

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado whose address is 1437 Bannock Street, Denver, Colorado 80202 (the “City” or “Seller”), and **PROXIMO DISTILLERS, LLC**, a Colorado limited liability company whose address is 333 Washington Street, 4th floor, Jersey City, New Jersey 07302 (“Purchaser”) shall be effective on the “Effective Date” as defined in Section 33, below.

WITNESSETH:

WHEREAS, City owns, or will own as of the Closing Date hereunder (as defined herein), property located at 215 S. Santa Fe Drive, in the City and County of Denver, which property has been determined to be surplus property; and

WHEREAS, City has agreed to sell and the Purchaser has agreed to purchase such property subject to the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations set forth herein, the parties agree as follows:

1. **PROPERTY TO BE PURCHASED:** The Purchaser agrees to purchase and the City agrees to sell the Property. As used herein, the “Property” shall mean, collectively: (a) the real property located at approximately 215 S. Santa Fe Drive, Denver, Colorado, which is more particularly described in **Exhibit A**, attached hereto and incorporated herein (the “Land”), together with all of the City’s right, title and interest in all rights, easements and interests appurtenant thereto including, but not limited to, any development rights, water or mineral rights owned by, or leased to, the City; (b) all improvements located on the Land, including, but not limited to the +/- 7,450 square foot building located thereon and all other structures, systems, and utilities associated with, and utilized by the City in the ownership and operation of the Property (the “Improvements”), (c) any moveable personal property owned by the City, located on or in the Land or Improvements; and (d) any trademarks, trade names, permits, approvals, and entitlements and other intangible property used in connection with the foregoing.

2. **PURCHASE PRICE and EARNEST MONEY:** The Purchase Price to be paid by the Purchaser for the Property shall be Seven Hundred Seventy Thousand Dollars (\$770,000.00) (“Purchase Price”) payable to the City in good funds as follows: (a) Purchaser shall make an earnest

money deposit payable to the Land Title Guarantee Company, 3033 E. 1st Avenue, Suite 600, Denver, CO 80206; Tel: (303) 331-6231; Fax (303) 331-6374; Attn: Leigh Renfro (the "Title Company") in the amount of Fifty Thousand Dollars (\$50,000.00) (the "Earnest Money") to secure Purchaser's performance hereunder within three (3) business days of the mutual execution and delivery of this Agreement between the City and Purchaser; and (b) the balance of the Purchase Price, subject to the adjustments, credits, and prorations described herein, at the time of Closing. The Earnest Money shall be immediately refunded by the Title Company to Purchaser in the event Purchaser delivers to Title Company written notice of any of the following events: (i) the "Effective Date" shall not have occurred pursuant to Section 33, below, by the date that is forty-five (45) days following Purchaser's execution hereof; (ii) Purchaser terminates this Agreement prior to the expiration of the Due Diligence Period, as defined in Section 7(a), below, for any reason; or (iii) any of Purchaser's conditions to Closing specified in Section 9 below have not been met. Except as set forth above or in the event of a City default hereunder, the Earnest Money is not refundable after the Due Diligence Period expires. In the event the sale of the Property as contemplated hereunder is consummated, the Earnest Money shall be delivered to the City by the Title Company at the closing of the purchase and sale contemplated hereunder (the "Closing") and credited against the Purchase Price.

3. ENVIRONMENTAL CONDITION:

(a) Environmental Information: City has disclosed to the Purchaser all information the Director of the Division of Real Estate (the "Director") has regarding environmental contamination including the presence of any Hazardous Materials on, under or about the Property. For purposes hereof, "Hazardous Materials" means all substances, chemicals or waste materials including but not limited to hazardous substances, hazardous waste, petroleum, solid waste, and asbestos subject to regulation under any Environmental Law. "Environmental Law" means the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund or CERCLA), 42 U. S. C., Sec. 9601 et seq., the Resource Conservation and Recovery Act, 42 U. S. C., Sec. 6901 et seq., the Asbestos Hazard Emergency Response Act, 15 U.S.C., Sec. 2651 et seq., and/or any other applicable federal, state, or local law, regulation, order, rule or requirement now in force or hereafter enacted.

