

LEGISLATIVE  
COUNCIL  
FEB 10 2009

## LEASE AGREEMENT

THIS LEASE, made this \_\_\_\_\_ day of February, 2009 between **THE COUNTY OF PUTNAM** a municipal corporation having its principal office at the County Office Building, 40 Gleneida Avenue, Carmel, New York 10512 (“COUNTY”), and

**THE SOCIETY FOR THE PRESERVATION OF PUTNAM COUNTY ANTIQUITIES AND GREENWAYS, INC.**, a not-for-profit corporation, with a principle place of business at One Madison Avenue, Ninth Floor, New York, New York 10010 (“SOCIETY”).

### 1. PREMISES

The COUNTY hereby leases to SOCIETY all County-owned buildings and plots of land (approximately 199 acres) located at the Tilly Foster Farm property, located on Route 312 in the Towns of Carmel and Southeast (the “premises”) for the purpose of operating an “open farm and agricultural venue with access to all members of the public”.

### 2. DEFINITIONS

- (a) Farm: Any land and on-farm buildings and equipment which are used for and contribute to the production, preparation and/or preservation of crops, livestock and livestock products.
- (b) Self-Sustaining: Capable of maintaining and operating an on-going interest without a short-fall or deficiency in monetary resources.
- (c) Ordinary Repairs:
- (d) Extraordinary Repairs:
- (e) Capital Improvement: Any alteration, addition, repair and/or modification to any existing

○ structure located at the premises, the cost of which exceeds \$25,000.00, or the addition of any new structure to the premises, the cost of which exceeds \$25,000.00.

- (f) Project: An individual endeavor, unrelated to any other on-going effort taking place on the
- (g) Lawsuit: A suit, action or cause instituted or depending between two persons or entities in a court of law.
- (h) Judgment: The official and authentic decision of a court of justice upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination.

### 3. USE OF PREMISES

- (a) The SOCIETY agrees that the demised premises shall be used and occupied by it only for the general business of operating a farm and agricultural venue as defined herein, and for no other purpose. The SOCIETY further agrees to continuously during the term of this Lease operate said premises as a farm and agricultural venue, and for such other recreational, educational and agricultural purposes as may be agreed to by the COUNTY, and which are in conformance with any and all additional restrictions contained herein.
- (b) All use and occupancy of the land and all structures at the Tilly Foster Farm shall also comply with the terms and conditions of the Deed of Conservation Easement entered into on December 18, 2006 between the COUNTY and The Watershed Agricultural Council of the New York City Watersheds, Inc. ("WAC"), which is attached hereto and made a part hereof as Schedule "C" (hereinafter, the "WAC Easement"), including any and all provisions contained therein restricting the addition of impervious surface.
- (c) The SOCIETY shall specifically be prohibited from hosting or otherwise conducting any type of rodeo event on the premises without the prior written approval of the Putnam County Legislature.

- (d) The SOCIETY and/or George C. Whipple III shall, in no event, use the premises as any form of collateral in connection with any funding/banking transaction, or otherwise encumber the premises.

**4. TERM**

- (a) The initial term of this Lease shall be for a period of five (5) years, commencing on February 1, 2009 and terminating on January 31, 2014, unless terminated earlier in accordance with paragraph "16" herein;
- (b) The Lease shall automatically terminate if the SOCIETY ceases operation of the Tilly Foster Farm;
- (c) The Society shall have the option to extend this Lease, upon the same terms and conditions as are specified herein except as may be modified hereinafter, not to exceed seven additional terms of five (5) years each, such extensions to become effective automatically unless the SOCIETY notifies the COUNTY in writing, not later than twelve (12) months prior to the expiration of the preceding term, that it does not desire to exercise its option to renew;
- (d) The COUNTY shall have the right to terminate this Lease upon twelve (12) months written notice to the SOCIETY if it is determined, as evidenced by a duly adopted resolution of the Putnam County Legislature, that the COUNTY has need for the premises for a public purpose;
- (e) In the event that George C. Whipple III discontinues his association with the SOCIETY, then in such case, this Lease shall be subject to immediate review by the Putnam County Legislature. The Legislature shall then have the option to renew the Lease upon such

terms and conditions as it shall determine.

