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COUNTY OF ALBANY, a municipal corporation organized under the laws of the State of New York, with offices at 1121 State Street, Albany, New York 12207-2021, (hereinafter referred to as the “County”), and

THE SHAKER HERITAGE SOCIETY, INC., a not-for-profit corporation organized under the laws of the State of New York, with offices at Shaker Meeting House, 25 Meeting House Road, Albany, New York 12211-1051 (hereinafter referred to as the "Society").

WHEREAS, the County is the owner of certain property located in the Town of Colonie consisting of a parcel of land containing 770 acres known as the Watervliet Shaker Historic District on which are located many buildings and other improvements, and

WHEREAS, the Society has been the occupant of a portion of the said Historic District under a Lease dated October 14, 2010, and the County and the Society now wish to extend the occupancy of a portion of the Historic District by the Society for a longer period so that the Society may be better positioned to implement and complete its long-term restoration program for a portion of the site as well as to qualify for and obtain new funding, both private and public, for preservation of buildings and grounds, and

WHEREAS, both the County and the Society recognize the mutual benefits which will accrue to both parties by the continued occupation and management of the premises by the Society and are each willing to work cooperatively to preserve the Shaker heritage of the site for the *benefit* of the general public and the residents of Albany County.

NOW, THEREFORE, THE COUNTY AND THE SOCIETY MUTUALLY AGREE AS FOLLOWS:

The Term of this Agreement shall commence on _____, 2019 and shall terminate on _____, 2069. This Agreement shall automatically be extended for three (3) additional twenty-five (25) year terms unless the County or the Society terminates it at the end of

the then current term by giving the other party written notice of the intent to terminate at least three (3) months one (1) year prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term."

The Society and County, may at their discretion, enter into a separate agreement to transfer ownership of the Demised Premises, in whole or in part, from the County to the Society at any time during the Term of this Agreement. The purchase price shall be mutually agreed upon by the County and Society. The lease Agreement shall terminate upon transfer of ownership.

Article 2. The Demised Premises

The Demised Premises include all of the improvements located as shown on Exhibit A attached hereto.

For further clarity, the buildings and structures on the Demised Premises include:

1. The 1848 Meeting House
2. The Brethren's Shop
3. Ministry Workshop
4. Trustee's Office
5. Drying House
6. Wash House and Cannery
7. 1916 Barn
8. 1920 Garage
9. Shaker School House
10. Apple Orchard

Article 3. Rent

In consideration of the terms and obligations of this Agreement, the Society agrees to pay and the County agrees to accept, the sum of ONE DOLLAR (\$1.00) per annum as rent for the use and occupancy of the Demised Premises.

Article 4. Permitted Uses

- a.) The Society shall have the right to use and occupy the Demised Premises for the term of this Agreement and any extension thereof, for all of the lawful purposes for which it was, or may hereafter be authorized to perform, by its articles of incorporation, including, but not limited to, office space, educational exhibits, demonstration shops, teaching space, retail sales of Shaker and other materials and articles, tours, craft fairs, fundraising events and any other activity to educate the public regarding Shaker life style and their influence on American history and

83 culture. It may also *with County legislative approval* use the Demised Premises to
84 generate income from land uses such as farming and term rentals which fulfill the
85 mission of the Society.
86

87 b.) The Society shall use its best efforts, expertise and resources to preserve, restore
88 and rehabilitate the structures and the grounds on the Demised Premises by
89 applying for and obtaining both public and private grants, loans, and other
90 funding to make necessary repairs and improvements to preserve the historic
91 nature of said structures and to restore the grounds to their historical conditions
92 used by the Shaker community or as may be appropriate so long as the
93 improvements do not impair the ability to return the structures and grounds to
94 their historical condition at any point in the future, and it may with County
95 legislative approval agree to such terms as required by the maker of such grants
96 loans or other funding to secure the performance by the Society of its obligations
97 under said grant agreements, including, but not limited to, the grant of easements,
98 imposition of restrictive covenants, public access requirements, and anti-
99 discrimination provisions.

