

AFFILIATED CONSULTING, INC. PURCHASE GROUP
AGREEMENT OF ASSOCIATION AND
COOPERATIVE PURCHASE AGREEMENT

THIS AGREEMENT OF ASSOCIATION AND COOPERATIVE PURCHASE AGREEMENT (“Agreement”) is made this _____, 2022 (“Effective Date”), by and between AFFILIATED CONSULTING, INC., an Illinois CORPORATION (“Affiliated Consulting, Inc.”, or the “Cooperative Agent”), the signatory entities identified on the attached *Exhibit A* (“Initial Members”, who are also each a “Retailer”), and any entity that may subsequently be signatory to this Agreement (each a “Retailer”).

RECITALS

WHEREAS, this Agreement forms a voluntary unincorporated association to be known as Affiliated Consulting Inc.-CPG, which is intended to operate as a *Cooperative Purchase Group* (and as that term is defined in 235 ILCS § 5/6-9.15); and

WHEREAS, this Agreement is intended to constitute a *Cooperative Purchasing Agreement* (and as that term is defined in 235 ILCS § 5/6-9.15), entered into between two or more retail licensees for the purpose of purchasing wine or spirits, excluding any product fermented with malt or any substitute for malt, from a distributor or importing distributor, all as provided in the Illinois Liquor Control Act; and

WHEREAS, this Agreement is further intended to allow its members access to *Quantity Discounting* (and as that term is defined in 235 ILCS § 5/6-9.15), including but not limited to allowing its members to purchase a predetermined number of products in return for receiving a discount on the goods purchased that may be applied either as a price reduction at the time of sale or as a rebate or credit following the sale, all as provided in the Illinois Liquor Control Act; and

WHEREAS, the Initial Members, and each subsequent Retailer, each desire to enter into a cooperative purchasing agreement in the form of this Agreement and each desire to become a member of Affiliated Consulting, Inc.-CPG to participate in quantity discount programs offered by Illinois licensed wine and spirits distributors.

AGREEMENT

NOW, THEREFORE, in respective covenants, agreements and obligations set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE 1

ASSOCIATION AND MEMBERSHIP

1.01. The above recitals are incorporated by reference and are expressly made a part of this Agreement.

1.02. Cooperative Agent and the Initial Members, by their execution of this Agreement, hereby create a voluntary unincorporated association to be known as Affiliated Consulting, Inc.-CPG (the “Association”), which shall operate as a *Cooperative Purchase Group* (and as that term is defined in 235 ILCS § 5/6-9.15).

1.03. The Association is designated as being comprised solely of retail licensees engaged in the sale of wine or spirits (or both) for consumption off the premises for each member’s licensed premises(es). Purchasing group members must all be off-premises retail licensees.

1.04. Membership in the Association as of the Effective Date shall consist of all of the Initial Members (who shall also each be a “Retailer”) listed on the attached *Exhibit A* and who are signatories to this Agreement.

1.05. Additional members (who shall also each be a “Retailer”) may join the Association by signing a new signature page to this Agreement.

1.06. A Retailer may withdraw from this Agreement and membership in the Association at any time providing sixty (60) days prior written notice to Cooperative Agent.

1.07. Cooperative Agent may remove a Retailer as a party to this Agreement and revoke the Retailer’s membership in the Association, where (i) the Member's continued membership jeopardizes the existence or functioning of the association; and (ii) diligent and good faith efforts to resolve the situation have been unsuccessful. Cooperative Agent may promulgate procedures governing the removal process.

1.08. The affairs of the Association shall be governed by Cooperative Agent. Cooperative Agent may also promulgate bylaws for the Association.

1.09. The Association shall be subject to and compliant with the books and records requirements of Section 6-10 and subsection (e) of 11 Ill. Admin. Code § 100.130.

1.10. The Association shall maintain the records of each cooperative purchase order placed for 90 days. The records shall include:

- (1) the date the cooperative purchasing group order was placed and the date of any amendments to the order;
- (2) the distributor or importing distributor with which the cooperative purchasing group placed the order;

- (3) the names and license numbers of each cooperative purchasing group member participating in the order;
- (4) the price discounts and net price of all wine or spirits ordered by each cooperative purchase group member; and
- (5) the requested delivery date for the order.

1.11. To the extent required by law, the Agent shall obtain and retain a surety bond at all times for no less than \$250,000.