(b) Existing Environmental Issue. The City has disclosed to Purchaser certain existing conditions on the Property identified in the “Other Concerns” section of Section “Conclusions” in the Phase 1 Environmental Site Assessment dated September 1, 2006, prepared by Pinyon Environmental Engineering Resources, Inc., Project #1/06-551-01.3300 (the “Existing Building Issue”). For and in consideration of the Existing Building Issue, Purchaser shall receive at Closing a credit against the Purchase Price in the amount of Sixty Thousand Dollars (\$60,000.00).

(c) Environmental Audit: The Purchaser may, at its sole expense, retain a consultant to conduct an environmental audit of the Property. The purpose of the environmental audit shall be to identify any existing or potential environmental problems located in, on, or under the Property, including but not limited to, the presence of Hazardous Materials, and any other matters relating to the environmental condition of the Property as determined by Purchaser in its discretion. The initial environmental audit may consist of a nonintrusive review of records, documents and photographs relating to the Property and a physical inspection of the Property. In addition, the Purchaser may perform reasonable supplemental studies, including but not limited to soil and ground water sampling and analysis and bulk sampling and analysis of suspect asbestos-containing material, provided that Purchaser give the Director or her/his designee twenty-four (24) hours notice prior to performing such work and a reasonably detailed written description of the nature and purpose of such sampling and testing. The City hereby grants the Purchaser and its consultants a license for the right to enter upon the Property to perform environmental testing and inspections.

In the event any Phase 1 environmental audit obtained by Purchaser with respect to the Property indicates the need for additional sampling and/or testing at the Property, including, without limitation, the completion of a Phase 2 environmental audit, then upon written notice from Purchaser to the City, the Due Diligence Period shall be automatically extended for thirty (30) days to facilitate the completion of such Phase 2 environmental audit. Any such Phase 2 environmental audit shall be conducted at Purchaser’s sole expense through Purchaser’s chosen consultants. Upon completion of any invasive physical inspection of the Property pursuant to this Section 3, the Purchaser’s consultant shall return the Property to the condition it was in prior to such testing. All environmental audits and testing shall be completed by the end of the Due Diligence Period, as defined below.

(c) As Is Where Is Condition: Purchaser acknowledges that, except for the City's representations contained herein, and except as otherwise expressly provided in this Agreement, the conveyance deed and all documents executed at Closing, Purchaser is purchasing the Property in an "As Is Where Is" condition.

4. PHYSICAL INSPECTION: The Purchaser shall have the right to inspect the physical condition of the Property at the Purchaser's expense and to conduct such investigations of the Property as Purchaser deems appropriate, in Purchaser's sole and absolute discretion, to satisfy itself that the Property is satisfactory and suitable for Purchaser's use and development. The City hereby grants Purchaser and its consultants a license for the right to enter onto the Property to perform such inspections. The Purchaser shall give the Director, or her/his designee, twenty-four (24) hours notice prior to entering onto the Property in connection with the Purchaser's physical inspections. Upon completion of the inspection, Purchaser shall repair any damage to the Property caused by Purchaser's entry or activities thereon.

5. EVIDENCE OF TITLE: Within ten (10) days after the Effective Date, the City shall cause the Title Company to issue to Purchaser, at the City's expense, a commitment (the "Title Commitment") to issue to the Purchaser, promptly after Closing, a 2006 ALTA Owner's Title Policy (the "Title Policy") insuring fee simple title to the Property, subject only to the Permitted Exceptions (as defined herein) and the City shall deliver to the Purchaser copies of all unrecorded leases, agreements, and other documents that may affect title to the Land ("Unrecorded Documents"). The Title Commitment and Title Policy shall be in the amount equal to the Purchase Price. The Title Commitment and Title Policy shall include in the insured estate all easements benefitting the Property, including without limitation off-site utility easements. The Title Commitment shall be provided together with copies of all recorded documents listed therein, vesting deed and current tax certificates (the cost of which tax certificates shall be borne by the City) ("Title Documents"), and shall commit to delete from the Title Policy, at the City's expense, the standard, pre-printed exceptions, provided that the standard exception for real property taxes and assessments shall be modified to apply only to the real property taxes and assessments for the year in which the Closing occurs and subsequent years. The premium for any and all endorsements requested by Purchaser shall be paid by Purchaser, except as otherwise expressly provided herein, provided that the City shall pay the premium(s) for all endorsements obtained by the City to cure

title objections of Purchaser, if the City chooses to cure such objections (subject to approval of such endorsements by Purchaser).

