



Schenectady County Legislature

Committee on Rules

Hon. Philip Fields, Chair

6th Floor County Office Building 620 State Street, Schenectady, New York 12305

Phone: (518) 388-4280 Fax: (518) 388-4591

DATE: July 7, 2023
TO: Honorable Schenectady County Legislators
FROM: Geoffrey T. Hall, Clerk of the Legislature
SUBJECT: COMMITTEE AGENDA
Committee on Rules
Honorable Philip Fields, Chair
Tuesday, July 11, 2023 at 7:00p.m.
Schenectady County Office Building,
Legislative Chambers, Sixth Floor

Item	Title	Sponsor	Co-Sponsor
R	45 A RESOLUTION TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE EMPIRE STATE AEROSCIENCES MUSEUM	The Committee on Rules	

LEGISLATIVE INITIATIVE FORM

Date: 7/7/2023
Reference: Rules
Dual Reference:
Initiative: R 45

Title of Proposed Resolution:

A RESOLUTION TO AUTHORIZE THE COUNTY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH THE EMPIRE STATE AEROSCIENCES MUSEUM

Purpose and General Idea:

Provides authorization to enter into a multi-year lease agreement with the Empire State Aerosciences Museum concerning land at the County Airport

Summary of Specific Provisions:

Authorizes Schenectady County to enter into a multi-year lease agreement with the Empire State Aerosciences Museum concerning land usage at the County Airport. This agreement would release approximately 24 acres of land, including the General Aviation North Apron, back to the County. This land was previously leased to the Empire State Aerosciences Museum.

Effects Upon Present Law:

None.

Justification:

This agreement will make the land eligible for FAA funding which can be used to reconstruct the land to current standards. Additionally, the remaining 14 acres could be used by the County Airport for future hangar or aviation-related developments.

Sponsor: The Committee on Rules

Co-Sponsor:

COUNTY OF SCHENECTADY



RORY FLUMAN
COUNTY MANAGER

OFFICE OF THE COUNTY MANAGER
620 STATE STREET
SCHENECTADY, NEW YORK 12305

TELEPHONE: (518) 388-4355
FAX: (518) 388-4590

To: Honorable Chairperson and Members of the Legislature

From: Rory Fluman, County Manager *RF*

CC: Geoffrey T. Hall, Clerk of the Legislature
Alissa Foster, Deputy Clerk of the Legislature
Paul Sheldon, Director of Public Works
Peter Knutson, Director of the Bureau of Engineering

Date: June 9, 2023

Re: Authorization to Enter into a Multi-Year Lease Agreement with the Empire State
Aerosciences Museum Concerning Land at the County Airport


Attached is a memorandum from Paul Sheldon, County Attorney, requesting authorization to enter into a multi-year lease agreement with the Empire State Aerosciences Museum concerning land usage at the County Airport. Specifically, this agreement would release approximately 24 acres of land, including the General Aviation North Apron, back to the County. This land was previously leased to the Empire State Aerosciences Museum.

By releasing the General Aviation North Apron to the County, that makes it eligible for FAA funding which can be used to reconstruct it to current standards. In addition, the remaining 14 acres could be used by the County Airport for future hanger or aviation-related developments.

This agreement has a period starting April 1, 2023 and ending March 31, 2043.

I recommend your approval.

**Schenectady County
Inter-Department Memorandum**

DATE: June 7, 2023
TO: Rory Fluman, County Manager
FROM: Paul Sheldon, P.E., Director of Public Works 
COPIES: File
SUBJECT: Empire State Aerosciences Museum (ESAM) Lease Update

Attached is a memorandum from Peter Knutson, P.E., Director of the Bureau of Engineering, requesting authorization to accept the new lease agreement with the Empire State Aerosciences Museum (ESAM) at the County Airport. The new agreement releases approximately 24 acres of previously leased land opening it up for future development along the north side of the Airport. The agreement also returns control of the General Aviation North Apron to the County making it eligible for FAA funding. The proposed agreement will have a 20-year term ending in 2043.

We ask the County Legislature to approve the new lease agreement.

COUNTY OF SCHENECTADY

Memorandum

DATE: June 6, 2023

TO: Paul Sheldon, P.E., Commissioner of Aviation

FROM: Peter Knutson, P.E., Director of the Bureau of Engineering

PK

COPY: File

SUBJECT: Empire State Aeroscience Museum (ESAM) Lease Agreement Update.

We are requesting the legislature accept the updated lease agreement for ESAM. The primary purpose of the leasehold change is to better align ESAM's priorities with its leased premises and return land back to the county that can be used for future development. The agreement will free up approximately 24-acres of previously leased land along the northside of the airport. This area includes the General Aviation North Apron which has fallen into disrepair and is slated for a complete reconstruction to meet current FAA standards in Federal Fiscal Year (FFY) 2025. The remainder of the area is approximately 14-acres of under-utilized land. This area is the last developable land the Airport currently has for any future hangar or aviation related development. We currently are planning on using federally allocated Bipartisan Infrastructure Law (BIL) funding to develop a design and estimate in FFY 2024 with site preparation beginning in FFY 2025 to make this land attractive to future developers.

STANDARD AIRPORT SITE LEASE

THIS LEASE AGREEMENT is made as of the 15th day of May, Two Thousand Twenty-Three, between THE COUNTY OF SCHENECTADY, NEW YORK, a municipal corporation of the State of New York, having its principal office at the County Office Building (Attn: County Manager), 620 State Street, Schenectady, New York 12305 (hereinafter referred to as "Landlord"), and EMPIRE STATE AEROSCIENCES MUSEUM, an educational corporation incorporated under the laws of the State of New York, with its principal office at 250 Rudy Chase Drive, Glenville, New York (hereinafter referred to as "Tenant").

WITNESSETH:

Landlord hereby leases to Tenant and Tenant hereby rents from Landlord the Demised Premises (as defined in Article I) for the term provided for in Article IV hereof, at the rent provided for in Article V hereof and on all of the terms and conditions set forth herein. Intending to be legally bound hereunder and in consideration of One Dollar (\$1.00) and other good and valuable consideration, Landlord and Tenant hereby agree with each other as follows:

ARTICLE I. PREMISES AND PRIVILEGES

Section 1.01. THE DEMISED PREMISES:

The "Demised Premises" means the parcels of land approximately 9.45 acres as described in Legal Description Parcel A and Legal Description Parcel B, which is attached hereto as Exhibit A and made a part of this Lease. The size and location of the Demised Premises is also shown on Exhibit "B" (Map) attached to and made a part of this Lease.

Section 1.02. AUXILIARY AREAS:

(a) During the Term, the following privileges to use certain portions of the Entire Airport Premises in common with Landlord and any designee of Landlord, subject to Landlord's rules and regulations are hereby granted to Tenant: (i) the non-exclusive license to permit its employees, guests, and business invitees to use the sidewalks, parking area, runways, taxiways, aprons, roadways, flood lights, landing lights and signals for the takeoff, flying and landing of aircraft; and (ii) the non-exclusive privilege to permit its employees, guests, and business invitees to use the entrance and exit ways designated by Landlord from time to time for access to the Demised Premises from a street or highway adjacent to the Demised Premises through the appropriate entrances and exits so designated.