## 5. RENT

In consideration of the use of the premises, the SOCIETY agrees to the following:

- (a) To use its best efforts to achieve self-sufficiency at the Tilly Foster Farm operations as an open public farm and exhibit space by December 2011, as is further described in the SOCIETY's "Plan to Save Tilly Foster Farm (Three Years to Self-Sufficiency)", dated April 22, 2008, which is attached hereto and made a part hereof as Schedule "A";
- (b) To employ, at the SOCIETY's sole expense, the personnel with the necessary qualifications, experience and education and to provide the resources to provide the services outlined herein;
- (c) That the SOCIETY will create and maintain a separate, segregated bank account/fund for the purpose of depositing therein any and all money received by it in connection with its operation of Tilly Foster Farm;
- (d) That the SOCIETY will deposit any and all revenue and/or donations received by it into the fund designated solely for Tilly Foster Farm, as specified above;
- (e) That the SOCIETY will provide the COUNTY with an annual accounting statement, evidencing all revenue received and expenditures made by no later than January 31<sup>st</sup> of each year of the lease term. Said accounting statement shall include, but not be limited to, any and all improvements made to the premises or planned to be made, the status of any and all sub-leases in effect at the time of the report, as well as those being contemplated, a financial statement showing accounts receivable and accounts

payable, a summary of events which took place at the premises during the year immediately preceding the issuance of the report and any which may be proposed, and an inventory of animals then located at the premises.

- (f) That the SOCIETY will provide a quarterly report to the Legislature detailing the then current status of the Tilly Foster Farm operations, the first of which to become due on April 1, 2009, or upon request of the Putnam County Legislature;
- (g) That the SOCIETY will, to the best of its abilities, attempt to adhere to the desires of the Putnam County Executive and the Putnam County Legislature with respect to the long term plan for the property, previously referred to herein as Schedule "A".
- (h) To conduct the services listed herein in the best interests of the COUNTY and in accordance with the mission statement of the SOCIETY, a copy of which is attached hereto and made a part herein as Schedule "B".;
- (i) That the SOCIETY will not hold itself out as an agency, department or office of the COUNTY, nor shall any of the SOCIETY's officers, employees or agents make any claim against the COUNTY as an officer or employee thereof for such benefits as worker's compensation coverage, unemployment insurance benefits, social security coverage or retirement membership or credit or any other benefits accruing to said officers or employees of the COUNTY;
- (j) That the SOCIETY will not discriminate and will not permit discrimination during the performance of this Agreement with respect to race, religion, creed, color, national origin, sex, age, handicap, political affiliation or beliefs; and
- (k) That the SOCIETY will comply, at the SOCIETY's own expense, with the provisions

of all applicable state and municipal requirements and with all state and federal laws applicable to SOCIETY as an employer of labor or otherwise. The SOCIETY will further comply with all rules, regulations and licensing requirements, if any, pertaining to its professional status and that of its employees, partners, associates, subcontractors and others employed to render the services provided for herein.

- (l) That the SOCIETY will comply in all respects with Chapter 134 of the Putnam County Code, entitled "Contracting with the County".

#### **6. CONDITION OF PREMISES**

- (a) It is understood and agreed that the SOCIETY will take possession of the premises in its "AS IS" and present condition.
- (b) It is further understood and agreed that the SOCIETY will take possession of all equipment and personal property located at the premises, an inventory of which is attached hereto and incorporated herein as Schedule "D".

#### **7. UTILITIES**

- (a) The COUNTY shall be responsible for the payment of charges for all utilities, including electricity, fuel, oil, natural gas, heat, water, power and other services which may be furnished to or used by the SOCIETY in or about the premises until such time as the COUNTY is able to install individual meters on all buildings located on the premises. As said utility meters are installed, the SOCIETY shall become responsible for the payment of the costs of the above-listed utilities which are utilized in each individual building.
- (b) A "house meter" shall also be installed on the premises, such that the COUNTY shall continue to be responsible for the use of electricity for all exterior areas of the property.

- (c) The SOCIETY shall further be responsible for the payment of the cost of the monthly monitoring and operating costs for any and all security systems which affect any of the buildings located on the premises. The COUNTY will, however, continue to pay for the costs associated with the security system located in the space occupied by the Septic Repair Program, until such time as that space is fully vacated.
- (d) The SOCIETY shall keep the premises free and clear of any lien or encumbrance of any kind whatsoever created by its act or omission with respect to its obligation to pay for all utilities furnished to the premises.
- (e) The COUNTY will pay for and arrange for the removal of all trash and garbage generated from the SOCIETY's use of the premises.