ARTICLE 2

COOPERATIVE AGENT DESIGNATION; DUTIES AND RESPONSIBILITIES

2.01. Cooperative Agent, which has an address of 445 Eisenhower Lane South, Lombard Il 60148, is designated by this Agreement as the *Cooperative Agent* (as that term is defined in 235 ILCS § 5/6-9.5) of the Association, and is designated by each Retailer as its *Cooperative Agent*, all with the authority to negotiate and contract for the purchase and delivery of wine or spirits on behalf of the Association members, including but not limited to the authority to represent members in negotiating quantity discount programs offered by Illinois licensed wine and spirits distributors.

2.02. Cooperative Agent shall faithfully represent the interests of Retailer parties in negotiating quantity discount programs with Illinois licensed wine and spirits distributors.

2.03. Cooperative Agent shall develop and maintain a system of informing Retailer of all quantity discount programs offered by Illinois licensed wine and spirits distributors.

2.04. Cooperative Agent shall promptly inform Retailer Members of any quantity discount offers made by any and all Illinois licensed wine and spirits distributors.

2.05. Cooperative Agent shall keep all records, including but not limited to, communications, and written offers, related to any and all quantity discount offers presented by Illinois licensed wine and spirits distributors.

2.06. Cooperative Agent shall keep an executed copy of this Agreement, including any amendments, deletions, or additions, on its premises continuously while it is a *Cooperative Agent* of the Association and for a period of not less than 3 years after it ceases to be a party to this Agreement.

2.07. Cooperative Agent shall not receive, accept, or borrow money or anything of value from any distributor or importing distributor.

2.08. Cooperative Agent shall make books and records available upon reasonable notice for the purpose of investigation by the Illinois Liquor Control Commission.

2.09. Cooperative Agent shall not have (and represents and warrants that it does not have) an ownership interest, directly or indirectly, in an entity licensed under any license category under the Illinois Liquor Control Act.

2.10. Cooperative Agent shall remain in full compliance with federal law pursuant to the prohibitions and exceptions provided in 27 CFR Part 6 and any promulgated rules thereof. Cooperative Agent shall not receive cash or anything of value from both the retail licensee and an importing distributor or distributor, non-resident dealer or manufacturers as part of this Agreement or any cooperative purchasing group agreement.

2.11. Cooperative Agent shall remain in full compliance with the Illinois Liquor Control Act.

2.12. Cooperative Agent shall place each cooperative purchase order under the name of the Association and shall identify each participating retail member involved with the purchase, the quantity of product purchase, the price attributable to each retailer member's purchase and a requested delivery date.

ARTICLE 3

RETAILER MEMBERS; RESPONSIBILITIES AND DUTIES

3.01. Upon becoming a party to this Agreement, each Retailer represents and warrants that it is an Illinois alcohol beverage retail licensee engaged in the sale of wine or spirits (or both) for consumption off the premises for its licensed premises(es). While a party to this Agreement and a member of the Association, each Retailer shall maintain state and local alcohol beverage retail licenses and be engaged in the sale of wine or spirits (or both) off premises for its licensed premises(es).

3.02. Upon becoming a party to this Agreement, each Retailer represents and warrants that it is not a party to any other cooperative purchase agreement, and that it is not a member of any other cooperative purchase group. While a party to this Agreement and a member of the Association, each Retailer shall not be a party to any other cooperative purchase agreement. While a party to this Agreement, each Retailer may only be a member of the Association and no other cooperative purchase group.

3.03. Upon becoming a party to this Agreement, each Retailer represents and warrants that it does not have an ownership interest, directly or indirectly, in any entity licensed by the Illinois Liquor Control Act other than a retailer. While a party to this Agreement and a member of the Association, each Retailer shall not have an ownership interest, directly or indirectly, in any entity licensed by the Illinois Liquor Control Act other than a retailer.

3.04. Upon becoming a party to this Agreement, each Retailer represents and warrants that all of its local and state liquor licenses are in good standing. Upon becoming a party to this Agreement, each Retailer shall file a copy of its local and state liquor licenses with Cooperative Agent and shall send copies of all renewed licenses to Cooperative Agent upon such renewals.

While a party to this Agreement and a member of the Association, each Retailer shall maintain all of its local and state liquor licenses in good standing.

3.05. Upon becoming a party to this Agreement, each Retailer accepts membership in the Association. Upon becoming a party to this Agreement, each Retailer agrees to pay the Association's then-current membership fee. Upon the renewal date of its membership, each Retailer also agrees to pay the Association's then-current membership fee.

3.06. After becoming a party to this Agreement and a member of the Association, each Retailer must be a member for a period of 7 days before being able to participate in any quantity discount programs.

