

SETTLEMENT AGREEMENT

This Settlement Agreement (the “**Agreement**”) is made as of this ____ day of _____, 2011, by and between the following parties (each a “**Party**” and together, the “**Parties**”):

- (1) **Soneet R. Kapila, as Chapter 7 Trustee** (the “**Trustee**”) for the Resort Debtors and the Retail Debtors (as defined below) (together, the “**Debtors**”):

(a) the following entities (together, the “**Resort Debtors**”):

- (i) **Fontainebleau Las Vegas Holdings, LLC** (Case No. 09-21481-BKC-AJC);
- (ii) **Fontainebleau Las Vegas, LLC** (Case No. 09-21482-BKC-AJC); and
- (iii) **Fontainebleau Las Vegas Capital Corp.** (Case No. 09-21483-BKC-AJC); and

(b) the following entities (together, the “**Retail Debtors**”):

- (i) **Fontainebleau Las Vegas Retail Parent, LLC** (Case No. 09-36187-BKC-AJC);
- (ii) **Fontainebleau Las Vegas Retail Mezzanine, LLC** (Case No. 09-36191-BKC-AJC); and
- (iii) **Fontainebleau Las Vegas Retail Mezzanine, LLC** (Case No. 09-36197-BKC-AJC).

- (2) _____ (the “**Creditor**”).

WHEREAS, on June 9, 2009 (the “**Petition Date**”), the Resort Debtors filed petitions for relief under Chapter 11 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Florida, Miami Division (the “**Bankruptcy Court**”);

WHEREAS, on November 25, 2009, the Retail Debtors filed petitions for relief under Chapter 11 of the United States Bankruptcy Code in the Bankruptcy Court;

WHEREAS, on April 20, 2010, Soneet R. Kapila was appointed as the Chapter 7 Trustee in all of the Resort Debtors’ and Retail Debtors’ cases;

WHEREAS, during the ninety days preceding the Petition Date, the Resort Debtors made certain payments to Creditor totaling \$_____ (the “**Preferential Transfer Claim**”);

WHEREAS, during the two years prior to the Petition Date, the Resort Debtors transferred a total of \$_____ to the Creditor (the “**Two-Year Transfer Claim**”);

WHEREAS, during the four years prior to the Petition Date, the Resort Debtors transferred \$_____ to the Creditor (the “**Four-Year Transfer Claim**”);

WHEREAS, on June 8, 2011, the Trustee filed his Complaint to Avoid and Recover Preferential and Fraudulent Transfers from the Creditor (the “**Complaint**”), being adversary proceeding no. _____. The Complaint seeks to avoid the Preferential Transfer Claim, the Two-Year Transfer Claim, and the Four-Year Transfer Claim (collectively, the “**Avoidance Action Claims**”) from the Creditor;

WHEREAS, on August ___, 2011, the Trustee filed his Motion for Approval of Procedures for the Compromise of Avoidance Actions (the “**Compromise Procedures Motion**”);

WHEREAS, on _____, the Bankruptcy Court entered an order granting the Compromise Procedures Motion;

WHEREAS, to avoid uncertainty and the legal expenses and costs associated with litigation, the Parties have agreed to settle the Avoidance Action Claims according to the following terms and conditions:

1. In full settlement and satisfaction of the Avoidance Action Claims against Creditor, Creditor agrees to pay and the Trustee agrees to accept the sum of \$_____. In addition, Creditor expressly waives and releases any and all claims,

known or unknown, including any claim for the Settlement Amount, against the Debtor, the Trustee or his counsel.

2. Creditor has enclosed and will deliver with this Agreement a check in the amount of \$_____ (“**Settlement Amount**”) made payable to “**Soneet R. Kapila, Chapter 7 Trustee**” and delivered to P.O. Box 14213, Fort Lauderdale, Florida 33302.

3. Within ten (10) business days of receipt of this executed Agreement and the Settlement Amount, the Trustee will provide Creditor with a fully executed copy of this Agreement and dismiss the Complaint with prejudice.

4. Nothing contained herein shall be deemed to be an admission by or against any party to this Agreement and nothing contained herein shall be admissible in evidence for any purpose.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals this ____ day of _____, 2011.

Trustee

Creditor

By:

By:

Soneet R. Kapila, Chapter 7 Trustee

P.O. Box 14213
Fort Lauderdale, Florida 33302
(954) 761-8707 – Phone
(954) 228-1811 – Fax

Trustee

XXXXXX

XXXXXXXX

Address
City, State 33431
(000) 000-0000 – Phone
(000) 000-0000 - Fax

Counsel for the Creditor