

SAMPLE REHABILITATION AGREEMENT

Preservation North Carolina sells its properties subject to a Rehabilitation Agreement, where appropriate. The following is an example of this agreement. The Secretary of the Interior's Standards for the Rehabilitation of Historic Properties (1992) will be attached, as Exhibit A in this sample. The actual agreement will be tailored to suit the specific property and the plans of the owner.

REHABILITATION AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ 20____, by and between **THE HISTORIC PRESERVATION FOUNDATION OF NORTH CAROLINA, INC.**, a nonprofit corporation organized under the laws of North Carolina, hereinafter referred to as the "Foundation," and _____ of _____ County, North Carolina, hereinafter referred to as the "Purchaser";

WITNESSETH:

THAT WHEREAS both the Foundation and the Purchaser desire that the historic _____ be preserved in as authentic condition as possible and, at the same time, be altered where necessary to provide modern conveniences for its new owner; and

WHEREAS, the Foundation and the Purchaser on this day have made and entered into a Deed and Protective Covenants, incorporating by reference this Rehabilitation Agreement and the provisions herein;

NOW, THEREFORE, the Purchaser agrees to rehabilitate the historic _____ according to the following terms, conditions, and deadlines, adequate consideration having been acknowledged in the above-mentioned Deed:

A. BENCHMARKS AND DEADLINE FOR REHABILITATION

Before rehabilitation work is begun, the Purchaser shall photograph all exterior sides of the building(s), and all interior walls and trim in order to document the appearance, configuration, and condition of said building prior to rehabilitation.

(1) Benchmarks for Rehabilitation Progress

- (a) By _____, the Purchaser shall ensure the property is weathertight to prevent any further damage to the building(s).
- (b) By _____, the Purchaser shall provide modern heating, electrical, and plumbing systems, as needed.
- (c) (Insert additional benchmarks as needed)

(2) Final Deadline for Completion of Rehabilitation

- (a) By _____, the Purchaser shall complete all interior and exterior work needed to make the original _____ comfortably habitable and to comply with this Rehabilitation Agreement.

The requirements of each of the benchmarks above are cumulative and shall include the Purchaser's obligation to complete each earlier benchmark. Claims regarding a statute of limitations, specific timeframe or deadline for action to be taken by the Foundation shall not begin to run until the date of the Final Rehabilitation Deadline set out above (the

“Final Deadline for Completion of Rehabilitation”); provided, however, that nothing in this section shall affect the right of the Foundation to enforce any term, condition or deadline of this Rehabilitation Agreement prior to the Final Rehabilitation Deadline.

B. GUIDELINES FOR REHABILITATION

(1) General

- (a) The Purchaser agrees to adhere to and abide by the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties (1992), a copy of which is attached as "Exhibit A" and which is specifically incorporated herein by reference.
- (b) The terms and conditions of this Rehabilitation Agreement may be changed with the approval of both the Foundation and the Purchaser as new and unforeseen circumstances arise. Changes in the terms and conditions of this Rehabilitation Agreement shall be made in writing and signed by both parties.
- (c) This Rehabilitation Agreement does not constitute waiver of any rights of the Foundation retained by it in its Deed and Protective Covenants with the Purchaser.
- (d) The Purchaser shall give priority to repairs needed to prevent deterioration of the building.

(2) Exterior

- (a) The roof shall be repaired as needed with materials sympathetic to the age and design of the house.
- (b) Masonry shall be repaired or replaced as needed with the same or comparable material that matches the bond, size, color and texture as the existing material. Type N or O mortar used shall match the color and texture of existing mortar. Masonry may not be painted, whitewashed, nor tinted limewashed without prior written approval of the President and CEO or Chairman of the Board of Directors of the Foundation.
- (c) Doors, windows and decorative trim shall be retained and repaired with materials and in a style compatible with the character of the building.
- (d) The Foundation encourages the Purchaser to have paint research undertaken on the exterior of the house and to use original colors.
- (e) (Insert additional provisions as needed)

(3) Heating, Air Conditioning, and Insulation

- (a) The Purchaser shall choose methods of insulation which will adequately protect and preserve the original fabric of the building. Methods of insulation which have not been tested for possible adverse effects on historic structures shall be strongly discouraged. Under no circumstances shall foam-in-place or loose-fill insulation be installed in the exterior walls of the house.
- (b) The Purchaser shall consult the President and CEO or Chairman of the Board of Directors of the Foundation about locations and types of any new heating and/or air conditioning systems and duct chases introduced into the building.

