

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,**

Defendants, and

**JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,**

Relief Defendants.

**Q BURKE MOUNTAIN RESORT, HOTEL
AND CONFERENCE CENTER, L.P.
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC¹
AnC BIO VT, LLC,²**

Additional Receivership Defendants

¹See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].

²See Order Granting Receiver's Motion for Entry of an Order Clarifying that AnC Bio VT, LLC is included in the Receivership or in the Alternative to Expand the Receivership to include AnC Bio VT, LLC, *Nunc Pro Tunc*, dated September 7, 2018 [ECF No. 493].

**RECEIVER’S MOTION FOR AUTHORIZATION TO SELL
AIRCRAFT STORAGE HANGAR LOCATED AT THE NORTHEAST KINGDOM
INTERNATIONAL AIRPORT IN COVENTRY, VERMONT
AND SUPPORTING MEMORANDUM OF LAW**

Michael I. Goldberg, the court-appointed Receiver (the “Receiver”), hereby files this Motion for Authorization to Sell Aircraft Storage Hangar Located at the Northeast Kingdom International Airport in Coventry, Vermont (the “Motion”). In support of this Motion, the Receiver states as follows:

Preliminary Statement

The Receiver seeks authorization from this Court to enter into a contract to sell the receivership estate’s rights, title, and interest in and to that certain aircraft storage hanger located at the Northeast Kingdom International Airport, 2628 Airport Road in Coventry, Vermont (the “Aircraft Storage Hangar”). The Receiver proposes to sell the Aircraft Storage Hangar by private sale for consideration totaling \$90,000 (the “Sale”) to Valain, Inc., a Canadian private corporation, incorporated under the Canadian Federal Charter, with its corporate head office located at 315 Descente 12, Ogden, Quebec, J0B 3E3 (the “Purchaser”) on the terms and conditions set forth in the attached contract (the “Contract”).³ The Receiver believes the terms of the Sale, specifically the \$90,000 purchase price, to be consistent with the market rate for other hangars in the same location of a similar size and condition. Given that the Sale will also relieve the Receiver of the carrying costs needed to maintain the Aircraft Storage Hangar, and the proceeds of the Sale will benefit the investors and other creditors, the Receiver believes the Sale to be in the best interest of the receivership estate.

³ A true and correct copy of Contract is attached hereto and incorporated herein as **Exhibit A**.

Background

1. Michael Goldberg is the court-appointed receiver over the Receivership Defendants⁴ the Relief Defendants,⁵ and Additional Receivership Defendants⁶ pursuant to the Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver (the "Receivership Order"), dated April 13, 2016 [ECF No. 13] and the subsequent Orders expanding the receivership. *See* [ECF Nos. 60 and 493].

2. The Receiver is authorized, empowered and directed to, among other things, take immediate possession of all real and personal property of the Receivership Defendants and Relief Defendants, and to administer such assets as is required in order to comply with the directions contained in the Receivership Order, and to hold all other assets pending further order of the Court. *See* Receivership Order at ¶1.

3. The Receivership Order also provides that title to all property, real or personal, of the Receivership Defendants and Relief Defendants and their principals, wherever located, is vested by operation of law in the Receiver. *Id.* at ¶17.

4. On April 13, 2016, the same date as the Receiver's appointment, the Court entered an Order granting the SEC's Motion for Temporary Restraining Order, Asset Freeze and Other Emergency Relief [ECF No. 11]. The Court, after extensive litigation by the SEC, subsequently

⁴ The "Receivership Defendants" are Jay Peak, Inc. "Jay Peak", Q Resorts, Inc., Jay Peak Hotel Suites L.P., Jay Peak Hotel Suites Phase II L.P., Jay Peak Management, Inc., Jay Peak Penthouse Suites L.P., Jay Peak GP Services, Inc., Jay Peak Golf and Mountain Suites L.P., Jay Peak GP Services Golf, Inc., Jay Peak Lodge and Townhouse L.P., Jay Peak GP Services Lodge, Inc., Jay Peak Hotel Suites Stateside L.P., Jay Peak Services Stateside, Inc., Jay Peak Biomedical Research Park L.P., and AnC Bio Vermont GP Services, LLC.

⁵ The "Relief Defendants" are Jay Construction Management, Inc., GSI of Dade County, Inc., North East Contract Services, Inc., and Q Burke Mountain Resort, LLC.

⁶ Q Burke Mountain Resort, Hotel and Conference Center, L.P., Q Burke Mountain Resort GP Services, LLC and AnC BIO VT, LLC were added as "Additional Receivership Defendants". The Receivership Defendants, Relief Defendants, and Additional Receivership Defendants are collectively referred to as the "Receivership Entities."

entered a Preliminary Injunction [ECF No. 238] and a Judgment of Permanent Injunction against Quiros [ECF No. 398], pursuant to which Quiros was ordered to pay disgorgement, prejudgment interest on disgorgement and a civil penalty in amounts to be determined at a future date.

5. On February 2, 2018, the Court entered the SEC's requested Final Judgment against Quiros [ECF No. 450, as amended by ECF No. 474] which in relevant part, provides that Quiros shall satisfy his obligations by disgorging certain assets to the Receiver, including, but not limited to the Aircraft Storage Hangar.

The Airport Hangar

6. Prior to the receivership, Jay Peak entered into contractual arrangements with the State of Vermont and third parties to effectively act as a fixed based operator (FBO)⁷ for a local airport approximately 35 minutes from Jay Peak. Quiros had the Aircraft Storage Hangar built on this property to house several experimental aircraft purchased by him and his son. In doing so, Jay Peak incurred hundreds of thousands of dollars to expand the runway and deal with issues pertaining to water runoff.

7. Shortly after his appointment, the Receiver concluded that continuing to operate as an FBO would not benefit the receivership estate, and, as such, exercised his right to terminate the contract. The Receiver subsequently entered into a new lease agreement with the State of Vermont, wherein the Receivership obtained a leasehold interest in the land upon which the Airport Storage Hangar is located.⁸

8. Since terminating the FBO contract with the State of Vermont, the Receiver has been working with the local airport's manager, Dan Gauvin, to solicit interest in the Airport Storage

⁷ An FBO is a provider of support services to general aviation operators at a public-use airport and is typically on land leased from the airport.

⁸ A true and correct copy of the lease agreement is attached hereto and incorporated herein as **Exhibit B**.

Hanger from prospective buyers. Unfortunately, over these past four years, there has been limited interest in purchasing the Aircraft Storage Hangar. To date, the Receivership Estate has incurred approximately \$7,300 in expenses pertaining to rent and yearly property taxes owed on the Aircraft Storage Hangar.

9. The Aircraft Storage Hangar is located at the Northeast Kingdom International Airport. Measuring approximately 50' x 60' (approximately 3,000 square feet, making the price per square foot \$30), the Aircraft Storage Hangar is situated directly north of and adjacent to approximately twelve hangars of a similar size and condition. *See* Exhibit A to the Purchase Agreement. While there is no known recorded public sales data for these other hangars, Mr. Gauvin, the local airport manager was able to provide the Receiver with the following sales data for comparable sales that have taken place during the last 2-4 years:

Hangar Name	Size	Sale Price	Price Per Square Foot
Winick Hangar	45x40	\$60,000	\$33.33
Lahaie Hangar	44x56	\$70,000	\$28.41
Fournier Hangar	44x56	\$58,000	\$23.54
Quirion Hangar	44x60	\$68,000	\$25.76

10. Furthermore, based on the 2020 Tax Bill from the Town of Coventry, the Aircraft Storage Hangar has an assessed value of \$65,400.⁹

11. The Receiver seeks to sell the Aircraft Storage Hangar by private sale for \$90,000 to the Purchaser, Valain, Inc., a Canadian private corporation, incorporated under the Canadian Federal Charter, with its corporate head office located at 315 Descente 12, Ogden, Quebec, J0B 3E3. The Purchaser is a non-insider, and the Contract is the result of an arms length transaction.

⁹ A copy of the Tax Bill is attached hereto and incorporated herein as **Exhibit C**.

12. Based on the foregoing, the Receiver believes the terms of the Sale, including the sales price, are more than fair and reasonable. Further, the Sale brings to a close the approximately \$7,300 in expenses incurred to date by the receivership estate for maintaining the Aircraft Storage Hangar. As such, the Receiver believes the Sale to be in the best interest of the receivership estate.

Memorandum of Law

The district court has broad powers and wide discretion to determine relief in an equity receivership. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). It is well-established that courts have power to authorize Receivers to pledge the assets of the trust estate. *See generally Wallace v. Loomis*, 97 U.S. 146, 162 (1877); 16 Fletcher Cyc. Corp. § 7816 (noting that “the power to authorize a receiver to borrow money carries with it the power to authorize the receiver to pledge the assets of the trust estate as collateral for the loan”). The Court should exercise its power and authorize the Receiver to sell the receivership estate’s rights, title, and interest in and to the Airport Hangar.

Federal statutes provide that any personalty sold under any order or decree of any court of the United States shall be sold in accordance with section 2001 of this title, unless the court orders otherwise. *See* 28 U.S. Code § 2004. Section 2001 of title 28 provide procedures for the sale of realty under any order or decree of any court of the United States. *See* 28 U.S.C. § 2001. Generally, realty —and thus personalty as well— shall be sold at public sale within the district where the receiver was first appointed. 28 U.S.C. § 2001(a). However, after notice and hearing, a court may order the sale of realty or personalty at a private sale upon terms and conditions approved by the court, if the court finds that the best interests of the estate will be conserved thereby. 28 U.S.C. § 2001(b). *See also Tanzer v. Huffiness*, 412 F.2d 221, 222 (3rd Cir. 1969). Here, the Receiver seeks to sell the receivership estate’s rights, title, and interest in and to the Airport Hangar by private sale.

Typically, before confirmation of a private sale, the court shall appoint three disinterested persons to appraise the property to ensure that no private sale shall be confirmed at a price less than

two-thirds of the appraised value. 28 U.S.C. § 2001(b). The Receiver does not believe it is necessary for the Court to appoint multiple disinterested persons to appraise the receivership estate's rights, title, and interest in and to the Airport Hangar, as the expense associated therewith would drastically outweigh any minimal benefits. First, because the sale price exceeds the range of sales prices of other similarly-situated hangers at the Northeast Kingdom International Airport. Second, because the Airport Hangar has already been exposed to the marketplace for an extended period of time – 4 years to be precise. Since terminating the FBO contract with the State of Vermont, the Receiver has been working with the airport's manager, Dan Gauvin, to solicit interest in the Airport Storage Hanger from prospective buyers, providing evidence of the actual value of the Airport Storage Hanger based on the response of real-world buyers. *See Bank of America Nat. Trust and Sav. Ass'n v. 203 North LaSalle Street Partnership*, 526 U.S. 434, 457 (1999) (recognizing that “the best way to determine value is exposure to a market”).

The Buyer is an independent party. The Contract was entered into as an arm's length transaction, and the Buyer has already partially performed the Contract by paying the required \$10,000 deposit. The Court should exercise its authority to dispense with the procedural requirements set forth in 28 U.S.C. § 2001(a) and authorize the private sale. *See, e.g., SEC v. Utsick, et al.*, No. 1:06-cv-20975-PCH, ECF 616 (S.D. Fla. Jan. 4, 2010); *SEC v. Estate of Kenneth Wayne McLeod, et al.*, 1:10-cv-22078-FAM, ECF 62 (S.D. Fla. Feb. 4, 2011) (allowing waiver of formal appraisals for sale of condominiums); *see generally Tanzer v. Huffines*, 412 F.2d 221, 222-23 (3rd Cir. 1969) (upholding sale of property by receiver approved by District Court even though all procedures under 28 U.S.C. 2001 and 2004 were not strictly followed).

The primary goal of a receivership is to provide a conduit through which assets can be held, liquidated and distributed to the particular beneficiaries of the receivership, in this case the investors. *SEC v. Wencke (Wencke II)*, 783 F.2d 829, 837 n. 9 (9th Cir. 1986). Allowing the

Receiver to liquidate the property through the proposed private sale will most expeditiously further the goals of the receivership. The sale will result in additional cash being deposited into the Receiver's account, which is maintained for the purpose of ultimately satisfying claims filed by the investors and creditors. Moreover, the sale will reduce any additional costs to the receivership associated with maintaining the Aircraft Storage Hangar. Based on the foregoing, the Receiver respectfully requests the authority to sell the Aircraft Storage Hangar under the terms set forth herein.

WHEREFORE, the Receiver respectfully requests the Court to enter an Order in the form attached as **Exhibit D** approving the relief requested in this Motion and to grant such further relief as is just and proper.

LOCAL RULE 7.1 CERTIFICATION OF COUNSEL

Pursuant to Local Rule 7.1(a)(3), undersigned counsel hereby certifies that counsel for the Receiver has conferred with counsel for the Securities and Exchange Commission, who has no objection to the relief requested in the Motion.

Respectfully submitted,

/s/ Michael I. Goldberg
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this December 29, 2020 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case as indicated on the attached Service List.

By: /s/ Michael I. Goldberg
Michael I. Goldberg, Esq.

SERVICE LIST

1:16-cv-21301-DPG Notice will be electronically mailed via CM/ECF to the following:

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Exhibit A

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into this 6th day of November, 2020 the "Effective Date"), by and between **MICHAEL I. GOLDBERG AS COURT APPOINTED RECEIVER OF BOTH JAY PEAK, INC. AND Q RESORTS, INC.** ("Seller") and VALAIN INC., a Canadian private corporation ("Buyer").

RECITALS

(A) Seller, by virtue the various orders emanating from the United States District Court, Southern District of Florida (the "District Court") in the matter of Securities and Exchange Commission v. Ariel Quiros, William Stenger, et al., Case No.: 16-cv-21301-GAYLES is the owner an aircraft storage hangar (the "Hangar") located on land owned by the State of Vermont, located in the Town of Coventry, County of Orleans, State of Vermont, known as the Northeast Kingdom International Airport, as described on Exhibit A attached to this Agreement.

(B) Seller desires to sell, and Buyer desires to purchase, the Hangar upon the terms and conditions set forth below.

