

## AGENT AND PROJECT AGREEMENT

*THIS AGENT AND PROJECT AGREEMENT* (“Agreement”), made as of the 6<sup>th</sup> day of September, 2024 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 548 Broadway, Monticello, New York 12701 (“Agency”) and FAY HOSPITALITY CATSKILLS LLC, a Delaware limited liability company with offices located at c/o Fay US Investments Corporation, 1185 Avenue of the Americas, 3<sup>rd</sup> Floor, New York, New York 10036 (“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 or about August 6, 2024, the Company presented an application to the Agency (“Application”), a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of the: (i) acquisition, renovation, rehabilitation, installation and equipping of the existing Villa Roma Resort and Conference Center including but not limited to (a) a resort hotel including 139 guest rooms with amenities (“Resort Hotel”); (b) an 18 hole golf course with driving range (“Golf Course”); (c) a golf clubhouse and pro shop (“Golf Clubhouse”); (d) a ski area (“Ski Area”); and (e) multiple pool areas, restaurants, a fitness center, and numerous other recreational facilities (“Related Facilities,” and together with the Resort Hotel, the Golf Course, the Golf Clubhouse, and the Ski Area, the “Resort and Conference Center”) situate on fourteen (14) parcels of real estate consisting of approximately 462 acres located at Villa Roma Road, County Road 164, and Polster Road, Town of Delaware (“Town”), County of

Sullivan (“County”), State of New York and identified on the Town tax map as Section 5, Block 1, Lot 26.2; Section 20, Block 1, Lots 7.1, 8.2, 8.3, 9.1, 9.4, 9.6, 9.8, 9.9, 9.10, 11.3, 11.4, 12.6, and 14.2 (“Land”); (ii) acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools (“Equipment”); (iii) renovation and rehabilitation of improvements to the Resort and Conference Center, the Land and the Equipment (collectively, the Resort and Conference Center, the Land and the Equipment are referred to as the “Project”); and (iv) lease of the Project from the Agency to the Company; and

**WHEREAS**, by resolution, dated September 4, 2024 (“Resolution”), the Agency authorized (i) the Company to act as its agent for the purposes of acquiring, renovating, rehabilitating, installing and equipping the Project; (ii) negotiate and enter into this Agreement, the Lease to Agency, the Leaseback to Company and the Payment in Lieu of Taxation Agreement (“PILOT Agreement”) with the Company; (iii) hold a leasehold interest in the Land, the improvements and personal property thereon which constitute the Project; and (iv) provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related to the renovation, rehabilitation, installation and equipping of the Project; (b) a real property tax abatement on increased value resulting from improvements to the Land through the PILOT Agreement; and (c) a mortgage tax exemption for financing related to the Project; and

**WHEREAS**, pursuant to and in accordance with Sections 859-a and 874 of the Enabling Act, the Agency requires, as a condition and as an inducement for it to provide any Financial Assistance, that the Company enter into this Agreement for the purposes of, among other things, to govern administration of and provide assurances with respect to the provision and recapture of said Financial Assistance upon the terms herein set forth; and

**WHEREAS**, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company.

**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. **Purpose of Project.** The purpose of the Agency’s provision of Financial Assistance with respect to the Project is to promote, develop, encourage and assist in the acquiring, renovating, rehabilitating, installing and equipping the Project to advance job opportunities, health, general prosperity and economic welfare of the people of the County, and to specifically promote the investment commitment, employment commitment, and other commitments of the Company contained herein and within the Company’s Application.
2. **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 renovating, rehabilitating, installing and equipping of the Project. The right of the Company to act as agent of the Agency shall expire on March 31, 2025.

The Agency shall issue subsequent periodic sales tax abatement letters to the Company, on not less than thirty (30) days prior written request by the Company, so long as the Company is in compliance with the terms of this Agreement. The subsequent sales tax abatement letters shall be for periods of six (6) months. 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 FAY HOSPITALITY CATSKILLS LLC (the "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, renovation, rehabilitation, installation and equipping of certain machinery, equipment and building materials, all for incorporation in certain premises located on and around situate on fourteen (14) parcels of real estate consisting of approximately 462 acres located at Villa Roma Road, County Road 164 and Polster Road, Town of Delaware ("Town"), County of Sullivan ("County"), State of New York and identified on the Town tax map as Section 5, Block 1, Lot 26.2; Section 20, Block 1, Lots 7.1, 8.2, 8.3, 9.1, 9.4, 9.6, 9.8, 9.9, 9.10, 11.3, 11.4, 12.6, and 14.2 ("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 renovating, rehabilitating, installing and equipping of the Project shall be exempt from all New York State and local sales and use taxes if the renovation, rehabilitation, 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 and Project Agreement by and between the Company and the Agency, dated as of September 6, 2024. 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."

3. Sales Tax Abatement Fee. To secure payment of the Agency's sales tax abatement fee, the Company shall deposit with the Agency Twelve Thousand and 00/100 (\$12,000.00) Dollars 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 3. Commencing on the fifteenth (15<sup>th</sup>) day of January, 2025, and on the fifteenth (15<sup>th</sup>) day of the first month following each calendar quarter thereafter the Company shall provide the Agency a list of taxable purchases which have been made by the Company during the prior calendar quarter without payment of sales tax

(each a "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 Purchase Report. In the event the Purchase Report and accompanying payment is not timely received by the Agency, the Agency shall notify the Company of its failure to submit the Purchase Report and accompanying payment, in which event the Company shall have ten (10) days within which to submit the Purchase Report and payment. If the Company fails to submit the 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.

4. 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 applicable 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 4(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 4(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 (i) 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 \$4,875,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$390,000, (ii) confirms that the mortgage recording tax exemption amount shall not exceed \$110,000, and (iii) confirms that the real property tax abatement benefits to be provided to the Company shall conform to those contained within the PILOT Agreement attached hereto as Exhibit 4(e).
- (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 4(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 Agency within twenty (20) 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 4(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 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 15<sup>th</sup> 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 4(h)-1 (for use by the Company) and Exhibit 4(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 Fay Hospitality Catskills LLC, 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: "*Fay Hospitality Catskills Project, 356 Villa Roma Road, Callicoon, New York* "
- (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.