(4) Interior

- (a) Any interior alteration made by the Purchaser shall insofar as possible respect and preserve the original wood trim (including but not limited to the floors, moldings, mantels, window and door surrounds, and staircase). No removal or alteration of said wood trim shall be made without the written approval of the President and CEO or Chairman of the Board of Directors of the Foundation.

(b) The Purchaser shall consult with the President and CEO or Chairman of the Board of Directors of the Foundation prior to the addition of any new interior walls or prior to the removal of any existing interior walls.

(c) The Purchaser shall consult with the President and CEO or Chairman of the Board of Directors of the Foundation on the location and plans of any new kitchen or bathrooms to be installed.

(d) The Purchaser shall repair existing plaster walls and ceilings as needed. The Purchaser may replace plaster walls with sheetrock only if the plaster has substantially failed.

(5) Landscaping

(a) The Purchaser shall fully landscape the premises in a manner compatible with the style and period of the house.

(b) The Purchaser shall make the best effort to maintain a clean and neat construction site while rehabilitation of the _____ takes place.

C. ENFORCEMENT

(1) If the _____ shall not be rehabilitated according to the terms, conditions, and deadlines of this Rehabilitation Agreement, then the Foundation shall have an option to repurchase the premises for the lesser of (i) a price equal to the then market value of the premises, subject to restrictive covenants (said price to be determined by the procedure described in Paragraph (2) of this Section) or (ii) the initial purchase price paid by the Purchaser plus the amount spent (exclusive of interest, insurance, and ad valorem taxes) by the Purchaser toward the rehabilitation of said building. This option will expire on _____, or upon the completion of said rehabilitation, whichever occurs first. Provided, however, that if there are any outstanding deeds of trust or other encumbrances against the property, any right to purchase shall be subject to said deeds of trust or encumbrances, and they shall either be satisfied or assumed as part of the purchase price.

(2) The price indicated in clause (i) of Paragraph (1) of this Section shall be determined by agreement of the Purchaser and the Foundation, or in the absence of such agreement, by a committee of three appraisers, one to be selected by the Foundation, one to be selected by the Purchaser, and the other to be designated by the two appraisers selected by the Foundation and the Purchaser respectively.

(3) In the event of a violation of the terms, conditions, and deadlines of this Rehabilitation Agreement, any matters in dispute will be submitted to binding arbitration by a recognized arbitrator in North Carolina upon which the Purchaser and the Foundation can agree, or in the event of no agreement on a choice of arbitrator, by a committee of three arbitrators with the first designated by the Purchaser, the second by the Foundation, and the third be designated by the two arbitrators selected by the Foundation and the Purchaser respectively. Nothing in this clause shall be construed to deny the Foundation from seeking injunctive relief to prevent the Purchaser from pursuing further activities which might have or tend to harm interests of the Foundation as set forth in this agreement or prevent damage to other legitimate historical and archaeological concerns. No failure on the part of the Foundation to enforce any term herein nor the waiver of any right hereunder by the Foundation shall discharge or invalidate such term or other term, condition of deadline hereof, or affect the right of the Foundation to enforce the same in event of a subsequent breach or default.

(4) In the event a court or arbitrator finds that a violation has occurred, the court may require the Purchaser to reimburse the Foundation for all expenses incurred in stopping, preventing and correcting the violation, including but not limited to reasonable attorney's fees.

IN TESTIMONY WHEREOF, the parties hereto have executed this Rehabilitation Agreement in duplicate the date first set out above.

THE HISTORIC PRESERVATION FOUNDATION
OF NORTH CAROLINA, INC.

BY: _____ (SEAL)

WITNESS: _____

PURCHASER

_____ (SEAL)

WITNESS: _____

SAMPLE

EXHIBIT A

SECRETARY OF THE INTERIOR'S STANDARDS FOR THE REHABILITATION OF HISTORIC PROPERTIES (1992)

REHABILITATION is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.

STANDARDS FOR REHABILITATION

1. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property shall be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
4. Changes to a property that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
8. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historical materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.