IN THE SUPREME COURT OF THE STATE OF NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; and THE HONORABLE TIMOTHY C. WILLIAMS, DISTRICT COURT JUDGE,

Respondents,

and

LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company; EB5 IMPACT CAPITAL REGIONAL CENTER LLC, a Nevada Limited Liability Company; EB5 IMPACT ADVISORS LLC, a Nevada Limited Liability Company; ROBERT W. DZIUBLA, individually and as President and CEO of LAS VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC; JON FLEMING, individually and as an agent of LAS VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC; LINDA STANWOOD, individually and as Senior Vice President of LAS VEGAS DEVELOPMENT FUND LLC and EB5 IMPACT ADVISORS LLC,

Real Parties in Interest.

No.: _____

Dist. Ct. Case No: A-18-781084-B

PETITION FOR WRIT OF MANDAMUS, OR ALTERNATIVELY, PROHIBITION

PETITIONER'S APPENDIX

VOLUME XV

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CHRONOLOGICAL INDEX

ALPHABETICAL INDEX

4.3 INTENTIONALLY OMITTED.

4.4 Other Taxes, Utilities and Liens. (a) Grantor shall pay or cause to be paid, when and as due, all real and personal property taxes, assessments, water rates, dues, charges, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Property or any part thereof, or upon the interest of Lender in the Property, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality, assessment district, or other taxing authority upon Grantor or in respect of the Property or any part thereof, or any charge which, if unpaid, might become a lien or charge upon the Property prior to or equal to the lien of this Deed of Trust for any amounts secured hereby or would have priority or equality with this Deed of Trust in distribution of the proceeds of any foreclosure sale of the Property or any part thereof; provided, however, Grantor shall have the right to contest any such taxes, assessments, rates, dues, charges, fine or impositions if the execution or other enforcement of any lien or charge upon the Property is and continues to be effectively stayed or bonded in a manner satisfactory to Lender, the validity and amount of such taxes, assessments, rates, dues, charges, fines or impositions are being actively contested in good faith and by appropriate lawful proceedings and such liens or charges do not, in the aggregate, materially detract from the value of the Property or materially impair the use thereof and the operation of Grantor's business.

(b) Grantor shall promptly pay or cause to be paid all charges by utility companies, whether public or private, for electricity, gas, water, sewer and other utilities.

(c) Grantor shall promptly pay or cause to be paid and will not suffer any mechanics, laborer's, statutory or other lien which might or could be prior to or equal to the lien of this Deed of Trust to be created or to remain outstanding upon any of the Property; provided, however, such a lien may be filed against the Property if the execution or other enforcement of any such lien is and continues to be effectively stayed or bonded in a manner satisfactory to Lender for the full amount thereof, the validity and amount of the lien secured thereby are being actively contested in good faith and by appropriate lawful proceedings and such liens do not, in the aggregate, materially detract from the value of the Property or materially impair the use thereof and the operation of Grantor's business.

4.5 Reimbursement. Grantor agrees that if it shall fail to pay or cause to be paid when due any tax, assessment or charge levied or assessed against the Property, any utility charge, whether public or private, or any insurance premium, or if it shall fail to procure the insurance coverage and the delivery of the insurance certificates required hereunder, or if it shall fail to pay any other charge or fee required hereunder, then Lender, at its option and in addition to any other rights or remedies set forth herein, may (but shall have no obligation to) pay or procure the same. Grantor shall reimburse Lender upon demand for any sums of money paid by Lender pursuant to this Section 4.5, together with interest on each such payment at the rate set forth in the Note. All such sums so expended by Lender, and the interest thereon, shall become part of the secured indebtedness.

4.6 Further Assurances. Grantor agrees to execute and deliver to Lender, concurrently with the execution of this Deed of Trust and upon the request of Lender from time to time hereafter,

all financing statements, control agreements and other documents required to perfect and maintain the security interests created hereby.

4.7 Fees and Expenses. Grantor shall pay or reimburse Lender and Trustee for all reasonable attorneys' fees, costs and expenses incurred by Lender or the Trustee in any action, legal proceeding or dispute of any kind which affects the Loan, the interest created herein, the Property or the Collateral, including but not limited to, any foreclosure of this Deed of Trust, enforcement of payment of the Note and other secured indebtedness, any condemnation action involving the Property, any bankruptcy proceeding or any action to protect the security hereof or to enforce Lender's rights and remedies hereunder. Any such amounts paid by Lender or Trustee shall be due and payable upon demand and shall become part of the secured indebtedness.

4.8 Maintenance of Property. Grantor shall maintain the Property in good condition and repair, reasonable wear and tear excepted.

4.9 Compliance with Applicable Laws. Grantor shall comply with all applicable laws including, without limitation, all laws applicable to the use of the Property; provided, however, that Grantor shall have the ability to contest any alleged failure to conform to or comply with such laws so long as such obligations shall be contested by appropriate proceedings pursued in good faith and any penalties or other adverse effect of its nonperformance shall be stayed or otherwise not in effect. Grantor will do, or cause to be done, all such things as may be required by law in order fully to protect the security and all rights of Lender under this Deed of Trust. Grantor shall not cause or permit the lien of this Deed of Trust to be impaired in any way.

4.10 Inspection. Grantor shall permit Lender, or its agents, at any and all reasonable times, to enter and pass through or over the Property for the purpose of appraising, inspecting or evaluating the same at Lender's cost and expense, provided that any such appraisal, inspection or evaluation does not unreasonably interfere with or adversely affect Grantor's operations and shall otherwise be in accordance with the provisions of Section 3.3 of the Loan Agreement.

4.11 Releases and Waivers. Grantor agrees that no release by Lender of any of Grantor's successors in title from liability on the secured indebtedness, no release by Lender of any portion of the Property or the Collateral, no subordination of lien, no forbearance on the part of Lender to collect on the secured indebtedness or any part thereof, no waiver of any right granted or remedy available to Lender, and no action taken or not taken by Lender shall in any way diminish Grantor's obligation to Lender or have the effect of releasing Grantor, or any successor to Grantor, from full responsibility to Lender for the complete discharge of each and every of Grantor's obligations hereunder or under the Note, any other Loan Document or any other secured indebtedness.

4.12 Insurance. Grantor shall, at all times until the Note and all other sums due from Grantor to Lender have been fully repaid, maintain, or cause to be maintained, in full force and effect (and shall furnish to Lender copies of), property insurance, liability insurance and workers compensation insurance that are consistent with policies issued from a reputable carrier in Southern Nevada for businesses such as that operated by Borrower. Borrower shall not take any action that would void or otherwise impair any coverages required hereby or that would result in any denial or limitation of such coverages.

4.13 Condemnation. In the event that any or all of the Property shall be condemned and taken under the power of eminent domain, Grantor shall give immediate written notice to Lender and Lender shall have the right to receive and collect all damages awarded by reason of such taking, and the right to such damages hereby is assigned to Lender who shall have the discretion to apply the amount so received, or any part thereof, to the indebtedness secured hereby and if payable in installments, applied in the inverse order of maturity of such installments, or to any alteration, repair or restoration of the Property by Grantor.

4.14 Condemnation and Insurance Proceeds.

(a) Assignment to Lender. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of or damage or injury to the Property, or any part of it, or for conveyance in lieu of condemnation, are assigned to and shall be paid to Lender, who shall hold them in a non-interest-bearing general account regardless of whether Lender's security is impaired. All causes of action, whether accrued before or after the date of this Deed of Trust, of all types for damages or injury to the Property or any part of it, or in connection with any transaction financed by funds lent to Grantor by Lender and secured by this Deed of Trust, or in connection with or affecting the Property or any part of it, including, without limitation, causes of action arising in tort or contract or in equity, are assigned to Lender as additional security, and the proceeds shall be paid to Lender. Lender, at its option may appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement of such action. Grantor shall notify Lender in writing immediately on obtaining knowledge of any casualty damage to the Property or damage in any other manner in excess of Ten Thousand Dollars ($10,000) or knowledge of the institution of any proceeding relating to condemnation or other taking of or damage or injury to all or any portion of the Property. Lender, in its sole and absolute discretion, may participate in any such proceedings and may join Grantor in adjusting any loss covered by insurance. Grantor covenants and agrees with Lender, at Lender's request, to make, execute and deliver at Grantor's expense, any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid award or awards, causes of action, or claims of damages or proceeds to Lender free, clear, and discharged of any and all encumbrances of any kind or nature;

(b) Insurance Payments. All compensation, awards, proceeds, damages, claims, insurance recoveries, rights of action, and payments that Grantor may receive or to which Lender may become entitled with respect to the Property if any damage or injury occurs to the Property, other than by a partial condemnation or other partial taking of the Property, shall be paid over to Lender and shall be applied first toward reimbursement of all costs and expenses of Lender in connection with their recovery and disbursement, and shall then be applied as follows:

(i) Lender shall consent to the application of such payments to the restoration of the Property so damaged only if Grantor has met all the following conditions (a breach of one of which shall constitute a default under this Deed of Trust, the Note, and any other Loan Documents): (1) no Event of Default exists under any of the terms, covenants, and conditions of the Loan Documents; (2) all

then-existing Leases affected in any way by such damage will continue in full force and effect; (3) the insurance or award proceeds, plus any sums that Grantor may contribute for such purpose, shall be sufficient to fully restore and rebuild the Property under then current Government Requirements (defined below); and (4) all restoration of the Improvements so damaged or destroyed shall be made with reasonable promptness and shall be of a value at least equal to the value of the Improvements so damaged or destroyed before any such damage or destruction; or

(ii) If fewer than all conditions (1) through (4) in Section 4.14(b)(i) are satisfied, then such payments shall be applied in the sole and absolute discretion of Lender (1) to the payment or prepayment with any applicable prepayment premium, of any secured indebtedness in such order as Lender may determine, or (2) to the reimbursement of Grantor's expenses incurred in the rebuilding and restoration of the Property. If Lender elects under this Section 4.14(b)(ii) to make any funds available to restore the Property, then all of conditions Section 4.14(b)(i) shall apply, except for such conditions that Lender, in its sole and absolute discretion, may waive.

(iii) "Governmental Requirements" shall mean any and all laws, statutes, codes, ordinances, regulations, enactments, decrees, judgments and orders of any Governmental Authority.

(iv) Material Loss Not Covered. If any material part of the Property is damaged or destroyed and the loss, measured by the replacement cost of the Improvements according to then-current Government Requirements, is not adequately covered by insurance proceeds collected or in the process of collection, Grantor shall deposit with Lender, within ten (10) days after Lender's request, the amount of the loss not so covered.

(c) Total Condemnation Payments. All compensation, awards, proceeds, damages, claims, insurance recoveries, rights of action, and payments the Grantor may receive or to which Grantor may become entitled with respect to the Property in the event of a total condemnation or other total taking of the Property shall be paid over to Lender and shall be applied first to reimbursement of all Lender's costs and expenses in connection with their recovery, and shall then be applied to the payment of any indebtedness secured hereby by such order as Lender may determine, until the secured indebtedness has been paid and satisfied in full. Any surplus remaining after payment and satisfaction of the indebtedness secured by this Deed of Trust shall be paid to Grantor as its interest may then appear.

(d) Partial Condemnation Payments. All compensation, awards, proceeds, damages, claims, insurance recoveries, rights of action and payments ("funds") that Grantor may receive or to which Grantor may become entitled with respect to the Property in the event of a partial condemnation or other partial taking of the Property, unless Grantor and Lender otherwise agree in writing, shall be divided into two portions, one equal to the principal balance of the Note at the time of receipt of such funds and the other equal to the amount by which such funds exceed the principal balance of the Note at the time of receipt

of such funds. The first such portion shall be applied to the indebtedness secured hereby, whether or not then due, including but not limited to principal, accrued interest, and advances and in such order or combination as Lender may determine, with the balance of the funds paid to Grantor. Any dispute as to the fair market value of the Property shall be settled by arbitration in accordance with the Real Estate Valuation Arbitration Rules of the American Arbitration Association.

(c) No Cure of Waiver of Default. Any application of such amounts or any portion of it to any secured indebtedness shall not be construed to cure or waive any Event of Default or notice of default under this Deed of Trust or invalidate any act done under any such default or notice.

4.15 Use of Property. (a) Grantor shall use or permit the Property to be used solely for the purpose of operating the Front Sight Firearms Training Institute and the Front Sight Resort and Vacation Club complex, and Grantor shall not use or permit the use of the Property for any other principal use without Lender's prior written consent. Grantor shall not use or permit the use of the Property or any part thereof for any other purpose which in the reasonable opinion of Lender would adversely affect the then value or character of the Property or any part thereof.

(b) Grantor shall not suffer or permit the Property or any portion thereof to be used by the public, as such, without restriction or in such manner as might reasonably tend to impair Grantor's title to the Property or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Property or any portion thereof.

4.16 Taxes on Note and Deed of Trust. Grantor shall promptly pay all income, franchise and other taxes owing by Grantor and any stamp, documentary, recordation and transfer taxes or other taxes (unless such payment by Grantor is prohibited by law) which may be required to be paid with respect to the Note, this Deed of Trust or any other instrument evidencing or securing any of the secured indebtedness. In the event of the enactment after this date of any law of any Governmental Authority applicable to Lender, the Note, the Property or this Deed of Trust deducting from the value of property for the purpose of taxation any lien or security interest thereon, or imposing upon Lender the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Grantor, or changing in any way the laws relating to the taxation of deeds of trust or mortgages or security agreements or debts secured by deeds of trust or mortgages or security agreements or the interest of the mortgagee or secured party in the property covered thereby, or the manner of collection of such taxes, so as to affect this Deed of Trust or the indebtedness secured hereby or Lender, then, and in any such event, Grantor, upon demand by Lender, shall pay such taxes, assessments, charges or liens, or reimburse Lender therefore.

4.17 Authorization to File Financing Statements; Power of Attorney. Grantor hereby authorizes Lender at any time and from time to time to file and authenticate any initial financing statements, amendments thereto and continuation statements with or without signature of Grantor as authorized by applicable law, as applicable to all or any part of the Collateral. For purposes of such filings, Grantor agrees to furnish any information requested by Lender promptly upon Lender's request. Grantor also ratifies its authorization for Lender to have filed any initial

financing statements, amendments thereto or continuation statements, if filed prior to the date of this Deed of Trust. Grantor hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and the stead of Grantor or in the name of Grantor to execute in the name of Grantor or authenticate any such documents and otherwise to carry out the purposes of this Section 4.17, to the extent that the authorization above by Grantor is not sufficient. To the extent permitted by law, Grantor hereby ratifies all acts said attorneys-in-fact have lawfully done in the past or shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

4.18 INTENTIONALLY OMITTED.

4.19 Indemnification. (a) GRANTOR SHALL INDEMNIFY AND HOLD HARMLESS LENDER AND TRUSTEE FROM AND AGAINST, AND REIMBURSE THEM ON DEMAND FOR, ANY AND ALL INDEMNIFIED MATTERS (AS HEREINAFTER DEFINED), IN ALL CASES WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF LENDER OR TRUSTEE. FOR PURPOSES OF THIS SECTION 4.19, THE TERMS "LENDER" AND "TRUSTEE" SHALL INCLUDE THE DIRECTORS, OFFICERS, PARTNERS, EMPLOYEES AND AGENTS OF LENDER AND TRUSTEE, RESPECTIVELY, AND ANY PERSONS OWNED OR CONTROLLED BY, OWNING OR CONTROLLING, OR UNDER COMMON CONTROL OR AFFILIATED WITH LENDER OR TRUSTEE, RESPECTIVELY. WITHOUT LIMITATION, THE FOREGOING INDEMNITIES SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO MATTERS WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF THE NEGLIGENCE OF SUCH (AND/OR ANY OTHER) INDEMNIFIED PERSON. HOWEVER, SUCH INDEMNITIES SHALL NOT APPLY TO A PARTICULAR INDEMNIFIED PERSON TO THE EXTENT THAT THE SUBJECT OF THE INDEMNIFICATION IS CAUSED BY OR ARISES OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THAT INDEMNIFIED PERSON. ANY AMOUNT TO BE PAID UNDER THIS SECTION 4.19 BY GRANTOR TO LENDER AND/OR TRUSTEE SHALL BE A DEMAND OBLIGATION OWING BY GRANTOR (WHICH GRANTOR HEREBY PROMISES TO PAY) TO LENDER AND/OR TRUSTEE PURSUANT TO THIS DEED OF TRUST. NOTHING IN THIS SECTION 4.19, ELSEWHERE IN THIS DEED OF TRUST OR IN ANY OTHER LOAN DOCUMENT SHALL LIMIT OR IMPAIR ANY RIGHTS OR REMEDIES OF LENDER AND/OR TRUSTEE (INCLUDING WITHOUT LIMITATION ANY RIGHTS OF CONTRIBUTION OR INDEMNIFICATION) AGAINST GRANTOR OR ANY OTHER PERSON UNDER ANY OTHER PROVISION OF THIS DEED OF TRUST, ANY OTHER LOAN DOCUMENT, ANY OTHER AGREEMENT OR ANY APPLICABLE FEDERAL, STATE OR LOCAL LAW, STATUTE, ORDINANCE, CODE, RULE, REGULATION, LICENSE, PERMIT, ORDER OR DECREE.

(b) As used herein, the term "Indemnified Matters" means any and all claims, demands, liabilities (including strict liability), losses, damages (including consequential damages), causes of action, judgments, penalties, fines, costs and expenses (including without limitation, reasonable fees and expenses of attorneys and other professional consultants and experts, and of the investigation and defense of any claim, whether or not

such claim is ultimately defeated, and the settlement of any claim or judgment including all value paid or given in settlement) of every kind, known or unknown, foreseeable or unforeseeable, which may be imposed upon, asserted against or incurred or paid by Lender and/or Trustee at any time and from time to time, whenever imposed, asserted or incurred, because of, resulting from, in connection with, or arising out of any transaction, act, omission, event or circumstance in any way connected with the Property or with this Deed of Trust or any other Loan Document, including but not limited to any bodily injury or death or property damage occurring in or upon or in the vicinity of the Property through any cause whatsoever at any time on or before the Release Date (as hereinafter defined), any act performed or omitted to be performed hereunder or under any other Loan Document, any breach by Grantor of any representation, warranty, covenant, agreement or condition contained in this Deed of Trust or in any other Loan Document or any Event of Default, except to the extent caused by the gross negligence or intentional misconduct of Lender, its agents, employees and/or representatives. The term "Release Date" as used herein means the earlier of the following two dates: (i) the date on which the indebtedness and obligations secured hereby have been paid and performed in full and this Deed of Trust has been fully reconveyed and released, or (ii) the date on which the lien of this Deed of Trust is fully and finally foreclosed or a conveyance by deed in lieu of such foreclosure is fully and finally effective, and possession of the Property has been given to the purchaser or grantee free of occupancy and claims to occupancy by Grantor and Grantor's heirs, devisees, representatives, successors and assigns; provided, that if such payment, performance, release, foreclosure or conveyance is challenged, in bankruptcy proceedings or otherwise, then the Release Date shall be deemed not to have occurred until such challenge is rejected, dismissed or withdrawn with prejudice. The indemnities in this Section 4.19 shall not terminate upon the Release Date or upon the release, foreclosure or other termination of this Deed of Trust but will survive the Release Date, foreclosure of this Deed of Trust or conveyance in lieu of foreclosure, the repayment of the secured indebtedness, the discharge and release of this Deed of Trust and the other Loan Documents, any bankruptcy or other debtor relief proceeding, and any other event whatsoever.

4.20 Payment of Costs. Grantor shall (a) pay all reasonable legal fees incurred by Lender in connection with the preparation of the Loan Documents (including any amendments thereto or consents, releases, or waivers granted thereunder); (b) reimburse Lender, promptly upon demand, for all amounts expended, advanced, or incurred by Lender to satisfy any obligation of Grantor under the Loan Documents, which amounts shall include all court costs, reasonable attorneys' fees (including, without limitation, for trial, appeal, or other proceedings), fees of auditors and accountants and other investigation expenses reasonably incurred by Lender in connection with any such matters; and (c) pay any and all other costs and expenses of performing or complying with any and all of the obligations under the Note, this Deed of Trust and under the other Loan Documents. All of the foregoing listed fees, costs and expenses are collectively called herein, the "Expenses." Except to the extent that the Expenses are included within the definition of "indebtedness secured hereby," the payment of such Expenses shall not be credited, in any way and to any extent, against any installment on or portion of the indebtedness secured hereby.

ARTICLE V
Negative Covenants

Grantor covenants to Lender as follows:

5.1 Liens. Grantor shall not at any time create, incur, assume or permit to exist any lien or encumbrance on or against the Property or agree to become liable to do so, except for (a) the Permitted Encumbrances, (b) the liens and security interests evidenced by this Deed of Trust, (c) statutory liens for real estate taxes and assessments on the Property which are not yet delinquent, (d) other liens and security interests (if any) in favor of Lender, and (e) the matters set forth in Schedule B of the final mortgagee title policy insuring this Deed of Trust as approved by Lender.

5.2 Indebtedness. With respect to the Property, Grantor shall not at any time, create, incur, assume or suffer to exist any indebtedness, except (a) the indebtedness under the Permitted Encumbrances, (b) indebtedness under the Note or any other Loan Document or any other document, instrument or agreement between Grantor and Lender, and (c) current accounts payable, accrued expenses and other expenses arising out of transactions (other than borrowing) in the ordinary course of business.

5.3 Guaranties and Contingent Liabilities. Grantor shall not at any time directly or indirectly become or be liable in respect of any guaranty or contingent obligation, or assume, guarantee, become surety for, endorse or otherwise agree, become or remain directly or contingently liable upon or with respect to any obligation or liability of any person or entity (other than Grantor), except (i) by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, or (ii) by indemnity agreements given by Grantor to a title insurance company or a bonding company in connection with any project being constructed or sold by Grantor, including the Project.

5.4 Loans and Investments. Grantor shall not at any time make or suffer to remain outstanding any loan or advance to, or purchase, acquire, or own any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) in, or any other interest in, or make any capital contribution or loan to, any person or entity (other than Grantor), or agree, become or remain liable to do any of the foregoing.

5.5 INTENTIONALLY OMITTED.

5.6 Self-Dealing. Grantor shall not enter into or carry out any transaction (including, without limitation, purchasing property or services from or selling property or services to) with any Affiliate (as hereinafter defined) except (a) officers, managers, members, employees and affiliates of Grantor may render services to Grantor for compensation at the same rates generally paid by companies engaged in the same or similar businesses for the same or similar services; and (b) Grantor may enter into and carry out other transactions with Affiliates if in the ordinary course of business, pursuant to the reasonable requirements of Grantor's business upon terms that are fair and reasonable and no less favorable to Grantor than Grantor would obtain in a comparable arm's-length transaction. "Affiliate" means, with respect to any individual or entity (each, a "Person"), another Person that directly, or indirectly through one or more intermediaries, Controls or is

Controlled by or is under common Control with the Person specified. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" or "Controlled" have meanings correlative thereto.

5.7 Disposition of Property. Except in connection with the obligations with respect to the Senior Debt and related agreements, Grantor shall not (a) sell, convey, pledge, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily (any of the foregoing being referred to in this Section 5.7 as a transaction and any set of related transactions constituting but a single transaction), all or any portion of the Property or any interest therein or enter into any agreement to do so, or (b) subdivide the Property, submit the Property, or any portion thereof, to condominium or other multiple form of ownership, or dedicate any portion of the Property to public ownership. Lender hereby consents to Grantor taking actions to secure the Senior Debt as such transactions are reasonably necessary for the development of the Project, including the time share units and the RV resort, as provided in the Loan Agreement and the Budget.

5.8 Ownership and Control. Grantor shall not cause or permit any change in the ownership (whether direct or indirect) of Grantor from that in existence on the date hereof.

5.9 Merger; Consolidation; Business Acquisitions. Grantor shall not merge or agree to merge with or into or consolidate with any other person or entity. Grantor shall not form any subsidiaries or acquire any material portion of the stock, other equity interests or assets or business of any other person or entity.

5.10 Change in Zoning; Easements; Restrictions. Grantor shall not seek or acquiesce in any annexation of the Property or any zoning reclassification of all or any portion of the Land or Property or grant or consent to any easement, dedication, plat, or restriction (or allow any easement to become enforceable by prescription), or any amendment or modification thereof, covering all or any portion of the Land or Property, without Lender's prior written consent. Lender hereby agrees that it will not unreasonably withhold or delay consent to Grantor taking actions that would otherwise violate the foregoing provisions so long as such transactions are reasonably necessary for the development of the Project, including the time share units and the RV resort as provided in the Loan Agreement and the Budget.

5.11 Drilling. Grantor shall not, without Lender's prior written consent, permit any drilling or exploration for, or extraction, removal, or production of, any minerals from, the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction therefrom.

5.12 Waste; Alterations. Grantor shall not commit or permit any waste or impairment of the Property and shall not (subject to the provisions of Sections 4.8 and 4.9 hereof), without Lender's prior written consent, which consent shall not be unreasonably delayed or withheld, make or permit to be made any alterations or additions to the Property of a material nature other than those alterations and additions consisting of the Improvements that shall constitute the accommodations and other facilities of the project known as the Front Sight Resort and Vacation Club. Subject to the foregoing and in no way constituting a waiver thereof, in the event Lender

were to give such consent, then any alterations or additions to the Property would be at Grantor's sole cost and expense.

ARTICLE VI
Events of Default

6.1 Events of Default. An "Event of Default" means the occurrence or existence of one or more of the following events or conditions (whatever the reason for such Event of Default and whether voluntary, involuntary or effected by operation of law):

(a) Grantor defaults in any payment of principal or interest on the Loan by the date due according to the terms of the Loan Agreement or of the Note, and such default remains uncured for a period of ten (10) days after the payment became due; provided, however, that there is no cure period for payments due on the Maturity Date; or

(b) Grantor defaults in the payment of undisputed fees or other amounts payable to or on behalf of Lender pursuant to the Note, this Deed of Trust or under any other Loan Documents, other than as described in Section 6.1(a) above, and such default continues unremedied for a period of ten (10) days after notice thereof from Lender to Grantor; or

(c) Grantor defaults in the performance or observance of any agreement, covenant or condition required to be performed or observed by Grantor under the terms of this Deed of Trust, or any other Loan Document, other than a default described elsewhere in this Section, and such default continues unremedied for a period of thirty (30) days after notice from Lender to Grantor thereof provided that, if cure cannot reasonably be effected within such 30-day period, such failure shall not be an event of default hereunder so long as Grantor promptly (in any event, within ten (10) days after such notice of default from Lender) commences cure, and thereafter diligently (in any event, within ninety (90) days after receipt of such notice of default from Lender) prosecutes such cure to completion; and provided further, that notwithstanding the 30-day cure period or extended cure period described above in this subparagraph (c), if a different notice or cure period is specified under any Loan Document or under any provision of the Loan Documents as to any such failure or breach, the specific Loan Document or provision shall control, and Grantor shall have no more time to cure the failure or breach than is allowed under the specific Loan Document or provision as to such failure or breach; or

(d) Any representation or warranty made by Grantor in this Agreement or by Grantor or an Affiliate, if made in connection with the Loan, in any of the other Loan Documents, or in any certificate or document furnished under the terms of this Agreement or in connection with the Loan, shall be untrue or incomplete in any material respect when made or deemed made or restated hereunder unless such representation or warranty was not known by Grantor to be untrue or incomplete at the time made and such representation or warranty is corrected by Grantor and disclosed by Grantor to Lender; or

(e) Lender's security interest or lien under this Deed of Trust is or shall become unperfected or invalid; or

(f) Grantor defaults under any term, covenant or condition of any of the Note or of any of the other Loan Documents to which Grantor is a party, other than a default described elsewhere in this Section, after the expiration of any notice or grace period, if any, provided therein;

(g) Work on the Project, once commenced, shall be substantially abandoned, or shall, by reason of Grantor's fault, be unreasonably delayed or discontinued for a period of fifteen (15) consecutive days, or construction shall be delayed for any reason whatsoever to the extent that Completion cannot, in the reasonable judgment of Lender, be accomplished prior to the Completion Date;

(h) Any of Grantor, or any Related Party who is a party to any of the Loan Documents, shall file a petition for bankruptcy; or shall apply for, consent to or permit the appointment of a receiver, custodian, trustee or liquidator for it or any of its property or assets; or shall generally fail to, or admit in writing its inability to, pay its debts as they mature; or shall make a general assignment for the benefit of creditors or shall be adjudicated bankrupt or insolvent; or shall take other similar action for the benefit or protection of its creditors; or shall give notice to any governmental body of insolvency or of pending insolvency or suspension of operations; or shall file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, rearrangement, dissolution, liquidation or other similar debtor relief law or statute; or shall file an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute; or shall be dissolved, liquidated, terminated or merged; or shall effect a plan or other arrangement with creditors; or a trustee, receiver, liquidator or custodian shall be appointed for it or for any of its property or assets and shall not be discharged within ninety (90) days after the date of his appointment; or a petition in involuntary bankruptcy or similar proceedings is filed against it and is not dismissed within ninety (90) days after the date of its filing; or

(i) Lender determines that the remaining undisbursed Loan proceeds, together with the proceeds of any Senior Debt, are insufficient to fully pay all of the then-unpaid costs of the Project and the estimated expenses of completion (including the Interest Reserve), and Grantor fails to either (i) deposit with Lender, within three (3) Business Days following demand, sufficient funds to permit Lender to pay said excess costs as the same become payable or (ii) pay said excess costs directly and deliver to Lender unconditional mechanics' lien waivers therefor (or paid receipts for non-lienable items), at Lender's option; or

(j) except to the extent otherwise permitted pursuant to the terms and conditions of the Loan Agreement or this Deed of Trust, the sale, lease, transfer or further encumbrance (whether by operation of law or otherwise) (and whether at one time or in or pursuant to a series of events) of (A) the Property or any part thereof or any interest therein, or (B) more than forty-nine percent (49%) in the aggregate of any direct or indirect ownership interest in Grantor; or

(k) A default occurs with respect to the Senior Debt and remains uncured after the expiration of any applicable notice or grace period; or

(l) A default occurs in the performance of Grantor's obligations in any of Section 5.6, 5.7, 5.8, 5.10, 5.13, 5.16, 5.18, 5.19, 5.22, 5.23 or 5.24, of the Loan Agreement;

(m) The General Contract is terminated by either party thereto or either party thereto shall fail to perform its obligations (after any applicable notice and cure period) under the General Contract; or

(n) Any uncured default by Grantor occurs and remains uncured under the Management Agreement; or

(o) Any failure by Grantor to timely deliver the EB-5 information, which failure continues more than five (5) business days following notice of such failure by Lender.

6.2 Remedies of Lender. Upon the occurrence of an Event of Default, unless such Event of Default is subsequently waived in writing by Lender, Lender may, without notice and without prejudice to any other right or remedy Lender may have, exercise from time to time any of the rights and remedies available under the Note, this Deed of Trust or any other Loan Document or under applicable law.

ARTICLE VII
Rights and Remedies

7.1 Acceleration of Loan. Upon the occurrence of an uncured Event of Default specified in Section 6.1 hereof, the entire unpaid balance of the indebtedness secured hereby (including all accrued interest and all other sums secured hereby) shall, at the option of Lender, become immediately due and payable without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action, all of which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the indebtedness secured hereby. If an uncured Event of Default specified in Subsection (h) of Section 6.1 hereof occurs and continues or exists, the entire unpaid balance of the indebtedness secured hereby (including all accrued interest and all other sums secured hereby) shall automatically become immediately due and payable without notice, demand, presentment, notice of nonpayment or nonperformance, protest, notice of protest, notice of intent to accelerate, notice of acceleration, or any other notice or any other action, all of which are hereby waived by Grantor and all other parties obligated in any manner whatsoever on the indebtedness secured hereby. The failure to exercise any remedy available to the Lender shall not be deemed to be a waiver of any rights or remedies of the Lender under the Loan Documents, at law or in equity.

7.2 Foreclosure – Power of Sale. Upon the occurrence of any uncured Event of Default, Lender may request Trustee to proceed with foreclosure under the power of sale which is hereby conferred, such foreclosure to be accomplished in accordance with the following provisions:

(a) Foreclosure; Power of Sale. Trustee, if and as directed by Lender, shall have all of the rights and may exercise all of the powers set forth in applicable law of the

State of Nevada. Trustee may sell the Property in its entirety or in parcels, and by one or by several sales, as deemed appropriate by Trustee in its sole and absolute discretion. If Trustee chooses to have more than one foreclosure sale, Trustee may cause the foreclosure sales to be held simultaneously or successively, on the same day, or on such different days and at such different times as Trustee may elect. Trustee shall receive and apply the proceeds from the sale of the Property, or any portion thereof, in accordance with Nevada law. Before any foreclosure sale, Lender or Trustee shall give such notice of default and election to sell as may be required by law. After the lapse of such time as may then be required by law following the recordation of such notice of default, and notice of sale having been given as then required by law, Trustee shall sell the property being sold at a public auction to be held at the time and place specified in the notice of sale. Neither Trustee nor Lender shall have any obligation to make demand on Grantor before any foreclosure sale. From time to time in accordance with then-applicable law, Trustee may, and in any event at Lender's request shall, postpone any foreclosure sale by public announcement at the time and place noticed for that sale. At any foreclosure sale, Trustee shall sell to the highest bidder at public auction for cash in lawful money of the United States (or cash equivalents acceptable to Trustee to the extent permitted by applicable law), payable at the time of sale. Trustee shall execute and deliver to the purchaser(s) a deed or deeds conveying the property being sold without any covenant or warranty whatsoever, expressed or implied. The recitals in any such deed of any matters of fact, including any facts bearing upon the regularity or validity of any foreclosure sale, shall be conclusive proof of their truthfulness. Any such deed shall be conclusive against all persons as to the facts recited therein. Any Person, including Trustee or Lender, may purchase at such sale, and any bid by Lender may be, in whole or in part, in the form of cancellation of all or any part of the Obligations.

(b) Judicial Action. Lender and Trustee, if and as directed by Lender, shall have the right to bring an action in any court of competent jurisdiction for foreclosure of this Deed of Trust a deficiency judgment as provided by law, or for specific enforcement of any of the covenants or agreements of this Deed of Trust.

(c) Collection of Rents. Upon the occurrence of an Event of Default, the license granted to Grantor to collect the Rents (defined below) shall be automatically and immediately revoked, without further notice to or demand upon Grantor. Lender may, but shall not be obligated to, exercise any or all of the rights and remedies provided in Nevada Law and perform any or all obligations of the landlord under any or all of the Leases (defined below), and Lender may, but shall not be obligated to, exercise and enforce any or all of Grantor's rights under the Leases. Without limiting the generality of the foregoing, Lender may notify the tenants under the Leases that all Rents are to be paid to Lender, and following such notice all Rents shall be paid directly to Lender and not to Grantor or any other Person other than as directed by Lender, it being understood that a demand by Lender on any tenant under a Lease for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Lender without the necessity of further consent by Grantor. Grantor hereby irrevocably authorizes and directs the tenants under the Leases to pay all Rents to Lender instead of to Grantor, upon receipt of written notice from Lender, without the necessity of any inquiry of Grantor and without the necessity of determining the existence or non-existence of an Event of Default. Grantor hereby appoints Lender as

Grantor's attorney-in-fact with full power of substitution, which appointment shall take effect upon the occurrence of an Event of Default and is coupled with an interest and is irrevocable prior to the full and final payment and performance of the indebtedness secured hereby, in Grantor's name or in Lender's name: (i) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Lender; (ii) to give receipts and releases in relation thereto; (iii) to institute, prosecute and/or settle actions for the recovery of Rents; (iv) to modify the terms of any Leases including terms relating to the Rents payable thereunder; (v) to cancel any Leases; (vi) to enter into new Leases; and (vii) to do all other acts and things with respect to the Leases and Rents which Lender may deem necessary or desirable to protect the security for the secured indebtedness. Any Rents received shall be applied first to pay all of Lender's costs and expenses and next in reduction of the other secured indebtedness. Grantor shall pay, on demand, to Lender, the amount of any deficiency between (1) the Rents received by Lender, and (2) all Expenses incurred together with interest thereon as provided in this Deed of Trust and the other Loan Documents.

(d) Taking Possession or Control of the Property. As a matter of right without regard to the adequacy of the security, and to the extent permitted by law without notice to Grantor, Lender shall be entitled, upon application to a court of competent jurisdiction, to the immediate appointment of a receiver for all or any part of the Property and the Rents, whether such receivership may be incidental to a proposed sale of the Property or otherwise, and Grantor hereby consents to the appointment of such a receiver and agrees that such receiver shall have all of the rights and powers granted to Lender pursuant to Section 7.2(c). In addition, to the extent permitted by law, and with or without the appointment of a receiver, or an application therefor, Lender may (i) enter upon, and take possession of (and Grantor shall surrender actual possession of), the Property or any part thereof, without notice to Grantor and without bringing any legal action or proceeding, or, if necessary by force, legal proceedings, ejectment or otherwise, and (ii) remove and exclude Grantor and its agents and employees therefrom.

(e) Management of the Property. Upon obtaining possession of the Property or upon the appointment of a receiver as described in Section 7.2(d), Lender, Trustee or the receiver, as the case may be, may, at its sole option, (i) make all necessary or proper repairs and additions to or upon the Property, (ii) operate, maintain, control, make secure and preserve the Property, and (iii) complete the construction of any unfinished Improvements on the Property and, in connection therewith, continue any and all outstanding contracts for the erection and completion of such Improvements and make and enter into any further contracts which may be necessary, either in their or its own name or in the name of Grantor (the costs of completing such Improvements shall be Expenses secured by this Deed of Trust and shall accrue interest as provided in the Note). Lender, Trustee or such receiver shall be under no liability for, or by reason of, any such taking of possession, entry, holding, removal, maintaining, operation or management, except for Lender's, Trustee's or Receiver's negligence, gross negligence or willful misconduct. The exercise of the remedies provided in this Section shall not cure or waive any Event of Default, and the enforcement of such remedies, once commenced, shall continue for so long as Lender shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Event of Default.

(f) Cooperation of Grantor. Grantor agrees to cooperate fully with Lender's management of the Property, including, without limitation, providing full access to the Property and all collateral.

(f) Uniform Commercial Code. Lender may proceed under the Uniform Commercial Code as to all or any part of the Collateral, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Upon the occurrence of any uncured Event of Default, Grantor shall assemble all of the Collateral and make the same available within the Improvements or at such other location required by Lender. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the notice provisions of this Deed of Trust at least ten (10) days before any sale or other disposition of the Collateral. Disposition of the Collateral shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located. It shall be deemed commercially reasonable for the Trustee to dispose of the Collateral without giving any warranties as to the Collateral and specifically disclaiming all disposition warranties. Alternatively, Lender may choose to dispose of some or all of the Property, in any combination consisting of both Collateral and Real Property, in one sale to be held in accordance with the law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Grantor agrees that such a sale of Collateral together with Real Property constitutes a commercially reasonable sale of the Collateral.

(g) Application of Proceeds. Unless otherwise provided by applicable law, all proceeds from the sale of the Property or any part thereof pursuant to the rights and remedies set forth in this Article VII and any other proceeds received by Lender from the exercise of any of its other rights and remedies hereunder or under the other Loan Documents shall be applied first to pay all Expenses and next in reduction of the other secured indebtedness, in such manner and order as Lender may elect.

(h) Other Remedies. Lender shall have the right from time to time to protect, exercise and enforce any legal or equitable remedy against Grantor provided under the Loan Documents or by applicable laws.

7.3 Remedies Cumulative. All remedies provided in this Deed of Trust, in the Note and in the other Loan Documents are cumulative and may, at the election of Lender, be exercised alternatively, successively, or in any manner and are in addition to any other rights provided by law.

7.4 Suits to Protect the Property. Lender and Trustee shall have power (a) to institute and maintain such suits and proceedings as they may deem expedient to prevent any impairment of the Property or the Collateral by any acts which may be unlawful or any violation of this Deed of Trust, (b) to preserve or protect their interest in the Property and the Collateral, and (c) to restrain the enforcement of or compliance with any legislation or other Governmental Requirement, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with, such Governmental Requirement, rule or order would impair the security hereunder or be prejudicial to the interest of Lender.

ARTICLE VIII
Waivers

8.1 Waiver of Certain Rights. To the full extent permitted by applicable law, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension or redemption, homestead, moratorium, reinstatement, marshaling or forbearance, and Grantor, for Grantor, Grantor's heirs, devisees, representatives, successors and assigns, and for any and all persons ever claiming any interest in the Property, to the extent permitted by applicable law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of intention to mature or declare due the whole of the secured indebtedness, and all rights to a marshaling of assets of Grantor, including the Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and/or security interests hereby created. Grantor shall not have or assert any right under any statute or rule of law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of Lender under the terms of this Deed of Trust to a sale of the Property for the collection of the secured indebtedness without any prior or different resort for collection, or the right of Lender under the terms of this Deed of Trust to the payment of the secured indebtedness out of the proceeds of sale of the Property in preference to every other claimant whatsoever except for the Senior Debt. Grantor waives any right or remedy which Grantor may have or be able to assert pursuant to any provision of Nevada law, including, but not limited to, the rights or remedies pertaining to the rights and remedies of sureties. If any law referred to in this Section 8.1 and now in force, of which Grantor or Grantor's heirs, devisees, representatives, successors or assigns or any other persons claiming any interest in the Property might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section 8.1.

8.2 Waivers and Agreements Regarding Remedies. To the fullest extent permitted by applicable law, Grantor hereby waives any right to bring or utilize any defense, counterclaim or setoff, other than one which denies the existence or sufficiency of the facts upon which any foreclosure action is grounded. If any defense, counterclaim or setoff, other than one permitted by the preceding clause, is timely raised in a foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a claim which could be tried in an action for money damages, such claim may be brought in a separate action which shall not thereafter be consolidated with the foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying the foreclosure action.

ARTICLE IX
Environmental Warranties, Representations, Covenants and Indemnification Provisions

9.1 Definitions. As used in this Article IX, the following definitions shall apply:

(a) Environmental Activity. The existence, use, storage, Release, threatened Release, generation, processing, abatement, removal, or disposal of any Hazardous Substance on, to, or from the Property or the handling, transportation, treatment, or disposal of any Hazardous Substance arranged by or on behalf of any Indemnitor.

(b) Environmental Claims. Any and all governmental and third-party actions, suits, demands, demand letters, claims, liens, notices of non-compliance or violation, investigations, proceedings, consent orders, or consent agreements relating in any way to the presence or Use of any Hazardous Substance on the Property or the Release or threatened Release of any Hazardous Substance to or from the Property or the violation of any Environmental Requirement or any Environmental Permit applicable to the Property or which otherwise relate to any Environmental Activity, including, without limitation, (i) those of or brought by any Governmental Authority for enforcement, cleanup, removal, response, remedial, or other actions or damages pursuant to any applicable Environmental Requirement, and (ii) those of or brought by any third party seeking damages, contribution, indemnification, cost recovery, compensation, or injunctive relief arising in connection with any Environmental Requirement, any Hazardous Substance or from any alleged injury or threat of injury to property, human health, or the environment resulting or allegedly resulting from any Environmental Activity.

(c) Environmental Damages. All claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses imposed upon, incurred by, or imposed any party in connection with or arising from (i) any Environmental Activity, (ii) any Environmental Claim, (iii) all costs and expenses of investigation and defense of any Environmental Claim, whether or not such Environmental Claim is ultimately defeated, or (iv) any good faith settlement or agreed judgment, including, without limitation, reasonable attorneys' fees, disbursements, and consultants' fees incurred as a result of an Environmental Claim or a violation of any Environmental Requirement pertaining to any Indemnitor or the Property (regardless of whether the existence or alleged existence of such Hazardous Substance or the violation or alleged violation of such Environmental Requirement arose prior to any Indemnitor's Use of such Property). "Environmental Damages" shall also include, without limitation, (A) damages for personal injury or injury to property or natural resources occurring upon or off of the Property, (B) fees incurred for the services of attorneys, consultants, contractors, experts, and laboratories, and all other costs incurred in connection with the investigation of the presence or alleged presence of Hazardous Substances on, about, or under the Property, the removal or remediation of any Hazardous Substances, or the violation or alleged violation of any Environmental Requirements, including, without limitation, costs and expenses for the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, or monitoring work required by any Governmental Authority or necessary in defense of any Environmental Claim, (C) reasonable attorneys' fees, costs, and expenses incurred in enforcing this Article IX or collecting any sums due hereunder, (D) liability to any third person or Governmental Authority to indemnify such person or entity for costs expended in connection with the items referenced above, and (E) diminution in the value of the Property.

(d) Environmental Laws. All federal, state or local laws, statutes, rules, regulations, ordinances, permits, licenses and determinations of any Governmental Authority having jurisdiction over any Indemnitor, the Property, or any user or occupant of the Property, and relating to health, industrial hygiene and/or the environment, now existing or hereafter in effect, including, without limitation, the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.) ("CERCLA"), the Solid Waste Disposal Act, as amended (42 U.S.C. § 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. § 1801, et seq.), the Clean Air Act, as amended (42 U.S.C. § 7401, et seq.), the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. § 2601, et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. § 300f, et seq.), the Atomic Energy Act, as amended (42 U.S.C. § 2014, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. § 136, et seq.), the Oil Pollution Act of 1990, as amended (33 U.S.C. § 2701, et seq.), the Emergency Planning and Community Right-to-Know Act of 1986, as amended (42 U.S.C. § 11001, et seq.), the Occupational Safety and Health Act, as amended (29 U.S.C. § 651, et seq.), and the Endangered Species Act, and any corresponding state laws, statutes, regulations or ordinances.

(e) Environmental Permits. All permits, approvals, identification numbers, licenses, and other authorizations required under any applicable Environmental Requirement.

(f) Environmental Requirements. All Environmental Laws and all rules, regulations, guidelines, standards, orders, decrees, permits, licenses, concessions, and franchises promulgated pursuant thereto, and/or other restrictions or requirements of any Governmental Authority relating to health, industrial hygiene and/or the environment, and all applicable judicial, regulatory, or administrative decisions, decrees, judgments, or orders thereunder, as may be amended from time to time.

(g) Governmental Authority. Any governmental authority (federal, state, county, district, municipal, city or otherwise), including, without limitation, the United States of America, any state of the United States of America, and any subdivision of any of the foregoing, and any agency, department, commission, board, office, authority, instrumentality, bureau, or court now or hereafter in effect, having jurisdiction over the Property, or over any Indemnitor or any occupant or user of the Property, or any of their respective businesses, operations, assets, or properties.

(h) Hazardous Substance. Any substance, product, material, element, compound, chemical or waste, whether solid, liquid or gaseous (i) the presence or Release of which requires reporting, investigation, or remediation under any Environmental Requirement, (ii) which is defined, listed, classified or regulated as a "hazardous waste," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "hazardous material," "toxic substance," "regulated substance," or other similar or related term under or in any Environmental Requirement, (iii) which is toxic, radioactive, or otherwise classified as hazardous or toxic and is or becomes regulated by any Governmental Authority as a threat to human health or the environment, (iv) the presence of which on or about the Property causes or threatens to cause a nuisance upon the Property or to adjacent property, (v) the presence of which on adjacent properties could constitute a trespass by any Indemnitor, (vi) which is asbestos, (vii) which is polychlorinated biphenyls, (viii) which contains petroleum or any petroleum-derived product,

(ix) underground storage tanks, whether empty, filled or partially filled with any substance, or (x) any radioactive materials, urea formaldehyde foam insulation, or radon.

(i) Indemnitees. Lender, any assignee of Lender with respect to all or any portion of the Loan, and all of their respective subsidiaries, affiliates, shareholders, partners, members, directors, officers, agents, attorneys, and employees, and their respective successors and assigns, and "Indemnitee" means any one of the Indemnitees.

(j) Indemnitors. Grantor and its successors and assigns.

(k) Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, seeping, migrating, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, drums, tanks or other closed receptacles containing any Hazardous Substance).

(l) Use. Use, ownership, development, construction, maintenance, management, operation, or occupancy (of the Property).

9.2 INDEMNIFICATION. GRANTOR HEREBY ASSUMES LIABILITY FOR, AND HEREBY AGREES TO AND SHALL INDEMNIFY, DEFEND (AT TRIAL AND APPELLATE LEVELS, ADMINISTRATIVE PROCEEDINGS AND ARBITRATIONS, WITH ATTORNEYS, CONSULTANTS AND EXPERTS ACCEPTABLE TO LENDER), SAVE, AND HOLD HARMLESS EACH INDEMNITEE FROM AND AGAINST ANY AND ALL ENVIRONMENTAL DAMAGES AND ENVIRONMENTAL CLAIMS IMPOSED UPON, ASSERTED OR AWARDED AGAINST OR INCURRED BY THE PROPERTY OR ANY INDEMNITEE, UNLESS, AND TO THE EXTENT, SUCH ENVIRONMENTAL DAMAGES OR ENVIRONMENTAL CLAIMS ARE FINALLY DETERMINED TO HAVE ARISEN SOLELY AND DIRECTLY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF INDEMNITEES. THIS OBLIGATION SHALL INCLUDE ANY CLAIMS RESULTING FROM THE NEGLIGENCE OR ALLEGED NEGLIGENCE OF ANY INDEMNITEE. THIS OBLIGATION SHALL INCLUDE, WITHOUT LIMITATION, (I) THE BURDEN OF DEFENDING ALL CLAIMS, SUITS, AND ADMINISTRATIVE PROCEEDINGS (WITH COUNSEL REASONABLY APPROVED BY INDEMNITEES), EVEN IF SUCH CLAIMS, SUITS, OR PROCEEDINGS ARE GROUNDLESS, FALSE, FRAUDULENT, OR FRIVOLOUS, AND CONDUCTING ALL NEGOTIATIONS OF ANY DESCRIPTION, (II) PAYING AND DISCHARGING, WHEN AND AS THE SAME SHALL BECOME DUE, ANY AND ALL JUDGMENTS, PENALTIES, OR OTHER SUMS DUE AGAINST ANY INDEMNITEE, (III) PAYING AND DISCHARGING, WHEN AND AS THE SAME SHALL BECOME DUE, ALL COSTS OF REMOVAL AND/OR REMEDIATION OF ANY KIND, AND PROMPTLY DISPOSING OF SUCH HAZARDOUS SUBSTANCES (WHETHER OR NOT SUCH HAZARDOUS SUBSTANCE MAY BE LEGALLY ALLOWED TO REMAIN UPON, ABOUT, OR BENEATH THE PROPERTY IF REMOVAL OR REMEDIATION IS, IN LENDER'S DISCRETION, PRUDENT), (IV) PAYING AND DISCHARGING, WHEN AND AS THE SAME SHALL BECOME DUE, ALL COSTS OF DETERMINING WHETHER THE PROPERTY IS IN COMPLIANCE, AND PROMPTLY CAUSING THE PROPERTY TO BE IN COMPLIANCE, WITH ALL APPLICABLE ENVIRONMENTAL

REQUIREMENTS, (V) PAYING AND DISCHARGING, WHEN AND AS THE SAME SHALL BECOME DUE, ALL COSTS ASSOCIATED WITH CLAIMS FOR DAMAGES TO PERSONS, PROPERTY, OR NATURAL RESOURCES, AND (VI) PAYING AND DISCHARGING, WHEN AND AS THE SAME SHALL BECOME DUE, INDEMNITEES' REASONABLE ATTORNEYS' FEES, CONSULTANTS' FEES, AND COURT COSTS. ANY INDEMNITEE, AT ITS EXPENSE (OR AT GRANTOR'S EXPENSE IF GRANTOR'S COUNSEL OR INDEMNITEE REASONABLY BELIEVES A CONFLICT EXISTS IN DUAL REPRESENTATION), MAY EMPLOY ADDITIONAL COUNSEL OF ITS CHOICE TO ASSOCIATE WITH COUNSEL EMPLOYED BY GRANTOR; AND, IF AN EVENT OF DEFAULT EXISTS, ANY INDEMNITEE MAY IN GOOD FAITH SETTLE ANY CLAIM (INCLUDING ANY ENVIRONMENTAL CLAIM) AGAINST IT, WHETHER OR NOT SUBJECT TO INDEMNIFICATION HEREUNDER, WITHOUT THE CONSENT OR JOINDER OF GRANTOR OR ANY OTHER PARTY.

