

AMENDMENTS

THESE AMENDMENTS, dated January ____, 2022 (the “2022 Amendments”), to the Agreement between Diageo USVI, Inc. (“Diageo) and the Government of the United States Virgin Islands (“Government”), dated as of June 17, 2008, as supplemented (the “Diageo Agreement”), are made by and between Diageo and the Government. The Government and Diageo are sometimes collectively referred to herein as the “Parties” and individually as a “Party.”

RECITALS

Whereas the Government of the U.S. Virgin Islands (“Government”) has utilized the economic development tools provided by Congress to attract and develop the rum industry in the U.S. Virgin Islands (“Virgin Islands”); and

Whereas the rum industry, through the Cover-Over Program authorized by Section 7652 of the U.S. Internal Revenue Code (“Code”) as defined herein, generates hundreds of millions of dollars in Cover-Over Revenues each year which the Government uses, in part, to securitize bonds, among other things, to finance critical infrastructure and other economic development projects in the Virgin Islands; and

Whereas the Government entered into a public-private partnership with Diageo USVI Inc. (“Diageo”) in 2008 to support, strengthen and grow the rum industry in the Virgin Islands and to secure and increase the flow of Cover-Over Revenues to the Government, and

Whereas the Government entered into an agreement with Diageo (the “Diageo Agreement”) to give effect to such partnership and to issue bonds to finance the construction, expansion and improvement of rum production facilities in the Virgin Islands; and

Whereas, pursuant to these agreements, the Government, through the Virgin Islands Public Finance Authority (Public Finance Authority” or “PFA”), has issued Diageo Project Bonds in 2009 to finance the development and construction of the Diageo facilities in St. Croix, ; and

Whereas the Government, through the Public Finance Authority, has issued Matching Fund Bonds subject to the Matching Fund Bond Indenture, as defined herein; and

Whereas the Diageo Project Bonds are subject and subordinate to bonds issued under the Matching Fund Bond Indenture (“PFA Matching Fund Bonds”); and

Whereas the Matching Fund Bonds and the Diageo Project Bonds were issued at a time of higher interest rates than exist today; and

Whereas the Government has identified an opportunity to take advantage of the current favorable interest rate environment, and is endeavoring to redeem, defease and refund all outstanding PFA Matching Fund Bonds, including but not limited to the Diageo Project Bonds with new asset-backed securitization bonds (“Matching Fund Securitization Bonds”), which

transaction is expected to provide the Government with substantial additional cash flows that will be dedicated to providing financial stability and liquidity to the Government Employees Retirement System (“GERS”)(said transaction being the “Securitization Plan”); and

Whereas the Diageo Agreement and its enabling legislation did not contemplate or authorize the refunding of the Diageo Project Bonds; and

Whereas the Virgin Islands Legislature has enacted or will enact legislation expressly authorizing the Securitization Plan, which includes such refunding (the “Authorizing Legislation”); and

Whereas the Securitization Plan contemplates the creation and establishment of a new Matching Fund Special Purpose Securitization Corporation (the “Corporation”) through legislation, which Corporation will issue Matching Fund Securitization Bonds to fund the purchase of all rights, title, and interest in the Cover-Over Revenues under an Assignment, Purchase and Sale Agreement with the Government (the “Purchase and Sale Agreement”), and to provide the funds necessary to defease and refund all outstanding PFA Matching Fund Bonds; and

Whereas, when and if the Securitization Plan is implemented, concurrently upon the defeasance of the Diageo Project Bonds, the Diageo Project Indenture will be extinguished and will have no further force and effect; and

Whereas the Securitization Plan will require technical and conforming amendments to the Diageo Agreement; and

Whereas the Securitization Plan requires the consent of the U.S. Department of the Treasury (“Treasury”); the consent of Diageo and others, respectively; and approval and authorization by the Legislature of the U.S. Virgin Islands (the “Legislature”); and

Whereas the conditions precedent enumerated above shall have been satisfied as of the Amendment Effective Date, as defined herein;

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, representations, warranties, commitments and agreements hereinafter set forth, and for other good and valuable consideration, receipt and acknowledgment of which are hereby given; the Parties hereby agree as follows:

1. Amendments to Article II. For purposes of these Amendments, Defined Terms in the 2008 Diageo Agreement shall, unless otherwise specified, have the same meanings herein. In addition, the following terms shall have the meanings or amended meanings set forth below:

“Corporation” means the Matching Fund Special Purpose Securitization Corporation, a special purpose, independent and autonomous corporate instrumentality of the Virgin Islands established by the Authorizing Legislation, and its successors and assigns.

“Cover-Over Revenues” shall have the same meaning as the Defined Term in the Diageo Agreement, except that the term “Government” shall be amended to read as “Government or instrumentality of the Virgin Islands.”