- (j) In accordance with Section 875(3)(b) of the Enabling Act and the Agency's Project Recapture and Termination Policy, the Company covenants and agrees that it will be subject to the recapture of State sales and use tax exemption benefits taken (i) in excess of the amounts authorized by the Agency, (ii) on purchases not entitled to the sales and use tax exemption, (iii) on property or services not authorized by the Agency as part of the Project or (iv) when the Company fails to meet and maintain certain material terms and conditions ("Material Terms") as set forth herein.
- (k) In the event of a recapture of the sales and use tax benefit pursuant to Section 875(3)(b) of the Enabling Act and the Agency's Project Recapture and Termination Policy, the Company covenants and agrees (i) to cooperate with the Agency in its efforts to recover or recapture such sales and use tax exemption benefits and (ii) promptly pay over any such amounts to the Agency as the Agency demands in connection therewith.
- (l) In accordance with Section 874(10) and (11) of the Enabling Act and the Agency's Project Recapture and Termination Policy, the Company covenants and agrees that it may be subject to suspension, termination, modification or recapture of any or all Financial Assistance in the sole discretion of the Agency if (i) an event of a material violation of the Material Terms occur; or (ii) the Company made a material false or misleading statement, or omitted any information which, if included, would have rendered any information in the Application or supporting documents false or misleading in any material respect, on the Application for Financial Assistance. For purposes of paragraphs (j) and (k) of this Section 4, Material Terms shall mean completing the Project as described herein and on the Application.
- (m) In accordance with Section 859-a(6)(b) of the Enabling Act, the Company covenants and agrees to annually provide a certified statement (i) enumerating the full time equivalent jobs retained and created as a result of the Financial Assistance, by category, including independent contractors or employees of independent contractors that work at the Project location; and (ii) indicating the salary and fringe benefit averages or ranges for categories of jobs retained and created that was provided in the Application is still accurate and if not, providing revised information.
- (n) In accordance with Section 859-a(6)(b) of the Enabling Act, the Company confirms and acknowledges under the penalty of perjury that as of the date hereof, the Company is in substantial compliance with all local, state and federal tax, worker protection and environmental laws, rules and regulations.
- (o) The Company acknowledges and agrees that a failure by the Company to provide any certification, form or other reporting information required by this Agreement shall constitute an event of default hereunder, whereby the Agency, it its sole and

absolute discretion, may suspend, terminate, modify or recapture of any or all Financial Assistance.

5. Hold Harmless Provision. To the fullest extent permitted by law, 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, renovating, rehabilitating, installing and equipping 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.
  
6. 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.

7. Additional Provisions Respecting Insurance.

- (a) All insurance required by Section 6 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 \$10,000.00. All policies of insurance shall be primary and non-contributory. 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.

8. 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.

9. 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 date of receipt if transmitted by electronic mail to 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  
548 Broadway  
Monticello, New York 12701  
Attn: Executive Director

with a copy to:

Walter F. Garigliano P.C.  
449 Broadway, P.O. Drawer 1069  
Monticello, New York 12701

To the Company:

Fay Hospitality Catskills LLC  
c/o Fay US Investments Corporation  
1185 Avenue of the Americas, 3<sup>rd</sup> Floor  
New York, New York 10036  
Attn: Sandeep Wadhwa, President

with a copy to:

Duane Morris LLP  
1540 Broadway  
New York, New York 10036-4086  
Attn: Lee J. Potter, Jr., Esq.

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 9. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section. Any electronic notice sent outside of regular hours shall be deemed given on the next business day.

10. 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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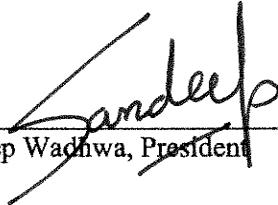
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*IN WITNESS WHEREOF*, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

  
\_\_\_\_\_  
By: Howard Siegel, Chairman

Fay Hospitality Catskills LLC  
By: Fay Villa Roma LLC, its sole member  
By: Fay US Investments Corporation, its managing  
member

  
\_\_\_\_\_  
By: Sandeep Wachwa, President

SCHEDULE A

LIST OF APPOINTED AGENTS<sup>1</sup>

1. Fay Hospitality Catskills LLC

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

7. \_\_\_\_\_

8. \_\_\_\_\_

9. \_\_\_\_\_

10. \_\_\_\_\_

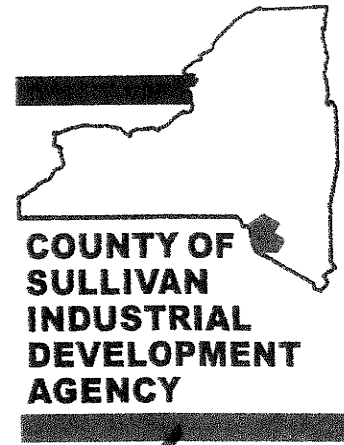
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<sup>1</sup> FOR EACH AGENT APPOINTED BY THE COMPANY, A NYS FORM ST-60 MUST BE COMPLETED AND FILED BY THE COMPANY WITH THE NYS DEPARTMENT OF TAXATION AND FINANCE IDA UNIT INDICATING THE APPOINTMENT OF SUCH AGENT OF THE COMPANY.

EXHIBIT 3

FORM OF SALES TAX EXEMPTION LETTER

548 Broadway  
Monticello, New York 12701  
(845) 428-7575  
(845) 428-7577 FAX  
TTY 711



September 6, 2024

To Whom It May Concern:

Re: New York State Sales and Use Tax Exemption  
County of Sullivan Industrial Development Agency with Fay Hospitality  
Catskills LLC (the "Company") – Project

Pursuant to TSB-M-87(7) issued by the New York State Department of Taxation and Finance on April 1, 1987, you have requested a letter from the County of Sullivan Industrial Development Agency ("Agency") containing the information required by said policy statement regarding the sales tax exemption with respect to the purchase, lease or rental of building materials, furniture, fixtures, equipment and supplies to be used in connection with the renovation, rehabilitation, installation and equipping of the following described Project by the Company:

(i) acquisition, renovation, rehabilitation, installation and equipping of the existing Villa Roma Resort and Conference Center including but not limited to (a) a resort hotel including 139 guest rooms with amenities ("Resort Hotel"); (b) an 18 hole golf course with driving range ("Golf Course"); (c) a golf clubhouse and pro shop ("Golf Clubhouse"); (d) a ski area ("Ski Area"); and (e) multiple pool areas, restaurants, a fitness center, and numerous other recreational facilities ("Related Facilities," and together with the Resort Hotel, the Golf Course, the Golf Clubhouse, and the Ski Area, the "Resort and Conference Center") situate on fourteen (14) parcels of real estate consisting of approximately 462 acres located at Villa Roma Road, County Road 164, and Polster Road, Town of Delaware ("Town"), County of Sullivan, State of New York and identified on the Town tax map as Section 5, Block 1, Lot 26.2; Section 20, Block 1, Lots 7.1, 8.2, 8.3, 9.1, 9.4, 9.6, 9.8, 9.9, 9.10, 11.3, 11.4, 12.6, and 14.2 ("Land"); (ii) acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iii) renovation and rehabilitation of improvements to the Resort and Conference Center, the Land and the Equipment (collectively, the Resort and Conference Center, the Land and the Equipment are referred to as the "Project"); and (iv) lease of the Project from the Agency to the Company.

70345-007v2

EXHIBIT  
3

On September 4, 2024, the Agency, a corporate governmental Agency constituting a body corporate and politic and a public benefit corporation and a governmental agency of the State of New York adopted a resolution whereby the Agency appointed the Company as its agent to renovate and rehabilitate the Project.