9.3 SURVIVAL. THIS ARTICLE IX, INCLUDING THE INDEMNITY CONTAINED HEREIN, SHALL SURVIVE THE RELEASE OF THE LIEN OF THIS DEED OF TRUST OR THE EXTINGUISHMENT OF THE LIEN BY FORECLOSURE OR ACTION IN LIEU THEREOF.

9.4 Rights Under Environmental Requirements and Other Rights. Nothing in this Deed of Trust or in any other Loan Document shall limit or impair any claims, rights or remedies of Lender or any other Indemnitee against Grantor or any other person under any Environmental Requirement or otherwise at law or in equity, including any claims for fraud, misrepresentation, waste or breach of contract other than this Deed of Trust, and any rights of contribution or indemnification. In addition to any other rights or remedies Lender may have under this Deed of Trust or the other Loan Documents, at law or in equity, upon any breach or default by Grantor under this Deed of Trust, Lender may pursue any remedies available to it under Nevada Law. Without limiting any of the remedies provided herein or in the other Loan Documents, Grantor acknowledges and agrees that the provisions of this Article IX are environmental provisions, made by Grantor relating to the real property security, and that Grantor's failure to comply with the terms of this Deed of Trust is a breach of contract such that Lender shall have the remedies provided under Nevada Law for the recovery of damages and for the enforcement thereof. Lender's action for the recovery of damages or enforcement of this Deed of Trust shall not constitute an action within the meaning of any provision of law limiting the right to a deficiency or a deficiency judgment.

ARTICLE X
Assignment of Leases and Rents

10.1 Absolute Assignment. In order to provide a source of future payment of the secured indebtedness, Grantor hereby absolutely and unconditionally grants, transfers, conveys, sells, sets over and assigns to Lender all of Grantor's right, title and interest now existing and hereafter arising in and to the leases, subleases, concessions, licenses, franchises, occupancy agreements, tenancies, subtenancies and other agreements, either oral or written, now existing and hereafter arising which affect the units constituting the Front Sight Resort and Vacation Club, together with any and all security deposits, guaranties of the lessees' or tenants' obligations (including any and all security therefor), and other security under any such leases, subleases, concessions, licenses,

franchises, occupancy agreements, tenancies, subtenancies and other agreements, and all supporting obligations, letters of credit (whether tangible or electronic) and letter of credit rights guaranteeing or supporting any of the foregoing (all of the foregoing, and any and all extensions, modifications and renewals thereof, shall be referred to, collectively, as (the "Leases"), and hereby gives to and confers upon Lender the right to collect all the income, rents, issues, profits, royalties and proceeds from the Leases and any business conducted at the Front Sight Resort and Vacation Club Units (but specifically excluding any income, rents, issues, profits, royalties and proceeds from any Leases and any other business conducted by or on behalf of FSFTI) and any and all prepaid rent and security deposits thereunder (collectively, the "Rents"). The term "Rents" includes, but is not limited to, all minimum rents, additional rents, percentage rents, deficiency rents, common area maintenance charges, lease termination payments, refunds of any type, prepayment of rents, settlements of litigation, settlements of past due rents, and liquidated damages following default, and all proceeds payable under any policy of insurance covering loss of rents, together with any and all rights and claims of any kind that Grantor may have against any tenant under the Leases or any other occupant of the units constituting the Front Sight Resort and Vacation Club. This Deed of Trust is intended by Lender and Grantor to create and shall be construed to create an absolute unconditional and presently effective assignment to Lender of all of Grantor's right, title and interest in and to the Leases and the Rents and shall not be deemed merely to create a security interest therein for the payment of any indebtedness or the performance of any obligations under the Loan Documents. Grantor irrevocably appoints Lender its true and lawful attorney at the option of Lender at any time to demand, receive and enforce payment, to give receipts, releases and satisfactions and to sue, either in the name of Grantor or in the name of Lender, for all such Rents and apply the same to the secured indebtedness.

10.2 Revocable License to Collect. Notwithstanding the foregoing assignment of Rents, so long as no Event of Default remains uncured, Grantor shall have a revocable license, to collect all Rents, and to retain any portion thereof not required to pay the expenses of the Property or the obligations secured thereby. Upon any Event of Default, Grantor's license to collect and retain Rents shall terminate automatically and without the necessity for any notice.

10.3 Collection and Application of Rents by Lender. While any Event of Default remains uncured, (a) Lender may at any time, without notice, in person, by agent or by court-appointed receiver, and without regard to the adequacy of any security for the secured indebtedness, enter upon any portion of the Property and/or, with or without taking possession thereof, in its own name sue for or otherwise collect Rents (including past due amounts); and (b) without demand by Lender, Grantor shall promptly deliver to Lender all prepaid rents, deposits relating to Leases or Rents, and all other Rents then held by or thereafter collected by Grantor whether prior to or during the continuance of any Event of Default. Any Rents collected by or delivered to Lender may be applied by Lender against the secured indebtedness, less all Expenses, including reasonable attorneys' fees and disbursements, in such order as Lender shall determine in its sole and absolute discretion. No application of Rents against any secured indebtedness or other action taken by Lender under this Article X shall be deemed or construed to cure or waive any Event of Default, or to invalidate any other action taken in response to such Event of Default, or to make Lender a mortgagee-in-possession of the Property. In no event shall the assignment of Rents or Leases cause the secured indebtedness to be reduced by an amount greater than the Rents actually received by Lender and applied by Lender to the secured indebtedness, whether before, during or after (1) an Event of Default or (2) a suspension or revocation of the license granted to Grantor in this

Article X with regard to the Rents. Grantor and Lender specifically intend that the assignment of Rents and Leases contained in this Deed of Trust is not intended to result in a pro tanto reduction of the secured indebtedness, nor is it intended to constitute a payment of, or with respect to, the secured indebtedness, and, therefore, Grantor and Lender specifically intend that the secured indebtedness shall not be reduced by the value of the Rents and Leases assigned hereby. Such reduction shall occur only if, and to the extent that, Lender actually receives Rents and applies such Rents to the secured indebtedness. Grantor agrees that the value of the license granted with regard to the Rents equals the value of the absolute assignment of Rents to Lender.

10.4 Direction to Tenants. Grantor hereby irrevocably authorizes and directs the tenants under all Leases to pay all amounts owing to Grantor thereunder to Lender following receipt of any written notice from Lender that states that an Event of Default remains uncured and that all such amounts are to be paid to Lender. Grantor further authorizes and directs all such tenants to pay all such amounts to Lender without any right or obligation to inquire as to the validity of Lender's notice and regardless of the fact that Grantor has notified any such tenants that Lender's notice is invalid or has directed any such tenants not to pay such amounts to Lender.

10.5 Termination. The assignment contained in this Article X will terminate upon the full reconveyance of this Deed of Trust.

ARTICLE XI
General Conditions

11.1 Concerning the Trustee.

(a) Trustee. Trustee shall be deemed to have accepted the terms of this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee shall not be obligated to notify any party to this Deed of Trust of any pending sale under any other deed of trust or of any action or proceeding in which Grantor, Lender, or Trustee is a party, unless such sale relates to or reasonably might affect the Property, this Deed of Trust, Lender's security for the payment and performance of the secured indebtedness, or the rights or powers of Lender or Trustee under the Loan Documents, or unless such action or proceeding has been instituted by Trustee against the Property, Grantor, or Lender.

(b) Power of Trustee to Reconvey or Consent. At any time, without liability and without notice to Grantor, on Lender's written request and presentation of the Note and this Deed of Trust to Trustee for endorsement, and without altering or affecting (i) the personal liability of Grantor or any other person for the payment of the secured indebtedness, or (ii) the lien of this Deed of Trust on the remainder of the Property as security for the repayment of the full amount of the secured indebtedness then or later secured by this Deed of Trust, (iii) or any right or power of Lender or Trustee with respect to the remainder of the Property, Trustee may (1) reconvey or release any part of the Property from the lien of this Deed of Trust; (2) approve the preparation or filing of any map or plat of the Property; (3) join in the granting of any easement burdening the Property; or (4) enter into any extension or subordination agreement affecting the Property or the lien of this Deed of Trust.

(c) Substitution of Trustee. Lender, at Lender's option, may from time to time, by written instrument, substitute a successor or successors to any Trustee named in or acting under this Deed of Trust, which instrument, when executed and acknowledged by Lender and recorded in the office of the Recorder of the county or counties in which the Property is located, shall constitute conclusive proof of the proper substitution of such successor Trustee or Trustees. The successor Trustee or Trustees shall, without conveyance from the predecessor Trustee, succeed to all right, title, estate, powers, and duties of such predecessor Trustee, including, without limitation, the power to reconvey the Property. To be effective, the instrument must contain the names of the original Grantor, Trustee, and Lender under this Deed of Trust, the book and page or instrument or document number at which, and the county in which, this Deed of Trust is recorded, and the name and address of the substitute Trustee. If any notice of default has been recorded under this Deed of Trust, this power of substitution cannot be exercised until all costs, fees, and expenses of the then acting Trustee have been paid. On such payment, the then acting Trustee shall endorse receipt of the payment on the instrument of substitution. The procedure provided in this paragraph for substitution of Trustees is not exclusive of other provisions for substitution provided by applicable law.

(d) No Representation by Trustee or Lender. By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Trustee or Lender pursuant to the Loan Documents, including without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, neither Trustee nor Lender shall be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness, or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or affirmation with respect thereto by Trustee or Lender.

(e) No Liability of Trustee. Trustee shall not be liable for any error of judgment or act done by Trustee in good faith, or be otherwise responsible or accountable under any circumstances whatsoever (including Trustee's negligence), except for Trustee's gross negligence or willful misconduct. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by Trustee hereunder, believed by Trustee in good faith to be genuine. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder. Grantor hereby ratifies and confirms any and all acts which the herein named Trustee or its successor or successors, substitute or substitutes, in this trust, shall do lawfully by virtue hereof. **Grantor will reimburse Trustee for, and indemnify and save Trustee harmless against, any and all liability and expenses which may be incurred by Trustee (including as a result of Trustee's negligence) in the performance of its duties.** The foregoing indemnity shall not terminate upon discharge of the secured indebtedness or foreclosure, or release or other termination, of this Deed of Trust.

11.2 Number and Gender. Words in the singular used herein shall be deemed to include the plural and words in the plural shall be deemed to include the singular, unless in each instance the context requires otherwise; and words of any gender shall be deemed to include the masculine, feminine and neuter.

11.3 Notices. All notices or other communications required or permitted to be given pursuant to this Deed of Trust shall be in writing and shall be considered as properly given (a) if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested; (b) by delivering same in person to the intended addressee; (c) by delivery to a reputable independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee; or (d) by facsimile to the addressee with evidence of receipt at the addressee's facsimile number, if any. Notice so mailed shall be effective three (3) days after its deposit with the United States Postal Service or any successor thereto; notice given by personal delivery shall be effective only if and when received by the addressee; notice sent by such a commercial delivery service shall be effective upon delivery to the recipient (if sent for same day delivery) or the first business day following delivery to such commercial delivery service (if for next day delivery); and notice given by other means shall be effective only if and when received at the office or designated place or machine of the intended addressee. For purposes of notice, the addresses of the parties shall be as set forth herein; provided, however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of ten (10) days' prior written notice to the other party in the manner set forth herein.

Grantor hereby requests that a copy of any notice of default and any notice of sale hereunder be mailed to Grantor at the address set forth on the first page of this Deed of Trust. That address is also the mailing address of Grantor as debtor under the UCC. Lender's address given on the first page of this Deed of Trust is the address for Lender as secured party under the UCC.

11.4 Invalidation of Provisions. Invalidation of any one or more of the provisions of this Deed of Trust shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

11.5 Headings. The captions and headings herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Deed of Trust or the intent of any provision hereof.

11.6 GOVERNING LAW AND VENUE. THIS DEED OF TRUST SHALL BE GOVERNED BY, AND CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA AND APPLICABLE LAWS OF THE UNITED STATES OF AMERICA, WITHOUT REGARD TO CONFLICTS OF LAW. GRANTOR AGREES THAT THIS DEED OF TRUST IS PERFORMABLE IN NYE COUNTY, NEVADA. GRANTOR STIPULATES THAT CLARK COUNTY, NEVADA, IS PROPER VENUE FOR ANY ACTION OR PROCEEDING INVOLVING THIS AGREEMENT, TO THE EXCLUSION OF ALL OTHER VENUES. GRANTOR WAIVES ANY OBJECTION BASED ON FORUM NON CONVENIENS AND ANY OBJECTION TO VENUE OF ANY ACTION INSTITUTED UNDER THIS DEED OF TRUST, AND

CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY THE COURT.

11.7 No Third-Party Beneficiary. Grantor and Lender acknowledge that this Deed of Trust is made solely for the benefit of the parties hereto and their respective successors and assigns, and no third party should or may assume that any third-party beneficiary rights are extended or created hereby.

11.8 Successors and Assigns. The terms, provisions, covenants and conditions hereof shall be binding upon Grantor, and the heirs, devisees, representatives, successors and assigns of Grantor (and all references in this Deed of Trust to Grantor shall be deemed to include all such heirs, devisees, representatives, successors and assigns of Grantor), and shall inure to the benefit of Trustee and Lender and shall constitute covenants running with the Land. Lender may, from time to time and without notice to Grantor, assign, participate or otherwise transfer all or any portion of the Loan secured hereby, the Note, this Deed of Trust (and the lien created hereby) and the other Loan Documents (and Lender's rights and interests thereunder), in whole or in part, and the term "Lender" shall include Lender's successors and assigns and any subsequent holder(s) of the Note secured hereby or any assignee or transferee thereof whether by operation of law or otherwise.

11.9 No Usury Intended. Grantor and Lender intend to comply strictly with applicable usury laws. All agreements between Grantor and Lender, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency, whether by reason of the disbursement of the principal amount of the Loan, demand, prepayment or acceleration of the maturity of the Note or otherwise, shall the interest contracted for, charged, received, paid or agreed to be paid to Lender (including any other compensation, however denominated, held or deemed to be interest) exceed the maximum amount of interest permitted under applicable federal and Nevada law that may be contracted for, charged, received, paid or agreed to be paid to Lender (including any compensation, however denominated, held or deemed to be interest) (the "Maximum Lawful Rate"). If, from any circumstance whatsoever, interest (and any compensation, however denominated, held or deemed to be interest) would otherwise be payable to Lender in excess of the Maximum Lawful Rate, the interest and any such other compensation payable or paid to Lender shall be reduced to the Maximum Lawful Rate; and if from any circumstance Lender shall ever receive interest or anything of value deemed interest by applicable law in excess of the Maximum Lawful Rate, an amount equal to any such excessive interest shall be applied to the reduction of the principal of the Note and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of the Note, such excess shall be refunded to Grantor. All interest (including any other compensation, however denominated, held or deemed to be interest) paid or agreed to be paid to Lender shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread in equal parts through the full stated term of the Note, including renewals or forbearance periods, so that the rate or amount of interest on the Note shall not exceed the Maximum Lawful Rate; and in the event the Note is paid in full by Grantor prior to the end of the full stated term of the Note and the interest (including any other compensation, however denominated, held or deemed to be interest) received for the actual period of the existence of the Note exceeds the Maximum Lawful Rate, Lender shall refund to Grantor the amount of the excess or shall credit the amount of the excess against amounts owing under the Note. Grantor hereby agrees that as a condition precedent to any claim seeking usury penalties against Lender,

Grantor will provide written notice to Lender, advising Lender in reasonable detail of the nature and amount of the violation, and Lender shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Grantor or crediting such excess interest against the Note and/or any other indebtedness then owing by Grantor to Lender.

11.10 WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED INDUCEMENT FOR LENDER TO MAKE THE LOAN TO GRANTOR, TO THE FULLEST EXTENT NOW OR HEREAFTER PERMITTED BY LAW, GRANTOR AND LENDER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY GRANTOR OR LENDER AGAINST THE OTHER TO ENFORCE THIS DEED OF TRUST, TO COLLECT DAMAGES FOR THE BREACH OF THIS DEED OF TRUST, OR WHICH IN ANY OTHER WAY ARISE OUT OF, ARE CONNECTED TO OR ARE RELATED TO THIS DEED OF TRUST. ANY SUCH ACTION SHALL BE TRIED BY THE JUDGE WITHOUT A JURY.

11.11 ENTIRE AGREEMENT. THE NOTE, THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS CONTAIN THE FINAL, ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO RELATING TO THE SUBJECT MATTER HEREOF AND THEREOF AND ALL PRIOR AGREEMENTS, WHETHER WRITTEN OR ORAL, RELATIVE HERETO AND THERETO WHICH ARE NOT CONTAINED HEREIN OR THEREIN ARE SUPERSEDED AND TERMINATED HEREBY. THE NOTE, THIS DEED OF TRUST AND THE LOAN DOCUMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO. EXCEPT AS INCORPORATED IN WRITING INTO THE LOAN DOCUMENTS, THERE ARE NO REPRESENTATIONS, UNDERSTANDINGS, STIPULATIONS, AGREEMENTS OR PROMISES, ORAL OR WRITTEN, WITH RESPECT TO THE MATTERS ADDRESSED IN THE LOAN DOCUMENTS.

11.12 No Waiver by Lender or Trustee. No course of dealing or conduct by or among Lender, Trustee and Grantor shall be effective to amend, modify or change any provisions of this Deed of Trust or the other Loan Documents. No failure or delay by Lender or Trustee to insist upon the strict performance of any term, covenant or agreement of this Deed of Trust or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude Lender or Trustee from exercising any such right, power or remedy at any later time or times. By accepting payment after the due date of any of the secured indebtedness, neither Lender nor Trustee shall be deemed to waive the right either to require prompt payment when due of all other secured indebtedness, or to declare an Event of Default for failure to make prompt payment of any such other secured indebtedness. Neither Grantor nor any other person now or hereafter obligated for the payment of the whole or any part of the secured indebtedness shall be relieved of such liability by reason of (a) the failure of Lender to comply with any request of Grantor or of any other Person to take action to foreclose this Deed of Trust or otherwise enforce any of the provisions of this Deed of Trust, or (b) any agreement or stipulation between any subsequent owner or owners of the Property and Lender, or (c) Lender's extending the time of payment or modifying the terms of this Deed of Trust or any of the other Loan Documents without first having obtained the consent of Grantor or such other Person. Regardless of consideration,

and without the necessity for any notice to or consent by the holder of any subordinate Lien on the Property, Lender may release any Person at any time liable for any of the secured indebtedness or any part of the security for the Obligations and may extend the time of payment or otherwise modify the terms of this Deed of Trust or any of the other Loan Documents without in any way impairing or affecting the lien of this Deed of Trust or the priority of this Deed of Trust over any subordinate lien. The holder of any subordinate Lien shall have no right to terminate any Lease regardless of whether or not such Lease is subordinate to this Deed of Trust. Lender may resort to the security or collateral described in this Deed of Trust or any of the other Loan Documents in such order and manner as Lender may elect in its sole discretion.

11.13 Attorneys' Fees; Expenses. Grantor shall reimburse Lender for all attorneys' fees and expenses, and all other costs and expenses, arising from and after the date hereof, incurred by Lender in connection with the enforcement of Lender's rights under this Agreement and each of the other Loan Documents, including, without limitation, attorneys' fees and expenses and other costs and expenses for trial, appellate proceedings, out-of-court negotiations, workouts and settlements, and for enforcement of rights under any state or federal statute, including, without limitation, attorneys' fees, costs and expenses incurred in bankruptcy and insolvency proceedings such as (but not limited to) in connection with seeking relief from stay in a bankruptcy proceeding. The term "expenses," as used in the preceding sentence, includes any expenses incurred by Lender in connection with any of the out-of-court, state, federal or bankruptcy proceedings referenced above, including but not limited to the fees and expenses of any appraisers, consultants and expert witnesses retained or consulted by Lender in connection with any of those proceedings. Lender shall also be entitled to its attorneys' fees, costs and expenses incurred in any post-judgment proceedings to collect and enforce the judgment. Grantor will upon demand pay to Lender the amount of any and all expenses, including the fees and expenses of its counsel and of any experts and agents, which Lender may incur in connection with (a) the administration of this Agreement, (b) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Property, (c) the exercise or enforcement of any of the rights of Lender hereunder, and/or (d) the failure by Grantor to perform or observe any of the provisions hereof. This provision is separate and severable and shall survive the merger of this Agreement into any judgment on this Agreement.

11.14 INDEMNIFICATION. GRANTOR HEREBY ACKNOWLEDGES AND AGREES THAT THIS DEED OF TRUST CONTAINS CERTAIN INDEMNIFICATION PROVISIONS, INCLUDING, BUT NOT LIMITED TO, SECTIONS 4.19, 9.2 and 11.1 HEREOF WHICH MAY, IN CERTAIN INSTANCES, INCLUDE INDEMNIFICATION BY GRANTOR OR OTHERS AGAINST LENDER'S OR TRUSTEE'S OWN NEGLIGENCE.

11.15 Subrogation. Lender shall be subrogated, for further security, to the lien, although released of record, of any and all encumbrances paid out of the proceeds of the loan evidenced by the Loan Documents.

[SIGNATURE PAGE FOLLOWS]

EXECUTED effective as of the date first above written.

GRANTOR:

FRONT SIGHT MANAGEMENT, LLC
a Nevada limited liability company

By: _____
Ignatius Piazza, Manager

STATE OF CALIFORNIA)
) SS
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared Ignatius Piazza, Manager, Front Sight Management, LLC, a Nevada limited liability company, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

_____ [Seal]
(Signature)

****Please See Attach****
X California Acknowledgment
__ California Jurat

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California)
COUNTY OF San Francisco

On OCT 06, 2016 before me, P. Fakeri, a Notary Public in and for said County and State, personally appeared, Ignatius Piazza, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

P. FAKERI
COMM. #2003459
Notary Public - California
San Mateo County
My Comm. Expires Feb. 5, 2017

Signature:

(Notary Seal)

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

A TRACT OF LAND BEING A PORTION OF TRACT 38, OF THE FRACTION TOWNSHIP 22 SOUTH, RANGE 54 EAST, M.D.M. AS SHOWN BY THE INDEPENDENT RE-SURVEY AND SURVEY WITH TRACT SEGREGATION FILED WITH THE BUREAU OF LAND MANAGEMENT ON MAY 10, 1935, ALL SITUATED IN NYE COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH BOUNDARY CORNER OF THE MOST EASTERLY BOUNDARY LINE OF SAID TRACT 38, BEING THE CORNER KNOWN AS "AP11" OF TRACT 38 AS SHOWN BY SAID BUREAU OF LAND MANAGEMENT SURVEY;
THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 38 ON THE FOLLOWING THREE (3) COURSES: 1) SOUTH 89° 55' 56" WEST, 1318.50 FEET;
THENCE 2) NORTH 00° 48' 15" WEST, 1309.00 FEET;
THENCE 3) NORTH 89° 19' 08" WEST, 1310.94 FEET;
THENCE SOUTH 07° 25' 58" WEST, 864.51 FEET; SOUTH 51° 50' 25" EAST, 540.22 FEET; THENCE SOUTH 85° 06' 44" EAST, 391.56 FEET; SOUTH 44° 07' 13" EAST, 886.99 FEET; THENCE SOUTH 32° 07' 51" EAST, 909.73 FEET TO A POINT ON THE BOUNDARY LINE OF SAID TRACT 38;
THENCE SOUTH 89° 59' 28" EAST ALONG SAID BOUNDARY LINE OF TRACT 38, 861.95 FEET; THENCE NORTH 00° 48' 57" WEST ALONG SAID BOUNDARY LINE OF TRACT 38, 1308.90 FEET TO THE POINT OF BEGINNING.

MORE COMMONLY KNOW AS: LOT 1 PER RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT MAP, FILE NUMBER 645836, RECORDED DECEMBER 28, 2005.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION APPEARED PREVIOUSLY IN THAT CERTAIN DOCUMENT RECORDED DECEMBER 28, 2005 AS INSTRUMENT NO. 645837, OF OFFICIAL RECORDS, NYE COUNTY, NEVADA.

PARCEL 2:

A TRACT OF LAND BEING A PORTION OF TRACT 38, OF THE FRACTION TOWNSHIP 22 SOUTH, RANGE 54 EAST, M.D.M. AS SHOWN BY THE INDEPENDENT RE-SURVEY AND SURVEY WITH TRACT SEGREGATION FILED WITH THE BUREAU OF LAND MANAGEMENT ON MAY 10, 1935, ALL SITUATED IN NYE COUNTY, NEVADA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH BOUNDARY CORNER OF THE MOST EASTERLY BOUNDARY LINE OF SAID TRACT 38, BEING THE CORNER KNOWN AS "AP11" OF TRACT 38 AS SHOWN BY SAID BUREAU OF LAND MANAGEMENT SURVEY;
THENCE ALONG THE BOUNDARY LINES OF SAID TRACT 38 ON THE FOLLOWING THREE (3) COURSES: 1) SOUTH 89° 55' 56" WEST, 1318.50 FEET TO "AP12" OF SAID TRACT 38;
THENCE 2) NORTH 00° 48' 15" WEST, 1309.00 FEET TO "AP13" OF SAID TRACT 38;
THENCE 3) NORTH 89° 19' 08" WEST, 1310.94 FEET TO THE POINT OF BEGINNING OF THE
TRACT OF LAND DESCRIBED HEREIN;
THENCE SOUTH 07° 25' 58" WEST, 864.51 FEET; SOUTH 51° 50' 25" EAST, 540.22 FEET;
THENCE SOUTH 85° 06' 44" EAST, 391.56 FEET; SOUTH 44° 07' 13" EAST, 886.99 FEET;
THENCE SOUTH 32° 07' 51" EAST, 909.73 FEET TO A POINT ON THE BOUNDARY LINE OF SAID TRACT 38;
THENCE ALONG SAID BOUNDARY LINE OF TRACT 38 ON THE FOLLOWING ELEVEN (11)
COURSES: 1) NORTH 89° 59' 28" WEST, 456.95 FEET;
THENCE 2) SOUTH 00° 19' 21" EAST, 2632.07 FEET;
THENCE 3) NORTH 89° 43' 00" WEST, 2650.49 FEET;
THENCE 4) NORTH 00° 00' 22" WEST, 2637.91 FEET;
THENCE 5) NORTH 89° 33' 52" WEST, 2645.16 FEET;
THENCE 6) NORTH 00° 21' 41" EAST, 2638.39 FEET;
THENCE 7) SOUTH 89° 18' 43" EAST, 1308.09 FEET;
THENCE 8) NORTH 01° 14' 10" EAST, 1318.86 FEET;
THENCE 9) SOUTH 88° 49' 59" EAST, 1266.00 FEET;
THENCE 10) SOUTH 00° 32' 57" EAST, 1307.62 FEET;
THENCE 11) SOUTH 89° 19' 08" EAST, 1302.28 FEET TO THE POINT OF BEGINNING.

MORE COMMONLY KNOW AS: LOT 2 PER RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT MAP, FILE NUMBER 645836, RECORDED DECEMBER 28, 2005.

NOTE: THE ABOVE METES AND BOUNDS DESCRIPTION PREVIOUSLY APPEARED IN THAT CERTAIN DOCUMENT RECORDED DECEMBER 28, 2005 AS INSTRUMENT NO. 645838 OF NYE COUNTY, NEVADA.

End of Legal Description

Exhibit 2

APN 045-481-05 and 06

RECORDING REQUESTED BY:)
AFTER RECORDING, RETURN TO:)

ROBERT DZIUBLA
LAS VEGAS DEVELOPMENT FUND, LLC
916 SOUTHWOOD BLVD., SUITE 1G
INCLINE VILLAGE, NV 89450

DOC #886510

Official Records Nye County NV
Deborah Beatty - Recorder
01/12/2018 01:26:10 PM
Requested By: FNTG NCS (LAS VEGAS)
Recorded By: MJ RPTT:$0
Recording Fee: $35.00
Non Conformity Fee: $
Page 1 of 6

Space above this line for Recorder's use

FIRST AMENDMENT TO CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

This Document serves as a Fixture Filing under the Uniform Commercial Code, as amended from time to time, covers goods that are or become fixtures on the land, and is to be filed in the real property records of Nye County, Nevada.

THIS FIRST AMENDMENT TO CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING (this "**First Amendment**") is made and entered into effective as of July 1, 2017 (the "**Effective Date**") by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company ("**Grantor**"), whose address is 1 Front Sight Road, Pahrump, Nevada 89061, to Chicago Title Company ("**Trustee**") whose address is 725 S. Figueroa Street, Suite 200, Los Angeles, California 90017, for the benefit of Las Vegas Development Fund LLC, a Nevada limited liability company ("**Lender**"), as beneficiary, whose address is P.O. Box 3003, 916 Southwood Blvd., Suite 1G, Incline Village, Nevada 89450. Lender and Grantor and their respective permitted successors and assigns are sometimes referred to in this First Amendment individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Lender and Borrower entered into that certain Construction Loan Agreement dated as of October 4, 2016 (the "**Original Loan Agreement**"). Pursuant to the Original Loan Agreement, Borrower executed a Promissory Note dated October 6, 2016 (the "**Original Note**") and a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 and recorded under Document #860867 on October 13, 2016 in the Official Records of Nye County, Nevada (the "**Original Deed of Trust**"). The Original Loan Agreement was amended by a First Amendment to Loan Agreement effective as of July 1, 2017 (the Original Loan Agreement as modified by such amendment is referred to collectively as the "**Loan Agreement**") and the Original Note was replaced and superseded by an Amended and Restated Promissory Note effective as of July 1, 2017 (the "**Promissory Note**"). The Original Deed of Trust as amended by this First Amendment to Deed of Trust is referred to herein as the "**Deed of Trust**".

THIS IS BEING RECORDED AT THE REQUEST OF CHICAGO TITLE AS AN ACCOMMODATION ONLY WITH NO LIABILITY

Signed In Counterpart

APN 045-481-05 and 06

RECORDING REQUESTED BY:)
AFTER RECORDING, RETURN TO:)

ROBERT DZIUBLA
LAS VEGAS DEVELOPMENT FUND, LLC
916 SOUTHWOOD BLVD., SUITE 1G
INCLINE VILLAGE, NV 89450

Space above this line for Recorder's use

FIRST AMENDMENT TO CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING

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THIS IS BEING RECORDED AT THE REQUEST AND AS AN ACCOMMODATION BY CHICAGO TITLE AS A CLOSING ACCOMMODATION ONLY WITH NO LIABILITY

Signed in Counterpart

B. The Parties desire to amend the Original Deed of Trust to modify the rights and obligations of the Parties as further set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this First Amendment by this reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Original Deed of Trust as follows:

1. **Defined Terms**. Initially capitalized terms not defined herein shall have the respective meanings assigned to such terms in the Original Deed of Trust.

2. **Amendment and Restatement of Article I of the Original Deed of Trust**. Article 1 of the Original Deed of Trust is hereby amended and restated from and after the Effective Date as follows:

"ARTICLE I
The Loan

1. **Loan**. The indebtedness secured by this Deed of Trust is the result of a loan in the original principal amount of up to Fifty Million Dollars $50,000,000 (the "Loan") provided by Lender to Grantor. The Loan is evidenced by (a) that certain Construction Loan Agreement dated October 6, 2016, by and between Grantor and Lender, as amended by that certain First Amendment to Loan Agreement (as amended, together with any further extensions, revisions, modifications or amendments thereto, the "Loan Agreement"), dated as of the Effective Date, by and between Grantor and Lender, and (b) that certain Amended and Restated Promissory Note executed dated as of the Effective Date, by Grantor, payable to the order of Lender in the maximum original principal amount of the Loan (together with any extensions, revisions, modifications or amendments hereafter made, the "Note")."

3. **Agreement Ratified**. Except as specifically amended or modified herein, each and every term, covenant, and condition of the Deed of Trust as amended is hereby ratified and shall remain in full force and effect.

4. **Governing Law**. This instrument shall be interpreted and construed in accordance with the laws of the State of Nevada.

5. **Binding Agreement**. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

6. **Counterparts**. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Lender and Borrower have signed this First Amendment as of the First Amendment Effective Date.

BORROWER:

FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: _____ 11/14/17

Name: Ignatius Piazza

Title: Manager

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: _____

Name: Robert Dziubla

Title: President & CEO

PLEASE SEE ATTACHED
CALIFORNIA ALL-PURPOSE
ACKNOWLEDGEMENT FORM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sonoma.

On Nov. 14, 2017 (Date) before me, John A Russell Notary Public (Here Insert Name and Title of the Officer)

personally appeared Ignatius Anthony Piazza II (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

JOHN A. RUSSELL
Notary Public - California
Sonoma County
Commission # 2171851
My Comm. Expires Nov 13, 2020

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature John A Russell
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: First Amendment To Construction Deed of Trust, Security Agreement and Fixture Filing Number of Pages: 3

Document Date: 11/14/2017

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

IN WITNESS WHEREOF, Lender and Borrower have signed this First Amendment as of the First Amendment Effective Date.

BORROWER:

FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: _____

Name: Ignatius Piazza

Title: Manager

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: _____

Name: Robert Dziubla

Title: President & CEO

SEE ATTACHED

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego)

On January 6th 2018 before me, Tyler Gawronski notary public
(insert name and title of the officer)

personally appeared Robert W. Dziubla
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

TYLER GAWRONSKI
COMM. # 2166735
NOTARY PUBLIC-CALIFORNIA
SAN DIEGO COUNTY
MY COMM. EXP. OCT. 3, 2020

Signature _____ (Seal)

Exhibit 3

CONSTRUCTION LOAN AGREEMENT

by and between

FRONT SIGHT MANAGEMENT LLC
a Nevada limited liability company
as Borrower

and

LAS VEGAS DEVELOPMENT FUND LLC,
a Nevada limited liability company,
as Lender

Dated: October 6, 2016

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EXHIBIT D	Legal Description
EXHIBIT E	Estimated Construction Cost Statement
EXHIBIT F	Improvements
EXHIBIT G	Ownership and Control

CONSTRUCTION LOAN AGREEMENT

THIS CONSTRUCTION LOAN AGREEMENT (this "**Agreement**") is made and entered into this Fourth day of October, 2016, by and between FRONT SIGHT MANAGEMENT LLC, a Nevada limited liability company ("**Borrower**"), and LAS VEGAS DEVELOPMENT FUND, LLC, a Nevada limited liability company ("**Lender**"), with respect to the following facts:

RECITALS

A. Borrower has requested that the Lender provide the Loan (as hereinafter defined) to Borrower in the principal sum of up to SEVENTY-FIVE MILLION DOLLARS ($75,000,000) for the purpose of paying off Existing Liens (as hereinafter defined) and financing the construction of the Improvements (as hereinafter defined) in accordance with the Budget (as hereinafter defined).

B. Borrower has secured, or will endeavor to secure, financing for the remaining costs of the Project (as hereinafter defined) as follows: (1) other equity contributions from Borrower in the amount of $75,000,000, in the aggregate, on the date the Loan is made, which includes the enterprise value of Borrower's primary business operation, Front Sight Firearms Training Institute ("**FSFTI**"), which enterprise value was determined by Bring & Company, Inc. to be $50,000,000 on September 21, 2015, (2) Borrower's equity in the land on which the Project will be located, as well as the land and improvements on the adjacent parcel which is the location of the existing FSFTI, which land is currently encumbered, *inter alia*, by a deed of trust with a current outstanding balance of approximately $4,661,446.07 as of September 10, 2016, and (3) such additional construction financing as may be secured by Borrower at a date subsequent to the date of this Agreement, with the understanding that any and all liens securing such additional construction financing will be superior to the liens securing the Loan evidenced by this Agreement. The land on which the Project will be located has an appraised value of $25,000,000. The enterprise value of FSFTI and the value of the land and improvements thereon are referred to collectively as the "**Borrower's Equity**".

C. Based upon (a) the efforts made by Lender to comply with the rules and regulations promulgated under the EB-5 Program (as hereinafter defined) and (b) the materials and submissions developed by Lender, the Loan has been structured for the payment of costs relating to the development of the Project as set forth in the Budget approved by Lender.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

DEFINITIONS

For purposes of this Agreement, the following terms shall have the following respective meanings, unless expressly established otherwise:

"**Accessibility Regulation**" means any federal, state or local law, statute, code, ordinance, rule, regulation or requirement, including, without limitation, under the United States Americans With Disabilities Act of 1990, as amended (the "**ADA**"), relating to accessibility to facilities or properties for disabled, handicapped and/or physically-challenged persons, or other persons covered by the ADA.

"**Advances**" means (i) any portion of the Loan advanced by Lender to or for the benefit of Borrower in accordance with Article III of this Agreement; (ii) any advance by Lender to protect the Project or the lien of the Loan Documents, including Protective Advances; and (iii) any other advance by Lender required or permitted under this Agreement.

"**Affiliate**" means any Person, together with any other Person directly or indirectly controlling, controlled by or under common control with such Person. A Person shall be deemed to control another Person if the controlling Person (i) owns 25% or more of the voting securities (or other ownership interests) of the controlled Person, or (ii) possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership of stock, by contract or otherwise.

"**Agreement**" means this Construction Loan Agreement, including any amendments and/or supplements hereto executed by and between Borrower and Lender.

"**Anti-Terrorism Laws**" means any laws relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the Laws comprising or implementing the Bank Secrecy Act, and the Law administered by the United States Treasury Department's Office of Foreign Asset Control (as any of the foregoing Laws may from time to time be amended, renewed, extended, or replaced).

"**Architect's Agreement**" means that certain agreement to be entered into by and between Borrower and the Project Architect for design of the construction work with respect to the Improvements and other services related to the same.

"**Blocked Person**" has the meaning assigned to it in Section 4.26(b).

"**Borrower**" has the meaning assigned to it in the introductory paragraph hereof.

"**Borrower Equity**" means other equity contributions from the Borrower as described in Recital B above.

"**Borrower Operating Agreement**" means that certain Amended and Restated Operating Agreement dated February 16, 2012.

"**Borrower's Organizational Documents**" means all formation documents of Borrower, including the LLC-1, including any amendments thereof and supplements thereto.

"**Budget**" means an itemized statement of actual and estimated costs to be incurred by Borrower with respect to the construction of the Improvements, and other non-construction costs relating to the Project and Borrower's business operations as set forth in Exhibit A, attached

hereto and made a part hereof, signed and sworn to by Borrower, as the same may be amended or supplemented from time to time, specifically allocated to be paid with Loan proceeds.

"**Business Day**" means any day other than a Saturday, a Sunday, or a legal holiday on which banks in Las Vegas, Nevada, are not open for business.

"**Closing Date**" means the date that this Agreement is executed, which shall be the date on or about which Lender reasonably anticipates making the initial Advance to the Borrower pursuant to the terms and conditions of this Agreement.

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Collateral**" means (a) all of the collateral covered by the Deed of Trust, this Agreement or any other Loan Document, and (b) all accessions to, substitutions for and replacements, products and proceeds of any of the foregoing, including, but not limited to, proceeds of any insurance policies, claims against third parties, and condemnation or requisition payments with respect to all or any of the foregoing.

"**Commencement Date**" means the date following installation of the required infrastructure on the Land and on which construction of the buildings that will constitute the Front Sight Resort and Vacation Club units commences.

"**Commitment**" means an amount not to exceed seventy five million dollars ($75,000,000). Such Commitment shall be reduced by any principal payments made by or on behalf of Borrower or any principal reductions otherwise required under and pursuant to the Loan Documents.

"**Completion**" means that (i) such portion of the Improvements are substantially completed in accordance with the Plans, as reasonably approved by Lender, paid for in full, free of all mechanics', labor, materialmen's and other similar lien claims, and substantial completion has been certified by the Project Architect; (ii) a certificate of substantial completion for such Improvements has been signed by Borrower delivered to Lender; (iii) Lender has received acceptable evidence that all Governmental Requirements and all private restrictions and covenants relating to such Improvements have been complied with or satisfied (if applicable) and that final certificates of occupancy for such Improvements, if applicable, have been issued by all appropriate governmental authorities; and (iv) the requirements in Section 5.7 have been satisfied.

"**Completion Date**" means the date that is no later than thirty-six (36) months from the Commencement Date. The Completion Date shall be subject to extensions for delays resulting from Force Majeure (as defined herein), provided, that Borrower gives written notice to Lender immediately upon becoming aware of the occurrence of any Force Majeure condition and, provided further, that the aggregate period of any and all such Force Majeure delays shall not exceed ninety (90) days.

"**Contractor**" means any person, party or entity which has a contract or subcontract under which payment may be required for any work done, material supplied or services furnished in connection with acquiring, constructing, financing, equipping and/or developing the Project.

"**Control**" means the power to direct or cause the direction of the management and policies of a Restricted Party or any other Person, directly or indirectly, whether through the ownership of voting securities or other beneficial interests, by contract or otherwise.

"**Deed of Trust**" means the Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith, encumbering the Project, executed by Borrower in favor of Lender to secure the Loan, including any amendments, modifications and/or supplements thereto.

"**Default**" means any event which, with the giving of notice to Borrower or the lapse of time, or both, would constitute an Event of Default.

"**Default Rate**" means the lesser of five percent (5%) per annum in excess of the Loan Rate or the maximum lawful rate of interest which may be charged, if any.

"**Draw Request**" means a spreadsheet summary of the Budget, provided by Borrower for an Advance of Loan proceeds under this Agreement in the form of Exhibit B attached hereto, together with a Draw Request Certification. General Contractor shall be signatory to each Draw Request to acknowledge its approval of the terms therein.

"**Draw Request Certification**" means a certification from Borrower to accompany all Advances for Loan proceeds under this Agreement, in the form of Exhibit C attached hereto.

"**EB-5 Information**" means such documents, certificates, and accounting information required to be submitted by Borrower to Lender pursuant to Article V(A), Section 5.10 hereof for purposes of documenting compliance by Borrower with certain aspects of this Agreement and the EB-5 Program.

"**EB-5 Investors**" has the meaning assigned to it in Section 1.7(b).

"**EB-5 Program**" has the meaning assigned to it in Section 1.7(b).

"**Environmental Impact Study**" means the Phase I Environmental Impact Study previously delivered to Lender and prepared by GeoTek, Inc., and dated as of February 2, 2012.

"**Environmental Law**" means all federal, state, regional, county and local statutes, regulations, ordinances, rules, regulations and policies, all court and administrative orders and decrees and arbitration awards, and the common law, which pertain to environmental matters or contamination of any type whatsoever, including, but not limited to, those relating to the presence, manufacture, processing, use, distribution, treatment, storage, disposal, generation or transportation of Hazardous Substances; air, water (including surface water, groundwater, and stormwater) or soil (including subsoil) contamination or pollution; the presence or Release of

Hazardous Substances, protection of wildlife, endangered species, wetlands or natural resources; health and safety of employees and other persons; and notification requirements relating to the foregoing, including, without limitation, the following statutes, and regulations adopted thereunder: the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601 et seq. ("**CERCLA**"); the Solid Waste Disposal Act, as amended by the Resource Conservation Recovery Act and the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. § 6901 et seq. ("**RCRA**"); the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. ("**TSCA**"); the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; and the Occupational Safety and Health Act, 19 U.S.C. § 6251 et seq., as each of the foregoing may be amended from time to time.

"**Environmental Liability**" means any claim, demand, obligation, cause of action, allegation, order, violation, damage, injury, judgment, penalty or fine, cost of enforcement, cost of remedial action, diminution in value or any other cost or expense whatsoever, including reasonable attorneys' fees and disbursements, resulting from the presence or use of Hazardous Substances, the violation or alleged violation of any Environmental Law, or the imposition of any Environmental Lien.

"**Environmental Lien**" means a Security Interest in favor of any third party for: (a) any liability under an Environmental Law; or (b) damages arising from or costs incurred by such third party in response to a Release or threatened Release of any Hazardous Substance or constituent into the environment.

"**Equipment**" means all furniture, fixtures and equipment directly acquired by Borrower with the proceeds of the Loan and located or to be located in or on, and used in connection with, the management, maintenance or operation of, the Land and the Improvements.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as the same may from time to time be amended, and the rules and regulations promulgated thereunder by any governmental agency or authority, as from time to time in effect.

"**ERISA Affiliate**" means any trade or business (whether or not incorporated) which is a member of a group of which Borrower is a member and which is under common control within the meaning of Section 414 of the Code, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

"**Escrow Account**" means the account that has been established for the benefit of Lender with the Escrow Agent.

"**Escrow Administrator**" means NES Financial Corp, a California corporation.

"**Escrow Agent**" means Time Escrow, Inc, 3055 Wilshire Boulevard, Suite 1150, Los Angeles, Ca. 90010

"**Escrow Agreement**" means that certain agreement between Escrow Agent and the Lender effective as of July 1, 2016.

"**Estimated Construction Cost Statement**" means an itemized statement of actual and estimated costs of the Project, in the form of Exhibit E attached hereto and hereby made a part hereof, signed by Borrower, General Contractor and the Project Architect, as the same may be amended or supplemented, and consistent with the items enumerated in the Budget.

"**Event of Default**" has the meaning assigned to it in Section 6.1 hereof.

"**Excluded Taxes**" means, in the case of Lender, taxes imposed on its overall net income, and franchise taxes imposed on it, by (a) the United States of America or any subdivision thereof, (b) the jurisdiction under the laws of which Lender is incorporated or organized, (c) the jurisdiction in which the Lender's principal executive office is located, or (d) any foreign government or subdivision thereof.

"**Extension Fee**" means a non-refundable fee in the amount of one-percent (1%) of the then-existing outstanding principal balance of the Loan as the date of the first day of the Extension Term, payable by Borrower to Lender on or before the first day of the Extension Term. "**Extension Term**" has the meaning assigned to it in Section 1.6.

"**Fees**" means the Extension Fee.

"**First Option Maturity Date**" as set forth in Section 1.6, shall be the date twenty-four (24) months after the Initial Maturity Date.

"**Fiscal Year**" means the period of January 1 of any year through December 31 of such year.

"**Force Majeure**" means any act of God; strikes, shortage or unavailability of labor or materials; lockouts or labor difficulty, explosion; sabotage; accident; riot or civil commotion; act of war; fire or other casualty; adverse weather conditions; governmental delays; legal requirements; and other causes beyond the reasonable control of Borrower.

"**GAAP**" means generally accepted accounting principles consistently applied and maintained throughout the period indicated and consistent with the financial statements delivered to Lender pursuant to Article V. Whenever any accounting term is used herein and is not otherwise defined, it shall be interpreted in accordance with GAAP.

"**General Contract**" means one or more agreements by and between Borrower and General Contractor for the construction of the Project.

"**General Contractor**" means one or more general contractors duly licensed in the State of Nevada and selected by Borrower, as identified to Lender on or before the Commencement Date.

"**Governmental Authority**" means any court, board, agency, commission, office or authority of any nature whatsoever or any governmental unit (federal, state, commonwealth, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"**Governmental Requirements**" means all Laws, statutes, codes, ordinances, and governmental rules, regulations and requirements of a Governmental Authority applicable to Borrower, Lender or the Project, including, without limitation, Environmental Laws, and the requirements of the ADA, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting the Project or any part thereof, including any which may (i) require repairs, modifications or alterations in or to the Project or any part thereof, or (ii) in any way limit the use and enjoyment thereof.

"**Hazardous Substance(s)**" means any substance, chemical, compound, product, solid, gas, liquid, waste, byproduct, pollutant, contaminant, or material which is defined or regulated under any Environmental Law, and includes, without limitation, (a) mold, asbestos, polychlorinated biphenyls, and petroleum (including petroleum products or derivatives, crude oil or any fraction thereof), and (b) any material classified or regulated as "hazardous waste" pursuant to RCRA.

"**Holdback**" means 25% ($125,000) of each EB-5 Investor's subscription, held in the Escrow Account for Lender's benefit, which will ultimately either be made available for refund to an investor if the Release Condition is not satisfied or, if the Release Condition is satisfied, be made available for an Advance to Borrower.

"**Management Agreement**" means that certain Club Management Agreement to be entered into by and between Borrower, Front Sight Resort and Vacation Club Members Association, Inc., and Manager

"**Manager**" means LaTour Hotels and Resorts, Inc., a California corporation, and any successor manager approved by Lender.

"**Improvements**" means the buildings and improvements, including the existing facilities used by FSFTI in the operation of its business (the "FSFTI Facility") as well as all structures or improvements to be built on the Land, including, without limitation, the items described in Exhibit F, attached hereto, which is based on the description of the Project in the Executive Summary of the Business Plan, as well as site work, landscaping, parking areas, access drives, offices, and common areas which are to be placed or constructed upon, above or below the Land.