“Diageo Senior Debt Service Amount” means the amount of annual debt service attributable to the Matching Fund Securitization Bonds issued by the Corporation defeasing and refunding the Diageo Project Bonds

“Diageo Refunding Debt Service Savings Share” means 30 percent (30%) of the Refunding Debt Service Savings, or such higher percentage that would result in the total payments by Diageo not exceeding the total amount of debt service and or any other costs and expenses relating to the Diageo Project Bonds if they had remained outstanding.

“Estimated Cover-Over Revenue Payment” shall have the same meaning as the Defined Term in the Diageo Agreement, except that the term “Government” shall be amended to read as “Government or instrumentality of the Virgin Islands.”

“Government Refunding Debt Service Savings Share” means 70 percent (70%) of the Refunding Debt Service Savings, or such lower percentage that would result in the total payments by Diageo not exceeding the total amount of debt service and or any other costs and expenses relating to the Diageo Project Bonds if they had remained outstanding.

“Issuer” shall have the same meaning as the Defined Term in the Diageo Agreement as modified by the amendments to Section 6.1.1 contained herein.

“PFA Bonds to be Refunded” means all of the outstanding Revenue and Revenue Refunding Bonds (Virgin Islands Matching Fund Loan Notes) issued by the Public Finance Authority pursuant to an Indenture of Trust dated as of May 1, 1998, as amended and supplemented, a Subordinate Indenture of Trust dated as of June 1, 2009, as supplemented, and a Subordinate Indenture of Trust dated as of December 1, 2009, as supplemented.

“Refunding Debt Service Savings” means, for a given year, the difference between (i) the Diageo Senior Debt Service Amount and (2) the amount that would have been deposited pursuant to Section 6.1.6(b)(i) for a given year if the Diageo Project Bonds remained outstanding, in each case as determined by the Calculation Agent.

“Residual Fund” means the fund so designated, created and established pursuant to the Master Trust Indenture.

“Residual Fund Escrow Agreement” means the agreement of that name entered into by and among the United States Virgin Islands and The Bank of New York Mellon Trust Company, N.A. in connection with the issuance of the Matching Fund Securitization Bonds .

“Residual Fund Escrow Agent” means The Bank of New York Mellon Trust Company, N.A. acting in its capacity as Agent under the Residual Fund Escrow Agreement.

“Securitization Plan” shall have the same meaning as specified in the Recitals herein.

2. Amendments to Article VI

- (a) The first sentence of Section 6.1.1 of the Diageo Agreement is amended to read as follows:

“6.1.1 The Parties hereto acknowledge and agree that all amounts due and payable under this Agreement shall be subject and subordinate to the lien created under the Matching Fund Bond Indenture until such time as all PFA Bonds to be Refunded, including the Diageo Project Bonds described herein, shall have been defeased and refunded through the issuance of new securitized senior bonds having the same maturity dates as the Diageo Project Bonds (“Matching Fund Securitization Bonds”) by and through the Corporation. Upon such issuance and refunding, all amounts due and payable under this Agreement shall be subject and subordinate to the lien created under the Master Trust Indenture executed in connection with the issuance of the Matching Fund Securitization Bonds (the “Master Trust Indenture”), and any supplements thereto, by and between the Corporation and the Trustee.”

- (b) The last sentence of Section 6.1.1 of the Diageo Agreement is amended to read as follows:

“The Diageo Project Bonds will be repaid from the Incremental Cover-Over Revenues attributable to the operation of the Project, except as may otherwise be provided in the Diageo Project Indenture. Any bonds issued by the Corporation defeasing and refunding the Diageo Project Bonds will be repaid from Cover-Over Revenues, except as may otherwise be provided in the Master Trust Indenture or any supplement thereto, as applicable.”

- (c) Section 6.1.4 of the Diageo Agreement is amended to (1) add the phrase “or the Master Trust Indenture, if applicable” after the term “Matching Fund Bond

Indenture” and (2) add the phrase “or, if issued, the Matching Fund Securitization Bonds issued by the Corporation” after the term “Matching Fund Bonds.”

(d) Section 6.1.5 of the Diageo Agreement is amended to read as follows:

“The Diageo Project Bonds shall have a term not to exceed thirty (30) years. Except as provided herein, the Diageo Project Bonds shall not be secured by any source other than the Incremental Cover Over Revenues except as provided in the Diageo Project Indenture. Any bonds issued by the Corporation defeasing and refunding the Diageo Project Bonds shall not be secured by any source other than Cover-Over Revenues, except as provided in the Master Trust Indenture or any supplements thereto.”