Section 1.03. LANDLORD'S RIGHTS:

Notwithstanding anything to the contrary, Landlord shall have the following rights:

- (a) to close all or any portion of the Entire Airport Premises including the parking area to such extent as may in the opinion of Landlord's counsel be necessary to prevent a dedication thereof of the accrual of any rights of any person or the public therein;
- (b) to close all or any portion of the Entire Airport Premises temporarily to discourage use by parties other than Tenant's employees and business invitees and employees and business invitees of other tenants or occupants at the Entire Airport Premises;
- (c) to prohibit parking or passage of motor vehicles in portions of the parking area previously designated for such;
- (d) to erect additional buildings on the Entire Airport Premises (land upon which such buildings or structures have been erected shall no longer be deemed to be a part of the Auxiliary Area);
- (e) to change the location of the passage, entrance and exit ways of the Entire Airport Premises;
- (f) during time of war or national emergency, Landlord shall have the right to lease the Entire Airport Premises or any part thereof to the United States Government for military or naval use and if any such lease is executed the provisions of this instrument, insofar as they are inconsistent with the provisions of the Lease to the Government, shall be suspended;
- (g) Landlord reserves the right to further develop or improve the landing area of the Airport as it sees fit, regardless of the desires or view of any Tenant providing such development or improvement will not interfere or hinder the operation of the Tenant herein. The reservation of these rights under subparagraphs (a), (b) and (c) shall be on a limited or temporary basis only, not to exceed ninety (90) days; and
- (h) Landlord retains all rights to any service road extension of Rudy Chase Drive, situated within the Demised Premises, which may be made at any time hereafter, either by the Town of Glenville, New York or by Landlord.

Section 1.04. LANDLORD'S OBLIGATION WITH RESPECT TO THE AUXILIARY AREAS:

Landlord shall keep the Auxiliary Area and all improvements located upon the Auxiliary Area clean and in good order and repair throughout the term. Within a reasonable time after the end of a snowfall, Landlord will commence to plow accumulated snow and ice from the parking area, sidewalks, runways, taxiways, aprons and vehicle access roadways and diligently prosecute the same to completion so that, to the extent practicable, those areas shall be reasonably cleared of snow and ice. Landlord may deposit accumulated ice and snow on portions of the Auxiliary

Area as may be necessary under the circumstances. The Landlord shall exercise its best efforts, consistent with the conditions then prevailing, to perform the aforesaid services as soon as is reasonably possible. The Tenant, however, shall not be entitled to an abatement of rent in the event that the Airport Facilities become shut down by reason of adverse weather conditions.

Section 1.05. RIGHT OF FLIGHT:

Landlord reserves the right of flight for the passage of aircraft above the surface of the Demised Premises, together with the right to cause in such airspace such noise as may be inherent to the operation of aircraft now known or hereafter used; and Landlord reserves the right of using said airspace for landing at, taking off from or operating aircraft on said Airport. Further, the Landlord reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent any Tenant from erecting or permitting to be erected any building or other structure on the Airport which, in the opinion of the Landlord and/or the Federal Aviation Administration would limit the usefulness of the Airport or constitute a hazard to aircraft.

ARTICLE II. USE AND OPERATION

Section 2.01. USE:

Tenant shall use the Demised Premises for the following uses: operation of an AeroSciences Museum, hangar rentals, air taxi service, aircraft repairs, used aircraft sales and rentals, aircraft tie-downs and flight training, subject to applicable legal requirements and any other F.A.A. authorized uses and subject to Tenant's compliance with any reasonable published County of Schenectady minimum standards.

Section 2.02. OPERATING RULES:

(a) Tenant shall keep the Demised Premises (including exterior and interior portions) in a neat and clean condition.

(b) Tenant shall pay before delinquency any and all taxes, assessments and public charges levied, assessed or imposed upon Tenant's business or upon Tenant's fixtures, furnishings or equipment in the Demised Premises.

(c) Tenant shall pay when and as due all license fees, permit fees and charges of a similar nature required in connection with the occupation or Tenant's activities at the Demised Premises.

(d) Tenant agrees not to permit the accumulation (unless in metal containers) of any rubbish or garbage in, on or about any part of the Entire Airport Premises.

(e) Tenant shall observe all reasonable and applicable rules and regulations, ordinances, resolutions and minimum standards for commercial aeronautical activities established by the Landlord, Federal Aviation Administration, N.Y.S.D.O.T. and Board of Fire Underwriters and any other proper governmental authority having jurisdiction over the conduct

or operations at the Airport from time to time for the Entire Airport Premises and the Demised Premises, provided Tenant shall be given at least five (5) days' notice thereof and attempts reasonable compliance within that period.

(f) Tenant agrees that it will comply with, and observe, all restrictive covenants which affect or are applicable to the Demised Premises and the Entire Airport Premises.

(g) Tenant shall not use the Demised Premises for any illegal trade, manufacture, or other business, or any other illegal purpose. Tenant shall not use the Demised Premises in such a manner as to give rise to the liability on the part of Landlord under Section 231 of the Real Property Law of the State of New York.

(h) Tenant may erect exterior signs and advertising matter as required for the operation of its business and the exercise of the rights granted by this agreement; the size, shape, material and location of such signs and advertising matter must be approved by the Landlord, and conform to zoning regulations of the Town of Glenville and to FAA and/or N.Y.S. Transportation rules and regulations. Landlord will not withhold approval unreasonably. Included within such rights shall be the option to place directional signs as authorized by the Federal Aviation Administration at the intersection of Runways designated 4 and 22, and 15 and 33.

(i) Landlord will install, maintain and operate proper obstruction lights in compliance with FAA requirements on tops of all buildings on the Demised Premises and keep the same lighted from sunset to sunrise.

(j) Tenant agrees to operate the premises leased for the use and benefit of the public; to make available its airport facilities and services to the public without unjust discrimination and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any use of the airport or its facilities or for any airport service. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 303 of the Civil Aeronautics Act, or Section 308(a) of the Federal Aviation Act of 1958, as amended.

(k) Tenant, for itself, its successors and assigns, as a part of the consideration for this Lease, does hereby covenant and agree, as a covenant running with the land, that:

1. No person, on the grounds of race, color or national origin, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in:

- (a) Tenant's use of the Airport and its facilities.
- (b) the conduct of Tenant's business by implementation of the rights granted hereby, and
- (c) the construction of any improvements on, over or under land leased to, or at any time controlled by, Tenant and the furnishing of services on such land;

2. Tenant shall use the Airport and its facilities and conduct its business in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Sub-title A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended; and

3. In the event of breach of any of the above discrimination covenants, Landlord shall have the right to terminate this Lease and to re-enter and repossess the leased land and the facilities thereon and hold the same as if this Lease had never been made or issued; and

4. The Tenant shall not prevent any person, firm or corporation operating aircraft from performing any services on its own aircraft with its own regular employees (including but not limited to, maintenance and repair) that it may choose to perform.