(C) Subject to the issuance of appropriate orders of the District Court in Case No.: 16-cv-21301-GAYLES (the "Case"), the Hangar is or will be conveyed at Closing (as defined below) as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement and for other valuable consideration, the receipt and adequacy of which are acknowledged by each party, Seller agrees to sell and Buyer agrees to purchase the Hangar upon the following terms and conditions:

ARTICLE 1- INTRODUCTION

1.1 Recitals. The statements contained in the recitals set forth above (the "Recitals") are true and correct, and the Recitals by this reference are made a part of this Agreement; provided, Seller does not hereby give any warranties respecting title to the Hangar.

1.2 Exhibits. The exhibits attached to this Agreement are by this reference made a part hereof.

1.3 Definitions. In addition to the terms defined elsewhere in this Agreement, all initially capitalized terms herein shall have the following meanings:

(a) "Agreement" shall have the meaning set forth in the initial sentence of this Agreement and shall include all amendments and modifications to this Agreement.

(b) "Business Day" means a day when commercial banks in the County are required to be open for business.

(c) "County" shall mean Orleans County, Vermont.

(d) Intentionally Deleted.

(e) "Effective Date" shall have the meaning set forth in the initial sentence of this Agreement.

(f) "Escrow Agent" shall mean William Boyd Davies, Esq.

(g) "Hangar" shall mean the Hangar described on Exhibit A attached to this Agreement, and specifically including, but not limited to, Seller's interest, if any, in all improvements, tenements, hereditaments, options, easements, rights-of-way, appurtenances, passages, water rights, water courses, waste disposal rights, riparian rights, drainage rights, rights to density, vested rights in zoning, land use and development, impact fees and permits of every nature and kind, and other rights, liberties and privileges thereon or in any way now or hereafter appertaining, if any, and including, if any, all of the right, title, and interest of Seller in and to all rights-of-way, easements, public and private streets, roads, avenues, alleys, passage ways and water rights (including any of the foregoing lying in any road beds), in front of or abutting the Hangar or any portion thereof, if any.

ARTICLE 2- PURCHASE AND SALE

Subject to all the terms and conditions of this Agreement, Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller all of Seller's right, title and interest in and to the Hangar.

ARTICLE 3- PURCHASE PRICE

3.1 Purchase Price. Seller agrees to sell the Hangar to Buyer and Buyer agrees to purchase the Hangar from Seller for a total purchase price of Ninety Thousand and 00/100 Dollars (\$90,000.00) (the "Purchase Price"), subject to all prorations and adjustments provided herein.

3.2 Payment Terms. The Purchase Price shall be due and payable and paid by Buyer to Seller as follows:

(a) On or prior to the Effective Date, Buyer shall deposit in Escrow Agent's trust account the amount of Ten Thousand and 00/100 Dollars (\$10,000.00) in immediately available funds as a non-refundable (except in case of Seller default) earnest money deposit (the "Deposit"). The Deposit shall be held by Escrow Agent in accordance with the provisions of this Agreement.

(b) If the Deposit is not timely delivered by Buyer to Escrow Agent, this Agreement shall automatically terminate without any requirement that Buyer be given any notice or opportunity to cure its failure to timely deliver the Deposit to Escrow Agent. Upon such termination, neither Seller nor Buyer shall have any further obligation or liability to the other hereunder, except as otherwise expressly provided in this Agreement.

(c) At Closing, the Deposit shall be paid by the Escrow Agent to Seller and applied as a credit against the Purchase Price due from Buyer. At Closing, Buyer shall pay Seller the balance of the Purchase Price of Eighty Thousand and 00/100 Dollars (\$80,000.00), subject to any prorations as herein provided.

ARTICLE 4- ESCROW AGENT


4.1 General Conditions of Escrow.

(a) The Escrow Agent shall hold the Deposit in escrow pursuant to Section 3.2(a) of this Agreement until the Closing, or sooner termination of this Agreement and shall pay over or apply the Deposit in accordance with the terms of this paragraph. If Buyer shall be entitled to a return of the Deposit pursuant to the terms of this Agreement, the Deposit shall be paid by Escrow Agent to Buyer. At the earlier of Buyer's default hereunder or if the Closing Date occurs, the Deposit shall be paid by Escrow Agent to Seller.

(b) If for any reason the Closing does not occur pursuant to the terms of this Agreement and either party makes a written demand ("Demand Party") upon Escrow Agent for payment of the Deposit ("Demand Notice"), Escrow Agent shall give written notice ("Escrow Agent Notice") to the other party ("Non-Demand Party") of such demand together with a copy of the Demand Notice. It shall be a condition precedent to Escrow Agent's release of the Deposit that the Demand Notice to Escrow Agent be in writing.

(c) If Escrow Agent does not receive a written objection ("Objection Notice") from the Non-Demand Party to the proposed disbursement of the Deposit within ten (10) days after the date Escrow Agent gives the Escrow Agent Notice to the Non-Demand Party, Escrow Agent shall make such disbursement of the Deposit to the Demand Party.

(d) If (i) Escrow Agent receives an Objection Notice from the Non-Demand Party within such ten (10) day period, or if for any other reason Escrow Agent in good faith elects not to make such disbursement of the Deposit, or (ii) a dispute arises as to the rights of the parties in and to, or the disposition of, the Deposit, then Escrow Agent shall have the right to (A) hold and retain all or any part of the Deposit until Escrow Agent: (1) receives a written notice from the Non-Demand Party withdrawing the Objection Notice, (2) receives a written notice signed by both parties directing disposition of the Deposit or (3) such dispute is settled or finally determined by litigation, arbitration or as otherwise evidenced in a writing delivered to Escrow Agent, or (B) deposit the Deposit with the District Court, following which Escrow Agent shall thereafter be relieved and released from any liability or obligation under this Agreement, or (C) institute an action in interpleader or other similar action in the District Court, or (D) interplead any of the parties in any action or proceeding which may be brought to determine the rights of the parties to all or any part of the Deposit. In the event Escrow Agent elects to file an action in interpleader to resolve the dispute, then upon filing such action, Escrow Agent shall thereafter be relieved and released from any liability or obligation under this Agreement. Escrow Agent shall be indemnified for all costs and reasonable attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, incurred in its capacity as escrow agent in connection with any such interpleader action and the court shall award such attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, to Escrow Agent from



the losing party. Escrow Agent shall be fully protected in suspending all or part of its activities under this Agreement until such dispute is settled or finally determined by litigation, arbitration or otherwise.

(e) Any notice to or demand upon Escrow Agent shall be in writing, shall be delivered at the address set forth above for Escrow Agent and shall be sufficient only if received by Escrow Agent within the applicable time period set forth above. Notices from Escrow Agent to Seller or Buyer shall be given pursuant to the terms of the Section of this Agreement applicable to the giving of notices to and from the parties hereto.

4.2 Limitation of Liability.

(a) Escrow Agent may (i) act in reliance upon any writing or instrument or signature which it, in good faith believes to be genuine; (ii) assume the validity and accuracy of any statement or assertion contained in such a writing or instrument; and (iii) assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions of this agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument.

(b) Escrow Agent shall not be bound in any way by any other contract or understanding between the parties, whether or not Escrow Agent has knowledge thereof or consents thereto unless such consent is given in writing.

(c) Escrow Agent's sole duties and responsibilities shall be to hold and disburse the Deposit in accordance with this Agreement provided, however, that Escrow Agent shall have no responsibility for the clearing or collection of any check(s) representing the Deposit.

(d) Escrow Agent shall not be liable for any action taken or omitted by Escrow Agent in good faith and believed by Escrow Agent to be authorized or within its rights or powers conferred upon it by this Agreement, except for damage caused by the gross negligence or willful misconduct of Escrow Agent.

(e) Upon the disbursement of the Deposit in accordance with this Agreement, Escrow Agent shall thereafter be relieved and released from any liability or obligation under this Agreement.

(f) Escrow Agent may resign at any time upon at least ten (10) days' prior written notice to the parties. If, prior to the effective date of such resignation, the parties shall all have approved, in writing, a successor escrow agent, then upon the resignation of Escrow Agent, Escrow Agent shall deliver the Deposit to such successor escrow agent. From and after such resignation and the delivery of the Deposit to such successor escrow agent, Escrow Agent shall be fully relieved of all of its duties, responsibilities and obligations under this Agreement, all of which duties, responsibilities and obligations shall be performed by the appointed successor escrow agent. If for any reason the parties shall not approve a successor escrow agent within such period, Escrow Agent may bring an appropriate action or proceeding for leave to deposit the Deposit with a court of competent jurisdiction, pending the approval of a successor escrow agent, and upon such

deposit. Escrow Agent shall be fully relieved of all of its duties, responsibilities and obligations under this Agreement.

(g) Seller and Buyer hereby agree to, jointly and severally, indemnify, defend and hold Escrow Agent harmless from and against any liabilities, damages, losses, costs or expenses incurred by, or claims or charges made against, Escrow Agent (including counsel fees, whether of outside counsel or of Escrow Agent's counsel, and court costs) by reason of Escrow Agent's acting or failing to act in connection with any of the matters contemplated by this Agreement or in carrying out the terms of this Agreement, except as a result of Escrow Agent's gross negligence or willful misconduct. To the extent that Escrow Agent holds the Deposit under the terms of this Agreement, the parties agree that Escrow Agent may charge the Deposit with any such attorneys' fees, court costs and expenses as they are incurred by Escrow Agent. Escrow Agent may consult with counsel of its own choice, including counsel within its own firm, and shall have full and complete authorization and protection in accordance with the opinion of such counsel.

(h) Without limitation, Escrow Agent shall not be liable for any loss or damage resulting from the following: (i) the financial status or insolvency of any other party, or any misrepresentation made by any other party; (ii) any legal effect, insufficiency or undesirability of any instrument deposited with or delivered by or to Escrow Agent or exchanged by the parties, whether or not Escrow Agent prepared such instrument; (iii) the default, error, action or omission of any other party or any actions taken by Escrow Agent in good faith, except for Escrow Agent's gross negligence or willful misconduct; (iv) any loss or impairment of the Deposit that has been deposited in escrow while the Deposit is in the course of collection or while the Deposit is on deposit in a financial institution if such loss or impairment results from the failure, insolvency or suspension of a financial institution, or any loss or impairment of the Deposit due to the invalidity of any draft, check, document or other negotiable instrument delivered to Escrow Agent; (v) any loss or impairment of the Deposit arising from any insufficiency of FDIC insurance coverage (up to \$250,000) for funds held in a financial institution (vi) the expiration of any time limit or other consequence of delay, unless a properly executed settlement instruction, accepted by Escrow Agent, has instructed the Escrow Agent to comply with said time limit; and (vii) Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment or decree of any court, whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside or reversed.

(i) The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be an agent of either party except for Escrow Agent's representation of Seller in connection with this Agreement and the transaction referred to herein.

(j) The parties represent that prior to the negotiation and execution of this Agreement they were advised that Escrow Agent is the law firm representing Buyer as its attorney in connection with this Agreement and the transaction referred to in this Agreement. The parties covenant that they shall not object, on the grounds of conflict of interest or otherwise, to Escrow Agent's continuing to act as Buyer's attorney in connection with this Agreement and the transaction contemplated herein. In the event of a dispute between the parties, the parties consent to Escrow Agent continuing to represent Buyer, notwithstanding that Escrow Agent shall continue to have the duties provided for in this Agreement.

4.3 Miscellaneous.

(a) Intentionally Deleted..

(b) The parties acknowledge that the disbursement of the Deposit may require a completed W-8 or W-9 form and any other documentation required to satisfy Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("USA PATRIOT Act"). The parties agree to execute such documents as is required to satisfy such governmental requirements.

(c) Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to this Agreement.

(d) The terms and provisions of this Article shall create no right in any person, firm or corporation other than the parties and their respective successors and permitted assigns and no third party shall have the right to enforce or benefit from the terms hereof.

(e) In the event Escrow Agent holds the Deposit for a period exceeding twelve (12) months following the Effective Date of this Agreement, Escrow Agent shall thereafter have the right, in its sole discretion, to terminate the escrow in which event it shall either deposit such Deposit with the court or deposit the Deposit with a third party mutually agreeable to parties. Escrow Agent shall give the parties not less than ten (10) days prior notice of such election.

(f) The parties agree that this Agreement shall be effective and in full force and effect upon the execution and delivery of this Agreement by Seller and Buyer, notwithstanding that the Escrow Agent has not yet executed this Agreement as Escrow Agent.

(g) Except for the delivery of Form 1099's, the Escrow Agent shall have no duty to prepare or file any Federal or state tax return or report with respect to any funds held under this Agreement or any earnings thereon. With respect to the preparation and delivery of Form 1099's and all matters pertaining to the reporting of earnings on funds held under this Agreement, the Escrow Agent shall be entitled to request and receive written instructions from the Seller and Buyer and the Escrow Agent shall be entitled to rely conclusively and without further inquiry on such written instructions. Any taxes payable on income earned from the investment of any sums held in escrow under this Agreement shall be paid by the party entitled to receive such income, whether or not the income was distributed by the Escrow Agent to such party during any particular year, as and to the extent required under the provisions of the Internal Revenue Code.

4.4 Deposit of Funds. The Deposit will be processed for collection in the normal course of business. No disbursement will be made until the Deposit has been irrevocably credited to Escrow Agent's account. Escrow Agent may commingle the Deposit received in escrow with escrow deposits of others, and may, at its option, deposit such Deposit in its custodial or trust accounts. Unless otherwise indicated in this Agreement, Escrow Agent shall be under no obligation to invest the Deposit on behalf of any depositor, nor shall it be accountable for any earnings or incidental benefit attributable to the Deposit which may be received by Escrow Agent while it holds the Deposit. If, in accordance with this Agreement, the Deposit is invested in interest bearing

investments, the interest shall be disbursed as, and shall be deemed included in, the Deposit except as may be otherwise specified in this Agreement.

4.5 Closing of Escrow. Signed approval of settlement statements or other statements of account by the Seller and Buyer shall constitute mutual instructions to Escrow Agent and authority to disburse funds as shown thereon. Upon completion of the disbursement of funds and delivery of instruments, Escrow Agent shall thereafter be relieved and released from any liability or obligation under this Agreement.

