

## **CONSULTANT AGREEMENT**

This agreement, including all exhibits attached hereto ("**Agreement**"), is made and entered into as of April 22, 2020 ("**Effective Date**") by and between Jim Beam Brands Co. ("**Beam**") and Alexander, Borovicka & O'Shea Government Solutions, LLC ("**Consultant**").

### **1. SERVICES OVERVIEW**

Consultant shall perform the professional governmental affairs services and provide to Beam the rights and benefits set forth herein and in the attached Exhibit A (collectively, "**Services**"). The Services will include lobbying efforts with elected and appointed members of the executive and legislative branches of government at the State of Illinois, County of Cook, and City of Chicago levels. This Agreement is not contingent upon the passage or defeat of any specific legislation, the entering into an agreement with any unit of government, or the procurement or appropriation of any funds on behalf of Beam or any other entity.

### **2. TERM; TERRITORY**

This Agreement commences on the Effective Date and shall remain in effect until December 31, 2020, unless earlier terminated as allowed herein ("**Term**"). The territory shall be the United States, provided that with respect to digital and internet properties, the territory shall be worldwide (collectively, "**Territory**").

### **3. COMPENSATION; EXPENSES**

- a. Beam will pay to Consultant the compensation on Exhibit A ("**Compensation**"). Consultant will submit to Beam quarterly invoices. Beam's payment obligations are predicated on Beam receiving an undisputed invoice at least sixty (60) days prior to such payment due date.
- b. Beam will reimburse Consultant for approved out of pocket expenses. Such expenses will be billed at cost, with no markup, will be at economy class or equivalent, and must be approved in advance by Beam in writing. Consultant shall list out of pocket charges as separate items on each invoice for the period covered and shall provide Beam corresponding receipts and documentation for such expenses.

### **4. INTELLECTUAL PROPERTY**

- a. Beam shall be the exclusive owner of all intellectual property rights to any and all materials created by Consultant and its directors and employees in connection with this Agreement ("**Beam Material**").
- b. All Beam Material shall be considered "work made for hire" pursuant to the US Copyright Act 1976, as amended (the "**Act**"). To the extent that Beam Material is deemed for any purpose not to be "work made for hire", then Consultant: (i) hereby assigns and will require all of its directors and employees, to assign to Beam all present and future intellectual property rights in Beam Material together with all associated goodwill, the right to sue for damages for past infringement, and the right to collect all royalties and license fees; and (ii) shall sign and require its directors and employees to sign any further documents that Beam may request to document the creation of Beam Material or its assignment to Beam.

### **5. REPRESENTATIONS AND WARRANTIES**



Each party represents and warrants that: (i) it has the right, power and authority to enter into this Agreement and to perform its obligations hereunder; (ii) its execution of this Agreement and performance of its obligations do not and shall not breach or conflict with any agreement, whether written or oral, to which it is a party; (iii) its execution and delivery of this Agreement constitutes a legal and binding obligation; (iv) it has or shall obtain, and will continue to have throughout the Term, all licenses, permits, approvals, rights, waivers, releases, and consents as may be necessary or appropriate to enter into and perform its obligations under this Agreement; and (v) it is the rightful owner of or has the right to use and license its respective intellectual property provided by it in connection with this Agreement.

## **6. INDEMNIFICATION**

Each party ("**Indemnifying Party**") shall defend, indemnify and hold harmless the other party, its affiliates, and each of their respective directors, officers, employees, agents, and assigns (collectively "**Indemnified Party**") from and against any and all claims, demands, causes of action, proceedings, judgments and other liabilities, obligations, losses, damages, costs, and expenses (including reasonable attorneys' fees and costs) of any nature (collectively, "**Claims**") arising out of or related to: (i) Indemnifying Party's breach of this Agreement; (ii) the negligence or intentional misconduct of Indemnifying Party or any of its directors, officers, employees, or agents in connection with its performance hereunder; or (iii) Indemnifying Party's use of Indemnified Party's intellectual property in a manner not permitted by this Agreement. The foregoing indemnification obligations shall not apply to the extent Claims arise out of or are related to the negligence or intentional misconduct of Indemnified Party.

## **7. INSURANCE**

During the Term, Consultant, at its sole cost, shall obtain and maintain in effect commercially reasonable insurance.

