

SECOND OMNIBUS AMENDMENT TO PROJECT DOCUMENTS

THIS SECOND OMNIBUS AMENDMENT TO PROJECT DOCUMENTS ("Second Omnibus Amendment"), effective as of this August 10, 2020, amends the 2018 Transaction Documents (as herein defined), dated August 1, 2018 by and among COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized and existing under the laws of the State of New York, with its principal office located at 548 Broadway, Monticello, New York 12701 ("Agency"), CATSKILL HOSPITALITY HOLDING LLC, a New York limited liability company, having a mailing address of 16 Raceway Road, Monticello, New York 12701 ("Catskill Holding") and CATSKILL HOSPITALITY OPERATING LLC, a New York limited liability company, having a mailing address of 16 Raceway Road, Monticello, New York 12701 ("Catskill Operating" and together with Catskill Holding collectively, the "Company"), as amended by that certain Omnibus Amendment to Project Documents ("Omnibus Amendment"), effective as of February 10, 2020.

RECITALS

WHEREAS, Title 1 of Article 18-A of the General Municipal Law of the State of New York ("Enabling Act") was duly enacted into law as Chapter 1030 of the Laws of 1969 of the State of New York ("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, Chapter 560 of the Laws of 1970 of the State (collectively referred to as the "Act") created the Agency which is empowered under the Act to undertake the providing, financing and leasing of the facility described below; and

WHEREAS, on April 5, 2016, the Company presented an application ("Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project consisting of the: (i) acquisition, construction, installation and equipping of an approximately 56,000 square foot building intended to be used as a limited service hotel ("Building") situate on one (1) parcel of real estate consisting of approximately 6.59± acres located along Golden Ridge Road, Town of Thompson ("Town"), County of Sullivan

("County"), State of New York and identified on the Town tax map as a portion of Section 13, Block 3, Lot 38.1 ("Land"); (ii) acquisition, construction and equipping of the Building; (iii) acquisition, construction and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iv) construction of improvements to the Building, the Land and the Equipment (collectively, the Building, the Land and the Equipment are referred to as the "Facility" or the "Project"); and (v) lease of the Project from the Agency to the Company; and

WHEREAS, on June 20, 2016 by resolution #22-16, the Agency authorized the Company to act as its agent for the purposes of acquiring, constructing, installing and equipping the Facility and conferred on the Company certain financial assistance consisting of: (a) an exemption from all New York State and local sales and use tax for the purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction, installation or equipping of the Facility, (b) an exemption from mortgage recording tax, and (c) a partial abatement from real property taxes conferred through a certain payment in lieu of tax agreement requiring the Company to make payments in lieu of taxes ("PILOT") for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption, the mortgage recording tax exemption, and the partial abatement from real property taxes, are hereinafter collectively referred to as the "Financial Assistance"). Provision of Financial Assistance is subject to the Company entering into the Agent and Project Agreement; and

WHEREAS, on September 12, 2016 by resolution #32-16, the Agency approved the execution and delivery of one or more mortgages in favor of Jeff Bank in an aggregate amount not to exceed \$8,223,500; and

WHEREAS, the Company was unable to close on the anticipated straight lease transaction with the Agency due to issues associated with Project financing; and

WHEREAS, on February 27, 2017 by resolution #09-17, the Agency authorized taking title to the Land from the present owner as nominee of the Company; and

WHEREAS, on or about March 17, 2017 the Company and the Agency entered into the following:

1. Agent and Project Agreement; and
2. Environmental Compliance and Indemnification Agreement; and

WHEREAS, on August 23, 2017 by resolution #42-17, the Agency approved the execution and delivery of three (3) or more mortgages in favor of Bancorp Bank in an aggregate amount not to exceed \$12,000,000; and

WHEREAS, the Agency took title to the Land by Bargain & Sale Deed, dated March 13, 2017 which was recorded on March 22, 2017 in the Sullivan County Clerk's Office as Instrument Number 2017-2254; and

WHEREAS, in order to obtain Project financing, the Company requested that title to the Land be re-conveyed by the Agency to the Company; and

WHEREAS, by Quit Claim Deed, dated August 10, 2018 the Agency conveyed legal title to the Land to the Company; and

WHEREAS, on August 1, 2018 the Agency and the Company entered into the following documents:

1. Amended and Restated Agent and Project Agreement, dated August 1, 2018;
2. Environmental Compliance and Indemnification Agreement, dated August 1, 2018;
3. Bill of Sale to Agency, dated August 1, 2018;
4. Bill of Sale to Company, dated August 1, 2018;
5. Lease to Agency and memorandum thereto, dated August 1, 2018 (“Lease”);
6. Leaseback to Company and memorandum thereto, dated August 1, 2018 (“Leaseback”); and
7. Payment in Lieu of Tax Agreement, dated August 1, 2018 (“PILOT Agreement”);

(Items 1-7 collectively referred to as the “2018 Transaction Documents”)
; and

WHEREAS, at the time of the Application, adoption of Resolution #22-16 and execution of the PILOT Agreement, it was anticipated that the Project would be completed and open for business by the end of 2018; and

WHEREAS, the development of the Project is ongoing, and it is now anticipated that the Project will be completed later in the year 2020; and

WHEREAS, it is the Agency’s intent to provide the benefits contemplated by the Agency’s Tourism Destination Uniform Tax Exemption Policy over the operating life of the Project; and

WHEREAS, by resolution #04-20, the Agency authorized the execution and delivery of an Amended Payment in Lieu of Tax Agreement to delay the each applicable year of the exemption contemplated by the PILOT Agreement by one year and to provide for a PILOT payment equal to what taxes would have been if the Agency was not involved in the Project for the payment due February 1, 2020; and (ii) authorizing its Chairman, Chief Executive Officer or Executive Director to execute and deliver the same; and

WHEREAS, the Agency entered into an Omnibus Amendment to delay the each applicable year of the exemption contemplated by the PILOT Agreement by one year and to provide for a PILOT payment equal to what taxes would have been if the Agency was not involved in the Project for the payment due February 1, 2020; and

WHEREAS, by resolution #37-20, the Agency authorized a Second Amended Payment in Lieu of Tax Agreement to delay each applicable year of the extension contemplated by the Omnibus Amendment for one (1) additional year; and

WHEREAS, amending the PILOT Agreement makes it necessary to extend the Term of the Lease and Leaseback; and

WHEREAS, the Agency wishes to further amend the PILOT Agreement to delay the each applicable year of the exemption contemplated by the Omnibus Amendment by an additional one-year period and to provide for a PILOT payment equal to what taxes would have been if the Agency was not involved in the Project for the payment due February 1, 2021.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual terms, conditions, limitations and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

AMENDMENT OF PILOT AGREEMENT

1. Section 3 of the PILOT Agreement is hereby deleted and the following inserted in its place and stead:

“3. Computation of PILOT Payments. PILOT Payments shall be made in the amounts and in the manner contemplated by this PILOT Agreement:

Section, Block & Lot
13 - 3 - 38.1

3.1 Computation of PILOT Payments – Pre-Opening.

- (a) For the PILOT Payment due February 1, 2020, the Company paid the Agency an amount equal to what real estate taxes would have been if the Agency had not been involved with the Project.
- (b) For the PILOT Payment due February 1, 2021, the Company shall pay the Agency an amount equal to what real estate taxes would have been if the Agency had not been involved

3.2 Computation of PILOT Payments – Project Operation. For the PILOT Payment due February 1, 2022 and thereafter, the Company shall make PILOT Payments to the Agency as contemplated by this Sub-Section 3.2.

- (a) Total Value Subject to PILOT. The total value subject to PILOT (“TVSP”) shall be the following amounts for the following years:

	Base	New Construction	Exemption %	Exemption Amount	Taxable New Construction	TVSP
February 1, 2022	\$ 900,000.00	\$ 5,050,000.00	100			\$ 900,000.00
February 1, 2023	\$ 900,000.00	\$ 5,050,000.00	100			\$ 900,000.00
February 1, 2024	\$ 900,000.00	\$ 5,050,000.00	100			\$ 900,000.00
February 1, 2025	\$ 900,000.00	\$ 5,050,000.00	100			\$ 900,000.00
February 1, 2026	\$ 900,000.00	\$ 5,050,000.00	100			\$ 900,000.00
February 1, 2027	\$ 900,000.00	\$ 5,050,000.00	90	\$ 4,545,000.00	\$ 505,000.00	\$ 1,405,000.00
February 1, 2028	\$ 900,000.00	\$ 5,050,000.00	80	\$ 4,040,000.00	\$ 1,010,000.00	\$ 1,910,000.00
February 1, 2029	\$ 900,000.00	\$ 5,050,000.00	70	\$ 3,535,000.00	\$ 1,515,000.00	\$ 2,415,000.00
February 1, 2030	\$ 900,000.00	\$ 5,050,000.00	60	\$ 3,030,000.00	\$ 2,020,000.00	\$ 2,920,000.00
February 1, 2031	\$ 900,000.00	\$ 5,050,000.00	50	\$ 2,525,000.00	\$ 2,525,000.00	\$ 3,425,000.00
February 1, 2032	\$ 900,000.00	\$ 5,050,000.00	40	\$ 2,020,000.00	\$ 3,030,000.00	\$ 3,930,000.00
February 1, 2033	\$ 900,000.00	\$ 5,050,000.00	30	\$ 1,515,000.00	\$ 3,535,000.00	\$ 4,435,000.00
February 1, 2034	\$ 900,000.00	\$ 5,050,000.00	20	\$ 1,010,000.00	\$ 4,040,000.00	\$ 4,940,000.00
February 1, 2035	\$ 900,000.00	\$ 5,050,000.00	10	\$ 505,000.00	\$ 4,545,000.00	\$ 5,445,000.00
February 1, 2036	\$ 900,000.00	\$ 5,050,000.00	0	-	\$ 5,050,000.00	\$ 5,950,000.00

(b) Calculation of Annual Payment in Lieu of Tax. The calculation of the annual PILOT Payments shall be made as follows:

- (i) The Total Value Subject to PILOT shall be multiplied by the equalization rate as defined in ¶3(c) hereof; and
- (ii) The annual PILOT Payment shall be determined by multiplying the amount derived in ¶3(b)(i) hereof by the tax rates identified in ¶3(d) hereof.

(c) Equalization Rate. The equalization rate to be used in making the computation contemplated by ¶3(b)(i) hereof shall mean the equalization rate for the Town used by the County to allocate and levy County taxes in connection with the January 1st tax roll immediately preceding the due date of the PILOT Payments. In the event that the equalization rate shall exceed one hundred (100%) percent, the equalization rate used in making the computation contemplated by ¶3(b)(i) shall be one hundred (100%) percent.

(d) Tax Rates. For the purposes of determining the amount of the PILOT Payments as contemplated by ¶3(b)(ii) hereof, the tax rates for each Taxing Jurisdiction shall mean the last tax rate used for levy of taxes by each such jurisdiction. For County and Town purposes, the tax rates used to determine the PILOT Payment shall be the tax rates relating to the calendar year which includes the PILOT Payment due date. For school district purposes, the tax rates used to determine the PILOT Payment shall be the rate relating to the school tax year which began in the calendar year immediately preceding the year in which the PILOT Payment is due. The chart which follows sets forth the years of the overall fifteen (15) year period

governed by this PILOT Agreement; the date that a PILOT Payment is due; and the appropriate tax periods utilized in determining the tax rates for computing the PILOT Payment:

Year	Payment Date	School Fiscal Year Beginning	County & Town
Pre-opening	February 15, 2021	July 1, 2020	January 1, 2021
1	February 15, 2022	July 1, 2021	January 1, 2022
2	February 15, 2023	July 1, 2022	January 1, 2023
3	February 15, 2024	July 1, 2023	January 1, 2024
4	February 15, 2025	July 1, 2024	January 1, 2025
5	February 15, 2026	July 1, 2025	January 1, 2026
6	February 15, 2027	July 1, 2026	January 1, 2027
7	February 15, 2028	July 1, 2027	January 1, 2028
8	February 15, 2029	July 1, 2028	January 1, 2029
9	February 15, 2030	July 1, 2029	January 1, 2030
10	February 15, 2031	July 1, 2030	January 1, 2031
11	February 15, 2032	July 1, 2031	January 1, 2032
12	February 15, 2033	July 1, 2032	January 1, 2033
13	February 15, 2034	July 1, 2033	January 1, 2034
14	February 15, 2035	July 1, 2034	January 1, 2035
15	February 15, 2036	July 1, 2035	January 1, 2036

2. Section 4 of the PILOT Agreement is hereby deleted and the following inserted in its place and stead:

“4. Other Agreements Relating to PILOT Payments. The Agency shall remit to the Taxing Jurisdictions amounts received hereunder within thirty (30) days of receipt and shall allocate the PILOT Payments among the Taxing Jurisdictions in the same proportion as normal taxes would have been allocated but for the Agency's involvement.