4.6 Electronic Execution. The parties agree that Escrow Agent shall be entitled to rely upon approvals for the closing of escrow and upon other communications by the parties transmitted by electronic means, including but not limited to facsimile telephone transmission and/or email transmission of data and signatures. Escrow Agent shall not be required to rely upon electronic data, which it determines, in its sole discretion, to be unreliable. Any notice or other communication given in the manner provided above by counsel for any party shall be deemed to be notice of such notice or other communication from the party represented by such counsel. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

ARTICLE 5- "AS-IS WHERE-IS" CONDITION OF THE HANGAR

5.1 No Inspection Period. Buyer has previously inspected the Hangar and, by executing this Agreement, affirms that it has approved all aspects of the Hangar. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT BUYER ACCEPTS THE CONDITION OF THE HANGAR "AS IS, WHERE IS--WITH ALL FAULTS" WITHOUT ANY IMPLIED REPRESENTATION, WARRANTY OR GUARANTEE AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE AS TO THE CONDITION, SIZE OR VALUE OF THE HANGAR, EXCEPT ONLY AS MAY BE OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, AND SELLER HEREBY DISCLAIMS ANY AND ALL SUCH IMPLIED REPRESENTATIONS, WARRANTIES OR GUARANTEES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE HANGAR BEING SOLD, (B) THE SUITABILITY OF THE HANGAR FOR ANY ACTIVITIES THAT BUYER MAY CONDUCT THEREON, (C) THE COMPLIANCE OF THE HANGAR WITH ANY LAWS, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL ENTITY, (D) COMPLIANCE OF THE HANGAR WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE HANGAR OF HAZARDOUS MATERIALS, OR (E) ANY OTHER MATTER WITH RESPECT TO THE HANGAR, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT.

5.2 Should Buyer, or Buyer's Agents, desire to enter upon the Hangar during the term of this Agreement, then the following provisions shall apply:

(a) Buyer must provide written notice to Seller at least one (1) Business Day prior to Buyer's entry onto the Hangar. Buyer shall not conduct any invasive testing upon the

Hangar. Buyer shall promptly repair, or cause to be repaired, to its condition immediately prior to such entry, any damage to the Hangar caused by any entry upon the Hangar by Buyer and/or Buyer's Agents promptly after such damage shall occur.

(b) In conjunction with the foregoing, Buyer and Buyer's contractors, agents, employees, subcontractors, consultants, and representatives (such contractors, agents, employees, subcontractors and representatives are hereinafter referred to, collectively, as "Buyer's Agents") shall not interfere with the operation or maintenance of the Hangar. Buyer shall cause Buyer's agents who may enter upon the Hangar to maintain the following insurance coverages from companies reasonably satisfactory to Seller: (i) workers' compensation insurance, in statutorily required amounts; (ii) general liability insurance naming Seller as an additional insured providing limits of not less than One Million 00/100 Dollars (\$1,000,000.00) against any and all personal injury, death, loss, damage, expense, liability or responsibility whatsoever which may be occasioned, directly or indirectly, by reason of the exercise of this right of entry upon the Hangar by Buyer, or any of Buyer's Agents; and (iii) auto liability insurance with limits of not less than One Million 00/100 Dollars (\$1,000,000.00) covering all owned, non-owned and hired autos.

(c) Buyer agrees to indemnify, defend and hold Seller and Seller's officers, directors, shareholders, trustees, partners, members, employees, representatives, agents and attorneys (collectively, the "Indemnified Parties") and the Hangar harmless from and against any and all liabilities, claims, demands, causes of action, damage and expense (including, but not limited to, reasonable attorneys' fees, paraprofessional fees, and costs, sustained or incurred by Seller or Seller's Indemnified Parties) at trial, on appeal and in post-judgment collection proceedings) (collectively, the "Claims") resulting from (a) any act or omission of Buyer or Buyer's Agents caused by Buyer or Buyer's Agents during the term of this Agreement, (b) Buyer's failure to pay any bills, invoices or other charges relating to their entry onto the Hangar, (c) any claim of personal injury or Hangar damage arising out of Buyer's or Buyer's Agent' entry onto the Hangar, (d) any lien filed against Seller or the Hangar in connection therewith, and (e) Buyer's failure to restore the Hangar as required above. Buyer's obligations pursuant to this section shall survive and shall be enforceable after the Closing or earlier termination of this Agreement. Seller's remedies for a breach by Buyer of its obligations under this Section shall be limited as set forth in Section 10.1 of this Agreement.

ARTICLE 6- WARRANTIES AND REPRESENTATIONS

6.1 Warranties and Representations by Seller. To induce Buyer to enter into this Agreement, Seller makes the following representations and warranties to Buyer, all of which are true, in all material respects, at the execution of this Agreement, and shall be true, in all material respects, at the closing of this transaction.

(a) Seller has the requisite authority to execute and deliver this Agreement and any documents required to consummate the transactions contemplated by this Agreement. Upon entry of the Approval Order, this Agreement shall be a valid and binding obligation of Seller, enforceable against it in accordance with its terms.

6.2 Warranties and Representations by Buyer. To induce Seller to enter into this Agreement, Buyer makes the following representations and warranties to Seller, all of which are

true, in all material respects, at the execution of this Agreement, and shall be true, in all material respects, at the closing of this transaction:

(a) All appropriate authority exists and has been accomplished by Buyer so as to duly authorize the individual set forth below to execute this Agreement and all documents contemplated hereby on behalf of Buyer, so as to fully and firmly bind Buyer to the terms and provisions of this Agreement, and such other instruments.

(b) Neither Buyer nor any person or entity owning an interest in Buyer: (i) is currently on any list published by the Office of Foreign Assets Control, Department of the Treasury, or (ii) is a person or entity with whom a United States citizen or entity organized under the laws of the United States, is prohibited from transacting business of the type contemplated by this Agreement.

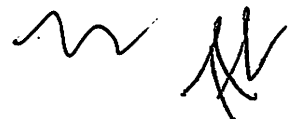
(c) Buyer is in compliance with any and all applicable provisions of the USA Patriot Act of 2001, Pub. L. No. 107-56.

(d) Buyer is experienced and sophisticated in the acquisition, development, management, leasing, ownership and operation of real estate projects such as the Hangar and Buyer had a full and complete opportunity to conduct such investigations, examinations, inspections and analyses of the Hangar as Buyer, in its absolute discretion, deemed or may deem appropriate. Buyer, except for the representations of Seller set forth in Section 6.1 of this Agreement, has not relied upon any statements, representations or warranties by Seller or any agent of Seller. Without limiting the foregoing, Buyer represents and warrants that: (i) any environmental, physical condition or other reports provided to Buyer by Seller or any of its agents are provided without any representation or warranty of any kind, express or implied, as to the completeness or accuracy of the facts, presumptions, conclusions or other matters contained therein; (ii) Buyer shall rely solely on its own investigations and on reports prepared by any consultants engaged by Buyer and not on any environmental, physical condition or other reports provided to Buyer by Seller, if any;

(e) To induce Seller to enter into this Agreement, and as material consideration therefor, Buyer acknowledges and agrees that Seller shall have no obligations or liability whatsoever regarding the title to, or encumbrances on, the Hangar and that, in the event of any claims, demands, damages or disputes with respect thereto following the Closing, Buyer shall look solely to the Title Company.

(f) Neither the execution nor the delivery of this Agreement, nor the consummation of the purchase and sale transaction contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflict with or will result in the breach of any of the terms, conditions or provisions of any agreement or instrument to which Buyer is a party or by which Buyer or any of Buyer's assets is bound.

(g) No representation or warranty by Buyer in this Agreement or in any instrument, certificate or written statement furnished to Seller by Buyer pursuant hereto, or in connection with the transaction contemplated hereby, contains or will contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained herein or therein not misleading. Prior to the Closing Date, Buyer shall notify Seller in writing of any



facts, conditions or circumstances of which it becomes aware that render any of the representations and warranties set forth in this Section 6.2 in any way inaccurate, incomplete, incorrect or misleading.

ARTICLE 7- CLOSING CONDITIONS; DISTRICT COURT APPROVAL

7.1 Approval. Buyer and Seller understand, acknowledge and agree that this Agreement and the sale of the Hangar are subject to approval by the District Court and satisfaction of the Closing Conditions (defined below).

7.2 Orders of Sale. The obligations under this Agreement of Buyer and Seller are contingent upon the issuance of the approval orders that the Hangar will be conveyed by Seller to Buyer free of clear of all interests in or to the Hangar at law or in equity except any easement rights or Hangar restrictions that are a matter of public record. Seller shall use its best efforts to obtain a provision in the Approval Orders that the sale shall proceed immediately upon the issuance thereof.

ARTICLE 8- CONDEMNATION; CASUALTY

8.1 Condemnation. If prior to the Closing Date all or any material portion of the Hangar shall be taken or affirmative steps are initiated to commence a condemnation proceeding by any governmental authority under its power of eminent domain, Buyer shall have the option on or before Closing:

(a) To take title to the Hangar on the Closing Date without any abatement or adjustment in the Purchase Price, in which event Seller shall assign its rights in the condemnation award to Buyer (or Buyer shall receive the condemnation award from Seller if it has already been paid before the Closing Date); or

(b) To terminate this Agreement and receive the return of its Deposit, and in that event this Agreement shall be null and void, and neither party shall have any further right or remedy against the other.

8.2 Casualty. If prior to Closing a casualty occurs to any improvements on the Hangar, Buyer shall receive at Closing payment or an assignment by Seller of right to payment of all insurance proceeds, if any, attributable to said casualty (but not any portion thereof used by Seller to repair the casualty), and Buyer shall Close without any abatement or reduction in the Purchase Price.

ARTICLE 9- CLOSING/POST-CLOSING

9.1 **Closing.** Closing of the transactions contemplated by this Agreement (the "**Closing**") shall occur on the date (the "**Closing Date**") which is the first Business Day which is 15 days after the later of: (a) entry of the Approval Order, which Approval Order shall contain a waiver of any stay pending appeal; and (b) receipt of Vermont Land Gains Tax Certificate, if required by the State of Vermont; and (c) approval by the State of Vermont, as required by the lease conditions, with a formal lease proposal for six (6) consecutive five (5) year lease terms (collectively, the "**Closing Conditions**"). The Closing shall take place through the offices of Escrow Agent, and may be done by "mail away." At Closing, Buyer shall deliver the Purchase Price, via wire transfer, to Seller, less the Deposit, which shall be delivered by the Escrow Agent. At Closing, Seller and Buyer shall execute and deliver the following documents:

(i) Quitclaim Bill of Sale (the "**Bill of Sale**") from Seller to Buyer conveying marketable fee simple title to the Hangar in the condition required by this Agreement and other applicable provisions of this Agreement, the form of which is attached to this Agreement as Exhibit B;

(ii) Closing Statement by Seller and Buyer;

(iii) Such other customary instruments and/or documents as the Title Company shall reasonably require or as otherwise needed to consummate the transactions contemplated by this Agreement;

(iv) A certified copy of the Approval Orders;

(v) A FIRPTA certificate; and

(vi) A termination of lease.

9.2 **Sale Closing Costs and Prorations.**

(a) **Prorations.** All ad valorem and personal Hangar taxes and assessments of the Hangar shall be prorated as of the Closing Date.

(b) **Closing Costs.** In addition to the Purchase Price, Buyer shall be responsible for payment of the following: (i) any and all costs of Buyer's inspections, title searches, lien searches, etc., (ii) the cost of any survey if obtained by Buyer, (iii) the premiums for the owner's title insurance policy to be issued from the Title Commitment and any mortgagee's policy (plus the cost of any endorsements), if any, (vi) the recording costs of the Bill of Sale (if applicable) and any other documents that need to be filed in the Town of Coventry (v) any taxes that may be due to any taxing authorities in connection with the Closing.

9.3 **Brokers** Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller, that no person or entity acting as a real estate broker, finder or real estate agent has brought about this Agreement. If a claim for fees in connection with the transaction is made by any broker, salesman or finder claiming to have dealt through or on behalf of one of the parties hereto ("**Indemnitor**"), Indemnitor shall indemnify, defend and hold harmless the other party hereunder ("**Indemnitee**"), and Indemnitee's officers, directors, agents and representatives, from

all liabilities, damages, claims, costs, fees and expenses whatsoever (including, but not limited to, reasonable attorney's fees, paraprofessional fees, and court costs at trial and all appellate levels) with respect to such claim for brokerage. The provisions of this Section shall survive Closing and any cancellation or termination of this Agreement.

ARTICLE 10- DEFAULT

10.1 Default by Buyer. If, under the provisions of this Agreement, Buyer shall be obligated to complete the purchase, but fails to do so within the applicable period provided for Closing, or if Buyer otherwise defaults under this Agreement, then Seller's sole remedy for breach of this Agreement shall be a right to terminate this Agreement and retain the Deposit, by notice in writing delivered to Escrow Agent and Buyer and making demand that Escrow Agent pay the Deposit to Seller. In the event Seller demands the Deposit, Escrow Agent shall pay the Deposit to Seller within ten (10) Business Days following Escrow Agent's and Buyer's receipt of such written demand by Seller, provided that Escrow Agent does not receive a contrary written demand from Buyer within such ten (10) Business Days period. If Buyer so objects, Escrow Agent shall have the rights and obligations set forth in Article 4 of this Agreement.

10.2 Default by Seller. If, under the provisions of this Agreement, Seller shall be obligated to complete the sale, but fail to do so within the applicable period provided for Closing, or if Seller otherwise defaults under this Agreement, then Buyer's sole remedy for breach of this Agreement shall be in the alternative either: (i) to apply to the District Court to seek specific performance under this Agreement; or (ii) to terminate this Agreement and receive a return of the Deposit, by notice in writing delivered to Escrow Agent and Seller and making demand that Escrow Agent return the Deposit to Buyer. In the event Buyer demands return of the Deposit, Escrow Agent shall pay such monies to Buyer within ten (10) Business Days following receipt by Seller and Escrow Agent of such written demand by Buyer, provided that Escrow Agent does not receive a contrary written demand from Seller within such ten (10) Business Day period. If Seller objects, Escrow Agent shall have the rights and obligations set forth in Article 4 of this Agreement. Upon any termination of this Agreement with payment of the Deposit to Buyer or Seller, Buyer shall return forthwith the Title Insurance Commitment, all sale-related documents and its copy of this Agreement to Seller, and thereupon all rights of the parties hereto shall end. If Buyer has received the benefit of the remedies set forth above, Buyer shall not have a right of action against Seller for damages for breach of this Agreement.