6. TITLE:

(a) Title Review and Deed. The Purchaser shall have the right to inspect the Title Documents. Written notice by the Purchaser of unmerchantability of title or any other unsatisfactory title condition shown by the Title Documents shall be given to the City before the end of the Due Diligence Period. If the City does not receive the Purchaser's notice by the date specified above, the Purchaser shall be deemed to have accepted the condition of title as disclosed by the Title Documents as satisfactory. If a subsequent title commitment update shows any new matter not set forth in earlier title commitments, Purchaser shall have up to fifteen (15) days before Closing to give the City notice of any unsatisfactory title condition relating to the newly disclosed title matter in the manner set forth above. The City shall convey the Property by a Bargain and Sale Deed in the substantially the same form as is attached as **Exhibit B**, "Bargain and Sale Deed."

(b) Survey and Matters Not Shown by the Public Records. The City represents that, to the knowledge of the Director, there are no current leases or tenancies affecting the Property. The City shall disclose to the Purchaser all easements, liens or other title matters not shown by the public records pertaining to the Property, of which Director has actual knowledge. The Purchaser shall have the right to inspect the Property to determine if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). Purchaser shall have the right to obtain a current ALTA survey of the Property by a licensed surveyor selected and approved by Purchaser, showing thereon the correct legal description, property dimensions, easements, rights of way and encroachments, if any, recorded or in place, all physical conditions and improvements, with the dimensions thereof, and such reasonable Table A items as requested by Purchaser, certified to the City, Purchaser and to the Title Company. At Closing, the actual cost of such ALTA survey shall be a credit against the Purchase Price, in no event to exceed \$4,000. Written notice of any unsatisfactory condition(s) discovered by the survey or disclosed by the City or revealed by the inspection shall be signed by the Purchaser and given to the City on or before the end of the Due Diligence Period. If the City does not receive the Purchaser's notice by said date, the Purchaser shall be deemed to have accepted title subject to such rights, if any, of third parties of which the Purchaser has actual knowledge.

(c) Right to Cure. If the City receives notice of any unsatisfactory title matter, or other condition(s) revealed by a survey or inspection as provided in subsection (a) or (b) above or as otherwise given by the Purchaser, the City shall notify the Purchaser no later than seven (7) days following receipt of such notice whether or not the City elects to cure such unsatisfactory condition(s) prior to Closing. In the event the City elects not to correct any such unsatisfactory condition(s) on or before Closing, or fails to deliver such written response, then the Purchaser, in its sole discretion, may elect to (i) waive such defect and proceed to Closing; (ii) cure such defect itself; or (iii) terminate this Agreement and receive a return of the Earnest Money. In the event the City elects to cure any such unsatisfactory condition, the City's successful completion of such cure shall be a condition to Purchaser's obligation to proceed to the Closing pursuant to Section 9, below.

(d) Permitted Exceptions. Matters revealed in the Title Commitment and/or Survey that are not timely objected to by Purchaser as provided in this Section 6 shall be deemed "Permitted Exceptions". Notwithstanding anything to the contrary provided herein, the City shall be obligated to remove from title prior to the Closing, and the Permitted Exceptions shall in no event include (a) any delinquent taxes and assessments, (b) any mechanics' liens, (c) any other monetary liens, and (d) any exceptions caused by the City's voluntary acts after the Effective Date and not approved by Purchaser in writing hereunder.

7. DUE DILIGENCE PERIOD:

(a) Timing. The due diligence period shall be the period of time during which Purchaser may perform any and all examinations and inspections authorized by Paragraphs 3, 4, 5 and 6 above, and such period shall expire at 5:00 pm MT on the date that is forty five (45) days after the Effective Date, as such date shall be extended pursuant to the terms of this Agreement, including, without limitation, for the performance of a Phase 2 environmental audit as described in Section 3 of this Agreement (the "Due Diligence Period"). The Due Diligence Period may be waived or shortened by the Purchaser in writing. Purchaser may terminate this Agreement for any or no reason during the Due Diligence Period, notwithstanding the City's right to cure. Purchaser shall have the right, in Purchaser's sole discretion, to extend the Due Diligence Period for up to two (2) successive thirty (30) day periods, by delivery of written notice to the City exercising such extension rights accompanied by good funds equal to Five Thousand Dollars (\$5,000) for each such extension

exercised. The extension payments shall be deemed earned by the City but shall be a credit against the Purchase Price at Closing.

