

AGENT AGREEMENT

THIS AGENT AGREEMENT ("Agreement"), made as of the 26th day of May 2015 by and between the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at One Cablevision Center, Ferndale, New York 12734 ("Agency") and CATSKILL DISTILLING COMPANY LTD., a New York corporation doing business as Dancing Cat Distillery, having a mailing address of P.O. Box 345, White Lake, New York 12786 ("Company").

WITNESSETH:

WHEREAS, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York ("State") pursuant to Title I of Article 18-A of the (General Municipal Law of the State of New York (collectively referred to as the "Enabling Act") as a body corporate and politic and as a public benefit corporation of the State; and

WHEREAS, the Enabling Act authorizes the creation of industrial development agencies for the benefit of the several counties, cities, villages and towns in the State and empowers such agencies, among other things, to acquire, construct, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, the Enabling Act further authorizes each such agency to lease any or all of its facilities at such rentals and on such other terms and conditions as it deems advisable; and

WHEREAS, pursuant to and in connection with the provisions of the Enabling Act, the Agency is empowered under the Act to undertake the providing of financing and taking of title or a leasehold interest in the Project (as described below); and

WHEREAS, on August 12, 2009, the Company and the Agency closed a sale/leaseback transaction consisting of the: (i) acquisition, construction, installation and equipping of a building to consist of approximately 4,650± square feet with an approximately 900± square foot mezzanine to house a micro-distillery ("Distillery") and acquisition, reconstruction, rehabilitation, installation and equipping of an existing building to house an office and operations center for the Distillery ("2009 Office Building and together with the Distillery, collectively, the "2009 Buildings") situate on two (2) parcels of real estate consisting of approximately 8.90± acres to be located along State Route 17B in the Town of Bethel ("Town"), County of Sullivan ("County"), State and identified on the Town tax map as Section 26, Block 1, Lot 6 and Section 22, Block 1, Lot 62 ("Land") and related facilities in which the Agency acquired an interest; (ii) acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("2009 Equipment"); (iii) construction of improvements to the 2009 Buildings, the Land and the 2009 Equipment

(collectively, the 2009 Buildings, the Land and the 2009 Equipment are referred to as the “2009 Project”); and (iv) lease of the 2009 Project from the Agency to the Company; and

WHEREAS, the Company and the Agency entered into the following documents:

1. Amended and Restated Agent Agreement, dated August 11, 2009;
2. Bill of Sale to the Agency, dated August 12, 2009;
3. Lease Agreement and memorandum thereto, dated August 12, 2009; and
4. Payment in Lieu of Taxation Agreement, dated August 12, 2009;

Items #1 through #4 are collectively referred to as the (“2009 Project Documents”); and

WHEREAS, on April 27, 2015, the Company presented an application (“Application”) to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking the Project consisting of: (i) the renovation, installation and equipping of the 2009 Office Building for use as a restaurant/saloon and office building (“Restaurant/Saloon”); (ii) the renovation, installation and equipping of an existing barn approximately 900± square feet in size for use to age whiskey (“Barrel House #1”); (iii) construction, installation and equipping of a storage facility approximately 1,680± square feet in size for use to age whiskey (“Barrel House #2”); (iv) the construction, installation and equipping of a 2 story storage facility approximately 9,000± square feet in size to be used for storage and to age whiskey (“Storage/Barrel House #3”); (v) the construction, renovation, installation and equipping of an existing building to be used as a garage (“Garage”); (vi) the construction, renovation, installation and equipping of an existing building to be used as an office and art gallery (“Office/Gallery” and together with the Restaurant/Saloon, the Barrel House #1, the Barrel House #2, the Storage/Barrel House #3 and Garage are collectively referred to as the “Buildings”) situate on two (2) parcels of real estate consisting of approximately 8.90± acres to be located along State Route 17B in the Town of Bethel (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as Section 26, Block 1, Lot 6 and Section 22, Block 1, Lot 62 (“Land”) and related facilities in which the Agency acquired an interest; (vii) the acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (viii) the construction of improvements to the Buildings, the Land and the Equipment (collectively, the Buildings, the Land and the Equipment are referred to as the “Project”); and (ix) leasing of the Project from the Agency to the Company; and