This is to certify that purchases, leases or rentals by the Agency, through its agent, the Company, of materials to be incorporated into the Project and purchases, leases or rentals of supplies, tools, equipment, or services necessary to renovate, rehabilitate, install and equip such Project are exempt from any sales or use tax imposed by the State of New York and any governmental instrumentality located within the State of New York.

It is further certified that since the Agency is a public benefit corporation, neither it, nor the Company as its agent, is required to furnish an "Exempt Organization Certificate" in order to secure exemption from sales or use tax for such items.

A copy of this letter retained by any vendor or seller to the Company as agent for the Agency, may be accepted by such vendor or seller as a "statement and additional documentary evidence of such exemption" as provided by New York Tax Law 1132(c)(2), thereby relieving such vendor or seller from the obligation to collect sales or use tax upon purchases or rentals of such materials, supplies, tools, equipment, or services by the Agency through its agent, the Company.

THIS LETTER SHALL BE IN EFFECT TO AND INCLUDING MARCH 31, 2025.

In the event you have any questions with respect to the above, please do not hesitate to contact me.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Howard Siegel, Chairman

EXPIRING MARCH 31, 2025

EXHIBIT 4(e)

PILOT AGREEMENT



## PAYMENT IN LIEU OF TAXATION AGREEMENT

*THIS PAYMENT IN LIEU OF TAXATION AGREEMENT* ("Agreement"), made 6<sup>th</sup> day of September, 2024, 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 548 Broadway, Monticello, New York 12701 ("Agency") and FAY HOSPITALITY CATSKILLS LLC, a Delaware limited liability company with offices located at c/o Fay US Investments Corporation, 1185 Avenue of the Americas, 3<sup>rd</sup> Floor, New York, New York 10036 ("Company").

### RECITALS

*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 its 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 or about August 6, 2024, the Company presented an application to the Agency, a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project consisting of the: (i) acquisition, renovation, rehabilitation, installation and equipping of the existing Villa Roma Resort and Conference Center including but not limited to (a) a resort hotel including 139 guest rooms with amenities ("Resort Hotel"); (b) an 18 hole golf course with driving range ("Golf Course"); (c) a golf clubhouse and pro shop ("Golf Clubhouse"); (d) a ski area ("Ski Area"); and (e) multiple pool areas, restaurants, a fitness center, and numerous other recreational facilities ("Related Facilities," and together with the Resort Hotel, the Golf Course, the Golf Clubhouse, and the Ski Area, the "Resort and Conference Center") situate on fourteen (14) parcels of real estate consisting of approximately 462 acres located at Villa Roma Road, County Road 164, and Polster Road, Town of Delaware ("Town"), County of Sullivan

("County"), State of New York and identified on the Town tax map as Section 5, Block 1, Lot 26.2; Section 20, Block 1, Lots 7.1, 8.2, 8.3, 9.1, 9.4, 9.6, 9.8, 9.9, 9.10, 11.3, 11.4, 12.6, and 14.2 ("Land"); (ii) acquisition and installation thereon and therein of certain furniture, fixtures, machinery, equipment and tools ("Equipment"); (iii) renovation and rehabilitation of improvements to the Resort and Conference Center, the Land and the Equipment (collectively, the Resort and Conference Center, the Land and the Equipment are referred to as the "Project"); and (iv) lease of the Project from the Agency to the Company; and

*WHEREAS*, by resolution, dated September 4, 2024, the Agency authorized (i) the Company to act as its agent for the purposes of acquiring, renovating, rehabilitating, installing and equipping the Project; (ii) negotiate and enter into an Agent and Project Agreement, the Lease to Agency, the Leaseback to Company ("Leaseback Agreement") and this Agreement with the Company; (iii) hold a leasehold interest in the Land, the improvements and personal property thereon which constitute the Project; and (iv) provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related to the renovation, rehabilitation, installation and equipping of the Project; (b) a real property tax abatement on increased value resulting from improvements to the Land through this Agreement; and (c) a mortgage tax exemption for financing related to the Project; and

*WHEREAS*, pursuant to Section 874(1) of the Act, the Agency is exempt from the payment of taxes imposed upon real property and improvements owned by it or under its jurisdiction, control or supervision, other than special *ad valorem* levies, special assessments and service charges against real property which are or may be imposed for special improvements or special district improvements; and

*WHEREAS*, the Agency and the Company deem it necessary and proper to execute and deliver to the Agency this Agreement making provision for payments in lieu of taxes by the Company for the benefit of the County, Town and the Sullivan West Central School District ("School" and together with the County and the Town, the "Taxing Jurisdictions"); and

*WHEREAS*, all agreements of the Agency and the Company relating to payments in lieu of taxes shall be governed by this Agreement.

*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:

1. Exemption From General Ad Valorem Property Taxes. Subject to the completion and filing by March 1, 2025 ("Taxable Status Date") of the State Form RP-412-a Application For Real Property Tax Exemption ("Exemption Application") under Section 412-a of the State Real Property Tax Law and Section 874 of the Act, the Project shall be exempt from real estate taxes commencing with the July 1, 2025 School year and the January 1, 2026 County and Town tax year. For the purposes of the foregoing, "Real Estate Taxes" shall mean all general ad valorem real property taxes levied against the Project by the Taxing Jurisdictions. The Company shall provide the Agency the information necessary for the completion and filing of the Exemption Application and the Agency shall file the

Exemption Application within thirty (30) days of the execution and delivery of this Agreement. In the event the exemption from Real Estate Taxes is denied for any reason, the Company shall pay (and hereby agrees to pay, subject to the Company's right to challenge the underlying assessments on the Project pursuant to ¶8 hereof) all Real Estate Taxes levied upon the Project as they become due. After giving written notice to the Agency, the Company may in good faith contest the denial of the Exemption Application, provided that (i) the Project continues to qualify as a "project" under the Act; (ii) neither the Project nor any part of or interest in it would be in any danger of being sold, forfeited or lost; or (iii) neither the Company nor the Agency, as a result of such contest, shall be in any danger of any civil or criminal liability. The Company hereby waives any claim or cause of action against the Agency and releases the Agency from any liability to the Company, arising from the denial of the Exemption Application except to the extent that such denial results solely from the failure of the Agency to timely file the Exemption Application with the appropriate assessors or Boards of Assessment Review within thirty (30) days of the date hereof.

2. Agreement to Make Payments in Lieu of Taxes. As long as the Agency holds a leasehold interest in the Project, the Company agrees to pay annually to the Agency at 548 Broadway, Monticello, New York 12701, or at such other address as shall be designated from time to time by the Agency, annual payments in lieu of taxes (each a, "PILOT Payment") computed in accordance with this Agreement. Notwithstanding the amount computed pursuant to Section 3, each annual PILOT Payment shall not exceed the ad valorem real estate taxes that would be payable but for the Agency's involvement.
  