"**Indebtedness**" means in all cases without duplication, all items of indebtedness or liability of Borrower other than the Obligations, at any time which in accordance with GAAP would be included in determining total liabilities as shown on the liability side of a consolidated balance sheet of Borrower as of the date of determination, including: (a) indebtedness for

borrowed money; (b) obligations under direct or indirect guaranties of indebtedness or obligations of others referred to in clause (a) above; (c) any indebtedness secured by any Security Interest on the property of such entity; and (d) liabilities in respect of unfunded vested benefits under any Plan for which the minimum funding standards of Section 302 of ERISA have not been met.

"**Indemnified Parties**" has the meaning assigned to it in Section 8.2(b).

"**Initial Maturity Date**" means the date sixty (60) months after the first disbursement of funds by Lender to Borrower under this Agreement.

"**Initial Term**" means that period of time commencing on the Closing Date and ending sixty (60) months after the first disbursement of funds by Lender to Borrower under this Agreement.

"**Interest Reserve**" means a portion of the proceeds of the Loan allocated to pay interest on the Loan through Completion of the Improvements, the initial and continuing amount of which shall be the equivalent of three months' worth of interest, calculated at the Loan Rate, on the then-outstanding principal balance of the Loan.

"**Land**" means approximately 550 acres of land located in Nye County, Nevada, more specifically described on Exhibit D, attached hereto and made a part hereof by this reference.

"**Late Charge**" has the meaning assigned to it in Section 1.2.

"**Laws**" means all federal, state and local laws, statutes, codes, ordinances, rules and regulations, including judicial opinions and presidential authority in the applicable jurisdiction.

"**Lease**" means any lease, sublease or sub-sublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect), pursuant to which any Person is granted a possessory interest in, or right to use or occupy, all or any portion of any space in the Project, and every modification, amendment or other agreement relating to such lease, sublease, sub-sublease or other agreement entered into in connection with such lease, sublease, sub-sublease or other agreement and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto.

"**Lender-Approved Appraisal**" means that certain appraisal dated as of October 8, 2014, prepared by Hospitality Real Estate Counselors and previously provided to, and accepted and approved by, Lender.

"**Liens**" means any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise, but excluding liens for ad valorem taxes that are not delinquent), pledge, hypothecation, easement, restrictive covenant, preference, assignment, security interest, or any other encumbrance, charge or transfer of, or any agreement to enter into or create any of the foregoing, on or affecting all or any portion of the Project or any interest therein, or any direct or indirect interest in Borrower, including any conditional sale or other title retention agreement,

any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's, materialman's, construction and other similar liens and encumbrances.

"**Loan**" means collectively, the loan of the proceeds of the Note by Lender to Borrower in Advances to be made pursuant to the terms of this Agreement in the maximum aggregate principal amount not to exceed the Commitment.

"**Loan Documents**" means all documents now or hereafter entered into which evidence, secure and/or govern the Loan and/or any of the Obligations, including, but not limited to, this Agreement, the Note and the Deed of Trust.

"**Loan Rate**" means the interest rate applicable to the Loan as calculated at an annual rate of 6% during the Initial Term and, if extended, 7% during the Extension Term.

"**Material Adverse Occurrence**" means any occurrence of whatsoever nature (including, without limitation, any firm, final and unappealable adverse determination in any litigation, arbitration or governmental investigation or proceeding) which Lender shall reasonably determine could materially adversely affect the then-present or prospective financial condition or operations of Borrower, the value of the Project or any other material Collateral securing repayment of the Loan, or impair the ability of Borrower to perform its obligations as and when required under any of the Loan Documents.

"**Material Subcontractor**" means any subcontractor providing materials, supplies or labor to the Project under a contract or multiple contracts in the aggregate amount of $250,000 or more.

"**Maturity Date**" means the Initial Maturity Date, subject to being extended as set forth in Section 1.6 below.

"**Note**" means the Promissory Note of even date herewith, executed and delivered by Borrower to the order of Lender, in the original maximum principal amount of the Commitment, including any amendments and/or restatements thereof and supplements thereto executed by Borrower and Lender.

"**Obligations**" means, collectively: (i) Borrower's obligations for the payment of the Loan, interest and other charges, and all Fees; (ii) the performance of all other obligations of Borrower contained herein; (iii) the payment and performance of each and every obligation of Borrower contained in any other Loan Document; and (iv) the performance of each and every obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part hereof, the Note or any other Loan Document.

"**Operating Budget**" means a detailed listing of all anticipated annual income and expenses from and for managing, maintaining and operating the Project (or any portion thereof) for its first full or partial Fiscal Year and for each succeeding Fiscal Year of operation, prepared by Borrower and in form and substance reasonably acceptable to Lender.

"**Operating Expenses**" means actual operating expenses of the Project paid in cash by Borrower during such period, other than those operating expenses that are paid from Advances made by Lender to Borrower pursuant to this Agreement.

"**Operating Statement**" means, for any period, a current, detailed statement of income and expenses from and for managing, maintaining and operating the Project for such period, in form and substance reasonably acceptable to Lender.

"**Other Taxes**" means any present or future stamp or documentary taxes and any other excise or property taxes, charges or similar levies which arise from any payment made hereunder or under the Note or from the execution or delivery of, or otherwise with respect to, this Agreement or the Note.

"**Permitted Encumbrances**" mean the Liens, charges and encumbrances on title to the Land listed on Schedule B, I to the Title Commitment on the Closing Date and such other matters of title thereafter approved by Lender in writing. For the avoidance of doubt, any liens, charges and/or encumbrances securing the Senior Debt shall be considered as "Permitted Encumbrances" as and when such liens, charges and/or encumbrances are granted by Borrower in favor of the provider of the Senior Debt.

"**Person**" means an individual, corporation, partnership, limited liability company, joint venture, trust or unincorporated organization.

"**Plan**" means each employee benefit plan covered by Title IV of ERISA whether now in existence or hereafter instituted, of Borrower or any ERISA Affiliate.

"**Plans**" mean the final construction plans for the Improvements, including drawings, specifications, details and manuals, as approved by the applicable Governmental Authority responsible for reviewing and approving construction plans for compliance with applicable Governmental Requirements.

"**Project**" means the Land, the Improvements and the Equipment.

"**Project Architect**" means K.C. Camis Architect or such other architect(s) duly licensed in accordance with the laws of Nevada as may be selected by Borrower.

"**Protective Advance**" means all necessary costs and expenses (including reasonable attorneys' fees and disbursements) reasonably incurred by Lender in order to remedy an Event of Default under the Loan Documents, which Event of Default, by its nature, may impair any portion of the collateral for the Loan or the value of such collateral, interfere with the enforceability or enforcement of the Loan Documents, or otherwise materially impair the payment of the Loan, and other Obligations (including, without limitation, the costs of unpaid insurance premiums, foreclosure costs, costs of collection, costs incurred in bankruptcy proceedings and other costs incurred in enforcing any of the Loan Documents.

"**Regional Center**" means EB5 Impact Capital Regional Center, LLC, a Nevada limited liability company.

"**Related Party**" means any one or more of the following: (a) an Affiliate of Borrower, or (b) any of the shareholders, partners, members or other equity holders of Borrower, and any Affiliate thereof.

"**Release**" means, without limitation, (a) any intentional, unintentional, knowing or unknowing presence, spilling, leaking, pumping, pouring, emitting, emptying, discharging, migrating, injecting, escaping, leaching, dumping or disposing any Hazardous Substance at, on or into the indoor or outdoor environment or otherwise in, onto, from or about the air, water (including surface waters and groundwater), soils, subsoils or any other surface or media on-site or off-site, and (b) the abandonment or discarding of barrels, drums, containers, underground tanks, or any other receptacles ever containing any Hazardous Substances.

"**Release Condition**" means approval of an EB-5 Investor's I-526 Immigrant Petition by the USCIS.

"**Restricted Party**" means Borrower, and any shareholder, partner, member or non-member manager, or any direct or indirect legal or beneficial owner, of Borrower, from time to time.

"**Security Interest**" means any lien, pledge, mortgage, encumbrance, charge or security interest of any kind whatsoever (including, without limitation, the lien or retained security title of a conditional vendor) whether arising under a security instrument or as a matter of law, judicial process or otherwise or the agreement by Borrower, or any Subsidiary of Borrower, to grant any lien, security interest or pledge, mortgage or encumber any asset.

"**Senior Debt**" means the additional loan that will be sought by Borrower, and which Borrower will use it best efforts to obtain, from a traditional financial institution specializing in financing projects such as the Project. Although the Senior Debt would be funded subsequent to this Loan, Lender agrees to subordinate its Deed of Trust to the new Senior Debt, so long as the Borrower is not in default and all of the following conditions are met;

(a) The loan shall be evidenced by a promissory note not in excess of Fifty Million and no/100 United States Dollars (US$50,000,000.00).

(b) The loan proceeds shall be disbursed in payment, or in reimbursement for payment, of the construction and development of the Project.

(c) The loan shall contain provisions concerning disbursement procedures, mechanisms to protect against mechanics liens and related matters as are customarily found in construction loans made by institutional lenders and Lender shall be provided with copies of such documents showing the progress of construction and the disbursement of funds as are provided to senior lender.

Borrower shall obtain such Senior debt no later than December 31, 2016

"**Subscription Conditions**" means, for each EB-5 Investor, the following conditions: (a) Lender's receipt of completed subscription documents; (b) deposit of the entire subscription price into the Escrow Account; (c) proof of I-526 filing with the USCIS; and (d) EB-5 Investor receipt of notice of acceptance from Lender.

"**Subsidiary**" means any corporation or other entity of which more than 50% of the outstanding capital stock or interests having ordinary voting power to elect a majority of the board of directors or the board of governors or otherwise to Control the activities of such entity (irrespective of whether or not at the time other class or classes of the equity of such entity shall or might have voting power upon the occurrence of any contingency) is at the time directly or indirectly owned by Borrower or by one or more other Subsidiaries.

"**Taxes**" means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings, and any and all liabilities with respect to the foregoing, but excluding Excluded Taxes and Other Taxes.

"**Title Commitment**" means that certain ALTA Plain Language Commitment Number NCS-753020-HHLV, dated as of September 16, 2015, and prepared by Title Company.

"**Title Company**" means Chicago Title Insurance Company.

"**USA Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"**USCIS**" means the United States Citizenship and Immigration Services of the United States Department of Homeland Security.

ARTICLE I

LOAN

Section 1.1 Principal. Subject to the terms and conditions of this Agreement, Lender agrees to lend to Borrower and Borrower agrees to borrow from Lender, the proceeds of the Loan, from time to time in accordance with the terms hereof until the Maturity Date, for the purpose of refinancing, developing and constructing the Project; provided, however, Lender shall not be obligated to make any Advance if, after giving effect to such Advance, the sum of Lender's aggregate Advances then outstanding would exceed the Commitment. Each Advance shall bear interest at the Loan Rate, computed on each Advance from the date it is made by Lender as more fully described in Section 1.2 below. In no event shall Lender be obligated hereunder to lend to Borrower more than Borrower has qualified to receive under the terms of Article III hereof.

All Advances made by Lender shall be evidenced by the Note. The entire principal balance of the Note shall mature and be payable at the Maturity Date.

Lender shall enter in its records the amount of each Advance, the rate of interest borne on such Advances and the payments of the principal balance and interest received by Lender, and such records shall be conclusive evidence of the subject matter thereof, absent manifest error.

Section 1.2 **Interest**. Borrower shall pay to Lender interest on the Note computed at the Loan Rate.

In the event that the interest and/or charges in the nature of interest, if any, provided for by this Agreement or by any other Loan Document, shall contravene a legal or statutory limitation applicable to the Loan, if any, Borrower shall pay only such amounts as would legally be permitted; provided, however, that if the defense of usury and all similar defenses are unavailable to Borrower, Borrower shall pay all amounts provided for herein. If, for any reason, amounts in excess of the amounts permitted in the foregoing sentence shall have been paid, received, collected or applied hereunder, whether by reason of acceleration or otherwise, then, and in that event, any such excess amounts shall be applied to principal, unless principal has been fully paid, in which event such excess amount shall be refunded to Borrower.

Interest at the Loan Rate shall accrue on each and every Advance from and after the date it is made by Lender to Borrower. Notwithstanding the foregoing, and for the avoidance of doubt, it is expressly acknowledged and agreed between Lender and Borrower that Borrower shall pay interest only on such amounts as actually have been disbursed directly to Borrower and that Borrower shall not pay interest on any amounts retained by Lender, including, but not limited to, the Holdback and the Interest Reserve. Principal and interest shall be paid by Borrower in accordance with the Note. Interest shall be paid monthly. Interest shall be computed at the Loan Rate and shall be computed on the basis of a 365 day year, but shall be charged for the actual number of days principal is unpaid. If all unpaid Advances made by Lender have not been repaid on or before the Initial Maturity Date, or the First Option Maturity Date, as applicable, or if an Event of Default occurs pursuant to this Agreement (and is not cured in compliance with the terms of this Agreement) or any other Loan Document or if all amounts due under the Loan Documents otherwise become due and payable in accordance with the terms and conditions of the applicable Loan Documents, then the entire unpaid balance of all Advances made by Lender and all other Obligations shall (without notice to or demand upon Borrower) at the sole option of Lender become due and payable on said date, together with all unpaid, accrued interest thereon, and with interest computed at the Default Rate during the continuance of the Event of Default or if such Event of Default is not cured or waived, then from and after that date until all Advances are paid in full. In such event, interest at the Default Rate shall be payable on the fifth (5^{th}) day of each calendar month.

In the event that Borrower fails to make any required payment of principal or interest on the Note (other than the balloon payment at the Maturity Date) on or before the fifth (5^{th}) Business Day following the due date thereof, Borrower shall pay to Lender, in addition to interest at the Loan Rate, a late payment charge equal to three percent (3%) of the amount of the overdue payment (each, a "**Late Charge**"), for the purpose of reimbursing Lender for a portion of the expense incident to handling the overdue payment. The Late Charge shall apply individually to all payments past due and there will be no daily prorated adjustment. This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other rights

Lender may have including the right to declare the entire unpaid principal and/or interest immediately due and payable. Borrower agrees that the Late Charge is a provision for liquidated damages and represents a fair and reasonable estimate of the damages Lender will incur by reason of the late payment considering all circumstances known to Borrower and Lender on the date hereof. Borrower further agrees that proof of actual damages will be difficult or impossible.

Section 1.3 **Prepayment**. Subject to the following sentence, Borrower may prepay the Loan, in whole or in part, without any prepayment penalty or premium, at any time during either the Initial Term or the Extension Term. Notwithstanding the foregoing, Borrower shall not repay any portion of the Loan corresponding to that portion of an Advance made by Lender to Borrower with the funds received from a Class B member of Lender until such time as said Class B member of Lender shall have received final adjudication of his or her I-829 petition removing conditions for permanent residency in the United States.

Section 1.4 **Payments**. All payments and prepayments of principal of, and interest on, the Note and all Fees, expenses and other Obligations under the Loan Documents payable to Lender shall be made, without deduction, set off, or counterclaim, in immediately available funds not later than 2:00 p.m., Pacific time on the dates due, to Lender at the office specified by it from time to time, for the benefit of Lender, except as otherwise specifically provided in this Agreement. Funds received on any day after 2:00 p.m., Pacific Time shall be deemed to have been received on the next Business Day. Whenever any payment to be made hereunder or on the Note shall be stated to be due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of any interest or fees. Borrower hereby authorizes Lender, at the discretion of Lender, to make an Advance in order to pay, on behalf of Borrower, any amount due on the Note or pursuant to any of the other Loan Documents without further action on the part of Borrower and regardless of whether Borrower is able to comply with the terms, conditions and covenants of this Agreement at the time of such Advance.

(i) So long as no Event of Default has occurred and is continuing, all payments received by Lender (including the proceeds of Advances for such payments) for application to the principal, interest, fees, costs and expenses due to Lender shall be applied in the following order:

First, to any costs and expenses due hereunder, and any Fees due to Lender;

Second, to any unpaid interest then due under the Loan Documents;

Third, to all Obligations; and

Fourth, to the unpaid principal balance of the Note.

(ii) After an Event of Default has occurred and is continuing, all amounts received by Lender shall be applied in the following order:

First, to any costs and expenses due hereunder, and any Fees due to Lender;

Second, to costs and expenses of preserving the Collateral, preserving Lender's security interests therein and enforcement of the rights of Lender under the Loan Documents;

Third, to any unpaid interest then due under the Loan Documents

Fourth to all Obligations; and

Fifth, to the unpaid principal balance of the Note.

All amounts received by Lender (whether the result of payment transmitted by Borrower or otherwise) on account of payment of interest on or principal of the Note, or other payments due under this Agreement or any other Loan Documents, as the case may be, shall be so applied by it pursuant to this Section.

Section 1.5 **Fees**. In addition to the interest and other consideration to Lender herein, Borrower agrees to pay to Lender the Fees, as and when due in accordance with the terms of the Loan Documents. No termination or reduction of the Commitment and no failure of Borrower to satisfy the conditions set forth in Article II shall entitle Borrower to a refund of any portion of such Fees.

Section 1.6 **Extension of Maturity Date**. At the option of Borrower, the Initial Maturity Date may be extended until the First Option Maturity Date (the "**Extension Term**"), if all of the following conditions are satisfied, in the sole discretion of the Lender:

(a) Borrower gives written notice of its request for an extension to Lender by no earlier than one hundred twenty (120) days and by no later than ninety (90) days prior to the Initial Maturity Date;

(b) The Project has been issued a certificate of occupancy by the competent Governmental Authority.

(c) Payment by Borrower of the Extension Fee;

(d) As of the date of request and on the Initial Maturity Date, there exists no Default or Event of Default;

(e) As of the date of request and on the Initial Maturity Date, no material adverse change in the financial condition of the Borrower has occurred;

(f) The delivery from Borrower to Lender of all financial information relating to Borrower in accordance with Section 5.10(a) hereof;

(g) There shall have been no material adverse change to the physical condition of the Project, and the Project shall be free and clear of all Liens (other than the lien of the Deed of Trust, the Permitted Encumbrances and the lien of ad valorem taxes that are not delinquent) unless approved in writing by Lender;

(h) Borrower delivers to Lender an Architect's certificate of completion of the construction works of the Project and a copy of the plans and drawings for said construction works, if not previously provided to Lender.

(i) Borrower delivers to Lender an endorsement to or reissuance of the existing Title Policy, bringing current the effective date of such coverage, stating that the coverage afforded by the Title Policy shall not be affected because of such extension and showing that there have been no Liens against the Project from and after the date hereof, unless consented to in writing by Lender;

In the event that, for any reason, Borrower fails to satisfy all of the foregoing conditions, the Loan shall mature and be due and payable in full on the Initial Maturity Date, as determined by Lender in its sole discretion.

Section 1.7 **EB-5 Program Requirements.**

(a) Lender hereby represents and warrants that, as of the date of this Agreement, pursuant to that certain letter from the United States Citizenship and Immigration Services ("USCIS") dated July 27, 2015, EB5 Impact Capital Regional Center, LLC, a Nevada limited liability company ("**Regional Center**") is authorized to act as an approved and federally-designated "regional center" under the Immigrant Investor Pilot Program created by Section 610 of Public Law 102-395 (Oct. 6, 1992), which has been extended through September 30, 2016. The Regional Center may provide construction financing in Nye County, Nevada. The Regional Center will sponsor the Project for EB-5 Program purposes.

(b) The Loan will be comprised of investments made into Lender anticipated to be in the approximate amount of Five Hundred Thousand Dollars ($500,000) (which amount may be increased pursuant to newly enacted EB-5 visa legislation) per immigrant investor (collectively, the "**EB-5 Investors**") who seeks to obtain permanent residence in the United States under the EB-5 Immigrant Investor Program created by Section 203(b)(5) of the Immigration and Nationality Act (INA) ("**EB-5 Program**"). Such funds shall initially be held by Escrow Agent in the Escrow Account which will be administered and maintained by the Escrow Administrator). Upon satisfaction of each EB-5 Investor's Subscription Conditions, 75% ($375,000) of his or her subscription will be released to the Lender by the Escrow Administrator, pursuant to the Escrow Agreement, and made available for an Advance to Borrower upon Borrower's request. The remaining 25% ($125,000) of each EB-5 Investor's subscription ("**Holdback**") will be held in the Escrow Account for the Lender's benefit until the corresponding EB-5 Investor's I-526 Immigrant Petition is either approved or finally adjudicated and denied by the USCIS. The Holdback may be released to the Lender by the Escrow Administrator, upon the Lender's written direction, after the corresponding EB-5 Investor's I-526 Immigrant Petition is approved by the USCIS ("**Release Condition**"). At such time, the Holdback may be released and made available for an Advance to Borrower. If the Release Condition is not satisfied, the Holdback will be released to the Lender and may be made available for refund to the corresponding EB-5 Investor. As

more fully set forth in Section 1.2 above, Lender shall not charge Borrower interest on the amount of the Holdback.

(c) Lender and Regional Center shall be responsible for monitoring at Lender's sole cost and expense the required submissions made by the EB-5 Investors and/or their legal counsel for purposes of seeking to obtain the necessary approvals from the USCIS for the EB-5 Investors' conditional residency in the United States in accordance with the requirements of the EB-5 Program.

(d) Borrower acknowledges that, for compliance with the rules and regulations promulgated under the EB-5 Program, Lender is required to deploy its funds with third parties located within the approved geographic area of the Regional Center. Based upon the materials provided by Borrower, Lender has determined to allocate the Loan to Borrower as a qualified third party in compliance with the rules and regulations promulgated under the EB-5 Program. Lender acknowledges that the Project has been approved by USCIS as an "Exemplar Form I-526 Petition Project"

(e) Borrower shall use the proceeds of the Loan solely for the purpose of funding directly, or advancing to Affiliates to pay, the costs of the Project, in accordance with the terms and conditions of this Agreement, as set forth in the Budget and the Project documents submitted to, and approved by, USCIS.

(f) Borrower shall submit to Lender the EB-5 Information. Failure of Borrower to use the proceeds of the Loan in accordance with the terms and conditions of this Agreement or to provide the EB-5 Information shall be a default pursuant to Section 6.1.

ARTICLE II

CONDITIONS OF BORROWING

Lender shall not be required to make any Advance hereunder until the pre-closing requirements, conditions and other requirements set forth below have been completed and fulfilled to the satisfaction of Lender, at Borrower's sole cost and expense.

Section 2.1 **Pre-Closing Requirements**. On or prior to the Closing Date (except as otherwise provided in this Section), Borrower shall provide to Lender, except as otherwise instructed, each of the following, in form and substance acceptable to Lender:

(a) A copy of the Title Commitment.

(b) A schedule listing all primary contracts relating to the Project having a contract sum in excess of $250,000.

(c) One (1) copy of the recent, certified ALTA/ACSM Survey of the Land, which has already been delivered to, and approved by, Lender. Soil reports on the Land, as already delivered to, and approved by, Lender.

(d) The Environmental Impact Study already delivered to, and approved by, Lender. Certificates of insurance, together with paid receipts, indicating that all insurance currently required under the terms of Section 5.6 hereof.

(e) That certain Development Agreement adopted pursuant to Nye County Ordinance No. 378, recorded on August 3, 2009, as Document Number 731349 in the Official Records of the Nye County, Nevada, evidencing the applicable zoning with respect to the Property.

(f) A copy of Borrower's Organizational Documents, certified as true, correct and complete by a manager of Borrower authorized to do so, together with (i) a current certificate of existence/good standing from the jurisdiction in which Borrower was organized (and from the jurisdiction in which the Land is located, if different from the jurisdiction in which Borrower was organized), and (ii) resolutions and/or consents of those parties necessary to authorize the transaction contemplated hereby.

(g) A flood-zone certification indicating that the Project is not located in a flood plain or any other flood-prone area as designated by any governmental agency; provided, however, that if the Project is so located, Borrower shall provide proof of flood insurance to Lender as required by Lender.

(h) A proposed Operating Budget for the Project for its first Fiscal Year of operation in the form previously submitted to the Nevada Real Estate Division in connection with the registration of the Front Sight Resort and Vacation Club.

(i) Letters from the suppliers confirming the availability of water, storm and sanitary sewer, gas, electric and telephone utilities for the Project.

(j) A copy of each non-cancellable agreement relating to the management, operation or maintenance of the Property and of each such agreement which cannot be cancelled upon notice of thirty (30) days or less.

Section 2.2 **Loan Documents.** On or before the Closing Date, Borrower shall execute and deliver (or cause to be executed and delivered) to Lender, the Loan Documents, in form and substance reasonably acceptable to Lender and to its counsel, in their sole but reasonable discretion, to evidence and secure the Loan. Lender may designate which of the Loan Documents are to be placed of record, the order of recording thereof, and the offices in which the same are to be filed and/or recorded. Borrower shall pay all filing, documentary, intangible, recording and/or registration taxes and/or fees due upon the Note, if any, the Deed of Trust, any financing statements and/or the other Loan Documents

Section 2.3 **Title Insurance.** On or prior to the Closing Date, Lender shall have received the Title Policy, proforma or a marked-up commitment to issue the Title Policy, signed by an officer of the Title Company, in form and substance satisfactory to Lender and including all endorsements as required by Lender. Title Company will provide priority insurance over all possible mechanics' lien claims, despite the fact that construction of the Improvements may have commenced prior to the recording of the Deed of Trust.

Section 2.4 **Opinion of Borrower's Attorneys**. Lender shall have received from outside counsel for Borrower one or more current written opinions, in form and substance acceptable to Lender, addressed to Lender, covering matters such as due formation, authorization, execution and delivery of the Loan Documents.

ARTICLE III

ADVANCES OF LOAN PROCEEDS

Section 3.1 **General**. Provided no Default or Event of Default has occurred and is continuing, the Loan proceeds shall be advanced by the Lender for the benefit of Borrower in accordance with the terms and conditions set forth in this Article III. All monies advanced by the Lender with respect to the Project shall constitute a loan made to Borrower under this Agreement, evidenced by the Note and secured by the other Loan Documents, and interest shall be computed thereon, as prescribed by this Agreement and the Note, from the date the Loan account is charged with the amount of the Advance.

Lender will advise Borrower within five (5) business days every time Lender has received a new EB-5 Investor's funds into the Escrow Account. If so requested by Borrower, Lender will make an Advance of as little as $375,000, which represents the available funds from each new EB-5 Investor pursuant to the terms of this Agreement.

Lender reserves the right to make Advances of amounts on the Note which are allocated to any of the designated items in the Budget for soft or hard costs related to the development of the Project, and construction of the Improvements or otherwise with respect to the Project or for such other purposes or in such different proportions as Lender may, in its reasonable discretion, deem necessary or advisable; provided, however, after the occurrence of an Event of Default, Lender may act in its sole discretion.

No Advance shall constitute a waiver of any condition precedent to the obligation of Lender to make any further Advance, or preclude Lender from thereafter declaring the failure of Borrower to satisfy any such condition precedent to be an Event of Default. All conditions precedent to the obligation of Lender to make any Advance are imposed hereby solely for the benefit of Lender, and no other party may require satisfaction of any such condition precedent or shall be entitled to assume that Lender will make or refuse to make any Advance in the absence of strict compliance with such condition precedent. Provided no Default or Event of Default has occurred, Lender may waive any requirement of this Agreement for any Advance which Lender, in its reasonable discretion, determines is not material.

Lender will Advance to itself, when due, from the Interest Reserve, without further order or request from Borrower, all interest payable to Lender under the terms hereof or of the Note (so long as the conditions to such advances have been satisfied, or waived by Lender, and sufficient funds remain in the Interest Reserve).

Section 3.2 **Draw Requests**.

(a) From and after the date of the first Advance of the Loan, Borrower shall deliver to Lender on a monthly basis evidence of the Project costs funded during the preceding month (whether from Loan proceeds or otherwise), and, to the extent that Borrower is seeking an additional Advance, the Draw Request approved by General Contractor, together with an itemized summary and copies of all invoices included in such disbursement.

(b) Prior to the date of the first Advance of the Loan, Borrower shall, in addition to satisfying all other conditions for an Advance in this Section, provide to Lender the insurance required per Section 5.6 of this Agreement. Prior to the Commencement Date, Borrower shall, in addition to satisfying all other conditions for an Advance in this Section, provide to Lender (i) Plans, in the form previously submitted to Lender, as finally approved for construction by the Project Architect and the applicable Governmental Authority, (ii) a schedule listing all Contractors, and primary contracts relating to the Project having a contract sum in excess of $250,000 for any such Contractor, and all other major subcontracts, and such engineering, architectural, and construction contracts, subcontracts and schedules relating to the Project. If requested by Lender, Borrower shall also furnish to Lender copies of such contracts with each Contractor; and (iii) a list of all agreements, licenses and permits relating to the construction, development and operation of the Project.

Section 3.3 Inspections. Lender and its representatives shall have access to the Project at all reasonable times and shall have the right to enter the Project and to conduct such inspections thereof as they shall deem necessary or desirable for the protection of Lender's interests; provided, however, that for so long as no Event of Default shall have occurred and be continuing, Lender shall provide to Borrower prior notice of not less than seventy-two (72) hours of any such inspections and such inspections shall be subject to the rights of Club Members (i.e., owners of Timeshare Interests) and any tenants under any applicable Leases.

Borrower shall be responsible for making its own inspections of the Project during the course of such construction work and shall determine to its own satisfaction that the work done and materials supplied are in accordance with applicable contracts with its contractors. By advancing funds after any inspection of the Project by Lender, Lender shall not be deemed to waive any Event of Default, waive any right to require construction defects to be corrected, or acknowledge that all construction conforms to the Plans.

Section 3.4 Lender's Responsibilities. It is expressly understood and agreed that Lender does not assume any liability or responsibility for the sufficiency of the Loan proceeds to complete the Project, for protection of the Project, for the adequacy of the Plans, the compliance of the Project and/or Plans with Governmental Requirements, for the satisfactory completion of the Project, for inspection during construction or to notify Borrower, General Contractor or any other party of any construction defects, for the adequacy of the Interest Reserve, for the adequacy or accuracy of the Budget, for any representations made by Borrower, or for any acts on the part of Borrower or its contractors to be performed in connection with the construction of the Project.

Section 3.5 Procedures for Advances.

(a) Request for Advances. Any request by Borrower for an Advance shall be made at least five (5) Business Days prior to the date of the requested Advance.

(b) Direct Advances. At Lender's option after the occurrence of an Event of Default, Lender may (i) make any Advances directly to any person, including the General Contractor, to whom Lender determines that payment is due and (ii) make advances to any person to whom Lender determines that payment should be made in order to cure or to prevent the occurrence of any Default. Any of the aforesaid Advances shall be deemed advanced under the Note as of the date on which funds are transferred by Lender.

(c) Title endorsement. Prior to each additional advance, Lender shall have received a commitment from the Title Company to issue an endorsement showing the increased loan amount in the same priority as the previously advanced amounts, provided, however, that upon the closing of the Senior Debt, the priority of the lien of the Deed of Trust reflected in any subsequent endorsements shall be subordinated to the lien of the deed of trust or similar instrument securing the Senior Debt.

(d) Joint Checks. All Advances of Loan proceeds made to a party other than Borrower hereunder shall be made pursuant to a joint check executed by Lender and Borrower, with proper endorsements included.

Section 3.6 Stop Notices.

(a) General. Borrower shall not cause any "stop notice" or similar notice to be filed or served on Lender with respect to the Project. Borrower shall defend, indemnify and hold Lender and its officers, directors, agents and employees harmless from and against all claims, damages, loss, liability, costs and expenses (including reasonable attorneys' fees) arising from or relating to any stop notice, the compliance therewith and the defense thereof. Lender may require Borrower to provide a release bond for any stop notice, which bond shall be subject to Lender's review and approval and/or may take such action with respect to any stop notice as Lender may deem appropriate in Lender's reasonable discretion and Lender may withhold such amounts from disbursement in connection with the Loan as Lender may elect in Lender's reasonable discretion, to the extent Lender is obligated to withhold funds pursuant to applicable law or any demands made in connection with any stop notice.

(b) Notices. Upon an Event of Default and so long as it is continuing, Borrower irrevocably appoints Lender as its attorney-in-fact, coupled with an interest and with full power of substitution, to file for record, at the Borrower's cost and expense and in Borrower's name, any notices of completion, notices of cessation of labor, or any other notices that Lender considers necessary or desirable to protect its security.

Section 3.7 Use of Loan Proceeds. Borrower shall use and apply the Loan proceeds solely to all or any number of the individual Project components in accordance with the Budget and also to pay some or all of any or all existing indebtedness encumbering the Project pursuant

to a Permitted Encumbrance. Borrower shall use its best business judgment based upon then-current real estate market and availability of other financing resources to allocate the proceeds of the Loan in such a manner as to assure the full expenditure of the Loan proceeds advanced to Borrower. Borrower will comply with the requirements of the EB-5 Program and the other EB-5 Program covenants and requirements contained in this Agreement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

(A) Borrower represents, warrants and covenants to Lender that:

Section 4.1 **Borrower's Formation and Powers**. Borrower is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Nevada, and qualified and authorized to do business in all jurisdictions in which the conduct of its business and affairs requires it to be so qualified. Borrower has all power, authority, permits, consents, authorizations and licenses necessary to carry on its business, to construct, equip, own and operate the Project and to execute, deliver and perform its obligations under this Agreement and the other Loan Documents; all consents necessary to authorize the execution, delivery and performance of this Agreement and the other Loan Documents have been duly adopted and are in full force and effect; and this Agreement and the other Loan Documents have been duly executed and delivered by Borrower.

The execution, delivery and performance by Borrower of this Agreement and other Loan Documents to which Borrower is a party have been duly authorized by all necessary action and do not and will not (i) violate any provision of any laws, rule, regulation (including, without limitation, Regulation U of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to Borrower or of Borrower's Organizational Documents, (ii) result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected, or (iii) result in or require the creation or imposition of any Security Interest in any of its properties pursuant to the provisions of any agreement or other document binding upon or applicable to Borrower or any of its properties, except pursuant to the Loan Documents.

Section 4.2 **Authority**. The execution, delivery and performance by Borrower of this Agreement and other Loan Documents to which Borrower is a party have been duly authorized by all necessary limited liability company action.

Section 4.3 **No Approvals**. As of the date of the first Advance of the Loan, no authorization, consent, approval, license, exemption of or filing or registration with any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, is or will be necessary to the valid execution, delivery or performance by Borrower of this Agreement, the Note, or any other Loan Documents to which Borrower is a party.

Section 4.4 **Legal and Valid Obligations**. This Agreement, the Note, and the other Loan Documents to which Borrower are a party constitute the legal, valid and binding

obligations of Borrower, enforceable against Borrower in accordance with their respective terms, subject to bankruptcy and insolvency laws and other laws generally affecting the enforceability of creditor's rights generally and subject to limitations on the availability of equitable remedies.

Section 4.5 **Litigation**. There are no actions, suits or proceedings (whether or not purportedly on behalf of Borrower) pending or, to the knowledge of Borrower, threatened against Borrower or affecting any of the Project or Borrower's other assets (if any), at law or in equity or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which contests the validity or enforceability of this Agreement or any of the other Loan Documents or the transactions contemplated hereby or as a result of which Borrower may become subject to any judgment or liability which if determined adversely to Borrower, would constitute a Material Adverse Occurrence as to Borrower. There are no actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against Borrower or its other assets (if any), at law or in equity or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign. As of the date of the first Advance of the Loan, Borrower shall not be in default with respect to any final judgment, writ, injunction, decree, rule or regulations of any court, arbitrator or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

Section 4.6 **Title**. Borrower has good, marketable and insurable fee simple title to the Land, and good title to the rest of the Project, subject to no lien, charge, mortgage, deed of trust, restriction or encumbrance, except Permitted Encumbrances. There are no mechanics', materialman's or other similar Liens which have been filed for work, labor or materials affecting the Project which are or may be Liens prior to, or equal, or subordinate to the Liens created by the Loan Documents. None of the Permitted Encumbrances, individually or in the aggregate, (a) impair the use or intended operations of the Project, or (b) impair Borrower's ability to pay its Obligations in a timely manner.

Section 4.7 **Defects and Hazards**. Borrower does not know of any defects, facts or conditions affecting the Land that would make it unsuitable for the use contemplated hereunder or of any abnormal hazards (including soils and groundwater contamination, earth movement or slippage) affecting the Land that have not been previously disclosed in writing to Lender by Borrower.

Section 4.8 **Payment of Taxes**. There have been filed all federal, state and local tax returns with respect to Borrower and its direct and indirect business operations which are required to be filed. Borrower has paid or caused to be paid to the respective taxing authorities all taxes as shown on such returns or on any assessments received by it to the extent that such taxes have become due. Borrower knows of no proposed material tax assessment against Borrower, and Borrower is not obligated by any other agreement, tax treaty, instrument or otherwise to contribute to the payment of taxes owed by any other person or entity. All material tax liabilities are adequately provided for or reserved against on the books of Borrower, as appropriate.

Section 4.9 Agreements.

The Borrower's Organizational Documents shall be in full force and effect as of the date of the first Advance of the Loan and, as of said date of the first Advance of the Loan, shall be free from any default on the part of Borrower. Each of (a) the Architect's Agreement, and (b) the General Contract, shall be in full force and effect before the Commencement Date and, as of said Commencement Date, shall be free from any default on the part of Borrower. Borrower, is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which Borrower, is a party the effect of which default would constitute a Material Adverse Occurrence as to Borrower. The General Contract shall require the General Contractor to construct the Project in accordance with the Plans in the form which have been delivered to Lender, without any change thereto not disclosed to Lender. The General Contract shall constitute the entire agreement between Borrower and the General Contractor with respect to the construction of the Project. As of the Commencement Date, Borrower shall have performed all of its obligations required by the General Contract and/or Architect's Agreement, and shall have paid all sums under the General Contract and/or Architect's Agreement which are required to be performed or paid as of the date hereof.

Section 4.10 No Defaults under Loan Documents or Other Agreements. No Default or Event of Default has occurred under any of the Loan Documents. As of the date of the first Advance of the Loan, Borrower shall not be in default in the payment of the principal or interest on any of its Indebtedness for borrowed money; and no event has occurred, or will occur, which, with the lapse of time or the giving of notice or both, would constitute an Event of Default under the Loan Documents. Borrower is not obligated for the payment of any commission or other fee with respect to the purchase of the Land and Improvements or, if Borrower is so obligated, such commission or other fee has been paid in full.

Section 4.11 Boundary Lines; Conformance with Governmental Requirements and Restrictions. The exterior lines of the Improvements are, and at all times will be, within the boundary lines of the Land. Borrower has examined and is familiar with all applicable covenants, conditions, restrictions and reservations, and with all applicable Governmental Requirements, including, but not limited to, building codes and zoning, environmental, hazardous substance, energy and pollution control laws, ordinances and regulations affecting the Project. Borrower has obtained all permits which are necessary for the construction of the Project in accordance with the Plans and in accordance with all applicable building, environmental, subdivision, land use and zoning laws, including all permits for the Improvements, annexation agreements, plot plan approvals, subdivision approvals (including the approval and recordation of any required subdivision map), environmental approvals (including a negative declaration or an environmental impact report if required under applicable law), sewer and water permits and zoning and land use entitlements. Borrower has obtained all approvals of the parties required in connection with the construction of the Project pursuant to any license, easement or restriction affecting the Land. The Project will in all respects conform to and comply with said covenants, conditions, restrictions, reservations and Governmental Requirements.

Section 4.12 Project Costs. On a line by line and total basis, the Project costs shown

on the Estimated Construction Cost Statement are, to the best of Borrower's knowledge, true, correct and complete in all material respects, and represent the total of all costs which Borrower expects to pay to complete the Project.

Section 4.13 Utilities. Telephone services, gas, electric power, storm sewers, sanitary sewer and water facilities are available to the boundaries of the Land, adequate to serve the Project and not subject to any conditions that would prevent the use of the Project for its intended purposes. All streets and easements necessary for construction and operation of the Project are available to the boundaries of the Land.

Section 4.14 Personal Property. Borrower is now and shall continue to be the sole owner of the Equipment free from any lien, security interest or adverse claim of any kind whatsoever, except for the Permitted Encumbrances and any liens or security interests in favor of Lender.

Section 4.15 Condemnation. No condemnation proceeding or moratorium is pending or, to the best of Borrower's knowledge, threatened against the Land which would impair the construction, use, sale or occupancy of the Land or its Improvements.

Section 4.16 Separate Lots. The Land is comprised of two (2) parcels which constitute separate tax lots and do not constitute a portion of any other tax lot not a part of such Land.

Section 4.17 Federal Reserve Regulations. No portion of the Loan hereunder will be used to purchase or carry any "margin stock" as defined in Regulation U of the Board of Governors of the Federal Reserve System of the United States or for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase or carry any margin security or for any other purpose which might constitute this transaction as a "purpose credit" within the meaning of said Regulation U. No portion of the Loan hereunder will be used for any purpose that violates, or which is inconsistent with, the provisions of Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of said Board of Governors.

Section 4.18 Investment Company Act. Borrower is not an "investment company," or an "affiliated person" of, or a "promoter" or "principal underwriter" for, an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended. The making of the Loan, the application of the proceeds and repayment thereof by Borrower and the performance of the transactions contemplated by this Agreement will not violate any provision of said Act, or any rule, regulation or order issued by the Securities and Exchange Commission thereunder. Furthermore, Borrower is not subject to regulation under the Interstate Commerce Act, or any federal or state statue or regulation limiting its ability to incur indebtedness for money borrowed.

Section 4.19 Unregistered Securities. Borrower has not: (a) issued any unregistered securities in violation of the registration requirements of Section 5 of the Securities Act of 1933, as amended, or any other law; or (b) violated any rule, regulation or requirement under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in

either case where the effect of such violation would constitute a Material Adverse Occurrence as to Borrower.

Section 4.20 **Accuracy of Information**. All factual information heretofore or herewith prepared by Borrower or a Related Party of Borrower and furnished by or on behalf of Borrower to Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby is true and accurate in every material respect on the date as of which such information is dated or certified and no such information contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained therein not misleading as of such date. To the best of Borrower's knowledge, all factual information heretofore or herewith prepared by a Person other than Borrower or a Related Party of Borrower and furnished by or on behalf of Borrower to Lender for purposes of or in connection with this Agreement or any transaction contemplated hereby is true and accurate in every material respect on the date as of which such information is dated or certified and no such information contains any material misstatement of fact or omits to state a material fact or any fact necessary to make the statements contained therein not misleading as of such date.

Section 4.21 **ERISA Compliance**. Borrower has not adopted a Plan. As of the date hereof and throughout the term of the Loan (i) Borrower is not and will not be an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA, (ii) none of the assets of Borrower constitutes or will constitute, by virtue of the application of 29 C.F.R. Section 2510.3-101(f) as modified by Section 3(42) of ERISA, "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101, (iii) Borrower is not and will not be a "governmental plan" within the meaning of Section 3(32) ERISA, and (iv) transactions by or with Borrower are not and will not be subject to state statutes regulating investment of, and fiduciary obligations with respect to, governmental plans.

Section 4.22 **Compliance**. Borrower:

(a) is in compliance and conformity with all Governmental Requirements the violation of which, individually or in the aggregate, would constitute a Material Adverse Occurrence as to Borrower; and

(b) has not received and does not anticipate the receipt of any order or notice of any violation or claim of violation of any Governmental Requirement which would constitute a Material Adverse Occurrence as to Borrower.

Section 4.23 **Consents**. To the extent that any franchises, licenses, permits, certificates, authorizations, approvals or consents from any federal, state or local (domestic or foreign) government, commission, bureau or agency are material to the present conduct of the business and operations of Borrower or are required for the acquisition, ownership, operation or maintenance by Borrower of the Project, such franchises, licenses, permits, certificates, authorizations, approvals and consents have been, or will be upon Completion, validly granted, in full force and effect, and be valid and sufficient authorization therefor.

Section 4.24 **Environmental Laws**. Except as specifically disclosed in the Environmental Impact Study previously delivered to, and approved by, Lender, Borrower: (a)

has not received any notice or otherwise learned of any Environmental Liability relating to the Project which would individually or in the aggregate constitute a Material Adverse Occurrence as to Borrower arising in connection with (i) any non- compliance or alleged non-compliance with or violation of the requirements of any Environmental Law, or (ii) the Release or threatened Release of any Hazardous Substance, or other substance into the environment; (b) has no knowledge of any threatened or actual liability in connection with the Release or threatened Release of any Hazardous Substance, or other substance into the environment relating to the Project which would individually or in the aggregate constitute a Material Adverse Occurrence; or (c) has not received any notice or otherwise learned of any federal or state investigation evaluating whether any remedial action is needed to respond to a Release or threatened Release of any Hazardous Substances into the environment where such liability individually or in the aggregate for all such liabilities would constitute a Material Adverse Occurrence as to Borrower. Borrower has not received any notice of any violation or alleged non-compliance of any Environmental Laws relating to the Project where such violation would constitute a Material Adverse Occurrence as to Borrower.

Section 4.25 Anti-Terrorism Regulations.

(a) General. None of Borrower, or, to the best of Borrower's knowledge, any Affiliate thereof is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(b) Executive Order No. 13224. None of the Borrower, or, to the best of Borrower's knowledge, any Affiliate thereof or their respective agents acting or benefiting in any capacity in connection with the Loan or other transactions hereunder, is any of the following (each a "**Blocked Person**"):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224;

(iii) a Person or entity with which Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in Executive Order No. 13224;

(v) a Person or entity that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or

(vi) a person or entity who is affiliated or associated with a person or entity listed above.

(c) None of Borrower, or, to the best of Borrower's knowledge, any Affiliate thereof nor any of their agents acting in any capacity in connection with the Loan, any letters of credit or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(d) Neither Borrower nor, to the best of Borrower's knowledge, any Affiliate thereof nor any person owning an interest therein, are a "Special Designated National" or "Blocked Person" as those terms are defined in the office of Foreign Asset Control Regulations (31 C.F.R. § 500 et. seq.).

Section 4.26 Subsidiaries. Borrower has no Subsidiaries.

Section 4.27 Leases. Except as provided below in Section 5.24, there is no Lease in effect relating to the Project, or any portion of the Project, except for Leases that have been approved in writing by Lender.

Section 4.28 **Ownership and Control of Borrower**. As of the date of this Agreement, the direct owners of Borrower are set forth on Exhibit G to this Agreement and the indirect owners set forth thereon are accurate and complete.

Section 4.29 Use of Loan Proceeds. The proceeds of the Loan shall be used to pay and obtain release of the existing liens on the Land, to pay for or reimburse Borrower for soft and hard costs related to the pre-construction, development, promotion, construction, development and operation of the Project in connection with the FSFTI Facility and the construction, development, operation, leasing and sale of the timeshare portion of the Project, all as more particularly described on Exhibit F, attached hereto. The Loan is made exclusively for business purposes in connection with holding, developing and financially managing real estate for profit, and none of the proceeds of the Loan will be used for the personal, family or agricultural purposes of the Borrower.

Section 4.30 Insurance. Borrower has obtained or caused to be obtained the insurance required pursuant to Section 5.6 of this Agreement.

(B) Lender represents, warrants and covenants to Borrower that:

(i) General. None of Lender, or, to the best of Lender's knowledge, any Affiliate or member thereof is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(ii) Executive Order No. 13224. None of the Lender, or, to the best of Lender's knowledge, any Affiliate or member thereof or their respective agents acting or benefiting in any capacity in connection with the Loan or other transactions hereunder, is a Blocked Person.

(iii) None of Lender, or, to the best of Lender's knowledge, any Affiliate or member thereof nor any of their agents acting in any capacity in connection with the Loan, any letters of credit or other transactions hereunder (a) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (b) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(iv) Neither Lender nor, to the best of Lender's knowledge, any Affiliate or member thereof nor any person owning an interest therein, are a "Special Designated National" or "Blocked Person" as those terms are defined in the office of Foreign Asset Control Regulations (31 C.F.R. § 500 et. seq.).

THE WARRANTIES AND REPRESENTATIONS IN THIS ARTICLE IV, AND ANY ADDITIONAL WARRANTIES AND REPRESENTATIONS CONTAINED HEREIN AND IN THE OTHER LOAN DOCUMENTS, SHALL BE DEEMED TO HAVE BEEN RENEWED AND RESTATED BY BORROWER AT THE TIME OF EACH REQUEST BY BORROWER FOR AN ADVANCE OF LOAN PROCEEDS.

ARTICLE V

(A) COVENANTS OF BORROWER

While this Agreement is in effect, and until Lender has been paid in full the principal of and interest on all Advances made by Lender hereunder and under the other Loan Documents, Borrower agrees to comply with, observe and keep the following covenants and agreements:

Section 5.1 **Completing Construction**. Borrower shall commence construction of the Improvements no later than the Commencement Date. Borrower shall not become a party to any contract, other than the General Contract and the Architect's Agreement, for the performance of any work on the Project or for the supplying of any labor, materials or services for construction of the Improvements, except upon such terms and with such parties as shall be approved in writing by Lender and subject to the condition that each Contractor party to any approved contract execute and deliver to Lender agreements in form acceptable to Lender that either subordinate or waive the lien rights of such Contractors to the liens of Lender under the Loan Documents including, without limitation, the liens of Lender evidenced by the Deed of Trust; provided, however, Borrower may, without the approval of Lender, enter into one or more contracts with any Contractor whose contracts' aggregate amount with such Contractor is less than $250,000. Borrower shall provide to Lender a list, within thirty (30) days after the end of each calendar quarter, of all Contractors, including all subcontractors, who have entered into written contracts directly with either Borrower or the General Contractor during the preceding calendar quarter. No approval by Lender of any contract or change order shall make Lender

responsible for the adequacy, form or content of such contract or change order. Borrower shall expeditiously complete and fully pay for the construction of the Project in a good and workmanlike manner and in accordance with the Plans submitted or to be submitted to and approved by Lender, and in compliance with all applicable Governmental Requirements, and any covenants, conditions, restrictions and reservations applicable thereto so that Completion of the construction of the Project occurs on or before the Completion Date. Borrower assumes full responsibility for the compliance of the Plans and the Project with all Governmental Requirements, covenants, conditions, restrictions and reservations, and with sound building and engineering practices, and, notwithstanding any approvals by Lender, Lender shall have no obligation or responsibility whatsoever for the Plans or any other matter incident to the Project or the construction of the Improvements. Borrower shall correct or cause to be corrected (a) any defect in the Improvements, (b) any departure in the construction of the Improvements from the Plans or Governmental Requirements, and (c) any encroachment by any part of the Improvements or any other structure located on the Land on any building line, easement, property line or restricted area that is in violation of any applicable Governmental Requirements, or any private agreements for which Borrower has not received a waiver approved by the Lender in writing. Borrower shall cause all roads necessary for the utilization of the Project for its intended purposes to be completed and dedicated (if dedication thereof is required by any governmental authority), the bearing capacity of the soil on the Land to be made sufficient to support the Improvements, and sufficient local utilities to be made available to the Project and installed at costs (if any) set out in the Budget, on or before the Completion Date.