(b) Notice to Terminate. If Purchaser delivers to the City a notice that it desires to terminate this transaction (“Notice to Terminate”) on or before the expiration of the Due Diligence Period, then this Agreement shall be automatically cancelled without the necessity of any further action by Purchaser or the City, in which event the Earnest Money shall be returned to the Purchaser and neither of the Parties shall have any further rights or obligations under this Agreement, except those which expressly survive termination. If Purchaser fails to deliver the Notice to Terminate on or before the expiration of the Due Diligence Period, then Purchaser shall be deemed to have elected to proceed, and the Earnest Money will become non-refundable.

(c) Information. No later than five (5) days following the Effective Date, the City shall deliver to Purchaser complete copies of all studies, reports, agreements, documents, surveys, plans, maps, permits, correspondence, contracts, tests, development budgets, and entitlements in the City’s possession or control concerning the Property and its improvement and development, but excluding such documents that merely provide for the transfer of the Property to the City (such delivered material, the “Deliverables”), and the City shall instruct its engineers, architects, surveyors, and other advisors and consultants, if any, to share any information or knowledge they have concerning the Property with Purchaser. The City may exclude from the Deliverables any appraisals, marketing studies or similar proprietary information of the City relating solely to the economics of the Property.

(d) Cooperation. The City shall cooperate with Purchaser’s investigations and to provide all information regarding the Property which is within its possession and any additional information that comes into its possession prior to the Closing.

8. DATE OF CLOSING: The date of Closing shall be on the date that is ten (10) business days following the later of (a) the expiration of the Due Diligence Period (unless Purchaser timely delivers the Notice to Terminate), or (b) satisfaction of the Conditions Precedent (as defined below) (“Closing”). The Closing shall be conducted in escrow through the offices of the Title Company at a time to be agreed upon by the parties. Upon mutual execution of this Agreement, the parties hereto shall deposit an executed counterpart of this Agreement with Title Company and this Agreement shall serve as instructions to Title Company for consummation of the purchase and sale

contemplated hereby. The City and Purchaser agree to execute such additional escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement; provided, however, that in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions (other than joint escrow instructions), the terms of this Agreement shall control.

9. CONDITIONS TO CLOSING. The following conditions are precedent to Purchaser's obligation to acquire the Property and to deliver the Purchase Price (the "Conditions Precedent"). If any Conditions Precedent is not satisfied as determined by Purchaser in Purchaser's reasonable determination, Purchaser may elect by written notice to the City to terminate the Agreement and receive a refund of the Earnest Money. Upon such termination, neither party shall have any further obligations hereunder except as expressly survive Closing.

(a) The physical condition of the Property shall be substantially the same on the day of Closing as on the date of Purchaser's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of this Agreement), and, as of the day of Closing, there shall be no litigation or administrative agency or other governmental proceeding of any kind whatsoever, pending or threatened, which after Closing would materially adversely affect the value of the Property or the ability of Purchaser to operate the Property in the manner in which it is currently being operated, and no proceedings shall be pending or threatened which could or would cause the redesignation or other modification of the zoning classification of, or of any buildings code requirements applicable to the Property or any portion thereof, which after Closing would materially adversely affect the value of the Property or the ability of Purchaser to operate the Property in the manner in which it is currently being operated.

(b) The City shall be vested with fee simple title to the Property and the Title Company shall be irrevocably and unconditionally committed to issue to Purchaser the Title Policy in accordance with this Agreement (subject only to payment of its premiums therefor).

(c) All of the City's representations contained herein shall be true and correct on the Closing Date.

(d) A vacation with reservation shall have been completed with respect to the alley running between the Property and the abutting land currently owned by Purchaser, such that fee

ownership of such alley shall have reverter to the abutting owners subject only to customary utility easements for currently existing facilities, all to Purchaser's satisfaction.

(e) Purchaser shall have obtained such governmental approvals deemed necessary by Purchaser for the ongoing use of the Property for storage of distilled spirits in wooden barrels and casks, subject to code requirements no more restrictive than currently in effect as to Purchaser's facility at 200 South Kalamath, Denver, Colorado.