## **8. TERMINATION**

Beam shall have the right to terminate this Agreement:

- i. immediately, if Consultant: (1) commits an offense involving moral turpitude under federal, state or local laws or regulations; (2) commits any act that will tend to degrade Beam or bring Beam into public hatred, public disrepute, contempt, scorn, or ridicule, or that will tend to shock, insult or offend the community or public morals or decency or prejudice Beam in general; or (3) breaches Section 11 or 12;
- ii. if Consultant fails to perform its material obligations under this Agreement or breaches any representation and warranty hereunder and such failure or breach continues for five (5) days after Consultant receives written notice of such failure or breach from Beam; or
- iii. with or without cause by providing at least sixty (60) days' prior written notice to Consultant.

In the event of termination by Beam, in addition to all other remedies available at law or in equity, Beam shall be entitled to a pro rata reduction or refund of Compensation attributable to the value of the Services not received by Beam as a result of termination.

## **9. FORCE MAJEURE**



Neither party will be liable to the other for failure to perform any part of this Agreement because of fire, earthquake, flood, or any other acts of God, acts of terrorism, power failures, electrical or mechanical difficulties, or any other cause or condition beyond the reasonable control of either party (each a "**Force Majeure Event**"). Any delay in the performance of this Agreement as a result of any Force Majeure Event will not constitute a breach of this Agreement or a ground for termination hereof. The affected party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. Notwithstanding anything to the contrary herein, if the affected party's failure or delay remains uncured for a period of thirty (30) days, the other party may terminate this Agreement upon written notice to the affected party.

#### **10. NOTICES**

All notices relating to this Agreement shall be in writing and sent by (i) personal delivery; (ii) overnight or other express mail by a private, nationally recognized delivery service; (iii) U.S. First-Class Mail®, certified or registered mail, with a return receipt requested; or (iv) facsimile or electronic mail, with a hard copy to follow by any means provided above. All such notices shall be deemed sufficiently given upon delivery, as evidenced by a written receipt or confirmation of receipt, or in the case of certified or registered mail, within two (2) business days after mailing. Notices shall be sent as follows:

If to Beam:	Jim Beam Brands Co. 222 W. Merchandise Mart Plaza Suite 1600 Chicago, IL 60654 Attention: Ashley Bromagen
With a copy to:	Jim Beam Brands Co. 222 W. Merchandise Mart Plaza Suite 1600 Chicago, IL 60654 Attention: General Counsel
If to Consultant:	Alexander, Borovicka & O'Shea Government Solutions, LLC 230 W Monroe St #2221 Chicago, IL 60606 Attention: John L. Borovicka

#### **11. CONFIDENTIALITY**

Consultant will not, without Beam's prior written permission, use for any purpose other than performance of this Agreement, or reveal or otherwise make available to any person: (i) any of Beam's non-public, proprietary or confidential information or trade secrets, whether disclosed orally or in written, electronic or other form or media, and whether or not identified as "confidential," including but not limited to the terms of this Agreement, information regarding Beam's products, business or methods of operation or strategic plans (collectively, "**Confidential Information**"); or (ii) the fact that Consultant is working with Beam. Notwithstanding the foregoing, Consultant may disclose certain Confidential Information, without violating the obligations of this Agreement, solely to the extent required by law or regulation or by a subpoena or other validly issued administrative or judicial process, provided that Consultant shall provide Beam with prompt notice of the request(s), if lawfully permitted, so that Beam shall have a reasonable



opportunity to intervene in the proceeding before the time that Consultant are required to comply with the subpoena or other process, and Consultant may furnish only that portion of the Confidential Information which Consultant is legally compelled to disclose, and Consultant will use commercially reasonable efforts to obtain reliable assurance, at Beam's expense, that confidential treatment will be accorded any Confidential Information so furnished.

## **12. NON-COMPETITION**

During the Term, Consultant shall not render any services without Beam's express prior written consent: (i) to any company (other than Beam or its affiliates) producing, distributing, importing, or marketing beverage alcohol products; or (ii) related to any beverage alcohol products other than those produced, distributed, imported, or marketed by Beam or its affiliates.

## **13. INDEPENDENT CONTRACTORS**

Each party is and shall remain an independent contractor, and nothing herein shall be deemed to create a partnership, joint venture, principal-agent, employee-employer relationship, or joint-employment status between the parties. Each party shall be solely responsible for wages, hours, taxes, tax withholdings, and all other conditions of employment of its own personnel. No party shall have the authority to bind any other party in any respect. Consultant is and shall remain an independent contractor, and nothing herein shall be deemed to create a partnership, joint venture, principal-agent, employee-employer relationship, or joint-employment status between the parties. Consultant shall be solely responsible for its taxes, tax withholdings, insurance (including but not limited to health insurance). Consultant is neither an agent nor employee of Beam for tax purposes or any other purpose and is not entitled to any employee benefits of Beam. If the performance of this Agreement requires the use of the Beam's facilities, equipment, or other resources, then such use is permitted only to the extent necessary for such performance. Consultant shall not have the authority to bind Beam in any respect.