Section 5.2 **Changing Costs, Scope or Timing of Work.** Borrower shall deliver to Lender revised, estimated costs of the Project, showing changes in or variations from the original Estimated Construction Cost Statement, as soon as such changes are known to Borrower. Borrower shall deliver to Lender a revised construction schedule, if and when any target date set forth therein has been delayed by twenty (20) consecutive days or more, or when the aggregate of all such delays equals thirty (30) days or more.

Borrower shall not make or consent to any change or modification in such Plans, contracts or subcontracts, and no work shall be performed with respect to any such change or modification, without the prior written consent of Lender, if (i) such change or modification would in any material way alter the design or structure of the Project or change the rentable area thereof in any way, or increase or decrease the Project cost by $250,000 or more (after taking into account cost savings and any insurance proceeds of Borrower received by Lender) for any single change or modification, or (ii) the aggregate amount of all changes and modifications exceeds $500,000 (after taking into account cost savings and any insurance proceeds of Borrower received by Lender). Borrower shall promptly furnish Lender with a copy of all changes or modifications in the Plans, contracts or subcontracts for the Project prior to any Advance used to fund such change or modification whether or not Lender's consent to such change or modification is required hereby.

Section 5.3 **Using Loan Proceeds.** Subject to Section 3.2, Borrower shall use the Loan proceeds in its sole discretion to pay, or to reimburse Borrower for paying, costs and expenses incurred by Borrower in connection with the pre-construction, promotion, construction, development, operating and leasing of the Project on the Land and the equipping of the

Improvements, together with the payoff and release of any existing liens and encumbrances on the Land. Borrower shall take all steps necessary to assure that Loan proceeds are used by its contractors and subcontractors to pay such costs and expenses which could otherwise constitute a mechanic's lien claim against the Project. Within thirty (30) days after the Completion Date, Borrower shall provide the documentation and supporting accounting records and contract documents necessary, in Lender's discretion, to demonstrate that between the Closing Date and the date of delivery of such documentation not less than the total amount of the Advances has been spent directly or indirectly on the Project substantially in a form acceptable to Lender for compliance with the EB-5 Program.

Section 5.4 Keeping of Records. Borrower shall set up and maintain accurate and complete books, accounts and records pertaining to the Project. Borrower will permit representatives of Lender to have reasonable access to and to inspect and copy such books, records and contracts of Borrower and to inspect the Project and to discuss Borrower's affairs, finances and accounts with any of its principal officers, all at such times and as often as may reasonably be requested by Lender. Any such inspection by Lender shall be for the sole benefit and protection of Lender, and Lender shall have no obligation to disclose the results thereof to Borrower or to any third party. When a Default or Event of Default exists, Lender may do any of the foregoing during normal business hours without advance notice or other limitation.

Section 5.5 Providing Evidence of Completion. Upon completion of the Improvements, Borrower shall furnish Lender with all items required to evidence Completion, certification from the Project Architect that the Project has been completed in accordance with the approved Plans; the evidence of insurance required by Section 5.6 hereof; copies of all warranties covering materials, equipment and appliances included within the Project; copies of all licenses and permits required for operation of the Project, if not previously provided to Lender; and photographs of the completed Improvements as well as evidence that such Improvements have been fully completed, including all punch-list items, as well as such other documents and materials required pursuant to Section 3.7(b) hereof.

Section 5.6 Maintaining Insurance Coverage. Borrower shall, at all times until the Note and all other sums due from Borrower to Lender have been fully repaid, maintain, or cause to be maintained, in full force and effect (and shall furnish to Lender copies of), property insurance, liability insurance and workers compensation insurance that are consistent with policies issued from a reputable carrier in Southern Nevada for businesses such as that operated by Borrower. Borrower shall not take any action that would void or otherwise impair any coverages required hereby or that would result in any denial or limitation of such coverages.

Section 5.7 Transferring, Conveying or Encumbering the Project or Borrower's Ownership Interests. Without the prior written consent of Lender, Borrower shall not voluntarily or involuntarily agree to, cause, suffer or permit any sale, conveyance, lease, mortgage, grant, lien, encumbrance, security interest, pledge, assignment or transfer of: (a) the Project or any part or portion thereof, or (b) any ownership interest in Borrower, direct or indirect, legal or equitable (including the issuance, sale, redemption, or repurchase of any such interest, the distribution of treasury stock, or the payment of any indebtedness owed to Borrower by any managers, subsidiaries, Affiliates or owners of equity interests or debentures), except for

the following:

(i) Permitted Encumbrances;

(ii) Leases permitted by Section 5.24 of this Agreement;

(iii) Routine, nonexclusive utility easements entered into by Borrower in the ordinary course of business which do not subject the Property to any material financial obligations;

(iv) In connection with transfers of member interests in Borrower made for estate planning purposes that do not affect the management or control of Borrower and are in compliance with the requirements set forth in the Loan Documents;

(v) In the event that that Borrower obtains any Senior Debt, Borrower shall be permitted to secure such Senior Debt with a deed of trust and other applicable security documents that are senior to the lien of the Deed of Trust and Lender shall cooperate with Borrower and the provider of the Senior Debt to cause the lien of the Deed of Trust to be subordinated to the lien of any deed of trust and other applicable security documents that are to secure such Senior Debt. For the avoidance of doubt, Lender does hereby covenant and agree with Borrower that Lender shall execute, or cause to be executed, any and all documentation reasonably required by the provider of the Senior Debt, in the form and content presented by the provider of the Senior Debt, in order to cause the aforementioned subordination of the lien of the Deed of Trust, including, but not limited to, any form of subordination and intercreditor agreement that may be required by the provider of the Senior Debt.

Furthermore, the Loan may not be assumed by any Person without Lender's prior written consent.

Section 5.8 **Complying with the Loan Documents and Other Documents.** Borrower shall comply with and perform all of its obligations under the Loan Documents, and under all other contracts and agreements to which Borrower is a party relating to the ownership, occupancy, use, construction or management of the Project, and shall comply with all requests by Lender which are consistent with the terms thereof.

Section 5.9 **Updated Appraisals.** Borrower agrees that Lender shall have the right to obtain, at Lender's expense, an updated appraisal of the Project at any time that (a) an Event of Default shall have occurred and be continuing hereunder, or (b) after an occurrence of an Event of Default Lender determines, in its sole discretion, that the security for the Loan has been physically or financially impaired in any material manner. Without limitation of the foregoing, Lender may, at Lender's expense, elect to obtain such an appraisal from time to time regardless of whether any of the events described in (a) and (b) above have occurred. In the event that Lender shall elect to obtain an appraisal, Lender may immediately commission an appraiser acceptable to Lender, at Lender's cost and expense, to prepare the appraisal. Borrower shall cooperate with Lender and the appraiser in obtaining the necessary information to prepare such appraisal. In the event that Borrower fails to cooperate with Lender in obtaining such an

appraisal, such event shall constitute an Event of Default hereunder and Lender shall be entitled to exercise all remedies available to it hereunder. In the event such appraisal is required by reason of the damage or destruction of a portion of the Project, the fair market value shall be calculated on the Project after restoration of the Improvements.

Section 5.10 Reporting Requirements. Borrower shall furnish to Lender the following:

(a) Financial Statements.

As soon as available and in any event within seventy-five (75) days after the end of each calendar year, unaudited consolidated annual financial statements of Borrower prepared in accordance with GAAP (or another accounting basis reasonably acceptable to Lender) consistently applied, certified by Borrower, which financial statements shall include a balance sheet and related statements of income, retained earnings and cash flow (including, without limitation, the information necessary to determine Borrower's cash flow with respect to the previous calendar year), and a detailed list of real estate owned, directly or indirectly, by Borrower. The financial statements of Borrower shall be accompanied by a no default certificate in form acceptable to Lender certifying that Borrower has no knowledge of the occurrence of any event which constitutes a Default or an Event of Default under this Agreement.

(b) Operating Statements and Operating Budgets. Starting with the month after the calendar month in which Completion occurs, Borrower shall deliver to Lender such Operating Statements and annual Operating Budget as are provided to Borrower by the Management Company prior to the start of each Fiscal Year thereof starting with the Fiscal Year in which Completion occurs. All such Operating Statements shall be certified as true, correct and complete by Borrower and shall be prepared in accordance with GAAP.

(c) Litigation and Other Proceedings. Promptly in writing, notice of (i) all litigation against Borrower in which the amount sought to be recovered exceeds $50,000 except in cases when the claim is covered by insurance and the insurance company has agreed to assume the defense of the claim and (ii) all proceedings before any Governmental Authority affecting Borrower which, if adversely determined, would constitute a Material Adverse Occurrence as to Borrower.

(d) Defaults. Within five (5) Business Days after the occurrence of any event actually known to Borrower which constitutes a Default or an Event of Default, notice of such occurrence, together with a detailed statement of the steps being taken to cure such event, and the estimated date, if known, on which such action will be taken.

(e) Additional EB-5 reporting. Without limiting the foregoing, information to be provided to Lender by Borrower prior to October 31 of each year, shall specifically include:

(i) Annual report of expenditures on the project, showing amounts at least equal to the amount of money Lender has disbursed to Borrower have been spent on the Project. ; this will include appropriate backup documentation, such as copies of major invoices & payment receipts, major contracts, bank statements, etc.

(ii) Annual report of payroll records and I-9 records – Borrower shall require its contractors to provide quarterly employment records (form 941) so that the information available for its submissions to Lender.

(iii) Annual report of actual number of full-time jobs (35 hours per week minimum) at the Project.

(iv) Federal / state quarterly employment tax returns.

(v) Annual limited liability company income tax returns for the prior calendar year.

Section 5.11 **Taxes and Claims**. Borrower shall pay and discharge all taxes, when due, assessments and other governmental charges upon the Project, as well as all claims for labor and materials which, if unpaid, might become a lien or charge upon the Project; provided, however, that Borrower shall have the right to contest the amount, validity and/or applicability of any of the foregoing which is being contested in good faith and by proper proceedings, and strictly in accordance with the terms of the Deed of Trust.

Section 5.12 **Maintain Existence**. Borrower shall preserve and maintain its name, existence, rights and privileges in the jurisdiction of its organization and qualify and remain qualified in each jurisdiction in which such qualification is necessary in view of its business and operations.

Section 5.13 **Compliance with Applicable Laws**. Borrower shall promptly and faithfully comply with, conform to and obey all present and future Governmental Requirements, including, but not limited to, all Environmental Laws, where failure to so do might have a Material Adverse Occurrence; provided, however, that Borrower shall have the ability to contest any alleged failure to conform to or comply with such Governmental Requirements so long as such obligations shall be contested by appropriate proceedings pursued in good faith and any penalties or other adverse effect of its nonperformance shall be stayed or otherwise not in effect,.

Section 5.14 **Notice**. Borrower shall give prompt written notice to Lender (a) of any action or proceeding instituted by or against Borrower, in any federal or state court or before or by any commission or other regulatory body, federal, state or local, or any such proceedings threatened against Borrower which, if adversely determined, would be a Material Adverse Occurrence as to Borrower or where the amount is $250,000 or more, (b) any material loss or unusual depreciation of any material asset and the amount of the same, (c) any material dispute that may arise between Borrower or any subsidiary and any Governmental Authority, (d) any

labor controversy resulting or likely to result in a strike or work stoppage against Borrower or any subsidiary, (e) any proposal by any governmental unit to acquire all or any part of Borrower or any subsidiary's assets or business, (f) any change in Borrower's place of business or location of any fixtures or other assets, and (g) any other matters which has resulted or is reasonably likely to result in a Material Adverse Occurrence.

Section 5.15 Contingent Liability. Borrower shall not assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligation of any Person (other than Borrower), except (i) by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, or (ii) by indemnity agreements given by Borrower to a title insurance company or a bonding company in connection with any project being constructed or sold by Borrower, including the Project.

Section 5.16 Merger, Consolidation, and Management. Borrower and its subsidiaries shall not dissolve, merge or consolidate into any Person, convert into any other type of Person, form or dispose of any subsidiary of Affiliate, or permit any other Person to merge into it, or acquire (in a transaction analogous in purpose or effect to a consolidation or merger) all or substantially all of the assets of any other Person. Furthermore, Borrower shall not make a material change to its management without a minimum of thirty (30) days' prior written notice to Lender.

Section 5.17 Loss of Note or other Loan Documents. Upon notice from Lender of the loss, theft, or destruction of the Note and upon receipt of an affidavit of lost note and an indemnity reasonably satisfactory to Borrower from Lender, or in the case of mutilation of a Note, upon surrender of such mutilated Note, Borrower shall make and deliver a new note of like tenor in lieu of the then-to-be-superseded Note. If any of the other Loan Documents were lost or mutilated, Borrower agrees to execute and deliver replacement Loan Documents in the same form of such Loan Document(s) that were lost or mutilated.

Section 5.18 Distributions. Borrower shall not, directly or indirectly, prior to the later to occur of Completion of all of the Improvements or the Completion Date, (a) make any distribution of money or property to any Related Party, or (b) make any loan or advance to any Related Party, or (c) pay any principal or interest on any indebtedness due any Related Party, or (d) pay any fees or other compensation (other than payments made to the General Contractor or Manager pursuant to the Budget in conformance with the terms of this Agreement or payments made to any principal of Borrower in accordance with prior historical distributions) to itself or to any Related Party, if any such payment in (a) through (d), inclusive, might adversely affect Borrower's ability to repay the loan in accordance with its terms, provided, however, after Completion of all of the Improvements and the Completion Date, Borrower may make the distributions, loans, advances and payments described in (a), (b), (c) and (d) as long as no Event of Default has occurred and is continuing, and Borrower is in compliance with the reporting requirements set forth in Section 5.12 of this Agreement and further provided that no such payments described in (a) through (d) above shall be made at any time if such payment might adversely affect the ability of the Borrower repay the Loan in accordance with its terms.

Section 5.19 **Permits and Licenses**. Borrower shall promptly obtain and comply with all necessary licenses, permits and approvals from, and has satisfied the requirements of, all governmental entities necessary to commence and complete construction of the Improvements.

Section 5.20 **Patriot Act**. Borrower shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law. Borrower shall deliver to Lender any certification or other evidence requested from time to time by Lender in its sole discretion, confirming Borrower's compliance with this Section. Borrower shall not authorize or enable any of their respective Affiliates or agents to do any of the foregoing in this Section.

Section 5.21 **Related Party Transactions**. Without Lender's prior written consent, Borrower shall not enter into, or be a party to, any contract or other transaction with a Related Party (including transactions involving the purchase, sale, or exchange of property, the rendering of services or sale of stock) except in the ordinary course of business and upon fair and reasonable terms no less favorable to itself than it would obtain in a comparable arms-length transaction. All Lender-approved Related Party agreements shall satisfy the following conditions: (i) the contract or other agreement therefore is terminable immediately at the election of Lender after the occurrence of an Event of Default, (ii) such agreements must provide that any amount payable by Borrower under any such contract or agreement with a Related Party is expressly made subordinate by Borrower and Related Party to Borrower's payment Obligations under the Loan Documents, and (iii) the contract or transaction is not otherwise prohibited by this Agreement or any of the other Loan Documents. In addition to the foregoing restrictions, Borrower shall not make any distributions of any type to any Related Party, except for salary and reimbursement of reasonable expenses actually incurred and consistent with the Budget, whether such proposed additional distribution is in the form of dividends, interest, returns of capital, distributions of profit, bonuses or any other form of distribution.

Section 5.22 **Leases**. Borrower shall not enter into any Lease, and shall not substantially modify or terminate any Lease, unless (a) Lender has been notified on or prior to the date of execution of such Lease, and (b) such Lease is made subordinate to the lien, operation and effect of the Deed of Trust pursuant to a subordination, non-disturbance and attornment agreement satisfactory each Lease is entered into in the ordinary course of Borrower's business. Borrower shall comply in all respects with the terms, the covenants, agreements, conditions and requirements of each of the Leases, as, when and in the manner required thereby. Borrower shall promptly notify Lender when Borrower receives notice of any default by Borrower as landlord under any Lease.

Section 5.23 Debt; Operations and Fundamental Changes of Borrower. Borrower:

(a) will not own any asset other than (i) the Project and (ii) incidental personal property necessary for the ownership, operation, management and financing of the Project;

(b) will not engage in any business other than the ownership, development, management, leasing, operation and sale of the Project and will conduct and operate its business in substantially the manner as presently anticipated to be conducted and operated;

(c) except for the Senior Debt, will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Loan, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Project provided the same are paid when due in accordance with customary trade terms or contested in good faith by appropriate proceedings with adequate reserves as determined by Lender;

(d) will not and will not permit any subsidiary of Borrower to create, incur, or suffer any security interest upon any of its present or future assets that are collateralized by Lender, other than (i) in favor or Lender, (ii) in favor of the provider of the Senior Debt or (iii) liens or claims of materialmen, mechanics, carriers, warehousemen, or processors arising by operation of law in the ordinary course of business and securing obligations that are either paid when due or contested in good faith by appropriate proceedings with adequate reserves as determined by Lender.

(e) will not permit the Project or any portion thereof to secure any debt whatsoever (senior, subordinate or pari passu) other than the Loan and/or any Senior Debt;

(f) will not make any loans or advances to any third party other than financing to timeshare purchasers, and will not acquire obligations or securities of its Affiliates;

(g) will not make any payment on any indebtedness in violation of any subordination agreement made by the holder of such indebtedness;

(h) will not purchase or acquire obligations owed by third parties;

(i) will remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from Borrower's assets as the same shall become due;

(j) will do all things necessary to observe organizational formalities and preserve Borrower's existence;

(k) will at all times hold itself out to the public as a legal entity separate and distinct from any other entity (including any Affiliate of Borrower or any constituent party of Borrower), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, and shall not identify itself or any of its Affiliates as a division or part of the other;

(l) will maintain or have access to adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(m) will not make or consent to any material change in its method of accounting (including the basis of application of GAAP) or in its tax elections under any Law;

(n) will not sell, lease, transfer or otherwise dispose of all or any material part of its present or future assets other than the sale of timeshare interests in the Project;

(o) will, to the fullest extent permitted by law, not seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of Borrower; and

(p) except as otherwise permitted in this Agreement or any of the other Loan Documents, will not commingle its funds and other assets with those of any Affiliate or constituent party of Borrower or any other Person, and will hold all of its assets in its own name.

Section 5.24 Accessibility Regulation. Borrower shall comply with all Accessibility Regulations which are applicable to the Project.

Section 5.25 Reports and Returns. Borrower shall file with the appropriate Governmental Authority every report and notice required by all Laws (including tax returns, levies, and assessments) on or before the initial due date or the extended due date, if there exists a valid extension for filing without interest or penalties.

Section 5.26 Management Agreement. Borrower shall deliver to Lender a copy of the fully-executed Management Agreement at least thirty (30) days before the issuance of any certificates of occupancy for the Project.

Section 5.27 Senior Debt. Borrower will use its best efforts to obtain Senior Debt as defined herein. Borrower and Lender expect that the Senior Debt documents will impose provisions concerning disbursement procedures, mechanisms to protect against mechanics liens and related matters as are customarily found in construction loans made by institutional lenders, which procedures also tend to help protect Lender. If Borrower has not obtained such Senior Debt by March 31, 2017, Borrower agrees that Lender may impose provisions concerning such matters similar to those customarily found in construction loans made by institutional lenders. In addition, Borrower will execute and deliver, upon request by Lender, such assignments of contracts relating to the Project as Lender shall request, including, but not limited to, the

Management Agreement, documents concerning the construction of the Project and any leases.

(B) COVENANT OF LENDER

Lender shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law. Lender shall deliver to Borrower any certification or other evidence requested from time to time by Borrower in its sole discretion, confirming Lender's compliance with this Section. Lender shall not authorize or enable any of their respective Affiliates, members or agents to do any of the foregoing in this Section.

ARTICLE VI

DEFAULTS

Section 6.1 **Events of Default**. Any of the following events shall constitute an Event of Default under this Agreement (each an "**Event of Default**"):

(a) Borrower shall default in any payment of principal or interest due according to the terms hereof or of the Note, and such default shall remain uncured for a period of five (5) days after the payment became due, provided, however, there is no cure period for payments due on the Maturity Date;

(b) Borrower shall default in the payment of undisputed fees or other amounts payable to Lender hereunder or under any other Loan Document other than as set forth in subsection (a) above, and such default continues unremedied for a period of ten (10) days after notice from Lender to Borrower thereof.;

(c) Borrower shall default in the performance or observance of any agreement, covenant or condition required to be performed or observed by Borrower under the terms of this Agreement, or any other Loan Document, other than a default described elsewhere in this Section, and such default continues unremedied for a period of thirty (30) days after notice from Lender to Borrower thereof provided that, if cure cannot reasonably be effected within such 30-day period, such failure shall not be an event of default hereunder so long as Borrower promptly (in any event, within ten (10) days after such notice of default from Lender) commences cure, and thereafter diligently (in any event, within ninety (90) days after receipt of such notice of default from Lender) prosecutes such cure to completion; and provided further, however, that notwithstanding the 30-day cure period or extended cure period described above in this subparagraph (c), if a different notice or cure period is specified under any Loan Document or under any provision of the Loan Documents as to any such failure or breach, the specific Loan Document or provision shall control, and Borrower shall have no more time to cure the

failure or breach than is allowed under the specific Loan Document or provision as to such failure or breach;

(d) Any representation or warranty made by Borrower in this Agreement or by Borrower or an Affiliate, if made in connection with the Loan, in any of the other Loan Documents, or in any certificate or document furnished under the terms of this Agreement or in connection with the Loan, shall be untrue or incomplete in any material respect when made or deemed made or restated hereunder unless such representation or warranty was not known by Borrower to be untrue or incomplete at the time made and such representation or warranty is corrected by Borrower and disclosed by Borrower to Lender;

(e) Borrower shall be in default under any term, covenant or condition of any of the Note or of any of the other Loan Documents to which Borrower is a party, other than a default described elsewhere in this Section, after the expiration of any notice or grace period, if any, provided therein;

(f) Work on the Project, once commenced, shall be substantially abandoned, or shall, by reason of Borrower's fault, be unreasonably delayed or discontinued for a period of fifteen (15) consecutive days, or construction shall be delayed for any reason whatsoever to the extent that Completion cannot, in the reasonable judgment of Lender, be accomplished prior to the Completion Date;

(g) Any of Borrower, or any Related Party who is a party to any of the Loan Documents, shall file a petition for bankruptcy; or shall apply for, consent to or permit the appointment of a receiver, custodian, trustee or liquidator for it or any of its property or assets; or shall generally fail to, or admit in writing its inability to, pay its debts as they mature; or shall make a general assignment for the benefit of creditors or shall be adjudicated bankrupt or insolvent; or shall take other similar action for the benefit or protection of its creditors; or shall give notice to any governmental body of insolvency or of pending insolvency or suspension of operations; or shall file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, rearrangement, dissolution, liquidation or other similar debtor relief law or statute; or shall file an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute; or shall be dissolved, liquidated, terminated or merged; or shall effect a plan or other arrangement with creditors; or a trustee, receiver, liquidator or custodian shall be appointed for it or for any of its property or assets and shall not be discharged within ninety (90) days after the date of his appointment; or a petition in involuntary bankruptcy or similar proceedings is filed against it and is not dismissed within ninety (90) days after the date of its filing;

(h) Lender determines that the remaining undisbursed Loan proceeds, together with the proceeds of any Senior Debt, are insufficient to fully pay all of the then-unpaid costs of the Project and the estimated expenses of completion (including the Interest Reserve), and Borrower fails to either (i) deposit with Lender, within three (3) Business

Days following demand, sufficient funds to permit Lender to pay said excess costs as the same become payable or (ii) pay said excess costs directly and deliver to Lender unconditional mechanics' lien waivers therefor (or paid receipts for non-lienable items), at Lender's option;

(i) A default shall occur with respect to the Senior Debt and shall remain uncured after the expiration of any applicable notice or grace period;

(j) A default occurs in the performance of Borrower's obligations in any of Section 5.6, 5.7, 5.8, 5.10, 5.13, 5.16, 5.18, 5.19, 5.22, 5.23 or 5.24, hereof;

(k) The General Contract shall be terminated by either party thereto or either party thereto shall fail to perform its obligations (after any applicable notice and cure period) under the General Contract;

(l) Any uncured default by Borrower under the Management Agreement.

(m) Any failure by Borrower to timely deliver the EB-5 information, which failure continues more than 5 days following notice of such failure from Lender.

Section 6.2 Rights and Remedies. Upon the occurrence of an Event of Default, unless such Event of Default is subsequently waived in writing by Lender, Lender may exercise any or all of the following rights and remedies, consecutively or simultaneously, and in any order:

(a) make one or more Advances of Loan proceeds without liability to make any subsequent Advance;

(b) suspend the obligation of Lender to make Advances under this Agreement, without notice to Borrower;

(c) declare that the Commitment is terminated whereupon the Commitment shall terminate;

(d) declare the entire unpaid principal balance of the Note to be immediately due and payable, together with accrued and unpaid interest on such Advances, without notice to or demand on Borrower;

(e) exercise any or all remedies specified herein and in the other Loan Documents, including (without limiting the generality of the foregoing) the right to foreclose the Deed of Trust, and/or any other remedies which it may have therefor at law, in equity or under statute;

(f) cure the Event of Default on behalf of Borrower, and, in doing so, enter upon the Project, and expend such sums as it may deem desirable, including reasonable attorneys' fees, all of which shall be deemed to be Advances hereunder, even though

causing the Loan to exceed the face amount of the Note, shall bear interest at the Default Rate provided herein and shall be payable by Borrower on demand; and/or;

(g) Lender may declare an Event of Default under any other Loan Document in accordance with the terms and conditions thereof, and may effectuate any remedies provided for in such agreement.

In addition to the other remedies set forth herein and in the other Loan Documents, Borrower hereby irrevocably authorizes Lender, at any time while an Event of Default continues, to set off any sum due to or incurred by Lender against all accounts, deposits and credits of Borrower with, and any and all claims of Borrower against Lender. Such right shall exist whether or not Lender shall have made any demand hereunder or under any other Loan Document, whether or not said sums, or any part thereof, or deposits and credits held for the account of Borrower is or are matured or unmatured, and regardless of the existence or adequacy of any collateral, or any other security, right or remedy available to Lender. Lender agrees that, as promptly as is reasonably possible after the exercise of any such setoff right, it shall notify Borrower of its exercise of such setoff right; provided, however, that the failure of Lender to provide such notice shall not affect the validity of the exercise of such setoff rights. Nothing in this Agreement shall be deemed a waiver or prohibition of or restriction on Lender to all rights of banker's lien, setoff and counterclaim available pursuant to law.

Section 6.3 Completion of Project by Lender. In addition, in case of the occurrence of an Event of Default specified in Section 6.1(f) hereof, or any Event of Default caused by, or which results in, Borrower's failure, for any reason, to continue with the completion of the construction of the Improvements as required by this Agreement, then Lender may (but shall not be obligated to), in addition to, or in concert with, the other remedies referred to above, take over and complete such construction in accordance with the Plans, with such changes therein as Lender may, in its discretion, deem appropriate, all at the risk, cost and expense of Borrower. Lender may assume or reject any contracts entered into by Borrower in connection with the Project with the exception of timeshare purchase contracts, may enter into additional or different contracts for work, services, labor and materials required, in the judgment of Lender, to complete the Project, may pay, compromise and settle all claims in connection with the construction of the Improvements. All sums, including reasonable attorneys' fees, and charges or fees for supervision and inspection of the construction of the Improvements and for any other necessary or desirable purpose in the discretion of Lender expended by Lender in completing or attempting to complete the construction of the Improvements (whether aggregating more, or less, than the aggregate face amount of the Note), shall be deemed Advances made by Lender to Borrower hereunder, and Borrower shall be liable to Lender, on demand, for the payment of such sums, together with interest on such sums from the date of their expenditure at the rates provided herein. Lender may, in its discretion, at any time abandon work on the Project, after having commenced such work, and may recommence such work at any time, it being understood that nothing in this Section shall impose any obligation on Lender either to complete or not to complete the construction of the Improvements. For the purpose of carrying out the provisions of this Section, Borrower irrevocably appoints Lender its attorney-in-fact, with full power of substitution, to execute and deliver all such documents, to pay and receive such funds, and to take such action as may be necessary, in the judgment of Lender, to complete the Project. This

power of attorney is coupled with an interest and is irrevocable. Lender, however, shall have no obligation to undertake any of the foregoing, and, if Lender does undertake any of the same, it shall have no liability for the adequacy, sufficiency or completion thereof.

ARTICLE VII

INTEREST, FEES AND EXPENSES

Section 7.1 Interest; Fees; and Expenses.

(a) Included in the Loan are amounts for Interest Reserve. Borrower hereby authorizes Lender to disburse the Interest Reserve to pay interest accrued on the Note and all other expenses and fees directly to the party to whom such payment is owed as set forth in this Article 7. The execution of this Agreement by Borrower shall, and hereby does, constitute an irrevocable authorization to Lender to make such advances provided for in this Article 7, and no further authorization from Borrower shall be necessary to warrant such direct advances, and all such direct advances shall be secured by the Deed of Trust as if made directly by Borrower.

(b) Lender in its sole discretion may (but shall not be obligated to do so) make such disbursements authorized under this Article 7 notwithstanding that an Event of Default exists under the terms of this Agreement or any other Loan Document. Such disbursements shall constitute an Advance and be added to the principal balance of the Note, and the Lender shall make the applicable Advances to fund any such disbursements. Such disbursements shall bear interest at the Default Rate. The authorization hereby granted is irrevocable, and no further direction or authorization from Borrower is necessary for Lender to make such disbursements. Nothing contained in this Article 7 shall require Lender to disburse Loan proceeds to pay for any of the items set forth in subsection (a) above if the other conditions set forth in this Agreement for Advances are not satisfied.

Section 7.2 Authorization to Make Loan Advances to Cure Borrower's Defaults. If an Event of Default shall occur, Lender (subject to the provisions of this Article 7) may (but shall not be required to) perform any of such covenants and agreements with respect to which Borrower is in Default. Any amounts expended by Lender in so doing and any amounts expended by Lender in connection therewith shall constitute an Advance and be added to the outstanding principal amount of the Loan, and the Lender shall make the applicable Advances to fund any such disbursements. The authorization hereby granted is irrevocable, and no prior notice to or further direction or authorization from Borrower is necessary for Lender to make such disbursements.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 Waiver and Amendment. No failure on the part of Lender or the holder of the Note to exercise and no delay in exercising any power or right hereunder or under any

other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The remedies herein and in any other instrument, document or agreement delivered or to be delivered to Lender hereunder or in connection herewith are cumulative and not exclusive of any remedies provided by law. No notice to or demand on either party hereunder not required hereunder or under the Note or any other Loan Document shall in any event entitle such party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender, the holder of the Note or Borrower to any other or further action in any circumstances without notice or demand.

No amendment, waiver or consent shall affect the rights or duties of Lender under this Agreement or any other Loan Document unless it is in writing and signed by Lender.

Section 8.2 **Expenses and Indemnities**.

(a) Loan Documents. Borrower agrees to pay and reimburse Lender upon demand for all reasonable expenses paid or incurred by Lender (including reasonable fees and expenses of legal counsel) in connection with the collection and enforcement of the Loan Documents, or any of them. Borrower agrees to pay, and save Lender harmless from all liability for, any mortgage registration, mortgage recording, transfer, recording, stamp, or similar tax or other charge due to any governmental entity, which may be payable with respect to the execution or delivery of the Loan Documents. Borrower agrees to indemnify Lender and hold Lender harmless from any loss or expense which may arise or be created by the acceptance of telephonic or other instructions for making the Loan or disbursing the proceeds thereof except for losses or expenses caused by Lender, gross negligence or willful misconduct.

(b) General Indemnity. In consideration of the Commitment, Borrower further agrees to indemnify and defend Lender and its directors, officers, agents and employees (the "**Indemnified Parties**") from, and hold each of them harmless against, any and all losses, liabilities, claims, damages, deficiencies, interest, judgments, costs or expenses incurred by them or any of them, including, but without limitation, amounts paid in settlement, court costs, and reasonable fees and disbursements of counsel incurred in connection with any investigation, litigation or other proceeding, arising out of or by reason of any investigation, litigation or other proceeding brought or threatened, arising out of or by reason of their execution of any Loan Document and the transaction contemplated thereby, including, but not limited to, any use effected or proposed to be effected by Borrower of the proceeds of the Loan, but excluding any such losses, liabilities, claims, damages or expenses incurred by reason of the gross negligence or willful misconduct of the relevant Indemnified Party. Any Indemnified Party seeking indemnification under this Section will notify Borrower of any event requiring indemnification within thirty (30) Business Days following such Indemnified Party's receipt of notice of commencement of any action or proceeding, or such Indemnified Party's obtaining knowledge of the occurrence of any other event, giving rise to a claim for indemnification hereunder. Borrower will be entitled (but not obligated) to assume the defense or settlement of any such action or proceeding or to participate in any

negotiations to settle or otherwise resolve any claim using counsel of its choice; provided that:

(i) Borrower notifies such Indemnified Party in writing that Borrower will indemnify such Indemnified Party from and against the relevant claim;

(ii) such counsel is reasonably satisfactory to such Indemnified Party;

(iii) such claim involves only money damages and does not seek an injunction or other equitable relief;

(iv) if such Indemnified Party is the Lender, settlement of, or an adverse judgment with respect to, such claim is not, in the good faith judgment of such Indemnified Party, likely to establish a precedential custom or practice materially adverse to the continuing business interests of such Indemnified Party;

(v) Borrower conducts the defense of such claim actively and diligently;

(vi) no conflict of interest has arisen which would prevent counsel for Borrower from also representing such Indemnified Party because the defendants in any action include both such Indemnified Party and Borrower; and

(vii) Borrower will not consent to the entry of any judgment or enter into any settlement with respect to such claim without the prior written consent of such Indemnified Party (not to be withheld unreasonably).

So long as Borrower has assumed the defense of such claim and is conducting such defense in accordance with the foregoing, such Indemnified Party: (y) may retain separate co-counsel at its sole cost and expense and participate in the defense of such claim; and (z) will not consent to the entry of any judgment or enter into any settlement with respect to such claim without the prior written consent of Borrower with respect to such claim (not to be withheld unreasonably).

If Borrower fails to assume such defense or, after doing so, Borrower fails to satisfy any of the above conditions to Borrower's defense, such Indemnified Party (and its counsel) may defend against, and consent to the entry of any judgment or enter into any settlement with respect to, such claim in any manner it may reasonably deem appropriate (and such Indemnified Party need not consult with, or obtain any consent from, Borrower in connection therewith) and Borrower will reimburse such Indemnified Party promptly and periodically for the costs of defending against such claim (including reasonable attorneys' fees and expenses) and Borrower will remain responsible for any loss which such Indemnified Party may suffer resulting from, arising out of, relating to, in the nature of, or caused by such claim to the fullest extent provided for and required by this Agreement.

Section 8.3 **Binding Effect; Waivers; Cumulative Rights and Remedies.** The provisions of this Agreement shall inure to the benefit of and be binding upon the parties hereto

and their respective heirs, executors, administrators, personal representatives, legal representatives, successors and assigns; provided, however, that neither this Agreement nor the proceeds of the Loan may be assigned by Borrower voluntarily, by operation of law or otherwise, without the prior written consent Lender. No delay on the part of Lender in exercising any right, remedy, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder constitute such a waiver or exhaust the same, all of which shall be continuing. The rights and remedies of Lender specified in this Agreement shall be in addition to, and not exclusive of, any other rights and remedies which Lender would otherwise have at law, in equity or by statute, and all such rights and remedies, together with Lender's rights and remedies under the other Loan Documents, are cumulative and may be exercised individually, concurrently, successively and in any order.

Section 8.4 Incorporation By Reference. Borrower agrees that until this Agreement is terminated by the repayment to Lender of all principal and interest due and owing on the Note and other sums due and owing pursuant to the other Loan Documents, the Note and the other Loan Documents shall be made subject to all the terms, covenants, conditions, obligations, stipulations and agreements contained in this Agreement to the same extent and effect as if fully set forth in and made a part of the Note and the other Loan Documents.

Section 8.5 Survival. All agreements, representations and warranties made in this Agreement shall survive the execution of this Agreement, the making of the Advances by Lender, and the execution of the other Loan Documents, and shall continue until Lender receive payment in full of all of the Obligations and the Indebtedness of Borrower incurred under this Agreement and under the other Loan Documents.

Section 8.6 Governing Law; Waiver of Jury Trial; Jurisdiction. IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS AGREEMENT, THE OBLIGATIONS ARISING HEREUNDER, AND ALL QUESTIONS AND ISSUES ARISING HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA, APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS AGREEMENT AND THE NOTE, AND THIS AGREEMENT AND THE NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEVADA.

BORROWER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION RELATING TO THE LOAN AND/OR THE LOAN DOCUMENTS. BORROWER, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (A) SUBMITS TO PERSONAL JURISDICTION IN THE STATE

OF NEVADA OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS AGREEMENT, (B) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE OF NEVADA, (C) SUBMITS TO THE JURISDICTION AND VENUE OF SUCH COURTS AND WAIVES ANY ARGUMENT THAT VENUE IN SUCH FORUMS IS NOT CONVENIENT, AND (D) AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM. BORROWER FURTHER CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID, TO BORROWER AT THE ADDRESSES FOR NOTICES DESCRIBED IN THIS AGREEMENT, AND CONSENTS AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE IN EVERY RESPECT VALID AND EFFECTIVE SERVICE (BUT NOTHING HEREIN SHALL AFFECT THE VALIDITY OR EFFECTIVENESS OF PROCESS SERVED IN ANY OTHER MANNER PERMITTED BY LAW).

Section 8.7 **Counterparts**. This Agreement may be executed in any number of counterparts, all of which shall constitute a single Agreement.

Section 8.8 **Notices**. All notices, demands, requests, consents, approvals or other communications (any of the foregoing, a "**Notice**") required, permitted or desired to be given hereunder shall be in writing and shall be sent by (a) registered or certified mail, postage prepaid, return receipt requested, (b) Federal Express, UPS or another reputable overnight courier, or (c) by hand by commercial courier service, addressed to the party to be so notified at its address set forth opposite its signature, below, or to such other address as such party may hereafter specify in accordance with the provisions of this Section. Any Notice shall be deemed to have been received: (i) three (3) days after the date such Notice is mailed, (ii) on the date of delivery by hand (or refusal to accept such delivery) if delivered during business hours on a Business Day (otherwise on the next Business Day), and/or (iii) on the next Business Day if sent by an overnight commercial courier. Notices shall be deemed effective if given by counsel to either party, as if given directly by such party. No notice under this Agreement or any other Loan Document shall be ineffective because of the failure to provide a copy of any notice to any party to whom a courtesy copy is to be sent under this Agreement.

Any party may change the address to which any such Notice is to be delivered by furnishing ten (10) days' prior written notice of such change to the other parties in accordance with the provisions of this Section. Notices shall be deemed to have been given on the date as set forth above, even if there is an inability to actually deliver any such Notice because of a changed address of which no Notice was given, or there is a rejection or refusal to accept any Notice offered for delivery.

Section 8.9 **No Third-Party Reliance**. No third party shall be entitled to rely upon this Agreement or to have any of the benefits of Lender's interest hereunder, unless such third party is an express assignee of all or a portion of Lender's interest hereunder.

Section 8.10 Lender Assignment. Borrower agrees that Lender may assign its interest in the Loan at any time without the prior consent of Borrower, provided that, upon such assignment, the terms of the Loan shall not be modified or amended in any way and provided further, that any such assignment does not violate any terms or conditions of the EB-5 Program.

Section 8.11 Time of the Essence. Time is of the essence hereof with respect to the dates, terms and conditions of this Agreement.

Section 8.12 No Oral Modifications. No modification or waiver of any provision of this Agreement shall be effective unless set forth in writing and signed by the parties hereto.

Section 8.13 Captions. The headings or captions of the Articles and Sections set forth herein are for convenience only, are not a part of this Agreement and are not to be considered in interpreting this Agreement.

Section 8.14 Borrower-Lender Relationship. The relationship between Borrower and Lender created hereby and by the other Loan Documents shall be that of a borrower and a lender only, and in no event shall Lender be deemed to be a partner of, or a joint venturer with, Borrower.

[END OF AGREEMENT; SIGNATURE PAGES FOLLOW]

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

BORROWER:

FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company

By: _____
Name: Ignatius Piazza
Title: Manager

Borrower's Address:

1 Front Sight Road
Pahrump, NV 89061

With a copy to (which copy shall not constitute notice):

Scott A. Preston, Esq.
Preston Arza LLP
8581 Santa Monica Boulevard, #710
West Hollywood, CA 90069

[Signature page 1 of 2 of Construction Loan Agreement]

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Francisco

On OCT 06, 2016 before me, P. Fakeri, Notary Public,
(Here insert name and title of the officer)

personally appeared Ignatius Piazza

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

P. FAKERI
COMM. #2003459
Notary Public · California
San Mateo County
My Comm. Expires Feb. 6, 2017

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Construction Loan
(Title or description of attached document)

Agmt
(Title or description of attached document continued)

Number of Pages 51 Document Date 10/6/16

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer

(Title)

- ☐ Partner(s)
- ☐ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC, a Nevada limited liability company

By: _____
Name: _____
Title: _____

Lender's Address:

P.O. Box 3003
916 Southwood Blvd., Suite 1G
Incline Village, NV 89450

With a copy to (which copy shall not constitute notice):

EB5 Impact Capital Regional Center LLC
916 Southwood Blvd., Suite 1G
Incline Village, NV 89450

And

Michael A. Brand, Esq.
2924 Selwyn Circle
Santa Barbara, California 93105

And:

C. Matthew Schulz, Esq.
Dentons US LLP
1530 Page Mill Road, Suite 200
Palo Alto, CA 94304-1125

[Signature page 2 of 2 of Construction Loan Agreement]

4847-9752-5523.5

Exhibit 4

FIRST AMENDMENT TO LOAN AGREEMENT

This FIRST AMENDMENT TO LOAN AGREEMENT (this "**First Amendment**") is entered into and effective as of July 1, 2017 (the "**First Amendment Effective Date**") by and between Las Vegas Development Fund, LLC, a Nevada Limited Liability Company ("**Lender**") and Front Sight Management, LLC, a Nevada Limited Liability Company, ("**Borrower**"). Lender and Borrower and their respective permitted successors and assigns are sometimes referred to in this First Amendment individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Lender and Borrower entered into that certain Construction Loan Agreement dated as of October 4, 2016 (the "**Original Loan Agreement**"). The Original Loan Agreement as amended by this First Amendment is referred to herein as the "**Agreement**". Pursuant to the Original Loan Agreement, Borrower executed a Promissory Note dated October 6, 2016 (the "**Original Note**") and a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 (the "**Deed of Trust**"). Initially capitalized terms not defined herein shall have the respective meanings assigned to such terms in the Original Loan Agreement.

B. The Parties desire to amend the Original Loan Agreement, the Original Note and the Deed of Trust to modify the rights and obligations of the Parties as further set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this First Amendment by this reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties further agree as follows:

1. **COMMENCEMENT DATE**. The definition of "Commencement Date" in the Original Loan Agreement is hereby deleted and replaced with:

> "Commencement Date means October 4, 2016."

2. **INTEREST RATE**. The definition of Loan Rate in the Original Loan Agreement is amended to read as follows:

> "Loan Rate" means the interest rate applicable to the Loan as calculated at an annual rate of 6% during the Initial Term with respect to all Advances made prior to July 1, 2017 and, with respect to such Advances, if extended, at an annual rate of 7% during the Extension Term; and with respect to all Advances made after July 1, 2017 as calculated at an annual rate of 7% during the Initial Term, and, if extended, at an annual rate of 8% during the Extension Term."
>
> And Section 4 of the Note is amended to read as set forth in the Amended and Restated Promissory Note attached hereto as Exhibit A.

3. **MAXIMUM LOAN AMOUNT**. The maximum Loan amount is hereby reduced from seventy-five million Dollars ($75,000,000) to fifty million Dollars ($50,000,000). Accordingly, the reference in Recital A of the Loan Agreement to SEVENTY-FIVE MILLION DOLLARS ($75,000,000) is hereby amended to FIFTY MILLION DOLLARS ($50,000,000), and the first sentence of the definition of

"Commitment" in the Loan Agreement is hereby amended to read: "Commitment" means an amount not to exceed Fifty Million Dollars ($50,000,000)".

Furthermore, the amount shown as the maximum principal amount on the Promissory Note is amended by replacing "$75,000,000" with "$50,000,000," and the amount of "Seventy-Five Million and No/100 Dollars ($75,000,000)" in the first sentence of the Promissory Note is replaced by "Fifty Million and No/100 Dollars ($50,000,000)" as set forth in the Amended and Restated Promissory Note attached hereto as Exhibit "A".

Additionally, the first sentence of Section 1.1 of the Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing has been amended in said document to read: "Loan. The indebtedness secured by this Deed of Trust is the result of a loan in the original principal amount of up to Fifty Million dollars ($50,000,000) (the "Loan") provided by Lender to Grantor."

4. **DATE TO OBTAIN SENIOR DEBT.** The date of December 31, 2016, in the last sentence of the definition of Senior Debt, which is the outside date for Borrower to obtain such Senior Debt, is hereby amended to December 31, 2017, provided, however, that Borrower, at its sole election, may extend said date for an additional sixty (60) days from and after said date of December 31, 2017.

5. **MAINTENANCE OF JOBS REQUIRED FOR EB-5 PURPOSES.** Borrower agrees and covenants to continue to employ sufficient full-time employees to meet the jobs creation requirement of the EB-5 Program.

6. **EB-5 INFORMATION.** Borrower has provided Lender with a portion of the information and documentation required pursuant to Section 5.10 of the Original Loan Agreement. The parties acknowledge that Borrower's copies of certain documentation were in an office in or around Santa Rosa, California, which was burned down in a major wildfire in Northern California. Notwithstanding the foregoing, on or before June 30, 2018, Borrower shall provide Lender with copies of major contracts, bank statements, receipts, invoices and cancelled checks or credit card statements or other proof of payment reasonably acceptable to Lender that document that Borrower has invested in the Project at least the amount of money as has been disbursed by Lender to Borrower on or before the First Amendment Effective Date, it being understood that such documentation may evidence investments occurring at any time from and after the date of the Original Loan Agreement up to and including June 30, 2018. Borrower further agrees that, in the event that there is an audit, compliance review or other form of request for such documentation by the USCIS or any successor or affiliated agency, including the U.S. Securities and Exchange Commission or the U.S. Department of Justice, Borrower will, at Borrower's sole cost and expense, promptly reconstruct in its entirety such documentation evidencing the investment of the amount of funds disbursed on or before the First Amendment Effective Date by obtaining copies from third parties. Borrower further agrees that the provisions of the Original Loan Agreement continue to apply with respect to the EB-5 Information (as defined in the Original Loan Agreement) and all provisions of the Original Loan Agreement which require Borrower to provide information and/or documentation to Lender continue to apply and Borrower will comply fully therewith.

7. **INDEMNIFICATION.** Borrower agrees to defend, indemnify and hold Lender harmless from any actual expense, cost, loss or damage, including reasonable attorneys' fees and court costs, paid or incurred by Lender due to (i) Borrower's failure to provide the EB5 documentation for the period from the first disbursement of the Loan proceeds through October 31, 2017, or (ii) Borrower's breach of its obligations contained in Paragraph 6, above.

8. **AGREEMENT RATIFIED.** Except as specifically amended or modified herein, each and every term, covenant, and condition of the Original Loan Agreement, Note and Deed of Trust as amended is

hereby ratified and shall remain in full force and effect. Each and every reference to the "Agreement" in the Original Loan Agreement (including, without limitation, the attachments thereto) shall be deemed to refer to the Original Loan Agreement as amended by this First Amendment.

9. **GOVERNING LAW**. This instrument shall be interpreted and construed in accordance with the laws of the State of Nevada.

10. **BINDING AGREEMENT**. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

11. **COUNTERPARTS**. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Signature page follows]

IN WITNESS WHEREOF, Lender and Borrower have signed this First Amendment as of the First Amendment Effective Date.

BORROWER: FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: _____
Name: Ignatius Piazza
Title: Manager

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: _____
Name: Robert Dziubla
Title: President & CEO

PLEASE SEE ATTACHED CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT FORM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sonoma

On November 14, 2017 (Date) before me, John A Russell Notary Public (Here Insert Name and Title of the Officer)

personally appeared Ignatius Anthony Piazza II (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

JOHN A. RUSSELL
Notary Public - California
Sonoma County
Commission # 2171851
My Comm. Expires Nov 13, 2020

Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature John A Russell
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: First Amendment To Loan Agreement
Document Date: 11/14/2017 Number of Pages: 4
Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

Exhibit 5

SECOND AMENDMENT TO LOAN AGREEMENT

This SECOND AMENDMENT TO LOAN AGREEMENT (this "**Second Amendment**") is entered into and effective as of February 28, 2018 (the "**Second Amendment Effective Date**") by and between Las Vegas Development Fund, LLC, a Nevada Limited Liability Company ("**Lender**") and Front Sight Management, LLC, a Nevada Limited Liability Company, ("**Borrower**"). Lender and Borrower and their respective permitted successors and assigns are sometimes referred to in this Second Amendment individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Lender and Borrower entered into that certain Construction Loan Agreement dated as of October 4, 2016 (the "**Original Loan Agreement**"). The Original Loan Agreement as amended by this First Amendment is referred to herein as the "**Agreement**". Pursuant to the Original Loan Agreement, Borrower executed a Promissory Note dated October 6, 2016 (the "**Original Note**") and a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 (the "**Deed of Trust**"). Initially capitalized terms not defined herein shall have the respective meanings assigned to such terms in the Original Loan Agreement. The Original Loan Agreement was amended by a First Amendment to Loan Agreement effective as of July 1, 2017 (the "First Amendment") to further extend the date for obtaining the Senior Financing.