The PILOT Payments were paid as contemplated by Subsection 3.1, followed by the first (1st) year of an approximately fifteen (15) year period in which the Company is to receive tax benefits relative to the Project. In no event shall the Company be entitled to receive tax benefits relative to the Project for more than the period provided in this PILOT Agreement. The Company agrees that it will not seek any tax exemption for the Project which could provide benefits for more than the periods provided for in this PILOT Agreement and specifically agrees that the exemptions provided for in this PILOT Agreement, to the extent actually received (based upon the number of years elapsed), supersede and are in substitution of the exemptions provided by §485(b) of the Real Property Tax Law ("RPTL"). It is hereby agreed and understood that the Taxing Jurisdictions can rely upon and enforce this waiver to the same extent as if they were signatories hereto."

3. Section 6(a)(i) and (ii) of the PILOT Agreement is hereby deleted and the following inserted in its place and stead:

"6. Employment Obligations.

(a) Employment Goals.

- (i) Employment Goal Definitions: For the purposes of this PILOT Agreement, the following terms shall have the meaning set forth in each definition:
- (1) "Employee" shall mean a person first employed by the Company at the Project on or after November 1, 2020.
 - (2) "Full-Time Equivalent Employee" or "FTE" shall mean an employee who works thirty-five (35) hours in any seven (7) day period at the Project.
 - (3) "Base Compensation" shall be determined in accordance with the provisions of the Fair Labor Standards Act.
 - (4) "At the Facility" shall mean that an FTE is employed primarily at the Facility.
- (ii) FTE Employment Goals: The Company agrees that an FTE-employment goal of nine (9) jobs shall be maintained for the period October 1, 2021 to September 30, 2022 and thereafter for such annual period throughout the term of this PILOT Agreement.

The Company shall file with the Agency no later than November 1, 2019 and on November 1 of each year thereafter a statement

certified under oath setting forth the actual FTE's employed by the Company at the Project for the preceding calendar year. Such statement shall contain such additional information as the Agency may reasonably request. The Company shall make available to the Agency such information as it may request to verify the information provided to the Agency including but not limited to State and Federal employment tax forms and payroll records of the Company. "Actual average FTE - employment" shall be determined by adding the actual FTEs employed in each month of the applicable calendar year and dividing such sum by twelve (12)."

AMENDMENT OF LEASE

4. Section 2.4(b) of the Lease is hereby deleted and the following inserted in its place and stead:

"(b) The leasehold estate created hereby shall terminate the earlier of (i) at 11:59 P.M. on February 15, 2036; and (ii) the day immediately following the expiration or earlier termination of the Lease Agreement as set forth under Article VI hereunder."

5. The Company and the Agency shall execute, deliver and record a Second Amended Memorandum of Lease to memorialize the extension of the Lease term on the public record.

AMENDMENT OF LEASEBACK

6. Section 2.5(b) of the Leaseback is hereby deleted and the following inserted in its place and stead:

"(b) The leasehold estate created hereby shall terminate at 11:59 P.M. on February 15, 2036, or on such earlier date as may be permitted by Section 8.1 hereof."

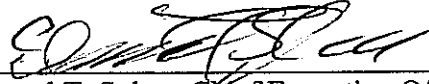
7. The Company and the Agency shall execute, deliver and record a Second Amended Memorandum of Leaseback to memorialize the extension of the Lease term on the public record.

8. This Second Omnibus Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but which together shall constitute a single instrument.

9. Except as herein amended, all other terms and conditions of the 2018 Transaction Documents, as previously amended by the Omnibus Amendment, shall remain in full force and effect.

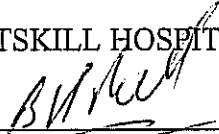
IN WITNESS WHEREOF, the Company and the Agency have caused this Second Omnibus Amendment to be executed in their respective names, all as of the date first above written.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



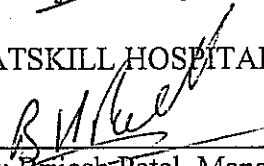
By: Edward T. Sykes, Chief Executive Officer

CATSKILL HOSPITALITY HOLDING LLC



By: Brijesh Patel, Managing Member

CATSKILL HOSPITALITY OPERATING LLC



By: Brijesh Patel, Managing Member