10.3 Attorneys' Fees and Costs. In connection with any litigation arising out of this Agreement, the prevailing party shall be entitled to recover from the other party all costs incurred by the prevailing party, including the costs of its attorneys, through trial and appellate levels. The District Court shall have exclusive jurisdiction to determine any and all disputes that may arise pursuant to this Agreement.

ARTICLE 11- MISCELLANEOUS

11.1 Notices. All notices, requests, consents, instructions, and communications required or permitted to be given pursuant to the terms of this Agreement shall be in writing and shall be (as elected by the party giving such notice) hand-delivered by messenger or nationally recognized overnight courier service, by certified mail, return receipt requested, postage prepaid, or by

recognized contract carrier providing signed receipt for delivery, or sent by email transmission. Each such notice, request, or other communication shall be considered given and shall be deemed delivered on the earlier of (a) on the date of delivery if by personal delivery or courier service; (b) on the date of transmission with confirmed answer back if transmitted by e-mail before 5:00 p.m. Eastern Standard Time on a Business Day, or on the next Business Day if transmitted after 5:00 p.m. Eastern Standard Time on Business Day or on a non-business day; provided that, with respect to any notice transmitted by email, a copy thereof shall be sent by one of the other described methods in this Section; or (c) on the date on which return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed. Rejection, refusal to accept, or inability to deliver any notice given shall be deemed to be a receipt of such notice, request or other communication. The respective attorneys for Seller and Buyer are hereby authorized to give any notice pursuant to this Agreement on behalf of their respective client. Copies of applicable notices shall be given to Escrow Agent or Title Company, as applicable. Notices will be delivered at the following addresses/email addresses, subject to the right of any party to change the address/email address at which it is to receive notice by written notice to the other party complying with this Section.

To Seller: Michael I. Goldberg, Receiver of Jay Peak, Inc.
350 East Las Olas Boulevard
Suite 1600
Fort Lauderdale, Florida 33301
Phone: 954-468-2444
Email: michael.goldberg@akerman.com

With copies to: Andrew Wamsley, Esq.
Akerman LLP
350 East Las Olas Boulevard
Suite 1600
Fort Lauderdale, Florida 33301
Phone: (954) 463-2700
Email: andrew.wamsley@akerman.com

To Buyer: Valain Inc.
Alain Lussier, President
315 Descente 12
Ogden, Quebec JOB3E3
Canada
Phone: (514) 949-6981
Email: alain@valain.ca

With copies to: William Boyd Davies, Esq.
May & Davies
424 Main Street
PO Box 303
Barton, VT 05822
Phone: (802) 525-3766
Email: billdavies@together.net

To Escrow Agent: William Boyd Davies, Esq.
May & Davies
424 Main Street
PO Box 303
Barton, VT 05822
Phone: (802) 525-3766
Email: billdavies@together.net

11.2 Assignment. Except as provided below, this Agreement may not be assigned prior to Closing, in whole or in part by any party, without the prior written consent of the other parties hereto. Buyer may assign without consent to a special purpose entity created by Buyer for the purpose of acquiring the Hangar and having substantially the same membership as Buyer, provided, however, that in the event of such assignment the original Buyer shall remain liable under this Agreement.

11.3 Modification. There are no other agreements, promises or undertakings between the parties except as specifically set forth herein. No alterations, changes, modifications or amendments shall be made to this Agreement, except in writing and signed by Seller and Buyer.

11.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns and as applicable, the heirs and legal representatives of the parties hereto.

11.5 Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Vermont.

11.6 Waiver. No failure of any party to exercise any power given such party hereunder or to insist upon strict compliance by the other party in its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of any party's right to demand exact compliance with the terms hereof. Buyer shall have the right to waive any condition or contingency herein in Buyer's favor and Seller shall have the right to waive any condition or contingency herein in Seller's favor.

11.7 Cumulative Rights. All rights, powers and privileges conferred hereunder upon the parties unless otherwise provided herein, shall be cumulative and not restricted by those given in law.

11.8 Invalid Provisions. In the event any paragraph, term, provision or portion of this Agreement shall be determined by appropriate judicial authority to be illegal, unenforceable, or otherwise invalid, such paragraph, term, provision or portion of this Agreement shall be given its nearest legal meaning or be construed for all purposes not to constitute a part of this Agreement, and the remainder of this Agreement shall remain in full force and effect and shall, for all purposes, constitute the entire agreement.

11.9 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original and a complete set of which taken together shall constitute one and the same agreement. The parties agree and intend that signature by facsimile

machine or electronic transmission (e-mail) shall bind the party so signing with the same effect as though the signature was an original.

11.10 Effectiveness. This Agreement shall have no force and effect whatsoever unless Buyer and Seller have duly executed this Agreement.

11.11 Compliance Dates. In the event that any date specified in this Agreement shall be on a Saturday, Sunday or a nationally declared holiday, then the date so specified shall be deemed to be the next Business Day following such date and compliance by such Business Day hereunder shall not be deemed a default by any of the parties under this Agreement.

11.12 Headings. The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope or intent of such sections of this Agreement or in any way affect this Agreement.

11.13 Attorneys' Fees. In the event of any litigation between the parties this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, paraprofessional fees, and costs at trial, on appeal and in post-judgment collection proceedings and in all bankruptcy proceedings. This provision shall survive termination or cancellation of this Agreement and Closing of this Agreement.

11.14 Prior Agreements. This Agreement constitutes the complete understanding and entire agreement of the parties as respects the matters addressed in this Agreement and there are no other agreements, representations or warranties other than as set forth in this Agreement. No agreement or representation, unless set forth in this Agreement, shall bind any of the parties hereto. This Agreement may not be changed, altered or modified except by an instrument in writing signed by both parties. This Agreement shall inure to the benefit of Seller and Buyer and their respective successors and permitted assigns.

11.15 Time. Time is of the essence in this Agreement.

11.16 Construction. All parties hereto acknowledge that they have had the benefit of independent counsel with regard to this Agreement and that this Agreement has been prepared as a result of the joint efforts of all parties and their respective counsel. Accordingly, all parties agree that the provisions of this Agreement shall not be construed or interpreted for or against any party hereto based upon authorship.

11.17 Hangar Tax Disclosure. Buyer should not rely on Seller's current Hangar taxes as the amount of Hangar taxes that Buyer may be obligated to pay in the year subsequent to purchase. A change of ownership or Hangar improvements triggers reassessments of the Hangar that could result in higher Hangar taxes. If you have any questions concerning valuation, contact the Listers of the Town of Coventry, Vermont.

11.18 Waiver of Jury Trial. BUYER AND SELLER HEREBY EXPRESSLY COVENANT AND AGREE TO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION OR JUDICIAL PROCEEDING RELATING TO, DIRECTLY OR INDIRECTLY, OR CONCERNING THIS AGREEMENT OR THE CONDUCT, OMISSION, ACTION, OBLIGATION, DUTY, RIGHT, BENEFIT, PRIVILEGE OR LIABILITY OF A

PARTY HEREUNDER TO THE FULL EXTENT PERMITTED BY LAW. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN AND IS KNOWINGLY, INTENTIONALLY AND VOLUNTARILY MADE BY BUYER AND SELLER. BUYER AND SELLER HAVE HAD AN OPPORTUNITY TO SEEK LEGAL COUNSEL CONCERNING THIS WAIVER. THIS WAIVER IS INTENDED TO AND DOES ENCOMPASS EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A JURY TRIAL WOULD OTHERWISE ACCRUE. BUYER AND SELLER FURTHER CERTIFY AND REPRESENT TO EACH OTHER THAT NO PARTY, REPRESENTATIVE OR AGENT OF BUYER OR SELLER (INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) HAVE REPRESENTED, EXPRESSLY OR OTHERWISE TO BUYER OR SELLER OR TO ANY AGENT OR REPRESENTATIVE OF BUYER OR SELLER (INCLUDING, BUT NOT LIMITED TO, THEIR RESPECTIVE COUNSEL) THAT THEY WILL NOT SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL. THIS PROVISION IS A MATERIAL INDUCEMENT OF ALL PARTIES ENTERING INTO THIS AGREEMENT. THIS WAIVER SHALL APPLY TO THIS AGREEMENT AND ANY FUTURE AMENDMENTS, SUPPLEMENTS OR MODIFICATIONS OF THIS AGREEMENT. THIS PROVISION SHALL SURVIVE ANY TERMINATION OR CANCELLATION OF THIS AGREEMENT OR CLOSING OF THIS AGREEMENT.

11.19 RELEASE. BUYER RELEASES SELLER AND ANY PARTY RELATED TO OR AFFILIATED WITH SELLER, AND THEIR RESPECTIVE REPRESENTATIVES, TRUSTEES, SUCCESSORS AND ASSIGNS (THE "SELLER RELATED PARTIES") FROM AND AGAINST ANY AND ALL DEMANDS AND CLAIMS AT LAW OR EQUITY, WHICH BUYER OR ANY PARTY RELATED TO OR AFFILIATED WITH BUYER AND THEIR RESPECTIVE REPRESENTATIVES, SUCCESSORS AND ASSIGNS (EACH A "BUYER RELATED PARTY"), OR ANY THIRD PARTY HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATING TO OR IN CONNECTION WITH THE HANGAR, INCLUDING BUT NOT LIMITED TO, THE DOCUMENTS AND INFORMATION REFERRED TO IN THIS AGREEMENT, ANY CONSTRUCTION DEFECTS, ERRORS OR OMISSIONS IN THE DESIGN OR CONSTRUCTION AND ANY ENVIRONMENTAL CONDITIONS, INCLUDING THE PRESENCE OF ASBESTOS CONTAINING MATERIALS AND OTHER HAZARDOUS MATERIALS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT TO THE CONTRARY, NO BUYER RELATED PARTY MAY LOOK TO ANY OF SELLER RELATED PARTIES FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT, INCLUDING WITH REGARD TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES AND CAUSES OF ACTION. THIS SECTION 11.19 WILL SURVIVE THE TERMINATION OF THIS AGREEMENT OR THE CLOSING.

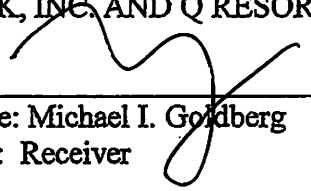
11.20 Recordation. Neither this Agreement, nor any memorandum of this Agreement, shall be recorded in the Public Records of the Town of Coventry, Vermont or any other location.

[ADDITIONAL TEXT AND SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, and shall be deemed to have executed such, on the Effective Date.

SELLER:

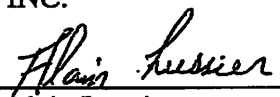
MICHAEL I. GOLDBERG AS COURT
APPOINTED RECEIVER OF BOTH JAY
PEAK, INC. AND Q RESORTS, INC



Name: Michael I. Goldberg
Title: Receiver

BUYER:

VALAIN, INC.

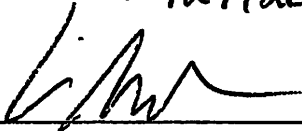
By: 

Name: Alain Lussier
Title: President



ACCEPTANCE BY ESCROW AGENT

Escrow Agent signs this Purchase and Sale Agreement to which this Joinder and Acknowledgment of Escrow Agent is attached (the "Agreement") for purposes of acknowledging (i) its obligations pursuant the Agreement and (ii) receipt of the Deposit in the amount of TEN THOUSAND and 00/100 Dollars (\$10,000.00) received on the Effective Date. 10/27/2020



By: _____
Name: WILLIAM BOYD DAVIES
Title: ATTORNEY

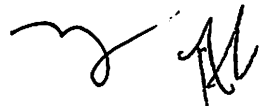
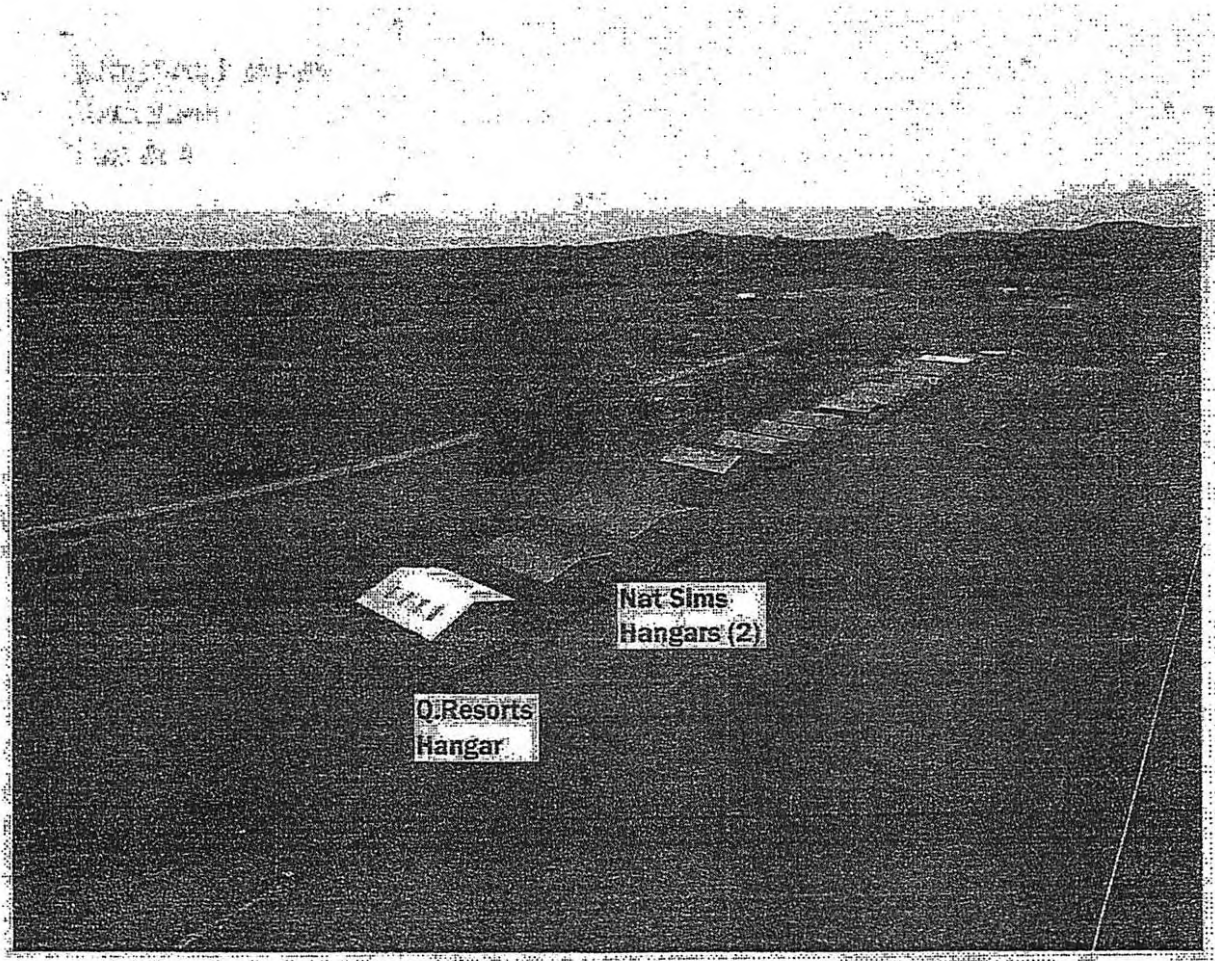


EXHIBIT A

Legal Description of Hangar

Aircraft Storage Hangar Lot. A certain parcel of land measuring approximately 80' X 80' (6,400 square feet more or less) upon which is built an Aircraft Storage Hangar measuring approximately 60' X 60' (3,600 square feet more or less), located directly north of and adjacent to the hangars currently owned by Nat Sims Leased premises is more particularly described below and incorporated herein by reference.