B. Borrower has represented to Lender that further extending the date for obtaining the Senior Debt will benefit the Project by reducing borrowing costs by delaying the Senior Debt until it is strictly necessary to allow construction to proceed at the fastest feasible pace. Borrower has further represented to Lender that construction is currently proceeding at the most expedited pace reasonably possible and that Borrower has received preliminary pricing terms from two lenders for the Senior Debt ("Senior Debt Term Sheets"). The Parties desire to further amend the Original Loan Agreement, as modified by the First Amendment, to modify the rights and obligations of the Parties as further set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this First Amendment by this reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties further agree as follows:

1. **DATE TO OBTAIN SENIOR DEBT.** The date of December 31, 2016, in the last sentence of the definition of Senior Debt in the Original Loan Agreement, which was the outside date for Borrower to obtain such Senior Debt, and which date was extended in the First Amendment, is hereby amended to June 30, 2018.Concurrently with the execution of this Second Extension, Borrower shall provide to Lender copies of term sheets, emails and other materials related to the Senior Debt Term Sheets and shall periodically, but no less than monthly, update the same.

2. **AGREEMENT RATIFIED.** Except as specifically amended or modified herein, each and every term, covenant, and condition of the Original Loan Agreement, Note and Deed of Trust as amended is hereby ratified and shall remain in full force and effect. Each and every reference to the "Agreement" in

the Original Loan Agreement (including, without limitation, the attachments thereto) shall be deemed to refer to the Original Loan Agreement as amended by the First Amendment and this Second Amendment.

3. GOVERNING LAW. This instrument shall be interpreted and construed in accordance with the substantive laws of the State of Nevada, excluding choice of law principles.

4. BINDING AGREEMENT. This Second Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

5. COUNTERPARTS. This Second Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, Lender and Borrower have signed this Second Amendment as of the Effective Date.

BORROWER:

FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: _____
Name: Ignatius Piazza
Title: Manager

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: _____
Name: Robert W. Dziubla

Title: President & CEO

Exhibit 6

APN(s) 045-481-05 and 045-481-06

RECORDING REQUESTED BY
and RETURN TO:

Kathryn Holbert, Esq. NV Bar #10084
FARMER CASE & FEDOR
2190 E. Pebble Rd., #205
Las Vegas, NV 89123

DOC #905512
Official Records Nye County NV
Deborah Beatty - Recorder
01/18/2019 10:51:43 AM
Requested By: E-DOCS SOLUTIONS L
Recorded By: MJ RPTT:$0
Recording Fee: $285.00
Non Conformity Fee: $
Page 1 of 5

NOTICE OF BREACH, DEFAULT and ELECTION TO SELL UNDER DEED OF TRUST
IMPORTANT NOTICE

NOTICE IS HEREBY GIVEN that: Kathryn Holbert, Esq., is the duly appointed substitute Trustee under that certain Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 and recorded on October 13, 2016, as Document No. 860867 of official records in the Office of the Recorder of Nye County, Nevada; ("Deed of Trust"), which was executed by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company, Grantor, as Trustor, to secure certain obligations in favor of LAS VEGAS DEVELOPMENT FUND, LLC, a Nevada limited liability company, together with that certain First Amendment to Construction Deed of Trust, Security Agreement and Fixture Filing dated July 1, 2017 and recorded on January 12, 2018, as Document No. 886510, and any modifications/amendments thereto of the Official Records in the Office of the Recorder of Nye County, State of Nevada ("Deeds of Trust").

Such DEED OF TRUST secures an Amended and Restated Promissory Note for the sum of up to $50,000,000.00 as well as other material obligations. A breach of the obligations which are secured by such Amended and Restated Promissory Note has occurred and FRONT SIGHT MANAGEMENT, LLC is in default under the terms of the Deeds of Trust as set forth below:

The total amount due is $345,787.24 which is itemized as $32,833.33 current interest; $158,395.80 past due interest; $138,655.62 legal/attorney fees and costs; and $15,902.49 in late fees. Additionally, FRONT SIGHT MANAGEMENT, LLC has default regarding various material non-monetary obligations which are set forth in and secured by the Deeds of Trust, including:

a. Improper use of loan proceeds.
b. Failure to provide government approved plans for construction.
c. Material delays in construction.
d. Material changes to the costs, scope and timing of the construction.
e. Refusal to comply regarding securing senior debt.
f. Failure to provide monthly project costs.
g. Failure to notify lender of the occurrence of events of default.
h. Refusal to allow inspection of books and records.
i. Refusal to allow site inspection by Lender and its representatives.
j. Failure to provide EB-5 documentation.

To cure the Default and Reinstate your loan, you must pay all amounts then due at the time of reinstatement, including any additional unpaid amounts that you are obligated to pay by the terms of the Note and the Deed of Trust, such as, but not limited to, advances, taxes, hazard insurance and obligations secured by prior encumbrances, plus Trustee's and/or Attorney's Fees and Costs and Expenses incurred in enforcing the obligation AND cure the above itemized performance obligations.

Pursuant to NRS 104.9604(1)(b) the sale may, at the election of the beneficiary, include personal property.

NOTICE

You may have the right to cure the defaults set forth herein and reinstate the obligations secured by the Deeds of Trust described above. NRS Section 107.080 permits certain defaults to be reinstated without requiring payment of that portion of principal and interest which would not be due had no default occurred (acceleration of principal). Where reinstatement is possible, if the default is not cured within 35 days following the recording and mailing of this Notice, the right of reinstatement shall terminate and the property thereafter may be sold.

To find out the amount you must pay and the other obligations you must fulfill, or to seek to make arrangements to stop the foreclosure, or if your property is in foreclosure for any other reason, contact LAS VEGAS DEVELOPMENT FUND, LLC, c/o Kathryn Holbert, Esq. Farmer Case & Fedor, Las Vegas, NV 89123, 702-579-3900.

That by reason thereof, the present beneficiary under such Deeds of Trust has executed and delivered to said Trustee a written Declaration of Default and Demand for Sale, and has delivered to said Trustee such Deeds of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums and obligations set forth above which are secured thereby immediately due and has elected to cause the property to be sold to satisfy the obligations secured thereby.

AFFIDAVIT OF AUTHORITY IS ATTACHED HERETO

Kathryn Holbert, Esq. Successor Trustee

1-17-2019
Dated

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF NEVADA
COUNTY OF CLARK

On January 17, 2019 before me, Alana Barton, a Notary Public, Personally appeared Kathryn Holbert, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

Notary Public Alana Barton

ALANA BARTON
Notary Public State of Nevada
No. 18-1915-1
My Appt. Exp. January 10, 2022

AFFIDAVIT OF AUTHORITY TO EXERCISE THE POWER OF SALE

NRS § 107.080(2)(c)

STATE of CALIFORNIA)
)ss.
COUNTY of SAN DIEGO)

The affiant, ROBERT W. DZIUBLA, being first duly sworn upon oath, based on my direct, personal knowledge, or pursuant to personal knowledge that I acquired by a review of the business records, which meet the standards set forth forth in NRS §51.135, of the beneficiary and/or the servicer of the obligation or debt secured by that certain Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 and recorded on October 13, 2016, as Document No. 860867 of official records in the Office of the Recorder of Nye County, Nevada; ("Deed of Trust"), which was executed by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company, Grantor, as Trustor, to secure certain obligations in favor of LAS VEGAS DEVELOPMENT FUND, LLC, a Nevada limited liability company, together with that certain First Amendment to Construction Deed of Trust, Security Agreement and Fixture Filing dated July 1, 2017 and recorded on January 12, 2018, as Document No. 886510, and any modifications/amendments thereto of the Official Records in the Office of the Recorder of Nye County, State of Nevada ("Deeds of Trust").

I further attest, under penalty of perjury, that I am the authorized representative of the beneficiary under such Deeds of Trust, which are described in the NOTICE OF BREACH, DEFAULT and ELECTION TO SELL UNDER DEED OF TRUST to which this affidavit is attached.

I further attest, under penalty of perjury, to the following information, as required by NRS § 107.080(2)(c):

1. The full name and business address of the current trustee is:

Kathryn Holbert, Esq. NV Bar No. 10084
Farmer Case & Fedor
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
702-579-3900

2. The full name and business address of the current holder of the Promissory Note which is secured by the Deeds of Trust and the current beneficiary of record of the Deeds of Trust is:

Las Vegas Development Fund, LLC
916 Southwood Blvd., Suite IG
Post Office Box 3003
Incline Village, NV 89450

3. The full name and business address of the current servicer of the obligation or debt which is secure by the Deeds of Trust is:

NES Financial Corp.
50 W. San Fernando St., Suite 300
San Jose, CA 95113

4. The beneficiary is in actual possession of the Promissory Note which is secured by the Deeds of Trust and is entitled to enforce the debt and/or other obligations which are secured by the Deed of Trust.

5. The beneficiary and/or the servicer of the obligations and/or debt which are secured by the Deed of Trust has sent to the obligator/borrower of the obligation and/or debt which are secured by the Deed of Trust a written statement of:

a. The amount of payment required to make good the monetary deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt as existing before the deficiency and/or defaults occurred, as of the date of the statements;

b. The amount in default;

c. The principal amount of the obligation or debt secured by the Deed of Trust;

d. The amount of accrued interest and late charges,

e. A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

f. Contact information for obtaining the most current amounts due and the local or toll free number as required by NRS 107.080(2)(c)(4).

6. A local or toll free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amount due and other items required to cure the obligors defaults under the Deeds of Trust as well as recitation of the information contained in this affidavit is 702-579-3900.

7. The following information regarding the recorded instruments that conveyed the interest of the beneficiary is as follows:

Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 and recorded on October 13, 2016, as Document No. 860867 of official records in the Office of the Recorder of Nye County, Nevada; ("Deed of Trust"), which was executed by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company, Grantor, as Trustor, to secure certain obligations in favor of LAS VEGAS DEVELOPMENT FUND, LLC, a

Nevada limited liability company, together with that certain First Amendment to Construction Deed of Trust, Security Agreement and Fixture Filing dated July 1, 2017 and recorded on January 12, 2018, as Document No. 886510, and any modifications/amendments thereto of the Official Records in the Office of the Recorder of Nye County, State of Nevada ("Deeds of Trust").

The beneficiary has and does hereby instruct the Successor Trustee to exercise the power of sale with respect to the property which is set forth as security under the Deeds of Trust.

Robert W. Dziuba, President and CEO of beneficiary
LAS VEGAS DEVELOPMENT FUND, LLC

Dated January 4, 2019

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE of CALIFORNIA)
)ss.
COUNTY of SAN DIEGO)

On Jan 4, 2019 before me, Amanda Anderberg, a Notary Public, Personally appeared Robert W. Dziubla, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or entity upon behalf of which the person(~~s~~) acted, executed the instrument.

Notary Public Amanda Anderberg

AMANDA ANDERBERG
COMM. # 2229114
NOTARY PUBLIC-CALIFORNIA
SAN DIEGO COUNTY
MY COMM. EXP. JUL. 21, 2022

Exhibit 7

AMENDED AND RESTATED PROMISSORY NOTE

$50,000,000.00 Date: July 1, 2017 (the "Effective Date")

FOR VALUE RECEIVED, the undersigned, FRONT SIGHT MANAGEMENT LLC, a Nevada limited liability company ("**Borrower**"), having an address at 1 Front Sight Road, Pahrump, NV 89061, promises to pay, as hereinafter provided, to the order of LAS VEGAS DEVELOPMENT FUND LLC, a Nevada limited liability company ("**Lender**"), having an address at P.O. Box 3003, 916 Southwood Blvd., Suite 1G, Incline Village NV 89450, without set-off, counterclaim or deduction, the sum of Fifty Million and No/100 Dollars ($50,000,000.00), or so much thereof as may have been advanced to or made available for the benefit of Borrower pursuant to the Loan Agreement (as such term is hereinafter defined) and remains unpaid from time to time (hereinafter called "**Principal Balance**"), with interest on the Principal Balance, until paid in full, at the rates per annum hereinafter specified in legal tender for the payment of public and private debts in the United States of America, all in accordance with the terms hereinafter set forth. All interest payable hereunder shall be computed on the basis of a 360-day year, but shall be charged for the actual number of days principal is unpaid.

1. Payment Location. All payments of principal and interest under this Note shall be made in lawful money of the United States of America by wire transfer in immediately available funds to such account as may be designated by Lender to Borrower in writing.

2. Capitalized Terms. Unless the context otherwise indicates, capitalized terms not otherwise defined herein shall have the meanings provided for such terms in that certain Construction Loan Agreement of October 6, 2016, as amended by that certain First Amendment to Construction Loan Agreement of even date herewith by and between Borrower and Lender (as the same may be further amended, modified or supplemented from time to time hereinafter collectively referred to as the "**Loan Agreement**"), and which terms are incorporated by this reference as if fully set forth herein.

3. Identification of Note. This Amended and Restated Promissory Note (this "**Note**") is the Promissory Note referred to in the Loan Agreement and shall amend, restate and replace in its entirety that certain Promissory Note, made as of October 6, 2016, by Borrower, in favor of Lender, for the purpose of clarifying certain terms and conditions intended to be effective from and after the Effective Date. The Loan Agreement governs the terms of the indebtedness of Borrower to Lender evidenced by this Note and such other indebtedness as more particularly set forth in the Security Documents (defined below).

4. Payments. This Note shall be payable by Borrower to Lender as follows:

(a) Interest shall accrue commencing upon the date upon which funds are first released to Borrower from the Loan Escrow, and continuing until such time as Borrower repays such funds to Lender, in whole or in part, as and when permitted in accordance with

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the Loan Agreement. Borrower shall make current payments of interest on the first (1st) day of each calendar month on that portion of the Principal Balance then outstanding calculated at an annual rate of 6% during the Initial Term with respect to all Advances made prior to July 1, 2017 and, with respect to such Advances, if extended, at an annual rate of 7% during the Extension Term; and, with respect to all Advances made after July 1, 2017 at an annual rate of 7% during the Initial Term, and, with respect to such Advances, if extended, at an annual rate of 8% during the Extension Term.

If any payment date is on a weekend or national holiday, payment shall be made on the next business day.

(b) The entire unpaid Principal Balance and all interest accrued thereon shall be due and payable in full on the Initial Maturity Date, subject, however, to Borrower's election to extend the Initial Maturity Date in accordance with the terms and conditions set forth in Section 1.6 of the Loan Agreement.

(c) In the event that the maturity date is extended as set forth in Section 4(b) above, all accrued and unpaid interest pursuant to Section 4(a) above shall be paid to Lender on the Initial Maturity Date.

(d) Following any Event of Default hereunder or under the Loan Agreement, interest shall accrue at the Default Rate together with, as applicable, any Late Charge in accordance with the Loan Agreement.

(e) No payment of interest or other consideration made or agreed to be made by Borrower pursuant to this Note or any other instrument referring to or securing this Note shall, at any time, be deemed to have been computed at an interest rate in excess of the maximum rate of interest permissible by law, if any. In the event such payments of interest or other consideration provided for in this Note or any other instrument referring to or securing this Note shall result in payment of an effective rate of interest which, for any period of time, is in excess of the limit of the usury law or any other law applicable to the loan evidenced hereby, all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party or parties hereto, be applied to the Principal Balance immediately upon receipt of such monies by Lender with the same force and effect as though Borrower had specifically designated, and Lender had agreed to accept, such extra payments as a principal payment, without premium or penalty. If the Principal Balance has been fully paid, any such excess amount shall be refunded to Borrower. This provision shall control over every other obligation of Borrower hereunder and under any instrument that secures this Note.

(f) Except as set forth in Section 4(e) above, all payments made hereunder shall be applied to amounts due in accordance with the Loan Agreement.

5. Prepayment. The Principal Balance and accrued interest thereon may be prepaid in full or in part only as provided in the Loan Agreement.

6. Security. The payment and performance of this Note and other Obligations are secured by the lien of that certain Deed of Trust, Assignment of Leases and Rents, Security

Agreement and Fixture Filing of even date herewith ("**Deed of Trust**"), by Borrower for the benefit of Lender encumbering certain real and personal property located in Nye County, Nevada, as more specifically described therein (the "**Project**"). Advances of the sums evidenced by this Note are to be made pursuant to the Loan Agreement.

Each Borrower, co-maker, endorser, surety and guarantor hereby guaranties payment of this Note, and waives demand for payment, presentment for payment, notice of nonpayment, protest, notice of protest, notice of dishonor, notice of intention to accelerate maturity, notice of acceleration of maturity, notice of intent to foreclose on any collateral securing this Note, all other notices as to this Note, diligence in collection as to each and every payment due hereunder, and all other requirements necessary to charge or hold such person or entity to any obligation hereunder, and agrees that without any notice Lender may take additional security herefor or may release any or all security herefor, or alone or together with any present or future owner or owners of all or any part of the Project or by any other security documents, may from time to time extend, renew, or otherwise modify the date or dates or amount or amounts of payment above recited, or Lender may from time to time release any part or parts of the property and interest subject to the Deed of Trust or any other security documents from the Deed of Trust and/or any other security documents, with or without consideration, and that, in any such case, each Borrower, co-maker, endorser, surety and guarantor shall continue to be bound hereby and to be liable to pay the unpaid balance of the indebtedness evidenced hereby, as so additionally secured, extended, renewed or modified, and notwithstanding any such release, and further agrees to indemnify Lender against and hold Lender harmless from and pay all costs and expenses of collection, including court costs and reasonable attorneys' fees (prior to trial, at trial and on appeal) incurred in collecting the indebtedness evidenced hereby, or in exercising or defending, or obtaining the right to exercise, the rights of Lender hereunder, under the Loan Agreement or under any security document, whether suit be brought or not, and in foreclosure, in bankruptcy, insolvency, arrangement, reorganization and other debtor-relief proceedings, in probate, in other court proceedings, or otherwise, whether or not Lender prevails therein, and all costs and expenses incurred by Lender in protecting or preserving the property and interests which are subject to the Deed of Trust and/or any other security documents.

7. Default. Time is of the essence hereof. The occurrence of an Event of Default under the Loan Agreement shall constitute an Event of Default under this Note. Upon the occurrence of an Event of Default, Lender shall have the rights set forth in Section 6.2 of the Loan Agreement.

Lender shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies, and no waiver of any kind shall be valid unless in writing and signed by Lender. All rights and remedies of Lender under the terms of this Note, under the terms of the Loan Agreement and/or of any other security document, and under any statutes or rules of law shall be cumulative and may be exercised successively or concurrently by Lender. Borrower agrees that Lender shall be entitled to all the rights of a holder in due course of negotiable instruments. Any provision of this Note which may be unenforceable or invalid under any law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof.

8. Interest Rate Limitation. It is the intent of Borrower and Lender in the execution of this Note and all other instruments securing this Note that the loan evidenced hereby be exempt from the restrictions of the usury laws of the State of Nevada. In the event that, for any reason, it should be determined that the Nevada usury law is applicable to the Loan, Lender and Borrower stipulate and agree that none of the terms and provisions contained herein or in any of the other Security Documents shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of Nevada. In such event, if any holder of this Note collects monies which are deemed to constitute interest which would otherwise increase the effective interest rate on this Note to a rate in excess of the maximum rate permitted to be charged by the laws of the State of Nevada, all such sums deemed to constitute interest in excess of such maximum rate will, at the option of Lender, be credited to the payment of the sums due hereunder (without penalty or premium to Borrower) or returned to Borrower. Borrower agrees to pay an effective contracted for rate of interest equal to the rate of interest resulting from all interest payable as provided in this Note, plus any fees, costs and expenses which may be deemed interest under Nevada law.

9. Applicable Law; Jury Trial. IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS NOTE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA, APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS NOTE AND THE SECURITY DOCUMENTS, AND THIS NOTE AND THE SECURITY DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEVADA.

BORROWER HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION RELATING TO THE LOAN AND/OR THE SECURITY DOCUMENTS. BORROWER, TO THE FULLEST EXTENT PERMITTED BY LAW, HEREBY KNOWINGLY, INTENTIONALLY AND VOLUNTARILY, WITH AND UPON THE ADVICE OF COMPETENT COUNSEL, (A) SUBMITS TO PERSONAL JURISDICTION IN THE STATE OF NEVADA OVER ANY SUIT, ACTION OR PROCEEDING BY ANY PERSON ARISING FROM OR RELATING TO THIS NOTE, (B) AGREES THAT ANY SUCH ACTION, SUIT OR PROCEEDING MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN CLARK COUNTY IN THE STATE OF NEVADA, (C) SUBMITS TO THE JURISDICTION AND VENUE OF SUCH COURTS AND WAIVES ANY ARGUMENT THAT VENUE IN SUCH FORUMS IS NOT CONVENIENT, AND (D) AGREES THAT IT WILL NOT BRING ANY ACTION, SUIT OR PROCEEDING IN ANY OTHER FORUM. BORROWER FURTHER CONSENTS AND AGREES TO SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER LEGAL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY REGISTERED OR CERTIFIED U.S. MAIL, POSTAGE PREPAID, TO BORROWER AT THE ADDRESSES FOR NOTICES DESCRIBED IN THIS NOTE, AND CONSENTS AND AGREES THAT SUCH SERVICE SHALL CONSTITUTE IN EVERY

RESPECT VALID AND EFFECTIVE SERVICE (BUT NOTHING HEREIN SHALL AFFECT THE VALIDITY OR EFFECTIVENESS OF PROCESS SERVED IN ANY OTHER MANNER PERMITTED BY LAW).

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed and delivered effective as of the day and year first above set forth.

BORROWER:

FRONT SIGHT MANAGEMENT LLC,
a Nevada limited liability company

By: _____

Name: Ignatius Piazza

Title: Manager

PLEASE SEE ATTACHED
CALIFORNIA ALL-PURPOSE
ACKNOWLEDGEMENT FORM

4835-0286-1843.2

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sonoma

On Nov. 14, 2017 (Date) before me, John A Russell Notary Public (Here Insert Name and Title of the Officer)

personally appeared Ignatius Anthony Piazza II (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

JOHN A. RUSSELL
Notary Public - California
Sonoma County
Commission # 2171851
My Comm. Expires Nov 13, 2020

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature John A Russell II
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Amended and Restated Promissory Note
Document Date: 11/14/2017 Number of Pages: 6
Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

EXHIBIT 8

LOAN AGREEMENT
(Construction Line of Credit)

This Loan Agreement (the "**Agreement**") is made and entered into as of the 31st day of October, 2017, by and between **FRONT SIGHT MANAGEMENT, LLC**, a Nevada limited liability company ("**Borrower**"), and **TOP RANK BUILDERS INC.**, a Nevada corporation ("**Top Rank**"), **MORALES CONSTRUCTION, INC.**, a Nevada corporation ("**Morales**"), and **ALL AMERICAN CONCRETE & MASONRY INC.**, a Nevada corporation ("**All American**"; collectively, Top Rank, Morales and All American may be referred to as "**Lender**"); provided, that **TOP RANK BUILDERS INC.** is the duly authorized agent and representative of Lender for purposes of this Agreement.

RECITALS

A. Borrower has negotiated with and obtained from Lender a construction line of credit in the maximum principal amount of Thirty-Six Million and No/100 United States Dollars (US$36,000,000.00) for the purpose of financing the construction of that certain project known as the Front Sight Resort and Vacation Club located in Pahrump, Nevada (the "**Project**").

B. Lender has agreed to extend said line of credit to Borrower for such purpose upon and subject to all covenants, terms, and conditions hereinafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE 1.
DEFINITIONS AND INTERPRETATIONS

1.1 DEFINITIONS. For purposes of this Agreement, the following terms shall have the following meanings:

1.1.1 "Actual Expenses" shall mean the necessary and reasonable expenses incurred for the operation, maintenance and administration of Borrower, but shall exclude depreciation, replacement and obsolescence charges or reserves and further excluding amortization of intangibles or other bookkeeping entries of a similar nature.

1.1.2 "Advance" or "Advances" shall mean, individually and collectively, an advance of Loan Proceeds pursuant to this Agreement and the Note.

1.1.3 "Agreement" shall mean this Loan Agreement, either as originally executed or as it may from time to time be supplemented, modified, extended, renewed, or amended.

1.1.4 "All American" shall having the meaning set forth in the Introductory Paragraph of this Agreement.

1.1.5 "Assets" shall mean any interest of Borrower in any kind of property, whether real, personal or mixed, tangible or intangible.

1.1.6 "Borrower" shall having the meaning set forth in the Introductory Paragraph of this Agreement.

1.1.7 "Business Day" shall mean Monday through Friday, excluding any day of the year on which banks are required or authorized to close in the State of Nevada.

1.1.8 "Construction Agreements" shall mean those certain construction agreements hereinafter to be entered into from time to time by and between Borrower and one or more of the Construction Contractors with respect to the construction of the Project.

1.1.9 "Construction Contractors" shall mean, collectively, Top Rank, Morales and All American, together with their successors and assigns.

1.1.10 "Event of Default" shall mean any of the events or occurrences specified in Article 5 hereof, or as otherwise specified in the Loan Documents.

1.1.11 "Gross Revenues" shall mean, for any period, all moneys, fees, rates, receipts, rentals, licensing fees, charges, taxes, assessments, issues and income received for, received by or derived from, the Borrower, the operation of the Borrower or its facilities or any other source whatsoever, including, without limitation, grants, contributions, moneys received from the operation of the Borrower's business or the possession of its properties, insurance proceeds or condemnation awards, income from investments, and all rights to receive the same, whether in the form of accounts, accounts receivable, contract rights or other rights and the proceeds of the same whether now owned or held or hereafter coming into being.

1.1.12 "Indemnitee(s)" shall have the meaning set forth in Section 7.3 of this Agreement.

1.1.13 "Installment Payments" shall have the meaning set forth in Section 3.6 of this Agreement.

1.1.14 "Law" shall mean, collectively, all federal, state, and local laws, rules, regulations, ordinances, and codes.

1.1.15 "Lender" shall having the meaning set forth in the Introductory Paragraph of this Agreement.

1.1.16 "Loan" shall mean the extension of credit by Lender to Borrower in the form of Advances under this Agreement and disbursement of Loan Proceeds pursuant to the provisions of Article 3 below.

1.1.17 "Loan Closing" shall mean the date on which the Loan closes, in accordance with Article 3 of this Agreement.

1.1.18 "Loan Closing Costs" shall mean any and all fees and costs incurred by Lender in connection with the negotiation and preparation of the Loan Documents, including attorneys' fees, and closing of the Loan as herein provided.

1.1.19 "Loan Documents" shall mean, individually and collectively, this Agreement, the Note, resolutions and certifications of Borrower, and such other documents as Lender may require Borrower to give or cause to be given to or for the benefit of Lender as evidence of the Loan.

1.1.20 "Loan Proceeds" shall mean all funds advanced by Lender as the Loan to Borrower under this Agreement.

1.1.21 "Maturity Date" shall mean the date which is sixty (60) months from and after the date of the first Advance of the Loan, at which time the entire principal balance of the Loan, plus accrued interest thereon, is and shall be due and payable as provided in this Agreement and the Note, subject to acceleration as provided in the Loan Documents.

1.1.22 "Maximum Amount" shall have the meaning set forth in Section 3.1 hereof.

1.1.23 "Morales" shall having the meaning set forth in the Introductory Paragraph of this Agreement.

1.1.24 "Net Revenues" shall mean the excess of Gross Revenues over Actual Expenses for such period (excluding therefrom any one-time revenues from the sale of any capital asset).

1.1.25 "Note" shall mean the Promissory Note of Borrower, in the maximum principal amount of the Loan, payable to the order of Lender, duly executed by Borrower, as required by Lender to evidence the Loan.

1.1.26 "Obligations" means the Advances and any and all existing and future indebtedness and liability of every kind, nature and character, direct or indirect, absolute or contingent, joint or several (including all renewals, extensions and modifications thereof and all attorney's fees and expenses incurred by Lender in connection with the collection or enforcement thereof, including but not limited to, the enforcement of this Agreement under provisions of the U. S. Bankruptcy Code whether by motion for relief from stay or otherwise), of the Borrower to the Lender however and whenever created, arising, evidenced or acquired.

1.1.27 "Organizational Documents" shall mean the duly filed, certified and/or executed documents or instruments evidencing or confirming the lawful formation and existence of Borrower.

1.1.28 "Permitted Liens" mean any liens, charges and encumbrances on title to the real property constituting the Project as of the Closing Date of the Loan, including, but not limited to, that certain Deed of Trust in favor of Las Vegas Development Fund, LLC, to guarantee Borrower's obligations under that certain Construction Loan Agreement by and between Borrower and Las Vegas Development Fund, LLC, together with such other matters of title thereafter approved by Lender in writing. For the avoidance of doubt, any liens, charges and/or encumbrances securing the Senior Debt shall be considered as "Permitted Liens" as and when such liens, charges and/or encumbrances are granted by Borrower in favor of the provider of the Senior Debt.

1.1.1 "Person" means any individual, sole proprietorship, general partnership, limited partnership, limited liability partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, government, or any Borrower or political division thereof, or any other entity.

1.1.2 "Project" shall having the meaning set forth in Recital A of this Agreement.

1.1.3 "Senior Debt" means the additional loan that will be sought by Borrower, and which Borrower will use it best efforts to obtain, from a traditional financial institution specializing in financing projects such as the Project.

1.1.4 "Top Rank" shall having the meaning set forth in the Introductory Paragraph of this Agreement.

1.2 USE OF DEFINED TERMS. Any defined terms used in the plural shall include the singular, and the masculine gender shall include the feminine and/or neuter, and such terms shall encompass all members of the relevant class.

1.3 SCHEDULES AND EXHIBITS. All schedules and exhibits to this Agreement, either as originally existing or as the same may from time to time be supplemented, modified or amended, are incorporated herein by reference.

1.4 REFERENCES. Any reference to this Agreement or any other document shall include such document, both as originally executed, and as it may from time to time be amended, supplemented and modified. References herein to Articles, Sections and Exhibits shall be construed as references to this Agreement unless a different document is named.

1.5 OTHER TERMS. The term "document" is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material

of every kind. The terms "including" and "include" shall mean "including (include), without limitation."

ARTICLE 2.
REPRESENTATIONS AND WARRANTIES OF BORROWER

Borrower hereby represents and warrants to Lender as of the date of this Agreement, the date(s) the Loan Proceeds are disbursed to Borrower, and each and every date during the term of the Loan, or any portion thereof, as the context admits or requires, that:

2.1 BORROWER'S CAPACITY. Borrower is a limited liability company, duly organized and validly existing under the laws of the State of Nevada. The Borrower is duly authorized to enter into this Agreement and to carry out its obligations hereunder and the Borrower has duly authorized the execution and delivery of this Agreement by the individual(s) executing this Agreement on behalf of the Borrower.

2.2 VALIDITY OF LOAN DOCUMENTS. The Loan Documents are and shall continue to be in all respects valid and binding upon Borrower according to their terms, subject to all Laws, including, without limitation, equitable principles, insolvency Laws, and other matters applying to creditors generally; provided, however, that the implementation of such Laws do not and will not affect the ultimate realization of the Obligations. The execution and delivery by Borrower, and the performance by Borrower, of all its obligations under the Loan Documents have been duly authorized by all necessary action and do not and will not: (a) require any consent or approval not heretofore obtained of any other entity; or (b) violate any provision of any Laws, or of any order, writ, judgment, injunction, decree, determination or award of any court or of any governmental Borrower; or (c) result in a breach of or constitute a default under, cause or permit the acceleration of any obligation owed under, or require any consent under any indenture or loan or credit agreement or any other agreement, lease, or instrument to which Borrower is a party or by which Borrower or any property of Borrower is bound or affected.

2.3 BORROWER NOT IN DEFAULT OR VIOLATION. Borrower is not in default under or in violation of any Laws, order, writ, judgment, injunction, decree, determination or award. Borrower is not in default under any obligation, agreement, instrument, loan, or indenture, whether to Lender or otherwise, or any lease. No event has occurred and is continuing, or would result from the making of any Advance, which constitutes an Event of Default, or would constitute an Event of Default but for the requirement that notice be given or time elapse or both.

2.4 NO APPROVALS REQUIRED. No authorization, consent, approval, order, license, exemption from, or filing, registration, or qualification with, any governmental Borrower is or will be required to authorize, or is otherwise required in connection with the execution, delivery and the performance by Borrower of all or any of its obligations under the Loan Documents.

2.5 PENDING LITIGATION. There are no actions, suits, or proceedings pending, or to the knowledge of Borrower threatened, against or affecting Borrower or involving the validity or enforceability of any of the Loan Documents, at Law or in equity, or before or by any governmental Borrower, except actions, suits, and proceedings that are fully covered by insurance or which, if adversely determined, would not materially impair the ability of Borrower to perform each and every one of its obligations under and by virtue of the Loan Documents, and Borrower is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental Borrower.

2.6 VIOLATION OF LAWS. There are no violations or notices of violations of any Law relating to Borrower.

2.7 SOLVENCY. Borrower is and shall continue to be able to pay its debts as they mature and the realizable value of its Assets is, and at all times that it may have obligations hereunder shall continue to be, sufficient to satisfy any and all obligations hereunder.

2.8 PRINCIPAL PLACE OF BUSINESS. The principal place of business of Borrower is, and will continue to be, as set forth under Section 7.12 of this Agreement. In the event that Borrower hereafter intends to move its principal place of business, it shall first give at least thirty (30) days' prior written notice to Lender of its intention so to move, the date that such move is anticipated, and its new address.

2.9 PERMITS. Borrower possesses all licenses, approvals, permits, franchises, patents, copyrights, trademarks, and trade names, or rights thereto, that are necessary for the ownership and use of Borrower's properties, and for the business substantially as now conducted and as presently proposed to be conducted by Borrower, and Borrower is not in material violation of any valid rights of others with respect to any of the foregoing.

2.10 FULL DISCLOSURE. All information in the loan application, financial statement, certificate, or other document and all information prepared and delivered by Borrower to Lender in obtaining the Loan is correct and complete in all material respects, and there are no omissions therefrom that result in such information being incomplete, incorrect, or misleading in any material adverse respect as of the date thereof.

2.11 USE OF PROCEEDS. The proceeds of each Advance will be used by Borrower solely for the purposes specified in this Agreement.

ARTICLE 3.
THE LOAN

3.1 THE LOAN. The total amount available for borrowing by Borrower hereunder on a revolving basis is Thirty-Six Million and No/100 United States Dollars (US$36,000,000.00) (the "**Maximum Amount**"). The outstanding principal balance of the Loan will not exceed at any time

the sum of Thirty-Six Million and No/100 Dollars ($36,000,000.00). Funds borrowed and repaid may be re-borrowed, but subject to the following conditions and limitations (in addition to any other conditions or limitations set forth in this Agreement or in the Note): (a) if, at any time, the aggregate amount advanced by Lender to Borrower exceeds the amount of the Maximum Amount, Borrower shall, no later than five (5) days following written notice thereof by Lender, pay down the Loan by such principal amount that exceeds the amount of the Maximum Amount, and (b) each Advance shall be due and payable on the Maturity Date. Advances may be requested as set forth in the Note.

3.2 NOTE. The Loan shall be evidenced by the Note. Each payment under the Loan shall be evidenced and recorded upon Lender's loan records, which recordation shall be prima facie evidence of such payment; provided, however, that the failure by Lender to make any such recordation shall not limit or otherwise affect the obligations of Borrower hereunder or under the Note.

3.3 INTEREST; PAYMENTS; PREPAYMENT. Principal and interest under the Note shall be due and payable as provided for in the Note. The Note may be prepaid as provided for in the Note.

3.4 PURPOSE OF LOAN. Loan Proceeds shall be used by Borrower exclusively for the purpose or purposes set forth in this Agreement, including, without limitation, for the purposes described in Recital A of this Agreement.

3.5 CONDITIONS PRECEDENT TO LOAN. In addition to all other conditions of the effectiveness of this Agreement, the Loan Closing shall occur upon, and the obligations of Lender pursuant to this Agreement shall be subject to, the satisfaction of the following conditions, any or all of which may be waived, in whole or in part, by Lender:

3.5.1 Borrower, at its sole expense, shall deliver to Lender, on or before the date of any of the Advances, the following, in form and substance satisfactory to Lender, in Lender's sole opinion and judgment:

3.5.1.1 This Agreement;

3.5.1.2 The Note;

3.5.1.3 Such resolutions, authorizations or certifications, as applicable, to borrow and/or related documents from Borrower, and

3.5.1.4 True and correct copies of Borrower's Organizational Documents.

3.5.2 No suit, action, or other proceeding shall be pending or threatened which seeks to restrain or prohibit the consummation of the transactions contemplated by this Agreement, or to obtain damages or other relief in connection therewith;

3.5.3 No breach of any warranty or representation by Borrower to Lender shall have occurred;

3.5.4 No event or circumstance shall have occurred and be continuing which constitutes or would constitute, upon the giving of notice or passage of time, an Event of Default or a failure of any condition of this Agreement;

3.6 DISBURSEMENT OF LOAN PROCEEDS; RESTRICTIONS. The Loan Proceeds disbursed shall be used by Borrower solely to finance Borrower's monthly obligations to the Construction Contractors in accordance with the Construction Contracts. Borrower shall agree to make monthly progress payments to the Construction Contractors for work performed in accordance with the Construction Agreements in an amount up to Four Hundred Thousand and No/100 Dollars ($400,000.00) (the "**Installment Payments**"). To the extent that monthly obligations of Borrower to the Construction Contractors for work performed in accordance with the Construction Agreements shall exceed the amount of the Installment Payment made by Borrower for said month, any amount in excess shall be financed by Lender as an Advance under the Loan. For the avoidance of doubt, Borrower shall make the Installment Payments to Top Rank, in its capacity both as lead contractor and as agent on behalf of the entities constituting Lender, and Top Rank shall be solely responsible for distributing the amount of the Installment Payments amongst the Construction Contractors and for recording and registering on behalf of Lender the portion of the Loan Proceeds attributable to each entity constituting Lender.

3.7 APPLICATION OF PAYMENTS. All payments received by Lender from, or for the account of, Borrower on the Loan shall be applied pursuant to the terms of the Note. All records of payments received by Lender shall be maintained at Lender's office, and the records of Lender shall, absent manifest error, be binding and conclusive upon Borrower. The failure of Lender to record any payment or expense shall not limit or otherwise affect the obligations of Borrower under the Note, this Agreement, and/or any other Loan Documents.

3.8 LOAN TERM. The term of the Loan will commence on the date of Loan Closing and the Loan will mature upon the Maturity Date, subject to acceleration or adjustment as provided in this Agreement and the other Loan Documents.

3.9 SPECIAL OBLIGATION. The Borrower's obligation to repay the Obligations is a special obligation of the Borrower limited solely to Net Revenues and is subordinate to the payment of the Installment Payments. Notwithstanding the foregoing, however, nothing herein prohibits the Borrower from voluntarily making any payment hereunder from any source of available funds of the Borrower.

3.10 OBLIGATIONS ABSOLUTE. The obligations of the Borrower to repay the Obligations and to perform and observe the agreements and covenants contained herein are absolute and unconditional and are not subject to any defense or right of setoff, counterclaim or recoupment arising out of any breach of the Borrower or Lender of any obligation to the Borrower, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the Borrower by the Lender. Unless and until the Obligations have been paid in full, the Borrower:

3.10.1 will not suspend or discontinue repayment of the Obligations, subject to the availability of Net Revenues as provided herein,

3.10.2 will perform and observe all other agreements and covenants contained in this Agreement or any documents executed in connection therewith, and

3.10.3 will not terminate this Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of acts or circumstances that may constitute the failure of consideration, eviction or constructive eviction, destruction of the Assets of the Borrower, the sale of the Assets of the Borrower, the taking by eminent domain of title to or temporary use of any Assets of the Borrower, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of Nevada or any political subdivision thereof or any failure of Lender to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or in connection with this Agreement.

ARTICLE 4.
BORROWER'S COVENANTS

In addition to all other covenants of Borrower under the Loan Documents, Borrower agrees:

4.1 LENDER MAY EXAMINE BOOKS AND RECORDS. Lender shall have the right, from time to time, acting by and through its employees or agents, to examine the books, records, and accounting data of Borrower, and to make extracts therefrom or copies thereof. Borrower shall promptly make such books, records, and accounting data available to Lender, as stated above, upon written request, and upon like request shall promptly advise Lender, in writing, of the location of such books, records, and accounting data.

4.2 COMPLIANCE WITH LAWS AND CONTRACTS. Borrower shall comply with the requirements of all applicable Laws and orders of any governmental Borrower; provided that if Borrower has not so complied by the date prescribed in any such Law, order, or regulation, Borrower shall comply therewith by the date set forth in any order of the governmental Borrower charged with the enforcement of such Law, order or regulation if such date is later, and comply with all contracts, agreements, indentures or instruments by which it is bound.

4.3 MAINTENANCE OF PROPERTIES AND PRESERVE EXISTENCE. Borrower shall maintain and preserve, or cause to be maintained and preserved, all of its properties, necessary or useful in the proper conduct of its business, including such as may be under lease, in good working order and condition, ordinary wear and tear excepted. Borrower, so long as Borrower remains obligated on the Loan, shall do all things necessary to preserve and keep in full force and effect Borrower's organizational status, and will comply with all Laws, orders and decrees of any governmental entity or court applicable to Borrower or to any such property.

4.4 BOOKS AND RECORDS; AUDIT AND EXAMINATION. Borrower shall at all times during the term of the Loan, keep and maintain all books and records, in original form, as shall be required and as shall otherwise be appropriate pertaining to the performance by Borrower of its covenants and other obligations hereunder, and otherwise pertaining to its operations and activities. Borrower shall at all times permit Lender to review, audit and examine all such books and records, either directly or through one or more auditors designated by Lender, including independent contractors.

4.5 NO AUTOMATIC SET-OFF. Borrower acknowledges and agrees that the fact of any sum or sums being on deposit with Lender shall in no way constitute a set-off against or be deemed to compensate the obligations of the Loan or any payment or performance due under the Loan Documents or this Agreement, unless and until Lender, by affirmative action, shall so apply said accounts or any portion thereof, and then only to the extent thereof as so designated by Lender.

4.6 RELIANCE BY LENDER. Borrower agrees that Lender may conclusively assume that the statements, facts, information, and representations contained herein and/or in any affidavits, orders, receipts, or other written instrument(s) that are filed with Lender or exhibited to it, are true and correct, and Lender may rely thereon without any investigation or inquiry, and any payment made by Lender in reliance thereon shall be a complete release in its favor for all sums so paid.

4.7 RESTRICTIONS ON CHANGES. Borrower shall not, without the prior written consent of Lender, become a party to any transaction whereby all or any substantial part of the properties, Assets or undertakings of Borrower (whether legally or beneficially owned by Borrower), would become the property of any other person or entity, whether by way of transfer, sale, conveyance, lease, sale and leaseback, or otherwise.

4.8 OTHER DEBT. Borrower shall pay, or cause to be paid, and discharge, or cause to be discharged, (a) when due all lawful claims (including, without limitation, claims for labor, materials, and supplies), which, if unpaid, might become a lien or encumbrance upon any of its Assets or property; and (b) all its other obligations and indebtedness when due; provided, however, that Borrower may contest any of the foregoing in good faith and by appropriate proceedings diligently prosecuted by Borrower as long as Borrower has adequate reserves to pay any adverse determination or has otherwise provided Lender evidence of a surety or bond to pay any adverse determination.

4.9 ACCESS TO BOOKS AND RECORDS.

4.9.1 Absent the occurrence of an Event of Default which is continuing, at all reasonable times, Lender, by and through its employees or agents, shall have the right to inspect, verify, copy and all or Borrower's books and records relating to Borrower's business. Lender shall take reasonable steps to keep confidential all confidential information obtained in any Auditor appraisal, provided however that Lender shall have the right to disclose any such information to its auditors, regulatory agencies, and attorneys, and pursuant to any subpoena or other legal process.

4.9.2 Upon the occurrence of an Event of Default which is continuing, Lender shall have the right to inspect, verify, copy and all or Borrower's books and records relating to Borrower's business.

4.9.3 Borrower agrees to reimburse Lender immediately upon demand for all fees and out-of-pocket expenses for such audits and appraisals upon the occurrence of an Event of Default which is continuing.

4.9.4 Borrower will not enter into any agreement with any accounting firm, service bureau or third party to store Borrower's books or records at any location other than Borrower's address set forth in Section 7.12 hereof without first notifying Lender of the same and obtaining the written agreement from such accounting firm, service bureau or other third party to give Lender the same rights with respect to access to books and records and related rights as Lender has under this Agreement.

4.9.5 Lender shall have the right, at its sole discretion, to perform annual field examinations of Borrower's books, and records, including a field examination following the Closing Date. Borrower agrees to reimburse Lender for the cost of such annual field examinations. The actions described in this paragraph may be performed by employees of Lender or by independent appraisers.

4.10 VALID DEBT. The Loan does not constitute a debt of the Borrower in contravention of any constitutional or statutory debt limitation or restriction.

ARTICLE 5.
EVENTS OF DEFAULT

An "Event of Default" shall be deemed to have occurred hereunder if:

5.1 DEFAULT UNDER LOAN DOCUMENTS. Borrower shall fail to pay principal or interest, or both, when due under the terms of the Note; or Borrower shall fail to pay an amount owing under this Agreement or any of the other Loan Documents when due; or Borrower shall fail to perform or observe any term, covenant, or agreement contained in this Agreement or in any of the other Loan Documents; or

5.2 BREACH OF REPRESENTATIONS OR WARRANTIES. Any representations or warranties made or agreed to be made in any of the Loan Documents or this Agreement, or otherwise in connection with the Loan, shall be breached in any respect or shall prove to be false or misleading in any respect when made; or

5.3 ACTION AGAINST BORROWER. Any suit shall be filed against Borrower, which, if adversely determined, could substantially impair the ability of Borrower to perform any or all of its obligations under and by virtue of this Agreement or any of the other Loan Documents, unless Borrower's counsel furnishes to Lender its opinion, to the satisfaction of Lender and Lender's counsel, that, in its judgment the suit is essentially without merit; or

5.4 LEVY UPON PROPERTY. A levy be made on any property of Borrower under any process, or any lien creditor commences suit to enforce a judgment lien against any property of Borrower or any Assets of the Borrower and such levy or action shall not be bonded against by sureties deemed by Lender to be sufficient in its sole opinion and judgment; or

5.5 ACCELERATION OF OTHER DEBTS. Borrower does, or omits to do, any act, or any event occurs including, but not limited to, the occurrence of any breach or default by Borrower under the terms of any other agreement between Lender and Borrower, whether or not arising hereunder and/or relating to Borrower's ability to perform hereunder, as a result of which any material obligation of Borrower is declared immediately due and payable by the holder thereof; or

5.6 INSOLVENCY. Borrower shall fail to pay its debts as they become due, or shall make an assignment for the benefit of its creditors, or shall admit, in writing, its inability to pay its debts as they become due, or shall file a petition under any chapter of the United States Bankruptcy Code or any similar law, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the United States Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within thirty (30) calendar days after its commencement or shall convert the case from one chapter of the United States Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee, or receiver appointed for, or have any court take jurisdiction of, its property, or any part thereof, in any voluntary or involuntary proceeding, including, but not limited to, those for the purpose of reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver shall not be discharged, or such jurisdiction shall not be relinquished, vacated, or stayed within thirty (30) days after the appointment; or

5.7 ATTACHMENT. Any proceeding shall be brought, the object of which is that any part of Lender's commitment to make the Advances hereunder shall at any time be subject or liable to attachment or levy by any creditor of Borrower; or

5.8 MISREPRESENTATION AND/OR NON-DISCLOSURE. Borrower has made certain statements and disclosures in order to induce Lender to make the Loan and enter into this Agreement, and, in the event Borrower has made material misrepresentations or failed to disclose any material fact, Lender may treat such misrepresentation or omission as a breach of this Agreement. Such action shall not affect or limit any remedies Lender may have for such misrepresentation or non-disclosure; or

5.9 CROSS-DEFAULT; OTHER OBLIGATIONS. Borrower commits a breach or default in the payment or performance of any other obligation of Borrower, or breaches any warranty or representation of Borrower, under the provisions of any other instrument, agreement, guaranty, or document evidencing, supporting, or securing any other loan or credit extended by Lender, or by any affiliate of Lender, to Borrower or to any affiliate of Borrower (said financing is hereinafter referred to as "other financing"), including, but not limited to, any and all term loans, revolving credits, or lines of credit extended from time to time to Borrower (or any Person signing this Agreement on behalf of Borrower), or any other Person with which Borrower is affiliated; or Borrower causes the other financing, or any portion thereof, to be refinanced or repaid with funds lent, advanced, paid, or contributed, in whole or in part, directly or indirectly, by any other Person to or for the benefit of Borrower, or any affiliate of Borrower.

5.10 FINANCIAL CONDITION. There shall be any material adverse change in the financial condition of Borrower.

ARTICLE 6.
REMEDIES

6.1 CEASE PAYMENT AND/OR ACCELERATE. Upon, or at any time after, the occurrence of an Event of Default, Lender shall have no obligation to make the Loan or any additional Advances, and all sums disbursed or advanced by Lender and all accrued and unpaid interest thereon shall, at the option of Lender, become immediately due and payable, and Lender shall be released from any and all obligations to Borrower under the terms of this Agreement.

6.2 ENFORCEMENT OF RIGHTS. Lender may enforce any and all rights and remedies under the Loan Documents, and may pursue all rights and remedies available at Law or in equity.

6.3 RIGHTS AND REMEDIES NON-EXCLUSIVE. The rights and remedies set forth above are not exclusive, and Lender may avail itself of any individual right or remedy set forth in this Agreement, or available at law or in equity, without utilizing any other right or remedy. In addition to the rights and remedies set forth in this Agreement, Lender shall have all the other rights and remedies accorded in equity and under all other applicable laws, and under any other instrument or agreement now or in the future entered into between Lender and Borrower, and all of such rights and remedies are cumulative and none is exclusive. Exercise or partial exercise by Lender of one or more of its rights or remedies shall not be deemed an election, nor bar Lender

from subsequent exercise or partial exercise of any other rights or remedies. The failure or delay of Lender to exercise any rights or remedies shall not operate as a waiver thereof, but all rights and remedies shall continue in full force and effect until all of the Obligations have been indefeasibly paid and performed.

ARTICLE 7.
GENERAL CONDITIONS AND MISCELLANEOUS

7.1 NONLIABILITY OF LENDER. Borrower acknowledges and agrees that by accepting or approving anything required to be observed, performed, fulfilled, or given to Lender pursuant to this Agreement or any of the Loan Documents, including any certificate, financial statement, appraisal, statement of profit and loss, or other financial statement, survey, appraisal or insurance policy, Lender shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision, or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation to anyone with respect thereto by Lender.