3.07. Each Retailer shall accept or reject any and all quantity discount deals in a timely manner. Retailer shall respond on the form and or in the manner prescribed by Cooperative Agent.

3.08. Each Retailer shall accept delivery of any alcohol beverages sold to retailer pursuant to any quantity discount deal accepted by it.

3.09. Each Retailer shall pay for any alcohol beverage product it has accepted as part of a quantity discount program negotiated by Cooperative Agent promptly, within thirty days, and in accordance with the Illinois Liquor Control Act.

3.10. Each Retailer shall immediately inform Cooperative Agent of any questions, problems or issues with the delivery or content of any product purchased by it pursuant to a quantity discount program. This includes but is not limited to issues of incorrect invoice pricing, short case delivery.

3.11. Each Retailer may, pursuant to this Agreement, make purchases as a member of the Association or independently of the Association. Nothing in this Agreement shall be construed to prohibit retail licensees from making purchases separate and apart from membership in the Association.

3.12. Each Retailer shall keep an executed copy of this Agreement, including any amendments, deletions, or additions, on its licensed premises continuously while it is a member of the Association and for a period of not less than 3 years after it ceases to be a party to this Agreement.

3.13. Each Retailer shall maintain all records, including but not limited to invoices, communications with Agent and other relevant documents related to any purchase of alcohol beverages pursuant to a quantity discount program on the licensed premises of each licensed premises it owns and operate.

3.14. Each Retailer shall make books and records available upon reasonable notice for the purpose of investigation and control by the State Commission or any local liquor control commission having jurisdiction over Retailer.

3.15. Each Retailer shall remain in full compliance with applicable federal law pursuant to the prohibitions and exceptions provided in 27 CFR Part 6 and any promulgated rules thereof.

3.16. Retailer represents and warrants that the information listed on its signature page to this Agreement is true and correct.

3.17. Retailer represents and warrants that if it is placed on the Illinois Liquor Control Commission's Delinquency List it will immediately resolve the issue associated with the Delinquency List. Should Retailer fail to promptly resolve said Delinquency List issue and the matter results in a claim on the Surety Bond Retailer shall immediately reimburse the Cooperative Agent and/or Surety Bond holder for any monies expended due to the Surety Bond claim. Cooperative Agent may assess a monthly charge of One and One half percent (1.5%) on any such balances.

ARTICLE 4

TERMINATION; SUSPENSION; WITHDRAWAL

4.01. This Agreement may be terminated by Cooperative Agent party upon sixty (60) days prior written notice to all retailer parties.

4.02. This Agreement shall be terminated automatically by the filing by Cooperative Agent of a voluntary petition in bankruptcy, or the issuing of an order for relief against Cooperative Agent under any bankruptcy laws, or the filing by Cooperative Agent of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the making by Cooperative Agent of any general assignment for the benefit of creditors, or Cooperative Agent's failure generally to pay its debts (as such term is used in applicable bankruptcy laws) as such debts become due, or Cooperative Agent's giving of notice to any creditor or governmental body of insolvency or pending insolvency or suspension of operations; or the entry by a court of competent jurisdiction of an order, judgment or decree approving a petition filed against Cooperative Agent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors.

4.03. A Retailer may withdraw, for any reason, from this Agreement and membership in the Association at any time providing sixty (60) days prior written notice to Cooperative Agent. However, Retailer must be in good standing with no outstanding financial obligations to the Cooperative Purchase Agent or Group before withdrawing will be allowed.

4.04. A Retailer's participation in this Agreement and membership in the Association may be terminated or suspended by the Cooperative Agent for violation of Sections 3.01, 3.02, 3.03, 3.04, 3.05 of this Agreement.

4.05. A Retailer's participation in this Agreement and membership in the Association shall be terminated automatically by the filing by such Retailer of a voluntary petition in bankruptcy, or the issuing of an order for relief against such Retailer under any bankruptcy laws, or the filing by such Retailer of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the making by such Retailer of any general assignment for the benefit of creditors, or such Retailer's failure generally to pay its debts (as such term is used in applicable bankruptcy laws) as such debts become due, or such Retailer's giving of notice to any creditor or governmental body of insolvency or pending insolvency or suspension of operations; or the entry by a court of competent jurisdiction of an order, judgment or decree approving a petition filed against such Retailer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors.

