

SECOND AMENDMENT TO
FRANCHISE AGREEMENT BY AND BETWEEN THE GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS AND VIGL OPERATIONS, LLC
ENTERED INTO THE 27TH DAY OF OCTOBER 2016
AS AMENDED BY THE FIRST AMENDMENT
ENTERED INTO ON THE 7TH DAY OF JULY 2021

- **WHEREAS**, the Government of the United States Virgin Islands (“Grantor”) and VIGL Operations, LLC, a Virgin Islands limited liability company (“Grantee”) entered into a Franchise Agreement on the 27th day of October 2016 as amended by the First Amendment to the Franchise Agreement, dated July 7, 2021, (“Agreement”); and
- **WHEREAS**, the Grantee has been unable to proceed with the terms and conditions of the Agreement with respect to the Clinton E. Phipps Racetrack on the island of St. Thomas due to litigation between Southland Gaming of the Virgin Islands, Inc. (“Southland”) and the Grantor, styled *Southland Gaming of the Virgin Islands, Inc. v. Government of the United States Virgin Islands et al.*, Civil Action No. 3:18-cv00107, in the United States District Court for the District of the Virgin Islands (the “Civil Action”) pertaining to Grantee’s operation of a Racino at the St. Thomas Racetrack; and
- **WHEREAS**, in settlement of the Civil Action, Southland and the Grantor agreed to authorize Southland to undertake development of certain aspects of improvements to the Clinton E. Phipps Racetrack pursuant to a proposed development agreement to be negotiated between Grantor, Southland and Grantee pursuant to which Grantee would promote horse racing and operate Video Lottery Terminals (“VLT”) at the St. Thomas Racetrack utilizing VLTs leased from Southland in a separate agreement between Southland and Grantee; and
- **WHEREAS**, the parties agree that it is in the best interest of both parties to amend the Agreement, pursuant to Section 15.4 of the Agreement, in such a way that allows the development of the St. Croix Racetrack facility to commence independently of the St. Thomas Racetrack.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, it is hereby agreed as follows:

SECTION 1. Defined Terms. Unless otherwise defined herein, capitalized terms used in this Second Amendment shall have the meanings set forth in the Agreement.

SECTION 2. Interpretation. To the extent that the terms and conditions of this Second Amendment conflict with the terms and conditions of the Agreement, the terms and conditions of this Second Amendment shall control.

SECTION 3. Purpose. The intended purpose of this Second Amendment is to amend the Agreement further by (i) allowing the development of the St. Croix Racetrack to commence upon



execution of this Second Amendment, and; (ii) settling claims and disputes between Grantor and Grantee, arising as a result of the changes to the Agreement resulting from Grantor's resolution of the Civil Action with Southland, specifically with respect to the provisions of the Agreement relating to the withdrawal of Grantee's right to operate a Racino at the St. Thomas Racetrack.

As such, notwithstanding any other agreements to the contrary, effective upon final execution of this Second Amendment to the Franchise Agreement, all of Grantee's rights, responsibilities, and obligations contained in the Franchise Agreement dated the 27th day of October 2016, as amended by the First Amendment to the Franchise Agreement, dated July 7, 2021, as they pertain to the St Thomas Racetrack are hereby TERMINATED.

Additionally, the Lease entered into by the Government of the Virgin Islands through its Department of Property and Procurement and VIGL Operations, LLC on the 27th day of October 2016, for the Premises known as the Clinton E. Phipps Racetrack, as approved by the Legislature of the Virgin Islands through Act No. 7953, is hereby TERMINATED by agreement of the parties.

SECTION 4. Amended Terms.

A. Section 6 is amended as follows:

In Subsection 6.3, strike the language in this subsection and replace it with:

"Thirty (30) days after the Issuance of any building/demolition permit with respect to the St. Croix Racetrack, Grantee shall post a performance bond or letter of credit in a form acceptable to the Government from a financial institution acceptable to the Government in the amount of EIGHT MILLION DOLLARS (\$8,000,000) in favor of the Government. Upon the completion of the improvements to the St. Croix Racetrack described in Section 8 (herein the "Listed Projects RDR"), the bond shall be released. The Government shall agree to reduce the amount of the bond upon the satisfactory completion of each separate phase of the Listed Project described in Section 8 as detailed in each subsection and paragraph of Section 8 or the approved Plan. The amount of the bond reduction shall be the demonstrated expenditures on such completed phases of the Listed Project. In no event shall the bond be reduced to less than the value left to be invested by Grantee or \$1,000,000 until all of the Listed Projects are completed."