3. Computation of PILOT Payments. (a) Subject to the limitation set forth in Section 2, PILOT Payments shall be made in the amounts and in the manner contemplated by this ¶3 on account of the following premises located in the Town:

Section - Block - Lots
5.-1-26.2
20.-1-7.1
20.-1-8.2
20.-1-8.3
20.-1-9.1
20.-1-9.4
20.-1-9.6
20.-1-9.8
20.-1-9.9
20.-1-9.10
20.-1-11.3

20.-1-11.4
20.-1-12.6
20.-1-14.2

(b) Calculation of Annual PILOT Payment – Years 1 to 5. For PILOT years 1 to 5, the annual PILOT Payments shall be an amount equal to \$16,850,000 (“Base Value”) multiplied by the Equalization Rate as defined in ¶3(c) hereof, multiplied 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) and 3(e) 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 Payment. 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) and 3(e) shall be one hundred (100%) percent.

(d) Tax Rates. The “Tax Rates” to be used in making the computation contemplated by ¶3(b) and 3(e) hereof shall mean for each Taxing Jurisdiction, 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 tax 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.

(e) Calculation of Annual PILOT Payment – Years 6-15. For PILOT years 6 to 15, the annual PILOT Payment shall be an amount equal to the Base Value multiplied by the Equalization Rate multiplied by the Tax Rates plus an amount equal to the Assessed Value [net of any exemption under RPTL §485-b] as determined by the Town of Delaware Assessor minus [the Base Value x the Equalization Rate (with such value not less than zero)] multiplied by the Tax Rates multiplied by (100% minus the following Exemption Percentages):

Year	PILOT Payment Due Date	Exemption Percentages
6	2/1/2031	90%
7	2/1/2032	80%
8	2/1/2033	70%
9	2/1/2034	60%
10	2/1/2035	50%
11	2/1/2036	40%
12	2/1/2037	30%
13	2/1/2038	20%
14	2/1/2039	10%
15	2/1/2040	0%

These assumptions apply to the following example, and the example in paragraph 5(a)(iii):

PILOT Year 9	2033/34 School Tax; 2034 County & Town Tax
Assessed Value	\$10,200,000
Equalization Rate	50%
§485-b Qualifying Improvements	\$1,500,000
§485-b Percentage Exemption	35%
Combined County Town and School Tax Rate	\$45 per \$1,000

PILOT on Existing PILOT Base

Base Value x Equalization Rate x Tax Rates

$$\$16,850,000 \times 50\% \times 45/1000 = \$379,125$$

plus

PILOT on New Improvements

[(Assessed Value – §485-b exemption) - (Base Value x Equalization Rate)]  
x Tax Rates x (100% - Exemption %)

$$[(\$10,200,000 - \$525,000) - (16,850,000 \times 50\%)] \times \$45/\$1,000 \times (100\% - 60\%) =$$

$$(\$9,675,000 - \$8,425,000) \times \$45/\$1,000 \times 40\% = \$22,500$$

$$\text{PILOT} = \$379,125 + 22,500 = \$401,625$$

(f) Overall Period Governed By Agreement. The chart which follows sets forth the years of the overall fifteen- (15) year period governed by this 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	PILOT Payment Due Date	School Fiscal Year Beginning	County & Town
1	February 1, 2026	July 1, 2025	January 1, 2026
2	February 1, 2027	July 1, 2026	January 1, 2027
3	February 1, 2028	July 1, 2027	January 1, 2028
4	February 1, 2029	July 1, 2028	January 1, 2029
5	February 1, 2030	July 1, 2029	January 1, 2030

6	February 1, 2031	July 1, 2030	January 1, 2031
7	February 1, 2032	July 1, 2031	January 1, 2032
8	February 1, 2033	July 1, 2032	January 1, 2033
9	February 1, 2034	July 1, 2033	January 1, 2034
10	February 1, 2035	July 1, 2034	January 1, 2035
11	February 1, 2036	July 1, 2035	January 1, 2036
12	February 1, 2037	July 1, 2036	January 1, 2037
13	February 1, 2038	July 1, 2037	January 1, 2038
14	February 1, 2039	July 1, 2038	January 1, 2039
15	February 1, 2040	July 1, 2039	January 1, 2040

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 Real Estate Taxes would have been allocated but for the Agency's involvement.

The PILOT Payments provided for herein shall commence as of February 1, 2026 which follows the first (1st) year of a 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 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 Agreement and specifically agrees that the exemptions provided for in this 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 it were signatories hereto.

5. Employment Obligations.

(a) Employment Goals.

- (i) Employment Goal Definitions: For the purposes of this Agreement, the following terms shall have the meaning set forth in each definition:
- (1) "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.
  - (2) "Base Compensation" shall be determined in accordance with the provisions of the Fair Labor Standards Act.
  - (3) "At the Project" shall mean that an FTE is employed primarily at the Project.

- (ii) FTE Employment Goals: The Company agrees that an FTE-employment goal of two hundred two (202) jobs shall be maintained for each annual period throughout the term of this Agreement.

The Company shall file with the Agency not later than November 1, 2024 and on November 1st of each year thereafter a statement certified under oath setting forth the actual FTE's employed at the Project for the preceding October 1<sup>st</sup> to September 30<sup>th</sup> period. 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).

- (iii) Computation of PILOT Payment if FTE Goals Not Attained: In the event the FTE goal is not attained with respect to the October 1<sup>st</sup> to September 30<sup>th</sup> period preceding any PILOT Payment due date, the amount due ("Adjusted PILOT Payment") shall be the amount calculated in ¶3(b) or (e) above, plus an amount equal to the tax calculated as if an exemption under RPTL §485-b were in effect (if applicable), less the amount calculated in ¶3(b) or (e), times the percentage:

- (1) the numerator of which is equal to two hundred two (202) minus the actual average FTE employment, and
- (2) the denominator of which is two hundred two (202).