100
101 c.) The Society shall use its best efforts and expertise to promote and expand the
102 potential of the Demised Premises for both its own functions and for business
103 development associated with the long-term plan for the site developed by the
104 Society and to maximize income derived from the Demised Premises so that on a
105 long-term basis, the Demised Premises becomes a self-sustaining business entity.
106 To that end, the Society may with County legislative approval make land
107 improvements to improve utility services (electric, gas, telephone, data transfer,
108 television, water and sewer), ground water drainage, roads, signage and other
109 improvements to effectuate its long-term goals for the site.
110

111 d.) The Society shall be permitted to restore, rebuild and renovate any of the
112 structures and grounds on the Demised Premises consistent with the historic
113 nature of the site and structure in order to comply with any provision of a grant or
114 loan obtained to fund such repair or preservation project. Construction to be
115 performed under subparagraphs (c) and (d) herein shall be permitted after notice
116 to the County, *County legislative approval* and approval of construction plans by
117 the County Engineer or his designee. Approval by the County *Engineer or his*
118 *designee* shall not be unreasonably withheld [and shall be granted no later than 45
119 days after receipt by the County of such plans] *or delayed*.
120

121 e.) The Society shall at its own cost and expense comply with all laws, ordinances,
122 codes, rules and regulations applicable to its use and occupancy of the Demised
123 Premises, including but not limited to, zoning laws, building codes, labor and
124 alcoholic beverage control laws. Whenever alcoholic beverages are to be served

125 at a Society function, it shall be the responsibility of the Society to procure Liquor
126 Liability insurance and a valid New York State Liquor Authority permit for such
127 events and, when requested by the County, it shall provide the County with copies
128 of the same.
129
130

131 **Article 5. County's Right of Access**
132

- 133 a.) The County, its employees, officers and agents shall have the right to enter the
134 Demised Premises at all reasonable hours for the purpose of inspecting or
135 examining same for compliance with this Agreement and for the purpose of
136 making any necessary repairs to *ensure* the health and safety of the public. Any
137 such repairs shall be made after consultation with the Society and shall be
138 consistent with the preservation goals of the Society or the terms and conditions
139 imposed by any grant agreement, *loan* or other agreement governing the condition
140 of the historic structures.
141
142 b.) The County agrees to retain possession of the buildings known as the Trustee's
143 Office, and the Wash House and Cannery^[L7] until completion of the structural
144
145 repairs under the New York Regional Economic Development grant awarded in
146 2016. During the time that the County retains such possession, it shall be required
147 to maintain such structures, making all necessary repairs to the same, and it
148 shall be required to maintain the grounds ancillary to such structures. The County
149 and the Society agree to work cooperatively during the repair period. The County
150 will remove its personal property from these structures prior to the Society taking
151 possession of the buildings.
152
153 c.) The County agrees to continue to maintain Meeting House Road in its entirety
154 through the Demised Premises, and agrees to continue to provide snow plow and
155 removal services on Shaker Lane and for Meeting House Road and the
156 parking lots, and mowing on the Demised Premises.
157

158 **Article 6. Ownership of Improvements**
159

160 In the event that the Society makes renovations or improvements to any of the buildings
161 or structures on the Demised Premises, all such improvements and renovations and the materials
162 used therefor shall remain the property of the Society for and during the term of this Agreement.
163 Upon the expiration or earlier termination of this Agreement, such improvements and
164 renovations *and the materials used therefor* shall become the property of the County.
165

166 **Article 7. Insurance**

167
168 The Society agrees to procure and maintain *during the initial term or any extension term*
169 *of this Lease* at its own expense, insurance *policies issued by insurers licensed to do business in*
170 *the State of New York* of the kind and in the amounts set forth below, *which insurance policies*
171 *shall be primary*:
172

173 1a.) Workers Compensation and Employers Liability Insurance providing protection
174 for employees in the event of job related injuries, or a waiver of this requirement if such
175 waiver is issued by the State of New York.
176