**8. MAINTENANCE AND SNOW REMOVAL**

- (a) The SOCIETY shall take good care of the premises and appurtenances thereto, and will surrender them to the COUNTY at the expiration of the term of this Lease, or at the time of any earlier termination hereof, in as good condition and repair as they were at the commencement of the term, reasonable wear and tear excepted.
- (b) The COUNTY shall maintain the premises, parking areas and sidewalks in good repair and in tenable condition, during the continuance of this Lease, except in case of damage arising from the willful misconduct or gross negligence of the SOCIETY, or as otherwise provided herein. For the purpose of so maintaining the premises, the COUNTY reserves the right to enter and inspect the premises at reasonable times and to make any necessary repairs thereto.

- (c) The COUNTY, shall also be responsible for the removal of snow and/or ice from the premises, as well as the sanding of parking areas, driveways, exterior stairways and sidewalks appurtenant to the demised premises.

**9. CAPITAL IMPROVEMENTS**

- (a) The SOCIETY shall have the right, at its sole cost and expense, to make capital improvements to the premises subject to the restrictions contained herein.
- (b) The SOCIETY agrees that any and all proposed capital improvements to be made by the SOCIETY to the premises shall fully conform to the terms and conditions of the WAC Easement.
- (c) No capital improvements to the premises shall be made by the SOCIETY without prior written approval of WAC, if and when such approval is necessary.
- (d) No capital improvements valued at over \$25,000.00 and/or projects shall be made by the SOCIETY to the premises without the prior written approval of the County Executive.
- (e) The SOCIETY must obtain the prior written approval of the County Executive and the Putnam County Legislature where, upon termination of this Lease Agreement, the COUNTY would be required under the terms of this Lease to reimburse the SOCIETY for any capital improvement or project undertaken by it.
- (f) The SOCIETY shall send a copy of plans and specifications of any proposed capital improvements to the County Executive and the County Legislature not later than thirty (30) days prior to the commencement of such capital improvements.

- (g) Any and all contemplated capital improvements shall be designed in such a way as to preserve and protect the historic and architectural exterior characteristics of the premises.

#### 10. DUTY TO REPAIR

- (a) Upon written notice from the SOCIETY, the COUNTY shall make any repairs that the SOCIETY deems necessary and appropriate, provided such repairs are associated with maintenance that would otherwise have been incurred by the COUNTY in the absence of the present lease agreement, and provided the damage to the item being repaired was not caused by the willful misconduct or gross negligence of the SOCIETY.
- (b) Once the Tilly Foster Farm has achieved "self-sustainability", as such term is defined herein, and in no case later than five (5) years from the date hereof, the SOCIETY shall be responsible for the conduct of ordinary repairs at its own expense, and in a good and workmanlike manner. It shall keep all fixtures and structures in repair and free from leaks, it shall keep the heating systems in working order and it shall make all necessary ordinary repairs to the kitchen equipment/appliances, if any, and the plumbing and electrical systems and the like.
- (c) The COUNTY shall, during the entire term of this Lease, make extraordinary repairs, as such term is defined herein, to all buildings existing on the premises as of the date hereof, at its sole cost and expense, provided the damage to the item being repaired was not caused by the misuse, abuse or neglect of the SOCIETY.

(d) The SOCIETY shall, during the entire term of this Lease, make extraordinary repairs, as such term is defined herein, to those buildings on the premises which are constructed by and through the SOCIETY and through use of funds raised and/or earned by it.

#### **11. EQUIPMENT USE**

The COUNTY shall permit SOCIETY to utilize all currently-existing equipment and appurtenances located at the premises, including, but not limited to, any and all tractors, haying and plowing attachments, gators, watering tanks, run in sheds and fencing. The COUNTY shall further permit SOCIETY to have exclusive use of any and all hay which may be harvested at the premises.

#### **12. TREES AND SHRUBBERY**

The SOCIETY agrees that, except as necessary to remove dead or dying trees or shrubs, or to control invasive and non-native vines, the SOCIETY shall not remove from the premises any tree, shrubbery or vines, (except for ordinary farming operations consistent with the WAC), without the prior written approval of the County Executive, and the SOCIETY further covenants that it shall keep the grounds in neat order and condition at all times.