By way of example, if in calendar year 2034 (i) the actual average FTE employment is one hundred eighty (180), the Adjusted PILOT Payment would be computed as follows:

PILOT on Existing PILOT Base

$$\begin{aligned} \text{PILOT Payment} &= \text{PILOT Base} \times \text{Equalization Rate} \times \text{Tax Rate} \\ \$379,125 &= \$16,850,000 \times 50\% \times 45/1000 \end{aligned}$$

plus

PILOT on New Improvements

[(Assessed Value - §485-b exemption) – (PILOT Base x Equalization Rate)]  
x Tax Rate x (100% - Exemption Percentage)

[(10,200,000 - \$525,000) – (16,850,000 x 50%)]  
x 45/\$1,000 x (100% - 60%)

(\$9,675,000 - \$8,425,000) = \$1,250,000

\$1,250,000 x 45/\$1,000 x 40% = \$22,500

\$379,125 + \$22,500 = \$401,625

Tax under §485-b

Tax under §485-b = Assessed Value - §485-b exemption x tax rates

\$10,200,000 – [\$1,500,000 x 35%] x 45/1,000 = \$435,375

Adjusted PILOT Payment

Adjusted PILOT Payment = PILOT Payment + [(tax under §485-b - PILOT Payment amount)  
x Percentage of Underemployment]

\$401,625 + [(435,375 - \$401,625) x 22/202 = 10.89%] = \$3,675.38

Adjusted PILOT Payment = \$401,625 + \$3,675.38 = \$405,300.38

(b) Job Posting and Hiring Requirements. The Company agrees that it shall comply with the provisions of General Municipal Law §858-b which requires that unless otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the Agency shall be listed with the administrative entities of the service delivery area created by the Workforce Investment Act of 1998 (P.L. 105-220) (formerly the Federal Job Training Partnership Act (P.L. No. 97-300)) (“WIA”) serving County and the State Department of Labor Community Services Division. Except as otherwise provided by collective bargaining contracts or agreements, the Company will first consider for new employment opportunities persons eligible to participate in the WIA program who shall be referred by administrative entities of the service delivery area servicing County or by the State Department of Labor Community Services Division.

The Company acknowledges that it is not now bound by the provisions of collective bargaining contracts or agreements which limit or restrict the Company from listing such employment opportunities or from giving first consideration to persons



eligible to participate in job training partnership act programs. The Company agrees not to enter into any collective bargaining contracts or agreements which create such restriction or limitation unless the union or employee organization with which the Company shall negotiate a collective bargaining contract or agreement has a bona fide program for apprenticeship in such union or has a comparable program for providing employment opportunities to persons eligible to participate in such WIA programs under apprenticeship programs conducted by such union or employee organization. The Company agrees that any agreement which creates or imposes or changes any such restriction or limitation shall be first submitted to the Agency for review prior to ratification of such agreement. The Company shall provide the Agency with copies of collective bargaining contracts or agreements hereinafter executed.

The Company shall submit to the Agency a statement of the manner in which the Company has complied with the provisions of this section of this Agreement. Such statement (together with documentation of each such referral and plan of hiring) shall be made under oath and shall be submitted no later than December 1st (or such other date as the parties shall agree) of each year of this Agreement. After an audit by the Agency and a determination that there has been a failure for a period of two (2) years to list such job opportunities as herein provided or to hire and retain persons eligible for WIA programs without a reason for the failure to do so shall give rise to a presumption of intentional noncompliance with the provision of this section.

(c) Equal Opportunity Requirements. During the term of this Agreement, the Company shall be in compliance with the County "Equal Opportunity Policy Statement," providing equal employment opportunity without regard to age, race, religion, creed, color, and other non-merit factors in compliance with State and federal laws.

(d) Defaults and Remedies Relating to Employment Obligations. The following remedies shall apply to Employment Obligation defaults:

(i) Employment Goal Filing: If the Company shall fail to file a certification of FTE's employed as required by ¶5(a)(ii) prior to the time such statement is required to be filed with the Agency, the Agency may make the calculation of the PILOT Payment based on no FTEs for the affected year and the amount so calculated shall be paid. If the Company thereafter files such a statement and the filing results in a determination that the Company has made an overpayment, the Agency shall refund to the Company an amount equal to ninety (90%) percent of the overpayment, less the actual costs incurred by the Agency to enforce this provision of this Agreement. In the Agency's sole discretion, such refund may be applied as a credit against the next succeeding PILOT Payment(s).

(ii) **Employment Eligibility Requirements:** If the Company fails to provide information reasonably requested by the Agency necessary to determine the eligibility of one or more persons to be considered as an FTE, the Agency may, upon fifteen (15) days' notice to the Company, compute the PILOT Payment as if the person(s) were not eligible FTEs. No calculation so made shall be subject to recomputation.

(iii) **Compliance with Other Hiring Requirements:** If the Company shall fail to comply with the Job Posting and Hiring Act requirements set forth in ¶5(b) or the Equal Opportunity requirements set forth in ¶5(c), the Agency, upon fifteen (15) days' notice to the Company, may disallow in the calculation of the PILOT Payment any employees hired in violation of the foregoing requirements.

(iv) **Intentional Non-Compliance:** In the event of a finding by the Agency of intentional non-compliance with the Job Posting and Hiring requirements set forth on ¶5(b), or the Equal Opportunity requirements set forth in ¶5(c), the Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Project would have received if eligible for exemption under RPTL §485-b.

(v) **Continuous Underemployment:** If the Company shall fail for a period of two (2) consecutive years to employ at least one hundred thirty-five (135) FTEs for each year, the Agency may compute the PILOT Payment by adjusting the exemption amount to the level of exemption the Project would have received if eligible for exemption under RPTL §485-b; provided, however, that in no event shall such computation result in a PILOT Payment less than the PILOT Payment calculated under ¶3(b) or 3(e) hereof.

(vi) **Payment Required:** Timely payment of all amounts due shall be made by the Company notwithstanding any dispute related to the calculation of the PILOT Payment.

(vii) **Condition Precedent to Suit:** It shall be a condition precedent to the institution of any action or proceeding by the Company against the Agency with respect to the calculation of any amount claimed to be due the Agency that all amounts claimed to be due shall have been paid to the Agency by the Company prior to the institution of such action or proceeding.

6. **Additional Payments.** In addition to the PILOT Payments to be made by the Company to the Agency pursuant to this Agreement, the Company shall pay to the Agency all special assessments, special ad valorem levies, and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. Such payments shall be made within ten (10) days after the date upon which a bill shall be rendered by the Agency to the Company. Such charges shall be paid without adjustment, exemption or other

deduction provided; in each case, however, to the Company's right to obtain exemption and credits, if any, which would be afforded a private owner of the Project. The Company hereby authorizes the Agency to request that any Taxing Jurisdiction bill the Company directly for all special assessments, special ad valorem levies and any other charges for which the Agency shall be liable and for which it is not wholly exempt from taxation. In the event the Company is directly billed for such charges, the Company shall pay such charges within the time in which such statement or bill may be paid without interest or penalty.

7. Representations and Warranties.

- (a) The Company is duly authorized under all applicable provisions of law to enter into and perform this Agreement. The Company's entry into and performance of this Agreement will not violate any applicable provisions of law and will not result in a breach of or a default under any agreement of instrument to which the Company is a party and will not result in the creation of any lien, charge or encumbrance upon any of the assets of the Company under any such agreement or instrument.
- (b) The Company is not a party to any agreement or subject to any restriction (including without limitation any agreement among or between its shareholders or members) that materially and adversely effects its business assets or financial condition.
- (c) When executed, this Agreement will be a valid and binding obligation of the Company.

8. The Company's Right to Challenge. The Company shall have all of the rights and remedies of a taxpayer with respect to any tax, service charge, special benefit, ad valorem levy, assessment, or special assessment or service charge in lieu of which the Company is obligated to make a payment pursuant to this Agreement, as if and to the same extent as if the Company were the owner of the Project.