177 2b.) Automobile liability insurance for Society-owned vehicles with limits of not less
178 than \$500,000 per occurrence covering bodily injury, including death, or property
179 damage for any loss or damage arising out of the use, ownership or lease of any motor
180 vehicle owned, used or leased by the Society [in the conduct of its business].
181

182 3c.) General Liability Insurance, including comprehensive, personal injury,
183 contractual/products/completed operations, premises operations and broad form *all peril*
184 property insurance with limits of not less than \$1,000,000 per occurrence.
185

186 The County agrees to *either self-insure or* procure and maintain at its
187 own expense, premises^[JAK10] comprehensive property insurance for the *demised premises*.
188

189 **Article 8. Indemnification**

190
191 The Society shall name the County as an additional insured on the insurance policies
192 required by this Agreement *entitled to 30 days advance written notice of their cancellation or*
193 *lapse* and it shall *hold harmless and* indemnify the County for any *expense, loss, and/or* damages
194 [awarded against it in a final judgment by a court of competent jurisdiction] *suffered by it* only to
195 the extent of the limits of such insurance policies.
196

197 **Article 9. Destruction of the Demised Premises or any Structures thereon**

198
199 In the event that any structure on the Demised Premises is partially destroyed or damaged
200 to a degree that it would be economically feasible to reconstruct that portion so damaged, this
201 Agreement shall be continued and all insurance proceeds received by the Society and the County
202 shall be used to reconstruct the damaged portion or portions of such structure to the same
203 condition it enjoyed immediately prior to its damage. In the event that a single structure is
204 totally destroyed, the parties shall consult and determine if the structure should be rebuilt. If it is
205 determined that said structure should not be rebuilt, both parties agree to establish an account
206 using all insurance proceeds received by both parties on account of such damage. Such funds

shall be used to repair, preserve or rehabilitate the remaining structures located on the Demised Premises in accordance with the Historic District Site Plan developed by the Society.

If all of the buildings on the Demised Premises are destroyed and it is determined that none can be repaired or should be rebuilt, then any insurance proceeds [shall first be distributed to the Society to reimburse the Society for the premiums paid for any such insurance policy and then] shall be distributed to each party as their respective interests appear at the time of the damage and this Agreement shall terminate without any further liability on the part of either party.[JAK11]

Article 10. Operation and Maintenance.

In recognition that the Society seeks to restore and rehabilitate Demised Premises over the long-term, but until such conditions are fully achieved, some of the structures on the Demised Premises may require emergency repairs that are beyond the capacity of the Society to undertake. As has been past practice *and* understanding of the *parties* under the current agreement[L12], the County agrees to perform emergency repairs when requested by the Society [of these structures]. Emergency repairs may include, but not be limited to, securing a structure in imminent danger of collapse, making repairs to prevent further significant deterioration of a structure, or repairing or securing a structure to protect health and wellbeing of the general public. The County also agrees to generally assist the Society when needed with performing routine maintenance on the property to ensure said a state of good repair, including, but not limited to, preventive maintenance, normal periodic repairs, and replacement of certain items. For its part, the Society shall take good care of the Demised Premises and shall work with the County to ensure the Demised Premises stays in good condition, order and repair, and in safe, dry and tenantable condition. [This clause does not and is not intended to express any opinion as to the] *The foregoing provisions shall not, however, impose any* liability of the County to pay for the costs of routine maintenance.

The parties also agree to continue to work cooperatively in securing funding and other resources, such as public and private grants[,] *and loans* to fund and complete maintenance and capital improvements on the Demised Premises. At their discretion, the Society and County may enter into a separate agreement that defines in more detail their respective responsibilities for operations and maintenance of the Demised Premises ("O&M Agreement"). The terms of the O&M Agreement shall be mutually agreed upon by the Society and County *subject to County legislative approval*.

Article 11. Termination of this Agreement

This Agreement may be terminated by either party hereto for any material breach of any term hereof. A material breach, for the purpose of this paragraph, is defined as the violation or

non- performance of any term of this Agreement which goes unremedied for a period longer than is specified in this provision.