#### **13. SIGNS**

At any time during the term of this lease, the SOCIETY or its agent shall have the right of displaying any type of sign or notice on the premises consistent with the principles set forth in Schedule "A" and the WAC Easement. A rendering of said sign shall be submitted to and received by the County Legislature prior to the installation thereof. The COUNTY shall also be permitted to display any type of sign on the premises during the term of this Agreement.

#### 14. SUBLEASING

- (a) The SOCIETY shall have the right to sublet any portion of the premises which it deems necessary to its ongoing operations and to achieving its goals, as those are outlined in Schedule "A".
- (b) The SOCIETY shall lease the following areas located on the premises upon the following terms:
- a. Top floor of building "8" of the premises, the lower floor of said building, which shall be shared with the SOCIETY to the Putnam Arts Council ("PAC"), and that portion of building "6" which it currently utilizes for pottery classes for one (1) year commencing immediately upon the execution of this Lease Agreement, at a rate of \$1,000.00 per month;
  - b. Thereafter, the SOCIETY may lease building "6" of the premises (known as the "Cantina"), or such other building as the SOCIETY shall deem appropriate and which will not interfere with the SOCIETY's use of the premises, to PAC at a monthly rate of \$1,000.00;
  - c. The SOCIETY shall provide PAC with unfettered and adequate parking, ingress and egress to its premises and the SOCIETY will not interfere with the Putnam Arts Council's quiet use and enjoyment of the premises.
- (c) The SOCIETY shall, at all times during the term of this Lease Agreement, lease building "1" on the premises to the existing tenant, Anthony DeNoia, upon such terms and conditions as are approved by the Putnam County Legislature simultaneously herewith. The SOCIETY shall provide the tenant with unfettered and adequate parking, ingress and

egress to building "1", and the SOCIETY will not interfere with the tenant's quiet use and enjoyment of the premises known as building "1".

- (d) The SOCIETY shall continue to lease the current space being utilized by the Community Gardens at Tilly Foster to said Tenant upon virtually the same rents, policies and procedures which are now in effect.
- (e) The Putnam County Legislature shall maintain the authority to direct the SOCIETY to terminate any sub-lease entered into by it at any time during the term of this Agreement.
- (f) The SOCIETY shall further be required to include as a provision to any sublease entered into by it in accordance with this paragraph, which states as follows:

"The instant sub-lease shall automatically terminate if, at any point during the term of this agreement, the lease agreement between the County of Putnam and the Society for the Preservation of Putnam County Antiquities and Greenways is terminated at the option of the County of Putnam. In such event, the sub-lessee shall have ninety (90) days to fully vacate the premises leased herein".

Any and all sub-leases shall be provided to the County Attorney prior to implementation, so as to insure adherence to this provision. Additionally, in the alternative, the Putnam County Legislature may choose to notify the sub-lessee that said lease shall continue in full force and effect.

- (g) The SOCIETY shall also be required to include as a provision to any sub-lease entered into by it, which states as follows:

"All use and occupancy of the demised premises shall fully comply with the terms and conditions of the Deed of Conservation Easement entered into on December 18, 2006 between the County of Putnam and the Watershed Agricultural Council of the New York City Watershed, Inc., a copy of which is attached hereto and incorporated herein"

- (h) The SOCIETY shall notify the Putnam County Legislature of its intention to enter into any additional subleases, prior to execution of the same, at any point during the term of this lease agreement.
- (i) Any and all rental payments collected by the SOCIETY for the sub-leasing of any portion of the demised premises shall be deposited into the separate, segregated bank account/fund established and maintained by the SOCIETY in accordance with the terms hereof, and shall be used only at the demised premises in accordance with the terms of this Lease Agreement.

#### **15. INSURANCE REQUIREMENTS**

- (a) The SOCIETY shall obtain general commercial liability insurance for the subject premises, in such form as required by the "Standard Insurance Provisions" outlined in Schedule "C", which is attached hereto and made a part hereof, naming the COUNTY as an additional insured under such policy. The SOCIETY shall pay up to \$1000 per month toward the insurance premiums required by the "Standard Insurance Provisions", and the COUNTY, at its option, shall pay any premiums over and above \$1000 per month during the first year of this lease agreement. For each subsequent year, the SOCIETY shall be required to pay that sum which shall be calculated by COUNTY's Commissioner of Finance, by increasing the \$1,000 in accordance with the Consumer Price Index ("CPI"). The County, through approval of the Legislature, shall continue to have the option of paying any premiums over and above said future amounts.