4.06. Cooperative Agent may remove a Retailer as a party to this Agreement and revoke the Retailer's membership in the Association, where (i) the Member's continued membership jeopardizes the existence or functioning of the association; and (ii) diligent and good faith efforts to resolve the situation have been unsuccessful. Grounds for removal and revocation include but are not limited to the following:

- (1) Except as otherwise provided in this Article 6 with respect to automatic termination, the failure of such Retailer to perform, keep or fulfill any of its covenants, undertakings or obligations set forth in this Agreement and such failure is not cured within 21 days (or, in the case of failures to pay amounts due, within 5 business days) after written notice specifying such failure is delivered to Retailer.
- (2) A Retailer's (including its officers', directors', members', partners' or shareholders') dishonesty, breach of duty to act in good faith, or bringing of the Association into disrepute, all as determined by Cooperative Agent in its sole discretion.

4.08. A Retailer's participation in this Agreement and membership shall be suspended or revoked if a member Retailer fails to pay a distributor invoice for product purchased through a quantity Discount program.

4.09. A Retailer's participation in this Agreement shall be suspended or revoked for failure to comply with Section 3.17.

ARTICLE 5
MISCELLANEOUS

5.01 Any notice or other communication required or permitted by this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date sent if delivered personally and receipted for or if sent via e-mail or facsimile (ii) on the day after sending if sent by a national recognized overnight courier, or (iii) on the fifth (5th) day after mailing if mailed by United States certified mail, return receipt requested, to the parties at the following addresses (or at such other address for a party as shall be specified by like notice):

If to Affiliated Consulting, Inc.:

To Affiliated Consulting, Inc's address as listed on Retailer's signature page to this Agreement.

With a copy to:

Michael Garcia
445 Eisenhower Lane South
Lombard, Il 60148

If to Retailer:

To Retailer's address as listed on Retailer's signature page to this Agreement.

5.02 Survival. Unless expressly stated to the contrary, all obligations and rights for any payment or reimbursement by any entity shall survive the termination or suspension of this Agreement.

5.03 Partial Invalidity. If any of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree, or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, provided that the economic basis of this Agreement is not hereby altered.

5.04 Modifications; Waivers. This Agreement may be changed or modified as may be required from time to time by the written agreement of the Parties, such agreement not to be unreasonably withheld. The waiver of any of the terms and conditions of this Agreement on any

occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

5.05 Governing Law. This Agreement shall be governed by, interpreted under, construed and enforced in accordance with the laws of the State of Illinois and the courts of Cook County in the State of Illinois shall have jurisdiction over any matters arising hereunder.

5.06 Assignment. No party hereto may assign or transfer any of its rights or delegate any of its obligations under this Agreement to any other person, firm or company without the written consent of the other party. Any such consent may be withheld in a party's sole and absolute discretion.

5.07 No Joint Venture. Nothing in the Agreement creates a joint venture or partnership and, except as may be expressly set forth herein, no party is given the authority to bind or obligate any other party.

5.08 Counterparts. This Agreement may be executed in counterparts, all of which together shall form a single document. Counterparts may be exchanged by facsimile, which shall be considered binding.

5.09 Confidentiality Clause. The parties to this Agreement shall each maintain as strictly confidential the contents hereof, and shall not disclose its existence or terms to any third party, except as required by law.

5.10 Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes any discussions, offers, proposals, agreements or promises with respect thereto.

5.11 Further Assurances. The parties to this Agreement shall do all things necessary or appropriate to carry out the terms and provisions of this Agreement, and to aid and assist each other in carrying out such terms and provisions and in furthering the intentions of the parties as evidenced by such terms and provisions of this Agreement.

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IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth below.

**DATE OF EXECUTION /
DATE ON WHICH RETAILER MEMBER JOINED THE COOPERATIVE PURCHASE GROUP:**
_____, 20__.

COOPERATIVE PURCHASE GROUP:

AFFILIATED CONSULTING, INC.-CPG

Address:

445 Eisenhower Lane South _____
Lombard, IL 60148 _____

By: AFFILIATED CONSULTING, INC.-CPG
Its: Cooperative Agent

By: _____
Name: _____
Its: Manager

RETAILER / MEMBER:

Address:

By: _____
Name: _____
Its: _____

IL License Number(s): _____

IL License Exp. Date(s): _____

Local License Number(s): _____

Local License Jurisdiction(s): _____

Local License Expiration Date(s): _____

(All license numbers must be listed above.)

Acknowledged By:

COOPERATIVE AGENT:

AFFILIATED CONSULTING, INC.-CPG

Address:

445 Eisenhower Lane South _____
Lombard, IL 60148 _____

By: _____
Name: _____
Its: Manager

Exhibit A