If a violation or failure to perform any provision of this Agreement occurs, or is permitted by either party, the offended party shall provide written notice of such violation to the offending party in accordance with the notice provisions of this Agreement. After receipt of such notice the offending party shall have 60 days to correct the violation or formulate a plan to correct the same. If the violation requires construction or reconstruction, or some conduct other than the payment of money, then the corrective conduct must commence within 20 days after the corrective plan is delivered to and approved by the offended party. After this remediation period has expired, (80 days from receipt of the notice of violation), the offended party make [take steps to] terminate this lease.

This lease must be terminated by judicial proceeding to be commenced after the cure period has expired and each party shall have all [arguments] *of its rights* preserved for defense or termination of this Agreement, provided that either has acted in good faith to either cure a violation or accept the proposed cure offered by the offending party.

Article 12. Use of Parking Facilities

In the event that the Society schedules special events at the Demised Premises and additional parking facilities are required, the County agrees that the Society and its guests and invitees shall be permitted to use additional parking on County property adjacent to or abutting the Demised Premises which is shown on Exhibit A attached hereto. The Society shall be required to provide the County with a 30-day notice of such special event and the County shall designate areas where such additional parking may be had. The Society shall be responsible for all traffic control at such special events and as between it and the County, the Society shall be *solely liable* for all injuries and/or damages arising from its *conduct and* management of such events.

Article 13. Security

The County shall continue to provide its existing security and police protection of the Demised Premises. In the event that a special event conducted by the Society requires additional security, the Society shall notify the County of such needs. The County, in its sole discretion, may agree to provide such additional security as it may determine *is necessary* at the expense of the Society, based upon the hourly rate actually charged or incurred by the County. If the County denies such additional security, the Society may then contract directly with a security provider to provide such service.

Article 14. Assignment

This Agreement may not be assigned or sublet without the written consent of the other party *and County legislative approval*. The Society is developing has developed a Master Plan for the use of the Demised Premises and that plan calls for the sublease or under-lease of portions of the Demised Premises to develop additional sources of revenue to be used to maintain and restore the site. The County agrees that such occupancies are necessary for the advantages that such revenue sources hold for the continued viability of this project and [it agrees to approve of] *subject to County legislative approval will consent to* such agreements provided that they are consistent with the provisions of this Agreement.

Article 15. Modification and Extension

This Agreement contains all of the material terms of the agreement between the parties and may be changed, modified, amended or extended only in writing signed by an authorized representative of each party.

Article 16. Notices

All notices required under this Agreement shall be in writing and delivered during regular business hours of each party. Either party may deliver a notice by fax transmission, provided that any notice of violation or of termination *shall also be* followed by paper copy sent by regular mail to the following:

The County of Albany
separately addressed and sent to both
County Executive [Director]

and

County Attorney

at

Albany County Office Building
112 State Street [, Room 900]
Albany, New York 12207

Shaker Heritage Society
Executive Director
Shaker Meeting House
25 Meeting House
Albany, New York 12211-1051

Article 17. Non-Competition with Albany International Airport

The Society agrees that in the operation and restoration of the Demised premises during the term of this Agreement or any extension thereof, it shall not do or permit any act which would interfere with the operation of Albany International Airport nor shall it use the Demised Premises for parking facilities which are not associated with its activities on the Demised Premises in competition with parking facilities operated by or on behalf of the Airport.

Article 18. Entire Agreement

This Agreement contains the entire understanding of the County and the Society and supersedes any and all prior agreements. This Agreement shall apply to, bind, and inure to the benefit of parties and their respective successors and assigns. This Agreement may not be changed, modified, discharged or terminated except by an agreement executed with the same formalities as this instrument.

IN WITNESS WHEREOF, the parties to this Agreement, have by their duly authorized representative, executed this agreement on the date first above written.

THE COUNTY OF ALBANY

SHAKER HERITAGE SOCIETY, INC.

By: _____

By: _____

its _____

its _____

ADD Notary Blocks for each Notary Public - State of New York