- (b) The SOCIETY shall be responsible for the payment of any increase in insurance premiums which are attributable to the addition of any capital improvements or other projects undertaken by the SOCIETY, or which are attributable to a change in use of the premises by the SOCIETY.
- (c) In the event that the SOCIETY is unable to obtain insurance as required by the "Standard Insurance Provisions", then and in that event, the SOCIETY and/or COUNTY may cancel this lease upon five (5) days written notice. Furthermore, in the event that the insurance premiums exceed the maximum amount required to be spent by SOCIETY, as outlined above, then and in that event, within twenty (20) days after being presented with notice of the premium amount, the COUNTY may terminate this lease agreement upon five (5) days written notice to SOCIETY.
- (d) The SOCIETY, to the extent it deems advisable, shall be responsible for insuring all personal property items owned, leased or under the control of the SOCIETY, and excepting items of personal property owned by the COUNTY, utilized in the operation of the Tilly Foster property, including exhibit items. It is expressly understood that the COUNTY is not, under any circumstances, an insurer of said personal property, and bears no responsibility for the maintenance, repair, and/or replacement of such items in the event of damage to and/or destruction thereof. In addition, the SOCIETY is solely responsible for any and all exhibit items on display at the premises.

## 16. TERMINATION

- (a) The COUNTY, upon twelve (12) months notice to the SOCIETY, may terminate this

Agreement in whole or in part when the SOCIETY has violated any of the material terms hereof after reasonable written notice and opportunity to cure.

- a. Should the COUNTY exercise its right to terminate this Lease as provided above, then and in that event, the COUNTY shall reimburse the SOCIETY for the costs of capital improvements made by it to the premises, upon a full accounting of the SOCIETY's actual expenditures, and subject to a reduction for depreciation, provided said capital improvements were paid for by the personal funds of George C. Whipple III.
  - b. Despite the foregoing, however, the SOCIETY shall not be entitled to payment for personal property and equipment, whether or not attached to the premises, in the event of termination of the instant agreement in accordance with the provisions herein.
- (b) The SOCIETY's failure to comply with the terms and conditions of the WAC Easement shall be grounds for automatic termination of this Lease by the COUNTY, provided the SOCIETY shall be given reasonable opportunity to remedy its non-compliance.
- (c) The SOCIETY, upon twelve (12) months written notice to the COUNTY, may terminate this Agreement in whole or in part when it deems it to be in its best interest. Such notice shall state the date on which this Lease shall terminate.
- a. In the event of such termination, the COUNTY shall not be responsible for the reimbursement of any costs for capital improvements which cannot be removed from the premises, and shall be entitled to the possession of any and all personal

property and equipment then located on the premises.

- b. Further, in the event that the SOCIETY shall default in complying with any of the terms, conditions and obligations of this lease, then the COUNTY's sole remedy shall be to institute eviction proceedings in accordance with Article 7 of the Real Property Actions and Proceedings Law of the State of New York or seek other equitable relief
- (d) If the COUNTY shall default in complying with any of the terms, conditions and obligations of this lease, then the SOCIETY may have such relief as provided in law or equity.
- (e) If at any point during the term of this Lease, the premises becomes unusable for any authorized use contemplated herein, the COUNTY may terminate this Lease by giving the SOCIETY twelve (12) months notice of termination. Such notice shall state the date on which this Lease shall terminate.

#### **17. ACCESS TO PREMISES**

The premises are hereby understood to be public property, accessible to the general public for their enjoyment and use every day between the hours of 10 a.m. and 4 p.m., exclusive of holidays, subject to such reasonable health, privacy, security, and safety regulations which are, from time-to-time, promulgated by the SOCIETY and agreed upon by the County Executive and County Legislature. The SOCIETY further agrees that the COUNTY shall have the right to enter into and upon the premises, or any part thereof, at all reasonable hours for the purpose of examining the same, or making emergency repairs or alterations as may be necessary for the safety and preservation thereof.