ARTICLE III. CONSTRUCTION OF THE LEASEHOLD IMPROVEMENTS AND/OR REPAIRS

Section 3.01. PLANS AND SPECIFICATIONS:

Within a reasonable time (not exceeding 60 days) after the date of this Lease, Tenant shall submit to Landlord, for Federal Aviation Administration and Landlord review and approval, any existing detailed plans and specifications for completion of the Leasehold Improvements and repairs. Landlord shall approve, reject or suggest modifications to those plans and specifications within thirty (30) days. If Landlord shall reasonably object to the plans and specifications, within thirty (30) days after Landlord's objection, Tenant shall submit revised plans and specifications to Landlord which shall comply with Landlord's requirements. If necessary, the process shall be repeated until the final plans and specifications are completed and approved. The final plans and specifications, which shall be approved by Landlord and the Federal Aviation Administration are referred to this Lease as the "Plans and Specifications."

Section 3.02. PERMITS TO BUILD:

Promptly after the Plans and Specifications are approved by Landlord, Tenant shall apply for all approvals and permits legally required in connection with the construction of the Leasehold Improvements and/or repairs, including zoning variances and a building permit, if required. If necessary, Landlord shall join in the execution of such applications. Landlord shall cooperate in connection with the prosecution of such applications. Tenant shall bear all expenses in connection with the applications, including any expenses incurred by Landlord. Tenant shall prosecute the applications diligently and use its best efforts to seek the approvals and permits applied for. Tenant shall advise Landlord of its progress from time to time and upon request by Landlord.

Section 3.03. COMMENCEMENT OF CONSTRUCTION:

(a) Promptly after all requisite approvals and permits have been granted, including a building permit (if required), Tenant shall commence construction of the Leasehold Improvements and/or repairs and shall prosecute such construction diligently to completion in accordance with the Plans and Specifications, good construction practices, and all applicable legal requirements.

(b) The Leasehold Improvements and other improvements or additions to the Demised Premises shall be the sole property of Tenant during the term of this Lease.

Section 3.04. CONDUCT OF CONSTRUCTION:

Tenant shall comply with all applicable legal requirements with respect to the conduct of Tenant's work and other activities at the Demised Premises.

Section 3.05. DELIVERY OF POSSESSION:

Delivery of Possession shall be deemed to have occurred when Landlord shall have vacated the Demised Premises and shall have tendered possession of it to Tenant.

Section 3.06. ACCEPTANCE OF POSSESSION:

Landlord shall not be required to perform any work to prepare the Demised Premises or the Entire Airport Premises for Tenant's occupancy. Tenant shall accept possession of the Demised Premises in as-is condition. Tenant hereby acknowledges that Tenant has inspected the Demised Premises and the Entire Airport Premises and is familiar with their condition. Landlord has made no representations, covenants or warranties with respect to the condition of the Demised Premises or the Entire Airport Premises.

Section 3.07. PERMISSION TO MORTGAGE LEASEHOLD:

Tenant shall, at all times, have the right to convey or encumber, by mortgage or other proper instrument in the nature thereof, as security for any actual bona fide debt, this Lease and all rights thereunder; but any and all such conveyances and encumbrances shall at all times be inferior and subject to the prior right, title and interest of Landlord therein and thereto, as security for the performance of the terms and conditions of this Lease, and in the event of foreclosure of any such mortgage Tenant shall nevertheless remain liable to Landlord under all covenants of this Lease to the extent provided by law. Landlord will assist Tenant in the application for any mortgage or IDA funding for Leasehold Improvements and/or repairs.

ARTICLE IV. TERM AND TERMINATION OF EXISTING LEASE AGREEMENTS

Section 4.01. TERM:

The term of this Lease shall be for a period of twenty (20) years, commencing the 1st day of April, 2023 and ending the 31st day of March, 2043.

Section 4.02. TERMINATION OF EXISTING LEASE AND AGREEMENTS:

All existing Leases and Agreements between the parties terminate on March 31, 2023.

ARTICLE V. RENT AND TAXES

Section 5.01. RENT:

Consideration shall be made by providing an Aerosciences Museum to the residents of the County of Schenectady and by Tenant paying rent to Landlord at the rate of \$8,192.00 per annum, in equal monthly installments, in advance.

Section 5.02. TAXES:

The Tenant shall pay to the Landlord all amounts assessed against the property for general and school taxes, special assessments, use taxes and municipal charges within ten (10) days after such bills sent directly to ESAM are presented by the Landlord for payment. The Landlord shall provide photostatic copies of receipted bills to the Tenant.

Section 5.03. ADDITIONAL RENT:

Wherever it is provided herein that Tenant is required to make any payment to Landlord, such payment shall be deemed to be additional rent and all remedies applicable to the non-payment of rent shall be applicable thereto.

Section 5.04. NO OFFSET:

Rent and additional rent shall be paid without notice, demand, counterclaim, setoff, deduction, defense or abatement.

Section 5.05. PLACE OF PAYMENT:

Rent and taxes and all other charges that Tenant is required to pay to Landlord shall be payable to the Commissioner of Finance of the County of Schenectady at Landlord's Notice Address or to any other place designated by notice given by Landlord to Tenant.

ARTICLE VI. LEASEHOLD IMPROVEMENTS, ALTERATIONS AND REPAIRS

Section 6.01. ALTERATIONS:

Tenant may not make any Leasehold Improvements, alterations and repairs to the Demised Premises without the prior written consent thereto by Landlord. If Landlord grants such consent, such alterations, improvements and repairs shall be performed in a good and workmanlike manner in accordance with all applicable legal requirements and insurance requirements.

Section 6.02. MECHANIC'S LIENS:

If any mechanic's or materialman's lien is filed against the Demised Premises or the Entire Airport Premises as a result of additions, alterations, repairs, installations or improvements made by Tenant, or any other work or act of Tenant, Tenant shall discharge same within twenty (20) days from the filing thereof. If Tenant shall fail to discharge said lien, Landlord may bond or pay said lien or claim for the account of Tenant without inquiring into the validity thereof.

Section 6.03. INSURANCE COVERING TENANT'S WORK:

Tenant shall not make any improvements, alterations, repairs or installations or perform any other work to or on the Demised Premises unless prior to the commencement of such work Tenant shall obtain (and during the performance of such work keep in force) public liability and workmen's compensation insurance to cover every contractor to be employed. Such policies shall be non-cancelable without ten (10) days' notice to Landlord and in amounts and companies reasonably satisfactory to Landlord. Prior to the commencement of such work, Tenant shall deliver duplicate originals of certificates of such insurance policies to Landlord.

ARTICLE VII. REPAIRS, COMPLIANCE, SURRENDER

Section 7.01. REPAIRS BY TENANT:

Tenant shall maintain the Demised Premises (including the Leasehold Improvements and all utility lines and conduits located upon and servicing the Demised Premises) in good order and repair and in a safe, dry and tenable condition. To that end, Tenant shall make all repairs, exterior or interior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen, to the Demised Premises and other improvements. Tenant shall be responsible for all costs to be incurred for maintaining, repairing and/or replacing any and all existing storm water drainage pipes and structures installed within the Demised Premises. All repairs shall be at least equal in quality and class to the original construction work, and shall be performed in a good and workmanlike manner, and in accordance with legal requirements. Tenant will do every act necessary or appropriate for the preservation and safety of the Demised Premises.