## **14. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws provisions. Any action to enforce this Agreement shall be brought exclusively in the federal or state courts in the State of New York, and each party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts.

## **15. ENTIRE AGREEMENT; MODIFICATION; WAIVER**

This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and cancels and supersedes any prior understandings or agreements, written or oral, between the parties with respect thereto. No modification of this Agreement shall be effective unless made in writing and executed by both parties. No waiver of any term of this Agreement shall be effective unless executed in writing by the waiving party. A party's failure to insist previously on strict compliance with this Agreement shall not be deemed a waiver of any future non-compliance. If any term of this Agreement is held to be invalid, illegal, or unenforceable by any court or other authority of competent jurisdiction, such holding shall not affect the validity, legality, or enforceability of any other term of this Agreement.

## **16. NO SUBCONTRACTING OR ASSIGNMENT**



Neither party may assign its rights under this Agreement to any third-party, or otherwise contract, subcontract, or delegate the performance of its obligations hereunder to any third-party without the express prior written consent of the other party, provided that Beam may assign this Agreement to an affiliate without consent but with written notice to Consultant.

**17. SURVIVAL**

Sections 4, 6, 11 and 17, as well as any other term that, in order to give proper effect to its intent, should survive termination or expiration, shall survive termination or expiration of this Agreement.

**18. ADVICE OF COUNSEL**

Each party to this Agreement represents that it has entered into this Agreement knowingly and voluntarily, and with the opportunity to obtain the advice of independent counsel before entering into this Agreement. Accordingly, this Agreement shall not be construed against any party, and the general rule of construction that an agreement is to be construed against the party that drafted it shall not apply. In interpreting this Agreement, all parties to the Agreement shall be treated as having drafted this Agreement after meaningful negotiations.

**19. COUNTERPART**

This Agreement may be executed by exchanging signed copies in one or more counterparts, each of which shall be deemed an original, and all of which shall constitute only one agreement.

***Signature Page Follows***



IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

**JIM BEAM BRANDS CO.**


**ALEXANDER, BOROVICKA & O'SHEA  
GOVERNMENT SOLUTIONS, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

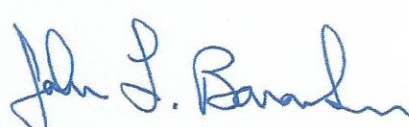
  
Ashley Bromagen  
Director, Public Affairs  
4/23/20

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

  
John L. Borovicka  
Partner  
4/22/20



## EXHIBIT A

### Services and Compensation

1. Consultant shall provide to Beam the following Services in helping Beam achieve its multifaceted goals of gaining a substantial legislative presence in Springfield and Chicago, as well as enhancing its standing in Chicago's business and governmental community:
  - a. Liaise with Beam personnel to develop a deeper sense of the needs and existing relationships that Beam has and desires.
  - b. At Beam's direction, engage the following entities: Office of the Mayor of Chicago; Relevant members of the Chicago City Council, including members of the Committee on License and Consumer Protection, and the Committee on Special Events, Cultural Affairs, and Recreation; Chicago Department of Business Affairs and Consumer Protection; Select Members of the Illinois General Assembly; Senior staff of the Illinois Liquor Control Commission; . Retail Merchants Association; Illinois Restaurant Association; World Business Chicago; Chicagoland Chamber of Commerce; Other cultural and civic organizations, as necessary
  - c. At Beam's direction, engage in an initial onboarding meeting to learn more about Beam, its current capabilities, and its agenda.
  - d. Create a comprehensive screen to identify existing bills of interest, as well as to spotlight new legislation as it is introduced. Create a personalized summary that will be emailed weekly to Beam, or as often as Beam requests.
  - e. Review the relevancy of ordinances that are introduced into the monthly Chicago City Council meeting and inform Beam of relevant ordinances.
  - f. Schedule regular phone calls to update Beam on Consultant's Services.
2. Unless otherwise agreed Consultant will work a forty (40) hour week. Any hours worked in excess of forty (40) per week must be preapproved by Ashley Bromagen.
3. Beam shall pay Consultant monthly retainer of Six Thousand Dollars (\$6,000.00).