## 18. FIRE OR OTHER CASUALTY

- (a) In the event of damage to or destruction of the demised premises or any part thereof during the term hereof due to fire or other casualty, the COUNTY shall not be obligated to rebuild or restore any part or all of the demised premises so destroyed, but rather, may terminate this Lease by five (5) days written notice to the SOCIETY. If the damage or destruction is so extensive that in the SOCIETY's sole judgment it is unable to continue use of the demised premises, the SOCIETY may, by five (5) days written notice to the COUNTY, terminate this Lease whereupon this Lease shall be deemed terminated as of the date of termination of the Lease set forth in the SOCIETY's notice.
- (b) The proceeds of any of the COUNTY's insurance which may become payable as the result of any damage or destruction to the demised premises, excluding any insurance which may cover the SOCIETY's personal property, shall be the sole property of the COUNTY, and the SOCIETY shall have no claim to any part thereof.
- (c) Neither the COUNTY, nor any agent, servant or employee of the COUNTY shall be liable to the SOCIETY for any loss, injury or damage to the SOCIETY or to any other person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless caused by or due to the negligence or willful misconduct of the COUNTY, its agents, servants or employees. Further, neither the COUNTY nor any agent, servant or employee of the COUNTY shall be liable for any such damage caused by other tenants or third parties, unless caused by the negligence or willful misconduct of the COUNTY, its agents, servants and/or employees.

- (d) Neither the SOCIETY, nor any agent, servant or employee of the SOCIETY shall be liable to the COUNTY for any loss, injury or damage to the COUNTY due any act or omission of the SOCIETY, its agents, servants, employees, or subtenants except to the extent covered by the aforesaid "Standard Insurance Provisions", and except that the SOCIETY shall be liable for those acts of it or any of its agents, servants, employees or subtenants which constitute "negligence", as such is determined by a court of competent jurisdiction.
- (e) Without prejudice to any other provision of this Lease Agreement, the COUNTY agrees to defend the SOCIETY, its officers, directors, agents, employees and/or volunteers in the event of any action or proceeding commenced against the SOCIETY by reason of any such claim, which is not attributable to the negligence and/or willful misconduct of the SOCIETY, its agents, servants, employees or volunteers. It is agreed between the parties that should it be determined upon final, non-appealable "judgment" or "verdict" that the injury or property damage occurred as a result, in whole or in part, of the negligence and/or willful misconduct of the SOCIETY, its agents, servants, employees or volunteers, then the SOCIETY shall reimburse the COUNTY and/or its insurance carrier its pro rata share of all reasonable and necessary costs incurred by the COUNTY and/or its insurance carrier in defending such claim or lawsuit.
- (f) The SOCIETY shall upon demand reimburse the COUNTY for all costs and expenses paid or incurred by the COUNTY in obtaining possession of the demised premises after default by the SOCIETY or upon the expiration or termination of this Lease, whichever occurs first, or in enforcing any of the SOCIETY's obligations hereunder.

## **19. ANCILLARY REVENUE**

COUNTY agrees that SOCIETY shall hereafter be entitled to all revenues realized from the agreements which the County entered into with the Putnam Arts Council and Community Gardens, provided that such revenue is handled in accordance with "Article III" herein.

## **20. COMPLIANCE WITH LAWS**

(a) The SOCIETY shall comply with the sanitary laws, general and special laws, ordinances, rules, orders, zoning regulations, statutes, ordinances, and all other rules and regulations of any governmental body having jurisdiction relating to the demised premises, particularly with respect to orders of the Board of Health or other authorities affecting the cleanliness, occupancy and the preservation thereof for the premises and the sidewalks, roads, parking lots of the premises.

(b) The COUNTY shall comply with the sanitary laws, general and special laws, ordinances, rules, orders, zoning regulations, statutes, ordinances, and all other rules and regulations of any governmental body having jurisdiction relating to the demised premises, only with respect to those things required of the COUNTY under the terms of this Lease Agreement.

## **21. RIGHT TO RE-ENTER: DAMAGES**

In the event of cancellation or termination of this Lease either by operation of law, by issuance of a warrant of dispossess, by service of notice of cancellation or termination as herein provided, or by virtue of any material default of the SOCIETY after sixty (60) days notice and an opportunity of thirty (30) days to cure, COUNTY may reenter the demised premises, and thereupon the

COUNTY shall be entitled to possession of the demised premises free from any estate or interest of the SOCIETY therein.