Except as otherwise provided in this Agreement, the Company shall have all of the rights and remedies of a taxpayer as if and to the same extent as if the Company were the owner of the Project, with respect to the assessed value of the Project by any of the Taxing Jurisdictions and shall be entitled to protest before and be heard by the appropriate assessors or Board of Assessment Review, and shall be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment.

9. Transfer of Project to the Company. In the event that the Company is ineligible for a continued tax exemption under some other tax incentive program, or any available exemptions result in a payment to the Taxing Jurisdictions in excess of the payment computed pursuant to this Agreement, the Company shall pay, no later than the next tax lien date (plus any applicable grace period), to each of the Taxing Jurisdictions, an amount equal to the taxes and assessments which would have been levied on the Project if the Project had been classified as fully taxable as of the date of transfer or loss of eligibility of all or a portion of the exemptions provided for herein.

10. Involuntary Termination of Agreement. To the extent the Project is declared to be subject to taxation or assessment by an amendment to the Act, other legislative change, or by final judgment of a Court of competent jurisdiction, the Company's obligations hereunder shall, to such extent, be amended.
11. Security for Company's Obligation. The Company shall procure, for the benefit of the Agency, financial security in form and substance acceptable to the Agency ("Financial Security") to secure the performance by the Company of its financial obligations under this Agreement for all PILOT Payment dates from Year 1 (as provided in ¶3(b) and (f)) through Year 15. Unless otherwise approved by the Agency, the Financial Security shall be a letter of credit. The Company shall deliver to the Agency Financial Security in an amount equal to 110% of the Agency's estimate of the Year 1 PILOT Payment on or before February 1, 2025, with a term to expire not earlier than the following February 28<sup>th</sup>. On each February 1<sup>st</sup> thereafter that this Agreement is in effect, the Company shall deliver to the Agency a renewal or replacement of the then posted Financial Security, in form and substance acceptable to the Agency in an amount of not less than 110% of the PILOT Payment which is due as of such date. The replacement or renewal Financial Security shall not expire prior to following February 28<sup>th</sup>.
12. Event of Default. During the term of this Agreement, the following shall be an event of default:
  - (a) The failure to make PILOT Payments within the time allowed for payment, *TIME BEING OF THE ESSENCE*;
  - (b) Failure to timely deliver financial security, *TIME BEING OF THE ESSENCE*;
  - (c) The adjudication of the Company as a bankrupt and the failure to vacate, set aside or terminate such adjudications within ninety (90) days thereafter;
  - (d) The failure of the Company to pay the amounts required to be paid pursuant to Sections 2.6, 3.3 or 3.7 of the Leaseback Agreement and such failure shall have continued for a period of ten (10) days after the Agency gives written notice of such failure to the Company;
  - (e) The appointment by any court of a receiver or trustee to take possession of all, or substantially all, of the assets of the Company which said appointment shall not have been discharged within a period of ninety (90) days after the filing of same;
  - (f) The making by the Company of an assignment for the benefit of creditors;
  - (g) The abandonment of the Project by the Company for a period of thirty (30) consecutive days or more, unless such abandonment is caused by fire or other catastrophe, war, act of God or governmental order or decree without fault of the Company contributing thereto; provided, however, that in the event of fire or other

catastrophe, the Company elects within ninety (90) days from the happening of such event to reconstruct the Project;

- (h) The attachment, execution or other seizure of all or substantially all of the assets of the Company, which such attachment, execution or other seizure is not discharged within a period of sixty (60) days after the date of levy; or
- (i) The failure, refusal or neglect of the Company to perform, keep or observe any of the terms, covenants and agreements herein contained on the part of the Company to be performed, kept or observed.

13.(a) Remedies on Default in Payment or Posting Security; Termination. Upon the happening of an event of default as defined in ¶12(a) or (b) hereof, the Agency may immediately terminate this Agreement without notice to the Company and without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by terminating the Agency's leasehold interest in the Leaseback Agreement, as determined by the Agency and the recording of Memorandums of Termination of Leaseback Agreement and Lease Agreement ("Termination Memorandums") in the County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Chairman and Executive Director of the Agency, each acting individually, as its attorneys-in-fact for the limited purpose of signing any forms that must necessarily accompany the Termination Memorandums in order for the Termination Memorandums to be recorded. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable.

- (b) Remedies On Other Defaults; Termination. Upon the happening of any event of default as defined in ¶12(c - i) hereof, if after thirty (30) days written notice to the Company specifying the event of default, the default shall not have been remedied within such thirty (30) day period (or such other longer period specified in ¶12(c), (e), (g) and (h)), (or if, with reasonable diligence the default cannot be remedied within such thirty (30) day period (or such other longer period specified in ¶12(c), (e), (g) and (h)), then within such extended period as may be reasonably required therefor) the Agency, at its option, may take any action hereinafter set forth and all such remedies shall be cumulative and not exclusive:
- (i) Recover damages for the breach of any covenant or condition hereof;
  - (ii) Seek an injunction to bar any actual or threatened violation or breach of this Agreement;
  - (iii) Seek any other remedy authorized by law or in equity; or
  - (iv) Terminate this Agreement, without prejudice or limitation as to all other rights or remedies herein and/or under law or in equity. Such termination may be accomplished by terminating the Agency's leasehold interest in the Leaseback Agreement, as determined by the Agency and the recording of the Termination Memorandums in the County Clerk's Office shall be deemed to be delivery thereof. The Company hereby appoints the Chairman and Executive Director of the Agency, each acting individually, as its attorneys-in-fact for the limited purpose of signing any forms that must necessarily accompany the Termination Memorandums in order for the

Termination Memorandums to be recorded. The Company acknowledges that the foregoing appointment is coupled with an interest and is irrevocable.