Handwritten signature or initials in black ink, consisting of a stylized 'W' followed by a vertical line and a small 'H'.

EXHIBIT B

Quitclaim Bill of Sale

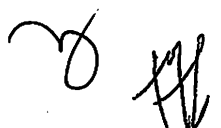
QUITCLAIM BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, on this ____ day of ____, 2020 (the "Effective Date"), **MICHAEL I. GOLDBERG AS COURT APPOINTED RECEIVER OF BOTH JAY PEAK, INC. AND Q RESORTS, INC.**, (the "Seller"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to Sellers in hand paid by **VALAIN INC.**, a Canadian private corporation (the "Buyer"), the receipt and sufficiency of which consideration is hereby acknowledged, has granted, bargained, sold, transferred and delivered, and by these presents does hereby grant, bargain, sell, transfer and deliver unto the Buyer, and the Buyer's successors and assigns, effective as of the Effective Date that certain Hangar together with all existing improvements, fixtures, and all other personal property located in and described on Exhibit A attached hereto (the "Personal Property").

All Personal Property is sold in an "AS-IS, WHERE IS" condition, with no representation as to existence, fitness, title, or condition.

The Sellers are purporting to sell only such right or title as Sellers may have, if any.

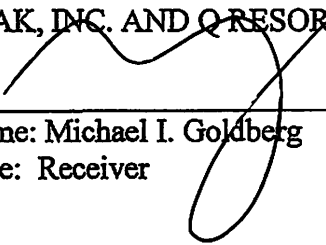
{Signature page follows}



IN WITNESS WHEREOF, Seller has executed this Bill of Sale effective as of the Effective Date.

SELLER:

MICHAEL I. GOLDBERG AS COURT
APPOINTED RECEIVER OF BOTH JAY
PEAK, INC. AND Q RESORTS, INC.



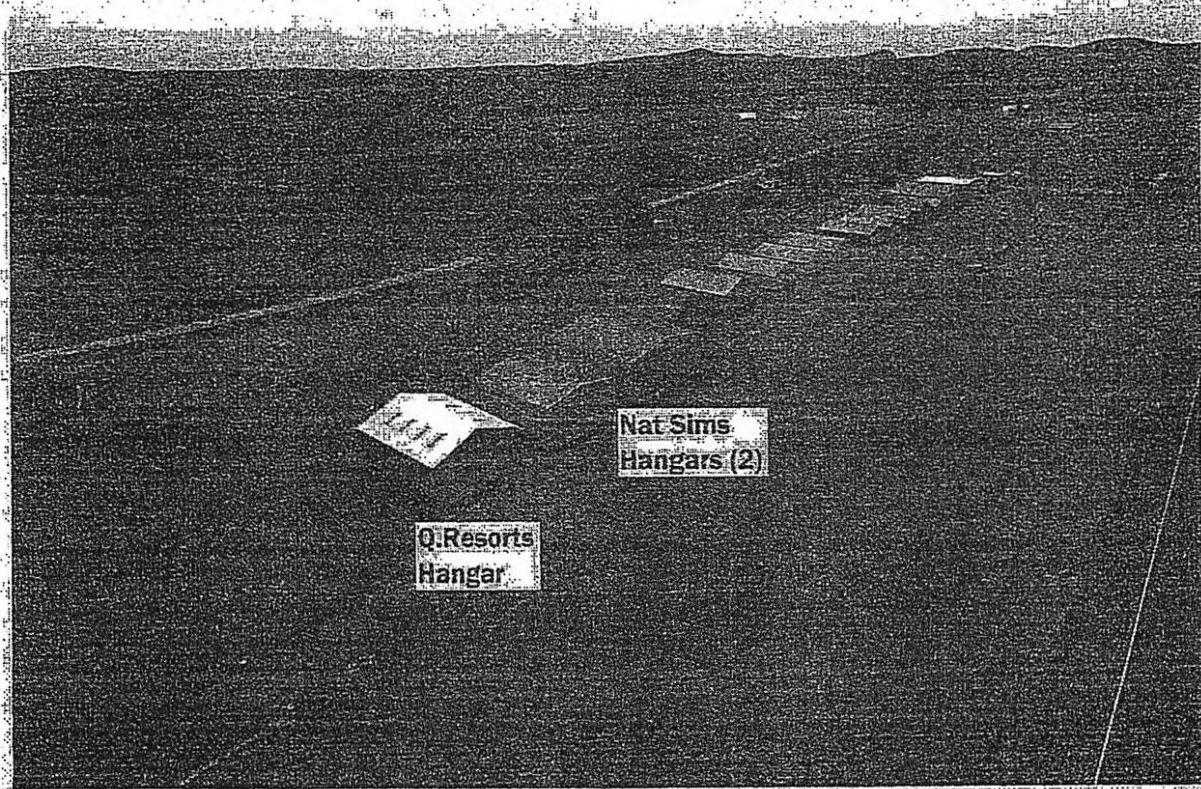
Name: Michael I. Goldberg
Title: Receiver



Exhibit A

Legal Description of Hangar

Aircraft Storage Hangar Lot. A certain parcel of land measuring approximately 80' X 80' (6,400 square feet more or less) upon which is built an Aircraft Storage Hangar measuring approximately 60' X 60' (3,600 square feet more or less), located directly north of and adjacent to the hangars currently owned by Nat Sims Leased premises is more particularly described below and incorporated herein by reference.



A handwritten signature or set of initials in the bottom right corner of the page, appearing to be written in black ink.

ADDENDUM TO PURCHASE AND SALE AGREEMENT

WHEREAS on November 6, 2020, Michael I. Goldberg as Court Appointed Receiver of both Jay Peak, Inc and Q Resorts, Inc. as Seller and Valain Inc. as Buyer entered into a Purchase and Sale Agreement for an aircraft storage hangar located at the Northeast Kingdom International Airport in Coventry, Vermont; and

WHEREAS Exhibit A to the Purchase and Sale Agreement described the aircraft storage hangar as measuring approximately 60' X 60' (3600 square feet, more or less); and

WHEREAS, it has been discovered that the actual measurements of the aircraft storage hangar are 50' X 60" (3000 square feet, more or less); and

WHEREAS Purchaser, knowing of the actual dimensions of the aircraft storage hangar, still desires to purchase said hangar;

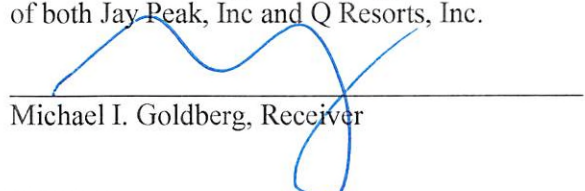
NOW THEREFORE, in consideration of 1 and more dollars, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

- 1 Exhibit A to the Purchase and Sale Agreement shall be amended to substitute the dimensions of 50' X 60' (3000 square feet, more or less) for 60' X 60' (3600 square feet, more or less).
2. All other terms and conditions of said Purchase and Sale Agreement, not inconsistent with the above amendment shall remain in full force and effect.

Dated this 24 day of December, 2020.

SELLER:

Michael I. Goldberg as Court Appointed Receiver
of both Jay Peak, Inc and Q Resorts, Inc.



Michael I. Goldberg, Receiver

BUYER:

Valain, Inc

By:  _____
Alain Lusigneaux, Duly Authorized Agent

ADDENDUM TO PURCHASE AND SALE AGREEMENT

WHEREAS on November 6, 2020, Michael I. Goldberg as Court Appointed Receiver of both Jay Peak, Inc and Q Resorts, Inc. as Seller and Valain Inc. as Buyer entered into a Purchase and Sale Agreement for an aircraft storage hangar located at the Northeast Kingdom International Airport in Coventry, Vermont; and

WHEREAS Exhibit A to the Purchase and Sale Agreement described the aircraft storage hangar as measuring approximately 60' X 60' (3600 square feet, more or less); and

WHEREAS, it has been discovered that the actual measurements of the aircraft storage hangar are 50' X 60" (3000 square feet, more or less); and

WHEREAS Purchaser, knowing of the actual dimensions of the aircraft storage hangar, still desires to purchase said hangar;

NOW THEREFORE, in consideration of 1 and more dollars, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1 Exhibit A to the Purchase and Sale Agreement shall be amended to substitute the dimensions of 50' X 60' (3000 square feet, more or less) for 60' X 60' (3600 square feet, more or less).

2. All other terms and conditions of said Purchase and Sale Agreement, not inconsistent with the above amendment shall remain in full force and effect.

Dated this 24 day of December, 2020.

SELLER:

Michael I. Goldberg as Court Appointed Receiver
of both Jay Peak, Inc and Q Resorts, Inc.

Michael I. Goldberg, Receiver

BUYER:

Valain, Inc.

By: Alain Lussier
Alain Lussier, President and Duly Authorized Agent

Exhibit B



State of Vermont
Division of Policy, Planning & Intermodal Development –
Aviation Property Management

Agency of Transportation

One National Life Drive
Montpelier, VT 05633-5001
guy.tapper@vermont.gov

[phone] 802-917-4822
[fax] 802-828-2829
[ttd] 800-253-0191

July 3, 2019

Michael I. Goldberg, Receiver
c/o Akerman LLP
350 East Olas Boulevard, Suite 1600
Fort Lauderdale, Florida 33301

RE: Q.Resorts Hangar * Northeast Kingdom International Airport - A81122-00
New Land Lease

Mr. Goldberg,

Enclosed is a copy of the executed land lease for the Q.Resorts hangar at KEFK.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Tapper".

Guy Tapper
Property Management



**LEASE AND OPERATING RIGHTS AGREEMENT
BETWEEN
THE STATE OF VERMONT
AND
MICHAEL I. GOLDBERG, AS RECEIVER OF
JAY PEAK, INC. AND Q.RESORTS, INC.**

THIS LEASE AGREEMENT (the "Agreement") is made and entered into this 12th day of JUNE, 2019, by and between the State of Vermont, a sovereign state, acting through its Agency of Transportation, with its principal office at National Life Building, One National Life Drive, Montpelier, Vermont 05633-5001 ("STATE") and Michael I. Goldberg, as Receiver of Jay Peak, Inc. and Q.Resorts, Inc., with his mailing address c/o Akerman LLP, 350 East Las Olas Boulevard, Suite 1600, Fort Lauderdale, Florida 33301 ("TENANT").

WITNESSETH:

WHEREAS, STATE owns land and appurtenances in the Town of Coventry, County of Orleans, and State of Vermont, known as the Northeast Kingdom International Airport (the "Airport"); and

WHEREAS, it is the intent of STATE to continue to encourage general aviation, commercial and industrial services in connection with and on the Airport; and

WHEREAS, TENANT desires to enter into a lease with the STATE.

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

ARTICLE I - DESCRIPTION OF PREMISES

1.1. STATE hereby leases to TENANT, and TENANT hereby leases from STATE, the following described premises (collectively the "Leased Premises" or "Premises"), to wit:

- A. Aircraft Storage Hangar Lot. A certain parcel of land measuring approximately 80' X 80' (6,400 square feet more or less) upon which is built an Aircraft Storage Hangar measuring approximately 60' X 60' (3,600 square feet more or less), located directly north of and adjacent to the hangars currently owned by Nat Sims

Leased premises is more particularly described on "**Exhibit A**," attached and incorporated herein by reference.

1.2. TENANT shall have the following conditional rights that include:

- A. Common Areas TENANT shall have the right to utilize in common with others authorized by the STATE, all taxiways, sub-taxiways, and common paved ramp areas at the Airport. Utilization will be in accordance with all applicable local,

state, and federal rules, regulations and orders to include FAA Order 5190.6B or its current version.

ARTICLE II - BEGINNING AND EXPIRATION

2.1. Upon execution, this Agreement shall become effective July 1, 2019 and shall operate for an initial term of five (5) years.

2.2. Upon completion of the five-year term, with consent of the STATE, if TENANT has performed all its obligations under this Agreement satisfactorily and in a timely manner (which shall be presumed unless TENANT has received a written notice of breach and reasonable opportunity (at least 30 days) to cure, TENANT shall have the right to renew this Agreement for three (3) additional five-year terms, not exceeding a total period of twenty (20) years. STATE reserves the right to review and reform this lease at the time of renewal.