## **22. NOTICES**

All notices, demands, requests or other communications which may be required or permitted hereunder, shall be in writing and shall be deemed sufficient if given or served by registered or certified mail, postage prepaid, return receipt requested. Notices to the COUNTY shall be addressed to the PUTNAM COUNTY ATTORNEY, 48 Gleneida Avenue, Carmel, New York 10512. Notices to the SOCIETY shall be addressed to THE SOCIETY FOR THE PRESERVATION OF PUTNAM COUNTY ANTIQUITIES AND GREENWAYS, INC., c/o George C. Whipple III at Credit Suisse, One Madison Avenue, Ninth Floor, New York, New York 10010. Every notice, demand, request or other communication hereunder shall be deemed to have been given or served at the time that the same is actually received, in the manner aforesaid. The COUNTY will immediately notify the SOCIETY of any change in the aforesaid mailing address.

## **23. QUIET ENJOYMENT**

- (a) The COUNTY covenants and agrees that the SOCIETY, upon performing all of its duties and obligations hereunder, may peaceably have, hold and enjoy the demised premises during the term of this Lease, subject to the understanding that the premises is public property, accessible to the general public for their enjoyment and use at all times and further subject to the specific terms and conditions hereof.

(b) In the event that the SOCIETY determines to change the hours which the premises is open to the public at any point during the term of this agreement, then in such event the SOCIETY shall notify the Putnam County Legislature prior thereto.

#### **24. SURRENDER OF PREMISES**

The SOCIETY shall, on the last day of the term hereof, or upon any earlier termination of this Lease, or upon any reentry by COUNTY upon the demised premises pursuant to the terms contained herein or otherwise, well and duly surrender and deliver up the demised premises in substantially the same condition existing at the commencement of the term hereof, into the possession and use of the COUNTY (Subject to reasonable wear and tear and damage by the elements and the COUNTY's duty to repair as hereinabove provided).

#### **25. NO ORAL CHANGE**

This Lease contains the entire agreement between the parties and cannot be changed or terminated orally, but may be modified or amended only by an instrument in writing signed by the party to be charged thereunder.

#### **26. GOVERNING LAW**

This Lease shall be governed, construed and enforced in accordance with the laws of the State of New York. Any and all disputes and/or legal actions or proceedings arising out of this Agreement shall be venued in Putnam County, New York.

#### **27. ENTIRE AGREEMENT**

(a) This Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

(b) If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law.

#### **28. COUNTERPARTS**

This Lease has been executed in two (2) counterpart originals each of which shall be deemed an original and all of which will constitute one and the same Lease.

#### **29. SEVERABILITY**

The failure of the COUNTY to insist upon strict performance of any of the covenants or conditions of this Lease or to exercise any option herein conferred in any one or more instances, shall not be construed as a waiver or relinquishment for the future of any such covenants, conditions or options but the same shall be and remain in full force and effect.

#### **30. AUTHORIZATION TO EXECUTE LEASE**

The County Executive of the County of Putnam has executed this Lease pursuant to a Resolution adopted by the Putnam County Legislature, at a meeting thereof held on the \_\_\_\_\_ day of February, 2009. Robert J. Bondi, whose signature appears hereafter is duly authorized and empowered to execute this Lease and enter into this Lease on behalf of the County of Putnam. This Lease Agreement shall be permanently filed in the Office of the Putnam County Clerk upon execution hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement in Carmel, New York, on the date hereinabove set forth.

**READ & APPROVED:**

\_\_\_\_\_  
Date  
Richard B. Honeck  
Risk Manager

\_\_\_\_\_  
Date  
William J. Carlin, Jr.  
Commissioner of Finance

\_\_\_\_\_  
Date  
Jennifer S. Bumgarner  
County Attorney

**THE COUNTY OF PUTNAM:**

\_\_\_\_\_  
Date  
Robert J. Bondi  
County Executive

\_\_\_\_\_  
Date  
The Society for the Preservation of Putnam  
County Antiquities and Greenways, Inc.  
By: George C. Whipple III  
President



**LEASE AGREEMENT**  
**BETWEEN**  
**THE COUNTY OF PUTNAM, AS COUNTY**  
**AND**  
**THE SOCIETY FOR THE PRESERVATION OF PUTNAM COUNTY**  
**ANTIQUITIES AND GREENWAYS, INC., AS SOCIETY**