FOURTH AMENDMENT TO REAL ESTATE AGREEMENT

FOURTH AMENDMENT, dated October 1, 2020 ("<u>Fourth Amendment</u>"), to **REAL ESTATE AGREEMENT** (**SKI LIFT PARCEL**), dated February 5, 2009 (the "<u>Real Estate Agreement</u>"), and Amendments thereto (the First Amendment to the Real Estate Agreement dated September 15, 2011 and the Second Amendment to the Real Estate Agreement dated September 12, 2016 and Third Amendment to the Real Estate Agreement dated November 25, 2019), between **THE TOWN OF JOHNSBURG**, a governmental entity, having an address at P.O. Box 7, North Creek, New York 12853 ("<u>the Town</u>"), and **FRONTSTREET MOUNTAIN DEVELOPMENT, LLC**, a Delaware limited liability company, having an address at P.O. Box 142, Darien, CT 06820 ("<u>FrontStreet</u>").

RECITALS

- A. **WHEREAS**, the parties hereto are parties to the Real Estate Agreement, which was recorded on March 2, 2009 in the Warren County Clerk's Office, Queensbury, New York in Liber 3716, Page 237, and to the First Amendment to the Real Estate Agreement, dated September 12, 2011 and to the Second Amendment to the Real Estate Agreement dated September 12, 2016 recorded on July 30, 2018 in the Warren County Clerk's Office, Queensbury, New York in Liber 5793, Page 8, and to the Third Amendment to the Real Estate Agreement dated November 25, 2019.
- B. **WHEREAS**, the parties wish to revise the term and conditions of the Real Estate Agreement and Amendments to correct an inadvertent omission therefrom:
- C. **WHEREAS**, by this Fourth Amendment, the parties desire to amend the deed restrictions, easements and rights-of-way currently burdening the Town's lands under the Real Estate Agreement.
- **NOW, THEREFORE**, in consideration of the foregoing recitals, the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:
- Section 1. <u>Definitions</u>. Except as otherwise provided herein, capitalized terms used in this Fourth Amendment shall have the meanings set forth in the Real Estate Agreement.
- Section 2. <u>Amendments</u>. Amend Section 2 of the Real Estate Agreement as follows (changes shown in **bold**): "A perpetual easement and right-of-way upon, over and through the Ski Lift Parcel for ingress and egress to the FrontStreet Land by all means not prohibited by Section 1, and, in addition, by vehicles (motorized or otherwise) used in conjunction with **the occupation**, construction and maintenance of buildings, structures, roads, trails and other improvements now or in the future permitted on the FrontStreet Land. **Except for approved roads or as otherwise agreed**, FrontStreet shall, subsequent to its entry upon the Ski Lift Parcel pursuant to the foregoing easement, restore the surface of the surrounding ground to the same condition as existed prior to said entry hereto.
- Section 3. Other Sections Not Affected. On and after the date hereof each reference to the Real Estate Agreement shall mean the Real Estate Agreement as amended hereby. Except as specifically amended hereby,

the Real Estate Agreement shall remain in full force and effect and is hereby ratified and confirmed. Counterparts. This Fourth Amendment may be executed in any number of counterparts Section 4. and each such counterpart shall be considered an original and an enforceable agreement. **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written. TOWN OF JOHNSBURG By: Name: Title: FRONTSTREET MOUNTAIN **DEVELOPMENT, LLC** By:___ Name: Title: Acknowledgment by a Person Within New York State (RPL § 309-a) STATE OF NEW YORK) ss.: COUNTY OF WARREN _____ in the year _____, before me, the undersigned, personally appeared On the _____ day of __ personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument. (Signature and office of individual taking acknowledgment) Acknowledgment by a Person Within New York State (RPL § 309-a) STATE OF NEW YORK) ss.: COUNTY OF WARREN On the _____ day of __ _____ in the year _____, before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose

name(s) is (are) subscribed to the within instrument and acknowledged to me that they executed the same in their capacity(ies), and that by their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed

(Signature and office of individual taking acknowledgement)

the instrument.