ARTICLE III – RENEWAL

3.1. To exercise its right to renew, TENANT must advise STATE in writing at least three (3) months prior to the expiration of the lease term, of TENANT's desire to renew this lease.

3.2. TENANT and STATE agree that this Agreement shall terminate effective on the closing date of TENANT's sale of the hangar to a qualified buyer. TENANT and buyer must notify State before any sales transaction is completed.

ARTICLE IV - RENT

4.1. TENANT shall pay STATE rent for the Leased Premises described in ARTICLE 1.1, the conditional rights described in ARTICLE 1.2, and TENANT's use of the facilities and privileges of the Airport (collectively "Rent") as follows:

Article 4.1A – Developed Aircraft Storage Lot (north side) – \$768.00 annually;

Annual fixed rent of Seven Hundred Sixty-eight and 00/100 Dollars (\$768.00), to be paid in monthly installments of \$64.00.

4.2. In the event of past due accounts, STATE may assess interest on the overdue amount at the maximum legal interest rate allowed by Title 9 of Vermont Statutes Annotated, Section 41a *et seq.*, or successor statute.

4.3. Rent checks shall be made payable to "State of Vermont" and mailed/delivered to:

Vermont Agency of Transportation
Financial Services Division
National Life Building
One National Life Drive
Montpelier, Vermont 05633-5001

4.4. TENANT shall pay all taxes imposed upon the business, aircraft, inventory, leasehold improvements, equipment, or buildings of TENANT.

ARTICLE V – NOTICES

5.1. Any notice or other communication connected with this lease shall be deemed to have been given when made in writing and mailed to the parties, by registered or certified mail with the United States Postal Service, at their addresses as set forth below or at such other address as may hereafter be designated by notice:

- A. As to STATE: Vermont Agency of Transportation
Division of Policy, Planning & Intermodal Development
Aviation Property Management
One National Life Drive
Montpelier, Vermont 05633
- B. As to TENANT: Michael I. Goldberg, as Receiver of Jay Peak, Inc.
and Q.Resorts, Inc.
c/o Akerman, LLP
350 East Las Olas Boulevard, Suite 1600
Fort Lauderdale, Florida 33301

ARTICLE VI – GENERAL CONDITIONS

6.1. The STATE's "General Conditions for State-Owned Airports, Leased Land, Limited Service Fixed Base Operators (FBOs), dated August 15, 2012," are attached hereto and incorporated herein by reference.

ARTICLE VII – ENTIRE AGREEMENT

7.1. This Agreement, with the terms and conditions herein contained, constitutes the entire agreement between the parties and supersedes and replaces all other agreements and representations in connection with leasing the premises herein described, including, but not limited to, the leases and amendments enumerated in the recitals above.

IN WITNESS WHEREOF, the STATE OF VERMONT has caused this instrument to be subscribed by Joe Flynn, its Secretary of Transportation and duly authorized agent, this 12th day of June, 2019.

STATE OF VERMONT
("STATE")

Joe Flynn
By: Joe Flynn, its Secretary of Transportation
and Duly Authorized Agent

STATE OF VERMONT)
WASHINGTON COUNTY, ss.)

At Barre, this 12th day of June, 2019, personally appeared Joe Flynn and acknowledged the foregoing instrument, by him as Secretary of Transportation and duly authorized agent of the STATE OF VERMONT subscribed, to be his free act and deed, and the free act and deed of the STATE OF VERMONT.

Before me,

Jo Ann Maguire
Notary Public
(My commission expires January 31, 2021)

APPROVED AS TO FORM:

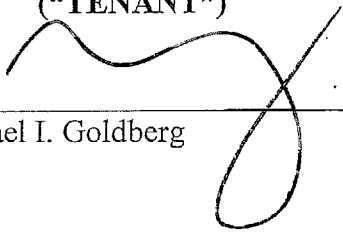
DATED: 4/25/2019

B.K. L.
ASSISTANT ATTORNEY GENERAL

IN WITNESS WHEREOF, MICHAEL I. GOLDBERG, AS RECEIVER OF JAY PEAK, INC. AND Q.RESORTS, INC. has caused this instrument to be subscribed, this 28th day of May, 2019.

MICHAEL I. GOLDBERG, AS RECEIVER OF JAY PEAK, INC. AND Q.RESORTS, INC. ("TENANT")

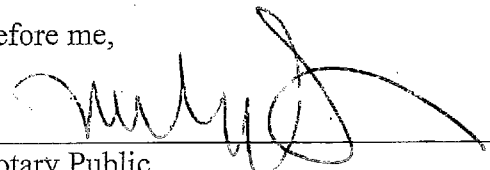
By: Michael I. Goldberg



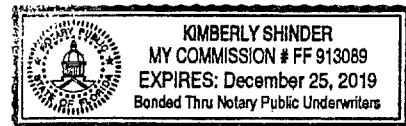
Florida
STATE OF VERMONT)
ORLEANS COUNTY, ss.)
Broward County

At 3:50 p.m EST, this 28th day of May, 2019, personally appeared MICHAEL I. GOLDBERG and acknowledged the foregoing instrument, by him as RECEIVER OF JAY PEAK, INC. AND Q.RESORTS, INC. subscribed, to be his free act and deed, and the free act and deed of the RECEIVER OF JAY PEAK, INC. AND Q.RESORTS, INC.

Before me,



Notary Public
(My commission expires January 31, 2021) KS



General Conditions
For State-Owned Airports Leased Land
Private Owned Hangars
September 25, 2012

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G.C. V	Indemnity and Public Insurance
G.C. VI.	Termination
GC. VII.	Assignment and Encumbrance
GC. VIII.	STATE Reservations and Subordination Agreement
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GC. XVIII.	Miscellaneous
GC. XIX	Notice
GC. XX	Dispute Resolution
GC. XXI	General Conditions

The State of Vermont and the Federal Aviation Administration work jointly to provide the infrastructure needed for Vermont's State owned airports to operate. As a requirement to receiving Federal assistance with the capital projects for our airports, we must agree to the Federal Assurances which impact our operations, policies and these lease agreements. Continued compliance with these assurances allows the State of Vermont to be eligible for additional Federal support for our airports.

GC.I. USE OF AIRPORT

1.01. The STATE grants TENANT, in common with others authorized by the STATE, use of the public facilities of the Airport, including but not limited to, the public areas of the landing field, roadways, runways, aprons, taxiways, approach lights, runway lights, beacons, radio navigation aids, and all other conveniences for landing, taking off and safe-flying at the Airport.

1.02. TENANT shall not post any signs without specific written approval of the STATE. However, the TENANT may post signs identifying the hangar number and owner/occupant, provided that such signs must be affixed to the building.

1.03. TENANT shall use the facilities on the Airport only for their designated purposes unless authorized by the STATE for other purposes.

1.04. No partner, affiliate, tenant, subtenant, employee or officer of TENANT shall use the premises or any rights or privileges acquired under the terms of this lease, or knowingly allow such use in a manner which would violate criminal law, whether State or Federal, or be in violation of Title 5, Vermont Statutes Annotated.

1.05. The STATE, acting in its proprietary capacity, may establish reasonable rules and regulations for noise control at the Airport. TENANT agrees to comply with any such rules and regulations.

1.06. TENANT agrees to occupy and use the leased premises in a careful, safe and orderly manner so as not to interfere in any way with the maintenance or operation of the Airport or any of its appurtenant structures or facilities, as determined by the STATE. The STATE shall have the right to enter the premises at any time to examine them. The STATE shall coordinate routine inspections with TENANT.

1.07. Any person(s) using the Airport as a TENANT or subtenant of either shall control its conduct and demeanor as to not cause, or allow to be caused, any interference in any way with any other TENANTS of the Airport including the Fixed based Operator (FBO).

GC.II. MAINTENANCE OF AIRPORT

2.01. The STATE shall be responsible for the maintenance and repair of the following public facilities consistent with flight safety: Runways, taxiways, aircraft parking aprons, access roads, automobile parking areas, fences and runway safety strips. The State's responsibilities shall include plowing snow, mowing and fertilizing grass, and repairing asphalt and turf surfaces up to

but not including areas leased to the TENANT.

2.02. TENANT shall park aircraft and vehicles only on the leased premises, clear of public taxiways or in designated parking areas for such vehicles.

2.03. TENANT shall be responsible for all maintenance and repairs required for TENANT's building(s) and facilities at own expense.

2.04. TENANT shall be responsible for all maintenance, including snow removal and repair of surfaces, of the ramp serving the leased Premises.

2.05. In situations where the STATE plows a public ramp area near private hangars, the STATE maintenance vehicles will come no closer than five (5) feet from the front of any private hangar.

2.06. TENANT shall pay for all installation of heat, power, water, and other utilities which may be required to service the leased premises. Utility installations that are attached to or part of the State-owned land shall become the property of the Vermont Agency of Transportation upon installation. TENANT shall be responsible for the ongoing maintenance and operating expenses for any utilities installed on the leased premises.

2.07. TENANT shall promptly collect and dispose of rubbish and refuse originating from TENANT's activities on the Airport.

2.08. TENANT shall not permit to remain on the Airport for more than thirty (30) days (unless in an enclosed building) any discarded, dismantled, wrecked, scrapped or ruined aircraft or parts thereof.

2.09. TENANT agrees to report within twenty-four (24) hours to the airport manager of the TENANT's discovery of any defect, failure or the required repair or replacement of any part of the Airport facilities, particularly, any facilities relating to the safe take-off and landing of aircraft.

2.10. TENANT agrees to keep all buildings and premises in a neat, safe and sanitary condition at all times.

2.11. In the event appropriated airport maintenance funds are diminished or deleted by action of the Vermont General Assembly or by action of any other entity providing such funds, the maintenance obligations of the STATE shall cease. At the discretion of the STATE, TENANT may assume the maintenance obligations. In such event the parties will enter into good-faith negotiations to reform this lease to recognize the TENANT's increased responsibilities and expenses.

GC.III. CONSTRUCTION AND USE OF BUILDINGS

3.01. Any hangar to be constructed, as referred to in Article One shall be constructed according to the terms and conditions of the lease and the TENANT agrees that construction of a permanent structure will commence within one (1) year of execution of this lease agreement. If TENANT

constructs a hangar and later sells to another party, these conditions apply to any exterior renovations and/or additions to be constructed in terms of permitting, as referred to in ARTICLE I - DESCRIPTION OF PREMISES.

3.02. All buildings and other facilities on the Airport, whether owned by the STATE, TENANT, or any other party, shall be used primarily for airport and aviation related activities.

3.03. TENANT agrees at its expense to comply with all ordinances, rules, regulations, requirements and all permitting laws and laws of all Federal, State, and municipal-authorities, so far as they may affect the leased premises and use of the Airport and its facilities.

3.04. TENANT shall be responsible for any costs resulting from the preparation, improvement, and use of the leased premises. The STATE assumes no responsibility in site preparation financial or otherwise. TENANT shall be responsible for any foundation or structural damage caused by actions of TENANT or TENANT's contractor(s) to any properties on or abutting State owned property.

3.05. TENANT shall not begin any construction or renovation that would change the internal or external footprint of the facility on the leased premises without necessary permits and prior written approval of the STATE. Any request for approval shall include the proposed location, design, materials, intended use, and other specifications. Approval shall be good for one (1) year.

If TENANT erects a structure or appurtenance on the leased premises, without prior written approval from the STATE, TENANT shall be obligated to remove it or STATE may do so at TENANT's expense.

3.06. Before beginning any construction, TENANT shall obtain all necessary permits and shall be responsible for complying with all requirements of the permits.

3.07. If future Airport development makes it desirable to relocate any building constructed and/or owned by TENANT during the period of this Lease, the STATE will make every possible attempt to locate a new site on the Airport designated by STATE for the location of said building. At such time of any relocation, this lease shall be amended to indicate the location of the new site for the hangar and other pertinent lease information that may apply. Relocation shall be the expense of STATE.

3.08. All proposed utility installations on the Airport, whether on the leased premises, common areas of the Airport, or areas of the Airport leased to third parties, shall be submitted to the STATE in advance for its approval and TENANT agrees to not install or allow to be installed any utilities prior to receiving such approval.

3.09. TENANT shall forward "as-built plans" thirty (30) days following the completion of the project or for any exterior renovations/additions to STATE.

G.C. IV- THREATENED & ENDANGERED SPECIES REQUIREMENT

4.01. The TENANT agrees to comply with the STATE's mowing protocol for new construction projects on State Airport properties. The STATE will provide a copy of the *Threatened and Endangered Species Requirements* to the TENANT at execution of this Agreement. Without limitation of the foregoing, the TENANT will observe the following requirements:

- a. 1. The TENANT agrees to comply with the STATE mowing protocol for new construction projects on State Airport properties. The STATE will provide a copy of the *Threatened and Endangered Species Requirements* with this Agreement. Without limitation of the foregoing, the TENANT will observe the following requirements: The TENANT will mow all impact areas, including construction areas, access routes, and staging areas prior to the Grasshopper Swallow breeding season which is typically between April 30 and July 31.
- b. Grass must be kept four (4) inches or shorter throughout the breeding season or until the construction project is completed.
- c. The TENANT will mark all disturbance areas, including the construction site, access routes and staging area with flagged stakes to avoid accidental encroachment on the Grasshopper Swallow habitat. Activity will be limited to the flagged staked area that is mowed during the grassland bird nesting season that is stated in Paragraph A.
- d. All grassed areas of the Airport not involved in the construction project, with the exception of the grass runway strips and strips along runways and taxiways unless specified otherwise in the Federal Aviation Administration (FAA) safety regulations, should remain un-mowed and undisturbed during the grassland bird nesting season stated in Paragraph A.

G.C. V. INDEMNITY AND PUBLIC INSURANCE

5.01. **Independence; Liability:** The TENANT will act in an independent capacity and not as officers or employees of the STATE.

The TENANT shall defend the STATE and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the TENANT or of any agent of the TENANT. The STATE shall notify the TENANT in the event of any such claim or suit, and the TENANT shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement, the TENANT may request recoupment of specific defense costs and may file suit in the Washington Superior Court requesting recoupment. The TENANT shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the TENANT.

The TENANT shall indemnify the STATE and its officers and employees in the event that the STATE, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the TENANT.