Purchaser shall have the right to terminate this Agreement for failure of the Conditions Precedent if not satisfied on or before the date that is ninety (90) days following the Effective Date, with the effect provided above. Notwithstanding an election by Purchaser not to terminate this Agreement as provided in the foregoing sentence, in the event any Conditions Precedent shall not be satisfied by the date that is ninety (90) days after the Effective Date, then the City shall have a right by written notice delivered to Purchaser (the "Conditions Deadline Notice") to demand that Purchaser elect to either (x) terminate this Agreement for failure of the Conditions Precedent with the effect provided above, (y) waive the Conditions Precedent and proceed to Closing, or (z) permit the Earnest Money to be deemed non-refundable to Purchaser as to Conditions Precedent (d) above. Failure of Purchaser to make an election within five (5) business days following receipt of the City's Conditions Deadline Notice shall be deemed Purchaser's election of (x). In the event Purchaser elects (z), then the Closing shall occur as provided in Section 8 and Purchaser shall retain the right terminate this Agreement for a failure of a Condition Precedent, provided that if such termination is a result of a failure of Condition Precedent (d) above, then the Earnest Money shall be forfeited to the City.

10. TRANSFER OF TITLE: Subject to the tender of the Purchase Price, the City shall execute and deliver the Bargain and Sale Deed to the Purchaser at Closing. The City and Purchaser shall execute all customary or required documents at or before Closing. The City's Director, or her/his designee, shall be authorized to execute on behalf of the City any and all documents necessary or helpful to close the transaction contemplated herein, provided no such document transfers title to real property.

11. PRE-CLOSING MATTERS:

(a) Exclusivity. During the period between the Effective Date and the Closing Date, the City shall not (i) take any action to solicit, initiate, encourage, or assist the submission of any

proposal, negotiation, or offer from any person or entity other than Purchaser for the acquisition, sale, or transfer of all or any of the Property; or (ii) sell or transfer or offer to sell or transfer any of the Property to any person or entity other than Purchaser.

(b) No Changes. Between the Effective Date and the Closing, the City shall operate and maintain the Property in the same manner as before the making of this Agreement, as if the City were retaining the Property. Between the Effective Date and the Closing, the City shall promptly notify Purchaser of any (i) condemnation, environmental, zoning or other land-use regulation proceedings affecting the Property; (ii) notices of violations of any laws relating to the Property; and (iii) any litigation that arises out of the ownership of the Property.

(c) Risk of Loss. If the Property is materially damaged by fire, flood, earthquake, or other casualty between the Effective Date and the Closing Date, this Agreement may, at the option of Purchaser exercised by written notice to the City, be terminated, in which event the Earnest Money shall be returned to Purchaser and the Parties shall thereupon have no further rights or obligations hereunder except those which expressly survive termination. In the event the Parties proceed to Closing notwithstanding damage resulting from casualty, then, unless the City shall have caused such damage to be repaired, the Purchase Price shall be equitably adjusted on account of such casualty.

12. CLOSING COSTS, PRORATIONS, DOCUMENTS AND SERVICES:

(a) Costs. The cost of the Title Policy and endorsements shall be allocated as described in Section 6 of this Agreement. At the Closing, Purchaser shall pay all recording and documentary fees in connection with the Bargain and Sale Deed, any other conveyance documents to Purchaser, any deed of trust or mortgage on Purchaser's interest, and any other documents recorded by Purchaser. Any transfer taxes and transfer fees, including, without limitation, HOA and similar transfer fees, payable in connection with the conveyance of the Property hereunder shall be paid by the City. All Title Company closing costs and escrow fees shall be shared equally by the Parties. Any closing costs not expressly addressed herein shall be paid by the Parties in the manner consistent with customary practice for similar land sales as determined by the Title Company.

(b) Prorations. All real property taxes and special assessments, and all ongoing metropolitan and special improvement district fees and charges and HOA assessments and similar charges levied against the Property (excepting transfer fees described above), shall be prorated as of

11:59 p.m. on the day prior to the Closing Date in accordance with the provisions set forth below. For purposes of calculating prorations, Purchaser will be deemed to be responsible for the expenses for the entire day upon which the Closing occurs. Any taxes and assessments, and ongoing metropolitan and special improvement district fees and charges and HOA assessments and similar charges levied against such Property for years prior to the year of the Closing, including any penalties, fees, interest, redemption amounts, and similar amounts, shall be paid by the City and may be paid out of the applicable Purchase Price at the Closing. Except as otherwise expressly provided herein, all prorations and adjustments shall be final as of the Closing Date. To the extent any costs are not ascertainable as of the Closing Date, the final adjustment shall be based upon a reasonable estimate of the Parties. All real estate taxes and ongoing special assessments on the Property shall be based on the most recent mill levy and assessment information available.