Section 7.02. REPAIRS BY LANDLORD:

Landlord shall have no obligation to repair or maintain the Demised Premises, or any other improvements located thereon under any circumstances.

Section 7.03. APPROVAL BY LANDLORD FOR REPAIRS AND ALTERATIONS:

If the reasonable cost of any repair or alteration required or permitted to be performed by Tenant under any provision of this Lease shall be in excess of Two Thousand Dollars (\$2,000.00), Tenant shall give prompt notice to Landlord thereof. Except in the event of an emergency, if Landlord shall give notice to Tenant (within ten [10] days after Tenant's notice is given) that it desires to approve plans and specifications with respect thereto, then such repair or alteration shall not be commenced until plans and specifications therefor shall have been submitted to and approved by Landlord (and in the case of any of the foregoing repairs or alterations, required to be made hereunder by Tenant, Tenant shall submit to Landlord appropriate plans and specifications indicating all work to be done promptly after such requirements arises). Such work shall then be commenced promptly, performed in accordance with such approved plans and specifications, and prosecuted diligently to completion. Any work performed by Tenant, irrespective of cost, shall be subject to Landlord's inspection and approval after completion to determine whether the same complies with the requirements of this Lease.

Section 7.04. COMPLIANCE:

Tenant shall observe and comply promptly with all present and future legal requirements and insurance requirements relating to or affecting the Demised Premises, the Entire Airport Premises, Tenant's use and occupancy thereof, or any appurtenance thereto.

Section 7.05. EMERGENCY REPAIRS:

If, in an emergency, it shall become necessary to make promptly any repairs or replacements to the Demised Premises, Landlord may, but shall not be obligated to, re-enter the Demised Premises and proceed forthwith to have such repairs or replacements made and pay the cost thereof. Within thirty (30) days after Landlord renders a bill therefor, Tenant shall reimburse Landlord for the cost of making such repairs.

Section 7.06. SURRENDER OF PREMISES:

On the expiration date, Tenant shall quit and surrender the Demised Premises in good condition and repair, together with all alterations, fixtures, installations, additions and improvements which may have been made in or attached on or to the Demised Premises. Notwithstanding the foregoing, Landlord may require Tenant to remove the Leasehold Improvements and any other additions or alterations made by Tenant, and restore the Demised Premises to the condition delivered.

ARTICLE VIII. SERVICES AND UTILITIES

Section 8.01. UTILITY CHARGES:

Tenant shall pay all charges for utility services used or consumed by Tenant at the Demised Premises, including sanitary sewerage and water rent, use or frontage charges. Tenant shall promptly pay for all such services directly to the utility companies or governmental authorities or agencies imposing the charges. Tenant shall open its own accounts with the companies or authorities.

Section 8.02. UTILITY CONNECTION:

Tenant shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense, subject to the approval of the Schenectady County Commissioner of Engineering and Public Works.

ARTICLE IX. TRANSFER OF INTEREST

Section 9.01. ASSIGNMENT OR SUBLET:

Tenant shall not transfer or assign this Lease or sublet the Demised Premises without Landlord's prior written consent. Any attempted transfer, assignment or subletting without Landlord's prior written consent shall be void and confer no rights upon any third person. No assignment or subletting shall relieve Tenant of any obligations herein. The consent by Landlord to any transfer, assignment or subletting shall not be deemed to be a waiver on the part of the Landlord of any prohibition against any future transfer, assignment or subletting. If Landlord consents to any such transfer, assignment or subletting, the same shall not be effective unless and until (a) Tenant gives notice thereof to Landlord, and (b) such transferee, assignee or sublessee shall deliver to Landlord (i) a written agreement in form and substance satisfactory to Landlord pursuant to which such transferee, assignee or sublessee assumes all of the obligations and liabilities of Tenant hereunder, and (ii) a copy of the assignment agreement or sublease. If Tenant is a corporation, a transfer of a controlling interest in Tenant's stock shall be regarded as an assignment in the context of this Section.

ARTICLE X. DESTRUCTION

Section 10.01. RENT ABATEMENT:

If the whole or any portion of the Demised Premises is damaged by fire or other cause, rent shall not abate, except to the extent of rent insurance proceeds actually paid to Landlord. Landlord shall have no obligations to rebuild or repair the Demised Premises.

Section 10.02. OPTION TO TERMINATE:

If all, or a substantial portion, of the Demised Premises shall be damaged by fire or other casualty, this Lease shall not be terminated. Tenant hereby waives all rights to terminate this Lease or to an abatement of rent which it may have by reason of damage to the Demised Premises by fire or other cause, pursuant to any presently existing or future statute or other law.

Section 10.03. OBLIGATION TO REBUILD:

If the hangar portion of the Demised Premises shall be damaged by fire or other cause, within a reasonable time after such occurrence, Tenant shall repair or rebuild it or such portion to its condition immediately prior to such occurrence in a structural manner consistent with the then current building practices and structures for aeronautical purposes providing similar usage as that of the Demised Premises.

Section 10.04. FIRE INSURANCE:

With respect to insurance on the Demised Premises:

(a) The County shall maintain the current insurance coverage on the hangar building against damage by fire, lightning, windstorm, hail, smoke, explosion, riot, and other risks included in the current insurance coverage under "Extended Coverage".

(b) An insurance policy shall be issued by an insurer of recognized responsibility selected by Landlord which shall be reasonably satisfactory to Tenant in form and substance, and shall be carried in favor of Landlord, Tenant and all Mortgagees, as their respective interests may appear.

(c) Tenant shall annually reimburse Landlord for any expenses incurred in maintaining the insurance coverage on the building under this section. Tenant shall have the option with the consent of Landlord to provide its own coverage hereunder to insure its obligations under Section 10.03 rather than reimburse the County for such coverage. Landlord's consent shall not be unreasonably withheld.

(d) At such times as Tenant may reasonably request, and at least once in each year, without any such request, Landlord shall deliver to Tenant a certificate setting forth all pertinent details with respect to the insurance policy in force including the name of the insurer, the type of, the amount of, the premium for, and the expiration date of, each policy, and a statement as to whether the premium therefor has been paid.

Section 10.05. WAIVER OF SUBROGATION:

Landlord and Tenant each hereby releases the other, its officers, directors, employees and agents from liability or responsibility (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property covered by valid and collectible fire insurance with standard extended coverage endorsement, even if such fire or other casualty shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible. However, this release shall be applicable and in force and effect only with respect to loss or damage (a) actually recovered from an insurance company, and (b) occurring during such time as the releasor's fire or extended coverage insurance policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder. Landlord and Tenant each agrees that any fire and extended coverage insurance policies carried by each of them respectively and covering the Demised Premises or their contents will include such a clause or endorsement as long as the same shall be obtainable without extra cost, or if extra cost shall be charged therefor, so long as the other party pays each extra cost. If extra cost shall be chargeable therefor, each party shall advise the other thereof and of the amount of the extra cost.