5.02. **Insurance:** Before exercising any rights granted by this Lease, the TENANT must provide certificates of insurance to show that the following minimum coverages are in effect. It is the

responsibility of the TENANT to maintain current certificates of insurance on file with the STATE through the term of the Lease. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the TENANT for the TENANT's operations. These are solely minimums that have been established to protect the interests of the STATE.

Workers Compensation: With respect to all operations performed, the TENANT shall carry workers compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the TENANT shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$2,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/Legal Liability

TENANT shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Lease.

Automotive Liability: The TENANT shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Lease. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

TENANT shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Lease.

5.03. Increased Insurance Coverage. STATE reserves the right, upon thirty (30) days' written notice, to require reasonable increases in the foregoing required insurances.

5.04. Contractors Hired by TENANT. If TENANT hires a contractor to perform work on the leased premises, the TENANT will require the contractor to defend, indemnify, and hold harmless the STATE and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of the contractor's work on the TENANT's premises. The TENANT will require the contractor to carry workers compensation insurance in accordance with the laws of the State of Vermont, general liability insurance in accordance with the coverage specified above, and automotive liability insurance (no less than \$1,000,000 combined single limit) covering all motor vehicles, including owned, non-owned, and hired, used in connection with the work to be performed.

5.05. **Certificate of Insurance.** The insurance required above shall be placed with a reputable insurance company authorized to do business in the State of Vermont. A binder or certificate of insurance, naming the State of Vermont as an additional insured, shall be delivered to the STATE as proof of compliance with this Article within ten (10) days of execution of this Lease. The policy shall provide that the insurance shall not be terminated or canceled without thirty (30) days' notice to the STATE. Renewal certificates shall be forwarded to STATE within ten (10) days of renewal. The amounts of the insurance shall not be deemed as limitation of the liability of the TENANT to indemnify, defend and save harmless the STATE as provided in this Article.

G.C. VI. - TERMINATION

6.01. If any payment to the STATE, the leasehold mortgagee, if any, or any third party providing goods or services to TENANT's operation at Airport, shall be in default and unpaid for thirty (30) days after notice to TENANT, unless cured within thirty (30) days after notice by the STATE to TENANT specifying the default and demanding compliance, STATE may re-enter and take possession of the premises. This re-entry shall constitute a termination of this lease.

6.02. If TENANT becomes delinquent in the payment of local, State, or Federal taxes for a period of thirty (30) days, unless cured within thirty (30) days after notice by the STATE to TENANT specifying default and demanding compliance, STATE may re-enter and take possession of the premises. The re-entry shall constitute a termination of this lease.

6.03. If the Airport is closed by fire, storm, casualty, or other Act of God, or by action of lawful authority for any period in excess of thirty (30) days, rental to the STATE shall be abated during that period. If the Airport is closed for these reasons for a period in excess of three (3) months, then TENANT at its option may terminate this lease by giving STATE thirty days (30) notice.

6.04. In the event of breach or default of any of the covenants set forth in this lease, the STATE shall have the right to terminate this lease and to re-enter and repossess the land and the facilities thereon, and hold the same as if this lease had never been made or issued.

6.05. If the STATE terminates this lease due to breach or default by TENANT of any of the covenants in this lease, TENANT shall be responsible for all damages, attorney's fees, and expenses directly or indirectly caused by the default and termination.

~~6.06. If the construction of the hangar and its facilities has not begun within one (1) year from the date of execution of this lease, STATE may notify TENANT of non-compliance with ARTICLE I - DESCRIPTION OF PREMISES, Paragraph 1.5, the STATE may re-enter and take possession of the premises. The re-entry shall constitute a termination of this lease.~~

6.07. If TENANT files a voluntary petition in bankruptcy, or proceedings in bankruptcy are instituted against TENANT and TENANT is adjudicated bankrupt pursuant to proceedings, or if TENANT is divested of, or be prevented by any final action of any Federal or State authority from conducting and operating its operations, this lease shall be immediately terminated.

6.08. If the STATE terminates this lease for any cause other than default or failure to comply with the terms of the lease by TENANT, if the rent shall have been paid by the TENANT in advance to a day subsequent to the date of termination of this lease, then the STATE within sixty (60) days after demand by TENANT, shall refund and repay to TENANT the apportioned amount of the rent paid by TENANT in advance for that portion of the term so avoided.

6.09. If the STATE terminates this lease because it chooses to exercise its right to develop or improve the portion of airport property leased to TENANT then the STATE, will give sixty (60) days notice of its intent to terminate. The STATE, at its own expense, will appraise the TENANT's hangar and offer to pay the TENANT fair market value for the hangar provided that the hangar is being used according to the terms and conditions of the lease and the hangar was purchased by the TENANT except in the event of war or national emergency, then **GC. IX SURRENDER OF POSSESSION** will apply.

6.10. If TENANT vacates the leased premises before the expiration of the lease term, without the written consent of the STATE, the full rental for the current term shall then become due and payable.

6.11. If this Lease is terminated by the STATE for any reason, the TENANT shall have three (3) months from the effective date of termination to sell or dismantle and remove the hangar from the STATE's premises. If TENANT does not sell or dismantle and remove the hangar within three (3) months, STATE shall have the right to remove the TENANT by summary proceedings as for a holding over after the expiration of the term of the lease, or without giving such notice may re-enter and take possession of the Premises either by force or without being liable to prosecution or damages therefore. In the event of such a re-entry, all buildings, structures and materials erected or placed upon the Premises shall thereupon be and become the property of the STATE, and/or may be removed and/or demolished by the STATE at the sole cost and expense of the TENANT. The TENANT hereby covenants and agrees to pay to the STATE, upon demand, the entire cost of such removal and/or demolition.

6.12. The TENANT covenants and agrees to surrender the premises hereby demised at the expiration of the term, or at any time when this lease shall be terminated as provided in this Agreement, in good order and condition satisfactory to the STATE.

6.13. The TENANT may surrender this lease at the end of the original term or any renewal thereof, and at the same date in any following year of a holdover tenancy from year-to-year, by giving written notice to the STATE of intent to surrender at least thirty (30) days before the proposed date of surrender. TENANT agrees that if TENANT fails to give such notice, then possession shall be deemed to continue until this lease is terminated by the STATE as provided in this Agreement.

6.14. If it becomes necessary for STATE to institute suit for eviction and/or for damages, on account of rental arrears or violation of the terms of the lease, STATE shall be entitled to recover of the TENANT its or their attorneys' fees and court costs, which fees and costs TENANT hereby covenants and agrees to pay.

6.15. This lease shall automatically end if the TENANT becomes delinquent in the payment of any

property taxes assessed on the Premises or on any TENANT-owned improvements located on the Premises.

GC.VII. ASSIGNMENT AND ENCUMBRANCE

7.01. TENANT agrees to not assign this lease or sublet any portion of the premises or mortgage or otherwise encumber any structures now or later placed on the leased premises, without the prior written consent of the STATE. The STATE's consent to assign, sublet, mortgage or encumber the whole or any part shall not be deemed as waiving this restriction as to any other portion or giving assent to any other subletting or assignment or encumbrance. TENANT further agrees that the premises shall be used only for the purposes specified. If TENANT sublets, TENANT shall remain responsible to the STATE for the subtenant's full and faithful performance of all terms and conditions of this lease and the approved sublease. The TENANT shall submit any proposed sublease for the STATE's prior approval.

7.02. STATE reserves the right to reform this lease at the time of a proposed assignment or sublease.

7.03. If TENANT is a closely-held corporation, then any proposed sale of controlling stock interest or other transaction involving control of TENANT shall be subject to review by the STATE as if such proposed transaction were an assignment.

7.04. If the STATE consents to a mortgage, then TENANT at all times shall keep the STATE informed as to the correct name and current address of any holder or assignee of the mortgage. The STATE agrees that it will send any such person(s) known to STATE a copy of any notice of default that may be sent to TENANT.

7.05. TENANT shall timely perform all mortgage obligations.

7.06. TENANT shall not, without the prior written consent of the STATE, subject its leasehold, or any of the buildings or other facilities located on the leased premises, to a declaration of condominium ownership under the Condominium Ownership Act, Vermont Statutes Annotated, Title 27, Sections 1301-29, the Uniform Common Interest Ownership Act, Vermont Statutes Annotated, Title 27A, or successor statutes. In the event of a change to condominium ownership, the STATE reserves the right to reform this lease, to impose reasonable charges on each transfer of condominium units, and to impose a reasonable annual charge on each condominium unit.

7.07. The STATE may withhold its permission for assignment of this lease if there are back rents owed, or violations of the current lease or unresolved environmental problems on the leased premises. As a condition to granting permission, the STATE may require TENANT to remain financially responsible for any cleanup, notwithstanding the assignment.

7.08. TENANT must contact the STATE before conveying title or attempting to convey title to another party within 21 days after locating a buyer to allow sufficient time to prepare an Assignment of Lease or a new lease to the other party.

7.09. In the event of a change of ownership during the term of this lease, or any renewal or extension of this Lease, the STATE's sole responsibility shall be to notify the TENANT that the ownership of the property has been transferred, providing the full name and address of the person to whom future rental payments should be directed.

GC.VIII. STATE RESERVATIONS AND SUBORDINATION AGREEMENT

8.01. Nothing contained in this Lease shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Chapter 3, Exclusive Rights of the Department of Transportation, Federal Aviation Administration Order 5190.6a, *Airport Compliance Requirements*, dated October 2, 1989.

8.02. The STATE reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport.

8.03. The STATE reserves the right to develop or improve the Airport property as it sees fit, regardless of the desires or views of TENANT, and without interference or hindrance on the part of TENANT.

8.04. This Lease is subordinate to the provisions of existing and future agreements entered into between the STATE and the United States to obtain Federal-aid for the improvement or operation and maintenance of the Airport, subject to reasonable notice to TENANT by STATE of any such proposed agreement and subject further to the right of TENANT to terminate this Lease if the subordination effectively prohibits TENANT from exercising the fundamental rights conveyed within this lease.

GC.IX. SURRENDER OF POSSESSION

9.01. During time of war or national emergency the STATE shall have the right to lease any part of the Airport to the United States Government, and, if such lease is executed, the provisions of this lease to the extent they are inconsistent with such lease shall be suspended without compensation to TENANT.

GC.X. STATE'S LIEN

10.01. If TENANT breaches any of the provisions of this lease, STATE shall have a lien to the extent of the breach and any continuation of the breach, upon all revenues, income, rents, earnings and profits from the leased premises as additional security to STATE for TENANT's faithful performance of each of the leases terms and provisions. The lien shall be superior to the rights of TENANT and any of its creditors or assignees or any trustee or receiver appointed for TENANT's property, or any other person claiming under TENANT.

10.02. Upon STATE's termination of this lease by reason of TENANT's default, all such revenues, income, rents, earnings, and profits derived or accruing from the leased premises from date of such termination by STATE shall constitute the property of STATE. The same is hereby

declared to be a trust fund for the exclusive benefit of STATE and shall not constitute any asset of the TENANT or any trustee or receiver appointed for TENANT's property. The provisions of this section shall be effective without the STATE's re-entry or repossession of the leased premises, and without any judicial determination that TENANT's interest under this lease has been terminated.

10.03. STATE may enforce its lien by directing any subtenant to remit rental payments directly to the STATE. TENANT shall include in its subleases a provision requiring each subtenant to make such payments to the STATE upon the STATE's giving notice of its lien.

GC.XI. SET OFF; TAX CERTIFICATION

11.01. **Set Off:** The STATE may set off any sums which the TENANT owes the STATE against any sums due the STATE under this Lease; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

11.02. Taxes Due to the State:

a. TENANT understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.

b. TENANT certifies under the pains and penalties of perjury that, as of the date the Lease is signed, the TENANT is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

c. TENANT understands that final payment under this Lease may be withheld if the Commissioner of Taxes determines that the TENANT is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.

d. TENANT also understands the State may set off taxes (and related penalties, interest, and fees) due to the State of Vermont, but only if the TENANT has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the TENANT has no further legal recourse to contest the amounts due.

11.03. **Subleases:** TENANT shall not assign, subcontract, or subgrant the performance of this Lease or any portion thereof to any other tenant without the prior written approval of the STATE. TENANT also agrees to include in all subleases a tax certification in accordance with paragraph 11.02 above.

11.04. **Approvals:** Notwithstanding any other provision of this lease, the STATE reserves the right to deny any renewal, extension, consent, or permission under this lease unless TENANT and any proposed assignee first provide the STATE with written certification of tax compliance in accordance with Title 32, Vermont Statutes Annotated, Section 3113.

GC.XII. WAIVER

12.01. Any waiver at any time by any party of its rights with respect to a default under this lease, or with respect to any other matter arising in connection with this lease, shall not be deemed to be a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right shall be deemed to be a waiver of such right.

GC.XIII. HAZARDOUS MATERIALS; ENVIRONMENTAL REPORTS

13.01. TENANT, at its own expense, shall comply with all present and hereinafter enacted environmental/cleanup responsibility laws ("Cleanup Laws") affecting the TENANT's operations at the Airport. TENANT, at its own expense, shall make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authorities (the "Authorities") under the Cleanup Laws. Should the Authorities determine that a cleanup plan be prepared and that a cleanup be undertaken because of any spills or discharges of hazardous substances or wastes on the Airport as a result of TENANT's operations, then TENANT, at its own expense, shall prepare and submit the required plans and financial assurances and carry out the approved plans.

13.02. TENANT's obligations under this Article shall arise if there is any closing, terminating, or transferring of operations of TENANT's establishment on the Airport premises pursuant to the Cleanup Laws. At no expense to the STATE, TENANT shall promptly provide all information requested by the STATE to determine the applicability of the Cleanup Laws to the premises, and shall sign the affidavits or submissions promptly when requested to do so by the STATE.

13.03. TENANT shall indemnify, defend, and hold harmless the STATE from all fines, suits, procedures, claims, and actions of any kind arising out of, or in any way connected with, any spills or discharges of hazardous substances or wastes arising as a result of TENANT's operations; and from all fines, suits, procedures, claims, and actions of any kind arising out of the TENANT's failure to provide all information, make all submissions and take all steps required by the Authorities under the Cleanup Laws or any other environmental laws.