(c) Documents. The City and Purchaser shall sign and complete all customary or required documents at or before Closing as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the acquisition of the Property in accordance with the terms hereof. The Director of the Division of Real Estate or his designee shall execute on behalf of the City any necessary documents for the Closing, so long as none transfers property rights. The City and Purchaser hereby designate Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Internal Revenue Code and the regulations promulgated thereunder and agree to execute such documentation as is reasonably necessary to effectuate such designation.

(d) Possession. Possession of the Property shall be delivered to the Purchaser at Closing.

13. TIME IS OF THE ESSENCE/REMEDIES: It is understood and agreed between the parties that time is of the essence hereof, and all the agreements herein contained shall be binding upon and inure to the benefit of each party's successors and assigns. If any payment due in accordance with this Agreement is not paid, honored or tendered when due, or if any other obligation hereunder is not performed or waived as herein provided, there shall be the following remedies:

(a) If the City is in default prior to Closing: Purchaser may elect to either treat this Agreement as canceled, in which case all payments and things of value received hereunder shall

be returned to Purchaser, or maintain an action for specific performance. Purchaser expressly waives all other remedies in law and equity.

(b) If Purchaser is in default prior to Closing: The City may elect to treat this Agreement as canceled and receive the Earnest Money as liquidated damages and in lieu of all other remedies it may otherwise pursue. IT IS AGREED THAT IT IS AND WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF SELLER'S ACTUAL DAMAGE WHICH WOULD BE BASED, IN PART, ON OPINIONS OF VALUE WHICH COULD VARY SIGNIFICANTLY. FOR THIS REASON, THE PARTIES AGREE THAT IT IS IN THE MUTUAL BEST INTEREST OF BOTH PARTIES TO FOREVER LIQUIDATE AND MAKE CERTAIN THE TOTAL AMOUNT OF COMPENSATION TO BE RECEIVED BY SELLER IN THE EVENT OF PURCHASER'S BREACH OF THIS AGREEMENT. THEREFORE, THE PARTIES AGREE THAT IN THE EVENT OF SUCH DEFAULT, SELLER SHALL RETAIN, AS ITS SOLE REMEDY AT LAW AND IN EQUITY, THE EARNEST MONEY AS LIQUIDATED DAMAGES FOR SUCH DETRIMENT, AND SELLER HEREBY WAIVES ANY RIGHT TO SEEK SPECIFIC PERFORMANCE OF THIS AGREEMENT AND ALL RIGHTS TO RECOVER ANY SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER DAMAGES, EXCEPTING THE LIQUIDATED DAMAGES STATED ABOVE, AS A RESULT OF SUCH DEFAULT BY PURCHASER.

(c) In the event the Closing occurs and either Party claims damages hereunder for any breach of any representations, warranties or covenants which are set forth in this Agreement and expressly survive the Closing, the non-defaulting Party shall give written notice of the default to the defaulting Party. If such default is not cured within fifteen (15) days after receipt of such notice, the non-defaulting Party shall have all rights and remedies as are available at law or in equity, but in no event shall either Party recover damages other than actual damages.

14. TERMINATION: In the event this Agreement is terminated for reason other than default, all payment and things of value received hereunder shall be returned to the parties providing the same and the parties shall be relieved of all obligations hereunder.

15. PURCHASER AUTHORITY TO EXECUTE: Purchaser represents that the persons who have affixed their signatures hereto have all necessary and sufficient authority to bind the Purchaser.

16. CITY'S REPRESENTATIONS.

(a) The City hereby represents to Purchaser, to the knowledge of the Director, as follows:

(i) Subject to Section 33 below, the City has full and complete power and authority to enter into this Agreement and to perform its obligations hereunder, subject to the terms and conditions of this Agreement.

(ii) There are no service contracts, leasing contracts, leasing commissions, or similar agreements with respect to the Property that will be binding on Purchaser after Closing.

(iii) There is no litigation pending or threatened with respect to the Property or the transactions contemplated hereby, except that the City could instigate foreclosure proceedings against the current owner with regard to the Property if a deed in lieu of foreclosure is not consummated.

