 1950, as amended, to preserve the designated landmarks of the Commonwealth of Virginia. The acts which the Grantor covenants to do and not to do upon the Easement Property, and the restrictions which the Grantee is hereby entitled to enforce, shall be as follows:

1. The parties agree that the photographs of the Easement Property taken by David Edwards of the Department of Historic Resources (DHR negative number 19000) on March 6, 2001 accurately document the appearance and condition of the Easement Property as of the date of this easement. The negatives of the said photographs shall be stored permanently in the archives of the Virginia Department of Historic Resources or its successors. Hereafter, the Easement Property shall be maintained and preserved in its documented state as nearly as practicable, except for changes which are expressly permitted hereunder.
2. No building or structure shall be built or maintained on the Easement Property other than the Kurtz Building.
3. The Kurtz Building shall not be demolished or removed from the Easement Property, nor shall it be altered, restored, renovated, or extended, except in a way that would, in the opinion of the Grantee, be in keeping with the historic character of the Easement Property, and provided that the prior written approval of the Grantee to such actions shall have been obtained. The preceding condition shall apply to interior and exterior changes.
4. In the event that the Kurtz Building is destroyed or damaged by causes beyond the Grantor's reasonable control, including fire, flood, storm, earth movement, or other acts of God, to such an extent that in the opinion of the Grantee the Kurtz Building's historic integrity is irremediably compromised, nothing herein shall obligate the Grantor to reconstruct the building or return it to its condition prior to such calamity.

5. No cleaning, repointing, waterproofing, or painting of the exterior masonry of the Kurtz Building shall be undertaken unless the prior written approval of the Grantee shall have been obtained.
6. The historic character-defining architectural elements of the interior of the Kurtz Building, including windows, window frames, doors, door frames, floorboards, and exposed structural timbers, shall not be permanently altered or removed from the Easement Property without the prior written approval of the Grantee.
7. The Easement Property shall not be divided, subdivided, or conveyed in fee other than as a single tract.
8. Trees and vegetation on the Easement Property shall be managed to prevent damage to the Kurtz Building.
9. No permanent sign, billboard, or outdoor advertising structure shall be displayed on the Easement Property without the consent of the Grantee, other than signs not exceeding nine square feet for any or all of the following purposes: (i) to provide information necessary for the normal conduct of any permitted business or activity on the Easement Property, (ii) to advertise the property for sale or rental, and (iii) to provide notice necessary for the protection of the property and for giving directions to visitors.
10. The Grantee and its representatives may enter the Easement Property from time to time, upon reasonable notice to the Grantor, for the sole purpose of inspections and enforcement of the terms of the easement granted herein.
11. The Grantee, in its discretion, and upon reasonable notice to the Grantor, may erect at a location acceptable to the Grantor, a single marker or sign, not exceeding two feet by two feet, which states the name of the Grantee and advises that the Grantee owns the easement granted herein.
12. In the event of a violation of this easement, the Grantee shall have the right to seek all appropriate legal and equitable relief, including but not limited to the right to restore the Easement Property to its present documented condition and assert the cost of such restoration as a lien against the Easement Property.
13. Whenever a request for the Grantee's approval is submitted pursuant hereto and the Grantee fails to respond in writing within 30 days of receipt of such request, then the Grantee shall be deemed to have approved the request, and the Grantor may proceed with the action for which approval was requested. Nothing herein shall be construed, however, to require the Grantee to issue a final decision on such request within such 30-day period, provided that such final decisions are issued in as timely a fashion as is practicable under the circumstances. Such circumstances shall include the complexity of the request or proposed project, the amount of information submitted with the initial request, and the need for on-site inspections. No approval


required hereunder shall be unreasonably delayed or withheld by the Grantee.

- 14. Prior to any inter vivos transfer of the Easement Property, excluding deeds of trust given for the purpose of securing loans, the Grantor shall notify the Grantee in writing.
- 15. The invalidity or unenforceability of any provision of this easement shall not affect the validity or enforceability of any other provision of this easement or any ancillary or supplementary agreement relating to the subject matter hereof.


Although this easement in gross will benefit the public in the ways recited above, nothing herein shall be construed to convey a right to the public of access to or use of the property, and the Grantor shall retain exclusive right to such access and use, subject only to the provisions herein recited.

Acceptance by the Virginia Board of Historic Resources of this conveyance is authorized by section 10.1-2204 and of the Code of Virginia of 1950, as amended.

Witness the following signatures and seal:

 (SEAL)
 Winston Cameron
 President, Preservation of Historic Winchester, Inc.

Accepted:
VIRGINIA BOARD OF HISTORIC RESOURCES

By: 
 Kathleen S. Kilpatrick
 Director, Department of Historic Resources

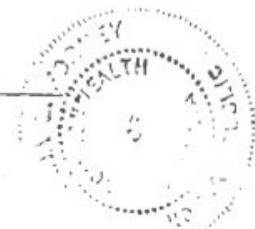
Date: 2/27/01

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STATE of VIRGINIA)
CITY of WINCHESTER), to-wit:

The foregoing instrument was acknowledged before me this 30th day of April, 2001 by Winston Cameron, President, Preservation of Historic Winchester, Inc., the Grantor therein.

Diana L Fony
Notary Public



My commission expires: 5-31-02

STATE of VIRGINIA)
CITY of RICHMOND), to-wit:

The foregoing instrument was acknowledged before me this ^{27TH}~~30TH~~ day of April, 2001 by Kathleen S. Kilpatrick, Director, Department of Historic Resources, on behalf of the Virginia Board of Historic Resources, Grantee therein.

Patricia S. Doak
Notary Public



My commission expires: 7/31/2002

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LEGAL DESCRIPTION (SCHEDULE A)

All that certain parcel of land in the City of Winchester, Virginia, known as the "Kurtz Building" parcel, more particularly described as Lot 1 on a plat titled "Kurtz Addition Re-Plat of Parcel 2, recorded October 23, 1989" which is attached to that certain deed dated September 12, 1990 and recorded in the Clerk's Office of the Circuit Court of the City of Winchester, Virginia in Deed Book 245 at page 940, fronting on North Cameron Street as shown thereon; and being the same property conveyed to Preservation of Historic Winchester, Inc. by deed from the City of Winchester, Virginia dated September 12, 1990, of record in the Clerk's Office of the Circuit Court of the City of Winchester, Virginia in Deed Book 245 at page 940.

PIN 193-01-0-1

VIRGINIA, CITY OF WINCHESTER, SOT.

This instrument of writing was produced to me on the 15th
day of MAY, 2001, at 9:47 AM
and with certificate of acknowledgement thereto annexed was
admitted to record. Tax imposed by Sec. 58.1-802 of
\$ —, and 58.1-801 have been paid if assessable.

Terry Whittle Deputy
Clerk