14. Legal Fees on Default. If the Agency shall be required to take any action to enforce this Agreement or to collect any amount due hereunder, the Company shall be liable to pay, in addition to any other costs and expenses incurred by the Agency, its reasonable legal fees and the reasonable fees of any experts, accountants, or other professionals retained by it, without regard to whether the Agency shall have instituted any lawsuit or action at law or in equity in any court or before anybody, provided such expenses were actually and necessarily incurred.
15. Late charges. If any PILOT Payment is not made by the payment due date, or if any other payment required to be made hereunder is not made when due by the last day of any applicable cure period, the Company shall pay penalties and interest as provided herein. With respect to PILOT Payments, if said payment is not received by the payment due date, the Company shall pay, in addition to the PILOT Payment, a late charge equal to five percent (5%) of the amount due plus interest on said payment equal to one percent (1%) per month or fraction thereof until the PILOT Payment, penalty and interest is paid in full. With respect to all other payments due hereunder, if said payment is not received when due or by the last day of any applicable cure period, the Company shall pay, in addition to said payment, the greater of (a) a late charge equal to five (5%) percent of the amount due plus interest on said payment equal to one (1%) percent per month or fraction thereof until said payment, penalty and interest is paid in full; or (b) penalties and interest which would have been incurred had payments made hereunder been made to the Taxing Jurisdictions.
16. Termination of Use, Modification. If the substantial use of the Project shall be discontinued by the Company, the Agency may terminate this Agreement. Such termination may be accomplished as set forth in ¶13(b)(iv). It is understood that the benefits of this Agreement have been extended to the Company on the grounds set forth in various related agreements between the parties; that new and retained jobs at the Project will be an economic asset to the County's economy; that the retention of existing jobs and creation of new jobs in the County is considered beneficial to the wellbeing of the County as of the date of this Agreement and for the foreseeable future; and that the discontinuance of the substantial use of the Project by the Company would alter the purpose for which this Agreement was made.
17. Indemnification. To the fullest extent permitted by law, the Company shall indemnify, defend and hold the Agency (and its directors, officers, members, agents (except the Company), employees, servants and their successors, representative and assigns) harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever in relation to the Project, including expenses incurred by the Agency (and its directors, officers, members, agents (except the Company), employees, servants and their successors, representative and assigns) in defending any claim, suit or action which may result as a result of the foregoing.

18. No Recourse, Special Obligation.

- (a) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not any director, officer, employee, member, agent (other than the Company), or representative of the Agency in his individual capacity, and the directors, officers, employees, members, agents (other than the Company) or representatives of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.
- (b) The obligations and agreements of the Agency contained hereby shall not constitute or give rise to an obligation of the State or of the County and neither the State nor the County shall be liable hereon or thereon, and, further, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency payable solely from the revenues of the Agency derived and to be derived from the sale or other disposition of the Project (except for revenues derived by the Agency with respect to the Unassigned Rights) (as such term is defined in the Leaseback Agreement).
- (c) No order or decree of specific performance with respect to any of the obligations of the Agency hereunder shall be sought or enforced against the Agency unless (i) the party seeking such order or decree shall first have requested the Agency in writing to take the action sought in such order or decree of specific performance, and ten (10) days shall have elapsed from the date of receipt of such request, and the Agency shall have refused to comply with such request (or, if compliance therewith would reasonably be expected to take longer than ten (10) days, shall have failed to institute and diligently pursue action to cause compliance with such request) or failed to respond within such notice period, (ii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it will incur fees and expenses, the party seeking such order or decree shall have placed in an account with the Agency an amount or undertaking sufficient to cover such reasonable fees and expenses, and (iii) if the Agency refuses to comply with such request and the Agency's refusal to comply is based on its reasonable expectation that it or any of its directors, officers, employees, members, agents (other than the Company) or representatives of the Agency shall be subject to potential liability, the party seeking such order or decree shall agree to indemnify and hold harmless the Agency and its directors, officers, employees, members, agents (other than the Company) and representatives of the Agency against all liability expected to be incurred as a result of compliance with such request.
- (d) The obligations and agreements of the Company contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and

agreements of the Company, and not of any member, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents, employees or representatives of the Company in his or their individual capacity, and the members, direct or indirect beneficial owners, affiliates, partners, shareholders, officers, directors, agents and employees or representatives of the Company shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

19. General Provisions.

- (a) 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 date of receipt if transmitted by electronic mail to 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:

If to the Agency:

County of Sullivan Industrial Development Agency  
548 Broadway  
Monticello, New York 12701  
Attn: Executive Director

with a copy to:

Walter F. Garigliano P.C.  
449 Broadway, P.O. Drawer 1069  
Monticello, New York 12701

To the Company:

Fay Hospitality Catskills LLC  
c/o Fay US Investments Corporation  
1185 Avenue of the Americas, 3<sup>rd</sup> Floor  
New York, New York 10036  
Attn: Sandeep Wadhwa, President

with a copy to:

Duane Morris LLP  
1540 Broadway  
New York, New York 10036-4086  
Attn: Lee J. Potter, Jr., Esq.

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. Any electronic notice sent outside of regular hours shall be deemed given on the next business day.

- (b) Assignment. This Agreement may not be assigned by the Company, nor shall any person other than the Company be entitled to succeed to or otherwise obtain any benefits hereunder without the prior written consent of the Agency, which consent may be withheld by the Agency in its sole and absolute discretion.
- (c) Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and its respective permitted successors and assigns.
- (d) Waiver. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
- (e) Severability. If any provision of this Agreement shall be determined to be illegal and unenforceable by any court of law or any competent governmental or other authority, the remaining provisions shall be severable and enforceable in accordance with its terms so long as this Agreement without such terms or provisions does not fail of its essential purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this Agreement.
- (f) Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State. The parties hereby designate a court of proper jurisdiction located in Sullivan County as the exclusive venue for resolution of any disputes which may arise under or by reason of this Agreement.
- (g) Survival of Obligations. The obligations of the Company to make PILOT Payments and all of the Company's indemnification obligations shall survive any termination or expiration of this Agreement.
- (h) Section Headings Not Controlling. The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Agreement.
- (i) Entire Agreement. This Agreement together with the Leaseback Agreement sets forth the entire agreement and understanding between the parties relating to the subject matter hereof and supersedes all prior discussions and negotiations between them. This Agreement may not be amended in any respect except by a written amendment expressly referring to this Agreement and executed by the parties to be bound thereby.

*IN WITNESS WHEREOF*, the parties hereto have executed this Agreement effective as of the date hereof.

COUNTY OF SULLIVAN INDUSTRIAL  
DEVELOPMENT AGENCY

---

By: Howard Siegel, Chairman

Fay Hospitality Catskills LLC  
By: Fay Villa Roma LLC, its sole member  
By: Fay US Investments Corporation, its managing  
member

---

By: Sandeep Wadhwa, President

EXHIBIT 4(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]



Department of Taxation and Finance

EXHIBIT

4(f)

# IDA Appointment of Project Operator or Agent For Sales Tax Purposes

# ST-60

(1/18)

The industrial development agency or authority (IDA) **must** submit this form within **30 days** of the appointment of a project operator or agent, whether appointed directly by the IDA or indirectly by the operator or another agent.