ARTICLE XI. CONDEMNATION

Section 11.01. DEFINITIONS:

Within the meaning of Article XI, the following words have the following meanings:

(a) Award: means the award for, or proceeds of, any Taking, less all expenses in connection therewith, including reasonable attorney's fees.

(b) Taking: means the taking of, or damage to, the Demised Premises or the Entire Airport Premises or any portion thereof, as the case may be, as the result of the exercise of any power of eminent domain, condemnation, or purchase under threat thereof or in lieu thereof.

(c) Taking Date: means with respect to any Taking, the date on which the condemning authority shall have the right to possession of the Demised Premises or the Entire Airport Premises or any portion thereof, as the case may be.

Section 11.02. TOTAL OR SUBSTANTIAL PARTIAL TAKING OF DEMISED PREMISES:

In the event of a Taking of the whole Demised Premises, other than a Taking for temporary use, this Lease shall automatically terminate as of the Taking Date. In the event of a Taking of any portion of the Demised Premises, Landlord may, at its option, terminate this Lease by giving notice to Tenant within six (6) months of the date of such Taking. If more than 15% of the Demised Premises shall be permanently taken and Tenant shall be unable to use the balance thereof for the conduct of the business being conducted therein at the time of the Taking, then Tenant shall have the right to cancel this Lease by giving Landlord notice thereof prior to the expiration of four (4) months after the Taking Date. Any dispute as to whether Tenant is unable

to use the Demised Premises or the balance thereof for the conduct of such business shall be determined by arbitration in accordance with Section 16.08.

Section 11.03. RESTORATION:

In the event of a Taking of a portion of the Demised Premises other than a Taking for temporary use and this Lease shall not terminate or be terminated under the provisions of Section 11.02 hereof, Rent shall be reduced in the proportion that the area so Taken bears to the entire area contained within the Demised Premises. In such event, Landlord shall restore the remaining portion of the Demised Premises to the extent practical to render same reasonably suitable for the Permitted Uses. Landlord shall not be obligated to expend in such restoration any sums greater than the Award.

Section 11.04. TAKING FOR TEMPORARY USE:

If there is a Taking of the Demised Premises for temporary use, this Lease shall continue in force and effect, and Tenant shall continue to comply with all of the provisions thereof, except as such compliance shall be rendered impossible or impracticable by reason of such Taking.

Section 11.05. DISPOSITION OF AWARDS:

All Awards arising from a total or partial Taking of the Demised Premises, or of Tenant's leasehold interest, awarded to Landlord or Tenant, shall be distributed in accordance with the final determination of the condemnation commissioners or other similar officials appointed for the purpose of making such Award.

ARTICLE XII. INDEMNITY AND LIABILITY

Section 12.01. INDEMNITY:

(a) **Definition:** Within the meaning of Article XII, "Claims" means any claims, suits, proceedings, actions, causes of action, responsibility, liability, demands, judgments and executions.

(b) Tenant hereby indemnifies and agrees to save harmless Landlord, from and against any and all Claims, which either (i) arise from, or are in connection with the possession, use, occupation, management, repair, maintenance or control of the Demised Premises, or any portion thereof; (ii) arise from, or are in connection with, any act or omission of Tenant or Tenant's Agents; (iii) result from any default, breach, violation or non-performance of this Lease or any provision therein by Tenant; or (iv) result in injury to person or property or loss of life sustained in or about the Demised Premises. Tenant shall defend any actions, suits and proceedings which may be brought against Landlord, with respect to the foregoing or in which it may be implicated. Tenant shall pay, satisfy and discharge any judgments, orders and decrees which may be recovered against Landlord, in connection with the foregoing.

Section 12.02. LIABILITY INSURANCE:

Tenant shall provide, on or before it enters the Demised Premises for any reason, and shall keep in force during the Term for the benefit of Landlord and Tenant, a comprehensive policy of public and aircraft liability insurance naming Landlord as co-insured, protecting Landlord and Tenant against any liability occasioned by any occurrence on or about the Demised Premises or any appurtenances thereto, or arising from any of the items indicated in Section 12.01 against which Tenant is required to indemnify Landlord. Such policy is to be written (i) by a good and solvent insurance company authorized to do business in the State of New York and satisfactory to Landlord, and (ii) in the minimum amount of \$5,000,000.00 combined single limit. Said policy shall contain a provision that written notice of cancellation, or of any material change in said policy by the insurer, shall be delivered to Landlord thirty (30) days in advance of the effective date thereof. This provision shall be subject to review and requirement of new reasonable liability limits at the end of each five-year period.

Section 12.03. NON-LIABILITY OF LANDLORD:

Landlord shall not be responsible or liable to Tenant for (a) any loss or damage that may be occasioned by the acts or omissions of any other person occupying any part of the Entire Airport Premises, or (b) for any loss or damage resulting to Tenant or its property from water, gas or steam; or the busting, stoppage, or leakage of sewer pipes; provided such loss or damage under subparagraphs (a) and (b) is not occasioned by the gross negligence of Landlord.

Section 12.04. INABILITY TO PERFORM:

(a) Landlord shall not be required to carry out any of its obligations hereunder, nor be liable for loss or damage for failure so to do, nor shall the Tenant thereby be released from any if its obligations hereunder, where such failure arises by reason of delays caused by acts of God; strikes; lockouts, labor difficulty; explosion; sabotage; accident; riot; or civil commotion; act of war; fire or other casualty; legal requirements or delays caused by any other party.

(b) If Landlord is so delayed or prevented from performing any of its obligations, the period of such delay or such prevention shall be added to the time herein provided for the performance of any such obligation.

(c) In the event the rights and privileges hereunder are suspended by reason of war or other national emergency, the term of this Lease shall be extended by the amount of such suspension.

ARTICLE XIII. COVENANT OF QUIET ENJOYMENT

Landlord covenants that, if Tenant pays the rent and all other charges provided by herein, performs all of its obligations provided for hereunder, and observes all of the other provisions hereof, Tenant shall at all times during the Term, peaceably and quietly have, hold and enjoy the Demised Premises without any interruption or disturbance from Landlord, subject to the terms thereof.

ARTICLE XIV. FAILURE TO PERFORM DEFAULTS, REMEDIES

Section 14.01. DEFAULTS, CONDITIONAL LIMITATION:

(a) Each of the following events shall constitute a Default:

(i) If Tenant shall (x) make an assignment for the benefit of creditors, (y) file or acquiesce to a petition in any court (whether or not pursuant to any statute of the United States or of any state) in any bankruptcy reorganization, composition, extension, arrangement or insolvency proceedings; or (z) make an application in any such proceedings for, or acquiesce to, the appointment of a trustee or receiver for it or all of any portion of its property.

(ii) If any petition shall be filed against Tenant, to which it does not acquiesce, in any court (whether or not pursuant to any statute of the United States or any state) in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings; and (x) Tenant shall thereafter be adjudicated a bankrupt, or (y) such petition shall be approved by any such court, or (z) such proceeding shall not be dismissed, discontinued or vacated within thirty (30) days.