(iv) There are no condemnation, zoning, environmental or other governmental proceedings pending or threatened that would affect the Property. The City has not received any written notice of any special assessment proceedings affecting the Property that is not disclosed on the Title Commitment.

(v) The City has not granted any option or right of first refusal or first opportunity to any party to acquire any fee or ground leasehold interest in any portion of the Property.

(vi) The Due Diligence Items and documents delivered to Purchaser pursuant to this Agreement will be all relevant documents, materials, reports and other items relating to the Property in the City's possession or control.

(b) It shall be a condition precedent to Purchaser's obligation to purchase the Property and to deliver the Purchase Price that all of the City's representations contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date.

(c) All representations by the respective parties contained herein or made in writing pursuant to this Agreement shall be deemed to be material and shall survive the execution and delivery of this Agreement and the Closing for a period of six (6) months. In the event that a claim

is not made with respect to a breach of a representation set forth herein or made in writing pursuant to this Agreement within such six (6) month period, such claim shall be deemed waived.

17. NO BROKER'S FEES: Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee in connection with the sale contemplated herein, other than Natasha K. Felten of Colorado Commercial Companies, whose commission shall be paid by Purchaser ("Broker"). In the event that any broker or finder other than the Broker makes a claim for a commission or finder's fee based upon any contact, dealings or communication, the party whose conduct is the basis for the broker or finder making its claim shall indemnify, defend and hold harmless the other party against and from any commission, fee, liability, damage, cost and expense, including without limitation attorneys' fees, arising out of or resulting from any such claim. The provisions of this section shall survive the Closing, or in the event that the Closing does not occur, the termination of this Agreement.

18. SEVERABILITY: The promises and covenants contained herein are several in nature. Should any one or more of the provisions of this Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement.

19. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event shall any performance hereunder constitute or be construed to be a waiver by any party of any breach of covenant or condition or of any default which may then exist. The rendering of any such performance when any such breach of default exists shall in no way impair or prejudice any right of remedy available with respect to such breach of default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of the Agreement shall be deemed or taken to be a waiver or any other default or breach.

20. SUBJECT TO LOCAL LAWS; VENUE: Each and every term, provision, and condition herein is subject to the provisions of the laws of the United States, the State of Colorado, the Charter and Ordinances of the City and County of Denver, and regulations enacted pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. This Agreement is made, shall be deemed to be made, and shall be

construed in accordance with the laws of the State of Colorado. Venue for any legal action arising under or relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

21. NOTICES: All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, or commercially recognized overnight courier, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to the City: Mayor
Mayor's Office
City and County Building
1437 Bannock Street, Room 350
Denver, Colorado 80202

With copies to: Director of Real Estate
201 W. Colfax, Dept. 1010
Denver, CO 80202

Denver City Attorney
Denver City Attorney's Office
1437 Bannock Street, Room 353
Denver, Colorado 80202

If to Purchaser: Proximo Distillers, LLC
333 Washington Street
4th Floor
Jersey City, New Jersey 07302

With a copy to: Davis Graham & Stubbs LLP
Attn: Paul Means, Esq.
1550 Seventeenth Street, Suite 500
Denver, Colorado 80202

22. PARTIES' LIABILITIES: Each party shall be responsible for any and all suits, demands, costs, or actions proximately resulting from its own individual acts or omissions.

23. AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS: This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent notation, renewal, addition,

deletion, or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties.

24. PARAGRAPH HEADINGS: The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

25. THIRD-PARTY BENEFICIARY: It is the intent of the parties that no third party beneficiary interest is created in this Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives, which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

26. COUNTERPARTS: This Agreement shall be executed in at least two (2) counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document.

27. REASONABLENESS OF CONSENT OR APPROVAL: Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either party hereto, such party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

28. NO PERSONAL LIABILITY:

(a) No elected official, director, officer, agent or employee of the City nor any director, officer, employee or personal representative of Purchaser shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

(b) The obligations of Purchaser are intended to be binding only on Purchaser and the property of Purchaser, and shall not be personally binding upon, nor shall any resort be had to, the private properties of any of its officers, directors, or shareholders, or the general partners, officers, directors, members, or shareholders thereof, or any employees or agents of Purchaser.