13.04. TENANT shall promptly notify the STATE of any spills or discharges involving hazardous materials and supply the STATE with any notices, correspondence, and submissions made by TENANT to any Authorities, including the United States Environmental Protection Agency ("EPA"), the United States Occupational Safety and Health Administration ("OSHA"), or any other local, State, or Federal authority that requires submission of any information concerning environmental matters or hazardous wastes or substances.

13.05. TENANT's obligations and liabilities under this Article shall continue so long as the TENANT remains responsible for any spills or discharges of hazardous substances or wastes on the leased premises that occur during the term of this lease.

GC.XIV. STORAGE, HANDLING AND TRANSPORTATION OF HAZARDOUS

MATERIALS AND WASTES

14.01. TENANT shall comply with all present and future enacted Federal, State and local laws, ordinances, rules, and regulations dealing with the storage, handling and transportation of hazardous substances and wastes. Without limitation of the foregoing, TENANT's attention is directed to Titles 40 and 49 of the Code of Federal Regulations (storage and handling of hazardous materials; transportation of hazardous materials), the State of Vermont's Rules for Transportation of Hazardous Materials, and the applicable laws and regulations of Federal and State departments and agencies dealing with agriculture, public utility regulation, labor and industry, environment and natural resources, public health, safety, health, emergency management, and forests, parks and recreation, as well as any other department or agency concerned with hazardous substances or wastes.

GC.XV. CHILD SUPPORT - (applicable if TENANT is a Natural Person)

15.01. **Child Support:** (Applicable if the TENANT is a natural person, not a corporation or partnership.) TENANT states that, as of the date the Lease is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

TENANT makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the TENANT is a resident of Vermont, TENANT makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

GC.XVI. DBE PARTICIPATION

16.01. **Policy:** STATE and TENANT acknowledge that they are aware of the policy of the United States Department of Transportation that minority business enterprises, as defined in 49 C.F.R. Part 26, shall have the maximum opportunity to participate in the performance of leases as defined in 49 C.F.R. Section 26.5. Consequently, these leases are subject to 49 C.F.R. Part 26, as applicable.

16.02. **TENANT's Obligation:** TENANT hereby assures that no person shall be excluded from participation in, denied the benefits of or otherwise discriminated against in connection with the award and performance of any contract, including leases, covered by 49 C.F.R. Part 26 on the grounds of race, color, national origin or sex.

16.03. **Sub-lease Clause:** TENANT hereby assures that it will include the above clauses in all

subleases and require sub-tenants to similarly include such clauses in further subleases.

GC.XVII. ACCEPTANCE OF FEES

17.01. No acceptance by the STATE of rentals, fees, charges, or other payments in whole or in part, for any period or periods after a default of any of the terms, covenants, and conditions to be performed, kept, or observed by TENANT, shall be deemed a waiver of any right on the part of the STATE to terminate this Lease for any subsequent violation by TENANT.

GC.XVIII. MISCELLANEOUS

18.01. TENANT acknowledges the title of the STATE in the Premises described in this lease and agrees never to assail or resist said title.

18.02. TENANT agrees not to consume, sell or permit the sale of any beer, ale, wine or other spirituous liquor, of any kind whatsoever, upon or about the said leased Premises or Airport.

18.03. TENANT agrees that no portion of the leased Premises shall be used as, or as a site for, a residential dwelling unit.

18.04. The topic headings of the articles or paragraphs in this Lease are for convenience and reference purposes only and are not to be considered or relied upon for purposes of the content of such articles or paragraphs.

18.05. TENANT, for itself, its successors in interest, and assigns, does agree, as a covenant running with the land, that (a) no person shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities on the grounds of race, color, or national origin; (b) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the grounds of race, color, or national origin; (c) TENANT shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

18.06. This Lease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 26, subpart F. TENANT agrees that it will not discriminate against any business because of race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, subpart F. TENANT agrees to include these statements in any subsequent concession agreements that it enters and cause those businesses to similarly include the statements in further agreements.

18.07. TENANT for itself, its successors in interest, and assigns, does agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Department of Transportation

program or activity is extended or for another purpose involving the provision of similar services or benefits, TENANT shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as such regulations may be amended.

18.08. All references to the term of this lease shall mean the original term and any extension or renewals thereof.

18.09. The STATE shall be responsible for recording a memorandum of this lease in the appropriate town land records, at TENANT's expense. The charge to record documents in the land records at inception of this Lease is Eight Dollars (\$10.00) per page. TENANT shall provide STATE with a check payable to "Town Clerk" in the amount of \$40.00 (approximately 4 pages at \$8.00 per page) at the execution of the lease to allow for recording.

18.10. This lease, with the terms and provisions contained herein, constitutes the entire agreement between the parties. It supersedes and replaces all other agreements and representations in connection with leasing of the premises hereinafter described. Any amendments shall be made in writing, shall be signed by the TENANT and the STATE, and shall be acknowledged before a notary public.

18.11. The STATE shall have the right to amend this lease at any time relevant changes in Federal, State, or local laws, rules, regulations, ordinances, by-laws, etc., are made.

18.12. TENANT shall comply with all applicable statutes, rules, and regulations established by appropriate local, State or Federal governmental authorities, including, but not limited to, obtaining and bearing the cost of all necessary permits, licenses, and other items relative to TENANT's operation.

18.13. This Lease shall inure to the benefit of, and be binding upon, the successors, executors, administrators, and assigns of the parties.

18.14. TENANT agrees that STATE has the right of first refusal on the hangar that is constructed on the leased land. TENANT will notify STATE of the intent to sell and the asking price. STATE will have 30 days to respond on the intent. In the event STATE does not agree upon a purchase price with TENANT and TENANT finds another buyer for an amount less than the amount offered to STATE, STATE will have 15 days to agree to purchase for the lower amount, approve the sale to the new buyer or raise issues/concerns they have with the sale.

18.15. The TENANT will take all measures reasonably required by the STATE to prevent persons from entering on or near the STATE's adjacent property except as may be allowed herein by TENANT's use of the Premises.

18.16. The STATE and its designees shall have the right of entry at any time during reasonable working hours for the purpose of inspection of the Premises.

18.17. This Agreement pertains only to the properties owned by the State of Vermont and administered by its Agency of Transportation and does not release TENANT from the requirements of any otherwise applicable statutes, rules, regulations, or ordinances (e.g., Act 250, local zoning, etc.).

18.18. No tenant, subtenant, partner, affiliate, employee, or officer of the TENANT shall utilize or employ the Premises or any rights or privileges acquired under the terms of the lease, or knowingly allow such utilization or employment, in a manner which would constitute a violation of criminal law, whether State or Federal.

18.19. No statements, expressions of opinion, representations, or agreements of any nature whatsoever, not herein expressly stated, made by any representative or agent of the State of Vermont or the Vermont Agency of Transportation shall be binding on, or of any effect against, the State of Vermont or the Vermont Agency of Transportation.

18.20. The TENANT agrees to comply with the Americans with Disabilities Act of 1990 as amended and to assure that individuals with disabilities have equitable access to the services, programs and activities offered by the TENANT under this lease.

18.21. If an ambiguity or question of intent arises with respect to any provision of this Lease, the Lease will be construed as if drafted jointly by the parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any of the provisions of this Lease.

GC.XIX. – Notice

19.01. STATE shall provide TENANT written notice of any default with this agreement. TENANT shall have thirty (30) days to cure prior to the STATE taking action.

GC. XX - Dispute Resolution

20.01. In the event of a disagreement, the TENANT shall contact the Property Management Unit at the Agency of Transportation to schedule a meeting to discuss both sides and attempt a resolution. This meeting shall be scheduled within one week of the request unless it is agreed to by both parties.

20.02. If resolution is not reached, the TENANT shall present their disagreement to the Director of Policy, Planning & Intermodal Development at the Agency of Transportation in writing. The Director of PPAID shall respond within 14 days in writing with a decision.

20.03. If the TENANT is not satisfied with the decision of the Director of Policy, Planning & Intermodal Development they may appeal the decision to the Transportation Board.

GC. XXI - General Conditions

21.01. The General Conditions of this Lease shall be incorporated into this agreement as an attachment and by reference.

**Q.Resorts Hangar
A81122-00
Exhibit A**



Exhibit C

PAYABLE TO:
MAIL TO:

TOWN OF COVENTRY

PO Box 8
Coventry, VT 05825
www.coventryvt.org
802-754-2288

Please forward to the new owner if property was sold.

TAX BILL

PARCEL ID	BILL DATE	TAX YEAR
0TH02023.M	08/14/2019	2019

Taxes unpaid after the due date are delinquent. Max interest allowable by law will be charged and a fee of 8%. Taxes are due on or before 5pm local time 11/07/19. Postmarks will NOT be accepted.

Description: HANGAR
Location: AIRPORT ROAD

SPAN # 165-052-10722 SCL CODE: 052

OWNER QUIROS ARIEL
Q RESORTS INC
VT ROUTE 242
JAY VT 05859

FOR INCOME TAX PURPOSES

ASSESSED VALUE		NON RESIDENTIAL
REAL	65,400	65,400
TOTAL TAXABLE VALUE	65,400	65,400
GRAND LIST VALUES	654.00	654.00

MUNICIPAL TAXES				EDUCATION TAXES			
TAX RATE NAME	TAX RATE	x GRAND LIST =	TAXES	TAX RATE NAME	TAX RATE	x GRAND LIST =	TAXES
VOTED VETS EXEMPTION	0.0041	x654.00=	2.68	NON RESIDENTIAL EDUCATION	1.5547	x654.00=	1,016.77
				See reverse side for education tax rate calculation information.			
				TOTAL EDUCATION TAX 1,016.77			
				EDUCATION STATE PAYMENT 0.00			
				EDUCATION NET TAX DUE 1,016.77			
				TAX SUMMARY			
				Municipal + Education			
				TOTAL TAX 1,019.45			
				TOTAL STATE PAYMENT 0.00			
				TOTAL NET TAX DUE 1,019.45			
TOTAL MUNICIPAL TAX			2.68				
MUNICIPAL STATE PAYMENT			0.00				
MUNICIPAL NET TAX DUE			2.68				

DETACH THE STUB BELOW AND RETURN WITH YOUR PAYMENT

TOWN OF COVENTRY

PAYMENT DUE		TAX YEAR
11/07/2019		2019
OWNER NAME		
QUIROS ARIEL		
PARCEL ID		
0TH02023.M		
AMOUNT DUE	1019.45	
AMOUNT PAID		

Exhibit D

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 16-cv-21301-GAYLES

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ARIEL QUIROS,
WILLIAM STENGER,
JAY PEAK, INC.,
Q RESORTS, INC.,
JAY PEAK HOTEL SUITES L.P.,
JAY PEAK HOTEL SUITES PHASE II. L.P.,
JAY PEAK MANAGEMENT, INC.,
JAY PEAK PENTHOUSE SUITES, L.P.,
JAY PEAK GP SERVICES, INC.,
JAY PEAK GOLF AND MOUNTAIN SUITES L.P.,
JAY PEAK GP SERVICES GOLF, INC.,
JAY PEAK LODGE AND TOWNHOUSES L.P.,
JAY PEAK GP SERVICES LODGE, INC.,
JAY PEAK HOTEL SUITES STATESIDE L.P.,
JAY PEAK GP SERVICES STATESIDE, INC.,
JAY PEAK BIOMEDICAL RESEARCH PARK L.P.,
AnC BIO VERMONT GP SERVICES, LLC,

Defendants, and

JAY CONSTRUCTION MANAGEMENT, INC.,
GSI OF DADE COUNTY, INC.,
NORTH EAST CONTRACT SERVICES, INC.,
Q BURKE MOUNTAIN RESORT, LLC,

Relief Defendants.

Q BURKE MOUNTAIN RESORT, HOTEL
AND CONFERENCE CENTER, L.P.
Q BURKE MOUNTAIN RESORT GP SERVICES, LLC,

Additional Receivership Defendants¹

**ORDER GRANTING RECEIVER'S MOTION FOR AUTHORIZATION TO SELL
AIRCRAFT STORAGE HANGAR LOCATED AT THE NORTHEAST
KINGDOM INTERNATIONAL AIRPORT IN COVENTRY, VERMONT**

¹ See Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].
55858067;1

This matter came before the Court without a hearing upon the *Receiver's Motion for Authorization to Sell Aircraft Storage Hangar Located at the Northeast Kingdom International Airport in Coventry, Vermont* (the "Motion") [ECF No. ---] filed by the Court-appointed receiver, Michael I. Goldberg (the "Receiver"). The Court, having reviewed the Motion, being advised that counsel for the Securities and Exchange Commission has no objection to the relief requested in the Motion, and finding that the Receiver has made a sufficient and proper showing in support of the relief sought, does hereby

ORDER, ADJUDGE AND DECREE, as follows:

1. The Motion is **GRANTED**.
2. The Receiver is authorized to sell the receivership estate's rights, title, and interest in and to that certain aircraft storage hanger located at the Northeast Kingdom International Airport, 2628 Airport Road in Coventry, Vermont (the "Aircraft Storage Hangar") pursuant to the Purchase and Sale Contract, along with an Addendum to Purchase and Sale Agreement (the "Contract"), "As Is". A copy of the Contract is attached to the Motion as Exhibit "A". A legal description of the Aircraft Storage Hangar is attached hereto as Exhibit "A".
3. The Receiver is further authorized to execute any documents and take any actions reasonably necessary to consummate the transactions contemplated therein.
4. Upon receipt of the consideration set forth in the Contract, and delivery of any documents called for in the Contract by the Receiver, the sale shall stand as confirmed, without further Order of the Court.

DONE AND ORDERED in Chambers at Miami, Florida, this December ___, 2020.

DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE

EXHIBIT A

Legal Description of Hangar

-- Aircraft Storage Hangar Lot. A certain parcel of land measuring approximately 80' X 80' (6,400 square feet more or less) upon which is built an Aircraft Storage Hangar measuring approximately 60' X 60' (3,600 square feet more or less), located directly north of and adjacent to the hangars currently owned by Nat Sims Leased premises is more particularly described below and incorporated herein by reference.