7.2 NO THIRD PARTIES BENEFITTED. This Agreement is made for the purpose of defining and setting forth certain obligations, rights, and duties of Borrower and Lender in connection with the Loan and shall be deemed a supplement to the Note and the other Loan Documents, and shall not be construed as a modification of the Note or any of the other Loan Documents, except as provided herein. This Agreement is made for the sole protection of Borrower and Lender, and Lender's successors and assigns. No other Person shall have any rights of any nature hereunder or by reason hereof or the right to rely hereon.

7.3 INDEMNITY BY BORROWER. To the extent permitted by applicable Law, Borrower hereby indemnifies and agrees to hold Lender and its directors, officers, agents, and employees (individually and collectively, the "Indemnitee(s)") harmless from and against: (a) any and all claims, demands, actions, or causes of action that are asserted against any Indemnitee by any Person, if the claim, demand, action or cause of action, directly or indirectly, relates to a claim, demand, action, or cause of action that the Person has or asserts against Borrower; and (b) any and all liabilities, losses, costs, or expenses (including court costs and attorneys' fees) that any Indemnitee suffers or incurs as a result of the assertion of any claim, demand, action, or cause of action specified in this Section 7.3.

7.4 NONRESPONSIBILITY. Lender shall in no way be liable for any acts or omissions of Borrower, Borrower's agents or Borrower's employees

7.5 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and of each and every provision hereof, to the full extent that time can be of the essence of an agreement under the laws of the State of Nevada.

7.6 NON-WAIVER. The waiver by Lender of any breach or breaches hereof shall not be deemed, nor shall the same constitute, a waiver of any subsequent breach or breaches.

7.7 BINDING EFFECT; ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns, except that Borrower may not assign its rights hereunder or any interest herein without the prior written consent of Lender. Lender shall have the right to assign its rights under this Agreement and to grant participations in the Loan to others, but all waivers or abridgements of Borrower's obligations that may be granted from time to time by Lender shall be binding upon such assignees or participants. Borrower shall, promptly upon demand, provide Lender or any such purchaser or participant, one or more written statements confirming Borrower's indebtedness to Lender and all obligations in connection with the Loan, including the existence of any default thereunder.

7.8 EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, and any party hereto or thereto may execute any counterpart, each of which, when executed and delivered, will be deemed to be an original, and all of which counterparts of this Agreement, taken together will be deemed to be but one and the same instrument. The execution of this Agreement or will not become effective until counterparts hereof or thereof, as the case may be, have been executed by all the parties hereto.

7.9 INTEGRATION; AMENDMENTS; CONSENTS. This Agreement, together with the documents referred to herein, constitutes the entire agreement of the parties touching upon the subject matter hereof, and supersedes any prior negotiations or agreements on such subject matter. No amendment, modification, or supplement of any provision of this Agreement or any of the other Loan Documents shall be effective unless in writing, signed by Lender and Borrower; and no waiver of any of Borrower's obligations under this Agreement or any of the other Loan Documents or consent to any departure by Borrower therefrom shall be effective unless in writing, signed by Lender, and then only in the specific instance and for the specific purpose given.

7.10 COSTS, EXPENSES AND TAXES. Borrower shall pay to Lender, on demand: (a) the costs and expenses of Lender in connection with the enforcement of this Agreement and any other Loan Document and any matter related thereto, including the reasonable fees and out-of-pocket expenses of any legal counsel, independent public accountants, and other outside experts retained by Lender and including all costs and expenses of enforcing any judgment or prosecuting any appeal of any judgment, order or award arising out of or in any way related to the Loan, this Agreement, or the Loan Documents; (b) reasonable attorneys' fees and out-of-pocket expenses incurred by Lender in connection with the negotiation, preparation, execution, delivery, and administration of this Agreement and any other Loan Document and any matter related thereto, including but not limited to, any bankruptcy, insolvency, assignment for benefit of creditors, arrangement, reorganization or other debt relief proceeding under any federal or state Law, whether now existing or hereinafter enacted, filed by or against Borrower, or otherwise affecting or purporting to affect the Loan; and (c) all costs, expenses, fees, premiums, and other charges relating to or arising from this Agreement or any of the other Loan Documents or any transactions

contemplated thereby or the compliance with any of the terms and conditions thereof. All sums paid or expended by Lender under the terms of this Agreement shall be considered to be, and shall be, a part of the Loan. All such sums, together with all amounts to be paid by Borrower pursuant to this Agreement, shall bear interest from the date of expenditure at the default rate provided in the Note, and shall be immediately due and payable by Borrower upon demand.

7.11 SURVIVAL OF COVENANTS, REPRESENTATIONS AND WARRANTIES. All representations and warranties of Borrower contained herein or in any and all other Loan Documents shall survive the making of the Loan and the execution and delivery of the Note, and are material and have been or will be relied upon by Lender, notwithstanding any investigation made by Lender or on behalf of Lender. For the purpose of this Agreement, all statements contained in any certificate, agreement, Financial Statement, or other writing delivered by or on behalf of Borrower pursuant hereto or to any other Loan Document or in connection with the transactions contemplated hereby or thereby shall be deemed to be representations and warranties of Borrower contained herein or in the other Loan Documents, as the case may be.

7.12 NOTICES. All notices, requests, demands, directions, and other communications provided for hereunder and under any other Loan Document (a "notice"), must be in writing and must be mailed, delivered or sent by facsimile transmission or by overnight delivery service, to the appropriate party at its respective address set forth below or, as to any party, at any other address as may be designated by it in a written notice sent to the other parties in accordance with this Section 7.12. Any notice given by facsimile transmission must be confirmed within forty-eight (48) hours by letter mailed or delivered to the appropriate party at its respective address. If any notice is given by mail it will be effective three (3) calendar days after being deposited in the mail with first-class or airmail postage prepaid; if given by facsimile transmission, when sent; or if given by personal delivery, when delivered; if given by overnight delivery service, one (1) day after being deposited with the overnight delivery service.

Such notices will be given to the following:

To Lender: TOP RANK BUILDERS INC.
2941 Lorelie St.
Pahrump, Nevada 89048
Attention: Rene Morales

To Borrower: FRONT SIGHT MANAGEMENT, LLC
1 Front Sight Road
Pahrump, Nevada 89061
Attention: Michael G. Meacher

7.13 FURTHER ASSURANCES. Borrower shall, at its sole expense and without expense to Lender, do, execute and deliver such further acts and documents as Lender from time to time may require for the purpose of assuring and confirming unto Lender the rights hereby

created or intended, now or hereafter so to be, or for carrying out the intention or facilitating the performance of the terms of any Loan Document.

7.14 GOVERNING LAW. The Loan shall be deemed to have been made in Nevada, and this Agreement and the other Loan Documents shall be governed by and construed and enforced in accordance with the laws of the State of Nevada.

7.15 SEVERABILITY OF PROVISIONS. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid shall be inoperative, unenforceable, or invalid without affecting the remaining provisions, and to this end the provisions of all Loan Documents are declared to be severable.

7.16 CONSTRUCTION CONFLICTS. Whenever the context of this Agreement requires, the singular shall include the plural and the masculine gender shall include the feminine and/or neuter.

7.17 HEADINGS. Article and Section headings in this Agreement are included for convenience of reference only and are not part of this Agreement for any other purpose.

7.18 NO PARTNERSHIP OR JOINT VENTURE. Nothing in this Agreement shall be construed to constitute the creation of a partnership or joint venture between Lender and Borrower. Lender is not an agent or representative of Borrower.

7.19 NO PRESUMPTION AGAINST ANY PARTY. Neither this Agreement, any of the other Loan Documents, any other documents, agreement, or instrument entered into in connection herewith, nor any uncertainty or ambiguity herein or therein shall be construed or resolved using any presumption against any party hereto, whether under any rule of construction or otherwise. On the contrary, this Agreement, the other Loan Documents, and all other documents, instruments, and agreements entered into in connection herewith have been reviewed by each of the parties and by their respective counsel and shall be construed and interpreted according to the ordinary meanings of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

7.20 INDEPENDENCE OF PROVISIONS. All agreements and covenants hereunder, under the Loan Documents and the other documents, instruments, and agreements entered into in connection herewith shall be given independent effect such that if a particular action or condition is prohibited by the terms of any such agreement or covenant, the fact that such action or condition would be permitted within the limitations of another agreement or covenant shall not be construed as allowing such action to be taken or condition to exist.

7.21 WAIVER OF RIGHT TO TRIAL BY JURY; JUDICIAL REFERENCE IN THE EVENT OF JURY TRIAL WAIVER UNENFORCEABILITY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES, TO THE FULLEST EXTENT PERMITTED

BY APPLICABLE LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (1) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION THEREWITH, OR (2) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY.

Borrower and Lender have initialed this Section 7.21 to further indicate their awareness, understanding and acceptance of each and every provision hereof.

_____ Borrower's Initials _____ Lender's Initials

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Borrower and Lender have hereunto caused this Agreement to be executed as of the date first above written.

TOP RANK:

TOP RANK BUILDERS, INC.,
a Nevada Corporation

By: _____
Name: Rene Morales
Title: President

MORALES:

MORALES CONSTRUCTION, INC.,
a Nevada Corporation

By: _____
Name: Rene Morales
Title: President

ALL AMERICAN:

ALL AMERICAN CONCRETE & MASONRY INC., a Nevada Corporation

By: _____
Name: Rene Morales
Title: President

BORROWER:

FRONT SIGHT MANAGEMENT, LLC,
a Nevada limited liability company

By: _____
Name: _____
Title: _____
Front Sight Management, LLC

DECL
ANTHONY T. CASE, ESQ.
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KATHRYN HOLBERT, ESQ.
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Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, et al., Defendants. AND RELATED CROSS ACTION	CASE NO.: A-18-781084-B DEPT. NO.: 16 **DECLARATION OF C. KEITH GREER IN SUPPORT OF LAS VEGAS DEVELOPMENT FUND LLC'S MOTION FOR LEAVE TO AMEND THE COUNTERCOMPLAINT** Hearing Date: Time:

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN DIEGO)

Affiant, being duly sworn, deposes and states the following:

1. I, C. Keith Greer, am an individual and a resident of the State of California, San Diego.

2. I am one of the attorneys representing the defendants in this action. I make this Declaration of my personal knowledge and the matters stated herein are true and correct. If called as a witness herein, I could, and would, testify competently thereto.

3. During the March 16, 2020 deposition of Rene Morales, president of Morales Construction Inc. ("Morales"), the testimony revealed what I believe to be strong evidence that Front Sight and Morales entered into a comprehensive scheme to defraud LVD Fund by falsely representing that Counter Defendant Front Sight had entered into a legitimate and bonafide $36,000,000 "Loan Agreement - Construction Line of Credit" with Counter Defendant Morales Construction, Inc. ("Morales Construction"), that would have provided sufficient capital to make substantial progress toward completing the project.

4. The testimony revealed, however, that Morales didn't perform any due diligence to determine whether Front Sight could service a debt of $36,000,000, and Morales did not provide any evidence at all to show that he could provide such a large amount of credit.

5. Moreover, Mr. Morales made it clear that the money to build the Front Sight Project was never intended to come from the Loan Agreement, but rather was only to come from EB-5 Investors.

6. The strong inference was drawn that the "Loan Agreement" was a complete scam because all of the Counter Defendants knew Morales was not capable of fulfilling its obligation to extend tens of millions of dollars in credit, and none of the Counter Defendants ever intended to perform under the Loan Agreement. Thus, we are seeking leave to add a new First Cause of

Action for Fraud.

7. In addition, financial records produced during the course of discovery show that substantial funds were transferred to or on behalf of Ignatius Piazza during the past several years, in violation of the terms of the Construction Loan Agreement and at a time when Front Sight was insolvent (based on recent analysis by designated accounting experts that was filed earlier today). Thus, we are seeking leave to add a new Second Cause of Action for Fraudulent Transfer.

8. Lastly, in the proposed DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT; AND FIRST AMENDED COUNTERCLAIM, attached as Exhibit A to the memorandum filed herewith, we have addressed the Court's September 12, 2019 ruling on Counter Defendants' motion to dismiss, striking the First Cause of Action for Breach of Contract and the Second Cause of Action for Breach of the Covenant of Good Faith and Fair Dealing, and also removing Jennifer Piazza from the Seventh Cause of Action for Waste.

I declare under penalty of perjury under the laws of the State of Nevada and the State of California that the foregoing is true and correct, and that this Declaration was executed on April 3, 2020 at San Diego, California.

s/C.Keith Greer

C. Keith Greer

CERTIFICATE OF SERVICE and/or MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Farmer Case & Fedor, and that on this date, I caused true and correct copies of the following document(s):

DECLARATION OF C. KEITH GREER IN SUPPORT OF LAS VEGAS DEVELOPMENT FUND LLC'S MOTION FOR LEAVE TO AMEND THE COUNTERCOMPLAINT

to be served on the following individuals/entities, in the following manner,

John P. Aldrich, Esq.
Catherine Hernandez, Esq.
ALDRICH LAW FIRM, LTD.
1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146

Attorneys for Plaintiff
FRONT SIGHT MANAGEMENT, LLC

By:

■ ELECTRONIC SERVICE: Said document(s) was served electronically upon all eligible electronic recipients pursuant to the electronic filing and service order of the Court (NECRF 9).

Dated: April 3, 2020

/s/ Kathryn Holbert
An Employee of FARMER CASE & FEDOR

OPPM
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Jamie S. Hendrickson, Esq.
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ALDRICH LAW FIRM, LTD.
7866 West Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 853-5490
Facsimile: (702) 227-1975
Attorneys for Plaintiff/Counterdefendants

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company; et al. _____ AND ALL RELATED COUNTERCLAIMS.	CASE NO.: A-18-781084-B DEPT NO.: 16 **OPPOSITION TO MOTION FOR LEAVE TO AMEND COUNTERCLAIM**

Plaintiff/Counterdefendant FRONT SIGHT MANAGEMENT LLC ("Plaintiff"), by and through undersigned counsel, hereby submits this Opposition to Defendant/Counterclaimant LAS VEGAS DEVELOPMENT FUND LLC's ("LVDF") Motion for Leave to Amend Counterclaim.

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This Opposition is based on the papers and pleadings on file herein, the following Memorandum of Points and Authorities, any exhibits attached thereto, together with any evidence or argument presented to the Court at the hearing of this matter.

DATED this 17th day of April, 2020.

ALDRICH LAW FIRM, LTD.

/s/ Jamie S. Hendrickson
John P. Aldrich, Esq.
Nevada Bar No. 6877
Catherine Hernandez, Esq.
Nevada Bar No. 8410
Jamie S. Hendrickson, Esq.
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7866 West Sahara Avenue
Las Vegas, NV 89117
Tel (702) 853-5490
Fax (702) 226-1975
Attorneys for Plaintiff/Counterdefendants

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Defendants seek leave to amend their Answer and Counterclaims to add claims and parties to this litigation based upon their skewed interpretation of the March 6, 2020, deposition testimony of Rene Morales, the owner and president of Morales Construction, Inc. Defendants seek to add a counterclaim for fraud against Front Sight, Mike Meacher (Front Sight's Chief Operating Officer), Mr. Morales, and three of Morales' companies (Morales Construction, Inc., Top Rank Builders, and All American Concrete; collectively, "The Morales Entities"). The alleged basis for LVDF's fraud claim is that Front Sight and Morales Construction, Inc. allegedly entered into a Line of Credit (the "Loan Agreement" or "Morales Line of Credit") in October 2017 whereby Mr. Morales agreed to provide Front Sight $36 million in credit to fund construction of the Front Sight Project. Defendants allege, contrary to the sworn testimony of both Mr. Morales and Dr. Piazza, that the Morales Line of Credit is a "scam loan" because, they allege, Mr. Morales lacks the ability to extend the credit, and Front Sight had no intention of ever

using the Line of Credit in the first place. According to Defendants, the Line of Credit's sole purpose was to lull Las Vegas Development Fund, LLC ("LVDF") into a false sense of security that Front Sight had obtained senior debt financing for purposes of fraudulently inducing LVDF into releasing additional funds pursuant to the Construction Loan Agreement ("CLA"). *See* Defendant and Counterclaimant Las Vegas Development Fund LLC's Notice of Motion and Motion for Leave to Amend CounterComplaint ("Motion"), Exhibit A at Para. 59-65. Defendants also seek to add a counterclaim against Front Sight and the VNV Trusts for Fraudulent Transfers under NRS 112.180 and 112.190. The alleged basis of Defendants' counterclaim for Fraudulent Transfers is two-fold: 1) Front Sight was insolvent at the time of the distributions from Front Sight to the Dr. Piazza and/or the VNV Trusts; and, 2) Front Sight made the distributions, which were to related parties, in direct violation of the CLA for purposes of thwarting repayment of Front Sight's financial obligations under the CLA.

Defendants' support their Motion for Leave to Amend with the Declaration of C. Keith Greer, Esq., wherein Mr. Greer makes a series of representations regarding his impressions of the testimony offered by Mr. Morales at his deposition. Mr. Greer's representations are not appropriate for consideration as evidence by this Court, as they likely violate NRPC 3.7 by making Mr. Greer a witness in the proceeding. Moreover, Mr. Greer's statements regarding Mr. Morales' testimony, even if admissible and not a violation of Mr. Greer's ethical obligations, are inaccurate descriptions of the facts to which Mr. Morales testified.

Defendants seek to add counterclaims that are futile because there are no facts to support their allegations. Furthermore, were this Court to grant Defendants' instant motion, Front Sight would suffer severe prejudice from the unreasonable delay that adding new claims involving new parties would invariably cause. Additionally, Mr. Meacher, a representative of Front Sight, will suffer prejudice by having to defend against a fraud claim in his individual capacity for alleged actions he undertook pursuant to his duties as a corporate officer of Front Sight. Notably, Defendants offer no evidence that Mr. Meacher acted in his personal capacity or obtained any personal benefit from his allegedly false statements. Finally, because Defendants have not accurately represented the testimony of Mr. Morales, which is the basis for their proposed

counterclaims, their motion is brought in bad faith and should be denied.

II.

FACTUAL BACKGROUND

On October 31, 2017, Front Sight entered into the Loan Agreement with the Morales Entities for a $36 million construction line of credit. *See* Evid. Hrg. Exhibit 47, at 0313-0331. The Promissory Note for the Morales Line of Credit was also executed on October 31, 2017. *Id.* at 0332-0338.

At his deposition on March 16, 2020, Mr. Morales testified that he entered the Loan Agreement with the intention of enabling Front Sight to complete construction from grading through vertical construction of the timeshare villas. *See* the Transcript of the Deposition of 30(b)(6) Witness of All American Concrete, Morales Construction, and Top Rank Builders - Rene Morales, March 16, 2020, p. 24:5-11, attached hereto as **Exhibit 1**. Mr. Morales further testified that he had the ability to fund the entire $36 million Line of Credit. *Id.* at pp. 17:19-18:6. Mr. Morales explained that he has significant investments in Mexico and that he makes $10 million dollars per year. *Id.* at p. 18:6-14. Mr. Morales further stated that Front Sight entered the Loan Agreement with the intent to use EB-5 investor funds to pay down the balance on the Line of Credit. *Id.* at p. 11:9-15. Mr. Morales testified that the Loan Agreement contemplated progressive billing where Front Sight would make periodic payments on the balance of the Line of Credit. *Id.* at p. 11:11-13; p. 17:5-7. Mr. Morales stated that Front Sight charged and paid off approximately $4-5 million toward the Line of Credit for work performed to date. *Id.* at p. 20:1-2.

At no point did Mr. Morales state that Front Sight never intended to use the Line of Credit or that he did no due diligence, as Mr. Greer alleges. Mr. Morales further never stated that he lacked the ability to loan the entire $36 million. He also never stated that he had any reservations about Front Sight drawing on the entire loan balance. *See* The Declaration of C. Keith Greer, Esq. in Support of Las Vegas Development Fund LLC's Motion for Leave to Amend the Counter-Complaint, Para. 3-7. ("Greer Declaration"). In fact, he unequivocally stated the opposite. *Id.* at p. 26:14-18, p. 41:9-16. Mr. Morales indicated that he did extensive due diligence prior entering

the loan agreement. *Id.* at p. 40:16-22, 50:8-23.

Not one statement made by Mr. Greer regarding the testimony of Mr. Morales can be validated by even a cursory review of **Exhibit 1**. Mr. Greer's allegation that the Morales Line of Credit is a "scam loan" is completely unsupported, as the testimony of Mr. Morales quite literally contradicts Mr. Greer's every assertion.

Also contrary to Mr. Greer's testimony is that of Dr. Piazza, given on September 20, 2019, wherein Dr. Piazza corroborates the testimony of Mr. Morales in every respect. Dr. Piazza has previously stated that he entered into the Morales Line of Credit believing that it satisfied the senior debt provision of the CLA. Dr. Piazza explained that Defendant Dziubla approved the Morales Line of Credit as senior debt that satisfies the senior debt provisions of the CLA. Additionally, Dr. Piazza testified that he intended to use EB-5 investor funds to pay off any balance charged to the Line of Credit. Finally, Dr. Piazza stated that he had to pay the Morales Line of Credit off out of Front Sight's operating income when LVDF failed to deliver adequate investor funds to service the Line of Credit.

III.

LEGAL ARGUMENT

Pursuant to NRCP 15(c)(2), a party may request leave of the Court to amend pleadings, and the Court should grant leave to amend liberally "when justice so requires." NRCP 15(c)(2). In the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant -- the leave to amend should be freely given. *Stephens v. Southern Nev. Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973). "But parties do not have an absolute right to amend their pleadings, even under this liberal standard." *Sherman v. Winco Fireworks, Inc.*, 532 F.3d 709, 715 (8th Cir. 2008) (citing United States ex rel. Lee v. Fairview Health Sys., 413 F.3d 748, 749 (8th Cir. 2005)); *see also Hammer v. City of Osage Beach, MO*, 318 F.3d 832, 844 (8th Cir. 2003) (holding that there is no right to amend pleadings). The court considers five factors when assessing the propriety of a motion for leave to amend: (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of amendment, and (5) whether

the plaintiff has previously amended the complaint. *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 284, 357 P.3d 966, 970 (Nev. App. 2015).

A. Defendants' Motion for Leave to Amend is Made in Bad Faith

"Bad faith is present when an attorney knowingly or recklessly raises a frivolous argument, or argues a meritorious claim for the purpose of harassing an opponent." *Soules v. Kauaians for Nukolii Campaign Comm.*, 849 F.2d 1176, 1185-86 (9th Cir. 1988) (internal quotations and citation omitted). In *Febus-Cruz v. Sauri-Santiago*, the Court found bad faith where the moving party provided false and misleading information as the predicate reason for amending their complaint. 652 F. Supp. 2d 166, 169 (D.P.R. 2009).

Here, Defendants move for leave to amend in bad faith by providing several misleading statements regarding why amendment is necessary; specifically pertaining to: 1) Morales' ability to fund the loan; 2) Morales' due diligence prior to funding the loan; 3) that Front Sight never intended the loan to cover construction expenses; 4) that Front Sight and/or Morales had no intent to perform under the loan agreement; and, 5) that Front Sight was insolvent when it made transfers to Dr. Piazza and/or the VNV Trusts. *See* Greer Declaration, par. 3-7.

1. Morales testified that he has the ability to fund the Line of Credit

In his declaration, Mr. Greer stated, "Morales did not provide any evidence at all to show that he could provide such a large amount of credit." *See* Greer Declaration at Para. 4. Mr. Greer, as defense counsel, cannot offer testimony to the Court under NRPC 3.7. Notwithstanding the potential violation of NRPC 3.7, Mr. Greer misstates the testimony of Rene Morales, which offers ample evidence of Mr. Morales' ability to fund the Morales Line of Credit.

Black's Law Dictionary defines evidence as "any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties and ***through the medium of witnesses***, records, documents, exhibits, concrete objects, etc." Black's Law Dictionary 998 (6th Ed. 1990) (emphasis added). At his deposition, Mr. Morales testified that he has sufficient capital to fund the entire line of credit, stating "I'm rich." *See* **Exhibit 1** at p. 17:19-18:4. Mr. Morales further stated that he earns $10 million per year and holds substantial investments in Mexico. *Id.* at p. 18:11-14. Mr. Morales further testified that Front Sight could draw on the entire $36 million

available on the Line of Credit if it decided to do so. *Id.* at p. 26:14-18, p. 41:9-16. Mr. Morales' sworn testimony constitutes evidence of his financial ability to fund the line of credit extended to Front Sight.

2. Morales testified that he performed adequate due diligence regarding Front Sight's ability to service the Morales Line of Credit

Mr. Greer further asserted that Mr. Morales failed to perform adequate due diligence regarding Front Sight's ability to service the Morales Line of Credit before entering into the Loan Agreement. *See* Greer Declaration at par. 4. This is incorrect. Mr. Morales testified that prior to deciding to extend credit to Front Sight, he met with Mike Meacher, Front Sight's Chief Operating Officer, reviewed Front Sight's business plan, performed a background check on Ignatius Piazza, and conducted research on the occupancy rates of Nye County hotels regarding their booking by Front Sight's members. *See* **Exhibit 1** at p. 40:16-22, 50:8-23. Mr. Morales further testified that he is the sole shareholder in his three companies. *Id.* at p. 12:12-14. Therefore, what constitutes adequate due diligence is solely within his discretion. No one has the right to tell Mr. Morales how he may invest his own money. Hence, what Mr. Greer or Defendants would consider "adequate due diligence" is of no consequence.

3. Both Morales and Dr. Piazza testified that Front Sight planned to use the Line of Credit to cover construction costs while using EB-5 funds to pay down the Line of Credit

In his declaration, Mr. Greer asserted that, "Mr. Morales made it clear that the money to build the Front Sight Project was never intended to come from the Loan Agreement, but rather was only to come from EB-5 Investors." Greer Declaration at par. 5. Dr. Piazza testified that he secured the Morales Line of Credit pursuant to Defendant Dziubla's representations that EB-5 investors were waiting on Front Sight to obtain senior debt to commit to the project. *See* Sept. 20, 2020 Evid. Hrg. Tr., p. 132-33, attached hereto as **Exhibit 2**. Dr. Piazza indicated that he entered into the Morales Line of Credit because Defendant Dziubla stated that a first lender was necessary to enable Dziubla to sell additional investors on the project. *Id.* Dr. Piazza further testified that Front Sight used the Morales Line of Credit while it waited for LVDF to deliver investor funds.

Id. at p. 137-38, 215. Dr. Piazza also testified that he told Mr. Morales that he intended for the EB-5 funds to pay down the Morales Line of Credit, but that Front Sight had to do so when LVDF did not deliver enough funding. *Id.* at p. 216. Dr. Piazza explained that Defendant Dzuibla approved the Morales Line of Credit as qualifying senior debt pursuant to the CLA. *Id.* at 137.

Mr. Morales corroborated the testimony of Dr. Piazza. Mr. Morales stated that he was aware that Front Sight had to pay down the Line of Credit out of its own funds when LVDF failed to provide sufficient EB-5 funds to complete the project. *See* **Exhibit 1** at p. 10:10-17. Mr. Morales further stated that Front Sight paid him $4-5million when LVDF failed to provide investor funds. *Id.* at p. 19:22-20:2. Not only does Mr. Morales' testimony rebut Mr. Greer's assertions that Front Sight never intended to use the Line of Credit to cover construction costs, Front Sight actually used the Line of Credit for construction expenses.

4. <u>The claim that neither Front Sight nor Morales intended to perform under the Line of Credit is patently false</u>

Mr. Greer characterized the Loan Agreement and the Line of Credit it authorizes as a "a complete scam because all of the Counter Defendants knew Morales was not capable of fulfilling its obligation to extend tens of millions of dollars in credit, and none of the Counter Defendants ever intended to perform under the Loan Agreement. *See* Greer Declaration at par. 6. Mr. Morales' testimony clearly contradicts this assertion.

Mr. Morales confirmed that Front Sight used the Line of Credit. Mr. Morales stated that Front Sight entered the Loan Agreement intending that Morales would perform all construction from grading to construction of the timeshare villas. *See* **Exhibit 1** at p. 24:5-8. Moreover, Mr. Morales testified that he has prepared plans for vertical construction that are awaiting final approval by Dr. Piazza. *Id.* at p. 44:23-45:8. Mr. Morales further stated that his he understood that Front Sight intended to use the Line of Credit to complete at least the grading, paving, and installation of underground utilities. *Id.* at p. 51:8-16. Mr. Morales testified that he understood that Front Sight intended to make periodic payments on the Line of Credit until LVDF delivered the total $50 million in EB-5 funds that it promised. *Id.* at p. 11:9-15. Mr. Morales confirmed

that Front Sight had already paid "a few million dollars" out of its own pocket. *Id.* at p. 17:1-7. He estimated Front Sight's out-of-pocket payments to date at $4-5 million. *Id.* at p. 20:1-2.

Here, Mr. Morales' testimony clearly contradicts Mr. Greer's conclusory allegation that neither Front Sight nor Morales ever intended to perform under the Line of Credit, as Mr. Morales testified that Front Sight actually used the Line of Credit to fund at least $4 million in construction.

5. Front Sight was not insolvent at the time it made transfers to Dr. Piazza or the VNV Trusts

Mr. Greer further asserts, without expert testimony, that "substantial funds were transferred to or on behalf of Ignatius Piazza during the past several years, in violation of the terms of the Construction Loan Agreement and at a time when Front Sight was insolvent (based on recent analysis by designated accounting experts that was filed earlier today)." *See* Greer Declaration, par. 7. The "recent analysis by designated accounting experts" referred to by Mr. Greer is nothing more than the following conclusory allegation: "In addition, [Front Sight] has paid approximately $14 million dollars between October 7, 2016, and October 31, 2019, from [Front Sight] to or on behalf of Piazza, at a time that [Front Sight] was insolvent . . . ." This is taken from a Declaration of Expert Witness Paul A. Zimmer, CPA, CFF, at par. 14. Mr. Zimmer's analysis was based upon a review of the CLA, Front Sight Tax Returns, and Front Sight Bank records. *Id.* at par. 11.

Mr. Zimmer never states how he arrived at the conclusion that Front Sight is insolvent. However, later in his expert declaration, he states that Front Sight had ample funds to complete construction pursuant to the CLA from EB-5 investor funds, the Morales Line of Credit, and Front Sight's net income from operations in 2017 and 2018. *Id.* at par. 15. Exhibit 5 to the Zimmer Declaration lists Front Sight's net income from operations as positive in 2017 and 2018. *Id.* at Exhibit 5. Ironically, Mr. Zimmer admits that Front Sight had positive net income in 2017 and 2018, while in the same moment alleging it was insolvent. Even more shocking is Mr. Zimmer's assertion that Front Sight had access to $36 million from the Morales Line of Credit, the same line of credit that Mr. Greer labels as a sham loan.

Black's Law Dictionary defines insolvency as "lack of means to pay one's debts. Such a relative condition of a man's assets and liabilities that the former, if all made immediately available, would not be sufficient to discharge the latter." Black's Law Dictionary 998 (6th Ed. 1990). Defendants have rested their claim that Front Sight is insolvent primarily upon the negative balance in Retained Earnings listed on balance sheet portion of Front Sight's tax returns. Front Sight's accounting expert, Douglas S. Winters, CPA has opined that a balance sheet contained in a U.S. tax return is not a sound measure of a company's solvency because balance sheets understate assets values by presenting them at their historical cost values minus depreciation. (*See* February 27, 2020 Expert Report of Douglas S. Winters, CPA, p. 2, filed under seal as Exhibit 4 to Reply to Opposition to Motion for Summary Judgment as to the Counterclaims Against Jennifer Piazza (filed March 3, 2020).) Mr. Winters further opines that when the value of Front Sight's real estate holdings and the remainder of its assets are measured at fair market value, Front Sight's assets exceed its liabilities. *Id.* at pp. 2-3, 5. Finally, Mr. Winters states that Front Sights' net income is sufficient to meet its current financial obligations. *Id.* at pp. 4-5.

In summary, Mr. Greer offers nothing more than conclusory allegations that Front Sight was insolvent when distributions were made to Dr. Piazza. Defendants' expert witness offers nothing but his own legal conclusions regarding Front Sight's solvency. Defendants' expert fails to state how he arrived at his conclusions. Defendants' expert further contradicted his own conclusion by stating that Front Sight had positive net income in 2017 and 2018. Finally, Front Sight's expert demonstrates that tax returns are not indicative of solvency; that Front Sight has sufficient assets to exceed its liabilities when assets are measured at fair market value; and, Front Sight's net income is sufficient to meet its obligations. Therefore, Defendants' claims that Front Sight is insolvent are demonstrably false and made in bad faith.

B. Defendants' Motion for Leave to Amend is Unduly Prejudicial

The proposed amendments are not minor in scope and may cause significant prejudice to a party where they would add a new defendant, new claims against defendants in their personal capacity, entail a lengthy extension of discovery, or a lengthy delay in the start of a trial. *Febus-*

Cruz v. Sauri-Santiago, 652 F. Supp. 2d 166, 168-69 (D.P.R. 2009). Here, Defendants' Motion for Leave to Amend not only adds new claims, but also adds new parties (Mike Meacher, in his individual capacity, Rene Morales, in his individual capacity, and Morales' three companies). Each of these new parties will need to conduct their own discovery. Each new party may need to hire its own experts. It is very likely that this amendment, if granted, will move the trial date in this matter from October 2020 to late 2021.

1. LVDF has motive to prolong this litigation for purposes of harassing Front Sight

LVDF has failed to present any actual facts to show that Mr. Morales lacks the ability to fund the Morales Line of Credit. Therefore, its motive in bringing Mr. Morales into the case cannot be because it believes it can prove fraud against Mr. Morales by clear and convincing evidence. It is more likely that LVDF seeks to bring Mr. Morales into this matter to drive a wedge between Mr. Morales and Front Sight to prevent Front Sight from completing the project.

2. LVDF has motive to prolong this litigation to continue to collect interest payments

The CLA requires Front Sight to pay interest payments to LVDF during the period that the loan is outstanding. Currently, Front Sight pays $36,000.00 per month in interest payments to LVDF. Defendants would seek to prolong the litigation by seeking to add more parties and more claims, and by continuing to allege monetary breaches while refusing to justify the alleged cure amount, Defendants simply want to continue to increase those costs.

C. Defendants' Motion for Leave to Amend is Futile

A district court may also deny leave to amend when the proposed amendment would be futile--that is, when it could not survive a Rule 12(b)(6) motion to dismiss. *Dougherty v. Town of North Hempstead Bd. of Zoning Appeals*, 282 F.3d 83, 88 (2d Cir. 2002). "To survive dismissal, the plaintiff must provide the grounds upon which his claim rests through factual allegations sufficient 'to raise a right to relief above the speculative level.'" *ATSI Comm'ns, Inc. v. Shaar Fund, Ltd.*, 493 F.3d 87, 98 (2d Cir. 2007) (quoting Bell Atlantic v. Twombly, 550 U.S. 544, 127 S. Ct. 1955, 1965, 167 L. Ed. 2d 929 (2007). Under NRCP 15, the Nevada Supreme Court has defined a proposed amendment to pleadings as futile where the claims would not survive motion to dismiss under NRCP 12(b)(5). *Residential Credit Sols., Inc. v. TRP Fund IV, LLC*, 457 P.3d

245 (Nev. 2020). Proposed amendments to pleadings may also be futile to the extent that they are offered as a "last-second amendment [ ] alleging meritless claims in an attempt to save a case from summary judgment." *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 292 [quoting Soebbing v. Carpet Barn, Inc., 109 Nev. 78, 84, 847 P.2d 731, 736 (1993)].

Defendants assert that their Motion for Leave to Amend is not an attempt to stave off summary judgment, stating that Plaintiffs' motions for summary judgment have been denied. Defendant's Motion, p. 6:4-6. This is incorrect, as the Court took Front Sight's Motion for Partial Summary Judgment under advisement and has not issued a ruling at this time. Nevertheless, Defendants' instant motion proposes to add counterclaims for Fraud and Fraudulent Transfer against multiple parties. Front Sight will demonstrate why each of these claims are futile and will not survive a motion to dismiss.

1. LVDF's Fraud claim fails for lack of damages

In their proposed Amended Answer and Counterclaims, Defendants' assert that Front Sight, Dr. Piazza, Mr. Morales, and the Morales Entities entered into a fraudulent loan agreement for purposes of improperly coaxing LVDF into releasing EB-5 investor funds and soliciting new EB-5 investors. *See* Defendant's Motion, Exhibit A, par. 59-73. Specifically, LVDF asserts that Front Sight "further intended that the fictitious loan agreement would give LVD Fund a false sense of security so that it would release funds it was withholding from Front Sight. . . ." *Id.* at Exhibit A, par. 60. Damages are an essential element of a claim for fraudulent misrepresentation. *Epperson v. Roloff*, 102 Nev. 206, 210-11, 719 P.2d 799, 802 (1986); *see also Collins v. Burns*, 103 Nev. 394, 741 P.2d 819 (1987).

Here, Defendants have no damages, even if Front Sight's representations regarding the Morales Line of Credit were false. LVDF did not release its own funds to Front Sight. It released investor funds. For the release of those funds, LVDF and the investors have received interest payments in the amount of approximately $36,000.00 per month. LVDF, therefore, has incurred no damages from its alleged reliance on Front Sight's, and other counter-defendants', alleged misrepresentations. Because the funds disbursed to Front Sight were EB-5 investor funds and not LVDF's funds, LVDF lacks standing to bring a fraudulent misrepresentation claim against Front

Sight because it has not suffered any damages therefrom. If anything, LVDF has profited by receiving interest payments from Front Sight's use of the loan proceeds. Furthermore, LVDF was under a pre-existing contractual duty to release the EB-5 loan proceeds, which did not depend on the validity of the Morales Line of Credit. The same goes for any claim against Mr. Meacher individually.

2. LVDF's Fraud claim fails because LVDF had a pre-existing duty to provide EB-5 Investors and market the project

Pursuant to the CLA, LVDF was required to notify Front Sight within five business days when it received funds into its escrow account. *See* Evid. Hrg. Exhibit 33, at 0211. Section 3.1 of the CLA further states, "If so requested by the Borrower, Lender will make an Advance of as little as $375,000, which represents the available funds from each new EB-5 Investor pursuant to the terms of this Agreement." *Id.* This provision of the CLA was not conditioned upon Front Sight obtaining senior debt. In fact, pursuant to the CLA Section 5.27, Front Sight had until March 31, 2017, to use best efforts to obtain senior debt. *Id.* at 0230. Under the "Definitions" section of the CLA, Front Sight had until December 31, 2016 to use best efforts to obtain senior debt. *Id.* at 0203. That section only requires Front Sight to use "best efforts" to obtain senior debt. *Id.* Pursuant to the First Amendment to the Loan Agreement, dated July 31, 2017, the deadline to obtain senior debt was extended to December 31, 2017. *See* Evid. Hrg. Exhibit 34, at 0245. Pursuant to the Second Amendment to the Loan Agreement, the date to use best efforts to obtain senior debt was further extended to June 30, 2018. *See* Evid. Hrg. Exhibit 36, at 0254. So, it is disingenuous for Defendants to assert that they only advanced EB-5 loan proceeds based upon Mr. Meacher's October 31, 2017 representation that Front Sight had obtained the Morales Line of Credit. There is no provision of the CLA or its amendments that conditions the release of loan proceeds upon obtaining senior debt. Therefore, even if Mr. Meacher's representation was false regarding securing the Morales Line of Credit (it wasn't), Front Sight still had additional time to obtain senior debt. Shortly after Meacher sent the email correspondence wherein he notified LVDF of the Morales Line of Credit, Defendant Dziubla agreed that Front Sight had obtained senior debt. *See* **Exhibit 2**, p. 137.

Moreover, the parties' course of performance suggests that obtaining senior debt was not a prerequisite to the release of EB-5 investor funds. Between October 1, 2016 and November 31, 2016, Defendants released a total of $2,073,128.50 ($1,698,128.50 – October 2016, $375,000.00 – November 2016) to Front Sight. *See* Zimmer Declaration. Therefore, Defendants cannot credibly state that it only released EB-5 funds to Front Sight solely because of Meacher's October 30, 2017, representations regarding the Morales Line of Credit.

To support a claim for fraudulent misrepresentation, Nevada law requires the false statement to "play a material or substantial part in leading plaintiff to adopt his particular course." *Lubbe v. Barba*, 91 Nev. 596, 600, 540 P.2d 115, 118 (1975) (quoting Prosser, Law of Torts, 714 (4th ed. 1971)). Here, Mr. Meacher's representation regarding the Morales Line of Credit is not the substantial factor determining LVDF's decision to release funds to Front Sight when it had already released over $2 million dollars in EB-5 funds from investors. LVDF had already loaned significant money to Front Sight under LVDF's contractual duty to do so. There is no reason to believe that LVDF's subsequent disbursements were solely based upon Meacher's representation.

3. LVDF's Fraud claim fails because Mike Meacher did not make false statements regarding the Morales Line of Credit

Mr. Meacher's statement regarding Front Sight securing the Morales Line of Credit was not false. Defendants' assertions that the Morales Line of Credit is a sham loan rest on the following assumptions: 1) Morales lacks the ability to fund the loan; 2) Front Sight entered the loan under false pretenses without ever intending to draw on the line of credit; 3) Morales entered the loan with no intention of ever funding the loan.

As explained above, the testimony of Dr. Piazza and Mr. Morales have dispelled these faulty assertions. Not only did Mr. Morales testify that Front Sight utilized the line of credit for grading work, he further testified that Front Sight paid off the balance that it drew down. **Exhibit 1** at p. 17:1-7. So, both Morales and Dr. Piazza demonstrate that the Line of Credit has already been used for construction expenses. This alone vitiates Plaintiff's alleged fraud claim against Front Sight.

Even if Morales lacked the ability to fully fund the Line of Credit, this fact alone is not a sufficient basis for a fraud claim against Front Sight. For Front Sight to be liable for fraud, Defendants must show more than Morales' inability to fund the loan; they must show that both Morales and Meacher knew that Morales lacked the financial capacity to fund the line of credit at the time that Meacher made his representations to Defendants. Defendants cannot show that Morales lacks the ability to fund the loan. First of all, Morales owns his own companies; so, he can choose to extend credit for his own work as he sees fit. Even if Morales could not fund the entire $36 million, where Front Sight relied upon Morales' representation regarding his financial wherewithal, Front Sight cannot have committed fraud. Meacher would have to know that Morales lacked the ability to extend credit to Front Sight for Meacher's representation to Defendants to be knowingly false. Defendants have offered no facts whatsoever to justify the conclusion that Morales cannot fund the line of credit, much less that Meacher knew he could not do so. Therefore, Defendants cannot demonstrate that Meacher made false statements to Defendants regarding the Morales Line of Credit.

Additionally, Defendants fail to present evidence that Mr. Meacher acted outside the scope of his capacity as a corporate officer of Front Sight or benefitted personally in any way from his allegedly false representation regarding the Morales Line of Credit. If Mr. Meacher did not exceed the scope of his authority as an officer of Front Sight or benefit personally from his alleged false representation, then there is no basis to bring a fraud claim against him in his individual capacity.

4. LVDF's admission of withholding funds from Front Sight is a breach of the CLA

LVDF's admission that it withheld funds from Front Sight in October 2017 is itself an admission of breach of the CLA. Front Sight was not in breach of the CLA in October 2017. LVDF had a duty to notify Front Sight within five business days of receipt of investor funds. LVDF further had a duty to release those funds upon a valid request from Front Sight. If LVDF failed to timely notify Front Sight of receipt of investor funds or failed to remit investor funds upon a valid request, then LVDF's breach of the CLA would prevent it from bringing a breach of contract claim against Front Sight for breach of the CLA under the doctrine of equitable estoppel.

Since LVDF breached the CLA first, by its own admission, then this Court should grant Front Sight's Motion for Summary Judgment that the Court has already taken under advisement.

5. LVDF's Fraudulent Transfer claim fails because Front Sight was not insolvent

LVDF has previously asserted that that Front Sight is insolvent because its 2016 tax return listed negative balance of Retained Earnings. (*See* LVDF's Opposition to Jennifer Piazza and the VNV Trusts' Motion for Summary Judgment, p. 10). LVDF fails to mention that Front Sight's Retained Earnings increased from 2015-2018. (*See* February 27, 2020 Expert Report of Douglas S. Winters, CPA, p. 2, filed under seal as Exhibit 4 to Reply to Opposition to Motion for Summary Judgment as to the Counterclaims Against Jennifer Piazza (filed March 3, 2020).) If a negative balance of retained earnings is indicative of insolvency, then LVDF loaned Front Sight $6.3 million when Front Sight was insolvent!

LVDF's assertion that Front Sight is insolvent relies on the historical cost presentation of assets on Front Sight's balance sheet contained in its tax returns. Mr. Winters has already opined that a balance sheet is not the best measure of a company's solvency. *Id.* at p. 2. Mr. Winters' report demonstrates that Front Sight was not insolvent at the time of the transfers to the trusts for three reasons: 1) the historical cost basis presentation of the assets on Front Sight's balance sheet not determinative of solvency because it presents assets at their historical cost less depreciation, which understates the value of Front Sight's real estate holdings; 2) Front Sight had positive net income in each of the three years listed by LVDF; and 3) Front Sight's Retained Earnings actually increased from 2016 to 2018.

Because the assets on Front Sight's balance sheet are listed at their historical costs, less depreciation, Schedule L of Front Sights tax returns understates its assets. If assets were listed at fair market value, Front Sight would report a higher value of its assets, especially its land. The land for the resort project alone was valued at $25 million pursuant to the recitals in the CLA. This was the value of the land in 2016. It has most certainly appreciated since this appraisal. When Front Sight's real estate holdings are included and presented at fair market value, its assets far exceed its liabilities.

The difference between assets and liabilities is only one measure of a business' solvency. A business can have assets that exceed liabilities but still be solvent if it has net income from operations sufficient to meet its liabilities as they become due. In fact, most businesses will have liabilities that exceed assets at some point during their life cycle due to start-up costs. In 2016, 2017, and 2018, Front Sight reported substantial net income. Mr. Winters explained that Front Sight had sufficient earnings from operations to make its transfers to the Trusts without the need to use CLA loan funds. *Id.*

6. LVDF's Fraudulent Transfer claim fails because the alleged transfers do not violate the CLA

LVDF's Fraudulent Transfer claim is based in large part on their incorrect assertion that the alleged transfers were made to related parties. As evidence LVDF presents the same arguments that it made in its prior Motions that were denied. LVDF has provided no expert testimony. LVDF argued that the transfers violate the Section 5.18 of the CLA as distribution to related parties. However, LVDF fails to accurately quote the proper section. Section 5.18 only prohibits distributions to related parties "if any such payment in (a) through (d), inclusive, might adversely affect Borrower's ability to repay the loan in accordance with its terms . . . ." *See* Evid. Hrg. Exhibit 33, at 0227. Moreover, Section 5.21 allows Front Sight to make distributions to related parties for "salary and reimbursement of reasonable expenses actually incurred and consistent with the Budget, whether such proposed additional distribution is in the form of dividends, interest, returns of capital, distributions of profit, bonuses or any other form of distribution." *Id.* at 0228. These categories are so broad as to permit a variety of transactions. Defendants offer no evidence that the alleged transfers do not fall into one or more of these categories.

Even assuming what Defendant says about the existence of transfers is true, Front Sight was not in default of any obligations under the CLA at the time of the transfers to the Trusts. Furthermore, Front Sight's transfers to the Trusts did not inhibit its ability to fulfill its obligations under the CLA. Plaintiff reminds the Court that Doug Winters provided an uncontroverted expert report, discussed more fully *infra*, showing that Front Sight was solvent at all times. (*See*

February 27, 2020 Expert Report of Douglas S. Winters, CPA, pp. 2-4, filed under seal as Exhibit 4 to Reply to Opposition to Motion for Summary Judgment as to the Counterclaims Against Jennifer Piazza (filed March 3, 2020).) Therefore, Front Sight had the legal right to transfer its profits to its shareholders in the form of distributions to the Trusts. Moreover, LVDF cannot demonstrate that funds from the loan proceeds were transferred to the Trusts. Indeed, even Defendants admit that the first alleged monetary default cannot have occurred before July 2019.

IV.

CONCLUSION

Based on all of the above, Plaintiff respectfully requests that this Court deny Defendant/Counterclaimant Las Vegas Development Fund LLC's Motion for Leave to Amend Counterclaim.

DATED this 17th day of April, 2020.

ALDRICH LAW FIRM, LTD.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of April, 2020, I caused the foregoing **OPPOSITION TO MOTION FOR LEAVE TO AMEND COUNTERCLAIM** to be electronically filed and served with the Clerk of the Court using Wiznet which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic Mail Notice List, to the following parties:

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EXHIBIT 1

EXHIBIT 1

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, STATE OF NEVADA

FRONT SIGHT MANAGEMENT, LLC, a Nevada Limited Liability Company,

Plaintiff,

vs.

Case No. A-18-781084-B

LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company, et al.,

Defendants.

and related Cross-Claims.

30 (b)(6) Rene Morales
March 16, 2020

DEPOSITION OF

30(b)(6) WITNESS OF ALL AMERICAN CONCRETE, MORALES CONSTRUCTION, AND TOP RANK BUILDERS - RENE MORALES

PAHRUMP, NEVADA

MONDAY, MARCH 16, 2020

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REPORTED BY: DEBORAH ANN HINES, NEVADA CCR #473, RPR
FILE NO: AE02A9F

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, STATE OF NEVADA

FRONT SIGHT MANAGEMENT, LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company, et al., Defendants. and related Cross-Claims.	Case No. A-18-781084-B

30 (b)(6) Rene Morales
March 16, 2020

Deposition of 30 (b0(6) witness Rene Morales, taken on behalf of Defendants, at 861 S. Highway 160, Pahrump, Nevada, commencing at 10:28 a.m. Monday, March 16, 2020 before Deborah Ann Hines, Nevada CCR No. 473, California CSR No. 11691, RPR.

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A P P E A R A N C E S

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30 (b)(6) Rene Morales
March 16, 2020

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Also Present:

ROBERT DZIUBLA

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Q. And you still have those contracts at your office?

A. Yes.

Q. Okay. So those will be -- that's some of the documents we've asked for that you pull together would be those contracts.