(iii) If, in any proceeding, pursuant to the application of any person other than Tenant, to which it does not acquiesce, a receiver or trustee shall be appointed for Tenant or for all or all or any of its portion of its property and such receivership or trusteeship shall not be set aside within thirty (30) days after such appointment.

(iv) If Tenant shall refuse to take possession of the Demised Premises at the Commencement Date or shall vacate the Demised Premises and permit the same to remain unoccupied and unattended.

(v) If Tenant shall fail to pay any installment of rent, additional rent, or any other charge required to be paid by Tenant hereunder, when the same shall become due and payable, and such failure shall continue for five (5) days after written notice from Landlord.

(vi) If Tenant shall fail to perform or observe any other requirement of this Lease (not hereinbefore specifically referred to) on the part of the Tenant to be performed, or observed, and such failure shall continue for twenty (20) days after written notice from Landlord.

(b) This Lease is subject to the limitation that, if at any time, a Default shall occur, then upon the happening of any one or more of the aforementioned Defaults, Landlord may give to Tenant a notice of intention to end the Term of this Lease at the expiration of five (5) days from the date of service of such notice of termination. At the expiration of such five (5) days, this Lease and the Term, as well as all of the right, title and interest of the Tenant hereunder, shall wholly cease and expire, and Tenant shall then quit and surrender the Demised Premises to the Landlord. But, notwithstanding such termination, surrender, and the expiration of Tenant's right, title and interest, Tenant's liability under all of the provisions of this Lease shall continue.

Section 14.02. LANDLORD'S RE-ENTRY:

If this Lease shall be terminated as herein provided, Landlord, or its agents or employees, may immediately or at any time thereafter re-enter the Demised Premises and remove therefrom Tenant, Tenant's Agents, any subtenants, or invitees, together with any of its or their property, either by summary, dispossession proceedings or by any suitable action or proceeding at law or by force or otherwise. In the event of such termination, Landlord may repossess and enjoy the Demised Premises. Landlord shall be entitled to the benefits of all provisions of law respecting the speedy recovery of lands and tenements held over by Tenant, or proceedings in forcible entry and detainer. Tenant waives any rights to the service of any notice of Landlord's intention to re-enter provided for by any present or future law. Landlord shall not be liable in any way in connection with any action it takes pursuant to the foregoing. Notwithstanding any such re-entry, repossession, dispossession or removal, Tenant liability under all of the provisions of this Lease shall continue.

Section 14.03. DEFICIENCY:

(a) In case of re-entry, repossession or termination of this Lease, whether the same is the result of the institution of summary or other proceedings or not, Tenant shall remain liable (in addition to accrued liabilities) to the extent legally permissible for (i) the (x) rent, additional rent and all other charges provided for herein until the date this Lease would have expired had such termination, re-entry or repossession not occurred; and (y) expenses to which Landlord may be put in re-entering the Demised Premises repossessing the same; making good any Default of Tenant; painting, altering or dividing the Demised Premises; combining the same with any adjacent space for any new tenant; putting the same in proper repair; protecting and preserving the same by placing therein watchmen and caretakers; reletting the same (including attorney's fees and disbursements, marshal's fees, brokerage fees, in so doing); and any expenses which Landlord may incur during the occupancy of any new tenant; minus (ii) the net proceeds of any reletting. Tenant agrees to pay to Landlord the difference between items (i) and (ii) hereinabove with respect to each month, at the end of such month. Such payment shall be made to Landlord at Landlord's notice address or such other address as Landlord may designate by giving notice to Tenant. Any suit brought by Landlord to enforce collection of such difference for any one month shall be not prejudice Landlord's right to enforce the collection of any difference for any subsequent month. In addition to the foregoing, Tenant shall pay to Landlord such sums as the court which has jurisdiction thereover may adjudge reasonable as attorney's fees with respect to any successful lawsuit or action instituted by Landlord to enforce provisions hereof.

(b) Landlord may relet the whole or any part of said Demised Premises for the whole of the unexpired period of this Lease, or longer, or from time to time for shorter periods, for any rental then obtainable, giving such concessions of rent and making such special repairs, alterations, decorations and paintings for any new tenant as it may in its sole and absolute discretion deem advisable. Tenant's liability as aforesaid shall survive the institution of summary proceedings and the issuance of any warrant thereunder. Landlord shall be under no obligation to relet or to attempt to relet the Demised Premises.

Section 14.04. WAIVER OF RIGHTS OF REDEMPTION:

Tenant hereby expressly waives (to the extent legally permissible), for itself and all persons claiming by, through, or under it, any right of redemption or for the restoration of the operation of this Lease under any present or future law in case Tenant shall be dispossessed for any cause, or in case Landlord shall obtain possession of the Demised Premises as herein provided.

Section 14.05. WAIVER OF TRIAL BY JURY:

Tenant waives all right to trial by jury in any claim, action, proceeding or counterclaim by either Landlord or Tenant against each other on any matters arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, and/or Tenant's use or occupancy of the Demised Premises.

Section 14.06. LANDLORD'S RIGHT TO PERFORM FOR ACCOUNT OF TENANT:

If Tenant shall be in Default hereunder, Landlord may, at any time thereafter, cure said Default for the account and at the expense of Tenant. Tenant shall pay, with interest at the maximum legal rate, on demand, to Landlord, the amount so paid, expended, or incurred by the Landlord and any expenses of Landlord including attorneys' reasonable fees incurred in connection with such Default; and all of the same shall be deemed to be additional rent.

Section 14.07. ADDITIONAL REMEDIES, WAIVERS, ETC.:

With respect to the rights and remedies of, and waivers by, Landlord:

(a) The rights and remedies of Landlord set forth herein shall be in addition to any other right and remedy now and hereafter provided by law. All such rights and remedies shall be cumulative and not exclusive of each other. Landlord may exercise such rights and remedies at such times, in such order, to such extent, and as often as Landlord deems advisable without regard to whether the exercise of one right or remedy, precedes, concurs with or succeeds the exercise of another.

(b) A pledge or partial exercise of a right or remedy shall not preclude (i) a further exercise thereof, or (ii) the exercise of another right or remedy from time to time.

(c) No delay or omission by Landlord in exercising a right or remedy shall exhaust or impair the same or constitute a waiver of, or acquiescence to, a Default.

(d) No waiver of a Default shall extend to or affect any other Default or impair any right or remedy with respect thereto.

(e) No action or inaction by Landlord shall constitute a waiver of a Default.

(f) No waiver of a Default shall be effective, unless it is in writing.

Section 14.08. DISTRAINT:

In addition to all other rights and remedies, if Tenant shall be in Default hereunder, Landlord shall, to the extent permitted by law, have a right of distress for rent and a lien on all of Tenant's fixtures, merchandise and equipment in the Demised Premises, as security for rent and all other charges payable hereunder.