(e) The preamble to Section 6.1.6 of the Diageo Agreement is amended to add the phrase “or any bonds issued by the Corporation defeasing and refunding the Diageo Project Bonds” after the words ‘Diageo Project Bonds’

(f) Section 6.1.6(a) of the Diageo Agreement is amended to read as follows:

“(a) (i) Pursuant to the Diageo Project Indenture (or Diageo Project Indenture Supplement) to be executed in connection with the issuance of the Diageo Project Bonds (the “Diageo Project Indenture”) all Incremental Cover-Over Revenues generated by the sale of bulk rum from the Project in the United States (“Annual Gross Cover-Over Receipts”), shall be deposited into a Pledged Revenue Account (the “Diageo Project Pledged Revenue Account”) to be created by the Diageo Project Indenture, until such time as the Diageo Project Bonds are defeased or refunded by the Matching Fund Securitization Bonds issued pursuant to the Master Trust Indenture, following which time (ii) pursuant to the Master Trust Indenture and the Residual Fund Escrow Agreement, all Annual Gross Cover-Over Receipts, less the Diageo Senior Debt Service Amount and Diageo’s allocable share of other payments and expenses required by the Master Trust Indenture; shall be deposited in a Diageo Residual Receipts Fund Account within the Residual Fund to be created by the Master Trust Indenture, which Account within the Residual Fund shall be created by the Residual Fund Escrow Agreement and administered by the Residual Fund Escrow Agent”

(g) Section 6.1.6(b) of the Diageo Agreement is amended to read as follows:

“(b) (1) Pursuant to the Diageo Project Indenture, the trustee thereunder shall deposit the following amounts into the following accounts to be created under the Diageo Project Indenture from amounts on deposit in the Diageo Pledged Revenue Account, until such time as the Diageo Project Bonds are defeased or refunded by the Matching Fund Securitization Bonds issued pursuant to the Master Trust Indenture, following which time (2) pursuant to the Residual Fund Escrow Agreement, the Residual Fund

Escrow Agent shall deposit the following amounts into the following accounts to be created under the Residual Fund Escrow Agreement from amounts on deposit in the Diageo Residual Receipts Fund Account:

- (i) First, until such time as the Diageo Project Bonds are defeased and refunded by the Matching Fund Securitization Bonds issued pursuant to the Master Trust Indenture, to a Debt Service Account and related Debt Service Reserve Account, if necessary, such amounts as shall be required under the Diageo Project Indenture to pay or reserve for the principal, interest and other financing costs payable in respect to the Diageo Project Bonds, following which time the amount to be deposited pursuant to this paragraph shall be zero;
- (ii) then, beginning in Fiscal Year 2018, and in any Fiscal Year thereafter, and subject to Section 5.4.1 hereof, to a Government Account (1) in any Fiscal Year in which Incremental Rum Sales are equal to or less than 11,000,000 proof gallons, an amount equal to fifty-seven percent (57%) of the Annual Gross Cover-Over Receipts, or (2) in any Fiscal Year in which Incremental Rum Sales are greater than 11,000,000 proof gallons, an amount equal to fifty-one percent (51%) of the Annual Gross Cover-Over Receipts; and (3) notwithstanding the above, in any Fiscal Year in which the Annual Gross Cover-Over Receipts in such Fiscal Year exceed \$200 million, an amount equal to forty-nine and one-half percent (49.5%) of the Annual Gross Cover-Over Receipts; plus, following the refunding or defeasance of the Diageo Project Bonds and the issuance of the Matching Fund Securitization Bonds, and subject to Section 5.4.1, the Government Refunding Debt Service Savings Share;
- (iii) then, to an account to be controlled by a Government sponsored "Communities Facilities Trust" an amount equal to three percent (3%) of the Annual Gross Cover-Over Receipts;
- (iv) then, to an account to be known as the "Diageo Surplus Receipts Account," an amount equal to the Annual Gross Cover-Over Receipts less the amounts due to be deposited into other accounts pursuant to Section 6.1.6(b)(i), (ii) and (iii) above, except that following the refunding or defeasance of the Diageo Project Bonds and the issuance of the Matching Fund Securitization Bonds, the amount to be deposited in the Diageo Surplus Receipts Account shall be an amount equal to the Annual Gross Cover-Over Receipts less (a) the amounts to be deposited into other accounts pursuant to Section 6.1.6(b)(ii), 6.1.6(b)(iii), and (b) the Diageo Senior Debt Service Amount, plus the Diageo Refunding Debt Service Savings

Share. The amounts deposited pursuant to this Section 6.1.6(b)(iv) shall be known as the "Annual Diageo Surplus Receipts" and shall be used to make the payments to Diageo, required pursuant to Sections 5.1, 5.2, 5.3, 5.4 and 5.5 hereof."

- (h) Section 6.2.7 of the Diageo Agreement is amended to add the phrase ", and any Matching Fund Securitization Bonds issued by the Corporation defeasing and refunding said Diageo Project Bonds," after the term "Diageo Project Bonds."