For IDA use only

### IDA information

Name of IDA County of Sullivan Industrial Development Agency			IDA project number (use OSC numbering system for projects after 1998) 48012403A
Street address 548 Broadway			Telephone number (845 ) 428-7575
City Monticello	State NY	ZIP code 12701	Email address (optional)

### Project operator or agent information

Name of IDA project operator or agent Fay Hospitality Catskills LLC		Mark an X in the box if directly appointed by the IDA. <input checked="" type="checkbox"/>	Employer identification or Social Security number 37-2018607
Street address c/o Fay US Investments Corp., 1185 Avenue of the Americas, 3rd Floor		Telephone number ( 347 ) 399-3574	Primary operator or agent? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
City New York	State NY	ZIP code 10036	Email address (optional)

### Project information

Name of project Fay Hospitality Catskills LLC		
Street address of project site Villa Roma Road, County Road 164, and Polster Road		
City Callicoon, Town of Delaware	State NY	ZIP code 12723
Purpose of project tourism		

Description of goods and services intended to be exempted from New York State and local sales and use taxes goods and services to acquire, construct, reconstruct, renovate, rehabilitate, install, and equip the existing Villa Roma Resort and Conference Center		
Date project operator or agent appointed (mmddyy) 090624	Date project operator or agent status ends (mmddyy) 033125	Mark an X in the box if this is an extension to an original project. <input type="checkbox"/>
Estimated value of goods and services that will be exempt from New York State and local sales and use tax: 4,875,000.00		Estimated value of New York State and local sales and use tax exemption provided: 390,000.00

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer or employee signing on behalf of the IDA Jennifer M Flad	Print title Executive Director
Signature 	Date 9-6-24
	Telephone number ( 845 ) 428-7575

EXHIBIT 4(g)

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

[Attached Next Page]



# Annual Report of Sales and Use Tax Exemptions Claimed by Agent/Project Operator of Industrial Development Agency/Authority (IDA)

For period ending December 31, \_\_\_\_\_ (enter year)

### Project information

Name of IDA agent/project operator Fay Hospitality Catskills LLC		Employer identification number (EIN) 37-2018607	
Street address c/o Fay US Investments Corp., 1185 Avenue of the Americas, 3rd Floor		Telephone number ( 347 ) 399-3574	
City New York		State NY	ZIP code 10036
Name of IDA County of Sullivan IDA	Name of project Fay Hospitality Catskills LLC	IDA project number 48012403A	
Street address of project site Villa Roma Road, County Road 164, and Polster Road			
City Callicoon, Town of Delaware		State NY	ZIP code 12723
Date project began		Completion date of project Actual <input type="checkbox"/> Expected <input type="checkbox"/>	
Total sales and use tax exemptions (actual tax savings; not total purchases) .....			\$

### Representative information (not required)

Authorized representative, if any	Title
Street address	Telephone number ( )
City	State ZIP code

### Certification

I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements with the knowledge that willfully providing false or fraudulent information with this document may constitute a felony or other crime under New York State Law, punishable by a substantial fine and possible jail sentence. I also understand that the Tax Department is authorized to investigate the validity of any information entered on this document.

Print name of officer, employee, or authorized representative	Title of person signing
Signature	Date

**If you do not annually file a complete report, we may remove your authority to act as an IDA agent/project operator.**

Mail completed report to:  
**NYS TAX DEPARTMENT  
 IDA UNIT  
 W A HARRIMAN CAMPUS  
 ALBANY NY 12227-0866**

If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

EXHIBIT 4(h)-1

NYS FORM ST-123  
FOR  
COMPANY

[Attached Next Page]



# IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

**Note:** To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller	Name of agent or project operator Fay Hospitality Catskills LLC
Street address	Street address c/o Fay US Investments Corp. 1185 Avenue of the Americas, 3rd Floor
City, town, or village State ZIP code	City, town, or village State ZIP code New York NY 10036
	Agent or project operator sales tax ID number (see instructions) 37-2018607

Mark an **X** in one:  Single-purchase certificate  Blanket-purchase certificate (valid only for the project listed below)

**To the seller:**

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

### Project information

I certify that I am a duly appointed agent or project operator of the named 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 my agreement with the IDA.

Name of IDA County of Sullivan Industrial Development Agency		
Name of project Fay Hospitality Catskills LLC	IDA project number (use OSC number) 48012403A	
Street address of project site Villa Roma Road, County Road 164, and Polster Road		
City, town, or village Callicoon, Town of Delaware	State NY	ZIP code 12723
Enter the date that you were appointed agent or project operator (mm/dd/yy) ..... 09 / 06 / 24	Enter the date that agent or project operator status ends (mm/dd/yy) ..... / /	

### Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	



EXHIBIT 4(h)-2

NYS FORM ST-123  
FOR  
SUBAGENTS OF COMPANY

[Attached Next Page]



# IDA Agent or Project Operator Exempt Purchase Certificate

Effective for projects beginning on or after June 1, 2014

This certificate is not valid unless all entries have been completed.

**Note:** To be completed by the purchaser and given to the seller. Do not use this form to purchase motor fuel or diesel motor fuel exempt from tax. See Form FT-123, *IDA Agent or Project Operator Exempt Purchase Certificate for Fuel*.

Name of seller			Name of agent or project operator		
Street address			Street address		
City, town, or village	State	ZIP code	City, town, or village	State	ZIP code
Agent or project operator sales tax ID number (see instructions)					

Mark an **X** in one:  Single-purchase certificate  Blanket-purchase certificate (valid only for the project listed below)

**To the seller:**

You must identify the project on each bill and invoice for such purchases and indicate on the bill or invoice that the IDA or agent or project operator of the IDA was the purchaser.

### Project information

I certify that I am a duly appointed agent or project operator of the named 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 my agreement with the IDA.

Name of IDA County of Sullivan Industrial Development Agency		
Name of project Fay Hospitality Catskills LLC	IDA project number (use OSC number) 48012403A	
Street address of project site Villa Roma Road, County Road 164, and Polster Road		
City, town, or village Callicoon, Town of Delaware	State NY	ZIP code 12723
Enter the date that you were appointed agent or project operator (mm/dd/yy) .....	/	/
Enter the date that agent or project operator status ends (mm/dd/yy) .....	/	/

### Exempt purchases

(Mark an **X** in boxes that apply)

- A. Tangible personal property or services (other than utility services and motor vehicles or tangible personal property installed in a qualifying motor vehicle) used to complete the project, but not to operate the completed project
- B. Certain utility services (gas, propane in containers of 100 pounds or more, electricity, refrigeration, or steam) used to complete the project, but not to operate the completed project
- C. Motor vehicle or tangible personal property installed in a qualifying motor vehicle

**Certification:** I certify that the above statements are true, complete, and correct, and that no material information has been omitted. I make these statements and issue this exemption certificate with the knowledge that this document provides evidence that state and local sales or use taxes do not apply to a transaction or transactions for which I tendered this document and that willfully issuing this document with the intent to evade any such tax may constitute a felony or other crime under New York State Law, punishable by a substantial fine and a possible jail sentence. I understand that this document is required to be filed with, and delivered to, the vendor as agent for the Tax Department for the purposes of Tax Law section 1838 and is deemed a document required to be filed with the Tax Department for the purpose of prosecution of offenses. I also understand that the Tax Department is authorized to investigate the validity of tax exclusions or exemptions claimed and the accuracy of any information entered on this document.

Signature of purchaser or purchaser's representative (include title and relationship)	Date
Type or print the name, title, and relationship that appear in the signature box	