ARTICLE XV. RIGHT OF ACCESS

Section 15.01. ENTRY:

During any reasonable time before and after the Commencement Date, Landlord and/or its designees may enter upon the Demised Premises, any portion thereof and any appurtenance thereto (with men and materials, if required), for the purpose of: (a) inspecting the same; (b) making such repairs, replacements or alterations which it may be required to perform as herein provided or which it may deem desirable for the Demised Premises; and (c) showing the Demised Premises to prospective purchasers or lessees.

Section 15.02. EASEMENT FOR PIPES:

Tenant shall permit Landlord to erect, use, maintain and repair pipes, cables, conduits, plumbing, vents and wires in, to and through the Demised Premises as and to the extent that Landlord may now or hereafter deem to be necessary or appropriate for the proper operation and maintenances of the Entire Airport Premises provided that such rights herein do not interfere with the Tenant's use of the Demised Premises.

ARTICLE XVI. INTERPRETATION, NOTICES, MISCELLANEOUS

Section 16.01. INTERPRETATION:

(a) Every term, condition, agreement or provision contained in this Lease which imposes an obligation on Tenant, shall be deemed to be also a covenant by Tenant.

(b) Any references herein to any extensions or renewals of Term or any period during which Tenant may be in possession after the Expiration Date shall not be deemed to imply that any extension or renewal of the Term is contemplated hereby or that Tenant shall be permitted to remain in possession after the expiration of the Term.

(c) If any 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 provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

(d) The captions and headings used throughout this Lease are for the convenience of reference only and shall not affect the interpretation of this Lease.

(e) This Lease has been executed in several counterparts; but the counterparts shall constitute but one and the same instrument.

(f) Wherever a requirement is imposed on any party hereto, it shall be deemed that such party shall be required to perform such requirement at its own expense unless it is specifically otherwise provided herein.

(g) The singular includes the plural and the plural includes the singular.

Section 16.02. CONSTRUING VARIOUS WORDS AND PHRASES:

(a) Wherever it is provided herein that a party may perform an act or do anything, it shall be construed so that the party may, but shall not be obligated to, so perform or so do.

(b) The words "re-enter" and "re-entry" as used herein are not restricted to their technical legal meaning.

(c) The following words and phrases shall be construed as follow: (i) "at any time" shall be construed as, "at any time or from time to time"; (ii) "any" shall be construed as, "any and all"; and (iii) "including" shall be construed as "including, but not limited to".

(d) Wherever it is provided herein that the Landlord's consent is required, it shall be construed that such consent shall not be withheld unreasonably.

Section 16.03. NO ORAL CHANGES:

This Lease may not be changed or terminated orally

Section 16.04. COMMUNICATIONS:

No notice, request, consent, approval, waiver or other communication under this Lease shall be effective unless, but any such communication shall be effective and shall be deemed to have been given if, the same is in writing and is mailed by registered or certified mail, postage prepaid, addressed:

(a) If to Landlord, to the address herein designated as Landlord's Notice Address:

County Manager of Schenectady County
County Office Building
620 State Street
Schenectady, New York 12305

or such other address as Landlord designates by giving notice thereof to Tenant; and

(b) If to Tenant, to the address herein designated as Tenant's Notice Address:

**Empire State Aerosciences Museum
250 Rudy Chase Drive
Glenville, New York 12302**

or such other address as Tenant shall designate by giving notice thereof to Landlord.

Section 16.05. METHOD OF PAYMENT:

Except as herein otherwise expressly provided, all amounts payable under this Lease shall be payable in coin or currency of the United States of America which at the time of payment is legal tender for public and private debts.

Section 16.06. SUCCESSORS AND ASSIGNS:

Subject to the provisions hereof, this Lease shall bind, and inure to the benefit of, the parties and their respective successors, representatives, heirs and assigns.

Section 16.07. RESPONSIBILITY OF TENANT:

Any restriction on, or requirement imposed upon, Tenant hereunder shall be deemed to extend to Tenant's subtenants, and it shall be Tenant's obligation to cause the foregoing persons to comply with such restriction or requirement.

Section 16.08. ARBITRATION:

In any event and notwithstanding any provisions made in the Lease, the parties hereto will submit to arbitration any question or dispute, except non-payment of rentals, arising between said parties as to the interpretation of any term, condition or covenant herein contained or with respect to any matter of compliance or noncompliance with the terms hereof, in accordance with and pursuant to Article 75 of the Civil Practice Law and Rules of the State of New York.

Section 16.09. SUBORDINATION OF LEASE:

This Lease shall be subordinate to the provisions of any existing or future agreement between Landlord and the United States of America, the State of New York or any of their authorized agencies relative to the operation or maintenance of the Airport, the execution of which has been, or may be, required as a condition precedent to the expenditure of Federal or State funds for the development of the Airport.

Section 16.10. VALIDITY:

This Lease shall be of no force and effect unless and until it has been reviewed by the Federal Aviation Administration and approved by the Schenectady County Board of Representatives and is executed by both Landlord and Tenant and counterparts of the executed Lease are exchanged by Landlord and Tenant.

ARTICLE XVII. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES

Section 17.01.

Tenant shall comply with the environmental laws which include all Federal, State, local and municipal laws, statutes, ordinances, rules, regulations, orders, decrees or requirements to regulating, relating to or imposing liability or standards of conduct concerning the use, storage, treatment, transportation, manufacture, refinement, handling, production and/or disposal of "Hazardous Materials" (as hereinafter defined), or otherwise pertaining to environment protection, as now or at any time hereafter in effect, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601; the Superfund Amendment and Reauthorization Act of 1986, Public Law 99-499, 100 Stat. 1613; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901; the Occupational Safety and Health Act, 29 U.S.C. Section 655 and Section 657; the Clean Air Act, 42 U.S.C. Section 7401; the Clean Water Act 33 U.S.C. Section 1251; the New York State Environmental Quality Review Act, New York State Environmental Conservation Law Section 8-1101; and the New York Environmental Conservation Law; together with all amendments thereto, substitutions therefor, rules and regulations promulgated thereunder and all amendments to, and substitutions for, the rules and regulations (the aforementioned are hereinafter called the "Environmental Laws"). Tenant represents and warrants to Landlord the following:

- (a) Tenant and any responsible person acting on behalf of Tenant will not use, store, treat, transport, manufacture, refine handle or produce any hazardous or toxic substance on or about the Demised Premises in any manner which would cause a violation of any applicable Environmental Law;
- (b) Tenant and any responsible person acting on behalf of Tenant will not permit or suffer or cause to permit the Demised Premises to be, in any manner, in violation of any Environmental Laws through the actions of Tenant or anyone under Tenant's control;
- (c) Tenant and any person acting on behalf of Tenant will not at any time dispose of any hazardous materials at, or about, the Demised Premises or operate a hazardous waste treatment or storage or disposal facility, except as provided herein;
- (d) Tenant and any other person acting on behalf of Tenant will not create or suffer to create any condition at, or about, the Demised Premises or any portion thereof which could subject Landlord to any liability for any remedial action or removal or for any other environmental clean-up of any kind or description;
- (e) Tenant shall defend, indemnify and hold Landlord and Landlord's employees, agents and officers harmless from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs and/or expenses of whatever kind or nature and/or any other environmental clean-up of any kind or description caused by Tenant from the date of its occupancy arising out of, or in any way relating to, the enforcement of any such Environmental Law, with respect to Tenant's use of the Demised Premises. The representation, warranties, obligations and liabilities of Tenant under this Article XVII shall survive the term of this Lease.

foreclosure or eviction of Tenant from the Demised Premises, any assignment or sublease under this Lease; and

(f) Notwithstanding anything herein to the contrary, any mortgagee involved with the Demised Premises, pursuant to the authority of Section 3.07 of this Lease, shall not be responsible nor liable with respect to any violations of this Article provided that said mortgagee has not caused nor has been in possession of the Demised Premises by foreclosure or otherwise assumed responsibility and control of the Demised Premises, when such violations have occurred.

