

PAYMENT IN LIEU OF TAXATION AGREEMENT

THIS PAYMENT IN LIEU OF TAXATION AGREEMENT ("Agreement"), made 6th 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, 3rd 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 1st to September 30th 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 1st to September 30th 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 28th. On each February 1st 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 28th.
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, 3rd 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.

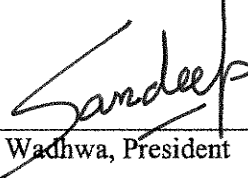
IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date hereof.

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