29. CONFLICT OF INTEREST BY CITY OFFICER: Purchaser represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a

party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

30. RIGHT TO EXTEND TIME FOR PERFORMANCE: The parties agree that any time for performance of any term or condition hereunder may be extended for up to two (2) additional thirty (30) day periods by a letter signed by the Director (as to Purchaser actions) and an authorized representative of Purchaser (as to City actions), except as otherwise provided for herein. All other amendments to this Agreement except for certain approvals granted to the Director herein, must be fully executed by the City and the Purchaser, and may require further City Council approval, if so required by the City's Charter.

31. NO MERGER: The parties intend that the terms of this Agreement shall survive Closing and shall not be merged into the deed conveying the Property.

32. ASSIGNMENT: Neither party may assign its rights and obligations under this Agreement to any entity without the prior written consent of the other party. For the City, such consent shall be given by the Director of Real Estate, at the Director's sole discretion. Notwithstanding the foregoing, Purchaser may elect to take title in the name of one or more nominees or to assign, convey, or otherwise transfer its rights and obligations hereunder, in whole or in part, without the City's consent, to any affiliate or other related entity of Purchaser (any such assignment referred to in the preceding sentence is referred to herein as a "Permitted Assignment"). Upon a Permitted Assignment, Purchaser shall be released from, and the City shall look solely to Purchaser's assignee for, the performance of any and all such obligations under this Agreement to the extent of such assignment, conveyance or transfer.

33. SUBJECT TO COUNCIL APPROVAL: This Agreement is subject to the approval of the City Council in accordance with the provisions of the City Charter, and this Agreement shall not take effect until its final approval by City Council, the execution hereof by the Mayor memorialized on the City signature page, and the delivery of such fully approved and executed Agreement to Purchaser (such date, the "Effective Date").

34. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Purchaser consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in

electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Exhibit List

Exhibit A – Legal Description of the Property

Exhibit B –Form of Bargain and Sale Deed

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at
Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By_____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By_____

By_____

By_____



Contract Control Number: FINAN-201206303-00

Contractor Name: Proximo Distillers LLC

By: _____

Name: MARK TEASDALE
(please print)

Title: PRESIDENT AND CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A
LEGAL DESCRIPTION

LOTS 44 THROUGH 57, BLOCK 2, NORWOOD ADDITION, _

**EXCEPT THOSE PORTIONS CONVEYED TO THE CITY AND COUNTY OF
DENVER IN DEEDS RECORDED JULY 11, 1967 IN BOOK 9756 AT PAGE 177 AND
SEPTEMBER 10, 1991 UNDER RECEPTION NO. R-91-86635 AND JULY 8, 2009
UNDER RECEPTION NO. 2009085403, CITY AND COUNTY OF DENVER, STATE OF
COLORADO.**

EXHIBIT B

After recording, return to:

Proximo Distillers, LLC

BARGAIN AND SALE DEED (Statutory Form, C.R.S. § 38-30-115)

THIS BARGAIN AND SALE DEED, made this _____ day of _____, between the CITY AND COUNTY OF DENVER, a Colorado municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 ("Grantor") and PROXIMO DISTILLERS, LLC ("Grantee"), whose address is 333 Washington Street, 4th Floor, Jersey City, New Jersey 07302;

WITNESSETH, That Grantor, for and in consideration of the sum of Seven Hundred Seventy Thousand Dollars, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, sell, and convey unto Grantee and Grantee's heirs, successors, and assigns, forever, all the right, title, interest, claim and demand which Grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Denver, And the State of Colorado, described as follows:

See Exhibit A attached hereto;

Also known by street and number as 215 S. Santa Fe Drive, Denver, Colorado

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of Grantor, either in law or equity, to the only proper use, benefit, and behoof of Grantee and Grantee's heirs, successors, and assigns forever, SUBJECT TO all matters of record, all matters that would be revealed by an inspection or survey of the Property, real property taxes and assessments not yet due and payable, and all applicable zoning, subdivision and other laws, ordinances, rules, regulations or requirements.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed on the date set forth above.

Signed this _____ day of _____, 2012

ATTEST:

CITY AND COUNTY OF DENVER

By _____
DEBRA JOHNSON,
Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

By _____
Mayor

APPROVED AS TO FORM:
DOUGLAS J. FRIEDNASH, Attorney for
the City and County of Denver

By _____
Assistant City Attorney