A. Yeah.

Q. Do have any contracts now where the work hasn't been completed?

A. Well, the villas. You know, I have to -- I'm like 85 percent done. I have to complete it. But Mr. Piazza has stated I guess, I don't know who they are, because I'm not familiar, but he says the money was coming from some EB5 money and didn't came so he had to pay me out of -- like in payments. So we're not doing any more because I guess the EB5 people didn't come through with that financing.

Q. When did you have that conversation with Mr. Piazza?

A. That was like six months ago. Because we were going to build the whole thing. I give him a credit line for like $25 million. My company, they're self-integrated companies, we own Morales Construction Trucking Company and all that stuff, and we own the gravel pit, and we were going to do the

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whole thing, but for some reason I think the financing stopped.

Q. You said you gave him a line of credit, correct?

A. Uh-huh.

Q. So line of credit wouldn't -- that was a construction line of credit, correct?

A. Yes.

Q. So typically that wouldn't be paid off until the project was completed, right?

A. Well, yeah. I mean, we agree that he was going to pay me a portion, and then whenever he got like 50 or $60 million he was going to pay me off. But apparently he's -- I don't know. I don't know his deals, but the financing didn't came through.

Q. But that's -- but you are the financing, right? I mean, you give him -- actually it's 36 million. You gave him a $36 million line of credit?

A. Yeah, I not even remember how much it was. It was in the millions. It's a lot of money.

Q. And have you extended construction line of credits to other builders in the past?

A. Actually, you know, it's small, you know, like for a house or things like that. You know, I carry a lot of notes. I'm a private investor. I own

investments. So I carry a lot of notes. That's one of my main business, I carry people's notes.

Q. And in this case -- well, let's just kind of jump to that, actually. Actually, let's do some housekeeping first, actually, before we lose track of things.

You're actually here in three capacities, right, because all three of the companies involved, Morales Construction, All American Concrete, and Top Rank Builders, those are all your companies, correct?

A. Yeah, uh-huh.

Q. Are you the sole shareholder in all of those companies?

A. Yes, sir.

Q. Okay. So let's -- so I can determine how to best proceed in the deposition, do you -- when you -- the documents that you keep for those companies, do you keep them in separate places?

A. Uh-huh. Yes, sir.

Q. And so would it be better then if we just talked about Morales Construction first and then talked about Top Rank Builders and --

A. Whatever you want.

Q. -- All American?

Well, you know what, let's just -- I'm

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Q. And that would be -- there would be no payments made on that until the contract, until the construction is complete, correct? Isn't that typically what construction lines of credit are for?

A. The verbal agreement we had, he actually pay me a portion of that. He paid me like, I don't know, a few million dollars already out of his pocket.

Q. Have you extended him any credit based on this --

A. Besides the $36 million, no.

Q. No, besides the four million or three or four million he's paid you, have you extended him any credit at all?

A. No, sir. No, sir. That's the only one.

Q. Is there any money owed to you on this construction line of credit now?

A. No, sir. He pay me in full out of his pocket, yeah.

Q. And if Front Sight had used this whole line of credit to construct the project, and used the whole $36 million, are you capable of processing that level of debt?

A. Yes, sir.

Q. How so? Do you have other bank lines of credit yourself? How do you -- how do you service a

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$36 million debt?
A. I'm rich.
Q. How rich?
A. Very rich.
Q. Do you have $36 million?
A. Yes, sir.
Q. And is there any way that you can prove that?

A. You can check my companies.
Q. The companies seem to be --
A. My tax records. I make $10 million a year. I own investments in Mexico and some all over the world. Don't mean to be arrogant, but $36 million is not very much.
Q. And those, the documents that we've requested from you, some of those documents include documents to show that you did have the capability of extending that much credit, so we'll go over those document demands --
A. No problem.
Q. -- in a bit here.
And so in the past when you dealt --
A. I'm very humble, okay. Don't mean to be disrespectful, okay?
Q. In the past when you have extended

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construction lines of credit, has it worked where the borrower uses the line of credit, builds the project, and then at the end of the day either refinances the project to pay you back or sells the property to pay you back?

A. You know, I do small loans like for 200,000, 250,000. They normally go get a permanent loan and they pay me off. I normally lend people a couple hundred thousands. That's what I normally do. That's one of my main business, I lend money. That's it. But at this capacity, you know, is the first time I loan.

Q. So what did the people from Front Sight tell you is the reason why they didn't use this line of credit?

A. They said that we were supposed to build 240 villas, and I guess the money didn't come through, their financing -- I don't know their business -- is what Mr. Piazza said.

Q. So what financing would Front Sight need in order to use this line of credit?

A. The whole project is around 60, $70 million, but I was going to finance only like 25 million, 30 million. And but actually I'm glad that he told me that the money didn't come through, and I didn't

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spend much money. You know, he probably paid me like $4 million, 5 million. I don't remember.

Q. When you've done work for him, has he ever carried that debt longer than two months or has he pretty much paid right on time with every one of those projects?

A. He don't pay right on time. He doesn't. He doesn't, you know, but he's always good. Once again I really don't need that money to eat, so that's why I work well with him. Sometimes, you know, 60 days, 70 days he pay, I don't even know, but he pays.

Q. How long have you known Ignatius Piazza?

A. I would say like six years.

Q. When did you first meet him?

A. Twenty years ago.

Q. And where was that?

A. At Front Sight.

Q. So are you a Front Sight member?

A. No, sir.

Q. No? So what brought you to Front Sight to meet him 20 years ago?

A. I used to work for Wulfenstein Construction, and I pave the road, but I was an employee back then. Didn't spoke to him directly, just saw him.

Q. And then in the next 20 years then you must

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any property. And if I go and, you know, pick up a shovel and turn the dirt over, you know, my 90 days kick in. I got more attorneys than friends. I know my rights.

Q. So is it your testimony then that you were going to do all of the work for the Front Sight project from grading to putting the roofs on?

A. Yes, sir.

Q. And which company would build the villas themselves?

A. Top Rank.

Q. So you stood to make a lot of money if this contract was actually performed, right? If you built all those villas, if you did all that work, you would stand to make a lot of money, right?

A. Not really. You know, it's ten percent profit margin. It's not that much money.

Q. And so why wouldn't you persuade Mr. Piazza to let you build it? You're building yourself, you're fronting the money, you make money doing that. There's no downside to them. They don't have to make any payments until the project is over, so why didn't you talk to Piazza about getting this done?

A. Well, not necessary. That's like $60 million project, that what he wants done out there.

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and use this line of credit?

A. That I don't know. You know, he probably doesn't want to get in trouble. I don't know. I don't know what he's thinking. But we have done a lot of work out there. I mean, I've been working there for six years, for a long time. He pay me millions of dollars already.

Q. Do you have any other dealings with Ignatius Piazza, other than the building at Front Sight?

A. No, sir.

Q. How about with Mike Meacher. Any other dealings with him?

A. No, sir. Barely know him, too.

Q. So is it your testimony then that if Front Sight wanted to, right now they could get you out there on site and put in $36 million worth of work under this loan agreement?

A. I'm a man of my word. Yes.

Q. Okay.

A. What's the date on that thing? Been a long time.

Q. You can have that copy. I brought an extra one. You have one. Actually, I think I need...

MR. ALDRICH: I think I brought a copy. Give me just a second.

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MR. GREER: Okay. Why don't we just take a short break. Let's see what we can do to -- it's going to be -- it's a bit challenging without having the documents, but we'll work that out shortly here.

(A recess was taken.)

BY MR. GREER:

Q. We are back on the record. In deciding whether to extend this line of credit to Front Sight for the 36 million, what, if any, financial documents of Front Sight did you review?

A. Nothing.

Q. Zero?

A. Zero.

Q. So you made a $36 million loan to a man you met a few times?

A. I met with Mike Meacher and I saw their business plan, they show it to me. I did a background check, and they have 200,000 members, thus I base my decision on the stability of the company, me and my attorneys. They're very solid, so...

Q. Were there attorneys involved in doing this loan agreement?

A. No, just me. I make the decision myself.

Q. Who prepared the document itself?

A. It was Mr. Piazza and his team, and then it

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was Sean Wilson and myself, my office. It's mutual.
Q. Did you have an agreement with Front Sight that you would not serve notices of intent to file liens on the project?
A. No. We never talk about it.
Q. But if -- this is a valid document, right? This is --
A. Yes.
Q. -- a valid contract? So if Front Sight, Ignatius Piazza, Mike Meacher, decided they wanted to build a project and use this whole $36 million to do it, could they?
A. Yes.
Q. Okay. You could provide all the work, you could carry the debt financing up to $36 million?
A. Yes, sir.
Q. Okay.
A. Otherwise I never would have.
Q. I'm going to hand you Exhibit 4. That's the line of credit. And look at definition 1.1.3, Senior Debt. It says, "Means the additional loan that will be sought by Borrower, and which Borrower will use its best efforts to obtain, from a traditional financial institution specializing in financing projects such as the Project." Do you recall having

30 (b)(6) Rene Morales
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Q. That was the grading?
A. Uh-huh.
Q. Yes?
A. Yes, sir.
Q. But you also built 25 ranges in the last couple of years, right?
A. Yes, sir.
Q. Okay. When did you start working on building those last 25 ranges?
A. I don't recall.
Q. Are they completed now?
A. Yes, sir.
Q. During the course of the work that you've done at Front Sight, at any time have you used Front Sight employees in order to help with constructing the project?
A. No, sir.
Q. Are you aware of any work with regard to the ranges themselves or the villas, are you aware of any work that Front Sight has done with its own employees?
A. No, sir.
Q. Have you seen any plans for the project?
A. I created the plans.
Q. So you have them?

30 (b)(6) Rene Morales
March 16, 2020

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A. Yeah.
Q. You have those at your office?
A. Yes, sir.
Q. What are the plans for?
A. To construct villas.
Q. So you have literally the project plan for from grading to completion at your office?
A. Yes, sir.
Q. Outstanding. Are those saved on the computer, too?
A. Yes, sir.
Q. Are those -- have those plans been approved by any governmental agencies?
A. No, sir. Like I said, the money stopped so everything stopped.
Q. Okay. So what would be the next step? Who prepared the plans?
A. My team.
Q. So you and who else worked on it with you?
A. Sean Wilson.
Q. And do you have a budget for the cost of the project?
A. It goes up and down. No, we don't have anything set right now. It's like 70 million, somewhere in the area. Like I said, everything

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members.

MR. ALDRICH: And the business plan you said you looked at, too, right?

THE WITNESS: Yes.

BY MR. GREER:

Q. And do you have a copy of that business plan?

A. No. No. No. You know, I talked very extensively, because, you know, when you're going to extend a line of credit for $30-some million, you need to know what's behind it. And it just makes sense.

What make me motivated, you know, is because, like when you build a hotel, like Holiday Inn, you expect, you know, for people to come to your hotel. They already have the customers there. You know, they have two hundred and some thousand members.

And I did a background check. And most of the hotels here in Pahrump, you know, they're being filled by Front Sight members, so that's a reason I decide to invest in the project. It just makes sense.

Q. Do you have any type of ownership interest in the project?

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A. (Shakes head.)
Q. No?
A. Zero. I'm not even a member.
Q. Who would you consider to be the point person at Front Sight generally when you deal with them?
A. Mike Meacher.
Q. Okay. Did Front Sight ever explain to you how they intended to use the line of credit, what they wanted to use it for?
A. Yes.
Q. Can you please share that with us?
A. Well, they wanted to do all the grading, paving, and underground utilities and all that stuff.
Q. That's what they wanted to use the line of credit for?
A. Uh-huh.
Q. Okay. So the line of credit wasn't going to be for the building of the vertical structures?
A. Well, they didn't specify. I just give them a line of credit. I mean, they can use it for whatever.
Q. That's because it wouldn't cost $36 million to do all of the grading?
A. I mean, with the sewage treatment plant and

EXHIBIT 2

EXHIBIT 2

CASE NO. A-18-781084-B

DOCKET U

DEPT. XVI

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

FRONT SIGHT MANAGEMENT LLC,
Plaintiff,
vs.
LAS VEGAS DEVELOPMENT FUND LLC,
Defendant.

REPORTER'S TRANSCRIPT
OF
HEARING

BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

DISTRICT COURT JUDGE

DATED FRIDAY, SEPTEMBER 20, 2019

REPORTED BY: PEGGY ISOM, RMR, NV CCR #541

APPEARANCES:

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A. Your Honor, there is only one person in this room that truly cares about these immigrant investors' visas and the project, and that's me. I'm -- I'm the one that kept this project going when Robert Dziubla was starving it and not giving us the money that he had to put into the project. I'm the only one that's kept it going in spite of this frivolous and fraudulent foreclosure action that had no merit that caused us to lose an investment banker loan.

We are -- we've tried to build this as quickly as we possibly can with the limited funds that we received. This was supposed to be initially a $150 million project. Then he said he could not provide 150 million. He could provide 75. So we had to scale the project back.

Then he comes to us and says, "Well, we can provide 50 on the back end as a fully subordinated second, but you have to go out and find a $25 million first," and we did. We went through all of the ugliest types of lenders you can possibly imagine, and we had to turn down most of those. But we were able to secure the Morales construction loan agreement.

But here's the kicker there: Dziubla kept telling us, "You got to get me that first -- that first lender so that I can then go out and secure the rest of

these investors. They're all waiting for that first lender." So we went out and secured the first lender, the Morales construction loan. But Dziubla knew because we told him how it was going to work. Morales would start the building, and it was the EB5 money coming in that would pay down that construction loan. He understood that.

So we secured the Morales loan so that he could point out to his agents and his investors that Front Sight has secured a first lender. We get Morales started on it and then Dziubla doesn't come through with any further money. So we were on the hook, and we've paid down that -- those construction costs that Morales provided. We paid it down. Even though Dziubla starved the project, didn't provide anything else, we have -- we are the ones that have paid him down.

So it was -- it was the best that we can do under those circumstances. And under the loan contract, that's all we were asked to do is the best we can do, and we found it for him.

We've since now found another lender who's willing to loan and now we're at this point where we've created the jobs, and we've got a lender that will basically take Dziubla out and we can move the project

that he has expertise in the area of EB5.

MR. ALDRICH: And I'm not asking the question as an expert. I'm asking him a question as to what he knows, and he's testified what it's based on.

THE COURT: Okay. I'll sustain as far as the hearsay statements are concerned.

BY MR. ALDRICH:

Q. All right. So you talked on this a little bit, but the fifth alleged default is failure to obtain senior debt. You've mentioned a little bit about the conversations you had with Mr. Dziubla on the Morales loan. Did Mr. Dziubla tell you that the Morales loan would count as senior debt?

A. Not only did Mr. Dziubla tell us the Morales construction line of credit would count as senior debt, his exact words were, "Ooh, this is very good."

And he then sent out an email or some communication to his agents. It's in the -- it's in the evidence -- where he tells them he's happy to state that Front Sight has secured senior debt. So for him to then claim that we were in default because we didn't -- didn't secure senior debt is, you know, absolutely ridiculous.

And we were using the senior debt. Morales was working. We were waiting for Dziubla to bring in

all these investors that he said he had once we secured senior debt. They never came. So we were on the hook and had to pay off Morales.

Q. And the sixth alleged default is failure to provide monthly project costs. What is your response to that?

A. Monthly project costs. We would send out video construction progress updates. Video. Not some paper stuff. Actual video. We sent it out to our members. We sent it to Dziubla to show exactly what was happening on the site. Time lapse video of all the -- all the heavy equipment running around the site.

The costs were essentially the invoices that we ended up providing him when he requested those invoices.

Q. All right.

A. And let me add one more thing to that. We made it very clear when we negotiated the construction loan agreement that we did not want to be involved with monthly anything. The deal was we provided at the end of the year all of the documentation. This was negotiated between our two attorneys and Dziubla and his attorneys. So this idea that he now comes back and says, Oh, you're in default because you're not providing all this stuff monthly. It was never

he needed a first in -- he needed a US lender in first position. He knew that when we took that line of credit, that we were expecting that we would pull down on that line of credit and then his EB5 money would pay it back down. So the 36 million of the line of credit would have worked out great if he would have funded -- if Dziubla would have funded 36 million.

We signed that line of credit. We got the project started. Dziubla was supposed to provide us -- because he said -- he told us, "You get that first in position, I've got all these lenders -- all these immigrants that want to come into this project, but they're waiting for a first -- a first lender."

So we got the first lender in the form of a line of credit. We started the project with the line of credit -- or started having Morales do the work and then, lo and behold, Dziubla doesn't come through with the money, and we're stuck holding the bag, and now we have to pay him off.

It was never, ever, ever designed for Morales to provide 36 million and not get paid back by EB5. He carried it as far as we could. We continued to pay it off. And -- and Dziubla never followed through with the money. And we had discussions, personal discussions about this before we signed that agreement

with Morales.

Q. Morales isn't in a first position over Las Vegas Development Fund, correct? It's not senior debt?

A. It is senior debt because he represented it as senior debt, and he knew -- this is the other thing about this. We told him, This is great because it's senior debt. And he said, yes, it is. Oh, that's very good. I told him that Morales would not be in a first position because he has the mechanics' lien ability to apply a first position under the mechanic's lien, which is a senior lien to a first mortgage.

And Dziubla said, oh, that's great. And he then sent out the information to his agents and investors telling them that we had a senior loan in place. So it's, again, ridiculous that he would claim we don't and say that we're in default.

The problem was he -- Morales -- was willing to do the work, but we told Morales that the EB5 money would be paying him down. And EB5 money never came in, therefore, we had to pay him down.

Q. So that isn't -- so you're -- so that's a sham? That's just -- there's not really a $36 million line of credit, is there?

A. I would not say it was a sham. It was a $36 million line of credit. However -- however, Morales

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DISTRICT COURT

CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company; et al, Defendants. AND ALL RELATED COUNTERCLAIMS.	Case No. A-18-781084-B Dept. No. XVI **NOTICE OF ENTRY OF STIPULATION AND ORDER TO REPLACE EXHIBIT "A" TO DEFENDANT'S MOTION FOR LEAVE TO AMEND THE COUNTERCOMPLAINT**

PLEASE TAKE NOTICE that a Stipulation and Order to Replace Exhibit "A" to Defendants' Motion for Leave to Amend the Countercomplaint was entered on April 17, 2020; a true and correct copy of which is attached hereto.

DATED this 20th day of April, 2020.

BAILEY❖KENNEDY

By: */s/ Andrea M. Champion*
JOHN R. BAILEY
JOSHUA M. DICKEY
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Attorney for Defendants
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 20th day of April, 2020, service of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER TO REPLACE EXHIBIT "A" TO DEFENDANTS' MOTION FOR LEAVE TO AMEND THE COUNTERCOMPLAINT** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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DISTRICT COURT

CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company; et al, Defendants. AND ALL RELATED COUNTERCLAIMS.	Case No. A-18-781084-B Dept. No. XVI **STIPULATION AND ORDER TO REPLACE EXHIBIT "A" TO DEFENDANT'S MOTION FOR LEAVE TO AMEND THE COUNTERCOMPLAINT**

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, Plaintiff Front Sight Management, LLC, by and through its attorney, John P. Aldrich of Aldrich Law Firm, Ltd. and Defendants Las Vegas Development Fund, LLC, et al., through their attorneys, C. Keith Greer of Greer & Associates, A.P.C. and Andrea M. Champion of Bailey❖Kennedy, as follows:

1. On April 3, 2020, Defendants filed a Motion for Leave to Amend the Countercomplaint. Attached as Exhibit "A" to the Motion for Leave to Amend was a proposed Answer and First Amended Counterclaim (the "Exhibit").

2. Plaintiff has objected to certain information in the Exhibit being filed in the public domain, contending that it should be treated as confidential information (and not publicly available).

3. Defendants disagree and contend that the proposed First Amended Counterclaim does not violate the protective order that has been entered in this case or contain confidential or proprietary information.

4. While the parties' respective positions are unchanged, they have agreed that the Exhibit should be removed from the public record and replaced with a redacted version (a copy of which is attached hereto as **Exhibit A**) until they have a chance to brief this issue for the Court and until the Court determines whether the Exhibit should remain redacted.

5. The parties further stipulate and agree that the Defendants will file a motion addressing this issue and that Plaintiff will not oppose such a motion being heard on shortened time.

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6. No party waives, and all parties specifically reserve, any and all rights, defenses, and legal arguments they may have with regard to the Motion for Leave to Amend and the proposed First Amended Counterclaim.

IT IS SO STIPULATED.

Dated this 16th day of April, 2020

ALDRICH LAW FIRM, LTD

/s/ *John P. Aldrich*
John P. Aldrich, Esq.
7866 West Sahara Ave.
Las Vegas, Nevada 89117
Attorney for Plaintiff

Dated this 16th day of April, 2020

BAILEY❖KENNEDY

/s/ *Andrea M. Champion*
John R. Bailey, Esq.
Joshua M. Dickey, Esq.
Andrea M. Champion, Esq.
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Las Vegas, Nevada 89148
Attorney for Defendants

ORDER

IT IS HEREBY ORDERED, pursuant to the above and foregoing stipulation of the parties, that the Court Clerk shall replace the unredacted version of Exhibit A to Defendant's filed Motion for Leave to Amend the Countercomplaint with the redacted version, which is attached to the parties' stipulation, and will ensure that the unredacted version of Exhibit A is no longer accessible in the public domain.

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IT IS FURTHER ORDERED that the rights, defenses and legal arguments the parties may have regarding both the Motion for Leave to Amend the Countercomplaint and the proposed First Amended Counterclaim attached thereto as Exhibit "A" are hereby reserved.

DATED this 17th day of April, 2020.

DISTRICT COURT JUDGE

LB

Submitted by:
BAILEY❖KENNEDY

/s/ *Andrea M. Champion*
JOHN R. BAILEY
JOSHUA M. DICKEY
ANDREA M. CHAMPION

Attorneys for Defendants
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EXHIBIT A

EXHIBIT A

ANS&CC

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EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

FRONT SIGHT MANAGEMENT LLC, a Nevada Limited Liability Company, Plaintiff, vs. LAS VEGAS DEVELOPMENT FUND LLC, et al., Defendants. LAS VEGAS DEVELOPMENT FUND LLC, a Nevada Limited Liability Company, Counter Claimant, vs. FRONT SIGHT MANAGEMENT, LLC., a Nevada Limited Liability Company; IGNATIUS PIAZZA, as an individual and in	CASE NO.: A-18-781084-B DEPT NO.: 16 **DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT; AND FIRST AMENDED COUNTERCLAIM**

his capacity as Trustee and/or beneficiary of VNV DYNASTY TRUST I and VNV DYNASTY TRUST II; JENNIFER PIAZZA, as an individual and in her capacity as Trustee and/or beneficiary of VNV DYNASTY TRUST I and VNV DYNASTY TRUST II; VNV DYNASTY TRUST I, an irrevocable Nevada trust, VNV DYNASTY TRUST II, an irrevocable Nevada trust; MORALES CONSTRUCTION, INC., a Nevada Corporation; ALL AMERICAN CONCRETE & MASONRY INC., a Nevada Corporation; TOP RANK BUILDERS INC., a Nevada Corporation; EFRAIN RENE MORALES-MORENO, an individual; MICHAEL GENE MEACHER, an individual; and ROES 1 through 10, inclusive,

Counter Defendants.

COMES NOW Defendants, LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC; ROBERT W. DZIUBLA; JON FLEMING; and LINDA STANWOOD, (collectively "Responding Parties"), by and through their attorneys, KATHRYN HOLBERT, ESQ., of FARMER CASE & FEDOR, and C. KEITH GREER, ESQ., of GREER & ASSOCIATES, A.P.C., and specifically admit, deny and respond to the allegations of FRONT SIGHT MANAGEMENT, LLC.'s ("Plaintiff") Second Amended Complaint as follows:

1. These responding Defendants lack sufficient information to admit or deny the allegations in Paragraph 1 of Plaintiff's Second Amended Complaint and, therefore, deny the same.

2. These responding Defendants admit the allegations in Paragraph 2 of Plaintiff's Second Amended Complaint.

3. These responding Defendants admit the allegations in Paragraph 3 of Plaintiff's Second Amended Complaint.

4. These responding Defendants admit the allegations in Paragraph 4 of Plaintiff's Second Amended Complaint.

5. These responding Defendants admit the allegations in Paragraph 5 of Plaintiff's Second Amended Complaint.

6. These responding Defendants admit the allegations in Paragraph 6 of Plaintiff's Second Amended Complaint.

7. These responding Defendants deny that Linda Stanwood was an officer of EB5 IMPACT CAPITAL RESOURCE CENTER LLC and admit the remainder of the allegations in Paragraph 7 of Plaintiff's Second Amended Complaint.

8. These responding Defendants lack sufficient information to admit or deny the allegations in Paragraph 8 of Plaintiff's Second Amended Complaint and, therefore, deny the same.

9. These responding Defendants lack sufficient information to admit or deny the allegations in Paragraph 1 of Plaintiff's Second Amended Complaint and, therefore, deny the same.

10. These responding Defendants admit that Defendants Dziubla, Fleming and Stanwood are or were officers of Defendants EB5IA, EB5IC and LVDF. However, these responding Defendants deny the remainder of the allegations in Paragraph 10 of Plaintiff's Second Amended Complaint.

GENERAL ALLEGATIONS

Inducement of Front Sight to Fund Defendants' EB-5 Raise for the Development and Construction of the Front Sight Resort Project in Detrimental Reliance on a Raise of $75 Million

11. These responding Defendants admit that Defendants and Plaintiff exchanged email correspondence. However, these responding Defendants deny Plaintiff's the remainder of the allegations in Paragraph 11 of Plaintiff's Second Amended Complaint.

12. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 12 of Plaintiff's Second Amended Complaint.

13. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in

Paragraph 13 of Plaintiff's Second Amended Complaint.

14. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 14 of Plaintiff's Second Amended Complaint.

15. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 15 of Plaintiff's Second Amended Complaint.

16. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 16 of Plaintiff's Second Amended Complaint.

17. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 12 of Plaintiff's Second Amended Complaint.

18. These responding Defendants deny the allegations in Paragraph 18 of Plaintiff's Second Amended Complaint.

19. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 19 of Plaintiff's Second Amended Complaint.

20. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 20 of Plaintiff's Second Amended Complaint.

21. These responding Defendants lack sufficient information to admit or deny the allegations in Paragraph 21 of Plaintiff's Second Amended Complaint and, therefore, deny the same.

22. These responding Defendants admit that Defendant, EB5 Impact Advisors LLC and Plaintiff executed an engagement letter dated February 13, 2013. However, these responding Defendants deny the remainder of the allegations in Paragraph 22 of Plaintiff's Second Amended Complaint.

23. These responding Defendants admit that Defendant, EB5 Impact Advisors LLC and Plaintiff executed an engagement letter dated February 13, 2013. However, these responding Defendants deny the remainder of the allegations in Paragraph 23 of Plaintiff's Second Amended Complaint.

24. These responding Defendants admit that Defendant, EB5 Impact Advisors LLC and Plaintiff executed an engagement letter dated February 1, 2013. However, these responding Defendants deny the remainder of the allegations in Paragraph 24 of Plaintiff's Second Amended Complaint.

25. These responding Defendants admit that Defendant, EB5 Impact Advisors LLC and Plaintiff executed an engagement letter dated February 1, 2013. However, these responding Defendants deny the remainder of the allegations in Paragraph 25 of Plaintiff's Second Amended Complaint.

26. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 26 of Plaintiff's Second Amended Complaint.

27. These responding Defendants admit that the Regional Center Application was filed on or about April 14, 2014 and that the application was approved on or about July 27, 2015, and deny the remaining allegations in Paragraph 27 of Plaintiff's Second Amended Complaint.

28. These responding Defendants admit that the application for EB5 Impact Capital Regional Center, LLC was filed on April 15, 2014. However, these responding Defendants deny the remainder of the allegations in Paragraph 28 of Plaintiff's Second Amended Complaint.

29. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 29 of Plaintiff's Second Amended Complaint.

30. These responding Defendants admit that the application for EB5 Impact Capital Regional Center, LLC was approved on July 27, 2015. However, these responding Defendants deny the remainder of the allegations in Paragraph 30 of Plaintiff's Second Amended Complaint.

31. These responding Defendants admit that Defendants and Plaintiff exchanged

correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 31 of Plaintiff's Second Amended Complaint.

32. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 32 of Plaintiff's Second Amended Complaint.

33. These responding Defendants admit to the existence of a website identified as "eb5impactcapital.com," and deny the allegations in Paragraph 33 of Plaintiff's Second Amended Complaint.

34. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 34 of Plaintiff's Second Amended Complaint.

35. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 35 of Plaintiff's Second Amended Complaint.

36. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 36 of Plaintiff's Second Amended Complaint.

37. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 37 of Plaintiff's Second Amended Complaint.

38. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 38 of Plaintiff's Second Amended Complaint.

39. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, These responding Defendants deny the allegations in Paragraph 39 of Plaintiff's Second Amended Complaint.

40. These responding Defendants admit that LVD Fund has loaned Front Sight $6,375,000 and deny the rest of the allegations in Paragraph 40 of Plaintiff's Second Amended

Complaint.

41. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 41 of Plaintiff's Second Amended Complaint.

42. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the remainder of the allegations in Paragraph 42 of Plaintiff's Second Amended Complaint.

43. These responding Defendants deny the allegations in Paragraph 43 of Plaintiff's Second Amended Complaint.

44. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the allegations in Paragraph 44 of Plaintiff's Second Amended Complaint.

45. These responding Defendants deny the allegations in Paragraph 45 of Plaintiff's Second Amended Complaint.

46. These responding Defendants deny the allegations in Paragraph 46 of Plaintiff's Second Amended Complaint.

47. These responding Defendants deny the allegations in Paragraph 47 of Plaintiff's Second Amended Complaint.

48. These responding Defendants admit that Defendant LVD Fund loaned $6,375,000 to Plaintiff and deny the remaining allegations in Paragraph 48 of Plaintiff's Second Amended Complaint.

49. These responding Defendants admit that Defendant Las Vegas Development Fund served a Notice of Default on July 31, 2018. However, these responding Defendants deny the remainder of the allegations in Paragraph 49 of Plaintiff's Second Amended Complaint.

50. These responding Defendants deny the allegations in Paragraph 50 of Plaintiff's Second Amended Complaint.

51. These responding Defendants deny the allegations in Paragraph 51 of Plaintiff's Second Amended Complaint.

52. These responding Defendants admit that Plaintiff responded to Defendant Las Vegas Development Fund's July 31, 2018 Notice of Default. However, these responding Defendants deny the remainder of the allegations in Paragraph 52 of Plaintiff's Second Amended Complaint.

53. These responding Defendants admit that Defendant Las Vegas Development Fund served a second Notice of Default on August 24, 2018. However, these responding Defendants deny the remainder of the allegations in Paragraph 53 of Plaintiff's Second Amended Complaint.

54. These responding Defendants deny the allegations in Paragraph 54 of Plaintiff's Second Amended Complaint.

55. These responding Defendants admit that Plaintiff responded to Defendant Las Vegas Development Fund's August 24, 2018 Notice of Default. However, these responding Defendants deny the remainder of the allegations in Paragraph 55 of Plaintiff's Second Amended Complaint.

56. These responding Defendants admit that Defendant Las Vegas Development Fund served a third Notice of Default on August 28, 2018. However, these responding Defendants deny the remainder of the allegations in Paragraph 53 of Plaintiff's Second Amended Complaint.

57. These responding Defendants admit that Defendants and Plaintiff attempted to resolve the issues regarding Plaintiff's Defaults regarding the Construction Loan Agreement. However, these responding Defendants deny the remainder of the allegations in Paragraph 57 of Plaintiff's Second Amended Complaint.

58. These responding Defendants admit that Defendant Las Vegas Development Fund recorded a Notice of Default on September 11, 2018. However, these responding Defendants deny the remainder of the allegations in Paragraph 58 of Plaintiff's Second Amended Complaint.

59. These responding Defendants admit that Defendants and Plaintiff exchanged correspondence. However, these responding Defendants deny the allegations in Paragraph 59 of Plaintiff's Second Amended Complaint.

60. These responding Defendants deny the allegations in Paragraph 60 of Plaintiff's

Second Amended Complaint.

61. These responding Defendants admit that a Court order was entered regarding Plaintiff's Petition for Appointment of Receiver and for an Accounting. However, these responding Defendants deny the remainder of the allegations in Paragraph 61 of Plaintiff's Second Amended Complaint.

62. These responding Defendants admit they have complied with the Court order which was entered regarding Plaintiff's Petition for Appointment of Receiver and for an Accounting. However, these responding Defendants deny the remainder of the allegations in Paragraph 62 of Plaintiff's Second Amended Complaint.

63. These responding Defendants deny the allegations in Paragraph 63 of Plaintiff's Second Amended Complaint.

64. These responding Defendants admit Plaintiff is entitled to a $36,000.00 offset. However, these responding Defendants deny the remainder of the allegations in Paragraph 64 of Plaintiff's Second Amended Complaint.

65. These responding Defendants admit Defendant EB5IA has been dissolved. However, these responding Defendants deny the remainder of the allegations in Paragraph 65 of Plaintiff's Second Amended Complaint.

66. These responding Defendants admit Defendant EB5IA has been dissolved. However, these responding Defendants deny the remainder of the allegations in Paragraph 65 of Plaintiff's Second Amended Complaint.

67. These responding Defendants deny the allegations in Paragraph 67 of Plaintiff's Second Amended Complaint.

68. These responding Defendants deny the allegations in Paragraph 68 of Plaintiff's Second Amended Complaint.

69. These responding Defendants admit Plaintiff wired funds to the wrong accounts on multiple occasions. However, these responding Defendants deny the remainder of the allegations in Paragraph 69 of Plaintiff's Second Amended Complaint.

70. These responding Defendants admit Plaintiff wired funds to the wrong accounts on

multiple occasions. However, these responding Defendants deny the remainder of the allegations in Paragraph 70 of Plaintiff's Second Amended Complaint.

71. These responding Defendants admit Plaintiff wired funds to the wrong accounts on multiple occasions. However, these responding Defendants deny the remainder of the allegations in Paragraph 71 of Plaintiff's Second Amended Complaint.

72. These responding Defendants admit Plaintiff wired funds to the wrong accounts on multiple occasions. However, these responding Defendants deny the remainder of the allegations in Paragraph 72 of Plaintiff's Second Amended Complaint.

73. These responding Defendants deny the allegations in Paragraph 73 of Plaintiff's Second Amended Complaint.

FIRST CAUSE OF ACTION
(Fraud/Intentional Misrepresentation/Concealment Against All Defendants)

74. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

75. These responding Defendants deny the allegations in Paragraph 75 of Plaintiff's Second Amended Complaint.

76. These responding Defendants deny the allegations in Paragraph 76 of Plaintiff's Second Amended Complaint.

77. These responding Defendants admit that Defendant Dziubla is married to Defendant Stanwood and that correspondence was exchanged. However, these responding Defendants deny the remainder of the allegations in Paragraph 77 of Plaintiff's Second Amended Complaint.

78. These responding Defendants deny the allegations in paragraph 78 of Plaintiff's Second Amended Complaint.

79. These responding Defendants deny the allegations in Paragraph 79 of Plaintiff's Second Amended Complaint.

80. These responding Defendants deny the allegations in Paragraph 80 of Plaintiff's Second Amended Complaint.

81. These responding Defendants deny the allegations in Paragraph 81 of Plaintiff's

Second Amended Complaint.

82. These responding Defendants deny the allegations in Paragraph 82 of Plaintiff's Second Amended Complaint.

83. These responding Defendants deny the allegations in Paragraph 83 of Plaintiff's Second Amended Complaint.

84. These responding Defendants deny the allegations in Paragraph 84 of Plaintiff's Second Amended Complaint.

SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty Against All Defendants)

85-89. Plaintiff's Second Cause of Action has been dismissed as against all Defendants pursuant to this Court's Order filed April 9, 2019.

THIRD CAUSE OF ACTION
(Conversion Against All Defendants)

90. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

91. These responding Defendants deny the allegations in Paragraph 91 of Plaintiff's Second Amended Complaint.

92. These responding Defendants deny the allegations in Paragraph 92 of Plaintiff's Second Amended Complaint.

93. These responding Defendants deny the allegations in Paragraph 93 of Plaintiff's Second Amended Complaint.

94. These responding Defendants deny the allegations in Paragraph 94 of Plaintiff's Second Amended Complaint.

FOURTH CAUSE OF ACTION
(Civil Conspiracy Against All Defendants)

95. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

96. These responding Defendants deny the allegations in Paragraph 96 of Plaintiff's Second Amended Complaint.

97. These responding Defendants deny the allegations in Paragraph 97 of Plaintiff's

Second Amended Complaint.

98. These responding Defendants deny the allegations in Paragraph 98 of Plaintiff's Second Amended Complaint.

99. These responding Defendants deny the allegations in Paragraph 99 of Plaintiff's Second Amended Complaint.

FIFTH CAUSE OF ACTION
(Breach of Contract Against All Defendants EB5IA and LVDF)

100. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

101. These responding Defendants admit the allegations in Paragraph 101 of Plaintiff's Second Amended Complaint.

102. These responding Defendants deny the allegations in Paragraph 102 of Plaintiff's Second Amended Complaint.

103. These responding Defendants deny the allegations in Paragraph 103 of Plaintiff's Second Amended Complaint.

104. These responding Defendants deny the allegations in Paragraph 104 of Plaintiff's Second Amended Complaint.

105. These responding Defendants deny the allegations in Paragraph 105 of Plaintiff's Second Amended Complaint.

106. These responding Defendants deny the allegations in Paragraph 106 of Plaintiff's Second Amended Complaint.

SIXTH CAUSE OF ACTION
(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against the Entity Defendants)

Plaintiff's Sixth Cause of Action has been dismissed as against Defendant EB5IC pursuant to this Court's Order filed April 9, 2019.

107. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

108. These responding Defendants admit the allegations in Paragraph 108 of Plaintiff's Second Amended Complaint.

109. These responding Defendants admit the allegations in Paragraph 109 of Plaintiff's Second Amended Complaint.

110. These responding Defendants admit the allegations in Paragraph 110 of Plaintiff's Second Amended Complaint.

111. These responding Defendants deny the allegations in Paragraph 111 of Plaintiff's Second Amended Complaint.

112. These responding Defendants deny the allegations in Paragraph 112 of Plaintiff's Second Amended Complaint.

113. These responding Defendants deny the allegations in Paragraph 113 of Plaintiff's Second Amended Complaint.

SEVENTH CAUSE OF ACTION
(Tortious Breach of Implied Covenant of Good Faith and Fair Dealing Against the Entity Defendants)

114-121. Plaintiff's Seventh Cause of Action has been dismissed as against the Entity Defendants pursuant to this Court's Order filed April 9, 2019.

EIGHTH CAUSE OF ACTION
(Intentional Interference with Prospective Economic Advantage Against the Entity Defendants and Defendant Dziubla)

Plaintiff's Eighth Cause of Action has been dismissed as against the Entity Defendants EB5IC and EB5IA pursuant to this Court's Order filed April 9, 2019. Therefore Defendants Dziubla and LVD Fund respond as follows:

122. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

123. These responding Defendants lack sufficient information to admit or deny the allegations in Paragraph 123 of Plaintiff's Second Amended Complaint and, therefore, deny the same.

124. These responding Defendants deny the allegations in Paragraph 124 of Plaintiff's Second Amended Complaint.

125. These responding Defendants deny the allegations in Paragraph 125 of Plaintiff's Second Amended Complaint.

126. These responding Defendants deny the allegations in Paragraph 126 of Plaintiff's

Second Amended Complaint.

127. These responding Defendants deny the allegations in Paragraph 127 of Plaintiff's Second Amended Complaint.

128. These responding Defendants deny the allegations in Paragraph 128 of Plaintiff's Second Amended Complaint.

NINTH CAUSE OF ACTION
(Unjust Enrichment Against all Defendants)

129-135. Plaintiff's Ninth Cause of Action has been dismissed as against all Defendants pursuant to this Court's Order filed April 9, 2019.

TENTH CAUSE OF ACTION
(Negligent Misrepresentation Against all Defendants)

Plaintiff's Tenth Cause of Action has been dismissed as against Defendants Stanwood, Fleming, EB5IC and LVDF pursuant to this Court's Order filed April 9, 2019. Therefore Defendants EB5IA and Dziubla respond as follows:

136. These responding Defendants repeat and re-allege their responses to each of the preceding and succeeding paragraphs as though fully set forth herein.

137. These responding Defendants admit the allegations in Paragraph 137 of Plaintiff's Second Amended Complaint.

138. These responding Defendants deny the allegations in Paragraph 138 of Plaintiff's Second Amended Complaint.

139. These responding Defendants deny the allegations in Paragraph 139 of Plaintiff's Second Amended Complaint.

140. These responding Defendants deny the allegations in Paragraph 140 of Plaintiff's Second Amended Complaint.

141. These responding Defendants deny the allegations in Paragraph 141 of Plaintiff's Second Amended Complaint.

142. These responding Defendants deny the allegations in Paragraph 142 of Plaintiff's Second Amended Complaint.

143. These responding Defendants deny the allegations in Paragraph 143 of Plaintiff's

Second Amended Complaint.

144. These responding Defendants deny the allegations in Paragraph 144 of Plaintiff's Second Amended Complaint.

145. These responding Defendants deny the allegations in Paragraph 145 of Plaintiff's Second Amended Complaint.

ELEVENTH CAUSE OF ACTION
(Negligence Against all Defendants)

146-150. Plaintiff's Eleventh's Cause of Action has been dismissed as against all Defendants pursuant to this Court's Order filed April 9, 2019.

TWELFTH CAUSE OF ACTION
(Alter Ego Against all Defendants)

151-160. Plaintiff's Twelfth Cause of Action has been dismissed as against all Defendants pursuant to this Court's Order filed April 9, 2019.

These responding Defendants, LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, a dissolved Nevada Limited Liability Company; ROBERT W. DZIUBLA, JON FLEMING; LINDA STANWOOD. by and through their attorneys, KATHRYN HOLBERT, ESQ., of the law firm FARMER CASE & FEDOR, and C. KEITH GREER of the law offices of GREER & ASSOCIATES, A.P.C. having fully and specifically responded to each and every allegation set forth in Plaintiff's Second Amended Complaint, now assert the following:

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails to state a claim for which relief can be granted as against these responding Defendants.

SECOND AFFIRMATIVE DEFENSE

These responding Defendants generally deny all liability and all allegations of negligence or wrongdoing.

THIRD AFFIRMATIVE DEFENSE

Any allegations or factual matters asserted by Plaintiff that are not specifically admitted

are hereby denied.

FOURTH AFFIRMATIVE DEFENSE

The claims referred to in Plaintiff's Amended Complaint, and the resulting damage, if any, to Plaintiff, was proximately caused or contributed to by Plaintiff's own negligence, and as such, Plaintiff's negligence was greater than the negligence, if any, of these responding Defendants and, therefore Plaintiff's recovery should be barred or diminished.

FIFTH AFFIRMATIVE DEFENSE

If Plaintiff has been damaged as alleged, then said damages are the sole, direct and proximate result of actions and/or inactions of other named parties and/or third parties not presently named herein over which these responding Defendants had no control.

SIXTH AFFIRMATIVE DEFENSE

These responding Defendants reserve the right to assert any and all defenses raised by any other party to this action.

SEVENTH AFFIRMATIVE DEFENSE

These responding Defendants reserve the right to amend their Answer and/or assert additional affirmative defenses based upon discovery as well as an investigation of the facts and circumstances concerning the alleged incident that is the subject of Plaintiff's Amended Complaint.

EIGHTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, these responding Defendants allege that to the extent that Plaintiff's Amended Complaint alleges violations of law, those alleged violations of law are the result of the conduct or omissions of persons or entities other than these responding Defendants.

NINTH AFFIRMATIVE DEFENSE

Plaintiff is barred from asserting any claims against these responding Defendants because the alleged damages were the result of the intervening and/or superseding conduct of others.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches and/or the statute of limitation.

ELEVENTH AFFIRMATIVE DEFENSE

These responding Defendants reserve the right to seek contribution and indemnity in the event that these responding Defendants deem it appropriate to do so.

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TWELFTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, these responding Defendants allege that before the commencement of this action, these responding Defendants performed, satisfied, and discharged all duties and obligations they may have owed to Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of unclean hands.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because Plaintiff was the first party to breach the contract and cannot maintain an action against the Defendants for a subsequent failure to perform.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because the alleged tortious act by Defendants was justified and/or privileged.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because all alleged injuries and damages, if any, were caused by the acts or omissions of Plaintiff.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred because Defendants complied with applicable statutes and with the requirements and regulations of the State of Nevada.

FIRST AMENDED COUNTER CLAIM

1. This First Amended Counterclaim claim stems from Front Sight's misappropriation and diversion of construction loan proceeds for the personal benefit of its principal, Ignatius Piazza, his wife Jennifer Piazza, and beneficiaries of the VNV Trust Defendants, and Front Sight's breach of multiple material provisions of the Construction Loan

Agreement (the "CLA")[1], including its failure to meet the construction schedule, material changes to the Project scope, failure to provide government approved construction plans, failure to obtain senior debt, failure to meet its reporting obligations to Lender under the CLA and EB-5 regulations, refusing to give Lender access to its books and records, refusal to allow a site inspection and answer questions by Lender's representatives, failure to pay default interest, further encumbering the Property by selling securities, and failure to pay Lender's legal fees relating to enforcing Borrower to comply with the terms of the CLA. Moreover, Borrower's recent actions of delaying construction, refusing to grant Lender's representatives access to the property and concealing its books and records, raise serious questions regarding Front Sight's continued solvency (which is a required loan covenant) and thus, its ability to complete the Project.

2. This First Amended Counter Claim is further based upon Counter Defendants entering into a comprehensive scheme to defraud LVD Fund by falsely representing that Counter Defendant Front Sight had entered into a legitimate and bonafide $36,000,000 "Loan Agreement - Construction Line of Credit" with Counter Defendant Morales Construction, Inc. ("Morales Construction"), that would have provided sufficient capital to make substantial progress toward completing the project. In reality, the "Loan Agreement" was a complete scam because all of the Counter Defendants knew Morales was not capable of fulfilling its obligation to extend tens of millions of dollars in credit, and none of the Counter Defendants ever intended to perform under the Loan Agreement.

I. PARTIES

3. Counter Claimant LAS VEGAS DEVELOPMENT FUND LLC (hereafter "LVD Fund" or "Lender") is a Nevada limited liability company with a principal place of business

[1] "CLA" refers to the Construction Loan Agreement dated October 6, 2016, between Front Sight Management LLC ("Borrower") and Las Vegas Development Fund LLC ("Lender"). (See Dziubla Decl., Ex. 3).

located in Nevada and has an interest and right in a the Property through a certain Deed of Trust[2] that was by and between Front Sight and LVD FUND.

4. FRONT SIGHT MANAGEMENT LLC (hereinafter as "Front Sight" or "Borrower") is a Nevada limited liability company with a principal place of business located in Clark County, Nevada.

5. Counter Claimant is informed and believe, and on that basis alleges, Counter Defendant VNV DYNASTY TRUST I is a Nevada statutory trust, Nevada business, family trust, or other irrevocable trust that functions as an entity and that may claim title and ownership interest in the Property. Counter Claimant is informed and believe, and on that basis alleges, Counter Defendant VNV DYNASTY TRUST I was organized and exists under the laws of Nevada and Counter Defendants IGNATIUS PIAZZA and JENNIFER PIAZZA are trustees and/or beneficiaries of the VNV DYNASTY TRUST I.

6. Counter Claimant is informed and believe, and on that basis alleges, Counter Defendant VNV DYNASTY TRUST II is a Nevada statutory trust, Nevada business, family trust, or other irrevocable trust that functions as an entity and that may claim title and ownership interest in the Property. Counter Claimant is informed and believe, and on that basis alleges, Counter Defendant VNV DYNASTY TRUST II was organized and exists under the laws of Nevada and Counter Defendants IGNATIUS PIAZZA and JENNIFER PIAZZA are trustees and/or beneficiaries of the VNV DYNASTY TRUST II. (Hereinafter VNV DYNASTY TRUST I and VNV DYNASTY TRUST II are collectively referred to as the "VNV Trust Defendants" or "Trust Defendants")

7. Counter Claimant is informed and believe, and on that basis alleges, that Counter Defendant IGNATIUS A. PIAZZA II, ("Piazza"), is an individual who is, and at all times

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[2] "Deed of Trust" refers to the "Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing," recorded in the official records of Nye County, Nevada, as "DOC #860867" on October 13, 2016, a copy of which is attached as Exhibit 1, filed herewith, as amended by the "First Amendment to Construction Deed of Trust, Security Agreement and Fixture Filing," recorded in the official records of Nye County, Nevada, as "DOC #886510" on January 12, 2018, a copy of which is provided as Exhibit 2.

relevant hereto was, a resident of Sonoma County, California. Piazza is the managing member, or otherwise in control under another title, of Counter Defendant Front Sight Management, LLC and Trustee and/or beneficiary of VNV Trust Defendants.

8. Counter Claimant is informed and believe, and on that basis alleges, that DEFENDANT JENNIFER PIAZZA, is an individual who is, and at all times relevant hereto was, a resident of Sonoma County, California and is Trustee and/or beneficiary of VNV Trust Defendants.

9. Counter Defendant MORALES CONSTRUCTION, INC. ("MORALES CONSTRUCTION") is a Nevada Corporation and licensed contractor with its principal place of business in Pahrump, Nevada.

10. Counter Defendant ALL AMERICAN CONCRETE & MASONRY INC. ("ALL AMERICAN CONCRETE") is a Nevada Corporation and licensed contractor with its principal place of business in Pahrump, Nevada.

11. Counter Defendant TOP RANK BUILDERS INC. ("TOP RANK BUILDERS") is a Nevada Corporation and licensed contractor with its principal place of business in Pahrump, Nevada.

12. Counter Claimant is informed and believes, and on such basis alleges, that Counter Defendant EFRAIN RENE MORALES-MORENO ("MORALES") is, and at all times relevant was, a resident of Nye County, Nevada, and the principal and chief executive officer of MORALES CONSTRUCTION, ALL AMERICAN AND TO RANK.

13 Counter Claimant is informed and believes, and on such basis alleges, that Counter Defendant MICHAEL GENE MEACHER ("MEACHER") is, and at all times relevant was, a resident of Nye County, Nevada, and the Vice President and Chief Operating Office of Counter Defendant FRONT SIGHT.