B. Section 7 is amended as follows:

Further amending Subsection 7.5(B)(1) to read:

"The purse at any Racetrack for any race day shall not be less than One Hundred Thousand Dollars (\$100,000), notwithstanding the foregoing, the Grantee and the Horsemen's Organization may, prior to any race day, agree in writing to a lesser Minimum Purse; and"

In Subsection 7.7, by striking the language in this subsection and replacing it with:

"On each live race day, Grantee shall make one (1) three-thousand-dollar (\$3,000) donation to a reputable charity (which shall be a charitable entity that is recognized as a non-profit charitable entity under Section 501(c)(3) of the Internal Revenue Code) to be chosen by Grantee. These amounts must total \$54,000 for the first three years and increase to \$72,000 during the fourth year of this agreement, which shall then increase each 10% each year until it reaches \$150,000, at which time it shall be capped. Selected charities are subject to the approval by the Governor. Selected

charities shall be given space at the Racetrack on the live race day for which they were selected to conduct charitable activities.”

C. Section 8 shall be amended as follows:

In Subsection 8.2. Initial Investment, (A), by striking the language and replacing it with:

“(A) The Plan shall provide for, and Grantee shall make, an initial investment of not less than FIFTEEN MILLION DOLLARS (\$15,000,000) (the "Initial Investment") to improve and expand the St. Croix Racetrack as described in this Agreement, as amended.”

In Subsection 8.3. Racing Entertainment Centers, by striking the first occurrence of the word “each” and replacing it with “the St. Croix” and striking the remaining occurrences of the word “each” and replacing it with the word “the”.

In Subsection 8.4 (A), as follows:

In paragraph 1. by striking the first 2 sentences and inserting “Renovated Horse Barns: Grantee shall renovate the three (3) existing barns for stabling racehorses to a standard consistent with industry standards. The renovated existing barns shall have a minimum capacity of eighty-eight (88) racehorses.” in its place;

In paragraph 2. by striking the language in its entirety and inserting “New Quarantine Barn and Receiving Barn Facility: Grantee shall construct a new quarantine barn, to be located at the northwestern end of the racetrack, for the purpose of separating and quarantining horses from other animals stabled at the Racetrack as needed or required by law and a new receiving barn not less than 100 yards from the quarantine barn. The quarantine and receiving barns shall have a minimum capacity of eighteen (18) horses.” in its place; and

In paragraph 6. by inserting “Within 5 years of the execution of the Second Amendment to the Franchise Agreement,” in front of “Grantee”.

In Subsection 8.6 by adding the following at the end of 8.6(A):

“Any requirements with respect to the physical attributes of the facility as set forth in the Construction Plan may be waived or amended by the Governor upon written approval of the final renderings clearly detailing the specific changes or omissions, to be initialed by both parties.”

SECTION 5. 90 days after the commencement of the development at the St. Croix Racetrack, the Government of the Virgin Islands through the Department of Sports Parks and Recreation (“DSPR”) shall grant to VIGL Operations, LLC. an amount not to exceed \$5,000,000.00 of the funds allocated for the reconstruction of the racetrack from any available fund, for specific projects in the development of the St. Croix Racetrack as approved by DSPR in compliance with all local and federal laws.

SECTION 6. With respect to the St. Croix Racetrack:

Not later than 15 days after execution of this Second Amendment to the Agreement, Grantee shall present for review and approval by the Grantor the amended Project Management

Plan. The Plan shall be consistent with Grantee's obligations as set forth in the Agreement, as amended.

Within 60 days of the Plan being deemed approved, Grantee shall apply for all necessary permits or amendments to any permits to begin construction. Grantee shall not allow more than 10 days between the filing of any subsequent permit applications.

Within 15 days of the Building or Demolition Permits being issued, Grantee shall break ground on the Project.

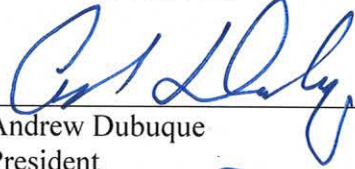
SECTION 7. All other terms, provisions, and conditions of the Franchise Agreement entered into on the 27th day of October 2016, as amended by the First Amendment dated July 7, 2021, not specifically amended herein shall remain binding upon the parties thereto and in full force and effect.

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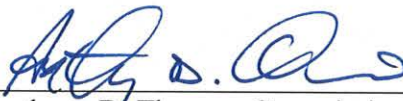



IN WITNESS WHEREOF, the undersigned parties have caused this Second Amendment to the Franchise Agreement to be executed and delivered by their duly authorized representatives as of the date first set forth above.

VIGL OPERATIONS, LLC


By: 
Andrew Dubuque
President
Date: September 15, 2022

GOVERNMENT OF THE U.S. VIRGIN ISLANDS

By: 
Anthony D. Thomas, Commissioner
Department of Property and Procurement
Date: September 15, 2022

By: 
The Honorable Albert Bryan Jr.
Governor of the United States Virgin Islands
Date: September 15th, 2022

APPROVED as to legal sufficiency
Dept. of Justice of the Government of the U.S.
Virgin Islands

By: 
Title: Attorney General
Date: September 15, 2022