WHEREAS, by resolution, dated May 26, 2015 (“Resolution”), the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing, renovating, installing and equipping the Project subject to the Company entering into this Agent Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution, and subject to applicable law, to acts

reasonably related to the acquisition, construction, renovation, installing and equipping of the Project. The right of the Company to act as agent of the Agency shall expire on December 31, 2015. The aggregate amount of work performed as Agent for the Agency shall not exceed the amounts described in the Application of the Company in this matter. All contracts entered into by the Company as agent for the Agency shall include the following language:

"This contract is being entered into by [CATSKILL DISTILLING COMPANY LTD. ("COMPANY")/SUBAGENT] ("Agent"), as agent for and on behalf of the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY ("Agency"), in connection with a certain Project of the Agency for the benefit of the Agent consisting in part of the acquisition, construction, renovation, installation and equipping of certain machinery, equipment and building materials, all for incorporation in certain premises located on and around approximately 8.90± acres of land located along State Route 17B in the Town of Bethel ("Town"), County of Sullivan ("County"), State (being more fully identified as Section 26, Block 1, Lot 6 and Section 22, Block 1, Lot 62) ("Premises"). The machinery, equipment and building materials to be incorporated and installed in the Premises and all services and rentals of equipment related to the acquisition, construction, renovation, installation and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the acquisition, construction, renovation, installation and equipping thereof is effected in accordance with the terms and conditions set forth in the attached sales tax exemption instruction letter of the Agency; and the Agent hereby represents that this contract is in compliance with the terms of the Agent Agreement by and between the Company and the Agency, dated as of May 26, 2015. This contract is non-recourse to the Agency, and the Agency shall not be directly, indirectly or contingently liable or obligated hereunder in any manner or to any extent whatsoever. By execution or acceptance of this contract, the vendor/contractor hereby acknowledges and agrees to the terms and conditions set forth in this paragraph."

2. Sales Tax Abatement Fee. To secure payment of the Agency's sales tax abatement fee, the Company shall deposit with the Agency \$3,500.00 in escrow ("Escrow Deposit"). The Escrow Deposit shall be made contemporaneously with delivery to the Company of a Sales Tax Abatement Letter substantially in the form of Exhibit 2. Commencing on the fifteenth (15th) day of July, 2015, and on the fifteenth (15th) day of each month thereafter the Company shall provide the Agency a list of taxable purchases which have been made by the Company during the prior calendar month without payment of sales tax (each a "Monthly Purchase Report"). For the purpose of such a report, a purchase shall be deemed to have occurred upon payment of an invoice relating to such purchase, and not at the time that goods or services are ordered or delivered. A check made payable to the Agency in an amount equal to one (1%) percent of the taxable purchases shall accompany the Monthly Purchase Report. In the event the Monthly Purchase Report and accompanying payment

is not received by the Agency by the fifteenth (15th) of the month, the Agency shall notify the Company of its failure to submit the Monthly Purchase Report and accompanying payment, in which event the Company shall have ten (10) days within which to submit the Monthly Purchase Report and payment. If the Company fails to submit the Monthly Purchase Report and payment following the notice and cure period, the Agency may immediately withdraw and pay over to the Agency the entire Escrow Deposit and terminate the agent status of the Company; provided, however, that within thirty (30) days after the filing by the Company of Form ST-340 for the year in which the termination occurs (a copy of which shall be provided to the Agency at the same time it is filed with the New York State Department of Taxation and Finance), either (x) the Company shall pay to the Agency any additional fee which is due but has not yet been paid in connection with taxable purchases for which the Company availed itself of the abatement prior to termination, or (y) the Agency shall refund to the Company any amount of the fee previously paid to the Agency that exceeds the amount due to the Agency for taxable purchases for which the Company availed itself of the abatement prior to termination. Upon such termination, the Company shall immediately commence paying sales tax on all purchases made on or after the date of termination and shall provide written notice to its current vendors advising of the termination of the Company's status as agent of the Agency with respect to the Project. Evidence of the notice of termination to its vendors shall be supplied by the Company to the Agency within the ten (10) days of termination.

3. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:
- (a) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
 - (b) The Project and the operation thereof will conform with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (b).
 - (c) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

- (d) The Company covenants (i) that the Project will comply in all respects with all environmental laws and regulations, (ii) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist on the Project, except in compliance with all applicable laws, (iii) the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Project or onto any other property, (iv) that no asbestos will be incorporated into or disposed of on the Project, (v) that no underground storage tanks will be located on the Project, except in full compliance at all times with all applicable laws, rules, and regulations, and (vi) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company upon receiving any information or notice contrary to the representations contained in this Section 3(d) shall immediately notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its directors, officers, employees, members, agents (except the Company), representatives, their respective successors and assigns and personal representatives from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorneys' fees) related in any way to any violation of the covenants or failure to be accurate of the representations contained in this Section 3(d). In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency upon demand.
- (e) The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in the amount up to \$428,525.00, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$34,282.00.
- (f) The Company further covenants and agrees to complete "IDA Appointment of Project Operator or Agent For Sales Tax Purposes" (NYS Form ST-60), in the form attached hereto as Exhibit 3(f), for each agent, subagent, contractor, subcontractor, if any, contractors or subcontractors of such agents and subagents, if any, and such other parties as the Company chooses who provide materials, equipment, supplies or services and forward said form to the State Department of Taxation and Finance within thirty (30) days of appointment.
- (g) The Company further covenants and agrees to file an annual statement with the State Department of Taxation and Finance on "Annual Report of Sales and Use Tax Exemptions" (NYS Form ST-340), attached hereto as Exhibit 3(g), regarding the value of sales and use tax exemptions the Company, its agents, subagents,

consultants or subcontractors have claimed pursuant to the agency conferred on the Company with respect to the 2014 Project in accordance with General Municipal Law Section 874(8). The Company further covenants and agrees that it will, within ten (10) days of each filing, provide a copy of same to the Agency; provided, however, in no event later than February 15th of each year. The Company understands and agrees that the failure to file such annual statement will result in the termination of the Company's authority to act as agent for the Agency.

- (h) The Company acknowledges and agrees that all purchases made in furtherance of the Project shall be made using "IDA Agent or Project Operator Exempt Purchase Certificate" (NYS Form ST-123), a copy of which is attached hereto as Exhibit 3(h)-1 (for use by the Company) and Exhibit 3(h)-2 (for use by subagents of the Company), and it shall be the responsibility of the Company (and not the Agency) to complete NYS Form ST-123. The Company acknowledges and agrees that it shall identify the Project on each bill and invoice for such purchases and further indicate on such bills or invoices that the Company is making purchases of tangible personal property or services for use in the Project as agent of the Agency. For purposes of indicating who the purchaser is, the Company acknowledges and agrees that the bill or invoice should state, "*I, the _____ of CATSKILL DISTILLING COMPANY, LTD. certify that I am a duly appointed agent of County of Sullivan Industrial Development Agency ("IDA") and that I am purchasing the tangible personal property or services for use in the following IDA project and that such purchases qualify as exempt from sales and use taxes under the agent agreement with the County of Sullivan Industrial Development Agency.*" The Company further acknowledges and agrees that the following information shall be used by the Company to identify the Project on each bill and invoice: "*the name of the Project, the street address of the Project site.*"
 - (i) The Company acknowledges and agrees that the Agency shall not be liable, either directly or indirectly or contingently, upon any such contract, agreement, invoice, bill or purchase order in any manner and to any extent whatsoever (including payment or performance obligations), and the Company shall be the sole party liable thereunder.
4. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its directors, officers, employees, members, agents (except the Company), representatives, their respective successors and assigns and personal representatives harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's acquiring, constructing, renovating, installing, equipping, owning and leasing of the Project, including without limiting the generality of the foregoing, all causes of action and reasonable attorneys' fees

and any other expense, incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or its respective directors, officers, employees, members, agents (except the Company), and representatives, their respective successors and assigns and personal representatives and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the Agency or any other person or entity to be indemnified.

5. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

- (a) Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Project, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company.
- (b) Worker's compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project.
- (c) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Company by any applicable Worker's Compensation Law; and a blanket excess liability policy in the amount not less than \$2,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

6. Additional Provisions Respecting Insurance.

- (a) All insurance required by Section 5 shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company (and reasonably satisfactory to the Agency) and authorized to write such insurance in the State. Such insurance may be written with deductible amounts not exceeding \$2,500.00. All policies evidencing such insurance shall provide for (i) payment of the losses of the Company and the Agency as their respective interest may appear,

and (ii) at least thirty (30) days written notice of the cancellation thereof to the Company and the Agency.

(b) All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with the Agency on or before the commencement of the term of this Agreement. Prior to expiration of the policy evidenced by said certificates, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

7. Counterpart Signatures. This Agreement may be executed in any number of counterparts each of which shall be deemed an original, but which together shall constitute a single instrument.
8. Notices. All notices provided for by this Agreement shall be made in writing, and shall be deemed to have been given on the date of delivery if personally served on the party to whom notice is to be given, or on the next day after mailing if mailed to the party to whom notice is to be given by overnight courier of national reputation providing evidence of receipt and properly addressed, or on the third day after mailing if mailed to the party to whom notice shall be given by First Class, Certified mail, postage prepaid and properly addressed to the following:

To the Agency:

County of Sullivan Industrial Development Agency
One Cablevision Center
Ferndale, New York 12734
Attn: Chief Executive Officer

with a copy to:

GARIGLIANO LAW OFFICES, LLP
449 Broadway
P.O. Drawer 1069
Monticello, New York 12701
Attn: Agency Counsel

To the Company:

Catskill Distilling Company, Ltd.
d/b/a Dancing Cat Distillery
PO Box 345
White Lake, New York 12786
Attn: Stacy Cohen, Vice-President and Member

or at such other addresses and/or addressees as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section 8.

9. Governing Law. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein. The parties

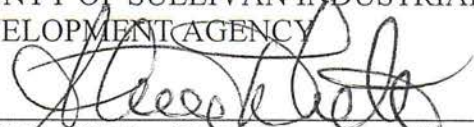
hereto designate a court of proper jurisdiction located in Sullivan County, New York as the sole venue for resolution of any disputes, which may arise under or by reason of this Agreement.

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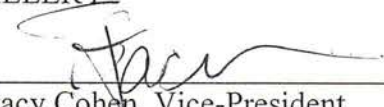
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



By: Steve White, Chief Executive Officer

CATSKILL DISTILLING COMPANY,
LTD. D/B/A DANCING CAT
DISTILLERY



By: Stacy Cohen, Vice-President

SCHEDULE A

LIST OF APPOINTED AGENTS¹

1. Catskill Distilling Company Ltd.
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

¹ FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

EXHIBIT 2

FORM OF SALES TAX EXEMPTION LETTER

EXHIBIT 3(f)

FORM OF NYS FORM ST-60 TO BE COMPLETED BY COMPANY
AND FILED WITH NYS IDA UNIT FOR EACH OF ITS SUBAGENTS

[Attached Next Page]

EXHIBIT 3(g)

NYS FORM ST-340
TO BE COMPLETED AND FILED ANNUALLY BY COMPANY

[Attached Next Page]

EXHIBIT 3(h)-1

NYS FORM ST-123
FOR
COMPANY

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EXHIBIT 3(h)-2

NYS FORM ST-123
• FOR
SUBAGENTS OF COMPANY

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