3. Amendments to Article VIII (Representations, Warranties and Acknowledgments)

- (a) Section 8.1 of the Diageo Agreement is amended to read as follows:

"8.1 Representations, Warranties and Acknowledgments

The Government hereby represents and warrants to Diageo as of the date hereof and as of the Effective Date that:

(a) The Government is not prohibited from consummating the transactions contemplated in this Agreement, and the 2022 Amendments thereto contained herein, by any law, regulation, agreement, instrument, restriction, or order or judgment;

(b) The Government has: (i) the legal power, due authority and necessary and adequate funding ability to make the representations and perform their obligations set forth in this Agreement, as amended by the 2022 Amendments, or shall take all legally permitted and feasible actions necessary to obtain such legal power, due authority and necessary funding; (ii) duly obtained such approvals, authorizations, or consents in accordance with applicable law and procedures to the extent that the approval, authorization, or consent of the federal or any other local government or agency or any third party to make the representations and perform its obligations contained herein is required; and (iii) with respect to the funding commitments made by the Government hereunder, (x) such funding commitments have been, or on or prior to the date of issuance and disbursement of any proceeds thereof, and throughout the period that the same is outstanding, shall be properly budgeted and authorized pursuant to all applicable law;

(c) The Government knows of no material impediment which would prevent, impede, diminish or delay its timely performance of its obligations hereunder;

(d) There are no actions, suits or proceedings pending or, to the best of the Government's knowledge, threatened against or affecting the

Government before any court or administrative body or arbitral tribunal that could reasonably be expected to have a material adverse effect on the ability of the Government to meet and carry out its obligations under this Agreement and the 2022 Amendments contained herein; and

(e) Assuming the due authorization, execution and delivery of this Agreement and the 2022 Amendments thereto by Diageo, this Agreement, as amended by the 2022 Amendments, is the legal, valid and binding obligation of the Government and Diageo, enforceable against each in accordance with its terms, subject to the effects of bankruptcy or insolvency affecting creditors' rights generally.

8.1.2 Diageo hereby represents and warrants to the Government as of the date hereof and the Effective Date that:

(a) Diageo is a corporation duly organized and validly existing under the laws of U.S. Virgin Islands and has the corporate power and authority and has taken all necessary action authorizing it, to execute and delivery this Agreement, and the Amendments thereto, and to perform its obligations hereunder.

(b) The execution, delivery and performance by Diageo of this agreement and the Amendments thereto contained herein do not violate or conflict with, or result in a default under, any contract or agreement to which Diageo is bound.

(c) Assuming due authorization, execution and delivery of this Agreement, and the Amendments thereto, by the Government and the Corporation, this Agreement, as amended by the 2022 Amendments, is the legal, valid and binding obligation of Diageo, enforceable against it in accordance with it terms, subject to the effects of bankruptcy or insolvency or laws affecting creditors' rights generally.”

4. Amendments to Article X (Miscellaneous). Article X is hereby amended to add a new section 10.20, as follows:

“Section 10.20 Effects of the 2022 Amendments on the Agreement

(a) Upon the execution and delivery by the Parties of the 2022 Amendments, all references to the “Diageo Agreement” shall mean this Agreement as amended by the 2022 Amendments; provided, however, that the Parties agree and confirm that any and all provisions of this Agreement that have not been specifically amended or otherwise modified pursuant to the 2022 Amendments, remain in full force and effect; and

- (b) The Parties further confirm that notwithstanding any provision of the 2022 Amendments, the rights, remedies and economic benefits under this Agreement in favor of DUSVI Inc. shall not be diminished or impaired by such Amendments and shall remain equal to that which existed prior to the 2022 Amendments.

5. Effective Date. These Amendments shall become effective and legally bind the Parties upon the full execution hereof, the adoption by the Virgin Islands Legislature of an act ratifying these Amendments and the obligations of the Government contained herein, and the occurrence of the Closing Date as defined in the Purchase and Sale Agreement (the "Amendment Effective Date").

[SIGNATURE PAGE FOLLOWS]


IN WITNESS WHEREOF, the parties hereto have each caused this Amendment to be executed by their duly authorized officers or elected officials and the Government has caused its seal to be hereunder affixed and attested as of the date first above written.



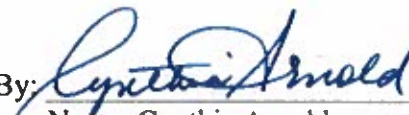
**GOVERNMENT OF THE UNITED STATES
VIRGIN ISLANDS**

By: 
Name: Honorable Albert Bryan, Jr.
Title: Governor

Attest: 
Name: Kartene Angol
Title: Administrative Coordinator

Attest: 
Name: Jewel Drigo
Title: Paralegal

DIAGEO USVI, INC.

By: 
Name: Cynthia Arnold
Title: Vice President of Operations