IN WITNESS WHEREOF, Landlord has (executed this Lease under seal) (caused the Lease to be executed, attested to and ensealed by its duly authorized officers) and Tenant has (executed this Lease under seal) (caused this Lease to be executed, attested to and ensealed by its duly authorized officers). ?TS

LANDLORD:

THE COUNTY OF SCHENECTADY, NEW YORK

ATTEST:

By:

RORY FLUMAN, its Manager

PGC PJS

TENANT:

EMPIRE STATE AEROSCIENCES MUSEUM

ATTEST:

By:

DAN WILSON, its President



**APPROVED AS TO FORM AND CONTENT
THIS 14 DAY OF May, 2023:**

CHRISTOPHER H. GARDNER
SCHENECTADY COUNTY ATTORNEY

STATE OF NEW YORK)
) ss.:
COUNTY OF SCHENECTADY)

On the ___ day of _____, 2023, personally appeared, before me, the undersigned, RORY FLUMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public-State of New York

STATE OF NEW YORK)
) ss.:
COUNTY OF SCHENECTADY)

On the 15th day of May, 2023, personally appeared, before me, the undersigned, DAN WILSON, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public-State of New York

Joyce M. Newdick
Notary Public, State of New York
No. 01NE4761331 - County of Schenectady
Term Expires June 30, 2026

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel "A"
Containing 3.400 acres

All that piece or parcel of land situate in the Town of Glenville, County of Schoenectady and the State of New York, bounded and described as follows:

Beginning at a point located along the southeasterly line of New York State Route 50, said point being the intersection formed by said northerly line of New York State Route 50 with the division line between the lands now or formerly of Slittery Road Realty LLC (Book 1712, Page 44) on the northeast and the lands now or formerly of the lands of the County of Schoenectady (Book 1543, Page 460) on the southwest; thence from said point of beginning and along said division line, South $71^{\circ}19'40''$ East, 302.61 feet to a point; thence through the aforesaid lands of the County of Schoenectady, the following five courses: 1) South $51^{\circ}45'37''$ West, 139.67 feet to a point; 2) along a curve to the left having a radius of 526.47 feet, an arc length of 272.08 feet and bearing a chord of South $34^{\circ}16'36''$ West, 269.06 feet to a point; 3) South $16^{\circ}32'53''$ West, 161.75 feet to a point; 4) South $21^{\circ}21'17''$ West, 77.94 feet to a point and 5) South $35^{\circ}41'31''$ West, 31.57 feet to a point; thence along the lands now or formerly of Gary Rea (Book 1707, Page 506), North $54^{\circ}44'54''$ West, 296.20 feet to a point; thence along the aforesaid southeasterly line of N.Y.S. Route 50, the following three courses: 1) North $37^{\circ}43'20''$ East, 298.50 feet to a point; 2) North $30^{\circ}04'20''$ East, 143.70 feet to a point and 3) North $23^{\circ}12'20''$ East, 138.75 feet to the point or place of beginning.

Containing in all 3.400 acres, of land being more or less.

January 24, 2023

Vincent P. Ausfeld P.L.S.

LEGAL DESCRIPTION

Parcel "B"
Containing 6.052 acres

All that piece or parcel of land situate in the Town of Glenville, County of Schenectady and the State of New York, bounded and described as follows:

Commencing at a point located along the southeasterly line of New York State Route 50, said point being the intersection formed by said northerly line of New York State Route 50 with the division line between the lands now or formerly of Slittery Road Realty LLC (Book 1712, Page 44) on the northeast and the lands now or formerly of the lands of the County of Schenectady (Book 1543, Page 460) on the southwest; thence from said point of commencement and along said division line and continuing through the lands of the County of Schenectady, South $71^{\circ}19'40''$ East, 386.16 feet to the point of beginning; thence from said point of beginning through the aforesaid lands of the County of Schenectady, the following the following eighteen courses: 1) South $71^{\circ}19'40''$ East, 42.47 feet to a point; 2) South $06^{\circ}53'57''$ West, 438.20 feet to a point; 3) South $23^{\circ}11'36''$ West, 72.42 feet to a point; 4) South $45^{\circ}28'49''$ West, 51.59 feet to a point; 5) South $47^{\circ}26'34''$ East, 173.37 feet to a point; 6) South $42^{\circ}32'11''$ West, 144.17 feet to a point; 7) North $47^{\circ}37'56''$ West, 107.21 feet to a point; 8) South $28^{\circ}22'50''$ West, 97.14 feet to a point; 9) South $42^{\circ}42'43''$ West, 30.23 feet to a point; 10) South $47^{\circ}49'06''$ East, 287.43 feet to a point; 11) South $41^{\circ}23'48''$ West, 101.25 feet to a point; 12) North $49^{\circ}33'37''$ West, 565.76 feet to a point; 13) North $36^{\circ}43'07''$ East, 169.15 feet to a point; 14) North $35^{\circ}41'31''$ East, 41.00 feet to a point; 15) North $21^{\circ}21'17''$ East, 89.68 feet to a point; 16) North $16^{\circ}32'53''$ East, 162.84 feet to a point; 17) along a curve to the right having a radius of 456.47 feet, an arc length of 232.61 and bearing a chord of North $34^{\circ}17'09''$ East, 230.10 feet to a point and 18) North $51^{\circ}45'37''$ East, 183.59 feet to the point or place of beginning.

Containing in all 6.052 acres of land being more or less.

January 24, 2023

Vincent P. Ausfeld P.L.S.

EXHIBIT "B"



Aerial Photograph of the Site

GENERAL NOTES:
 1. ALL DIMENSIONS ARE IN METERS.
 2. THE SITE IS BOUNDARY BY THE...
 3. THE...
 4. THE...
 5. THE...
 6. THE...
 7. THE...
 8. THE...
 9. THE...
 10. THE...

REPUBLIC OF INDONESIA
DEPARTMENT OF AGRICULTURE
OFFICE OF THE DISTRICT AGRICULTURAL OFFICER

NO. 1234/1980
 DATE: 15/05/1980
 PLACE: SURABAYA

Legenda

- 1. Batas Desa
- 2. Batas RT
- 3. Batas RW
- 4. Jalan
- 5. Bangunan
- 6. Sawah
- 7. Perkebunan
- 8. Perairan
- 9. Pagar
- 10. Pohon

