

FIRST ADDENDUM TO AGENT AGREEMENT

THIS AGREEMENT is made as of the 1st day of May, 2014, by and between the TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a public benefit corporation of the State of New York, having its offices at 401 East State Street, Suite 402B, Ithaca, New York 14850 (the "Agency") and HOTEL ITHACA LLC, a limited liability company duly formed and validly existing pursuant to the laws of the State of New York, with a business address of 215 East State Street, Ithaca, New York 14850 (the "Company").

WHEREAS, the Agency and the Company entered into an Agent Agreement on March 20, 2013 (hereafter "the Agent Agreement"); and

WHEREAS, the IDA Appointment of Project Operator or Agent for Sales Tax Purposes (Form ST-60) was signed on April 19, 2013 and filed shortly thereafter; and

WHEREAS, §875(3)(a) took effect on March 28, 2013;

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. A new paragraph 2(g) shall be added to the Agent Agreement and shall read as follows:

"2(g). In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") from the Agency, and it is determined that: (i) the Company is not entitled to the sales and use tax exemption benefits; (ii) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company; (iii) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the sales and use tax exemption benefits are taken in cases where the Company fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project, then the Company will (i) cooperate with the Agency in its efforts to recover or recapture any sales and use tax exemption benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State and local sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.

The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in amount up to \$9,360,000 and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$748,800.00

2. Except as modified by this Addendum, the terms of the Agent Agreement shall remain in full force and effect.

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

TOMPKINS COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: 

Name: Michael B. Stamm

Title: Administrative Director

HOTEL ITHACA LLC

By: 

Name: Matthew Blasco

Title: manager