14 Upon information and belief, each of the Counter Defendants sued herein as ROE Counter Defendants 1 through 10, inclusive, are beneficiaries or trustees of the Trust Defendants and claim an interest in the Property or are responsible in some manner for the events and happenings herein that Counter Claimant seeks to enjoin; that when the true names and capacities

of such defendants become known, Counter Claimant will ask leave of this Court to amend this counterclaim to insert the true names, identities and capacities together with proper charges and allegations.

15. Counter Claimant is informed and believe, and on that basis alleges that Counter Defendants Front Sight and the VNV Trust Defendants are influenced and governed by Counter Defendant Ignatius Piazza, and they are so intertwined with one another as to be factually and legally indistinguishable. As such, the adherence to an LLC, corporate or trust fiction of separate entities would, under the circumstances, sanction fraud and promote injustice.

16 As a result of Front Sight being the alter ego of Counter Defendant Ignatius Piazza, Ignatius Piazza is personally liable for the liabilities of Front Sight regarding the allegations set forth in this Counterclaim.

II. GENERAL ALLEGATIONS

17 The CLA was made to fund construction of the Front Sight Resort & Vacation Club ("FS Resort") and an expansion of the facilities and infrastructure of the Front Sight Firearms Training Institute (the "Training Facilities") located on a 550-acre site in Pahrump, Nevada (the "Project"). The CLA dated October 6, 2016 (Exhibit 3) is the operative agreement for purposes of determining Front Sight's obligations as the "Borrower," and the remedies available to LVD Fund as the "Lender."

18 The "Project" is described as construction of the Front Sight Resort & Vacation Club ("FSRVC") and an expansion of the facilities and infrastructure of the Front Sight Firearms Training Institute ("FSFTI") (the "Facilities") located in a 550 acre site in Pahrump, Nevada. The Facilities will include 102 timeshare residential units, up to 150 luxury timeshare RV pads, an 85,000 square foot restaurant, retail, classroom, and office building (to be known as the Patriot Pavilion) and related infrastructure and amenities, all of which will be located at One Front Sight Road, Pahrump, Nevada 89041.

19 All of the loan funds came from foreign citizens participating in the Federal Immigrant Investor Program, known as "EB-5." The EB-5 Immigrant Investor Program, which is administered by the United States Citizenship and Immigration Services ("USCIS"), provides

certain immigrant investors, who can demonstrate that their investments are creating jobs in this country, with a potential avenue to lawful permanent residency in the United States. The program sets aside EB-5 visas for participants who invest in commercial enterprises approved by USCIS, frequently administered by entities called "regional centers." Each investor is required to invest a minimum of $500,000 and, through the EB-5 Immigrant Investor Program, are anticipated to receive permanent foreign resident status within the United States *assuming compliance with the EB-5 program requirements and creation of 10 US jobs per investor.* Material departures from the U.S. Citizenship and Immigration Service ("USCIS") approved plans for the Project, including delays in construction, and diversion of funds from the Project to general corporate or personal uses, are all significant breaches of the CLA and potentially jeopardize the immigration status of the EB-5 Investors.

20. According to the US Citizenship and Immigration Services, the Immigrant Investor Program, also known as "EB-5," was created to stimulate the U.S. economy through job creation and capital investment from immigrant investors by creating a new commercial enterprise or investing in a troubled business. In this case, the immigrant investors are attempting to gain lawful permanent residence for themselves and their families by participating in a Regional Center Pilot Program, which requires them to make a capital investment of $500,000, since this region is deemed to be a Targeted Employment Area ("TEA"), i.e., "a rural area or an area that has experienced high unemployment of at least 150 percent of the national average." The new commercial enterprise must create or preserve 10 full-time jobs for qualifying U.S. workers within two years (or under certain circumstances, within a reasonable time after the two year period) of the immigrant investor's admission to the United States as a Conditional Permanent Resident (CPR)."

21. The CLA, as well as the USCIS approved business plan and Confidential Offering Memorandum that comply with both EB-5 legislation and U.S. securities laws and regulations, specifically require that loan proceeds and disbursements be applied toward construction of the Project and the creation of jobs. The CLA also includes a contractually agreed upon construction schedule and construction budget that were specifically approved by the USCIS and must be

substantially complied with in order to meet the immigrant investors' obligations under the EB-5 Program.

22. Section 6.3 of the CLA (Exhibit 3) and Section 7.2(d) of the Deed of Trust (Exhibit 1) specifically authorize Lender to take over and complete construction of the Project in accordance with the USCIS approved plans and construction schedule in the event of certain defaults which place timely completion of the project in jeopardy.

23. Pursuant to the terms of §6.1 of the CLA, each of the following, without limitation, constitutes an Event of Default under the CLA:

> "(a) Borrower shall default in any payment of principal **or interest** . . .
>
> * * *
>
> (c) Borrower shall default in the performance or observance of any agreement, covenant or condition required to be performed or observed by Borrower under the terms of this Agreement, or any other Loan Document, other than a default described elsewhere in this Section . . .
>
> * * *
>
> (j) A default occurs in the performance of Borrower's obligations in any of Section 5.6, 5.7, 5.8, 5.10, 5.13, 5.16, 5.18, 5.19, 5.22, 5.23 or 5.24, hereof;
>
> * * *
>
> (m) Any failure by Borrower to timely deliver the EB-5 information, which failure continues more than 5 days following notice of such failure from Lender."

24. In the event of default, Lender can, *inter alia*: suspend the obligation to make further advances of funds (CLA §6.2(b)); foreclose on the Deed of Trust (CLA §6.2(e)); and ***"take over and complete such construction in accordance with the Plans, with such changes therein as Lender may, in its discretion, deem appropriate, all at the risk, cost and expense of Borrower."*** (CLA §6.3). [emphasis added]

BORROWER'S BREACHES AND DEFAULT UNDER THE CLA

A. Breach Number 1: Improper Use of Loan Proceeds - CLA § 1.7(e)

25. [redacted]

[redacted]

26. Counter Claimants are informed and believe and thereon allege that more than $3,000,000 of EB-5 loan proceeds have been diverted to fund matters that are not related to completion of the approved EB-5 plan, such as payment of Front Sight's general overhead expenses, thereby severely prejudicing the EB-5 investors.

27. Counter Claimants are informed and believe and thereon allege that during the past two years, while Front Sight has been using EB-5 (CLA) loan proceeds to pay its general overhead operating costs, pay off a pre-existing loan for which Ignatius Piazza and Jennifer Piazza are personal guarantors, and disburse multi-million shareholder distributions to Counter Defendants Ignatius Piazza, Jennifer Piazza, and the VNV Trust Defendants.

B. Breach Number 2: Failure to Provide Government Approved Plans-CLA §3.2(b)

28. Section 3.2 (b)(I) of the CLA requires that prior to the Commencement Date Front Sight provide LVD Fund with "Plans, in the form previously submitted to Lender, as finally approved for construction by the Project Architect and the applicable Governmental Authority." (Exhibit 3, pg. 20). The "Commencement Date" for the Project is defined in the First Amendment to Loan Agreement effective July 1, 2017 as "October 6, 2016." (Exhibit 4). This is to include "a schedule listing all Contractors, and primary contracts relating to the Project having a contracts sum in excess of $250,000 for any such Contractor, and construction contracts, subcontracts and schedules relating to the Project. (*Id. CLA §3.2(b)(ii)*). In a letter dated August 28, 2018, Robert Dziubla, on behalf of LVD Fund, gave notice to Front Sight that it was in default for failure to provide construction plans and the related lists of contractors, licenses, agreements and permits relating to the construction as required under §§3.2(b)(I) and (ii) of the CLA. Front Sight remains in default under these provisions of the CLA..

C. Breach Number 3: Failure to Timely Complete Construction - CLA § 5.1

29. Pursuant to Section 5.1 of the CLA, Front Sight was required to complete construction by the "Completion Date" which is defined as "the date that is no later than thirty-six (36) months from the Commencement Date."(Exhibit 3 pg. 3). Pursuant to the First Amendment to the Loan Agreement, the "Commencement Date" is defined as "October 4, 2016." (Exhibit 4, §1). Therefore, construction of the project should have been completed on or before October 4, 2019.

30. As of January 2020, there are no government approved plans for the Project, construction has not even started on any of the planned vertical structures and construction appears to be at a virtual standstill.

31. This is a material event of Default, and it is particularly prejudicial to the EB-5 investors who risk losing their EB-5 benefits if the project is not completed in accordance with the schedule approved by the USCIS.

D. Breach Number 4: Material Change of Costs, Scope or Timing of Work - CLA § 5.2

32. Section 5.2 of the CLA states in pertinent part:

> "Borrower shall deliver to Lender revised, estimated costs of the Project, showing changes in or variations from the original Estimated Construction Cost Statement, as soon as such changes are known to Borrower. Borrower shall deliver to Lender a revised construction schedule, if and when any target date set forth therein has been delayed by twenty (20) consecutive days or more, or when the aggregate of all such delays equals thirty (30) days or more. Borrower shall not make or consent to any change or modification in such Plans, contracts or subcontracts, and no work shall be performed with respect to any such change or modification, without the prior written consent of Lender, if (I) such change or modification would in any material way alter the design or structure of the Project or change the rentable area thereof in any way, or increase or decrease the Project cost by $250,000 or more (after taking into account cost savings and any insurance proceeds of Borrower received by Lender) for any single change or modification, or (ii) the aggregate amount of all changes and modifications exceeds $500,000 (after taking into account cost savings and any insurance proceeds of Borrower received by Lender). Borrower shall promptly furnish Lender with a copy of all changes or modifications in the Plans, contracts or subcontracts for the Project prior to any Advance used to fund such change or modification whether or not Lender's consent to such change or modification is required hereby."

33. Front Sight has made multiple material changes to the plans and schedule without

obtaining written consent from LVD Fund, including, *inter alia*, reducing the size of the "Patriot Pavilion" from 85,000 square feet, as represented to USCIS, to approximately 25,000 - 30,000 square feet, while also modifying plans to climinate foundations. Counter Claimants are informed and belicve and thereon allege that this change by Front Sight is a material change in the construction plans, in breach of the CLA.

E. Breach Number 5: Refusal to Comply Regarding Senior Debt - CLA § 5.27

34. Under the CLA, Front Sight was required to obtain Senior Debt from a traditional construction lender, originally by March 31, 2016 (Exhibit 3 at pg. 11 "Senior Debt" defined), then was given an extension to December 31, 2017 (Exhibit 4 at ¶4), and then was given and extension to June 30, 2018 (Exhibit 5 at ¶1). To date, Front Sight has not secured a Senior Debt that meets the requirements of tbc CLA.

F. Breach Number 6: Failure to Provide Monthly Project Costs - CLA § 3.2(a)

35. Front Sight has not delivered the required Monthly Evidence of Project Costs. "From and after the date of the first Advance of the Loan, Borrower shall deliver to Lender on a monthly basis evidence of the Project costs funded during the preceding month." (CLA § 3.2(a)). Counter Defendant Front Sight has not delivered a single monthly Project cost report.

G. Breach Number 7: Failure to Notify of Event of Default - CLA § 5.10

36. Section 5.10(d) of the CLA requires the Borrower to notify Lender of the occurrence of an Event of Default. "Within five (5) Business Days after the occurrence of any event actually known to Borrower which constitutes a Default or an Event of Default, notice of such occurrence, together with a detailed statement of the steps being taken to cure such event, and the estimated date, if known, on which such action will be taken." Front Sight has failed to notify LVD Fund of either (1) the existence of certain events of default or (2) a detailed statement of the steps being taken to cure the event of default.

H. Breach Number 8: Refusal to Allow Inspection of Records - CLA § 5.4

37. Section 5.4 of the CLA provides:

> **Keeping of Records.** Borrower shall set up and maintain accurate and complete books, accounts and records pertaining to the Project. Borrower will permit representatives of Lender to have reasonable

> access to and to inspect and copy such books, records and contracts of Borrower and to inspect the Project and to discuss Borrower's affairs, finances and accounts with any of its principal officers, all at such times and as often as may reasonably be requested by Lender.

38. LVD Fund made a demand to Inspect the Books and Records by Notice of Default and Letter dated July 30, 2018.

39. Front Sight explicitly refused to comply with this obligation under the CLA, as stated in the letter from Ignatius Piazza dated August 20, 2018. It states "Borrower is not in breach; thus, there will be no inspections. In the Notice; you have included a "Notice of Inspections" which alleges that "[P]ursuant to articles 3.3 and 5.4 of the CLA, we hereby serve you notice that we and our representatives will inspect the Project and your books and records on Monday, August 27." As set forth above and below herein, we contend that Borrower is not in breach or default of any of its obligations under the Loan Agreement; thus, **Borrower will not authorize any inspections whatsoever by Lender or its representatives of the Project or its books and records on the proposed date of August 27 [2018], or at any other time.**"

40. The right of inspection with advance notice pursuant to §3.3 and §5.4 of the CLA is **not** contingent on whether there is an Event of Default. Front Sight's refusal to permit the inspection constitutes a separate Event of Default acknowledged in writing by Front Sight.

I. Breach Number 9: Refusal to Allow Inspection of the Project - CLA § 3.3

41. Section 3.3 of the CLA provides:

> **Inspections**: Lender and its representatives shall have access to the Project at all reasonable times and shall have the right to enter the Project to conduct such inspections thereof as they shall deem necessary or desirable for the protection of Lender's interests; provided, however, that for so long as no Event of Default shall have occurred and be continuing, Lender shall provide to borrower prior to the notice of not less than seventy-two (72) hours of any such inspections and such inspection shall be subject to the rights of club members (i.e., owners of timeshare interests) and any tenants under any applicable leases."

42. As discussed in the section above, on July 30, 2018, LVD Fund made a demand to Front Sight for permission to inspect the Project, with more than 72 hours notice, even though Events of Default negated the need for advanced notice. In response, Front Sight explicitly refused to comply with this obligation under the CLA, stating: **"Borrower will not authorize any**

inspections whatsoever by Lender or its representatives of the Project or its books and records on the proposed date of August 27 [2018], or at any other time."

43. This is a material breach of the CLA justifying court intervention because the right of inspection is necessary for Lender to determine, *inter alia*, appropriate use of loan proceeds, construction progress, and possible impairment of security, which is necessary for Lender to protect its interests.

J. Breach Number 10: Failure to Provide EB-5 Information - CLA § 1.7(f)

44. In order to verify continuing eligibility for participation in the EB-5 Investor Program with the USCIS, Front Sight was required to submit certain EB-5 information on a continuing basis as a condition of the loan. "Borrower shall submit to Lender the EB-5 Information. Failure of Borrower to use the proceeds of the Loan in accordance with the terms and conditions of this Agreement or to provide the EB-5 Information shall be a default pursuant to Section 6.1." (Exhibit 3). This obligation was further specified in the First Amendment to the CLA requiring "Borrower [to] provide Lender with copies of major contracts, bank statements, receipts, invoices and cancelled checks or credit card statements or other proof of payment reasonably acceptable to Lender that document that Borrower has invested in the Project at least the amount of money as has been disbursed by Lender to Borrower on or before the First Amendment Effective Date." (Exhibit 4).

45. Front Sight failed to provide the required EB-5 Information. It is necessary to give Lender access to the information needed in order to meet its obligations to its EB-5 investors so the investors don't lose their investment and their path to citizenship.

K. Breach Number 12: Transferring Assets to Related Parties - CLA § 5.18

46. Section 5.18 of the CLA provides that: "Borrower shall not directly or indirectly, prior to completion of all of the improvements or the Completion Date, (a) make any distribution of money or property to any Related Party, or make or advance to any Related Party, or (b) make any loan or advance to any Related Party, or . . . (d) pay any fees or other compensation . . . to itself or to any Related Party, if any such payment in (a) through (d), inclusive, might adversely affect Borrower's ability to repay the loan in accordance with its terms . . ."

47. [redacted].

48. Counter Claimant LVD Fund is informed and believes that Ignatius Piazza has transferred additional funds from Front Sight to himself, his wife Jennifer Piazza (either directly or indirectly) and the VNV Trust Defendants in violation of §5.18, which have yet to be disclosed.

49. Counter Claimants are informed and believe and thereon allege that Counter Defendants Ignatius Piazza and Jennifer Piazza both individually, as Trustees of the VNV Trust Defendants, and/or as beneficiaries of the VNV Trust Defendants knew about the source of the transferred funds, and that transferring such funds violated the CLA, and with such knowledge endorsed and aided in the removal of funds from Front Sight, and directly benefitted from the funds through the VNV Trust Defendants and by reduction in debts that Ignatius Piazza and Jennifer Piazza had personally guaranteed.

50. Counter-Defendant's have now diverted out of Front Sight, for their personal benefit, enough capital to have completed the Front Sight Resort Project well within the time constraints approved by the USCIS for the EB-5 Project. By diverting profits generated by Front Sight's operations to themselves, their trusts, and using EB-5 investor funds to pay Front Sight's operating expenses and pre-existing loans, Counter Defendants Ignatius Piazza and Jennifer Piazza misappropriated loan proceeds and endangered Front Sight's solvency.

L. Breach Number 11: Non Payment of Default Interest - CLA § 1.2

51. Section 1.2 of the CLA provides that if there is an Event of Default, interest shall be charged at the "Default Rate." The "Default Rate" is defined as "the lesser of five percent (5%) per annum in excess of the Loan Rate or the maximum lawful rate of interest which may be charged." (Exhibit 3, CLA, pg. 4, "Default Rate Defined.") Because Front Sight is in default under multiple provisions of the CLA as detailed above, the Default Rate provisions of Section

1.2 were properly triggered.

52. Front Sight has failed and refused to pay the Default Rate despite the demand therefor. As a result of failing to pay default interest rates, **Front Sight is in monetary default under the terms of the CLA.**

M. Breach Number 12: Non Payment of Legal Fees - CLA § 8.2

53. Section 8.2(a) of the CLA provides that "Borrower agrees to pay and reimburse Lender upon demand for all reasonable expenses paid or incurred by Lender (including reasonable fees and expenses of legal counsel) in connection with the collection and enforcement of the Loan Documents, or any of them." This obligation was specifically reaffirmed in ¶7 of the First Amendment to the Loan Agreement (Exhibit 4), with respect to failure to provide the EB-5 Information. LVD Fund has incurred legal fees in connection with the Notices of Default and has made demand of payment therefor from Front Sight. To date, Front Sight has refused to pay such fees and this constitutes a monetary default under §6.1(b) of the CLA. LVD Fund has also incurred attorneys' fees and costs in defense of this action and pursuing it rights and remedies under the CLA and Deed of Trust, for which Front Sight is contractually liable.

N. Breach Number 13: Wrongfully Encumbering the Property.

54. Section 5.7 of the CLA provides that "[w]ithout the prior written consent of Lender, Borrower shall not voluntarily or involuntarily agree to, cause, suffer or permit any sale, conveyance, lease, mortgage, grant, lien, encumbrance, security interest, pledge, assignment or transfer of: (a) the Project or any part or portion thereof, or (b) any ownership interest in Borrower, direct or indirect, legal or equitable (including the issuance, sale, redemption, or repurchase of any such interest, the distribution of treasury stock, or the payment of any indebtedness owed to Borrower by any managers, subsidiaries, Affiliates or owners of equity interests or debentures).

55. In breach of this provision of the CLA, Counter Defendants Front Sight and Ignatius Piazza have been selling, and continue to sell "credits," "points," "memberships," "certificates," and other instruments and products, including the sale of unregistered securities, that create contingent liabilities for Counter Defendant Front Sight and/or include the current or

contingent rights to convert said instruments directly or indirectly into ownership interests in Counter Defendant Front Sight or the Project.

56. As a result of the multiple breaches outlined above, on January 4, 2019, LVD Fund filed the "Notice of Breach, Default and Election to Sell Under the Deed of Trust" with the Nye County Recorder (DOC #905512, attached hereto as Exhibit 6).

57. Counter Defendant Front Sight thereafter failed to correct any of the previously cited breaches and Events of Default under the CLA, and further breached the CLA by failing to provide Counter Claimant LVD Fund with financial statements within 75 days of the end of calendar year 2018, as identified in § 5.10 of the CLA, despite Counter Claimant making the demand for said financial statements by letter dated March 25, 2019.

58. In addition, on November 11, 2019 a mechanics lien was recorded against the subject property in the amount of $100.795.13 by Direct Paving and Grading, without Lender's written consent, in breach of §5.7. Despite LVD Fund giving Front Sight written notice of this event of default on or about January 10, 2020, Front Sight failed to cure the default.

Material Misrepresentations Regarding the Morales Construction Line of Credit

59. In or about October 2017, Counter Defendants Front Sight, Piazza, Meacher, Morales and the Morales Entities (i.e., Morales Construction, All American Concrete and Top Rank Builders) entered into a comprehensive scheme to further defraud LVD Fund. The scheme involved Front Sight and the Morales Entities entering into a fictitious multi- million dollar loan agreement, to give the false appearance that Front Sight had access to enough credit to virtually complete the Project.

60. Counter Defendants carried out the fraudulent scheme with the intent that LVD Fund would rely on this false appearance of access to credit and believe that the credit would in fact be utilized for construction of the Project. Counter Defendants further intended that the fictitious loan agreement would give LVD Fund a false sense of security so that it would release funds it was withholding from Front Sight, and facilitate continued solicitation of additional EB-5 investors by using the loan agreement to give an appearance that Front Sight was putting more money into construction than it really was.

61. In furtherance of fraudulent scheme, on October 31, 2017, Front Sight entered into the purported "Loan Agreement - Construction Line of Credit" ("Loan Agreement") with the Morales Entities. (See Exhibit 8). The Loan Agreement was executed by Counter Defendant Morales. Per the terms of the Loan Agreement, the Morales Entities were to provide Front Sight with up to $36 million of credit to be applied toward completing the Project.

62. Counter Defendants Front Sight, Piazza, Meacher, Morales and the Morales Entities caused this "Loan Agreement" to be executed with no intent to ever utilize the credit line, and with knowledge that the Morales Entities were not capable of extending or carrying the amount of credit purportedly made available under the agreement's terms.

63. On October 31, 2017, Meacher represented to LVD Fund that:

> "Attached please find fully executed documents between Front Sight Management and our three primary contractors. This Construction Line of Credit and associated Promissory Note extends to Front Sight up to $36,000,000 in construction credit pursuant to the terms of the agreements. . . .
> These documents and the attached construction line of credit along with the upcoming Letter of Commitment from USCP **should jump start the marketing in both China and India. Please release the funds for the investor you now hold** and give me the vehicle by which we send the funds for Dr. Shah's marketing road show that we promised with his next closing. Also light a fire under David and Kyle. Get them to put some serious effort to close the 26 investors in China who are currently looking for another project. **There are now no excuse [sic] for not closing more of these EB-5 investors."** (Emphasis added)

64. Counter Claimant is informed and believes, and thereon alleges, that in return for the Morales Entities entering into the fraudulent Loan Agreement, Front Sight agreed to contract with the Morales Entities to perform construction work on the Project. Morales, as the owner of the Morales Entities, personally benefitted from the profit generated by the millions of dollars received from Front Sight.

65. But rather than the construction funding coming from the Morales Entities pursuant to the Loan Agreement, the funds were to come solely from LVD Fund. The Loan Agreement was simply a ruse to lull LVD Fund into soliciting more EB-5 funds, with the intent that the false appearance of Front Sight having a $36 million line of credit would result in a greater number of EB-5 investors coming forward.

FIRST CAUSE OF ACTION

Fraud against Front Sight, Piazza, Meacher, Morales and the Morales Entities

66. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 65 of this Counterclaim as though set forth fully herein at length.

67. When Counter Defendants made the misrepresentations set forth above, they knew them to be false.

68. Counter Defendants made the misrepresentations knowing that LVD Fund would rely on said misrepresentations.

69. LVD Fund did in fact rely on said misrepresentations to its detriment. Had LVD Fund known the true facts it would not have released the funds it was holding and would not have solicited additional EB-5 investors for the Front Sight Project.

70. As a result direct and proximate result of the fraud and intentional misrepresentations made by the Counter Defendants, Counter Claimant LVD Fund has sustained damages well in excess the fifteen thousand dollar ($15,000) jurisdictional limit of this court.

71. The conduct of Counter Defendants, and each of them, as described herein, was malicious, oppressive and fraudulent under NRS 42.005, entitling Counter Claimant to an award of punitive damages.

72. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

73. LVD Fund also is entitled to attorney's fees under Section 8.2 of the Construction Loan Agreement for enforcement of the contract.

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SECOND CAUSE OF ACTION

Fraudulent Transfers – NRS §§112.180 AND 112.190

Against Front Sight, VNV Dynasty Trust I and VNV Dynasty Trust II

74. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 73 of this Counterclaim as though set forth fully herein at length.

75. Pursuant to the CLA §5.18 Front Sight was prohibited from making certain related party transactions or transfers if such transfers would impair the ability of Front Sight to repay the CLA.

76. [redacted]

77. [redacted]

78. [redacted]

79. [redacted]

80. [redacted]

81. [redacted]

82. The above transactions were made with actual intent to hinder, delay or defraud LVD Fund.

83. Front Sight engaged in the above transactions without receiving reasonably equivalent value in exchange for the transfer at a time when: (1) Front Sight was engaged in a transaction (the CLA and the Project) for which the remaining assets of Front Sight were unreasonably small in relation to the transaction; and (2) in which Front Sight intended to incur,

or reasonably should have believed it was incurring, debts that were beyond the ability of Front Sight to pay when due. NRS 112.180.

84. The above transactions were: (a) to an insider; (b) and the insider retained possession or control of the transferred funds; (c) the transfers were unconsented to by LVD Fund despite the obligation of CLA §5.18; (d) the transfers were made shortly after Front Sight incurred a substantial debt pursuant to the CLA; and (e) Front Sight was insolvent at the time the transfers were made. NRS 112.180

85. The above transfers are fraudulent transfers as to LVD Fund because they were made after the obligation to LVD Fund was incurred and they were made without receiving a reasonably equivalent value in exchange for the transfer or obligation and Front Sight was insolvent at the time the transfers were made. NRS 112.190.

86. The above transfers are further fraudulent transfers as to LVD Fund because the obligation to LVD Fund was incurred before the transfers were made and the transfers were to an insider at a time when Front Sight was insolvent, and the insider (Piazza) knew that Front Sight was insolvent.

87. Pursuant to NRS 112.210, LVD Fund seeks: (a) Avoidance of the transfers and loan to shareholder; (b) An attachment or garnishment against the asset transferred or other property of the transferee pursuant to NRS 31.010 to 31.460, inclusive; and (c) Subject to applicable principles of equity and in accordance with applicable rules of civil procedure: (1) An injunction against further disposition by the debtor or a transferee, or both, of the assets transferred or of other property; (2) Appointment of a receiver to take charge of the assets transferred or of other property of the transferee; or (3) Any other relief the circumstances may require.

THIRD CAUSE OF ACTION

Intentional Interference with Contractual Relationships Against Ignatius Piazza, Jennifer Piazza, and VNV Trust Defendants.

88. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 87 of this Counterclaim as though set forth fully herein at length.

89. Front Sight and LVD Fund entered into a written Construction Loan Agreement (Ex. 3), along with a First Amendment in July 2017 (Ex. 4), and a Second Amendment in February 2018. (Ex. 5).

90. Counter Defendants had knowledge of the valid contract or had reason to know of its existence;

91. These Counter Defendants committed intentional acts intended or designed to disrupt the contractual relationship or to cause the contracting party to breach the contract, including but not limited to, inducing Front Sight to improperly use funds for the personal benefit of Counter Defendants Ignatius Piazza, Jennifer Piazza, and VNV Trust Defendants.

92. Front Sight did in fact breach the contract as stated specifically above.

93. The breach was caused by the wrongful and unjustified conduct;

94. As a direct and proximate result of Counter Defendants' intentional acts to induce Front Sight to breach the CLA, Counter Claimant sustained damages in the amount to be proven at trial.

95. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

FOURTH CAUSE OF ACTION

Conversion Against Front Sight, Ignatius Piazza and Jennifer Piazza

96. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 95 of this Counterclaim as though set forth fully herein at length.

97. Through these Counter Defendants' conduct described above, Counter Defendants obtained Counter Claimants' property and have wrongfully asserted dominion over Counter Claimant's property; to wit: misappropriating and spending the loan proceeds under the CLA for purposes other than that for which it was intended.

98. Counter Defendants' wrongful conduct was in denial of, inconsistent with, and in

defiance of Counter Claimant's rights and title to its money and/or property.

99. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

FIFTH CAUSE OF ACTION

Civil Conspiracy Against All Counter Defendants

100. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 99 of this Counterclaim as though set forth fully herein at length.

101. As set forth above, Counter Defendants Ignatius Piazza and Jennifer Piazza, both in their individual capacity and in their capacity as Trustees and/or beneficiaries of the VNV Trust Defendants, acted together in concert, in their individual capacities, to accomplish their unlawful objectives for the purpose of harming Counter Claimant.

102. While acting in their individual capacities and in their capacity as Trustees and/or beneficiaries of the VNV Trust Defendants, Ignatius Piazza and Jennifer Piazza conspired with the Front Sight and the VNV Trust Defendants, using Front Sight and VNV Trust Defendants to achieve their unlawful objective of diverting monies from Front Sight that were needed to maintain Front Sight's solvency and its ability to meet its obligations under the CLA regarding timely completion of the Project and repayment of the loan, for their own individual advantage and benefit.

103. As a direct and proximate result of the Counter Defendants' acts, Counter Claimant has been damaged in an amount to be proven at trial.

104. Counter Defendants' conduct was malicious, oppressive and fraudulent under NRS 42.005, entitling Counter Claimant to an award of punitive damages.

105. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the

prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

106. Based on Counter Defendants' conduct and the inequitable result of allowing the transferred funds to remain in control of Counter Defendants, a constructive trust should be placed on all moneys transferred from Front Sight to the VNV Trust Defendants, as prayed for below.

SIXTH CAUSE OF ACTION

Judicial Foreclosure Against Front Sight

107. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 106 of this Counterclaim as though set forth fully herein at length.

108. In July 2017, Counter Defendant Front Sight for good and valuable consideration executed and delivered the original Promissory Note to LVD Fund. On November 14, 2017, Counter Defendant Front Sight executed and delivered the Amended and Restated Promissory Note to LVD Fund. (Exhibit 7).

109. To secure the Note, on October 13, 2016, Counter Claimant LVD Fund recorded a Deed of Trust titled "Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing," in the official records of Nye County, Nevada, as "DOC #860867." (Exhibit 1). On January 12, 2018, the "First Amendment to Construction Deed of Trust, Security Agreement and Fixture Filing," was recorded in the official records of Nye County, Nevada, as "DOC #886510." (Exhibit 2).

110. Counter Claimant LVD Fund is the owner and the holder of the note for value and has performed all obligation under the Promissory Note.

111. The encumbered Property is now owned by and in possession of the Counter Defendant Front Sight.

112. Counter Defendants have breached the Deed of Trust as discussed in detail above, which include but are not limited to: improper use of loan proceeds; failure to provide government approved plans; material delays in construction, material changes to cost, scope and timing of the construction; refusal to comply with regarding senior debt; failure to provide monthly project costs; failure to notify Lender of events of default; refusal to allow Lender to inspect books and

records; diverting Front Sight assets out of Front Sight for the benefit the the individual Counter Defendants; refusal to allow site inspections; failure to give Lender annual financial statements; and failure to provide EB5 documentation.

113. As of January 4, 2019 there remained due and owing under the Note approximately $345,787.24 as described in the Notice of Breach and Election to Sell Under the Deed of Trust. (Exhibit 6). Counter Defendants reserve the right to amend this Counterclaim up to the time of trial to include any additional amounts which become due and remain unpaid as a result of additional damages caused by Counter Defendants.

114. Counter Claimant is entitled to an order directing a foreclosure sale in the subject Property to abrogate any and all interest or claims that Counter Defendants might have in the subject Property.

115. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

SEVENTH CAUSE OF ACTION

Waste Against Front Sight, Ignatius Piazza and the VNV Trust Defendants

116. Counter Claimant repeats and realleges each and every allegation contained in paragraphs 1 through 115 of this Counterclaim as though set forth fully herein at length.

117. Counter Claimant LVD Fund (Lender) has a lien encumbering the subject Property.

118. Counter Defendant Front Sight (Borrower) has possession of the Property.

119. Waste was committed to the property in bad faith, impairing its value, including but not limited to improperly using funds earmarked for development of the Property for the personal benefit of Counter Defendants Ignatius Piazza, Jennifer Piazza and the VNV Trust Defendants; selling unregistered securities which create substantial legal and financial liability to Front Sight, misappropriating Front Sight's assets for the personal benefit of Ignatius and Jennifer Piazza and other beneficiaries of the VNV Trust Defendants, and selling various instruments

which include rights to Front Sight's resort property for highly reduced rates which further encumbers the Property, either directly or indirectly.

120. As a direct and proximate result of the waste committed by Counter Defendants, Counter Claimant has been injured in an amount to be proven at trial.

121. Counter Claimant is entitled to treble damages under NRS 40.150.

122. Counter Defendants' conduct was malicious, oppressive and fraudulent under NRS 42.005, entitling Counter Claimant to an award of punitive damages.

123. As a result of Counter Defendants' actions, Counter Claimant has been required to retain the services of an attorney in order to pursue this claim against said Counter Defendants, and each of them, and is therefore entitled to be compensated for any and all costs incurred in the prosecution of this action, including without limitation, any and all reasonable costs and attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, all material allegations of Plaintiff's Second Amended Complaint having been denied, affirmative defenses having been stated, and counterclaims asserted, these responding Defendants now pray as follows:

1. That Plaintiff take nothing by way of its Second Amended Complaint on file herein and that the same be dismissed with prejudice;

2. For Judgment in favor of Counter Claimants against Counter Defendants, and each of them, in an amount in excess of Fifteen Thousand Dollars ($15,000.00), subject to proof at trial;

3 For appointment of a receiver over Counter Defendant Front Sight;

4. For an accounting from Counter Defendant Front Sight from October 6, 2016 forward, of any and all money paid and received, from all sources;

5. For an accounting from the Counter Defendant VNV Trusts from October 6, 2016 forward, of any and all money received from Counter Defendant Front Sight, and for all money distributed by the Counter Defendant Trusts since October 6, 2016.

6. For imposition of a constructive trust over the money transferred by Counter

Defendant Front Sight to the Piazza and the VNV Trust Defendants in violation of Section 5.18 of the CLA, because the retention of said funds by the Counter Defendants against Counter Claimant LVD Fund's interests would be inequitable, and a constructive trust is essential to the effectuation of justice, and that restrictions be placed on such funds that limit their use to paying for the costs and expenses relating to completion of the Project.

7. For injunctive relief pursuant to NRS 33.010 or as otherwise permitted by law or equity to enjoin Counter Defendant Front Sight from engaging in acts that further encumber the Property and increase Counter Defendant Front Sight's actual or contingent liabilities in violation of the CLA, including the sale of "credits," "points," "memberships," "certificates," or any other instruments or products, including the sale of unregistered securities, that create contingent liabilities for Counter Defendant Front Sight and/or include the current or contingent right to convert said instruments directly or indirectly into ownership interests in Counter Defendant Front Sight or the Project.

8. For punitive damages pursuant to NRS 42.005.

9. For disgorgement of the funds misappropriated by Counter Defendant Front Sight to the other Counter Defendants;

10. For attorneys' fees and cost of suit incurred herein; and

11. For such other and further relief as the Court may deem just and proper.

DATED: April 3, 2020

FARMER CASE & FEDOR

/s/ Kathryn Holbert

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Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER, LLC, EB6 IMPACT ADVISORS, LLC, ROBERT W. DZIUBLA, JON FLEMING and LINDA STANWOOD

CERTIFICATE OF SERVICE and/or MAILING

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Farmer Case & Fedor, and that on this date, I caused true and correct copies of the following document(s):

DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT; AND FIRST AMENDED COUNTERCLAIM

to be served on the following individuals/entities, in the following manner,

John P. Aldrich, Esq.
Catherine Hernandez, Esq.
ALDRICH LAW FIRM, LTD.
1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146

Attorneys for Plaintiff
FRONT SIGHT MANAGEMENT, LLC

By:

■ ELECTRONIC SERVICE: Said document(s) was served electronically upon all eligible electronic recipients pursuant to the electronic filing and service order of the Court (NECRF 9).

Dated: April 3, 2020

/s/ Kathryn Holbert
An Employee of FARMER CASE & FEDOR

Exhibit 1

DOC #860867

Official Records Nye County NV
Deborah Beatty - Recorder
10/13/2016 08:32:24 AM
Requested By: CHICAGO TIMESHARE ES
Recorded By: tc RPTT:$0
Recording Fee: $51.00
Non Conformity Fee: $25.00
Page 1 of 38

RECORDING REQUESTED BY:)
AFTER RECORDING, RETURN TO:)

LAS VEGAS DEVELOPMENT FUND LLC
C/O EB5 Impact Capital
PO BOX 3003
Incline Village, NV 89450

APN
045-481-05
045-481-06

57285-NBC/93090176-426

Space above this line for Recorder's use

CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING

This Document serves as a Fixture Filing under the Uniform Commercial Code, as amended from time to time, covers goods that are or become fixtures on the land, and is to be filed in the real property records of Nye County, Nevada.

THIS CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (the "**Deed of Trust**") is made and entered into effective as of October 06, 2016 by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company ("Grantor"), whose address is 1 Front Sight Road, Pahrump, Nevada 89061, to Chicago Title Company ("Trustee") whose address is 725 S. Figueroa Street, Suite 200, Los Angeles, California 90017, for the benefit of Las Vegas Development Fund LLC, a Nevada limited liability company ("Lender"), as beneficiary, whose address is P.O. Box 3003, 916 Southwood Blvd., Suite 1G, Incline Village, Nevada 89450.

To secure the full and timely payment of the secured indebtedness (as hereinafter defined), and in further consideration of the premises and for the purposes herein recited, and to secure the payment, performance and observance by Grantor of the covenants and conditions contained herein, in the Note (as hereinafter defined) and in all other agreements, documents and instruments (the "Other Documents") now or hereafter governing, securing, or guaranteeing the Loan (as hereinafter defined) evidenced by the Note (the Note, this Deed of Trust and the Other Documents being sometimes hereinafter collectively referred to as the "Loan Documents"), Grantor GRANTS, BARGAINS, SELLS, ASSIGNS and CONVEYS unto Trustee, in trust, for the benefit of Lender, WITH POWER OF SALE, AND RIGHT OF ALL ENTRY and possession of the following described land, real property interests, buildings, improvements, fixtures and other personal property:

(a) All that tract or parcel of land and other real property interests in Nye County, Nevada, more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and all buildings and improvements of every kind and description now or hereafter erected or placed on the Land (the "Improvements"), and all right, title and interest of Grantor, now owned or hereafter acquired, in and to (i) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or

proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (ii) any strips or gores between the Land and abutting or adjacent property; and (iii) all options to purchase the Land or the Improvements or any portion thereof or interest therein, and any greater estate in the Land or the Improvements, including any and all water and water rights up to two hundred (200) acre-feet only per year, timber, crops and mineral interests on or pertaining to the Land;

(b) All materials intended for construction, reconstruction, alteration and repair of the Improvements, all of which materials shall be deemed to be included within the premises hereby conveyed immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Grantor and attached to or contained in and used in connection with the aforesaid Land and Improvements, including, but not limited to, all furniture, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment, telephone systems, televisions and television systems, computer systems and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Land and Improvements in any manner, but specifically excluding any and all firearms and related ammunition inventory owned or held by Grantor on the Land (the "Accessories");

(c) All (i) plans and specifications for the Improvements; (ii) Grantor's rights, but not liability for any breach by Grantor, under all commitments, insurance policies, contracts and agreements for the design, development, construction, operation or inspection of the Improvements and other contracts related to the Land, Improvements and Accessories or the operation thereof and related to the sale of any Land comprising the Improvements; (iii) deposits (including, but not limited to, Grantor's rights in tenants' security deposits, deposits with respect to utility services to the Land and Improvements, and any deposits or reserves hereunder or under any other Loan Document for taxes, insurance or otherwise), rebates or refunds of impact fees or other taxes, assessments or charges, money, accounts, instruments, documents, notes and chattel paper arising from or by virtue of any transactions related to the Land, Improvements and Accessories, and any account or deposit account from which Grantor may from time to time authorize Lender to debit and/or credit payments due with respect to the Loan; (iv) permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Land, Improvements and Accessories; (v) leases, rents, royalties, bonuses, issues, profits, revenues and other benefits of the Land, Improvements and Accessories; (vi) engineering, accounting, title, legal and other technical or business data concerning the Land, Improvements and Accessories which are in the possession of Grantor or in which Grantor can otherwise grant a security interest; (vii) all lists and contact information concerning then current members of the Front Sight Vacation Club and Resort, and all booklets, brochures and advertising materials for current members of the Front Sight Vacation Club and Resort.

(d) All (i) proceeds (cash or non-cash) of or arising from all or any portion of the properties, rights, titles and interests referred to in paragraphs (a), (b) and (c) above, including, but not limited to, proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any

rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by condemnation, eminent domain or transfer in lieu thereof for public or quasi-public use under any law, and proceeds arising out of any damage thereto; and (ii) other interests of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to in paragraphs (a), (b) and (c) above and all property used or useful in connection therewith, including, but not limited to, rights of ingress and egress and remainders, reversions and reversionary rights or interests;

TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (collectively, the "Property") unto Trustee, its successors in trust, forever, with power of sale, and Grantor does hereby bind itself, its successors, and assigns, to WARRANT AND FOREVER DEFEND the title to the Property unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Grantor, as debtor, hereby grants to Lender, as secured party, a security interest in all of the property described in paragraphs (a), (b), (c) and (d) above which constitutes personal property or fixtures (collectively, the "Collateral") to secure the obligations of Grantor under the Note and the other Loan Documents. This Deed of Trust constitutes a security agreement under the Uniform Commercial Code, as amended from time to time, in effect in the state in which the Land is situated, or under the Uniform Commercial Code in force in any other state to the extent the same is applicable law, and Lender shall have all of the rights of a secured party thereunder in addition to its right hereunder or otherwise. This Deed of Trust may secure an obligation incurred for the construction of an improvement on the Land and as such constitutes a "construction mortgage" under the Uniform Commercial Code, as amended from time to time, in effect in the state in which the Land is situated.

Grantor covenants, represents and agrees to and with Trustee and Lender as follows:

ARTICLE I
The Loan

1.1 Loan. The indebtedness secured by this Deed of Trust is the result of a loan in the original principal amount of up to Seventy-Five Million Dollars $75,000,000 (the "Loan") provided by Lender to Grantor. The Loan is evidenced by (a) that certain Construction Loan Agreement (together with any extensions, revisions, modifications or amendments hereafter made, the "Loan Agreement"), of even date herewith, by and between Grantor and Lender, and (b) that certain Promissory Note executed by Grantor of even date herewith, payable to the order of Lender in the maximum original principal amount of the Loan (together with any extensions, revisions, modifications or amendments hereafter made, the "Note").

1.2 Use of Loan Proceeds. The Loan evidenced by the Note is solely for business and commercial purposes, and is not for personal, family, household or agricultural purposes. The Property forms no part of any property owned, used or claimed by Grantor as a residence or business homestead and is not exempt from forced sale under the laws of the state in which the Property is situated. Grantor hereby disclaims and renounces each and every claim to all or any part of the Property as a homestead.

1.3 Payment of Note. Grantor will pay principal and interest on the Loan in accordance with the Loan Documents, including the Loan Agreement, the Note and this Deed of Trust.

1.4 Amount Secured. This Deed of Trust secures and enforces the payment and performance of the Note and the other Loan Documents, and all indebtedness, liabilities, duties, covenants, promises and other obligations, whether joint or several, direct or indirect, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts, owed by Grantor to Lender now or hereafter incurred or arising pursuant to or permitted by the provisions of the Note, this Deed of Trust or any other Loan Document. This Deed of Trust also secures all present and future loan disbursements (future advances) made by Lender under the Note (it being contemplated by Grantor and Lender that such future indebtedness may be incurred), plus interest thereon, all charges and expenses of collection incurred by Lender, including court costs and reasonable attorneys' fees, and all other sums from time to time owing to Lender by Grantor under the Loan Documents. The indebtedness referred to in this Section 1.4 is hereinafter sometimes referred to as the "secured indebtedness" or the "indebtedness secured hereby".

1.5 Defined Terms. All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Note, the terms and provisions of which are incorporated herein by reference, or if such capitalized term is not defined in the Note, the capitalized term shall have the meaning assigned to it in the Loan Agreement.

1.6 Subordination to Senior Debt. Lender agrees that this Deed of Trust shall be subordinated to the Senior Debt and to other Permitted Encumbrances, as such terms are defined in the Loan Agreement, and that such subordination of this Deed of Trust to the Senior Debt and other Permitted Encumbrances shall be in accordance with the applicable provisions of the Loan Agreement.

ARTICLE II
Release

If and when Grantor has paid and performed all of the secured indebtedness, and no further advances are to be made under the Note, Trustee, upon request by Lender, will provide a reconveyance of the Property from the lien of this Deed of Trust and termination statements for filed financing statements, if any, to Grantor. Grantor shall be responsible for the recordation of such reconveyance and the payment of any recording and filing costs. Upon the recording of such reconveyance and the filing of such termination statements, the absolute assignment of rents set forth below shall automatically terminate and become null and void.

ARTICLE III
Grantor's Representations and Warranties

Grantor represents and warrants to Lender that:

3.1 Organization. Grantor (a) is a limited liability company duly organized with a legal status separate from its affiliates, validly existing, and in good standing under the laws of the state of its formation or existence, and (b) has complied with all conditions prerequisite to its doing business in the state in which the Land is situated.

3.2 Authority; Power to Carry on Business; Licenses. Grantor has all requisite power and authority to execute and deliver the Loan Documents to which it is a party, to receive the Loan, to grant and convey the security interests contemplated under this Deed of Trust and to perform its obligations under the Note, this Deed of Trust, the other Loan Documents, and all such action has been duly and validly authorized by all necessary limited liability company proceedings on its part. Grantor has all requisite power and authority to own and operate its properties and to carry on its business as now conducted and as presently planned to be conducted. Grantor has all licenses, permits, consents and governmental approvals or authorizations necessary to carry on its business as now conducted or as presently planned to be conducted.

3.3 Execution and Binding Effect. The Loan Documents to which Grantor is a party have been duly and validly executed and delivered by Grantor and constitute legal, valid and binding obligations of Grantor, enforceable in accordance with their terms.

3.4 Authorizations and Filings. No authorization, consent, approval, license, exemption or other action by, and no registration, qualification, designation, declaration or filing with, any Governmental Authority is or will be necessary or advisable in connection with the execution and delivery of the Note, this Deed of Trust and the other Loan Documents, the consummation of the transactions contemplated herein or therein, or the performance of or compliance by Grantor with the terms and conditions herein or therein.

3.5 Execution and Delivery. Neither the execution and delivery of the Note, this Deed of Trust or the other Loan Documents and the consummation of the transactions herein or therein contemplated, nor performance of or compliance with the terms and conditions hereof or thereof will (a) violate any applicable law, (b) conflict with or result in a breach of or a default under the organizational documents of Grantor, (c) conflict with or result in a breach of or a default under any agreement or instrument to which Grantor is a party or by which it or any of its properties (now owned or acquired in the future) may be subject or bound, or (d) result in the creation or imposition of any lien or encumbrance upon any property (owned or leased) of Grantor (other than the liens created by this Deed of Trust or the other Loan Documents).

3.6 Title to Property. Grantor represents and warrants that it has good and indefeasible title to the Land and Improvements (and any fixtures) in fee simple and has title to any appurtenant easements and interests described above and has the right to convey and encumber the same, that title to such property is free and clear of all liens, encumbrances and claims whatsoever except for (a) the Permitted Encumbrances, (b) the liens and security interests evidenced by this Deed of Trust, (c) statutory liens for real estate taxes and assessments on the Property which are not yet delinquent or due and payable, (d) other liens and security interests (if any) in favor of Lender, and (e) the matters set forth in Schedule B of the final mortgagee title policy insuring this Deed of Trust, as approved by Lender, and that it will warrant and defend the title to such property against the claims of all persons or parties. As to the Collateral, Grantor represents and warrants that it has title to such property, free and clear of all liens, encumbrances, and claims whatsoever except for the liens and security interests (if any) in favor of the lender of the Senior Debt and the Permitted Encumbrances, that it has the right to convey and encumber such property and that it will warrant and defend title to such property against the claims of all persons or parties.

3.7 Financial Information. Any financial information provided by Grantor to Lender as of the date hereof is accurate and complete and has been prepared in accordance with generally accepted accounting principles consistently applied.

3.8 Adequate Access. The Land has adequate rights of access to public road and rights of way, as shown in the survey(s) furnished to Lender.

3.9 Utilities. All utility services necessary for the development of the Land and the Property are available at the boundaries of the Land, including electric and natural gas facilities, telephone service, water supply, storm and sanitary sewer facilities.

3.10 Zoning. The current and anticipated use of the Land complies with all applicable zoning ordinances, regulations and restrictive covenants affecting the Land without the existence of any variance, non-complying use, nonconforming use or other special exception, all use restrictions of any Governmental Authority having jurisdiction have been satisfied, and no violation of any law or regulation exists with respect thereto.

3.11 Endangered Species and Historical Sites Disclosure. There are no threatened or endangered species or their habitat affecting the Property, and there are no cemeteries, burial grounds, or archeological or historical sites on the Property.

3.12 Jurisdictional Wetlands or Waters of the U.S. There are no jurisdictional wetlands or "waters of the U.S." located on any part of the Property.

3.13 Special Assessment Districts and Other Reimbursement Obligations. The Property is not located in a utility district, flood control district or other special assessment district, except for the Grantor-disclosed drainage channels that go across the Land and are considered "flood zone areas" on which areas no construction is contemplated or planned. There are no special assessments, special taxes, pro-rata or other reimbursement obligations applicable to the Property.

3.14 Property Disclosure. Grantor has fully disclosed the existence, presence or applicability to the Property of the following: existing gas or oil wells and applicable municipal set-back requirements; special use permits; development permits, plans and plats; existing water wells and confirmation of water rights; drainage channels considered "flood zone areas" on or near which no construction is contemplated or planned; any water features and/or dams located on or adjacent to the Property; wetlands or other environmental permits; and any other licenses, permits or approvals necessary for the ownership or operation of the Property.

3.15 Foreign Person Disclosure. Grantor is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701 or the regulations promulgated thereunder.

3.16 OFAC Disclosure. Neither Grantor nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC"), of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive