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[1],
AnC BIO VT, LLC,[2]

Additional Receivership Defendants.
_____/

[1]*See* Order Granting Receiver's Motion to Expand Receivership dated April 22, 2016 [ECF No. 60].
[2]*See* 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 ENTRY OF ORDER APPROVING SALE OF BURKE MOUNTAIN RESORT AND GRANTING RELATED RELIEF

Michael I. Goldberg the Court-appointed Receiver (the "Receiver"), by and through undersigned counsel, hereby files this *Motion for Entry of Order Approving Sale of Burke Mountain Resort and Granting Related Relief* (the "Motion"). In support of the Motion, the Receiver states:

I. Preliminary Statement

1. At the time the Receiver was appointed in 2016, the receivership estate had two main assets: the Jay Peak Resort and the Burke Mountain Resort (the "Resort" or "Burke Mountain Resort"). The Jay Peak Resort was fully operational while the Burke Mountain Resort was closed, non-operational and did not yet have a certificate of occupancy. While the Jay Peak Resort was relatively profitable, the Burke Mountain Resort had no revenue in which to pay its fixed costs. Within a year of the commencement of the receivership the Receiver was able to satisfy the necessary conditions to open the Burke Mountain Resort and obtain a certificate of occupancy. Since that time, the Receiver, with the help and guidance of Leisure Hotels, LLC ("Leisure"), the Court-approved management company operating the Resort, has overseen the Resort's operations. Although the Resort has never been profitable, it has inched its way towards a "break-even" performance over the years.

2. The Receiver sold the Jay Peak Resort in late 2022. Since the sale of the Jay Peak Resort, the Receiver has focused his attention on operating and selling the Burke Mountain Resort. After several potential sales have fallen through, the Receiver entered into discussions with Bear Den Partners, LLC, a Vermont limited liability corporation ("Bear Den Partners"), to purchase the Burke Mountain Resort, subject to the Court's approval.

3. Through this Motion, the Receiver seeks to sell the Burke Mountain Resort to Bear Den Partners for a purchase price of Eleven Million Five Hundred Thousand Dollars ($11,500,000) as more fully set forth in the attached Agreement of Purchase and Sale and below. The sale will be "free and clear" of liens, with liens attaching to sale proceeds, except as otherwise provided for in the Agreement of Purchase and Sale (defined below). The Receiver believes the proposed sale to be in the best interest of the receivership estate as: (i) the Burke Mountain Resort has substantial carrying costs; (ii) the Receiver and his professionals have been actively marketing the Burke Mountain Resort for sale for many months, and the Agreement of Purchase and Sale memorializes the highest and best offer received to date;[3] and (iii) the sale will enable the Receiver to make further distributions to investors.

II. Background

4. Michael Goldberg is the court-appointed receiver over the Receivership Defendants[4] the Relief Defendants,[5] and Additional Receivership Defendants[6] including their subsidiaries, successors and assigns, pursuant to the *Order Granting Plaintiff Securities and*

[3] Other parties have expressed interest in purchasing the Burke Mountain Resort over the past few years, however, only Bear Den Partners LLC has been willing to finalize and execute a Purchase Agreement. One other group previously had agreed to pay $12 million for the Resort, however, at the last minute right before execution of the contract it reduced its bid to $10 million.

[4] The "Receivership Defendants" are 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 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."

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.

5. The Receivership Order authorizes, empowers and directs the Receiver to, among other things, continue to operate the Receivership Entities, and manage and administer the business affairs of the Receivership Entities for the benefit of its investors and subject to order of this Court. Receivership Order, ¶ 4.

6. The Receiver is also authorized, empowered and directed to take immediate possession of all real property of the Receivership Entities, 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. Receivership Order, ¶1.

7. The Receivership Order likewise 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. Receivership Order, ¶17.

8. The Receiver thus has the authority to sell all assets, including real property, of the Receivership Entities and their subsidiaries, successors and assigns: Burke 2000 LLC, (ii) Mountain Road Management Company, (iii) Burke Mountain Water Company, (iv) Burke Mt. Operating Company, (v) Burke Mountain Event Company, LLC, (vi) Q Burke Mountain Resort, Hotel and Conference Center L.P., and (vii) Q Burke Mountain Resort, LLC (collectively, the "Seller Entities").

9. The Burke Mountain Resort is a mid-size ski resort located on Burke Mountain in northeast Vermont. The resort has 116 hotel rooms, and is marketed for skiing, snowboarding, and mountain bike riding. The resort also has indoor and outdoor venues available to rent for

private events.

10. The Receiver has continued to work with Leisure to manage and operate the Burke Mountain Resort together with Burke Mountain Resort's General Manager, Kevin Mack. The Receiver has continued to work to increase Burke Mountain Resort's value to position it to achieve the maximum amount possible in a sale. The Receiver has received and responded to various inquiries from entities interested in purchasing the Burke Mountain Resort. The Receiver has corresponded regularly with potential purchasers regarding the potential sale, due diligence, and the sale process for Burke Mountain Resort. However, Bear Den Partners is the only potential buyer who has offered a fair price and who has the support of key constituents who can potentially derail the sale as explained more fully below.

11. Now, the Receiver, through his efforts, has identified a purchaser for the Burke Mountain Resort. The Receiver has negotiated an Agreement of Purchase and Sale and is hopeful he will be able to close on the sale of the Resort in early May.

III. The Agreement of Purchase and Sale

12. Through this Motion, the Receiver seeks approval of the Agreement of Purchase and Sale (the "Purchase Agreement") [7], a true and correct copy of which is attached hereto and incorporated herein as **Exhibit A**.

13. Each of the Seller Entities, other than Burke Mt. Operating Company, Burke Mountain Event Company, and Q Burke Mountain Resort, LLC is the owner of a fee or leasehold estate in and to a portion or portions of the land more particularly described in Schedule A-1 of the Purchase Agreement as such real property or leasehold interest may be more particularly

[7] All capitalized terms shall take on the meaning ascribed to them in the Purchase Agreement, unless otherwise defined herein.

described in the Title Commitment (collectively, the "Land")(the Land and the Improvements thereon shall be referred to collectively, as the "Owned Real Property"). The Owned Real Property and the Asset-Related Property shall be referred to herein as the "Assets" or the "Resort."

14. Burke Mt. Operating Company, Burke Mountain Event Company, and Q Burke Hotel and Conference Center LP are each Seller Entities, are affiliated with the other Seller Entities, and are holders of certain rights and have certain obligations with regard to the Resort.

15. The Receiver seeks to sell to Buyer, and Buyer desires to purchase from the Seller Entities, the Assets on the terms and conditions set forth in the Purchase Agreement.

16. The Receiver seeks authority to enter into the Purchase Agreement with Bear Den Partners, LLC (the "Buyer"). The Buyer is unrelated to the Seller Entities and its current management, agents, representatives, or professionals. The Buyer is also unrelated to the Seller Entities' past principals and owners. The Buyer is neither a successor nor a continuation of the Receivership Entities. Bear Den Partners is a group with long-standing ties to Vermont's Northeast Kingdom. Bear Den Partners comprised of members of the Graham family, a local Burke family with strong ties to the mountain; Burke Mountain Academy, the leading ski racing academy in the United States, located in East Burke; and the Schaefer family, also with local ties, who, as owner/operators of Berkshire East in Mass., Catamount Resort in NY, and Big Red Cats in Rossland British Columbia, brings independent ski resort operating expertise to the ownership group. Notably for riders of the Kingdom Trails, a biking mecca located in Burke, the Schaefer family built and opened Thunder Mountain Bike Park at Berkshire East. Every principal of Bear Den Partners is a lifelong skier and outdoor enthusiast and has deep roots in the Northeast Kingdom.

17. Bear Den Partners is financially capable and has committed to invest significant

additional capital into the Burke Mountain Resort which is necessary to make it the best ski resort possible. The Receiver unequivocally states that in his opinion Bear Den Partners is the best possible purchaser for the Burke Mountain Resort and believes that this agreement is in the best interest of the investors, the employees and the Burke ski community.

18. The Purchase Agreement provides that the consideration for the Assets by the Buyer is $11,500,000(the "Purchase Price"). The Purchase Price, less the Deposit[8] (the "Cash Payment") shall be paid by the Buyer at Closing subject to adjustments and credits as more particularly described in the Purchase Agreement resulting in an anticipated net payment to the receivership estate of approximately $11,200,000.[9]

19. Further, the Purchase Agreement contemplates a Water System Holdback in the amount of Two Hundred Fifty Thousand Dollars ($250,000) which shall reduce the portion of the Purchase Price paid to Seller at Closing. The receivership estate will recover this holdback upon the Buyer obtaining the requisite transfer of the Water System license.

20. Seller and Buyer shall enter into the Water System Operating Agreement at Closing and adhere to the terms and conditions thereof including those related to the transfer of the Water System Assets to Buyer and Buyer shall approve the release of the Water System Holdback in accordance with Section 16.1 of the Purchase Agreement at such time as the Transfer Conditions, as defined in the Water System Operating Agreement have been satisfied, and Seller shall keep Burke Mountain Water Company in operation for such period as necessary to perform the obligations undertaken by Burke Mountain Water Company pursuant to the Water System

[8] Buyer shall deposit with Escrow Agent, an amount equal to Five Hundred Thousand Dollars ($500,000) (such cash deposit, together with all accrued interest thereon, shall be referred to as the "Deposit").

[9] In addition to these sums, the Receivership Estate will also obtain approximately $1.8 million in cash in the Burke Mountain Resort's operating account.

Operating Agreement, with Buyer to be responsible for all costs of operating Burke Mountain Water Company until the transfer Date and for indemnifying Seller against claims arising from such post-Closing period of operations.

21. As an accommodation to Buyer, Seller has agreed to retain title to the Water System Assets until such time as Buyer obtains the approval of the transfer of the Burke Mountain water system certificate of public good, and related approvals, as more fully described in the Water System Operating Agreement attached to the Purchase Agreement as Exhibit I (the "Water System Operating Agreement") which shall be executed at Closing. Seller agrees to the Water System Holdback at Closing, with the amount of the holdback to be released to Seller at such time as the Transfer Conditions, as defined in the Water System Operating Agreement have been satisfied.

22. The proposed sale of Assets is to be "free and clear" of liens, with liens attaching to sale proceeds, except as otherwise provided for in the Purchase Agreement. The sale of the Assets to the Buyer shall also be free and clear of any claims of successor liability.

23. After the Closing, subject to obtaining any necessary regulatory approvals and subject to federal, state and local economic conditions, Buyer intends to make significant capital investment (estimated to be as much as $10 million in the short term and $20 million longer term) in the Resort by, among other things, upgrading the outdoor activity experience through snowmaking, adding lifts and cutting new trails and building out the summer recreational offerings, as well as improving the guest experience by making hotel renovations, upgrades to the food and beverage offerings and improvements to the events infrastructure and operations. Buyer believes these changes are what is required to make the Burke Mountain Resort operations profitable, thus stabilizing a critically important "keystone" business in the Burke community. Further, to the extent legally permissible without creating additional obligations or restrictions on

Buyer, Buyer would be willing to allow the EB-5 Parties to benefit from the job creation expected to result from Buyer's intended investment referred to above.

IV. Receiver Requests the Court Waive An Auction Process

24. Typically, the Receiver would contemplate an auction sale process in order to assure the highest and best offer for the Resort. However, the Resort has been on the market for many months and, although several parties have expressed interest, no party has been willing to make a binding offer and enter into a sale agreement until this Buyer which is at the highest offer price the Receiver has received to date. Further, for the reasons set forth below, the Receiver submits that an auction process would be very risky and not in the best interest of the receivership estate and the investors.

25. First, Bear Den Partners has conditioned its offer and the Purchase Agreement on a sale without an auction process as it has spent hundreds of thousands of dollars engaging in due diligence and negotiating the Purchase Agreement. Importantly, its offer is contingent on no auction because Bear Den Partners needs to close this transaction quickly and start making capital improvements to the property in order to complete them before next ski season. Accordingly, Bear Den Partners will withdraw its offer in the event the Court requires an auction and the receivership estate risks losing what the Receiver truly believes to be a great offer.

26. Second, Burke Mountain Academy ("BMA") has a right of first refusal on the sale of the Resort. More specifically, there is an Option Agreement and Right of First Refusal from Burke 2000 LLC, Mountain Road Management Company and Burke Mountain Water Company to BMA dated November 29, 2005, recorded in Burke Land Records at Book 103, Page 539, as amended by Amendment of Option Agreement and Right of First Refusal, dated June 1, 2011, recorded in Burke Land Records at Book 124, Page 369, as the same may be amended, restated,

extended, assigned, replaced, supplemented or otherwise modified from time to time (the "BMA Right of First Refusal Agreement"). Thus, even if the Receiver were to conduct an auction, he would have to offer BMA the right to acquire the Resort at the same price as the winning bid. This alone would "chill" the auction process because other potential bidders can spend hundreds of thousands of dollars in conducting due diligence merely to have the Resort bought out from under them. However, BMA has agreed to waive its right of first refusal solely with respect to Bear Den Partner's offer thereby allowing the sale to Bear Den Partners to go through without any issue.

27. Third, there is a covenant made by Burke Mountain Recreation, Inc. (the "Covenant") which is part of the terms and conditions of a Declaration of Covenants and Restrictions dated November 20, 1970 and recorded in Volume 30, Page 300, as amended by: Supplemental Declaration of Covenants and Restrictions dated December 1, 1971 and recorded in Volume 30, Page 377; Supplemental Declaration of Covenants and Restrictions dated August 31, 1977 and recorded in Volume 35, Page 389; Supplemental Declaration of Covenants and Restrictions dated October 31, 1977 and recorded in Volume 35, Page 518; Corrective Supplementary Declaration of Covenants and Restrictions dated January 12, 1978 and recorded in Volume 36, Page 228; Covenants and Restrictions dated February 1, 1978, executed March 14, 1978 and recorded in Volume 36, Page 415; and Revisions voted on May 31, 1986 and May 16, 1987 and recorded in Volume 50, Page 454.

28. The Covenant pertains to the Common Recreation Area and allegedly restricts the right to transfer any such interest therein to a for profit entity. Although the Receiver does not believe the Covenant prevents him from selling the Resort, Bear Den Partners has obtained a waiver of this Covenant thereby negating any potential fight with respect thereto.

29. Finally, the Resort property sits upon a ground lease with the State of Vermont.

Any contract to purchase the Resort will necessarily be conditioned on the State of Vermont approving the assignment of the ground lease to the buyer. Importantly, the State of Vermont has already conducted its due diligence on Bear Den Partners and has already executed and consented to the assignment of the lease to Bear Den Partners. Therefore, this condition to close has already been satisfied with respect to Bear Den Partners while it would remain a condition to close as to any other potential buyer. Simply put, no other potential buyer is in the position to guaranty a smooth closing and requiring an auction risks losing the only legitimate bid existing at this time. Therefore, the Receiver believes dispensing with the auction process is in the best interest of the receivership estate.[10]

V. Assumption and Assignment

30. The Purchase Agreement contemplates the assumption and assignment of certain executory contacts and unexpired leases, including certain Contracts and Space Leases and specifically, the Ground Lease and the BMA/BRI Contracts. *See* Purchase Agreement, generally.

31. The Purchase Agreement provides that for all Operating Contracts set forth on Schedule 3.1(b):

> [I]f any such Operating Contract requires consent of the vendor party (or other counterparty), Buyer shall use commercially reasonable good faith efforts to obtain such consent as of the Closing as provided below, and Seller agrees to cooperate in good faith to support the request for consent (and in any event, Buyer shall assume all Operating Contracts or any Losses arising out of, or in any way related to, Buyer's failure to obtain such consent as of the Closing), provided, however, that Buyer's obligations shall not arise unless and until such obligations exceed the Basket Limitation and shall be capped at the Cap Limitation.

[10] Importantly, this is a sale of a business with ongoing operations as opposed to the sale of simply real estate. Therefore, any argument that the Receiver is required to conduct an auction is inapplicable.

Purchase Agreement, Section 2.1(b)(v).

32. The Purchase Agreement provides that for all Equipment Leases set forth on Schedule 3.1(b):

> [I]f such Equipment Leases require consent of the vendor party (or other counterparty), Buyer shall use good faith efforts to obtain such consent as of Closing, and Seller agrees to cooperate in good faith to support the request for consent. In any event, Buyer shall assume all Equipment Leases as provided below and shall provide replacement guarantees, if applicable, to the applicable vendor party in the event Seller or any Affiliate thereof has theretofore executed a guarantee in connection therewith, even if such consent has not been obtained;

Purchase Agreement, Section 2.1(b)(vii).

33. The Purchase Agreement likewise provides that for all Operating Contracts, Space Leases, and Equipment Leases set forth on Schedule 3.1(b):

> Buyer is responsible for obtaining approvals to transfer with respect to each Operating Contract, Space Lease, and Equipment Lease which requires consent from the contract counter party for assignment to Buyer, Seller agrees to cooperate in good faith to support the request for consent. If the counterparty does not consent to such assignment then Seller shall be entitled to send notice to the counterparty terminating such Operating Contract, Space Lease and/or Equipment Lease and, Buyer shall be responsible for any termination fee or penalty or other amounts due with respect to such Operating Contract, Space Lease and/or Equipment Lease from and after the Closing Date, provided, however, that Buyer's obligations shall not arise unless and until such obligations exceed the Basket Limitation and shall be capped at the Cap Limitation. Regardless of whether the consent from the counterparty is obtained prior to Closing and except with respect to any Operating Contracts, Space Leases, and/or Equipment Leases terminated by Seller pursuant to the foregoing, Buyer shall assume such Operating Contracts, Space Leases, and Equipment Leases along with all other Operating Contracts, Space Leases, and Equipment Leases as to which consent to assignment is not required and shall be responsible as of Closing for all obligations under any such Operating Contract, Space Lease, and/or Equipment Lease. Buyer shall indemnify the Seller Parties

> from and against any and all loss, damage, cost, charge, liability or expense (including court costs and reasonable attorneys' fees) which the Seller Parties may sustain or incur as a result of Buyer's assumption of the Operating Contracts, Space Leases and Equipment Leases, including, without limitation, any failure of Buyer to obtain the consents or approvals required by any third parties in connection with such assumption, but subject to the limitations set forth herein. This paragraph shall survive Closing.

34. As a condition to the sale, the Receiver must cause the assignment of a certain ground lease currently between the Burke Mountain Resort and the State of Vermont to the Bear Den Partners. Specifically, the Ground Lease is defined in the Purchase Agreement as "that certain Lease by and between the State of Vermont, acting through the Commissioner of the Department of Forests, Parks, and Recreation and the Director of Forests, with the approval of the Secretary of the Department of Environmental Conservation and the Governor of the State of Vermont, as lessor, and Burke Mountain Recreation, Inc., a Vermont corporation, as lessee, executed on April 21, 1975, as assigned by *mesne* assignment to Burke 2000 LLC, as lessee, as extended to date, as subleased to Burke Mt. Operating Company, as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time." *See* Section 1.1 of the Purchase Agreement. The Ground Lease with all options terminates on December 1, 2054. The State of Vermont has already executed and delivered to the Receiver an "Assignment and Assumption of State Lease" agreeing to allow the Burke Mountain Resort to assign the Ground Lease to Bear Den Partners in which the State of Vermont confirms that the Ground Lease "is in full force and effect" and "that neither the Assignor [the Resort] not the Assignee [Bear Den Partners] are in default or breach of the Lease" as of April 17, 2025. The only item the State of Vermont requires is a copy of Bear Den Partner's insurance binder. Buyer is aware of and has agreed to provide the State of Vermont with the insurance binder. Accordingly, this condition to

close has been fully satisfied.

VI. Relief Requested

35. Through this Motion, the Receiver seeks the entry of an Order: (i) approving the sale of the Assets to the Buyer and (ii) granting related relief.

VII. Support for Relief Requested

36. 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). These powers include the authority to approve the sale of property of the Receivership Entities. Clark on Receivers § 482 (3rd ed. 1992) *citing First National Bank v. Shedd*, 121 U.S. 74, 87 (1887) (noting that a court of equity having custody and control of property has power to order a sale of the property in its discretion). The Court should exercise its power and authorize the Receiver to sell the Resort pursuant to the terms and conditions set forth in the Purchase Agreement.

37. Federal statutes 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 shall be sold at public sale within the district where the receiver was first appointed. *Id*. However, after notice and hearing, a court may order the sale of realty 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). Importantly, in this case the Receiver seeks to sell a business—an operating resort—and not simply real property so the aforementioned statute is not readily applicable See, *Wells Fargo Bank, N.A., as Trustee v. Glenwood Hospitality, Inc.,* 11-cv-02386-MSK-KLM (D. Colo. 2013)(waiving requirements of 28 U.S.C. 2001 and allowing receiver to sell hotel via private sale). More

importantly, however, as set forth above, selling the Resort via a private sale is in the best interests of the receivership estate.

38. 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 Property. The Property has been exposed to the marketplace, providing evidence of the actual value of the Property 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"). Importantly, the Receiver has discussed the purchase price with Leisure Real Estate Advisors, LLC, a commercial real estate broker who specializes in the sale of hospitality properties and its affiliate Leisure who has managed the Resort for the past 8 years. Leisure Real Estate Advisors, LLC and Leisure have advised the Receiver that, in their expert opinion, they believe the $11,500,000 purchase price is extremely fair based on the fact that the Resort has been negatively cash flowing the entire eight year period it has been open; has deferred maintenance obligations that must be promptly attended to; and will require a significant investment by any buyer to make the Resort profitable.[11]

39. Moreover, the Buyer is an independent party; the Purchase Agreement was entered into as an arm's length transaction, and the Buyer is the only buyer acceptable to the holder of the right of first refusal and the party who must waive rights under a recorded covenant. Therefore,

[11] Additionally, if the Receiver does not sell the Resort, he will have to potentially make a capital call on investors to fund necessary maintenance and repair obligations. This would be problematic as many investors simply do not have the funds to contribute and would risk losing their investment which would be economically devastating and may also affect their immigration petitions.

the Receiver requests the Court exercise its authority to dispense with the procedural requirements and authorize the private sale. *See, e.g., SEC v. Utsick, et al.*, 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).

40. 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 sell the Assets pursuant to the terms of the Purchase Agreement, will expeditiously further the goals of the receivership. The sale will eliminate the considerable costs to the receivership estate associated with operating and maintaining the Resort, and the sale will enable the Receiver to make further distribution to investors. Based on the foregoing, the Receiver respectfully requests the authority to sell the Resort to the Buyer under the terms of the Purchase Agreement.

WHEREFORE, the Receiver respectfully requests the Court to enter an Order 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, undersigned counsel hereby certifies that counsel for the Receiver has conferred with counsel for the Securities and Exchange Commission, who takes no position on the Motion.

Dated: April 18, 2025

Respectfully submitted,

AKERMAN LLP
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By: /s/ Michael I. Goldberg
Michael I. Goldberg, Esq.
Florida Bar Number: 886602
Email: michael.goldberg@akerman.com
Court-Appointed Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this April 18, 2025 via the Court's notice of electronic filing on all CM/ECF registered users entitled to notice in this case, via e-mail to the last known e-mail address for all Burke investors, and via notice posted on the Receiver's website.

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

EXHIBIT A

Execution Version

AGREEMENT OF PURCHASE AND SALE

by and among

the parties defined herein as "Seller Entities"

and

the parties defined herein as "Buyer Entities"

Dated as of April 17, 2025 (Effective Date)

Burke Mountain, Town of Burke, Vermont

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LIST OF ATTACHED AND INCORPORATED SCHEDULES AND EXHIBITS

AGREEMENT OF PURCHASE AND SALE

This AGREEMENT OF PURCHASE AND SALE (this "Agreement"), is made as of the Effective Date, defined below, by and among the entities more particularly described under the definition of "Seller Entities," below (collectively, the "Seller Entities" or "Sellers," and each individually a "Seller Entity" or as the context provides, a "Seller") and the entities more particularly described under the definition of "Buyer Entities," below (collectively, the "Buyer Entities" or "Buyers," and each individually a "Buyer Entity" or as the context provides, a "Buyer").

BACKGROUND

A. Each of the Seller Entities, other than Burke Mt. Operating Company, Burke Mountain Event Company, and Q Burke Mountain Resort, LLC is the owner of a fee or leasehold estate in and to a portion or portions of the land more particularly described in **Error! Reference source not found.**, attached hereto and incorporated herein, as such real property or leasehold interest may be more particularly described in the Title Commitment (collectively, the "Land").

B. The Land and the Improvements (as defined below) thereon, shall be referred to herein, collectively, as the "Owned Real Property"; the Owned Real Property and the Asset-Related Property (as defined below) shall be referred to herein as the "Assets" or the "Resort."

C. Burke Mt. Operating Company, Burke Mountain Event Company and Q Burke Hotel and Conference Center LP are each Seller Entities, are affiliated with the other Seller Entities, and are the holders of certain rights and have certain obligations with regard to the Resort.

D. Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, the Assets on the terms and conditions hereinafter set forth.

E. After the Closing, subject to obtaining any necessary regulatory approvals and subject to federal, state and local economic conditions, Buyer intends to make significant capital investment (estimated to be as much as $10 million in the short term and $20 million longer term) in the Resort by, among other things, upgrading the outdoor activity experience through snowmaking, adding lifts and cutting new trails and building out the summer recreational offerings, as well as improving the guest experience by making hotel renovations, upgrades to the food and beverage offerings and improvements to the events infrastructure and operations. Buyer believes these changes are what is required to make the Burke Mountain resort operations

profitable, thus stabilizing a critically important "keystone" business in the Burke community. Further, to the extent legally permissible without creating additional obligations or restrictions on Buyer, Buyer would be willing to allow the EB-5 Parties to benefit from the job creation expected to result from Buyer's intended investment referred to above.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Defined Terms. The capitalized terms used herein will have the following meanings.

"Accounts Receivable" shall mean all amounts which Seller (or Manager or any other agent or representative of Seller, on behalf of Seller) is entitled to receive from the operation of the Resort, but are not paid as of the Closing (including, without limitation, charges for the use or occupancy of any guest, conference, meeting or banquet rooms or other facilities at the Resort, or any other goods or services provided by or on behalf of Seller at the Resort, but expressly excluding any credit card charges and checks which Seller has submitted for payment as of the Closing).

"Additional Title Information" has the meaning ascribed to it in Section 8.2(a).

"Affiliate" shall mean any Person (as defined below) that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, another Person. The term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise, and shall in any event include the ownership or power to vote fifty percent (50%) or more of the outstanding equity or voting interests, respectively, of such other Person.

"Agreement" shall mean this Agreement of Purchase and Sale, together with the exhibits and schedules attached hereto, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Anti-Money Laundering and Anti-Terrorism Laws" shall have the meaning assigned thereto in Section 3.1(e)(i).

"Applicable Law" shall mean all statutes, laws, common law, rules, regulations, ordinances, codes or other legal requirements of any Governmental Authority, board of fire underwriters and similar quasi-governmental agencies or entities, and any judgment, injunction, order, directive, decree or other judicial or regulatory requirement of any Governmental Authority of competent jurisdiction affecting or relating to the Person or property in question.

"Asset File" shall mean the materials with respect to the Assets (i) previously delivered to Buyer or its representatives by or on behalf of Seller, whether written or orally, (ii) made available to Buyer or its representatives at the Resort, (iii) made available to Buyer or its representatives in the data room web site created by Seller, Affiliate, or any agent or representative of Seller on behalf of Seller, or (iv) from any of Buyer's reports, inspections, surveys and/or studies.

"Asset-Related Property" shall have the meaning assigned thereto in Section 2.1(b).

"Assets" shall have the meaning assigned thereto in "Background" paragraph B. For the avoidance of doubt, the Assets will not include any ownership interest in any of the Seller Entities.

"Assigned Accounts Receivable" shall have the meaning assigned thereto in Section 10.2(b)(i);

"Assignment of Contracts and Leases" shall have the meaning assigned thereto in Section 6.1(a).

"Assignment and Assumption Agreement" shall mean a certain Assignment and Assumption of State Lease in the form attached as Exhibit G.

"Assignment of Intangibles" shall have the meaning assigned thereto in Section 6.1(b).

"Basket Limitation" shall mean an amount equal to One Hundred Thousand Dollars and NO/100 ($100,000.00).

"Bill of Sale" shall have the meaning assigned thereto in Section 6.2(b).

"BMA" shall mean Burke Mountain Academy Inc.

"BMA/BRI Contracts" shall mean the (a) BMA Easement, (b) BMA Right of First Refusal Agreement, (c) Letter of Agreement re Official US Ski Team Development Site dated December 16, 2016 by and between BMA, Burke 2300 LLC and its Affiliates and The United States Ski Association d/b/a the United States Ski and Snowboard Association, (d) Operating Agreement dated August 9, 2017 by and between Q Burke Mountain Resort LLC, Q Burke Mountain Resort,

Hotel and Conference Center, LP, Burke 2000 LLC, Mountain Road Management Company, Burke Mountain Water Company and Burke Mt. Operating Company and each of their respective Affiliates and BMA, (e) Equipment Lease dated August 1, 2021 by and between BRI and Burke Mt. Operating Company (regarding a Prinoth Winch CAT) and (f) any other agreements by or between the Seller Entities and BRI and/or BMA or their Affiliates, in all events, as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time.

"BMA Easement" shall mean that certain Easement Deed and Declaration of Covenants, Conditions, and Restrictions made and entered into as of November 29, 2005 recorded in Burke Land Records at Book 103, Page 511, as amended by the First Amendment to Easement Deed and Declaration of Covenants, Conditions, and Restrictions dated as of June 1, 2011 recorded in Burke Land Records at Book 124, Page 363 and the 2017 Amendment to Easement Deed and Declaration of Covenants, Conditions and Restrictions dated August 9, 2017 recorded in Burke Land Records at Book 146, Page 81, as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time.

"BMA Right of First Refusal Agreement" shall mean the Option Agreement and Right of First Refusal from Burke 2000 LLC, Mountain Road Management Company and Burke Mountain Water Company to BMA dated November 29, 2005, recorded in Burke Land Records at Book 103, Page 539, as amended by Amendment of Option Agreement and Right of First Refusal, dated June 1, 2011, recorded in Burke Land Records at Book 124, Page 369, as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time.

"Bookings" shall have the meaning assigned thereto in Section 2.1(b)(viii).

"BRI" shall mean Burke Racing Inc.

"Business Day" shall mean any day other than a Saturday, Sunday or other day on which banks are authorized or required by law to be closed in the State of Vermont or the State of Florida.

"Buyer" shall have the meaning assigned thereto in the Preamble to this Agreement, provided that a reference to "Buyer" shall, unless the context indicates otherwise, refer to each of the Buyer Entities.

"Buyer Entities" means Bear Den Partners LLC, a Vermont limited liability company, Bear Den Operations Company LLC, a Vermont limited liability company, Bear Den Road Company

LLC a Vermont limited liability company, and Bear Den Water Utility Company LLC, a Vermont limited liability company,

"Buyer-Related Entities" shall have the meaning assigned thereto in Section 11.1.

"Buyer Waived Breach" shall have the meaning assigned thereto in Section 11.3.

"Buyer's Knowledge" shall mean, collectively, (i) the actual knowledge of Buyer based upon the actual knowledge of Kenneth Graham and Denis Connell ("Buyer's Knowledge Party"), without any duty on the part of such Person to conduct any independent investigation or make any inquiry of any Person, (ii) the matters disclosed in this Agreement or listed on the schedules attached hereto or reasonably inferred therefrom, (iii) any and all information contained in the Asset File or reasonably inferred therefrom, (iv) information regarding the Assets that is publicly available, and (v) information from any of Buyer's reports, inspections, surveys and/or studies. The named individuals shall have no personal liability by virtue of their inclusion in this definition.

"Cap Limitation" shall mean an amount equal to Two Hundred Fifty Thousand and NO/100 Dollars ($250,000.00).

"Cash Payment" shall mean the Purchase Price less the Deposit and the Water System Holdback as described in Section 2.1(d)(i).

"Case" shall have the meaning ascribed thereto in Section 15.1.

"Claims" shall have the meaning assigned thereto in Section 7.3.

"Closing" shall have the meaning assigned thereto in Section 2.3(a).

"Closing Date" shall have the meaning assigned thereto in Section 2.3(a).

"Closing Documents" shall mean any certificate, assignment, instrument, or other document executed by Buyer and/or Seller (as applicable) and delivered by Buyer and/or Seller (as applicable) at Closing in accordance with Article VI of this Agreement.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or any successor statute. Any reference herein to a particular provision of the Code shall mean, where appropriate, the corresponding provision in any successor statute.

"Condition of the Assets" shall have the meaning assigned thereto in Section 7.2(b).

"Cut-Off Time" shall have the meaning assigned thereto in Section 10.1. "Deed" shall have the meaning assigned thereto in Section 6.2(a).

"Deposit" shall have the meaning assigned thereto in Section 2.2(a).

"Developer Rights" shall have the meaning assigned thereto in Section 2.1(b)(iii).

"District Court" shall have the meaning assigned thereto in Section 15.1.

"EB-5 Parties" shall have the meaning assigned thereto in Section 4.6.

"Effective Date" shall mean the date the District Court has approved the Seller Entities' execution of this Agreement, and the Agreement has been signed by all parties.

"Employees" shall mean, at the time in question, all employees who are employed by Manager (whether on a full-time or part-time basis) to provide services for the Resort.

"Equipment Leases" shall have the meaning assigned thereto in Section 2.1(b)(vii).

"Escrow Account" shall have the meaning assigned thereto in Section 14.4(a).

"Escrow Agent" shall mean Connecticut Attorney's Title Insurance Company (CATIC).

"Excluded Property" shall have the meaning assigned thereto in Section 2.1(c).

"Executive Order" shall have the meaning assigned thereto in Section 3.1(e)(i).

"Existing Survey" shall mean any existing ALTA survey of a portion or portions of the Owned Real Property that has been provided to Buyer and are of record in the Burke Land Records. The Parties acknowledge that Seller Parties have not provided any such survey.

"Existing Title Information" has the meaning ascribed to it in Section 8.2(a).

"FF&E" shall have the meaning assigned thereto in Section 2.1(b)(ii).

"Gift Cards" shall mean cards and certificates issued by the Resort for a specified value exchangeable for goods or services including, but not limited to, lift tickets, season passes, lodging, food and beverages, and merchandise.

"Governmental Authority" shall mean any federal, state, or local government or other political subdivision thereof, including, without limitation, any agency or entity exercising executive, legislative, judicial, regulatory, or administrative governmental powers or functions, in each case to the extent the same has jurisdiction over the Person or property in question.

"Government List" shall have the meaning assigned thereto in Section 14.24.

"Ground Lease" shall mean that certain Lease by and between the State of Vermont, acting through the Commissioner of the Department of Forests, Parks, and Recreation and the Director of Forests, with the approval of the Secretary of the Department of Environmental Conservation and the Governor of the State of Vermont, as lessor, and Burke Mountain Recreation, Inc., a Vermont corporation, as lessee, executed on April 21, 1975, as assigned by *mesne* assignment to Burke 2000 LLC, as lessee, as extended to date, as subleased to Burke Mt. Operating Company,

as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time.

"Guest Ledger" shall mean any and all charges accrued to the open accounts of any guests or customers at the Resort as of the Cut-Off Time for the use and occupancy of any guest, conference, meeting or banquet rooms or other facilities at the Resort, any restaurant, bar or banquet services, or any other goods or services provided by or on behalf of Seller.

"Hazardous Materials" shall have the meaning assigned thereto in Section 7.2(b)(i).

"Improvements" shall mean, to the extent the same constitute real property under Applicable Law, the buildings, structures, fixtures, and other improvements on the Land.

"Independent Consideration" shall have the meaning assigned thereto in Section 2.2(c).

"Intangible Property" shall have the meaning assigned thereto in Section 2.1(b)(xiii).

"Inventories" shall have the meaning assigned thereto in Section 2.1(b)(xi).

"IRS" shall mean the Internal Revenue Service.

"IRS Reporting Requirements" shall have the meaning assigned thereto in Section 14.3(c).

"Land" shall have the meaning assigned thereto in "Background" paragraph A.

"Leases" shall mean, collectively, all Equipment Leases and all Space Leases.

"Licenses and Permits" shall have the meaning assigned thereto in Section 2.1(b)(iii).

"Liquor Licenses" shall have the meaning assigned thereto in Section 4.2(d).

"Losses" shall have the meaning assigned thereto in Section 11.1.

"Management Agreement" shall mean that certain management agreement dated April 20, 2016, between Manager and Seller as well as certain Affiliates of Seller, with respect to assets that are the subject of the receivership established in the Case, including, without limitation, the Resort, as amended by Amendment to Management Agreement Properties: Jay Peak Resort and Q Burke Resort, dated as of November 7, 2021 between Manager and Seller as well as certain affiliates of Seller, as the same may be amended, restated, extended, assigned, replaced, supplemented or otherwise modified from time to time.

"Manager" shall mean Leisure Hotels, L.L.C., a Kansas limited liability company or such other manager party, as agent for Seller, under the Management Agreement from time to time.

"Material Casualty" shall have the meaning assigned thereto in Section 9.2(b).

"Material Contracts" shall have the meaning assigned thereto in Section 3.1(b).

"Material Condemnation" shall have the meaning assigned thereto in Section 9.2(b).

"Offer Date" shall mean the date on which Buyer has executed and submitted this Agreement to Seller for review and approval by Seller and the District Court.

"Operating Company Assets" shall mean the Assets of Burke Mountain Operating Company, which include certain licenses in connection with the sale of alcoholic beverages.

"Operating Contracts" shall mean all maintenance, service and supply contracts, management agreements, credit card service agreements, booking and reservation agreements, contracts for construction, improvement, maintenance and renovation, and all other contracts and agreements in connection with the operation of the Resort in each case to which Seller or Manager, as agent for the Seller, or any other party related to the Resort is a party, including, without limitation those set forth on SCHEDULE 3.1(b) and the BMA/BRI Contracts, as the same may be amended, restated, supplemented or otherwise modified from time to time, other than contracts that pertain to both the operation of the Resort and the operation of another property, the Management Agreement, Equipment Leases, Space Leases, and Licenses and Permits.

"Permitted Exceptions" shall mean (i) the matters set forth in the Existing Title Information, Additional Title Information and Updated Title Information other than the matters which Seller has elected to cure as provided in Section 8.2(b), (ii) the BMA Easement, (iii) the BMA Right of First Refusal Agreement, (iv) Equipment Leases, Space Leases, Licenses and Permits, and Operating Contracts, (v) liens for real estate taxes and assessments which are not yet delinquent, (vi) standard exceptions and provisions contained in the form of ALTA owner's title insurance policy (2006), (vii) discrepancies, conflicts in boundary lines, shortages in area, encroachments and any state of facts which a current survey of the Land would disclose or which are disclosed by the public records as of the date of the Title Commitment (without regard to any update of the Title Commitment after the Effective Date), (viii) zoning, entitlement and other land use and environmental regulations promulgated by any Governmental Authority, (ix) liens and encumbrances arising in connection with Manager's operation of the Resort in the ordinary course of business pursuant the Management Agreement, (x) inchoate rights of materialmen, mechanics, carriers, workmen, warehousemen and repairmen relating to the provision of work, services and materials at the Owned Real Property in the ordinary course of business, (xi) subject to the adjustments provided for herein, any service, installation, connection or maintenance charge, and charges for sewer, water, electricity, telephone, cable television, or gas due after the Cut-Off Time, (xii) any title exception which (a) is waived by Buyer pursuant to Section 8.3(b), (b) cannot be

objected to by Buyer pursuant to Section 8.2(a) or Section 8.3 or (c) is created in accordance with the provisions of this Agreement, (xiii) rights of tenants as tenants only, under Leases, (xiv) rights of vendors and holders of security interest on personal property installed at the Resort by tenants and rights of tenants to remove fixtures at the expiration of the of the Lease of such tenant, (xv) any title exception created pursuant to a Lease by a tenant or pursuant to a Lease or otherwise that is to be discharged by or is otherwise the responsibility of a tenant or occupant of the Resort including, without limitation, any construction or mechanics liens arising by or through the tenants affecting the Resort, notices of commencement or similar filings filed in connection with tenant improvements, capital expenditures or landlord work, (xvi) such other exceptions as the Title Company shall commit to insure over without any additional cost or liability to Buyer, whether such insurance is made available in consideration of payment, bonding, indemnity of Seller or otherwise, or made pursuant to an endorsement to the Title Policy, and (xvii) any liens or encumbrances resulting from the acts of Buyer or Buyer's vendors, or otherwise approved in writing by Buyer.

"Person" shall mean a natural person, partnership, limited partnership, limited liability company, corporation, trust, estate, association, unincorporated association or other entity.

"Post Effective Date Monetary Encumbrance" shall have the meaning assigned thereto in Section 8.3(c).

"Post Effective Date Seller Encumbrance" shall have the meaning assigned thereto in Section 8.3(a).

"Pre-Effective Date Permitted Exceptions" shall have the meaning assigned thereto in Section 8.2(a).

"Property and Equipment" shall have the meaning assigned thereto in Section 2.1(b)(x).

"Purchase Price" shall have the meaning assigned thereto in Section 2.1(d)(i).

"Receiver" shall mean Michael I. Goldberg pursuant to a receivership order issued in the Case.

"Reconciliation Date" shall have the meaning assigned thereto in Section 10.3(a).

"Releasees" shall have the meaning assigned thereto in Section 7.3.

"Reporting Person" shall have the meaning assigned thereto in Section 14.3(c).

"Resort" shall have the meaning assigned thereto in "Background" paragraph B.

"Retail Merchandise" shall have the meaning assigned thereto in Section 2.1(b)(xii).

"Sale Order" means the order issued pursuant to the terms of Section 15.1.

"Seller" means one or more of the Seller Entities, as applicable, provided that a reference to "Seller" shall, unless the context indicates otherwise, refer to each of the Seller Entities.

"Seller Entities" means (i) Burke 2000 LLC, a Vermont limited liability company, (ii) Mountain Road Management Company, a Vermont corporation, (iii) Burke Mountain Water Company, a Vermont corporation, (iv) Burke Mt. Operating Company, a Vermont corporation, (v) Burke Mountain Event Company, LLC, a Vermont limited liability company, (vi) Q Burke Mountain Resort, Hotel and Conference Center L.P., a Vermont limited partnership, and (vii) Q Burke Mountain Resort, LLC, a Florida limited liability company. A "Seller Entity" means one of the Seller Entities.

"Seller-Related Entities" shall have the meaning assigned thereto in Section 11.2.

"Seller's Knowledge" or "Knowledge," in the context of Seller or Sellers, shall mean the actual knowledge of the Receiver, without any duty on the part of the Receiver to conduct any independent investigation or make any inquiry of any Person. The Receiver shall have no personal liability by virtue of inclusion in this definition.

"Space Leases" shall have the meaning assigned thereto in Section 2.1(b)(vi).

"Special Assumed Obligations" shall have the meaning assigned thereto in Section 4.6.

"Title Commitment" shall mean that certain ALTA Commitment for Title Insurance issued by the Title Company in favor of Buyer, from issuing office 003177 dated as of April 9, 2025 relating to the Owned Real Property.

"Title Company" shall mean Connecticut Attorney's Title Insurance Company (CATIC).

"Title Policy" shall mean an ALTA owner's title insurance policy without endorsements issued by Title Company insuring Buyer's title to the Land and Improvements, subject only to the Permitted Exceptions, in a total amount equal to the Purchase Price.

"Trade Payables" shall have the meaning assigned thereto in Section 10.1(n).

"Transferred Employee" shall have the meaning assigned thereto in Section 4.3(a).

"Uniform System of Accounts" shall have the meaning assigned thereto in Section 2.1(b)(x).

"Updated Title Information" shall have the meaning assigned thereto in Section 8.2(b).

"WARN Act" shall mean the Worker's Adjustment and Retraining Notification Act of 1988, 29 U.S.C. § 2101, et seq., and any similar state and local Applicable Law, as amended from time to time, and any regulations, rules and guidance issued pursuant thereto.

"Water System Assets" shall mean the portions of the Assets that are owned by Burke Mountain Water Company and comprise the Burke Mountain water system.

"Water System Holdback" shall mean the sum of $250,000 which shall reduce the portion of the Purchase Price paid to Seller at Closing.

ARTICLE II

SALE, PURCHASE PRICE AND CLOSING

Section 2.1 Sale of the Assets.

(a) Sale on Closing Date. On the Closing Date and pursuant to the terms and subject to the conditions set forth in this Agreement, including, without limitation, the provisions of Article XV and Article XVI, Seller shall sell to Buyer, and Buyer shall purchase from Seller, the Assets.

(b) Sale of Asset Related Property. The transfer of the Assets to Buyer shall include the transfer and assumption of all Asset-Related Property. For purposes of this Agreement, subject to Section 2.1(c), "Asset-Related Property" shall mean all of Seller's right, title and interest in and to the following:

(i) all easements or licenses benefitting the Land; all streets, alleys and rights of way, open or proposed in front of or adjoining or servicing all or any part of the Land; all strips and gores in front of or adjoining all or any part of the Land; easements, tenements and hereditaments appurtenant to the Land or used in connection with the beneficial use and enjoyment of the Land or the Improvements included in the Assets or in any way appertaining to the Land or Improvements;

(ii) all furniture, furnishings, fixtures, rugs, vehicles, trailers, attachments (e.g. plow blades, etc.), snow cats, boats, watercraft, mats, carpeting, appliances, devices, engines, telephone (mobile and landline) and all other communications equipment, televisions and other video equipment, plumbing fixtures, and other equipment, and all other equipment and other items of tangible personal property which are now, or may hereafter prior to the Closing Date be, placed in or attached to the

Owned Real Property and are used in connection with the operation of the Resort (but not including items which are leased by Seller or owned or leased by the Manager, which are noted on SCHEDULE 2.1.c(ii) as Excluded)) (the "FF&E");

(iii) to the extent they may be transferred under Applicable Law without consent: (A) all development rights, air rights, wind rights, riparian rights, and water stock relating to the Land; (B) all rights of each of the Seller Entities as developer or declarant under any declaration of covenants and restrictions or declaration of condominium or any instrument of similar nature or import recorded in the land records of the Town of Burke, Vermont, as they may have been amended or restated to date (the "Developer Rights"); (C) all other rights, benefits, licenses, interests, privileges, permits and authorizations benefiting the Land; and (D) all licenses, permits and authorizations presently issued to and held by Seller in connection with the operation of all or any part of the Resort as it is presently being operated (the "Licenses and Permits");

(iv) to the extent assignable without consent, all warranties, if any, issued to Seller by any manufacturer or contractor in connection with construction or installation of equipment or any component of the improvements included as part of the Owned Real Property;

(v) all Operating Contracts; provided, however, if any such Operating Contract requires consent of the vendor party (or other counterparty), Buyer shall use commercially reasonable good faith efforts to obtain such consent as of the Closing as provided below, and Seller agrees to cooperate in good faith to support the request for consent (and in any event, Buyer shall assume all Operating Contracts or any Losses arising out of, or in any way related to, Buyer's failure to obtain such consent as of the Closing), provided, however, that Buyer's obligations shall not arise unless and until such obligations exceed the Basket Limitation and shall be capped at the Cap Limitation;

(vi) all leases, licenses and other similar agreements granting an interest to any other Person for the use or occupancy of all or any part of the Owned Real Property, (the "Space Leases"), together with all guarantees and security and escrow deposits or other security held by or for the benefit of, or granted to Seller in connection with such Space Leases;

(vii) all leases and purchase money security agreements (in each case, to which Seller is a party or to which Manager entered into on behalf of Seller) for any equipment, machinery, vehicles, snow cats, furniture or other personal property located at the Resort and used exclusively in the operation of the Resort (the "Equipment Leases"), together with all deposits made thereunder; provided, however, if such Equipment Leases require consent of the vendor party (or other counterparty), Buyer shall use good faith efforts to obtain such consent as of Closing, and Seller agrees to cooperate in good faith to support the request for consent. In any event, Buyer shall assume all Equipment Leases as provided below and shall provide replacement guarantees, if applicable, to the applicable vendor party in the event Seller or any Affiliate thereof has theretofore executed a guarantee in connection therewith, even if such consent has not been obtained. Buyer is responsible for obtaining approvals to transfer with respect to each Operating Contract, Space Lease, and Equipment Lease which requires consent from the contract counter party for assignment to Buyer, Seller agrees to cooperate in good faith to support the request for consent. If the counterparty does not consent to such assignment then Seller shall be entitled to send notice to the counterparty terminating such Operating Contract, Space Lease and/or Equipment Lease and, Buyer shall be responsible for any termination fee or penalty or other amounts due with respect to such Operating Contract, Space Lease and/or Equipment Lease from and after the Closing Date, provided, however, that Buyer's obligations shall not arise unless and until such obligations exceed the Basket Limitation and shall be capped at the Cap Limitation. Regardless of whether the consent from the counterparty is obtained prior to Closing and except with respect to any Operating Contracts, Space Leases, and/or Equipment Leases terminated by Seller pursuant to the foregoing, Buyer shall assume such Operating Contracts, Space Leases, and Equipment Leases along with all other Operating Contracts, Space Leases, and Equipment Leases as to which consent to assignment is not required and shall be responsible as of Closing for all obligations under any such Operating Contract, Space Lease, and/or Equipment Lease. Buyer shall indemnify the Seller Parties from and against any and all loss, damage, cost, charge, liability or expense (including court costs and reasonable attorneys' fees) which the Seller Parties may sustain or incur as a result of Buyer's assumption of the Operating Contracts, Space Leases and Equipment Leases, including, without limitation, any failure

of Buyer to obtain the consents or approvals required by any third parties in connection with such assumption, but subject to the limitations set forth herein. This paragraph shall survive Closing.

(viii) all bookings and reservations for guest, conference, meeting and banquet rooms or other facilities at the Resort for dates from and after the Closing Date (the "Bookings"), together with all deposits held by Seller with respect thereto;

(ix) all Assigned Accounts Receivable as set forth in Section 10.2(b)(i);

(x) all items included within the definition of "Property and Equipment" under the Uniform System of Accounts for the Lodging Industry, Eleventh Revised Edition, as published by the Hotel Association of New York City, Inc. (the "Uniform System of Accounts") and used exclusively in the operation of the Resort (including, without limitation, linen, dishes, glassware, tableware, uniforms and similar items, subject to such depletion prior to the Closing Date as shall occur in the ordinary course of business) (collectively, the above shall be referred to herein as the "Property and Equipment");

(xi) all "Inventories" as defined in the Uniform System of Accounts and used exclusively in the operation of the Resort, to the extent assignable without consent or charge, such as provisions in storerooms, refrigerators, pantries, and kitchens, unopened beverages in wine cellars and bars, other merchandise intended for sale or resale, fuel, mechanical supplies, stationery, marketing materials such as brochures, maps and related collateral, guest supplies, maintenance and housekeeping supplies and other expensed supplies and similar items and including all food and unopened beverages which are located at the Resort, or ordered for future use at the Resort as of the Closing, but expressly excluding any alcoholic beverages to the extent the sale or transfer of the same is not permitted under Applicable Law (the "Inventories");

(xii) all merchandise located at the Resort and held for sale to guests and customers of the Resort, or ordered for future sale at the Resort as of the Cut-Off Time, but not including any such merchandise owned by any tenant at (or other licensee or occupant of) the Owned Real Property or by the Manager (the "Retail Merchandise");

(xiii) Seller's rights and interests, to all names, tradenames, trademarks, service marks, logos, telephone and fax numbers, domain names, website names, social media accounts, marketing materials, and other similar proprietary practices and rights and

all registrations or applications for registration of such rights used by Seller in the operation of the Resort (the "Intangible Property");

(xiv) to the extent in Seller's possession or control and assignable without consent or charge, and subject to Applicable Laws, all surveys, architectural drawings, engineering blueprints, and plans and specifications, if any, related to the Resort, all current books and records, if any, related exclusively to the Resort and in the possession of Seller, and any goodwill of Seller related exclusively to the Resort; provided, however, that Seller may retain a copy of all books and records;

(xv) the rights of the Seller or an Affiliate of a Seller pursuant to the Ground Lease; provided, however, that with respect to the required consent of the landlord parties under the Ground Lease, Buyer and Seller shall use commercially reasonable good faith efforts to obtain such consent and shall cooperate in obtaining such consents prior to or contemporaneously with the Closing; and

(xvi) All rights of Seller to escrow accounts administered by the Burke Mountain Owners Association, and related to the Burke Mountain Water Company and Mountain Road Management Company with respect to water, sewer and road systems on the Owned Real Property (the "Water/Sewer/Roads Escrows") provided that no portion of such escrows attributable to the Burke Mountain Water System shall be transferred until the other Water System Assets are transferred to Buyer.

(c) Excluded Property. Notwithstanding anything to the contrary in Sections 2.1(a) and (b), the property, assets, rights and interests set forth in this Section 2.1(c) are expressly excluded from the Assets (collectively, the "Excluded Property"), all of which will be retained by Seller or its Affiliate:

(i) all cash on hand or on deposit in any house bank, operating account or other account maintained in connection with the ownership of the Resort, including, without limitation, any capital, FF&E or other reserves maintained by Seller or Manager (in connection with the Resort) pursuant to the Management Agreement, or otherwise (for clarity, amounts provided in Section 10.1(j)) and the Water/Sewer/Roads Escrows are part of the Assets being conveyed and are not part of Excluded Property as defined herein);

(ii) any fixtures, personal property or equipment owned by (A) the lessor under any Equipment Leases (but subject to the transfer of Seller's lease rights under

Section 2.1(b)(vii)), (B) the supplier, vendor, licensor or other party under any other Operating Contracts or Licenses and Permits, (C) any Employees, (D) Manager, (E) the tenant under any Space Lease or similar agreement, or (F) any guests or customers of the Resort;

(iii) any FF&E, Property and Equipment, Inventories, Retail Merchandise, or Intangible Property bearing the brand names or logos of any tenant pursuant to a Space Lease;

(iv) any insurance claims or proceeds arising out of or relating to events or circumstances that occur prior to the Closing Date where liability in connection therewith has not been assumed by Buyer or paid by Buyer (in the case of a casualty, subject to the terms of Section 9.2(a));

(v) any proprietary or confidential materials (including, without limitation, any materials relating to the background or financial condition of a present or prior direct or indirect partner or member of Seller), the internal books and records of Seller not related to the ownership or operation of the Resort, any software not used in the day-to-day operation of the Resort, trademarks, service marks, trade names, brand marks, brand names, domain names, social media sites, (such as Facebook or Twitter), trade dress or logos relating thereto that are not used exclusively in connection with the Assets, any development bonds, letters of credit or other collateral held by or posted with any Governmental Authority or other third party with respect to any improvement, subdivision or development obligations concerning the Resort or any other real property, insurance policies (subject to Section 9.2), and cash collateral therefor claims or other rights against any present or prior partner, member, employee, agent, manager, officer or director of Seller or its direct or indirect partners, members, shareholders or affiliates, organizational documents of Seller, any subsidiary of Seller or any other Affiliate of Seller, and any intangible property that is not used exclusively in connection with the Assets as set forth on SCHEDULE 2.1.c(v); and

(vi) Any amounts that may be payable to Seller as a result of an employee retention tax credit or comparable program associated with employment for the period prior to Closing.

(d) Purchase Price.

(i) Consideration. The consideration for the purchase of the Assets shall be Eleven Million Five Hundred Thousand Dollars ($11,500,000) (the "Purchase Price"). The Purchase Price, less the Deposit and less the Water System Holdback (the "Cash Payment") shall be paid at Closing. No later than 2:00 p.m. (Eastern Time) on the Closing Date, Buyer shall deposit with Escrow Agent by wire transfer of immediately available funds to such account or accounts that Escrow Agent shall designate, an amount equal to the Cash Payment (subject to adjustments and credits as described in Article X below), to be held and directed in accordance with the terms of Section 14.4 of this Agreement. For the avoidance of doubt, in the event the Purchase Price paid by Buyer is received by Seller after 2:00 p.m. (Eastern Time) on the Closing Date and the transactions contemplated herein do not close on the Closing Date, such failure of Buyer to timely deliver the Purchase Price as required by this Section 2.1(d)(i) shall constitute a material default hereunder.

(ii) No Adjustment. No adjustment shall be made to the Purchase Price except as expressly set forth in this Agreement, including as provided in Article X.

(iii) Purchase Price Allocation. Seller and Buyer, in good faith consultation, shall agree on the allocation of the Purchase Price among the real property and other tangible and intangible property comprising the Assets; provided, however, that if the parties have not agreed on an allocation at least five (5) Business Days prior to the Closing Date, the allocation shall be as set forth on Schedule A-2 attached hereto for federal, state and local tax purposes (including, without limitation, transfer tax, surtax and other similar transfer taxes on the deed or transfer of the Owned Real Property, if any) in accordance with Section 1060 of the Code. Buyer and Seller shall file all federal, state, and local tax returns and related tax documents consistent with such allocation, as the same may be adjusted pursuant to Section 10.1 or any other provisions of this Agreement. This Section 2.1(d)(iii) shall survive the Closing without limitation.

Section 2.2 Deposit.

(a) On or before the date which is two Business Days after the Offer Date hereof, Buyer shall deposit with Escrow Agent, an amount equal to Five Hundred Thousand

Dollars ($500,000) (such cash deposit, together with all accrued interest thereon, shall be referred to as the "Deposit") in immediately available funds by wire transfer to such account as Escrow Agent shall designate to Buyer. The Deposit shall be non-refundable to Buyer, and fully earned by Seller and shall not be returned to Buyer for any reason except as provided in (i) Section 3.2(a) (Amendments to Schedules), Section 8.2(b) (Updates); Section 8.3(b) (title matters), Section 9.2(b) (Right of Termination); Section 8.2(b) (Remedies for Seller's Default or Section 12.2(b); or (ii) upon any failure of conditions to Buyer's obligations as set forth in Section 5.2.

(b) [Reserved].

(c) Independent Consideration. A portion of the amount deposited by Buyer pursuant to Section 2.2(a) in the amount of One Hundred Dollars ($100) (the "Independent Consideration") shall be earned by Seller upon execution and delivery of this Agreement by Seller and Buyer. Seller and Buyer hereby mutually acknowledge and agree that the Independent Consideration represents adequate bargained for consideration for Seller's execution and delivery of this Agreement and Buyer's right to have inspected the Resort pursuant to the terms of this Agreement. The Independent Consideration is in addition to and independent of any other consideration or payment provided for in this Agreement and is nonrefundable in all events. Upon the Closing or the termination of this Agreement, notwithstanding anything to the contrary set forth in this Agreement, the Independent Consideration shall be paid to Seller.

Section 2.3 The Closing.

(a) Closing Date. The closing of the sale and purchase of the Assets (the "Closing") shall take place in accordance with the terms of this Agreement and the Sale Order on the date designated by Seller in writing to Buyer which date shall be no earlier than five (5) days after the date of issuance of the Sale Order by the District Court and no later than fourteen (14) days after the date of issuance of the Order by the District Court allowing the Seller Entities to enter into the Agreement, unless otherwise agreed by the parties ("Closing Date"), time being of the essence with respect to Buyer's and Seller's obligations hereunder on the Closing Date, subject only to the rights to adjourn the Closing Date expressly provided in this Agreement.

(b) Closing Time. The Closing shall be held on the Closing Date through the Escrow Agent.

(c) Closing Mechanics. Notwithstanding anything to the contrary set forth in this Agreement, there shall be no requirement that Seller or Buyer physically attend the Closing. Buyer and Seller hereby authorize their respective attorneys to execute and deliver to Escrow Agent any additional or supplementary instructions as may be necessary or convenient to implement the terms of this Agreement and facilitate the closing of the transactions contemplated hereby, provided that such instructions are consistent with and merely supplement this Agreement and shall not in any way modify, amend, or supersede this Agreement. Formal tender of the Purchase Price is hereby waived. In the event of a conflict between the closing procedures specified in this Agreement and the Order of the District Court, the Order of the District Court shall prevail.

ARTICLE III
REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER

Section 3.1 General Seller Representations and Warranties. Each of the Seller Entities represents and warrants, as to itself only, as follows:

(a) General Seller Representations and Warranties. As of the date of this Agreement and as of the Closing:

(i) Formation; Existence. Each of the Seller Entities is duly formed, validly existing and in good standing as an entity of the type and formed under the laws of the State reflected in the definition of "Seller Entities," and is authorized if and as necessary to transact business in the State of Vermont.

(ii) Power and Authority. Each of the Seller Entities has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement and the consummation of the transactions provided for in this Agreement have been duly authorized by all necessary action on the part of each of the respective Seller Entities. This Agreement has been duly executed and delivered by each of the respective Seller Entities and constitutes its legal, valid, and binding obligation, enforceable against each Seller Entity in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, or other laws affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity.

(iii) No Conflicts. Subject to an appropriate order of the District Court, and any consents to transfer of the Assets required of the Buyer under this Agreement, the execution, delivery and compliance with, and performance of the terms and provisions of, this Agreement, and the sale of the Assets, do not and will not in any material respect (i) conflict with or result in any violation of its organizational documents of a Seller Entity, (ii) conflict with or result in any violation of any provision of or require any consent under any bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust or loan agreement to which a Seller Entity is a party, or (iii) violate any existing term or provision of any order, writ, judgment, injunction, decree, statute, law, rule or regulation applicable to a Seller Entity or its assets or properties. Except for an appropriate order of the District Court authorizing this Agreement, and any consent required with respect to the Ground Lease, the Burke Mountain Water Company Assets or any Material Contract or any transfer of Licenses and Permits, no consent, approval, permit, governmental order, declaration or filing with, or notice to, any governmental authority is required by or with respect to any Seller Entity in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated.

(b) Documents and Contracts. SCHEDULE 3.1(b) sets forth a list of Operating Contracts, Space Leases and Equipment Leases that constitute part of the Assets (the Operating Contracts, Space Leases and Equipment Leases set forth on SCHEDULE 3.1(b) are referred to herein as the "Material Contracts").

(c) Bookings. Manager has provided Buyer with a copy of the Bookings for the Resort as of the time and date set forth on such copy.

(d) Foreign Person. None of the Seller Entities is a "foreign person" as defined in Section 1445 of the Code and the regulations issued thereunder.

(e) Anti-Terrorism Laws.

(i) None of the Seller Entities is in violation of any laws relating to terrorism, money laundering or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Action of 2001, Public Law 107-56 and Executive Order No. 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (the

"Executive Order") (collectively, the "Anti-Money Laundering and Anti-Terrorism Laws").

(ii) None of the Seller Entities are acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics or human traffickers, including those Persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time.

(iii) None of the Seller Entities (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in the lists set forth in the preceding paragraph; (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.

(iv) None of the Seller Entities is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any of the Anti-Money Laundering and Anti-Terrorism Laws or any other applicable anti-money laundering or anti-bribery Applicable Laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

(f) Financial Statements. Seller has caused to be added to the Asset File and Buyer has had access to copies of the financial statements contained in the Asset File. To Seller's Knowledge, the financial statements contained in the Asset File have been prepared on a consistent basis and fairly present, in all material respects, the financial condition of the Seller Entities and the Assets as of the respective dates they were prepared and the results of the operations of the Seller Entities and the Resort for the periods indicated therein.

(g) Absence of Certain Changes, Events and Conditions. To Seller's Knowledge the Resort has been operated in the ordinary course of business consistent with past practice since the most recent financial statements included in the Asset File, and there has not since that time been, any event, occurrence or development that has had, or is reasonably expected to have, individually or in the aggregate, a material adverse effect on the Assets.

(h) Title to Assets. Based on the Title Report, the Seller Entities have title to, or a valid leasehold interest in, the Owned Real Property. To Seller's Knowledge, no third parties have claims regarding any of the Seller Entities' title or ownership of the Asset Related Property. To Seller's Knowledge, there are no liens or encumbrances against the Owned Real Property.

(i) Condition and Sufficiency of Assets. To Seller's Knowledge, the buildings, plants, structures, fixtures, machinery, and equipment are sufficient for the continued operation of the Resort after the Closing in substantially the same manner as conducted prior to the Closing.

(j) Environmental Matters.

(i) There are no facts or circumstance that could reasonably be expected to result in the Owned Real Property being in material breach of applicable environmental laws other than as set forth in SCHEDULE 3.1(j). No Seller Entity has received, within the past three (3) years, a written notice of violation of an environmental law with respect to the Owned Real Property which either remains pending or unresolved, or is the source of ongoing obligations or requirements.

(ii) The Resort is not in material non-compliance with any material Environmental Permits necessary for the operation of the Resort as currently operated or the ownership, lease, operation or use of the Resort, other than as set forth in SCHEDULE 3.1(j).

(iii) There are no potential material liabilities with respect to any off-site treatment, storage or disposal facilities or any other locations used by the Sellers for disposition of Hazardous Materials.

(iv) Except as set forth in SCHEDULE 3.1(m)(iv) or as would not have a material adverse effect on the Resort, within the past three (3) years, there has been no material release of Hazardous Materials in contravention of Environmental Law with respect to the Owned Real Property, and no Seller Entity has received any Environmental Notice that the Owned Real Property has been contaminated with any Hazardous Material

that would reasonably be expected to result in an Environmental Claim against, or a violation of Environmental Law or term of any Environmental Permit by, a Seller Entity.

(v) Sellers have previously included in the Asset File all material environmental reports, studies and site assessments and other similar documents with respect to the Owned Real Property which are in the possession or control of Seller.

(k) Employee Compensation and Benefit Matters. To Seller's Knowledge, (i) SCHEDULE 3.1(k) contains a list of each benefit, retirement, employment, consulting, compensation, incentive, bonus, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off, welfare and fringe-benefit agreement, plan, policy and program in effect and covering one or more Employees or former Employees or the beneficiaries or dependents of any such Persons, and is maintained, sponsored, contributed to, or required to be contributed to by a Seller Entity or Manager, or under which a Seller Entity or Manager has any material liability for premiums or benefits applicable to the Resort and its employees (each, a "Benefit Plan"). To Seller's Knowledge, Seller does not have knowledge of any Benefit Plan not being in compliance with applicable laws, including, without limitation, ERISA and the Code.

(l) Employment Matters.

(i) To Seller's Knowledge, no Seller Entity nor Manager on behalf of a Seller Entity, is a party to or bound by, any collective bargaining or other agreement with a labor organization representing any of the Employees. To Seller's Knowledge, there has not been any threat of, any strike, slowdown, work stoppage, lockout, concerted refusal to work overtime or other similar labor activity or dispute affecting a Seller Entity, Manager or any of the Employees.

(ii) To Seller's Knowledge, each Seller Entity and Manager is in compliance with applicable laws pertaining to employment and employment practices to the extent they relate to the Employees.

(m) Taxes.

(i) To Seller's Knowledge, (i) each Seller Entity has filed (taking into account any valid extensions) all tax returns required to be filed by each such Seller Entity and has paid all income and other taxes shown thereon as owing.

(ii) To Seller's Knowledge, there are no pending or threatened actions, suits, claims, investigations or other legal proceedings by any tax authority against any Seller Entity.

Section 3.2 Amendments to Schedules and Limitations on Representations and Warranties of Seller and the Buyer's Remedies.

(a) Amendments to Schedules. Seller shall have the right to amend and supplement the representations and warranties set forth in this Agreement from time to time prior to the Closing by providing a written copy of such amendment or supplement to Buyer, provided, however that Buyer shall have the right to terminate this Agreement and receive the return of the Deposit in the event that any such amendment or supplement provided to Buyer after the Effective Date (x) discloses a fact that would materially adversely impact Seller's ability to convey ownership of the Assets and Seller is unable within 30 days following written notice by Buyer of its intent to terminate to provide reasonable assurance of Seller's ability to convey ownership of the Assets, or (y) imposes material additional liabilities upon the Buyer and Seller does not provide Buyer within 30 days with an acceptable accommodation with respect to such additional liabilities.

(b) Limitations on Representations and Warranties of Seller.

(i) Buyer is consummating the transactions contemplated hereby without any representation or warranty, express or implied, by any Person, except for the representations and warranties of Seller expressly set forth in Section 3.1(a) of this Agreement. Buyer is relying on its own investigation and analysis, and the limited representations and warranties of Seller, to the extent expressly set forth in Section 3.1(b) – (m) of this Agreement, in entering into this Agreement and consummating the transactions contemplated hereby. Buyer specifically disclaims that it is relying upon or has relied upon any other representations or warranties that may be alleged to have been made by Seller, Receiver, Manager or any other Person. The Receiver is acting hereunder on behalf of the Seller and shall have no personal liability for any matter arising in connection with this Agreement. Buyer has fully reviewed this Agreement, the Schedules referred to herein, and the materials referenced in the Schedules in connection with the transactions contemplated by this Agreement. Buyer acknowledges that neither the Seller nor Receiver nor any other Person acting on behalf of any of them, including, without limitation, the Manager, has made any representation or warranty, express or implied, as

to the accuracy or completeness of any information regarding the Seller Entities, the Resort or their respective businesses or assets, except for the representations and warranties of Seller expressly set forth in Section 3.1 of this Agreement, and acknowledge that no Person acting or purporting to act on behalf of any of the Seller Entities has any actual or apparent authority, express or implied, to make any representation, warranty, promise, assurance, guaranty or other statement regarding any of the Seller, the Resort, or their respective businesses or assets that may be relied upon by Buyer as an inducement to entering into this Agreement. All representations and warranties set forth in this Agreement are contractual in nature only and, except in the case of a finding of fraud by Seller pursuant to a final non-appealable appealable judgment issued by a court of competent jurisdiction, are subject to the exclusive remedies set forth in this Agreement for any breach thereof. Buyer specifically disclaims any obligation or duty of Seller, Receiver, Manager or any of their Affiliates or representatives to make any disclosures of fact not expressly required by this Agreement to be disclosed pursuant to the specific representations and warranties set forth in Section 3.1. Buyer represents that should any of the representations and warranties in this Agreement prove to be untrue, incomplete or incorrect, Buyer shall have recourse only to the Representations and Warranties Insurance, except in respect to a breach of the representation and warranty in Section 3.1(a), and that the absence of other remedies pursuant to this Agreement has been bargained for at arms' length, and shall apply absent fraud by Seller determined pursuant to a final non-appealable judgment issued by a court of competent jurisdiction; no other rights, remedies or causes of action (whether in contract or in tort, or whether in law or equity) are permitted to Buyer (or to any other Person claiming through or on behalf of Buyer, including without limitation a claim for subrogation by the provider of the Representations and Warranty Insurance) as a result of any untrue, incomplete or incorrect representation or warranty. This Section 3.2(b) shall survive the Closing.

(ii) No Liability in Connection with Materials. Buyer further acknowledges that, except with respect to the representations and warranties expressly set forth in Section 3.1 of this Agreement, none of Seller, Receiver, Manager or any other Person will have or be subject to any liability to Buyer or any other Person resulting from the distribution or use by Buyer, of any information, any legal opinions, memoranda,

summaries or any other information, document or material made available to Buyer, including, without limitation, in the Asset File, in connection with the transactions contemplated by this Agreement, any presentations or any other form otherwise provided in expectation of the transactions contemplated by this Agreement.

(iii) Forward Looking Statements. The Buyer Entities acknowledge that the none of the Seller Entities, the Receiver or the Manager have made any representations, warranties, promises, assurances or guaranties whatsoever with respect to estimates, projections or other forecasts and plans (including the reasonableness of the assumptions underlying such estimates, projections and forecasts), and the Buyer disclaims that it has relied upon such information in entering into this Agreement.

(iv) Limitations on Survival. Other than the representations set forth in Section 3.1(a), which shall survive closing for a period of six (6) months, Seller's representations and warranties in Section 3.1 shall not survive the Closing. Any representations or warranties, and any covenants contained in this Agreement which are to be performed prior to the Closing shall terminate as of the Closing. Following the Closing, no party shall be entitled to any recovery hereunder in respect of any such representation or warranty or such covenant; provided, however, that this Section 3.2(b) shall not limit any claim or recovery available to Buyer (x) under the Representations and Warranty Insurance Policy, described below, in accordance with the terms thereof, (y) for a material misrepresentation of Seller under Section 3.1(a) for a period of six (6) months from Closing, or (z) against Seller for fraud pursuant to a final non-appealable appealable judgment issued by a court of competent jurisdiction. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, BUYER ACKNOWLEDGES AND AGREES, ON BEHALF OF ITSELF AND EACH OF ITS AFFILIATES, THAT, OTHER THAN IN THE CASE OF A JUDGEMENT OF FRAUD BY SELLER PURSUANT TO A FINAL NON-APPEALABLE JUDGMENT ISSUED BY A COURT OF COMPETENT JURISDICTION, COMMITTED WITH RESPECT TO THE SPECIFIC REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, OR A MATERIAL MISREPRESENTATION UNDER Section 3.1(a) FOR A PERIOD OF SIX (6) MONTHS FROM CLOSING, FOLLOWING THE CLOSING, THE SELLER SHALL NOT HAVE ANY DIRECT OR INDIRECT

LIABILITY (DERIVATIVELY OR OTHERWISE) WITH RESPECT TO ANY BREACH OR INACCURACY OF ANY REPRESENTATION OR WARRANTY UNDER THIS AGREEMENT. The provisions of this Section 3.2, including the limited remedies provided herein, were specifically bargained-for by the parties to this Agreement, and were taken into account by the Parties in arriving at the consideration hereunder. The Seller expressly has relied upon the provisions of this Section 3.2, including the limited remedies provided herein, in agreeing to enter into this Agreement and to provide the specific representations and warranties set forth in Section 3.1.

(v) Representations and Warranties Insurance Policy. At or prior to the Closing, a Buyer Entity or one of its Affiliates may bind a representations and warranties insurance policy (the "Representations and Warranties Insurance Policy") insuring the Buyer Entities, or one of their Affiliates in connection with this Agreement and the transactions contemplated hereby. To the extent a Buyer Entity or one of its Affiliates obtains the Representations and Warranties Insurance Policy, such policy shall provide that, except in the case of fraud determined pursuant to a final non-appealable judgment issued by a court of competent jurisdiction, the insurer waives all rights of subrogation or contribution against the Seller Entities, the Receiver or the Manager and that such waiver may not be supplemented, amended, modified or otherwise changed in a manner that would adversely impact such parties without the written consent of such parties. Buyer shall provide the Receiver with a copy of the Representations and Warranties Insurance Policy for review to determine that the foregoing rights are waived. The Buyer Entities shall not amend or modify the Representations and Warranties Insurance Policy in any way that would be adverse to the Seller Entities, the Receiver or the Manager and shall use commercially reasonable efforts to notify the Receiver in writing of any amendments to the Representations and Warranties Insurance Policy prior to the effective date of any such amendment. Notwithstanding the foregoing, the Buyer Entities acknowledge and agrees that their receipt of the Representations and Warranties Insurance Policy is not a condition to Closing.

Section 3.3 Covenants of Seller Prior to Closing.. From the Offer Date until the Closing or earlier termination of this Agreement, Seller or Seller's agents shall:

(a) Insurance. Keep the Owned Real Property insured against fire and other hazards in such amounts and under such terms as Seller deems appropriate, and in no event at levels below those maintained as of the Offer Date.

(b) New Operating Contracts. Seller shall not enter into or renew any Operating Contracts or materially amend or supplement any Operating Contracts after the Offer Date without prior written consent of Buyer, not to be unreasonably delayed or withheld. Buyer shall assume any such approved Operating Contracts at the Closing.

(c) Conduct of Business. Seller shall conduct the business of the Resort in the ordinary course consistent with past practice and in such a manner as to assure that the representations and warranties of Seller set forth in this Agreement will be true and correct as of the Closing Date, and shall not sell or otherwise dispose of any of the Assets or Asset-Related Properties, other than in the ordinary course, without the prior written consent of Buyer.

(d) No Shop. Seller shall not negotiate, solicit, or encourage submission of proposals or offers from any party relating to any acquisition or purchase of all or any material portion of the Assets from and after the Offer Date unless this Agreement is terminated for any reason

ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER

Section 4.1 Representations and Warranties of Buyer. Each Buyer Entity hereby represents and warrants to Seller as follows:

(a) Formation and Existence. It is a limited liability company, validly existing and in good standing under the laws of the State of Vermont.

(b) Power and Authority. It has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Agreement, the purchase of the Assets and the consummation of the transactions provided for herein have been duly authorized by all necessary action on the part of each Buyer Entity. This Agreement has been duly executed and delivered by each Buyer Entity and constitutes the legal, valid and binding obligation of each Buyer Entity enforceable against Buyer Entity in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws

affecting creditors' rights and by general principles of equity (whether applied in a proceeding at law or in equity).

(c) No Conflicts. The execution, delivery and compliance with, and performance of the terms and provisions of, this Agreement, and the purchase of the Assets, will not (i) conflict with or result in any violation of its organizational documents, (ii) conflict with or result in any violation of any provision of any bond, note or other instrument of indebtedness, contract, indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party in its individual capacity, or (iii) violate any existing term or provision of any order, writ, judgment, injunction, decree, statute, law, rule or regulation applicable to it or its assets or properties.

(d) Anti-Money Laundering and Anti-Terrorism Laws.

(i) No Buyer Entity nor, to Buyer's Knowledge, any of its direct or indirect owners, principals, employees or Affiliates, is in violation of, has been charged with or is under indictment for the violation of, or has pled guilty to or been found guilty of the violation of, any Anti-Money Laundering and Anti-Terrorism Laws.

(ii) No of Buyer Entity nor, to Buyer's Knowledge, its direct or indirect owners, principals, employees or Affiliates, is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics or human traffickers, including those Persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time.

(iii) No Buyer Entity or, to Buyer's Knowledge, its Affiliates or, without inquiry, any of its brokers or other agents, in any capacity in connection with the purchase of the Owned Real Property (A) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any person included in the lists set forth in the preceding paragraph; (B) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (C) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Money Laundering and Anti-Terrorism Laws.

(iv) Each Buyer Entity understands and acknowledges that Seller may become subject to further anti-money laundering regulations, and agrees to execute instruments, provide information, or perform any other acts as may reasonably be requested by Seller, for the purpose of: (A) carrying out due diligence as may be required by Applicable Law to establish each Buyer's identity and source of funds; (B) maintaining records of such identities and sources of funds, or verifications or certifications as to the same; and (C) taking any other actions as may be required to comply with and remain in compliance with anti-money laundering regulations applicable to Buyer.

(v) No Buyer Entity, nor any person controlling or controlled by Buyer, is a country, territory, individual or entity named on a Government List, and the monies used in connection with this Agreement and amounts committed with respect thereto, were not and are not derived from any activities that contravene any of the Anti-Money Laundering and Anti-Terrorism Laws or any other applicable anti-money laundering or anti-bribery Applicable Laws and regulations (including funds being derived from any person, entity, country or territory on a Government List or engaged in any unlawful activity defined under Title 18 of the United States Code, Section 1956(c)(7)).

(vi) No Buyer Entity is engaging in the transactions contemplated hereunder, directly or indirectly, in violation of any Applicable Laws relating to drug trafficking, money laundering or predicate crimes to money laundering or drug trafficking. None of the funds of Buyers have been or will be derived from any unlawful activity with the result that the investment of direct or indirect equity owners in Buyers is prohibited by Applicable Laws or that the transactions contemplated hereunder or this Agreement is or will be in violation of Applicable Laws.

(vii) Schedule 4.1(d)(vii) is a complete list of the ownership, management, and/or controlling interests of each Buyer Entity, Buyer's Manager, or key person, Buyer's Knowledge Party, the natural person authorized to receive notice on behalf of Buyer identified in Section 14.8 and Buyer's signatory to this Agreement. In addition, no natural person owns a twenty five percent (25%) or greater interest in Buyer, directly or indirectly except as disclosed in Schedule 4.1(d)(vii).

(viii) Buyers have implemented and will continue to implement procedures, and has consistently and will continue to consistently apply those procedures,

to ensure the foregoing representations and warranties remain true and correct at all times prior to and at the Closing.

(e) Survival. The provisions of this Section 4.1 shall survive the Closing for a period of six months.

Section 4.2 Covenants of Buyer Prior to Closing.

(a) Licenses and Permits; Water/Sewer/Roads Escrows. Buyer shall use all commercially reasonable and good faith efforts to obtain the transfer of all Licenses and Permits (to the extent transferable) or to secure issuance of new licenses and permits, and Seller agrees, at no out of pocket cost to it, to cooperate with Buyer in seeking such transfer or new issuance. Buyer, at its cost and expense, shall submit all necessary applications and other materials to the appropriate Governmental Authority and take such other actions to effect the transfer of the Licenses and Permits or issuance of new licenses and permits, as of the Closing, and Seller shall use commercially reasonable efforts (at no cost or expense to Seller) to cooperate with Buyer to cause the Licenses and Permits to be transferred or new licenses and permits to be issued to Buyer, including joinder in a petition to seek transfer of the existing Certificate of Public Good for the Burke Mountain water system. Notwithstanding anything to the contrary in this Section 4.2(a), Buyer shall not post any notices at the Resort or publish any notices required for the transfer of the Licenses or Permits or issuance of new licenses and permits without the prior written consent of Seller, which consent may not be unreasonably withheld, conditioned, or delayed with the exception of the publication of any notices of hearing or review for (i) the transfer of the Certificate of Public Good for the Burke Mountain water system and (ii) related to issuance of any liquor licenses to be effective as of the Closing Date. It shall not be a condition to the Closing hereunder that Buyer has obtained any transfer of Licenses or Permits or issuance of any new licenses or permits except for the Ground Lease, subject to Section 4.5(a). If the consent of the lessor to the Ground Lease to the assignment of the Ground Lease has not been obtained by the Closing Date, at the option of Seller and/or Buyer, the Closing Date shall be postponed until such condition has been satisfied, provided that either party may elect to terminate this Agreement if such condition to Closing is not satisfied or waived within thirty (30) days of the Closing Date, whereupon the

Deposit shall be returned to Buyer unless the unsatisfied condition to Closing is the assignment of the Ground Lease and that condition has been eliminated pursuant to Section 4.5(b).

(b) Seller agrees that it shall use commercially reasonable efforts (at no cost or expense to Seller) to cooperate with Buyer's obtaining an assignment to Buyer at Closing of the Water/Sewer/Roads Escrows and related agreements with Burke Mountain Owners Association (BMOA), as well as any requested modifications of any existing BMOA agreements, but it shall not be a condition to the Closing hereunder that Buyer has obtained the same, provided that no portion of such escrows attributable to the Burke Mountain Water System shall be transferred to Buyer until the other Water System Assets are transferred to Buyer.

(c) New Merchant Account. Buyer shall open a new merchant account to handle the processing of credit cards at least one (1) Business Day prior to the Closing Date and provide Seller with satisfactory evidence that a merchant account has been opened.

(d) Provisions Relating to New Liquor Licenses. Prior to Closing, Buyer shall use commercially reasonable efforts to obtain its own alcoholic beverage license(s) and all other necessary permits ("Liquor Licenses") for any existing or proposed future use of the Owned Real Property, or any part thereof, at Buyer's sole cost and expense. BUYER ACKNOWLEDGES THAT IT HAS REVIEWED ALL OF SELLER'S EXISTING LIQUOR LICENSES AND UNDERSTANDS ALL OF THE LICENSING REQUIREMENTS FOR THE EXISTING USE OF THE OWNED REAL PROPERTY. BUYER FURTHER ACKNOWLEDGES THAT SELLER'S LIQUOR LICENSES ARE NOT TRANSFERABLE TO BUYER. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT BUYER IS CAPABLE OF APPLYING FOR ITS OWN LIQUOR LICENSES TO BE USED IN CONNECTION WITH THE OWNERSHIP AND/OR OPERATION OF THE OWNED REAL PROPERTY AND UNDERSTANDS THE APPROVALS REQUIREMENTS AND TIMING ASSOCIATED WITH OBTAINING LIQUOR LICENSES FROM THE STATE OF VERMONT DEPARTMENT OF LIQUOR AND LOTTERY DIVISION OF LIQUOR CONTROL, INCLUDING APPROVALS OF THE TOWN OF BURKE SELECT BOARD AS PART OF THE STATE APPROVAL PROCESS, AND ACKNOWLEDGES AND AGREES THAT THE ISSUANCE OF ANY LIQUOR LICENSES TO BUYER OR ITS MANAGER SHALL NOT BE A CONDITION PRECEDENT TO CLOSING AND BUYER SHALL NOT BE ENTITLED TO ANY EXTENSIONS OF THE CLOSING DATE FOR SUCH PURPOSES.

Section 4.3 Employee Matters.

(a) Continuity of Employees. The parties intend that there will be continuity of employment with respect to all of the Employees. It is agreed that prior to, or in connection with, the Closing, Buyer shall take no action to cause Seller or Manager (or any of their respective Affiliates) to terminate the employment of any Employee (except if for cause or in the ordinary course relating to staffing levels), and neither Seller nor Manager (nor their Affiliates) shall be under any obligation to terminate any Employee prior to the Closing Date. It is further agreed that on the Closing Date, Buyer shall offer employment at the Resort (or cause its manager to offer employment) commencing on the Closing Date to all Employees, including those on vacation, leave of absence, disability or layoff, who were employed at the Resort on the day immediately preceding the Closing Date, on the same terms and conditions (including, without limitation, compensation, salary, employee benefits, job responsibility and descriptions, location, seniority and deemed length of service) as those provided to such Employees employed by Manager on the day immediately preceding the Closing Date. Those Employees who accept Buyer's (or its manager's) offer of employment and commence (or continue) employment with Buyer (or its manager) on the Closing Date shall hereafter be referred to as "Transferred Employees." Buyer shall be liable for any amounts to which any Employee (whether deemed a Transferred Employee or otherwise) becomes entitled under any severance policy, plan, agreement, arrangement or program which exists or arises, or may be deemed to exist or arise, as a result of or in connection with the transactions contemplated by this Agreement, whether under Applicable Law or otherwise. Schedule 4.3(a) is a list of all employees to whom and the amount of any obligations owed if Buyer does not offer employment at Closing. Seller acknowledges that to the extent any employees are employed by the Manager, Buyer may enter into a new management agreement with Manager providing for the continuation of the Manager's employment of the Transferred Employees for a period of up to sixty (60) days as necessary to ensure the employee retention.

(b) Indemnity. Buyer shall indemnify, defend and hold Seller and Manager (and the other Seller-Related Entities) harmless from and against any and all claims, actions, suits, demands, proceedings, losses, expenses, damages, obligations and liabilities (including costs of collection, attorney's fees and other costs of defense) arising out of or otherwise in respect of (i) the termination of any Employees in violation of this Agreement; (ii) a breach by Buyer of the covenants set forth in Section 4.3(a); (iii) the failure of Buyer to comply with its obligations

(including, but not limited to, any statutory obligations) with respect to the Transferred Employees or obligations under Section 4.3(c); (iv) any claim made by any Transferred Employee for severance pay; (v) any claim made by any Employee in relation to any alleged discriminatory hiring or firing practices of Buyer; (vi) any claim made by any Transferred Employee arising on or after the Closing Date; and (vii) the failure of Buyer (or its manager) to continue the employment of any Transferred Employee on the same terms and conditions as said Employee enjoys on the day immediately preceding the Closing Date.

(c) WARN Act. Buyer (or its manager) shall not, at any time prior to 90 days after the Closing Date, effectuate a "plant closing" or "mass layoff," as those terms are defined in the WARN Act, or take any action that would trigger the requirements under the WARN Act, affecting in whole or in part any site of employment, facility, operating unit or Employee, without notifying Seller in advance and without complying with the notice requirements and other provisions of the WARN Act. In addition, Buyer shall provide a full defense to, and indemnify the Seller-Related Entities for any Losses which the Seller-Related Entities may incur in connection with any suit or claim of violation brought against or affecting any of the Seller-Related Entities under the WARN Act or any similar state law for any actions taken in connection with Closing or otherwise whether by Buyer (or its manager or any of its and its manager's Affiliates) or any other party with regard to any site of employment, facility, operating unit or employee affected by this Agreement, including but not limited to liability under the WARN Act that arises in whole or in part as a result of any "employment loss", as that term is defined in the WARN Act, which was caused or directed by Buyer or its manager or their Affiliates subsequent to the Closing Date.

(d) No Third-Party Beneficiaries. Nothing in this Section 4.3 shall create any third-party beneficiary rights for the benefit of any employees of the Resort or Manager or its Affiliates. Buyer and Seller acknowledge that all provisions set forth in this Section 4.3 with respect to employees are included for the sole benefit of Buyer (and Buyer's Affiliates, as applicable) and Seller (and Seller's or Manager's Affiliates, as applicable) and shall not be deemed to constitute an amendment to any employee benefit plan or create any right (i) in any other person, including any employees, former employees, or any beneficiary thereof or (ii) to employment or continued employment with Buyer or any of its Affiliates, managers or contractors following the Closing Date.

(e) Survival. The provisions of this Section 4.3 shall survive the Closing without limitation.

Section 4.4 Bookings. Buyer shall honor all existing Bookings and Gift Cards and all other Bookings made in accordance with this Agreement for any booking or use period on or after the Closing Date. The provisions of this Section 4.4 shall survive the Closing without limitation.

Section 4.5 Ground Lease and BMOA.

(a) Buyer shall cooperate with Seller in connection with Seller's efforts to obtain approvals from the State of Vermont (sometimes referred to as the "State") with regard to the Buyer assuming Seller's obligations pursuant to the Ground Lease and Seller shall assume the Ground Lease upon the approval of same by the State pursuant to the form of Assignment and Assumption of State Lease attached as Exhibit G. Buyer is aware of and shall provide the State with the insurance required by the State pursuant to the Ground Lease.

(b) Buyer acknowledges that employees of the State of Vermont have approved the form of Assignment and Assumption of State Lease that is attached hereto as Exhibit G (the "Assignment and Assumption Agreement") and is prepared to enter into the Assignment and Assumption Agreement with an appropriate Person. Although the Buyer shall have the right to seek an amendment of the Ground Lease to extend the term thereunder, and to seek reinstatement of the State Land Use (Act 250) master plan permit(s), the refusal of the State to agree to the requests of Buyer and the failure of the State and Buyer to enter into the Assignment and Assumption Agreement will not be a condition to Closing if Buyer pursues such changes from the State. Subject to the foregoing, Seller shall use commercially reasonable efforts (at no cost or expense to Seller) to cooperate with Buyer's seeking such extension and/or reinstatement, provided that Buyer acknowledges by this sentence that such efforts on the part of Buyer will result in the elimination of the Assignment of the Ground Lease as a condition to Closing.

(c) Seller agrees that it shall use commercially reasonable efforts (at no cost or expense to Seller) to cooperate with Buyer's obtaining assignment of the Water/Sewer/Roads Escrows and related agreements with Burke Mountain Owners Association (BMOA) to Buyer, as well as any requested modifications of any existing BMOA agreements, but it shall not be a condition to the Closing hereunder that Buyer has obtained the same, and provided further that no portion of such escrows attributable to the Burke Mountain Water System shall be transferred to Buyer until the other Water System Assets are transferred to Buyer.

Section 4.6 Assumption of Seller's Obligations.

(a) It is the intention of the Parties that Buyer assume Seller's obligations with respect to the Assets and the development, operation and maintenance of the Resort, including, without limitation, obligations with regard to Operating Contracts, Equipment Leases, Bookings, Gift Cards, Space Leases, and Accounts Payable, and Buyer shall be deemed to have assumed such obligations as of the Closing Date except as otherwise provided in Sections 4.6(b) and (c) below. Additionally, Buyer agrees to assume the "Special Assumed Obligations" pertaining to the Resort, which are set forth on SCHEDULE 4.6(a), or which have otherwise been undertaken by any Seller and to obtain, at Buyer's sole cost and expense, any consents or approvals required by any third parties in connection with such assumption, and Buyer shall indemnify the Seller Parties from and against any and all loss, damage, cost, charge, liability or expense (including court costs and reasonable attorneys' fees) which the Seller Parties may sustain or incur as a result of Buyer's performance of and/or assumption of the foregoing assumed obligations, including, without limitation, any failure of Buyer to obtain the consents or approvals required by any third parties in connection with the assumption of such obligations.

(b) Subject to the foregoing Section 4.6(a), except as specifically provided in this Agreement, Buyer will not assume or become responsible for any liabilities or obligations of the Seller Entities, whether contingent or disclosed, or otherwise, including, without limitation (i) the payment of taxes on the income of the Seller Entities at the federal, state or local level, (ii) tort claims or litigation arising out of events or occurrences existing with respect to the Assets prior to the Closing Date, whether pending or threatened or otherwise reduced to judgment, (iii) environmental liabilities arising from events or circumstances of the Assets prior to the Closing Date (iv) indebtedness for borrowed money incurred by a Seller Entity, which is not a Special Assumed Obligation, (v) liabilities of a Seller Entity incurred prior to the Closing Date with respect to a Space Lease of which Seller had Knowledge and which was not included on SCHEDULE 3.1(b), or (vi) other undisclosed liabilities of a Seller Entity incurred prior to the Closing Date.

(c) Notwithstanding anything contained in this Agreement to the contrary, Buyer shall have no obligations with respect to (i) claims raised in the Case (as defined in Section 15.1), including claims of investors in portions of the Resort raised including, without limitation, investors pursuant to any EB-5 program (collectively, "EB-5 Parties"), or (ii) liabilities of Seller not specifically assumed by Buyer in this Agreement, and Seller shall have the order of the District

Court approving this Agreement contain language barring (X) the EB-5 Parties from making any claims against the Resort or the Buyer and eliminating any rights the EB-5 Parties may claim with respect to the Resort or the Buyer,and (Y) liens and claims relating to, arising under, out of or in connection with, or in any way relating to the operation of the Assets prior to Closing, except as specifically assumed by Buyer under this Agreement.

(d) The provisions of this Section 4.6 shall survive the Closing without limitation.

Section 4.7 Management Agreement. The parties agree that the Management Agreement shall be terminated as of the Closing Date at the expense of Seller. Buyer obtaining a new management agreement for the Resort shall not be a condition to Closing for Buyer. Seller shall retain all obligations under the Management Agreement up to and including the Closing.

Section 4.8 Restriction on Sale by Buyer. Buyer agrees not to sell all or substantially all of the Assets or permit a change in control of Buyer for a period of three years from and after the Closing Date. This provision shall survive Closing.

ARTICLE V
CONDITIONS PRECEDENT TO CLOSING

Section 5.1 Conditions Precedent to Seller's Obligations. The obligation of Seller to consummate the transfer of the Assets to Buyer on the Closing Date is subject to the satisfaction (or waiver by Seller) as of the Closing of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties made by Buyer in this Agreement shall be true and correct in all material respects when made and on and as of the Closing Date as though such representations and warranties were made on and as of the Closing Date.

(b) Obligations and Covenants. Buyer shall have performed or complied in all material respects with each obligation and covenant required by this Agreement to be performed or complied with by Buyer on or before the Closing.

(c) Buyer Deliverables. Seller shall have received all of the documents required to be delivered by Buyer under Section 6.1 (or such documents shall have been delivered to Escrow Agent to be held in escrow and delivered to Seller at Closing).

(d) Purchase Price. Seller shall have received the Purchase Price in accordance with Section 2.1(d)(i) and all other amounts due to Seller from Buyer hereunder (or such funds shall have been delivered to Escrow Agent to be held in escrow and delivered to Seller at Closing).

(e) District Court Approval. Receipt of approval from the District Court as provided in Section 15.1.

(f) No Prohibition on Transfer. No order or injunction of any court or administrative agency of competent jurisdiction nor any statute, rule, regulation or executive order promulgated by any Governmental Authority of competent jurisdiction shall be in effect as of the Closing which restrains or prohibits the transfer of the Assets, or the consummation of any other transaction contemplated hereby.

(g) Consent to Assumption of Ground Lease. The landlord pursuant to the Ground Lease shall have approved the transfer of Seller's rights and obligations pursuant to each such lease to Buyer.

(h) BMA Waiver. Receipt of a waiver from BMA of the right of first refusal set forth in the BMA Right of First Refusal Agreement (the "BMA ROFR Waiver") with respect to the transaction contemplated by this Agreement and receipt of approval from the counterparty to the transfer of Seller's rights and obligations pursuant to each of the BMA/BRI Contracts to Buyer.

(i) Water System Operating Agreement. The Water System Operating Agreement shall have been fully executed.

(j) Waiver by Seller. The conditions set forth in this Section 5.1 are solely for the benefit of Seller and may be waived only by Seller. At all times prior to the termination of this Agreement, Seller may waive any of these conditions in its sole discretion and proceed with the Closing, subject to the terms and conditions of this Agreement.

Section 5.2 Conditions to Buyer's Obligations. The obligation of Buyer to purchase and pay for the Assets is subject to the satisfaction (or waiver by Buyer) as of the Closing of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties made by Seller in this Agreement (as the same may be amended or supplemented in accordance with Section 3.2) shall be true and correct in all material respects when made and on and as of the Closing Date as though such representations and warranties were made on and as of Closing Date

(unless such representation or warranty is made on and as of a specific date, in which case it shall be true and correct in all material respects as of such date), excluding, however, any inaccuracies or changes in the representations and warranties made by Seller resulting from any action, condition or matter that (i) is expressly permitted or contemplated by the terms of this Agreement, (ii) was within Buyer's Knowledge prior to Closing, (iii) was not within Seller's Knowledge as of the Effective Date or (iv) is a result of events or occurrences outside of the reasonable control of Seller after the Effective Date.

(b) Obligations and Covenants. Seller shall have performed or complied in all material respects with each obligation and covenant required by this Agreement to be performed or complied with by Seller on or before the Closing.

(c) No Prohibition on Transfer. No order or injunction of any court or administrative agency of competent jurisdiction nor any statute, rule, regulation or executive order promulgated by any Governmental Authority of competent jurisdiction shall be in effect as of the Closing which restrains or prohibits the transfer of the Assets, or the consummation of any other transaction contemplated hereby.

(d) Seller Deliverables. Buyer shall have received all of the documents required to be delivered by Seller under Section 6.2 (or such documents shall have been delivered to Escrow Agent to be held in escrow and delivered to Buyer at Closing).

(e) District Court Approval. District Court approval of the transaction contemplated by this Agreement having been obtained, as described in Section 15.1 of this Agreement within twenty (20) days of submission of the Offer, along with a motion seeking approval, to the District Court, which submission and motion shall be made by Receiver within three (3) business days of the Offer Date.

(f) Management Agreement Termination. Seller shall have delivered to Manager a notice of termination of the Management Agreement, to be effective as of the Closing Date, if so requested in writing by Buyer not less than thirty (30) days prior to the Closing Date.

(g) Consent to Assumption of Ground Lease. Subject to Section 4.5(b), the landlord pursuant to the Ground Lease shall have approved the transfer of Seller's rights and obligations pursuant to each such lease to Buyer pursuant to the form of Assignment and Assumption of Ground Lease attached as Exhibit G.

(h) Water System Operating Agreement. The Water System Operating Agreement shall have been fully executed.

(i) Waiver by Buyer. The conditions set forth in this Section 5.2 are solely for the benefit of Buyer and may be waived only by Buyer. At all times prior to the termination of this Agreement, Buyer may waive any of these conditions in its sole discretion and proceed with the Closing, subject to the terms and conditions of this Agreement.

Section 5.3 Waiver of Conditions Precedent. The Closing shall constitute conclusive evidence that Seller and Buyer have respectively waived any conditions which are not satisfied as of the Closing.

Section 5.4 Frustration of Closing Conditions. Neither Seller nor Buyer may rely on the failure of a closing condition set forth in Sections 5.1 or 5.2 if such failure was caused by such party's failure to act in good faith or to use its commercially reasonable efforts to cause the Closing to occur.

ARTICLE VI
CLOSING DELIVERIES

Section 6.1 Buyer Closing Deliveries. Buyer shall make the following deliveries at Closing to Seller (or deposit such documents and other items with Escrow Agent to be held in escrow and delivered to Seller at Closing):

(a) an assignment and assumption of Operating Contracts, Equipment Leases, Bookings, and Space Leases and other Special Assumed Obligations (unless assigned under separate assignment) (an "Assignment of Contracts and Space Leases") duly executed by Buyer in substantially the form of Exhibit A attached hereto;

(b) a general assignment and assumption of the Licenses and Permits and Intangible Property in the form of Exhibit C attached hereto (the "Assignment of Intangibles"), duly executed by Buyer;

(c) an assignment and assumption of the Ground Lease in the form of Exhibit G attached hereto (the "Assignment of Ground Lease"), duly executed by Buyer;

(d) such other documents and instruments as may be reasonably requested by Title Company in order to consummate the transactions described in this Agreement;

(e) all transfer tax returns which are required by law and the regulations issued pursuant thereto in connection with the payment of all state or local real property transfer taxes

that are payable or arise as a result of the consummation of the transactions contemplated by this Agreement, in each case, as prepared by Seller and duly executed by Buyer;

(f) a closing statement for the Assets prepared and approved by Seller and Buyer, consistent with the terms of this Agreement;

(g) an assignment and assumption of declarant's rights with respect to the Owned Real Property[1]; and

(h) a post-closing access and services contract, in form and content reasonably acceptable to Seller (the "Post-Closing Access and Services Contract"), duly executed by Buyer.

Section 6.2 Seller Closing Deliveries. The applicable Seller Entities shall deliver the following documents at Closing to Buyer (or deposit such documents with Escrow Agent to be held in escrow and delivered to Buyer at Closing):

(a) Receiver's deeds conveying the applicable portions of the Owned Real Property to Buyer (collectively, the "Deed") in substantially the form of Exhibit D attached hereto, duly executed by the applicable Seller;

(b) Receiver's bills of sale (a "Bill of Sale") duly executed by the applicable Seller in substantially the form of Exhibit E attached hereto, transferring the FF&E, supplies, Inventories, and Accounts Receivable to Buyer;

(c) the Assignment of Contracts and Space Leases duly executed by the applicable Seller, together with, to the extent in the possession of Sellers, copies or originals of all contracts and agreements assigned thereby;

(d) the Assignment of Intangibles, duly executed by the applicable Seller;

(e) all keys and keycards in Seller's possession, security and access codes to the Owned Real Property, which may be left at the Owned Real Property;

(f) an affidavit that each applicable Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act of 1980, as amended, in substantially the form of Exhibit F attached hereto;

(g) the Assignment of Ground Lease duly executed by the applicable Seller;

(h) bill of sale for and assignment of title to the vehicles, if any, owned by any Seller and used at the Resort, to the extent in the possession of Sellers;

(i) such other documents and instruments as may be reasonably requested by the Title Company to consummate the transactions described in this Agreement;

(j) all transfer tax returns which are required by law and the regulations issued pursuant thereto in connection with the payment of all state or local real property transfer taxes that are payable or arise as a result of the consummation of the transactions contemplated by this Agreement, in each case, as prepared and duly executed by Seller, as applicable;

(k) a closing statement for the Assets prepared and approved by Seller and Buyer, consistent with the terms of this Agreement; and

(l) the Post-Closing Access and Services Contract, duly executed by Seller.

Section 6.3 Post-Closing Cooperation.

(a) Buyer shall reasonably cooperate with Seller at no material cost to Buyer in connection with (x) the prosecution or defense of any litigation, actions, suits, arbitrations, claims, government investigations, or proceedings with any Person or Governmental Agency arising out of or relating to events that occur prior to the Closing Date, and (y) the books and records required to be provided to the applicable taxing authorities with regard to the employee retention tax credit referred to in Section 2.1(c)(vi), including, without limitation, making records, documents, and Employees available to Seller at no cost to Buyer. Seller will have access to the books and records of the Resort in a format usable by Seller relating to both pre-Closing and post-Closing periods to the extent necessary in connection with reporting to third parties, including, without limitation, taxing authorities and EB-5 Parties. Seller, at no material cost to Seller, shall reasonably cooperate with Buyer in connection with the completion or execution of documents, transfer of assets, application for permits and licenses, and any other actions that might be required post-Closing to effectuate the purposes and intent of the Closing, including transferring all the Assets and operation of the Resort and associated Owned Real Property to the Buyer as provided herein. The provisions of this Section 6.3 shall survive the Closing.

(b) Seller and Buyer shall enter into the Water System Operating Agreement at Closing and adhere to the terms and conditions thereof including those related to the transfer of the Water System Assets to Buyer and Buyer shall approve the release of the Water System Holdback in accordance with Section 16.1 hereof at such time as the Transfer Conditions, as defined in the Water System Operating Agreement have been satisfied, and Seller shall keep Burke Mountain Water Company in operation for such period as necessary perform the obligations

undertaken by Burke Mountain Water Company pursuant to the Water System Operating Agreement, with Buyer to be responsible for all costs of operating Burke Mountain Water Company until the transfer Date and for indemnifying Seller against claims arising from such post-Closing period of operations.

(c) At the request of Buyer, if the Vermont Liquor Commission has not issued Buyer's Liquor Licenses as of the Closing Date, Seller shall, to the extent permitted by applicable law, retain the liquor licenses held by Burke Mt. Operating Company and enter into an Alcoholic Beverage Operating Agreement on terms mutually acceptable to the Parties for a period of no more than 60 days following Closing, and Seller agrees, subject to applicable law with respect to the same, and on terms appropriate to such action, to cooperate with Buyer to keep Burke Mt. Operating Company in operation for such period as necessary to obtain the issuance of Buyer's Liquor Licenses, with Buyer to be responsible for all costs of operating Burke Mt. Operating Company until the license issuance date and with Buyer indemnifying Seller against claims arising from such post-Closing period of operations.

ARTICLE VII

INSPECTIONS AND RELEASE

Section 7.1 Inspection.

(a) Physical Inspections. Buyer has had the opportunity to inspect the Owned Real Property and Resort, review any other due diligence materials respecting the Owned Real Property and Resort, perform engineering studies, structural inspections, water tests, septic inspections, environmental and hazardous waste inspections, and perform such other due diligence as Buyer may elect to perform in its reasonable discretion with respect to the Owned Real Property and Resort.

(b) Inspection of Books and Records. Buyer has had the opportunity to review books, records and materials in the Asset File and to request that Seller add to the Asset File such additional information and materials as are requested by Buyer, excluding proprietary documents and information or other documents and information which were or are subject to confidentiality agreements or other restrictions which do not permit their disclosure to Buyer, and documents and information subject to the attorney client privilege or any similar privilege in connection with the Case or otherwise.

(c) Buyer Remedies. The failure of Buyer to receive access to any due diligence materials requested by it, whether or not the same is subject to a confidentiality obligation or an attorney client privilege, has been considered by Buyer in making its decision to extend an Offer pursuant to this Agreement and Buyer shall not have any rights under this Agreement as a result of not receiving or having the opportunity to pursue any requested information.

(d) Post Offer Date Diligence Inspections and Deliveries. Following the Offer Date and upon written request of Buyer, Seller shall have the option exercisable in its sole and absolute discretion, but shall have no obligation whatsoever, to provide Buyer with (i) access to the Resort for the purpose of physical inspections, or (ii) documents and materials requested by or on behalf of Buyer; provided, however, it is acknowledged and agreed that Buyer's rights, if any, pursuant to this Section 7.1(d) shall be subject in all respects to the terms, provisions and limitations set forth in this Article VII. Notwithstanding anything set forth in this Agreement to the contrary, Buyer hereby acknowledges and agrees that Buyer has fully satisfied itself with the Condition of the Assets (as defined herein below) as of the Offer Date.

Section 7.2 Examination and No Contingencies.

(a) Examination. Buyer has had the opportunity to make such examination of the Resort and all other matters affecting or relating to the transactions contemplated hereunder as Buyer has deemed necessary. In entering into this Agreement, Buyer has not been induced by or relied upon any written or oral representations, warranties or statements, whether express or implied, made by Seller or any Affiliate, member or manager of Seller, or any officer, director, member, agent, employee, or other representative of any of the foregoing or by any broker or any other person representing or purporting to represent Seller with respect to the Assets, the Resort, the Condition of the Assets or the Resort or any other matter affecting or relating to the transactions contemplated hereby except as set forth in this Agreement. Buyer's obligations under this Agreement shall not be subject to any contingencies, diligence or conditions except as expressly set forth in Sections 5.2, 8.2(b), 8.3(b), 9.2(b), 12.2(a) and 12.2(b) of this Agreement. Buyer acknowledges and agrees that Seller makes no representations or warranties whatsoever, whether express or implied or arising by operation of law, with respect to the Assets or the Condition of the Assets except as expressly provided in this Agreement. BUYER AGREES THAT THE ASSETS WILL BE SOLD AND CONVEYED TO (AND ACCEPTED BY) BUYER AT THE CLOSING IN THE THEN EXISTING CONDITION OF THE ASSETS, AS IS, WHERE IS,

WITH ALL FAULTS, AND WITHOUT ANY WRITTEN OR VERBAL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW EXCEPT FOR WARRANTIES OF TITLE SET FORTH IN THE RECEIVER'S DEED IN THE FORM ATTACHED HERETO AS EXHIBIT D. The transactions contemplated by this Agreement are without statutory, express or implied warranty, representation, agreement, statement or expression of opinion of or with respect to the Condition of the Assets or any aspect thereof, including, without limitation, (i) any and all statutory, express or implied representations or warranties related to the suitability for habitation, merchantability, or fitness for a particular purpose, (ii) any statutory, express or implied representations or warranties created by any affirmation of fact or promise, by any description of the Assets or by operation of law and (iii) all other statutory, express or implied representations or warranties by Seller whatsoever. Buyer acknowledges that Buyer has knowledge and expertise in financial and business matters that enable Buyer to evaluate the merits and risks of the transactions contemplated by this Agreement. The provisions of Section 7.1 and this Section 7.2 shall survive the Closing without limitation and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

(b) Condition of the Assets. For purposes of this Agreement, the term "Condition of the Assets" means the following matters:

(i) The quality, nature and adequacy of the physical condition of the Resort, including, without limitation, the quality of the design, labor and materials used to construct the improvements included in the Resort; the condition of structural elements, foundations, roofs, glass, mechanical, plumbing, electrical, HVAC, sewage, and utility components and systems; the capacity or availability of sewer, water, or other utilities; the geology, flora, fauna, soils, subsurface conditions, groundwater, landscaping, and irrigation of or with respect to the Resort, the location of the Resort in or near any special taxing district, flood hazard zone, wetlands area, protected habitat, geological fault or subsidence zone, hazardous waste disposal or clean-up site, or other special area, the existence, location, or condition of ingress, egress, access, and parking; the condition of the personal property and any fixtures; the presence of any bedbugs, rodents, or other pests; and the presence of any asbestos or other Hazardous Materials, dangerous, or toxic substance, material or waste in, on, under or about the Resort and the improvements located

thereon. "Hazardous Materials" means (A) those substances included within the definitions of any one or more of the terms "hazardous substances," "toxic pollutants", "hazardous materials", "toxic substances", and "hazardous waste" in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (as amended), the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Sections 1801 et seq., the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. Section 6901 et seq., Section 311 of the Clean Water Act, 15 U.S.C. § 2601 et seq., 33 U.S.C. § 1251 et seq., 42 U.S.C. 7401 et seq. and the regulations and publications issued under any such laws and comparable laws and regulations of the State of Vermont, (B) petroleum, radon gas, lead based paint, asbestos or asbestos containing material and polychlorinated biphenyls and (C) mold, fungus, other biological agents, in each case the presence of which may adversely affect the health of individuals which may exist at the Resort and in all events in excess of the amounts permitted by Applicable Laws.

(ii) The economic feasibility, cash flow and expenses of the Assets, and habitability, merchantability, fitness, suitability and adequacy of the Resort for any particular use or purpose.

(iii) The compliance or non-compliance of Seller or the operation of the Resort or any part thereof in accordance with, and the contents of, (A) all codes, laws, ordinances, regulations, agreements, licenses, permits, approvals and applications of or with any Governmental Authorities asserting jurisdiction over the Resort, including, without limitation, those relating to zoning, land use, building, public works, parking, fire and police access, handicap access, life safety, subdivision and subdivision sales, and Hazardous Materials, dangerous, and toxic substances, materials, conditions or waste, including, without limitation, the presence of Hazardous Materials in, on, under or about the Resort that would cause state or federal agencies to order a cleanup of the Resort under any applicable legal requirements and (B) all agreements, covenants, conditions, restrictions (public or private), condominium plans, development agreements, site plans, building permits, building rules, and other instruments and documents governing or affecting the use, management, and operation of the Resort.

(iv) Those matters referred to in this Agreement and the documents listed on the schedules attached hereto and the matters disclosed in the Asset File.

(v) The availability, cost, terms and coverage of liability, hazard, comprehensive and any other insurance of or with respect to the Resort.

(vi) The condition of title to the Resort, including, without limitation, vesting, legal description, matters affecting title, title defects, liens, encumbrances, boundaries, encroachments, mineral rights, options, easements, and access; violations of restrictive covenants, land use, zoning ordinances, setback lines, or development agreements; the availability, cost, and coverage of title insurance; leases, rental agreements, occupancy agreements, rights of parties in possession of, using, or occupying the Resort; and municipal and other fees, taxes, bonds and assessments.

Section 7.3 Release. Buyer hereby agrees that Seller, and each of its partners, members, trustees, directors, officers, employees, representatives, property managers, asset managers, agents, including, without limitation, Manager, attorneys, Affiliates and related entities, heirs, successors, and assigns (collectively, including Seller, the "Releasees") shall be, and are hereby, fully and forever released and discharged from any and all liabilities, losses, claims (including third party claims), demands, damages (of any nature whatsoever), causes of action, costs, penalties, fines, judgments, reasonable attorneys' fees, consultants' fees and costs and experts' fees (collectively, the "Claims") with respect to any and all Claims, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with the Assets or the Resort including, without limitation, the physical, environmental and structural condition of the Resort or any law or regulation applicable thereto, including, without limitation, any Claim or matter (regardless of when it first appeared) relating to or arising from (a) the presence of any environmental problems, or the use, presence, storage, release, discharge, or migration of Hazardous Materials on, in, under or around the Resort regardless of when such Hazardous Materials were first introduced in, on or about the Resort, (b) any patent or latent defects or deficiencies with respect to the Resort, (c) any and all matters related to the Resort or any portion thereof, including without limitation, the condition and/or operation of the Resort and each part thereof, and (d) the presence, release and/or remediation of asbestos and asbestos containing materials in, on or about the Resort regardless of when such asbestos and asbestos containing materials were first introduced in, on or about the Resort; provided, however, that in no event shall Releasees be released from (x) any Claims arising pursuant to the provisions of this Agreement or Seller's obligations, if any, under the Closing

Documents or (y) any Claims arising from any fraudulent acts committed by Seller (as determined pursuant to a final non-appealable judgment issued by a court of competent jurisdiction) to Buyer in connection with the transactions contemplated by this Agreement or willful misconduct by the Seller. Buyer hereby waives and agrees not to commence any action, legal proceeding, cause of action or suits in law or equity, of whatever kind or nature, including, but not limited to, a private right of action under the federal Superfund laws, 42 U.S.C. Sections 9601 et seq. (as such laws and statutes may be amended, supplemented or replaced from time to time), directly or indirectly, against the Releasees or their agents in connection with Claims described above and all similar provisions or rules of law. In this connection and to the greatest extent permitted by law, Buyer hereby agrees, represents and warrants that Buyer realizes and acknowledges that factual matters not known to it may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damage, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and Buyer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that Buyer nevertheless hereby intends to release, discharge and acquit the Releasees from any such unknown, unanticipated or unsuspected Claims, debts, and controversies other than those caused by fraudulent acts (as determined pursuant to a final non-appealable appealable judgment issued by a court of competent jurisdiction) or act of willful misconduct of Seller, which might in any way be included, as a material portion of the consideration given to Seller by Buyer in exchange for Seller's performance hereunder. Without limiting the generality of the foregoing, the sale of the Assets shall be subject to all waivers of warranty and releases set forth in the Deed. Seller has given Buyer material concessions regarding this transaction in exchange for Buyer agreeing to the provisions of this Section 7.3. Seller and Buyer have each initialed this Section 7.3 to further indicate their awareness and acceptance of each and every provision hereof. The provisions of this Section 7.3 shall survive the Closing without limitation and shall not be deemed merged into any instrument or conveyance delivered at the Closing.

SELLER'S INITIALS: _____ BUYER'S INITIALS: _____

Section 7.4 DISCLAIMER. ANY INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE ASSETS IS SOLELY FOR BUYER'S CONVENIENCE

AND WAS OR WILL BE OBTAINED FROM A VARIETY OF SOURCES. SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO (AND EXPRESSLY DISCLAIMS ALL) REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION (E.G., THAT SUCH MATERIALS ARE COMPLETE, ACCURATE OR THE FINAL VERSION THEREOF, OR THAT SUCH MATERIALS ARE ALL OF SUCH MATERIALS AS ARE IN SELLER'S POSSESSION) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR THE CLOSING DOCUMENTS. IT IS THE PARTIES' EXPRESS UNDERSTANDING AND AGREEMENT THAT SUCH MATERIALS ARE PROVIDED ONLY FOR BUYER'S CONVENIENCE IN MAKING ITS OWN EXAMINATION AND DETERMINATION AS TO WHETHER IT WISHES TO PURCHASE THE ASSETS, AND, IN DOING SO, BUYER HAS RELIED EXCLUSIVELY ON ITS OWN INDEPENDENT INVESTIGATION AND EVALUATION OF EVERY ASPECT OF THE ASSETS AND THE RESORT AND NOT ON ANY MATERIALS SUPPLIED BY SELLER, INCLUDING, WITHOUT LIMITAION, MATERIALS PROVIDED BY MANAGER. BUYER EXPRESSLY DISCLAIMS ANY INTENT TO RELY ON ANY SUCH MATERIALS PROVIDED TO IT BY SELLER , INCLUDING, WITHOUT LIMITATION, BY MANAGER, IN CONNECTION WITH ITS INSPECTION AND AGREES THAT IT SHALL RELY SOLELY ON ITS OWN INDEPENDENTLY DEVELOPED OR VERIFIED INFORMATION. SELLER SHALL NOT BE LIABLE FOR ANY MISTAKES, OMISSIONS, MISREPRESENTATION OR ANY FAILURE TO INVESTIGATE THE ASSETS NOR SHALL SELLER BE BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS, APPRAISAL, ENVIRONMENTAL ASSESSMENT REPORTS OR OTHER INFORMATION PERTAINING TO THE ASSETS OR THE OPERATION THEREOF, FURNISHED BY SELLER, ITS REPRESENTATIVES OR ANY OTHER PERSON OR ENTITY ACTING ON SELLER'S BEHALF EXCEPT, IN EACH CASE, AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR IN ANY OF THE CLOSING DOCUMENTS.

SELLER'S INITIALS: _____ BUYER'S INITIALS: _____

ARTICLE VIII

TITLE AND PERMITTED EXCEPTIONS

Section 8.1 Title Insurance and Survey. The Owned Real Property shall be sold and is to be conveyed, and Buyer agrees to purchase the Owned Real Property, subject to the Permitted Exceptions. Buyer acknowledges and agrees that the Permitted Exceptions include numerous rights of BMA that run with the land. These rights include, but are not limited to, all matters set forth in the BMA Easement, which, among other rights and obligations, (a) provides BMA with exclusive use of the so-called "training hill" at the Resort and non-exclusive rights of way and easements on all other trails at the Resort, (b) requires that snowmaking be prioritized on the so-called "training hill" before all other trails at the Resort, (c) gives BMA rights to use the Mid-Burke lodge and lifts, (d) provides certain parking rights at the Resort to BMA, (e) contains requirements as to building of certain facilities, including, but not limited to a ski training and racing facility, as well as a building for Nordic training, and (f) requires the Resort to provide discounted (and in some cases free) lift tickets for racers and coaches of other racing and training programs attending events sponsored or hosted by BMA. Further, Buyer acknowledges and agrees that while obtaining a waiver of the right of first refusal of BMA under the BMA Right of First Refusal Agreement is a condition to Closing, said waiver may only apply to the Closing hereunder, and any future sales of the Owned Real Property may be subject to the rights of BMA under the Right of First Refusal Agreement.

Section 8.2 Title Commitment and Survey.

(a) Objections. Buyer has obtained at its cost and reviewed the Title Commitment and the Existing Survey (the "Existing Title Information") and has obtained such additional or updated title commitments and surveys (the "Additional Title Information") as it deems appropriate. Obtaining Existing and Additional Title Information has been within the sole and absolute discretion of Buyer. Buyer acknowledges and agrees that Buyer is satisfied with the condition of title and survey as reflected in the Title Commitment, and accepts all risks associated with not having obtained any additional survey or surveys, or if none has been provided or obtained, any survey, to the Owned Real Property. Upon the Offer Date, Buyer will be deemed to have unconditionally waived any objection to any title or survey matter with respect to the Owned Real Property that existed on or before the Offer Date, such matters being the "Pre-Effective Date Permitted Exceptions". Buyer acknowledges its unconditional waiver of any right to object to the

Pre-Effective Date Permitted Exceptions. Nothing in this Section 8.2(a) or in Section 8.2(b) below, shall require Seller, despite any election by Seller to attempt to discharge any title exceptions, to take or bring any action or proceeding or any other steps to remove any title exception or to expend any moneys therefor, other than with respect to the Post Effective Date Monetary Encumbrances and Post Effective Date Seller Encumbrances (as hereinafter defined) pursuant to Section 8.3 of this Agreement.

(b) Updates. If the Existing Title Information and/or the Additional Title Information is updated by Buyer after the Offer Date and any new matters are shown on such updated title information (the "Updated Title Information") that are not Permitted Exceptions and were not contained in the Existing Title Information and/or the Additional Title Information as the same existed as of the Offer Date and such new matters were created after the Offer Date and materially and adversely affect the marketability of title to or the use of the Owned Real Property for its intended purpose, then Buyer shall have until not later than 5:00 p.m. Eastern Time on the date that is five (5) Business Days after its receipt of the Updated Title Information to notify Sellers in writing (the "Updated Title Information Objection Notice") of Buyer's objection to any such matters. Buyer's failure to deliver the Updated Title Information Objection Notice on or prior to 5:00 p.m. Eastern Time on the date that is five (5) Business Days after Buyer's receipt of the Updated Title Information shall constitute Buyer's irrevocable acceptance of the Updated Title Information and Buyer shall be deemed to have unconditionally waived any right to object to any matters set forth therein. If Buyer timely delivers an Updated Title Information Objection Notice, Seller shall have three (3) Business Days after receipt of such notice to notify Buyer (i) that Seller will attempt to remove or attempt to cause to be removed such objected to matters from title on or before the Closing, in which case such matter and the agreed upon resolution thereof will be added to SCHEDULE 8.2(a); or (ii) that Seller elects not to cause such matter to be removed or rectified at which time Buyer may elect to accept the title in its then current condition or terminate this Agreement by delivery of written notice to Seller no later than three (3) Business Day following Seller's delivery of the notice described in clause (ii) above, in which case the Deposit shall be released to Buyer and the parties shall have no further obligations to each other except for those that expressly survive the termination of this Agreement. If Seller does not send a written response to Buyer's Updated Title Information Objection Notice within such three (3) Business Days after receipt of such notice, Seller shall be deemed to have elected not to cause such matter to be

removed or rectified and Buyer may elect to accept the title in its then current condition or terminate this Agreement by delivery of written notice to Seller no later than three (3) Business Day following Seller's failure to deliver of the notice described in clause (ii) above, in which case the Deposit shall be released to Buyer and the parties shall have no further obligations to each other except for those that expressly survive the termination of this Agreement. . Nothing in this subsection shall require Seller, despite any election by Seller to attempt to discharge any title exceptions, to take or bring any action or proceeding or any other steps to remove any title exception or to expend any moneys therefor, other than with respect to the Post Effective Date Monetary Encumbrances and Post Effective Date Seller Encumbrances (as hereinafter defined). Notwithstanding anything to the contrary set forth in this Agreement, if Buyer delivers an Updated Title Information Objection Notice less than three (3) Business Days prior to the scheduled Closing Date, Seller may adjourn the Closing Date for the period necessary to allow Seller three (3) Business Days to respond to the Updated Title Information Objection Notice prior to the Closing Date.

Section 8.3 Delivery of Title.

(a) Post Effective Date Seller Encumbrances. As of the Closing, Seller shall obtain releases of or cause Title Company to insure over or against (i) the mortgages created by Seller encumbering the Owned Real Property, and (ii) any liens encumbering the Owned Real Property affirmatively placed on the Owned Real Property by Seller after the effective date of the Title Commitment ("Post Effective Date Seller Encumbrances"). Other than as expressly set forth in this Agreement (including, without limitation, the first sentence of this Section 8.3(a), and the entirety of Section 8.3(c)), Seller shall not be required to take or bring any action or proceeding or any other steps to remove any title or survey matter or to expend any moneys therefor, nor shall Buyer have any right of action against Seller, at law or in equity, for Seller's inability to convey title subject only to the matters in existence as of the Offer Date.

(b) Rights of Termination. In the event that Seller is unable to convey title subject only to the Permitted Exceptions and Buyer has not, prior to the Closing Date, given notice to Seller that Buyer is willing to waive objection to each title exception which is not a Permitted Exception, Seller shall have the right, in Seller's sole and absolute discretion, to (i) take such action as Seller shall deem advisable to attempt to discharge or cause Title Company to insure over or against each such title exception which is not a Permitted Exception or (ii) terminate this

Agreement. In the event that Seller shall elect to attempt to discharge or cause Title Company to insure over or against such title exceptions which are not Permitted Exceptions, Seller shall be entitled to one or more adjournments of the Closing Date for a period not to exceed sixty (60) days in the aggregate. If, for any reason whatsoever, Seller has not discharged or caused Title Company to insure over or against such title exceptions which are not Permitted Exceptions prior to the expiration of the last of such adjournments, and if Buyer is not willing to waive objection to such title exceptions, this Agreement shall be terminated as of the expiration of the last of such adjournments. In the event of a termination of this Agreement pursuant to this Section 8.3(b), the Deposit shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder except for those that expressly survive the termination of this Agreement. Nothing in this clause (b) shall require Seller, despite any election by Seller to attempt to discharge or cause Title Company to insure over or against any title exceptions, to take or bring any action or proceeding or any other steps to remove any title exception or to expend any moneys therefor, other than with respect to the Post Effective Date Seller Encumbrances and the Post Effective Date Monetary Encumbrances (as hereinafter defined).

(c) Post Effective Date Monetary Encumbrance. At the Closing, in addition to releasing or causing Title Company to insure over or against any Post Effective Date Seller Encumbrances which Buyer does not waive its objection to pursuant to Section 8.3(b), Seller shall obtain a release of or cause Title Company to insure over or against any lien (other than liens that constitute Permitted Exceptions) encumbering the Owned Real Property after the effective date of the Title Commitment which may be removed or insured over solely by the payment of a sum of money (a "Post Effective Date Monetary Encumbrance"); provided that in order to remove or insure over or against any Post-Effective Date Monetary Encumbrances Seller shall not be obligated to spend more than Ten Thousand and No/100 Dollars ($10,000.00) in the aggregate to remove or insure over or against any Post-Effective Date Monetary Encumbrances.

(d) Endorsements. Buyer shall be entitled to request that the Title Company provide such endorsements (or amendments) to the Title Policy as Buyer may reasonably require, provided that (i) such endorsements (or amendments) shall be at no cost to, and shall impose no additional liability or obligation on, Seller or require any representation of Seller other than as provided in this Agreement, (ii) Buyer's obligations under this Agreement shall not be conditioned upon Buyer's ability to obtain such endorsements and, if Buyer is unable to obtain such

endorsements, Buyer shall nevertheless be obligated to proceed to close the transactions contemplated by this Agreement without reduction of or set off against the Purchase Price, and (iii) the Closing shall not be delayed as a result of Buyer's request hereunder.

Section 8.4 Cooperation. In connection with obtaining the Title Policy, Buyer and Seller, as applicable, and to the extent requested by Title Company, will deliver to Title Company (a) evidence sufficient to establish (i) the legal existence of Buyer and Seller and (ii) the authority of the respective signatories of Seller and Buyer to bind Seller and Buyer, as the case may be, and (b) a certificate of good standing of Seller.

ARTICLE IX
TRANSACTION COSTS AND RISK OF LOSS

Section 9.1 Transaction Costs.

(a) Apportionment of Costs. In addition to their respective apportionment obligations hereunder:

(i) Seller and Buyer shall each be responsible for the payment of the costs of their respective legal counsel, advisors and other professionals employed thereby in connection with the sale of the Assets;

(ii) Buyer and Seller shall each be responsible for fifty percent (50%) of any escrow fees established under this Agreement (including, but not limited to, any fees and expenses of Escrow Agent);

(iii) Buyer shall be responsible for all costs and expenses associated with (A) Buyer's due diligence, including any search costs with respect to the Assets and updates related thereto, which, for the avoidance of doubt, includes amounts due in connection with the Title Commitment and title search costs, (B) the policy premiums for the Title Policy, including, without limitation, any extended coverage or endorsements to the Title Policy and the cost of removing any so-called "standard exceptions" to the Title Policy, and the cost of updating the Existing Survey or obtaining a new survey, (C) the policy premiums in respect of any mortgage title insurance obtained by Buyer, (D) except for the amounts payable by Seller as set forth in clause (iv) below, all taxes, levies, charges or fees incurred with respect to transfer, recording or other charges payable in connection with the assignment, transfer or conveyance of the Assets and the Asset-Related Property, and any fees payable to replace the goods or services provided under the Operating

Contracts (which are not assigned or transferred to Buyer), (E) obtaining any financing Buyer may elect to obtain (including any fees, financing costs, mortgage and recordation taxes in connection therewith), (F) any fees and costs related to Buyer obtaining its Liquor Licenses, and assignment of the Ground Lease and any other assignments or assumptions Operating Agreements, Space Leases, Equipment Leases, Licenses and Permits, other Special Assumed Obligations, or any other obligations of Seller that are to be assumed by Buyer in connection with this Agreement, except for Seller's legal fees, (G) all sales, use or similar taxes due in connection with the transfer of the portion of the Assets constituting personal property (including vehicles) and (I) all costs associated with any environmental report or study obtained by Seller or Buyer with respect to the transaction contemplated by this Agreement; and

(iv) Buyer shall pay at Closing the transfer taxes on the deed of conveyance. Seller shall be responsible for any Vermont land gains tax or non-resident withholding tax due upon transfer of the Owned Real Estate.

Any other closing costs not specifically allocated by this Agreement shall be allocated in accordance with closing customs for similar properties located in the same state as the Assets.

(b) Indemnification. Each party to this Agreement shall indemnify the other parties and their respective successors and assigns from and against any and all loss, damage, cost, charge, liability or expense (including court costs and reasonable attorneys' fees) which such other party may sustain or incur as a result of the failure of either party to timely pay any of the aforementioned taxes, fees or other charges for which it has assumed responsibility under this Section 9.1.

(c) Survival. The provisions of this Article IX shall survive the Closing or the termination of this Agreement without limitation.

Section 9.2 Risk of Loss.

(a) Condemnation and Casualty. If, after the Effective Date but on or before the Closing Date, the Owned Real Property or any portion thereof shall be (i) damaged or destroyed by fire or other casualty or (ii) taken as a result of any condemnation or eminent domain proceeding, Seller shall promptly notify Buyer and, at Closing, Seller will credit against the Purchase Price payable by Buyer at the Closing an amount equal to the net proceeds (other than on account of business or rental interruption relating to the period prior to Closing), if any, received

by Seller as a result of such casualty or condemnation, plus the amount of any deductible payable by Buyer (unless such casualty or condemnation constitutes a Material Casualty or Material Condemnation, as applicable), less any amounts spent by Seller to restore the Owned Real Property. If as of the Closing Date, Seller has not received any such insurance or condemnation proceeds, then the parties shall nevertheless consummate on the Closing Date the conveyance of the Assets (without any credit for such insurance or condemnation proceeds except for a credit for any deductible payable by Buyer under such insurance) and Seller will at the Closing assign to Buyer all rights of Seller, if any, to the insurance or condemnation proceeds (other than on account of business or rental interruption relating to the period prior to Closing) and to all other rights or claims arising out of or in connection with such casualty or condemnation.

(b) Right of Termination. Notwithstanding the provisions of Section 9.2(a), if, on or before the Closing Date, the Owned Real Property or any portion thereof shall be (i) damaged or destroyed by a Material Casualty or (ii) taken as a result of a Material Condemnation, Buyer shall have the right, exercised by notice to Seller no more than five (5) Business Days after Buyer has received notice of such Material Casualty or Material Condemnation, to terminate this Agreement, in which event the Deposit shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder other than those which expressly survive the termination of this Agreement. If Buyer fails to timely terminate this Agreement in accordance with this Section 9.2(b), the provisions of Section 9.2(a) shall apply. As used in this Section 9.2(b), a "Material Casualty" shall mean any damage to the Owned Real Property or any portion thereof by fire or other casualty that in Seller's reasonable judgment may be expected to cost in excess of twenty percent (20%) of the Purchase Price to repair. As used in this Section 9.2(b), a "Material Condemnation" shall mean a taking of the Owned Real Property or any material portion thereof as a result of a condemnation or eminent domain proceedings that permanently impairs the use and value of such Owned Real Property, and which cannot be restored to substantially the same use and value as before the taking.

(c) Seller Risk of Loss. Subject to the provisions of this Section 9.2, the risk of physical loss or damage to the Owned Real Property shall remain with Seller until delivery of the Deed. Notwithstanding anything to the contrary set forth in this Agreement, it is acknowledged and agreed that the transactions contemplated by this Agreement, and the respective obligations of Buyer and Seller set forth in this Agreement, are not conditioned or contingent upon Seller

maintaining pre-Closing performance levels of the Resort, including, without limitation, the financial or operational condition of the Resort or the satisfaction of any financial or operational projections, and any related post-Closing risk of loss shall be borne solely by Buyer.

(d) Extension of Closing. In the event the Owned Real Property or any portion thereof shall be (i) damaged or destroyed by fire or other casualty or (ii) taken as a result of any condemnation or eminent domain proceeding, within, in each case, five (5) Business Days prior to the Closing Date, at Seller's or Buyer's option, the Closing Date shall be extended by five (5) Business Days.

(e) Insurance Proceeds. Other than the credit against the Purchase Price and the assignment of any insurance proceeds as provided in Section 9.2(a), Buyer and Seller hereby agree that any insurance claims, insurance proceeds or other recoveries payable in connection with a casualty occurring prior to the Closing Date shall be retained by or paid to Seller and are not part of the Assets to be transferred to Buyer and Seller may take any action it deems desirable or necessary to collect same. If any such proceeds or recoveries are received by Buyer, Buyer shall promptly deliver the same to Seller. The provisions of this Section 9.2(e) shall survive the Closing without limitation.

ARTICLE X

ADJUSTMENTS

Section 10.1 Adjustments. Unless otherwise provided below, the following and all revenue and expenses are to be adjusted and prorated between Seller and Buyer as of 11:59 p.m. on the day preceding the Closing, local time for the Resort (the "Cut-Off Time"), based upon a 365 day year, and the net amount thereof under this Section 10.1 shall be added to (if such net amount is in Seller's favor) or deducted from (if such net amount is in Buyer's favor) the Purchase Price payable at the Closing:

(a) Resort Operations. All Resort operating revenues and expenses (the "Resort Operating Prorations") shall be adjusted as of 11:59 PM on the day preceding the Closing Date, local time for the Resort, and the same shall be readjusted as of the Cut-Off Time following Closing on or prior to the Reconciliation Date.

(b) Taxes and Assessments. All real estate and personal property taxes and assessments levied against the Assets relating to the year in which Closing occurs shall be prorated

as of the Cut-Off Time between Buyer and Seller, based on the highest available discount. If the amount of any such taxes is not ascertainable on the Closing Date, the proration for such taxes shall be based on the most recently available bill, and/or assessed valuations; provided, however, that after the Closing, Seller and Buyer shall re-prorate the taxes and pay any deficiency in the original proration to the other party promptly upon receipt of the final bill for the relevant taxable period, subject to the provisions of Section 10.3 hereafter. In the event that the Assets or any part thereof shall be or shall have been affected by an assessment or assessments, whether or not the same become payable in annual installments, Seller shall, at the Closing, be responsible for any installments due prior to the Closing and Buyer shall be responsible for any installments due on or after the Closing.

(c) Water and Sewer Charges, Utilities. All utility services shall be prorated as of the Cut-Off Time between Buyer and Seller. To the extent possible, readings shall be obtained for all utilities as of the Cut-Off Time. If not possible, the cost of such utilities shall be prorated between Seller and Buyer by estimating such cost on the basis of the most recent bill for such service; provided, however, that after the Closing, Seller and Buyer shall re-prorate the amount for such utilities and pay any deficiency in the original proration to the other party promptly upon receipt of the actual bill for the relevant billing period. Seller shall receive a credit for all deposits transferred to Buyer or which remain on deposit for the benefit of Buyer with respect to such utility contracts, otherwise such deposits shall be refunded to Seller, as applicable.

(d) Equipment Leases. Any amounts prepaid, accrued or due and payable under Equipment Leases shall be prorated as of the Cut-Off Time between Seller and Buyer, with Seller being credited for amounts prepaid, and Buyer being credited for amounts accrued and unpaid. Seller shall receive a credit for all deposits made by Seller under Equipment Leases (together with any interest thereon, if any) which are transferred to Buyer or remain on deposit for the benefit of Buyer.

(e) Operating Contracts. Charges and payments (including the reimbursement of expenses) under all Operating Contracts (other than for utilities which proration is addressed separately in clause (b)) shall be prorated as of the Cutoff Time. With respect to Operating Contracts that relate to capital projects, the sums due under the contract shall be prorated based on the percentage completion of the capital project as of the cut-off time.

(f) Ground Lease. Rent and other payments due under the Ground Lease shall be prorated as of the Cut-Off Time, with Seller being credited for amounts prepaid, and Buyer being credited for amounts accrued and unpaid.

(g) Miscellaneous Revenues. Revenues, if any, arising out of any other income producing agreements not described in this Section 10.1.

(h) Inventory. Seller shall receive a credit for all good and saleable Inventories and Retail Merchandise in an amount equal to fifty percent (50%) of Seller's actual cost (including sales and/or use tax) for such items.

(i) Alcoholic Beverages. Seller shall receive a credit for all unopened bottles or containers of alcoholic beverages as of the Closing in an amount equal to Seller's actual cost (include sales and/or use tax) for such items.

(j) Licenses and Permits. All amounts prepaid, accrued or due and payable under any Licenses and Permits (other than utilities which are separately prorated under Section 10.1(b)) transferred to Buyer shall be prorated as of the Cut-Off Time between Seller and Buyer. Seller shall receive a credit for all deposits made by Seller under the Licenses and Permits which are transferred to Buyer or which remain on deposit for the benefit of Buyer.

(k) Deposits for Bookings. At Closing Buyer shall receive either a credit towards the Purchase Price or the actual funds held by Seller for all prepaid deposits for Bookings scheduled for accommodations, meeting rooms, facilities or events on or after the Closing Date which Buyer is obligated to honor pursuant to this Agreement, except to the extent such deposits are transferred to Buyers. If the actual funds held by Sellers are less than the mount paid for the Bookings, Buyer shall receive a credit in the full amount of the Bookings.

(l) Restaurants and Bars. Seller shall close out the transactions in the restaurants and bars in the Resort as of the Cut-Off Time and shall retain all monies accrued as of the Cut-Off Time, and Buyer shall be entitled to any monies accrued from the restaurants and bars thereafter.

(m) Vending Machines. Seller shall remove all monies from all vending machines, laundry machines, pay telephones and other coin-operated equipment as of the Cut-Off Time and shall retain all monies collected therefrom as of the Cut-Off Time, and Buyer shall be entitled to any monies collected therefrom after the Cut-Off Time.

(n) Trade Payables. Except to the extent an adjustment or proration is made under another subsection of this Section 10.1, (i) Seller shall be responsible for all amounts payable to vendors, contractors or other suppliers of goods or services to the Resort (the "Trade Payables") prior to the Cut-Off Time which are due and payable as of the Cut-Off Time for which goods or services have been delivered to the Resort prior to Cut-Off Time, and (ii) Buyer shall receive a credit for the amount of such Trade Payables which have accrued, but are not yet due and payable as of the Cut-Off Time, and Buyer shall pay all such Trade Payables accrued after the Cut-Off Time when such Trade Payables become due and payable up to the amount of such credit (plus any late fees and penalties resulting from Buyer's failure to pay such Trade Payables when due); provided, however, Seller and Buyer shall re-prorate the amount of credit for any Trade Payables and pay any deficiency in the original proration to the other party promptly upon receipt of the actual bill for such goods or services. Seller shall receive a credit for all advance payments or deposits made with respect to FF&E, Retail Merchandise, Property and Equipment, Inventories and other property ordered, but not delivered to the Resort prior to the Cut-Off Time, and Buyer shall pay the amounts which become due and payable for such FF&E, Retail Merchandise, Property and Equipment, Inventories and other property which were ordered but not delivered prior to the Cut-Off time.

(o) Cash. Except as set forth in Section 10.1(j), Seller shall receive a credit for all cash on hand at the Resort and all cash on deposit in any house bank at the Resort as of the Closing (such credit to be determined at the Cut-Off Time). Seller shall retain all amounts in any operating accounts of the Resort in any bank, and there shall be no credit or adjustment hereunder with respect to such cash; provided, however, Seller shall receive a credit for any reserve fund or account established pursuant to the terms of the Management Agreement which Seller transfers to Buyer at Closing, if any.

(p) Employee Compensation. Seller shall be responsible for the following liabilities to or respecting Employees having accrued prior to the Cut-Off Time: all Employees' wages, bonuses, retirement plan benefits, together with F.I.C.A. unemployment and other taxes and benefits due from any employer of such Employees, including accrued sick leave and accrued but unused vacation time or pay. Buyer shall be responsible for all other liabilities to or respecting Employees whether having accrued before or after the Cut-Off Time. Buyer shall be responsible for all severance payments for Transferred Employees identified on SCHEDULE 4.3(a) arising on

or after the Closing and for all Employees not offered employment by Buyer (or its manager) as of the Closing on the same terms as those provided to such Employees by Manager on the day immediately preceding the Closing Date.

(q) Space Leases. All rents and other amounts prepaid, accrued or due and payable under any of the Space Leases shall be prorated as of the Cut-Off Time between Seller and Buyer. Buyer shall receive a credit for all security deposits, if any, held by Seller.

(r) Other. If applicable, the Purchase Price shall be adjusted at Closing to reflect the adjustment of any other item which, (i) under the express terms of this Agreement is to be apportioned at Closing to effectuate the intent that, except as otherwise expressly provided herein, all items of operating revenue and operating expense of the Assets prior to the Cut-Off Time shall be for account of and paid by Seller and all items of operating revenue and operating expense of the Assets with respect to the period after the Cut-Off Time shall be for the account of and paid by Buyer, or (ii) is customarily prorated at the closing of similar transactions.

(s) Seasons Pass Sales. At Closing, Buyer shall receive a credit for all payments or deposits for seasons passes for the 2025-2026 ski season received by Seller prior to the Closing Date.

(t) Gift Cards. At Closing, Buyer shall receive a credit for all Gift Cards issued by Seller on or before the Closing Date but not yet used as of the Closing Date.

Section 10.2 Accounts Receivable.

(a) Guest Ledger. All revenues received or to be received from transient guests on account of room rents for the period prior to and including the Cut-Off Time shall belong to Seller. At Closing, Seller shall receive a credit in an amount equal to: (i) all amounts charged to the Guest Ledger for all room nights up to (but not including) the night during which the Cut-Off Time occurs, and (ii) one-half of all amounts charged to the Guest Ledger for the room night which includes the Cut-Off Time. For the period beginning on the day immediately following the Cut-Off Time, such revenues collected from the Guest Ledger shall belong to Buyer. In the event that an amount less than the total amount due from a guest is collected and the guest continues in occupancy after the Cut-Off Time, such amount shall be applied first to any amount owing by such Person to Seller and thereafter to such Person's amounts accruing to Buyer.

(b) Accounts Receivable (Other than Guest Ledger).

(i) On the Closing Date Seller shall assign to Buyer all Accounts Receivable (the "Assigned Accounts Receivable"), and Buyer shall pay to Seller an amount equal to (a) 100% of all Accounts Receivable attributable to the period of sixty (60) days prior to the Closing Date; (b) 50% of all Accounts Receivable attributable to the period more than sixty (60) days and up to one hundred twenty (120) days prior to the Closing Date; and (c) 10% of all Accounts Receivable attributable to the period more than one hundred twenty (120) days prior to the Closing Date. Buyer shall have the sole right to collect and retain all such Assigned Accounts Receivable.

(ii) The Accounts Receivable addressed in this Section 10.2(b) shall not include the Guest Ledger, which is addressed in Section 10.2(a).

Section 10.3 Re-Adjustment.

(a) Except as provided in Section 10.1(b), if any items to be adjusted pursuant to this Article X are not determinable at the Closing, the adjustment shall be made subsequent to the Closing when the charge is determined. Either Seller or Buyer may deliver to the other party no later than one hundred twenty (120) days following the Closing Date a schedule of prorations setting forth such party's determination of any adjustments to the prorations made at Closing that it believes are necessary to complete the prorations as set forth in this Article X (including the adjustment with respect to the Resort Operating Prorations under Section 10.1(a)). The parties shall cooperate in providing data or books and records to each other in order to facilitate agreement on final closing adjustments. Any errors or omissions in computing adjustments or readjustments at the Closing or thereafter shall be promptly corrected or made, provided that the party seeking to correct such error or omission or to make such readjustment shall have notified the other party of such error or omission or readjustment on or prior to the date that is one hundred twenty (120) days following the Closing (the "Reconciliation Date"). In the event of a disagreement over the final closing adjustments, relevant information will be submitted to the District Court for binding resolution.

(b) The obligations of Seller and Buyer under this ARTICLE X shall survive the Closing for one hundred eighty (180) days.

ARTICLE XI
INDEMNIFICATION

Section 11.1 Indemnification by Seller. From and after the Closing, and subject to Sections 11.3 and 11.4, Seller shall indemnify and hold Buyer, its Affiliates, members and partners, and the partners, shareholders, officers, directors, employees, representatives and agents of each of the foregoing (collectively, the "Buyer-Related Entities") harmless from and against any and all costs, fees, expenses, damages, deficiencies, interest and penalties (including, without limitation, reasonable attorneys' fees and disbursements) actually suffered or incurred by any such indemnified party in connection with any and all losses, liabilities, claims, damages and expenses ("Losses"), arising out of, or in any way relating to, (a) any breach of any representation or warranty of Seller set forth in Section 3.1(a) of this Agreement, and (b) any breach of any covenant of Seller which expressly survives the Closing as set forth in this Agreement or in any Closing Document. Notwithstanding anything to the contrary set forth in this Agreement, Seller shall have no liability or obligation to indemnify and hold Buyer Related Entities harmless from any Losses to the extent such Losses result from or are related to any acts or omissions of Manager or results from or is related to any acts or omissions of any of the Buyer-Related Entities. The provisions of this Section 11.1 shall survive the Closing for the period set forth in Section 11.4.

Section 11.2 Indemnification by Buyer. From and after the Closing, Buyer shall indemnify and hold Seller, its Affiliates, members and partners, and the partners, shareholders, officers, directors, employees, representatives and agents of each of the foregoing (collectively, the "Seller-Related Entities") harmless from any and all Losses arising out of, or in any way relating to, (a) any breach of any representation or warranty by Buyer set forth in this Agreement or in any Closing Document, (b) any breach of any covenant of Buyer which expressly survives the Closing as set forth in this Agreement or in any Closing Document, and (c) liabilities that are based upon any matter relating to the use, ownership, maintenance, operation or construction of the Resort or other Assets arising from and after the Closing Date. The provisions of this Section 11.2 shall survive the Closing without limitation.

Section 11.3 Limitations on Indemnification. Notwithstanding the foregoing provisions of Section 11.1, (a) Seller shall not be required to indemnify Buyer or any Buyer-Related Entities under this Agreement unless the aggregate of all amounts for which a claim for indemnification or otherwise pursuant to this Agreement would otherwise be payable by Seller under Section 11.1 or any other provisions of this Agreement exceeds the Basket Limitation and, in such event, Seller shall be responsible only for such amount in excess of the Basket Limitation,

(b) in no event shall the liability of Seller with respect to the indemnification provided for in Section 11.1 or any other provisions of this Agreement exceed in the aggregate the Cap Limitation, and (c) if prior to the Closing, Buyer obtains or has knowledge of any inaccuracy or breach of any representation, warranty or covenant of Seller set forth in this Agreement (a "Buyer Waived Breach") and nonetheless proceeds with and consummates the Closing, then Buyer and any Buyer-Related Entities shall be deemed to have waived and forever renounced any right to assert a claim for indemnification under this Article XI, or any other claim or cause of action under this Agreement, at law or in equity on account of any such Buyer Waived Breach. The Basket and Cap shall not apply to any breach by Seller of any Seller covenants contained in this Agreement.

Section 11.4 Survival. The representations and warranties of Sellers set forth in Section 3.1(a) and the covenants of Seller set forth in this Agreement and the Closing Documents shall survive for a period of six (6) months after the Closing unless otherwise expressly provided for in this Agreement.

Section 11.5 Indemnification as Sole Remedy. If the Closing has occurred, the sole and exclusive remedy available to a party in the event of a breach by the other party to this Agreement of any representation, warranty, covenant or other provision of this Agreement or any Closing Document which survives the Closing, with the exception of a party's fraud, determined pursuant to a final non-appealable appealable judgment issued by a court of competent jurisdiction, or willful misconduct, shall be the indemnifications provided for under this Article XI, which indemnifications shall survive the Closing as provided in this Article XI without limitation.

ARTICLE XII
DEFAULT AND TERMINATION

Section 12.1 Seller's Termination.

(a) TERMINATION BY SELLER. THIS AGREEMENT MAY BE TERMINATED BY SELLER PRIOR TO THE CLOSING IF (I) THERE IS A MATERIAL BREACH OR DEFAULT BY BUYER IN THE PERFORMANCE OF ANY OF ITS OBLIGATIONS UNDER THIS AGREEMENT, OR (II) ANY OF THE CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS SET FORTH IN Section 5.1(e) OTHER THAN AS A RESULT OF SELLER'S BREACH OR DEFAULT HAVE NOT BEEN SATISFIED OR WAIVED BY SELLER PRIOR TO THE CLOSING DATE.

(b) CONSEQUENCE OF TERMINATION. IN THE EVENT THIS AGREEMENT IS TERMINATED PURSUANT TO Section 12.1(a)(I), BUYER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY SELLER AS A RESULT OF SUCH DEFAULT BY BUYER, AND AGREE THAT THE DEPOSIT IS A REASONABLE APPROXIMATION THEREOF AND SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF SELLER, AND SHALL BE PAID BY ESCROW AGENT TO SELLER AS SELLER'S SOLE AND EXCLUSIVE REMEDY HEREUNDER; PROVIDED, HOWEVER, THE FOREGOING SHALL NOT LIMIT BUYER'S OBLIGATION TO PAY TO SELLER ALL ATTORNEYS' FEES AND COSTS OF SELLER TO ENFORCE THE PROVISIONS OF THIS SECTION 12.1. THE PAYMENT OF THE DEPOSIT AS LIQUIDATED DAMAGES IS NOT INTENDED TO BE A FORFEITURE OR PENALTY BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. IN THE EVENT THAT THIS AGREEMENT IS TERMINATED PURSUANT TO Section 12.1(a)(II), THE DEPOSIT WILL BE RETURNED TO BUYER AND NEITHER PARTY SHALL HAVE ANY RIGHTS OR OBLIGATIONS AGAINST OR TO THE OTHER, EXCEPT FOR THOSE PROVISIONS HEREOF WHICH BY THEIR TERMS EXPRESSLY SURVIVE THE TERMINATION OF THIS AGREEMENT.

SELLER'S INITIALS: _____ BUYER'S INITIALS: _____

Section 12.2 Buyer's Termination.

(a) TERMINATION BY BUYER. IF ANY OF THE CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS SET FORTH IN SECTION 5.2 HAVE NOT BEEN SATISFIED OR WAIVED BY BUYER ON OR PRIOR TO THE THEN-SCHEDULED CLOSING DATE FOR ANY REASON, OTHER THAN BUYER'S BREACH OR DEFAULT UNDER THIS AGREEMENT (THE "UNSATISFIED CP"), THEN IF BUYER INTENDS TO TERMINATE THIS AGREEMENT, BUYER MUST FIRST SEND WRITTEN NOTICE THEREOF TO SELLER SETTING FORTH IN DETAIL THE UNSATISFIED CONDITION PRECEDENT (THE "UNSATISFIED CP NOTICE"). SELLER SHALL THEN HAVE UNTIL THE LATER OF (A) THE CLOSING DATE, AND (B) FIVE (5) BUSINESS DAYS AFTER

SELLER'S RECEIPT OF THE UNSATISFIED CP NOTICE (THE "UNSATISFIED CP CURE DEADLINE") TO SATISFY SUCH UNSATISFIED CONDITION PRECEDENT. ONLY IF SUCH UNSATISFIED CONDITION PRECEDENT REMAINS UNSATISFIED AS OF THE UNSATISFIED CP CURE DEADLINE SHALL BUYER THEN HAVE THE RIGHT TO TERMINATE THIS AGREEMENT PURSUANT TO THIS Section 12.2(a) BY SENDING WRITTEN NOTICE THEREOF TO SELLER AND ESCROW AGENT, IN WHICH CASE, ESCROW AGENT SHALL DISBURSE THE DEPOSIT TO BUYER, AS BUYER'S SOLE AND EXCLUSIVE REMEDY, AND UPON SUCH DISBURSEMENT, THIS AGREEMENT SHALL BE TERMINATED AND OF NO FURTHER FORCE OR EFFECT, EXCEPT FOR THOSE PROVISIONS WHICH EXPRESSLY SURVIVE SUCH TERMINATION.

(b) REMEDIES FOR SELLER DEFAULT. IF SELLER SHALL MATERIALLY DEFAULT IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT TO CAUSE THE SALE OF THE ASSETS AS OF THE LATER OF THE CLOSING DATE OR FIVE (5) BUSINESS DAYS AFTER SELLER'S RECEIPT OF BUYER'S WRITTEN NOTICE THEREOF, BUYER, AS ITS SOLE AND EXCLUSIVE REMEDY, MAY EITHER (I) TERMINATE THIS AGREEMENT AND DIRECT THE ESCROW AGENT TO DELIVER THE DEPOSIT TO BUYER, AFTER WHICH TIME THIS AGREEMENT SHALL BE TERMINATED AND OF NO FURTHER FORCE AND EFFECT EXCEPT FOR THE PROVISIONS WHICH EXPLICITLY SURVIVE SUCH TERMINATION, OR (II) IF (A) SELLER'S DEFAULT CONSTITUTES A WILLFUL AND INTENTIONAL REFUSAL OR FAILURE TO CONVEY THE ASSETS AS PROVIDED IN THIS AGREEMENT FOR ANY REASON OTHER THAN A PROVISION OF THIS AGREEMENT THAT (1) PERMITS SELLER TO TERMINATE THIS AGREEMENT, (2) RELIEVES SELLER OF THE OBLIGATION TO CONVEY THE ASSETS, INCLUDING, WITHOUT LIMITATION, THE DISTRICT COURT APPROVAL PROVIDED FOR PURSUANT TO SECTION 15.1, OR (3) CONDITIONS SELLER'S OBLIGATION TO CONVEY THE ASSETS AND SUCH CONDITION HAS NOT BEEN SATISFIED, AND (B) BUYER HAS (1) WAIVED ALL CONDITIONS TO CLOSING FOR THE BENEFIT OF BUYER UNDER THIS AGREEMENT, (2) HAS DELIVERED TO ESCROW AGENT AND TITLE COMPANY THE DOCUMENTS, INSTRUMENTS AND OTHER ITEMS REQUIRED TO BE DELIVERED BY BUYER AT THE CLOSING, AS SUCH DOCUMENTS ARE AVAILABLE TO BUYER, INCLUDING

IMMEDIATELY AVAILABLE FUNDS ON ACCOUNT OF THE PURCHASE PRICE, TOGETHER WITH WRITTEN INSTRUCTION TO PROCEED TO THE CLOSING, AND (3) SELLER THEREAFTER FAILS OR REFUSES TO DELIVER TO ESCROW AGENT WITHIN THREE (3) BUSINESS DAYS THEREAFTER THE DOCUMENTS AND INSTRUMENTS REQUIRED TO BE DELIVERED BY SELLER AT THE CLOSING, THEN BUYER MAY, IN LIEU OF EXERCISING THE REMEDY PROVIDED FOR IN SECTION 12.2(B)(I) (BUT NOT IN ADDITION THERETO), COMMENCE APPROPRIATE LEGAL PROCEEDINGS SEEKING TO ENFORCE SELLER'S OBLIGATION TO CONVEY THE ASSETS THROUGH SPECIFIC PERFORMANCE (INCLUDING THE RIGHT TO FILE/RECORD A LIS PENDENS); PROVIDED, HOWEVER, THAT NO SUCH PROCEEDING FOR SPECIFIC PERFORMANCE SHALL REQUIRE SELLER TO DO ANY OF THE FOLLOWING (UNLESS OTHERWISE EXPRESSLY REQUIRED OF SELLER BY THIS AGREEMENT): (X) CHANGE THE PHYSICAL CONDITION OF THE ASSETS OR RESTORE THE SAME AFTER FIRE, CASUALTY OR CONDEMNATION; (Y) EXPEND MONEY OR POST A BOND TO REMOVE A TITLE OBJECTION OR OTHER TITLE DEFECT OR CORRECT ANY MATTER SHOWN ON THE EXISTING SURVEY (EXCEPT AS SET FORTH IN SECTION 8.3(C)); OR (Z) SECURE ANY PERMIT, APPROVAL, CONSENT OR OTHER AGREEMENT OR INSTRUMENT FROM ANY THIRD PARTY NOT AFFILIATED WITH SELLER WITH RESPECT TO THE ASSETS OR SELLER'S CONVEYANCE OF THE ASSETS; PROVIDED, FURTHER, THAT THE REMEDY PROVIDED FOR IN THIS SECTION 12.2(B)(II) SHALL BE AVAILABLE TO BUYER ONLY IF BUYER COMMENCES SUCH PROCEEDING WITHIN NOT MORE THAN FIFTEEN (15) DAYS AFTER THE SCHEDULED CLOSING DATE. FAILURE TO FILE A SUIT FOR SPECIFIC PERFORMANCE WITHIN FIFTEEN (15) DAYS AFTER THE SCHEDULED CLOSING DATE SHALL BE DEEMED A WAIVER OF SUCH REMEDY. BUYER AND SELLER HEREBY ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO FIX OR ESTABLISH THE ACTUAL DAMAGE SUSTAINED BY BUYER AS A RESULT OF SUCH DEFAULT BY SELLER AND AGREE THAT THE REMEDY SET FORTH IN CLAUSE (I) ABOVE IS A REASONABLE APPROXIMATION THEREOF. ACCORDINGLY, IN THE EVENT THAT SELLER BREACHES THIS AGREEMENT BY DEFAULTING IN THE COMPLETION OF THE SALE, AND BUYER

DOES NOT EXERCISE THE REMEDY SET FORTH IN CLAUSE (II) ABOVE, THEREBY LIMITING IT TO THE REMEDY SET FORTH IN CLAUSE (I) ABOVE, THE DELIVERY OF THE DEPOSIT TO BUYER SHALL CONSTITUTE AND BE DEEMED TO BE THE AGREED AND LIQUIDATED DAMAGES OF BUYER WHICH IS NOT INTENDED TO BE A FORFEITURE OR PENALTY, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO BUYER. BUYER AGREES TO, AND DOES HEREBY, WAIVE ALL OTHER REMEDIES AGAINST SELLER WHICH BUYER MIGHT OTHERWISE HAVE AT LAW OR IN EQUITY BY REASON OF SUCH DEFAULT BY SELLER.

SELLER'S INITIALS: _____ BUYER'S INITIALS: _____

ARTICLE XIII

REAL PROPERTY TAX REDUCTION PROCEEDINGS

Section 13.1 Prosecution and Settlement of Proceedings. Seller reserves unto itself and shall have the right to initiate, prosecute and/or settle any tax reduction proceedings in respect of the Owned Real Property relating to any period of Seller's ownership of the Owned Real Property; provided, however, that Seller shall not settle any tax reduction proceedings in respect of the Owned Real Property relating to or affecting taxes attributable to the fiscal year in which the Closing occurs without Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Buyer shall reasonably cooperate with Seller in connection with the prosecution of any such tax reduction proceedings.

Section 13.2 Application of Refunds or Savings. Any refunds or savings in the payment of taxes resulting from such tax reduction proceedings applicable to taxes payable during the period prior to the date of the Closing shall belong to and be the property of Seller, and any refunds or savings in the payment of taxes applicable to taxes payable from and after the date of the Closing shall belong to and be the property of Buyer. All attorneys' fees and other expenses incurred in obtaining such refunds or savings shall be apportioned between Seller and Buyer in proportion to the gross amount of such refunds or savings payable to Seller and Buyer, respectively (without regard to any amounts reimbursable to tenants); provided, however, that neither Seller nor Buyer shall have any liability for any such fees or expenses in excess of the refunds or savings paid to such party unless such party initiated such proceeding.

Section 13.3 Survival. The provisions of this Article XIII shall survive the Closing without limitation.

ARTICLE XIV
MISCELLANEOUS

Section 14.1 Exculpation. Notwithstanding anything to the contrary set forth in this Agreement, Seller's shareholders, partners, members, the partners or members of such partners, the shareholders of such partners, members, and the trustees, officers, directors, employees, agents and security holders of Seller and the partners or members of Seller assume no personal liability for any obligations entered into on behalf of Seller and its individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of Seller under this Agreement. Notwithstanding anything to the contrary set forth in this Agreement, Buyer's shareholders, partners, members, the partners or members of such partners, the shareholders of such partners, members, and the trustees, officers, directors, employees, agents and security holders of Buyer and the partners or members of Buyer assume no personal liability for any obligations entered into on behalf of Buyer and its individual assets shall not be subject to any claims of any person relating to such obligations. The foregoing shall govern any direct and indirect obligations of Buyer under this Agreement. The provisions of this Section 14.1 shall survive the Closing or any termination of this Agreement.

Section 14.2 Brokers. Buyer and Seller represent and warrant to each other, as of the date hereof and as of the Closing, that it has dealt with no broker, salesman, finder or consultant with respect to this Agreement or the transactions contemplated hereby. Each party agrees to indemnify, protect, defend and hold the other party harmless from and against all claims, losses, damages, liabilities, costs, expenses (including reasonable attorneys' fees and disbursements) and charges resulting the representing party's breach of the foregoing representations in this Section 14.2. The provisions of this Section 14.2 shall survive the Closing or any termination of this Agreement without limitation.

Section 14.3 Confidentiality, Press Release and IRS Reporting Requirements.

(a) Confidentiality. Subject to the District Court Approval, Buyer and Seller, and each of their respective Affiliates shall hold as confidential all information disclosed in connection with the transactions contemplated hereby and concerning each other, the Assets, this Agreement and the transactions contemplated hereby and shall not release any such information

to third parties without the prior written consent of the other parties hereto, except (i) any information which was previously or is hereafter publicly disclosed (other than in violation of this Agreement or other confidentiality agreements with Seller or its Affiliates to which Buyer or Affiliates of Buyer are parties), (ii) to their partners, advisers, underwriters, analysts, employees, Affiliates, officers, directors, investors, consultants, lenders, accountants, legal counsel, title companies or other advisors of any of the foregoing, provided that they are advised as to the confidential nature of such information and are instructed to maintain such confidentiality and (iii) to comply with any law, rule or regulation (including without limitation those of the United States Securities and Exchange Commission). The foregoing shall constitute a modification of any prior confidentiality agreement that may have been entered into by the parties. The provisions of this Section 14.4 shall survive the Closing or the termination of this Agreement for a period of one (1) year; provided that the Buyer may not at any time following Closing or termination of this Agreement disclose the identity of Seller's direct or indirect owners.

(b) Press Release. Seller or Buyer may issue a press release with respect to this Agreement and the transactions contemplated hereby, provided that the content of any such press release shall be subject to the prior written consent of the other party hereto and in no event shall any such press release issued by Buyer disclose the identity of Seller's direct or indirect beneficial owners by name or the consideration paid to Seller for the Assets.

(c) IRS Reporting Requirements. For the purpose of complying with any information reporting requirements or other rules and regulations of the IRS that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement, including, but not limited to, any requirements set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively, the "IRS Reporting Requirements"), Seller and Buyer hereby designate and appoint Escrow Agent to act as the "Reporting Person" (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. Escrow Agent hereby acknowledges and accepts such designation and appointment and agrees to fully comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Agreement. Without limiting the responsibility and obligations of Escrow Agent as the Reporting Person, Seller and Buyer hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the

responsibility of the Reporting Person, including, but not limited to, the requirement that Seller and Buyer each retain an original counterpart of this Agreement for at least four years following the calendar year of the Closing.

Section 14.4 Escrow Provisions.

(a) Escrow Account. Escrow Agent shall hold the Deposit, and upon receipt, the Cash Payment, in escrow in an interest-bearing bank account at a federally insured banking institution (the "Escrow Account").

(b) Responsibility of Escrow Agent. Escrow Agent shall hold the Deposit and the Cash Payment in escrow in the Escrow Account until the Closing, and with respect to the Water System Holdback, thereafter in accordance with the terms of the Water System Operating Agreement, unless this Agreement is sooner terminated and shall hold or apply such proceeds in accordance with the terms of this Section 14.4(b). Seller and Buyer understand that no interest is earned on the Deposit or the Cash Payment during the time it takes to transfer into and out of the Escrow Account. Buyer agrees and understands that in order to open an interest-bearing account, Buyer must provide to Escrow Agent a completed W-9 form acceptable to the Escrow Agent. At the Closing, the Deposit and the Cash Payment shall be paid by Escrow Agent to, or at the direction of, Seller. If for any reason the Closing does not occur and either party makes a written demand upon Escrow Agent for payment of such amount, Escrow Agent shall, within one (1) Business Day, give written notice to the other party of such demand. If Escrow Agent does not receive a written objection within five (5) Business Days after the giving of such notice, Escrow Agent is hereby authorized to make such payment. If Escrow Agent does receive such written objection within such five (5) Business Day period or if for any other reason Escrow Agent in good faith shall elect not to make such payment, Escrow Agent shall continue to hold such amount until otherwise directed by joint written instructions from the parties to this Agreement or a final judgment of a court of competent jurisdiction. However, Escrow Agent shall have the right at any time to interplead the Deposit and Cash Payment with the clerk of the court of the District Court. Escrow Agent shall give written notice of such action to Seller and Buyer. Upon taking such action Escrow Agent shall be relieved and discharged of all further obligations and responsibilities hereunder.

(c) Liability of Escrow Agent. 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 the agent of either of the parties, and Escrow Agent shall not be liable to either of the parties for any act or omission on its part, other than for its gross negligence or willful misconduct. Seller and Buyer shall jointly and severally indemnify and hold Escrow Agent harmless from and against all costs, claims and expenses, including attorneys' fees and disbursements, incurred in connection with the performance of Escrow Agent's duties hereunder, except to the extent resulting from Escrow Agent's gross negligence or willful misconduct.

(d) Acknowledgement. Escrow Agent has acknowledged its agreement to these provisions by signing this Agreement in the place indicated following the signatures of Seller and Buyer.

Section 14.5 Successors and Assigns and No Third-Party Beneficiaries. The stipulations, terms, covenants and agreements set forth in this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective permitted successors and assigns (including any successor entity after a public offering of stock, merger, consolidation, purchase or other similar transaction involving a party hereto) and nothing herein expressed or implied shall give or be construed to give to any Person, other than the parties hereto and such assigns, any legal or equitable rights hereunder, provided, however, Manager shall be deemed a third party beneficiary of the disclaimers and releases expressly including a reference to Manager or referring to "agent" of Seller or the Receiver .

Section 14.6 Assignment. This Agreement may not be assigned by Buyer without the prior written consent of Seller. Notwithstanding the foregoing sentence, Buyer may assign this Agreement once to an Affiliate or Affiliates of Buyer without the written consent of Seller provided that (i) at least five (5) days prior to Closing Buyer provides Seller with a fully executed and enforceable assignment of this Agreement which includes a statement that all representations and warranties of the Buyer outlined in Section 4.1 are true of such Affiliate or Affiliates of Buyer taking assignment of this Agreement together with an updated SCHEDULE 4.1(d)(vii), and (ii) Buyer will continue to remain liable under this Agreement notwithstanding any such assignment. In the event Buyer assigns its rights under this Agreement, Buyer shall be solely responsible for any realty transfer taxes assessed as a result thereof and shall pay such additional taxes at settlement and recording of the Deed. Seller shall have no liability for any realty transfer taxes, interest and penalties assessed based on any consideration greater than the Purchase Price set forth herein, and Buyer shall indemnify, defend, and hold Seller harmless from any costs, liability or

expense incurred by Seller in connection with an assignment of this Agreement by Buyer, including, without limitation, any transfer taxes and legal fees incurred by Seller in connection therewith.

Section 14.7 Further Assurances. From time to time, as and when requested by any party hereto, the other party shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as such other party may reasonably deem necessary to consummate the transactions contemplated by this Agreement, provided, however, neither party shall be required to take any material action or incur any material expense not otherwise required of it or reasonably contemplated pursuant to this Agreement.

Section 14.8 Notices. All notices, demands or requests made pursuant to, under or by virtue of this Agreement must be in writing and shall be (i) personally delivered, (ii) delivered by express mail, Federal Express or other comparable overnight courier service, (iii) mailed to the party to which the notice, demand or request is being made by certified or registered mail, postage prepaid, return receipt requested or (iv) sent by electronic mail, addressed as follows (provided that in connection with sending notices pursuant to clauses (i) through (iii) of this Section 14.8, a copy of such written notice shall also be delivered by electronic mail):

(a) To Seller:

Akerman LLP
E. Las Olas Boulevard
Suite 1800
Fort Lauderdale, FL 33301
Attn: Michael I. Goldberg
Email: michael.goldberg@akerman.com

with copies thereof to:

Akerman LLP
777 South Flagler Drive
Suite 1100 West Tower
West Palm Beach, FL 33401
Attn: Jennifer Kramer

Email: jennifer.kramer@akerman.com

(b) To Buyer:

Bear Den Holdings, LLC
c/o Kenneth A. Graham
1275 Drummers Lane, Suite 300
Wayne, PA 19087
Email: kgraham @invernessgraham.com

With a copy to:

Inverness Graham Investments

1275 Drummers Lane, Suite 300

Wayne, PA 19087
Email: jreilly@invernessgraham.com

And to

Downs Rachlin Martin PLLC
90 Prospect Street, P.O. Box 99
St. Johnsbury, VT 05819
Attention: Kimberly M. Butler
Email: kbutler@drm.com

(c) To Escrow Agent/Title Company:

Connecticut Attorney's Title Insurance Company**
185 Asylum Stret, 37th Floor

Hartford, Connecticut 06103

Attention: Francis M. DiSanti, Esq.

FDiSantti@catic.com

All notices (x) shall be deemed to have been given on the date that the same shall have been delivered in accordance with the provisions of this section (for purposes of clarification, notices given by electronic mail shall be deemed given on the date received), and (y) may be given either by a party or by such party's attorneys. Any party may, from time to time, specify as its address for purposes of this Agreement any other address upon the giving of ten (10) days' prior notice thereof to the other parties.

Section 14.9 Entire Agreement. This Agreement, along with the exhibits and schedules hereto contains all of the terms agreed upon between the parties hereto with respect to the subject matter hereof, and all understandings and agreements heretofore had or made among the parties hereto are merged in this Agreement which alone fully and completely expresses the agreement of the parties hereto.

Section 14.10 Amendments. This Agreement may not be amended, modified, supplemented, or terminated, nor may any of the obligations of Seller or Buyer hereunder be waived, except by written agreement executed by the party or parties to be charged.

Section 14.11 No Waiver. No waiver by either party of any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

Section 14.12 Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with, the laws of the State of Florida.

Section 14.13 Submission to Jurisdiction. Each of Buyer and Seller irrevocably submits to the jurisdiction of the District Court for the purposes of any suit, action or other proceeding arising out of this Agreement or any transaction contemplated hereby. Each of Buyer and Seller further agrees that service of any process, summons, notice or document by U.S. registered mail to such party's respective address set forth above shall be effective service of process for any action, suit or proceeding with respect to any matters to which it has submitted to jurisdiction as set forth above in the immediately preceding sentence. Each of Buyer and Seller irrevocably and unconditionally waives trial by jury and irrevocably and unconditionally waives any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the District Court, and hereby further irrevocably and unconditionally waives and agrees not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 14.14 Severability. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 14.15 Section Headings. The headings of the various sections of this Agreement have been inserted only for purposes of convenience, are not part of this Agreement and shall not be deemed in any manner to modify, explain, expand, or restrict any of the provisions of this Agreement.

Section 14.16 Counterparts; E-Signature. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. This Agreement, and any other document necessary for the consummation of the transaction contemplated by this Agreement, may be accepted, executed, or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act, Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act and any applicable state law. Any document accepted, executed, or agreed to in conformity with such laws will be binding on each party as if it were physically executed.

Section 14.17 Acceptance of Deed. The acceptance of the Deed by Buyer shall be deemed full compliance by Seller of all of Seller's obligations under this Agreement except for those obligations of Seller which are specifically stated to survive the delivery of the Deed or the Closing hereunder. The provisions of this Schedule 14.17 shall survive the Closing or any termination of this Agreement without limitation.

Section 14.18 Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

Section 14.19 Recordation. Neither this Agreement nor any memorandum or notice of this Agreement may be recorded by any party hereto without the prior written consent of the other party hereto. Buyer also agrees not to file any *lis pendens* or other instrument against the Assets in connection herewith, except as permitted pursuant to the express conditions set forth in Section 12.2(b). In furtherance of the foregoing, Buyer (i) acknowledges that, except as expressly permitted pursuant to Section 12.2(b), the filing of a *lis pendens* or other evidence of Buyer's rights or the existence of this Agreement against or encumbering the Assets could cause significant monetary and other damages to Seller, and (ii) hereby indemnifies the Seller-Related Entities from and against any and all liabilities, damages, losses, costs or expenses (including without limitation attorneys' fees and expenses) arising out of a breach of this Section 14.19. The provisions of this Section 14.19 shall survive the Closing or any termination of this Agreement without limitation.

Section 14.20 WAIVER OF JURY TRIAL. SELLER AND BUYER HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANOTHER PARTY ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT. THE PROVISIONS OF THIS Section 14.22 SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT WITHOUT LIMITATION.

Section 14.21 Time is of the Essence. Seller and Buyer agree that time is of the essence with respect to the obligations of Buyer and Seller under this Agreement.

Section 14.22 Intentionally Omitted.

Section 14.23 Prevailing Party. Should either party employ an attorney to enforce any of the provisions hereof (whether before or after Closing, and including any claims or actions involving amounts held in escrow) or to recover damages for the breach of this Agreement, the non-prevailing party in any final judgment agrees to pay the other party's reasonable expenses, including reasonable attorneys' fees and expenses in or out of litigation and, if in litigation, trial, appellate, bankruptcy or other proceedings, expended or incurred in connection therewith, as determined by a court of competent jurisdiction.

Section 14.24 Anti-Terrorism Law. Each party shall take any actions that may be required to comply with the terms of the USA Patriot Act of 2001, as amended, any regulations promulgated under the foregoing law, the Executive Order, the other Anti-Money Laundering and Anti-Terrorism Laws, or any other Laws, regulations or executive orders designed to combat

terrorism, drug-trafficking or money laundering, if applicable, to this Agreement. Each party represents and warrants to the other party that it is not an entity named on the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury (the "Government List"), as last updated prior to the date of this Agreement.

Section 14.25 Calculation of Time Periods. Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day.

Section 14.26 Joint and Several. To the extent that Seller or Buyer is comprised of more than one entity, the obligations and liabilities of Seller or Buyer hereunder shall be joint and several.

Section 14.27 Vermont Sales Notices.

(a) At least ten days prior to Closing, Seller shall provide the Vermont Department of Labor with notice of the Asset sale as required pursuant to 21 VSA §1322, and all documents required to be filed with the Department of Labor thereunder, and shall provide Buyer evidence of the Department of Labor's response prior to Closing.

(b) At least ten days prior to Closing, Buyer shall provide the Vermont Department of Taxes with notice of the Asset sale as required pursuant to 32 VSA §3260, and shall have received a statement from the Department of Taxes with respect to withholding of any amounts from Seller's net proceeds at Closing, if any.

ARTICLE XV

DISTRICT COURT APPROVAL

Section 15.1 Approval. Notwithstanding execution of this Agreement by each party, Buyer and Seller understand, acknowledge and agree that this Agreement and the transfer of the Property are subject to approval by the United States District Court, Southern District of Florida (the "District Court") in the matter of *Securities and Exchange Commission v. Jay Peak, Inc., et al.*, Case No.: 16-cv-21301-GAYLES (the "Case") as evidenced by the entry of the order approving this Agreement by the District Court.

ARTICLE XVI

Section 16.1 Post-Closing Transfers and Holdback.

(a) As an accommodation to Buyer, Seller has agreed to retain title to the Water System Assets until such time as Buyer obtains the approval of the transfer of the Burke Mountain water system certificate of public good, and related approvals, as more fully described in the Water System Operating Agreement attached hereto as Exhibit I (the "Water System Operating Agreement") which shall be executed at Closing. Seller agrees to the Water System Holdback at Closing, with the amount of the holdback to be released to Seller at such time as the Transfer Conditions, as defined in the Water System Operating Agreement have been satisfied. Seller agrees, subject to applicable law with respect to the same, and on terms appropriate to such action, to cooperate with Buyer to keep Burke Mountain Water Company in operation for such period as necessary to obtain the Public Utility Commission approval and as provided in the Water System Operating Agreement, with Buyer to be responsible for all costs of operating Burke Mountain Water Company until the approval date and with Buyer indemnifying Seller against claims arising from such post-Closing period of operations.

[signature pages to follow]

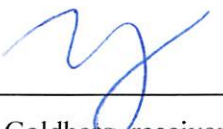
IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

SELLER:

Burke 2000 LLC, a Vermont limited liability company

By: Q Burke Mountain Resort LLC, its sole member

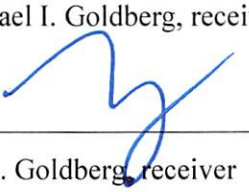
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Mountain Road Management Company, a Vermont corporation

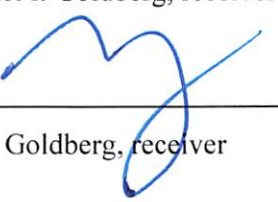
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Burke Mountain Water Company, a Vermont corporation

By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

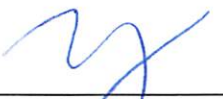
IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

SELLER:

Burke 2000 LLC, a Vermont limited liability company

By: Q Burke Mountain Resort LLC, its sole member

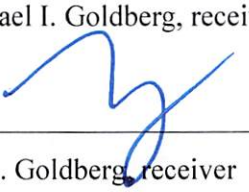
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Mountain Road Management Company, a Vermont corporation

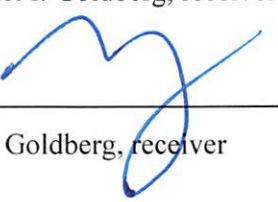
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Burke Mountain Water Company, a Vermont corporation

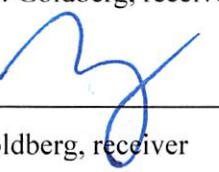
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Burke Mt. Operating Company, a Vermont corporation

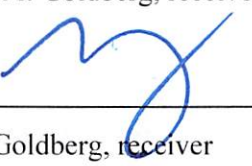
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Burke Mountain Event Company, LLC, a Vermont limited liability company

By: Michael I. Goldberg, receiver

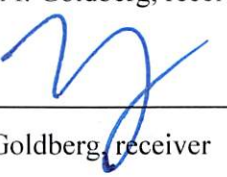


Michael I. Goldberg, receiver

Q Burke Mountain Resort, Hotel and Conference Center L.P., a Vermont limited partnership

By: Q Burke Mountain Resort GP Services, LLC, a Vermont limited liability company

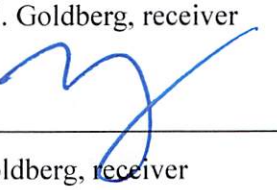
By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

Q Burke Mountain Resort, LLC, a Florida limited liability company

By: Michael I. Goldberg, receiver



Michael I. Goldberg, receiver

BUYER:

Bear Den Partners LLC
a Vermont LLC
By:_____
Name: Kenneth A Graham
Title: Managing Member

Bear Den Operations Company LLC
a Vermont LLC
By:_____
Name: Kenneth A Graham
Title: Managing Member

BUYER:

Bear Den Road Company LLC
a Vermont LLC
By:_____
Name: Kenneth A Graham
Title: Managing Member

Bear Den Water Utility Company LLC
a Vermont LLC
By:_____
Name: Kenneth A Graham
Title: Managing Member

JOINDER BY ESCROW AGENT

Connecticut Attorney's Title Insurance Company, referred to in this Agreement as the "Escrow Agent," hereby acknowledges that it received this Agreement executed by Buyer and upon execution by Seller and approval by the District Court Escrow Agent shall, without further action, accept the obligations of Escrow Agent as set forth herein. Escrow Agent agrees to provide prompt written notice to Seller of its receipt of the Deposit or its failure to receive the Deposit within two Business Days of the Effective Date. Upon receipt of the Deposit, Escrow Agent hereby agrees to hold and distribute the Deposit in accordance with the terms and provisions of the Agreement.

Connecticut Attorney's Title Insurance Company

By: _____

Name: Elizabeth Smith, Esq.

Title: VP / State Manager - CATIC VT

SCHEDULE A-1

PROPERTY DESCRIPTION

LAND AND PREMISES OF BURKE 2000 LLC

Being all the land and premises, improvements and other interests of Burke 2000 LLC situated in the Town of Burke, Vermont and described as follows:

Parcel 1:

Being all the remaining lands and premises conveyed to Burke 2000 LLC by Limited Warranty Deed of B&I Lending, LLC dated October 31, 2000 and recorded in Volume 80 at Page 540 of the Town of Burke Land Records and all those parcels of land with the buildings thereon situated at Burke Mountain Ski Area and elsewhere in Burke, Vermont, collectively forming a single site, all as more particularly described on the survey by Cross Consulting Engineers, P.C., dated July 8, 2005, last revised November 22, 2005, designated Job No. 05026, and recorded in Map Slides 233A through 238B of the Town of Burke Land Records (the "Mountain Survey"), including but not limited to Parcels F1, F2, F3, F4, F5, F6, F7, F8, F9, F10, F11, F12, F14, F15, F16, F17 and F18 as shown on the Mountain Survey.

Excepting the following parcels conveyed as follows:

a. Boundary Line Adjustment Agreement between Burke 2000 LLC and Douglas W. Hamilton and Paige G. Hamilton ated April 27, 2021 and recorded in Volume 163 at Page 192 of the Town of Burke Land Records.

b. Receiver's Deed of Michael I. Goldberg to Eric Miller and Westerly Miller dated March 25, 2021 and recorded in Volume 162 at page 11 of the Town of Burke Land Records.

c. Receiver's Deed of Michael I. Goldberg to Scott Chappell and Mildred Chappell dated May 15, 2019 and recorded in Volume 152 at Page 451 of the Town of Burke Land Records.

d. Receiver's Deed of Michael I. Goldberg to Gerald Welden and Maureen Welden dated August 18, 2018 and recorded in Volume 131 at Page 215 of the Town of Burke Land Records.

e. Warranty Deed of Burke 2000 LLC to Peter V. Foukal and Elisabeth Foukal dated March 1, 2007 and recorded in Volume 109 at Page 340 of the Town of Burke Land Records.

f. Receiver's Deed of Michael I. Goldberg to Sno Bear LLC dated August 8, 2018 and recorded in Volume 150 at Page 152 of the Town of Burke Land Records.

g. Receiver's Deed of Michael I. Goldberg to Susannah Young and Patrick Ely dated April 29, 2019 and recorded in Volume 152, Page 192 of the Town of Burke Land Records.

Parcel 2:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Robert M. Conn dated November 25, 2005 and recorded in Volume 103 at Page 551 of the Town of Burke Land Records.

Being a parcel of land together with the buildings and improvements thereon, located at 1675 Vermont Route 114 in East Burke.

The property is more particularly described on a survey by Cross Consulting Engineers, P.C. entitled "Robert M. Conn, East Burke, Vermont, Map of Boundary Survey" dated August 30, 2005 and recorded at Slides 182A & 182B in the Town of Burke Land Records.

Parcel 3:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Gerald Derry and Elaine Derry dated November 29, 2006 and recorded in Volume 103 at Page 548 of the Town of Burke Land Records.

Being a certain parcel of land located on westerly side of Vermont Route 114, together with the dwelling house and other improvements situate thereon, and water rights appurtenant thereto, known and numbered as 1789 Vermont Route 114.

The herein conveyed lands and premises are said to consist of 3.792 acres as depicted on a survey entitled "Gerald & Elaine Derry, East Burke, Vermont, Map of Boundary Survey of Lands on VT. Route 114, Town of Burke, Vermont", dated Sept. 8, 2005, and bearing Project # 05026, prepared by Cross Consulting Engineers, P.C., and recorded at Slides 181A & 181B in the Town of Burke Land Records.

Parcel 4:

Purposely omitted (all lots previously sold)

Parcel 5:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Elizabeth F. Potter, Trustee of the Bernard S. Horton Trust dated January 18, 2006 and recorded in Volume 104 at Page 351 of the Town of Burke Land Records.

Said lands and premises are depicted on a survey entitled "Bernard Horton, East Burke, Vermont, MAP OF BOUNDARY SURVEY of Lands on Mountain Road (S.A. #7), Town of Burke, Vermont," prepared by Cross Consulting Engineers, P.C., under seal and signature of Peter H, Cross, RLS, dated July 20, 2005 and recorded at Slides 184A & 184B in the Town of Burke Land Records.

Parcel 6:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Robert P. Frazier dated January 19, 2006 and recorded in Volume 104 at Page 393 of the Town of Burke Land Records.

Said land and premises are depicted on a survey entitled "Robert P. Frazier East Burke, Vermont Map of Boundary Survey of Lands on Pinkham Road (T.H. 41) and Victory Road (S.A. #5)" prepared by Cross Consulting Engineers dated September 10, 2005 and recorded at Slides #185A & 185B in the Town of Burke Land Records.

Parcel 7:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Gerald C. Bailey and Jean D. Bailey, Trustees of the Jean D. Bailey Revocable Trust dated July 2, 1991, and H. Kent Scruton and W. Craig Scruton dated February 7, 2006 and recorded in Volume 104 at Page 516 of the Town of Burke Land Records.

The premises herein conveyed are more particularly described in accordance with a survey performed by Cross Consulting Engineers dated August 30, 2005 entitled "H. Kent and Beverly Scruton, Gerald and Jean Bailey, East Burke, Vermont, Map of Boundary Survey of Lands on Pinkham Road (T.H. #41) Town of Burke, Vermont", and recorded at Slides 187A & 187B in the Town of Burke Land Records.

Parcel 8:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Peter V. Foukal and Eliabeth E. Foukal dated March 6, 2006 and recorded in Volume 105 at Page 57 of the Town of Burke Land Records.

The Property is more particularly described as follows on a survey entitled "Peter and Elisabeth Foukal, East Burke, Vermont, Map of Boundary Survey of Lands on Pinkham Road (T.H. 41)" prepared by Cross Consulting Engineers dated July 8, 2005 (the "Survey") and recorded at Slides 188A & 188B in the Town of Burke Land Records.

Parcel 9:

Being a portion of all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Friedrich Walther and Martha Louise Walther dated April 10, 2006 and recorded in Volume 105 at Page 235 of the Town of Burke Land Records.

The land and premises are more-particularly described on a plan entitled "Friedrich & Martha Walther, East Burke, Vermont, Map of Boundary Survey of lands on Pinkham Road (T.H. #41) , Town of Burke, Vermont" dated August 30, 2005 prepared by Cross Consulting Engineers, P.C. and recorded at Slides 192A & 192B in the Town of Burke Land Records.

Excepted and excluded from Parcel 9 is that portion of the above-described land conveyed by Warranty Deed from Burke 2000 LLC to Timothy W. McGuire and Sacha A. McGuire, dated August 5, 2011, recorded in Volume 125, Page 145 of the Town of Burke Land Records.

Parcel 10:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Leighton W. Hazlehurst and Patricia A. Hazlehurst dated May 3, 2006 and recorded in Volume 105 at Page 411 of the Town of Burke Land Records.

Being a parcel of land with improvements thereon, located on both sides of Burke Town Highway #50, also known as Dashney Road, in the Town of Burke, Vermont. The parcel herein described is depicted on a certain map entitled "Leighton & Patricia Hazlehurst, East Burke, Vermont, Map of Boundary Survey, of Lands on Dashney Road (TH #50)" prepared by Cross Consulting Engineers, P.C., dated March 20, 2006 as project # 05026 and recorded at Slides 194A & 194B in the Town of Burke Land Records.

Parcel 11:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Cheryle L. Boone and Marc Geoffrey Boone dated June 8, 2006 and recorded in Volume 106 at Page 26 of the Town of Burke Land Records.

The land and premises conveyed herein, consisting of 2.068 acres of land with improvements located thereon, are more-particularly described on a plan entitled "M. Geoffrey & Cheryle Boone, East Burke, Vermont, Map of Boundary Survey , Pinkham Road (T.H. #41), Town of Burke, Vermont", prepared by Cross Consulting Engineers, P.C. and recorded at Slide #198A in the Town of Burke Land Records.

Parcel 12:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Sharon Mallett dated August 21, 2006 and recorded in Volume 107 at Page 157 of the Town of Burke Land Records.

The premises herein conveyed are more particularly depicted as "Property of Sharon Mallett" on a certain survey entitled "Sharon Mallett, East Burke, Vermont, Map of Boundary Survey, Pinkham Road (T.H.' #41) Town of Burke, Vermont" by Cross Consulting Engineers, P.C., dated May 16, 2006, project No. 05026, and recorded at Slide #202A in the Town of Burke Land Records.

Parcel 13:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Sean B. Rolfe and Danica E. Rolfe dated October 10, 2006 and recorded in Volume 107 at Page 499 of the Town of Burke Land Records.

The premises are described in a certain survey plan entitled “Sean and Danica Rolfe East Burke, Vermont, Map of Boundary Survey of Land on VT. Route 114 Town of Burke, Vermont” prepared by Cross Consulting Engineers, P.G., and recorded at Slides 204A & 204B in the Town of Burke Land Records.

Parcel 14:

Being all the same lands and premises conveyed to Burke 2000, LLC by Warranty Deed of Peter V. Foukal and Elizabeth E. Foukal dated January 16, 2007 and recorded in Volume 108 at Page 402 of the Town of Burke Land Records.

Parcel L1:

All that certain leasehold estate conveyed by lease from the State of Vermont to Burke Mountain Recreation, Inc., dated April 21, 1975 and recorded with an Assignment of State Lease from Burke Mountain Recreation, inc. to Burke Mountain Enterprises Ltd., dated March 3, 1988, recorded in Volume 52, Page 134; most recently assigned to Burke 2000 LLC by Assignment and Assumption of Lease, dated October 31, 2000; and as most recently amended by Amendment to Lease dated June 26, 2008, recorded in Volume 124, Page 295 of the Town of Burke Land Records.

Parcel E1a:

(Snowmaking/Sewer Pipeline Easement-Sargent)

Easement conveyed by Larry H. Sargent and Elaine B. Sargent to Burke Mountain Recreation, Inc., dated October 25, 1978 and recorded in Book 37, Page 450, as modified by conveyance of Larry H. Sargent and Elaine B. Sargent to Northern Star Ski Corporation dated March 21, 1996 and recorded in Book 68, Page 541 of the Town of Burke Land Records.

Parcel E1b:

(snowmaking/Sewer Pipeline Easement-Miller)

Easement reserved by Northern Star Ski Corporation in deed to Herbert Miller, Jr. and Melynda Miller dated May 12, 2000 and recorded in Book 79, Page 308 of the Town of Burke Land Records.

Parcel E1c:

(snowmaking/Sewer Pipeline Easement-Foukal)

Easement conveyed by Peter Foukal to Burke 2000 LLC dated October 2, 2002 and recorded in Book 88, Page 155 of the Town of Burke Land Records.

Parcel E1d:

(Snowmaking/Sewer Pipeline Easement-Hazlehurst/Kantor)

Easement conveyed by Leighton W. Hazlehurst and Patricia A. Hazlehurst to Burke Mountain Recreation, Inc., dated December 14, 1978 and recorded in Book 38, Page 37, as modified by conveyance of Leighton W. Hazlehurst and Patricia A. Hazlehurst to Northern Star Ski Corporation dated March 21, 1996 and recorded in Book 68, Page 545, reference to which easement is made in deed from Leighton W, Hazlehurst and Patricia A. Hazlehurst to Daniel L. Kantor and Michelle Kantor dated November 25, 2003 and recorded in Book 94, Page 342, of the Town of Burke Land Records.

Parcel E2:

(Spruce Woods water main, well-water system and well)

Being all right, title and interest of Burke Mountain Recreation, Inc. in "a 3-inch water main and well-water system including a drilled well" located on Lot C-3 as shown on the plan entitled "Spruce Woods, Burke Mountain Recreation, Inc. (Record Owner)" prepared by Truline, R.N. Bohlen, St. Johnsbury, Vermont, dated December 1971, revised April 1973, and recorded as Slide 40B, which right, title and interest were reserved by Burke Mountain Recreation, Inc. in a deed to Paul E. Swett and Joyce P, Swett dated October 31, 1977 and recorded in Book 35, Page 525 of the Town of Burke Land Records.

Parcel E3:

(Water Supply & Related Access Easement-Darling State Park)

Being all right, title and interest in certain water rights and related easements reserved by Lucius A. Darling and Henry G. Darling in a deed to the State of Vermont dated October 30, 1936 and recorded in Book 22, Page 361 of the Town of Burke Land Records.

Parcel E4:

(Water-Sewer Easements-Leritz Parcel)

Easements reserved by Burke Mountain Recreation, Inc., in deed to Alan F. Leritz & Ellen K. Leritz dated October 16, 1978 and recorded in Book 37, Page 345 of the Town of Burke Land Records.

Parcel E5:

(Winter Way Recreation Easement)

Being all right, title and interest in recreation easements reserved by Burke 2000 LLC in these deeds from Burke 2000 LLC: (a) deed to Burke Mountain Academy dated September 8, 2003 and recorded in Book 93, Page 202; and (b) deed to Daniel Kantor and Michelle Kantor dated November 6, 2003 and recorded in Book 94, Page 269 of the Town of Burke Land Records.

Parcel E6:

(Winter Way Underground Utility Easement)

Being all right, title and interest in an underground utility easement (including water and electrical lines) reserved by Burke 2000 LLC in a deed to Daniel Kantor and Michelle Kantor dated November 6, 2003 and recorded in Book 94, Page 269, as shown on survey entitled "Subdivision, Land of Burke 2000, LLC, Revised Lot 1 and Lots 2-7 and Other Lands of Burke 2000, LLC, Alpine Lane & High Meadows Road, East Burke, Vermont" prepared by Little River Survey Company, L.L.C., Stowe, Vermont, dated March 2003, Job No. 01889, recorded at Slide 163B of the Town of Burke Land Records.

Parcel E7:

(Sewer System Easement-Leachfield Parcel)

Being all right, title and interest in a sewer system easement reserved by NS Vermont, Inc. in its deed to Northern Star Management Corporation (now known as Mountain Road Management Company) dated May 29, 1996 and recorded in Book 69, Page 240 of the Town of Burke Land Records.

Parcel E8:

(private Road and Trail Easements)

Being all right, title and interest in a private road and private trail easements reserved by NS Vermont, Inc. in its deed to Northern Star Management Corporation (now known as Mountain Road Management Company) dated May 29, 1996 and recorded in Book 69, Page 240 of the Town of Burke Land Records.

Parcel E9

(development rights from Northeast Kingdom Wind Power, LLC)

Development Rights easement from Northeast Kingdom Wind Power, LLC dated April 3, 2006 and recorded in Volume 105 at Page 206 of the Town of Burke Land Records.

Parcel E10

Easement reserved in the Receiver's Deed of Michael I. Goldberg, Receiver for Burke 2000 LLC to Gerald Welden and Maureen Welden dated August 18, 2018 and recorded in Volume 131 at Page 215 of the Town of Burke Land Records.

LAND AND PREMISES OF BURKE MOUNTAIN WATER COMPANY

TO BE RETAINED BY SELLER PENDING SATISFACTION OF TRANSFER CONDITIONS

All and the same lands and premises conveyed to Burke Mountain Water Company by Quitclaim Deed of Mountain Road Management Company dated November 6, 2003 and recorded in Volume 94 at Page 226 of the Town of Burke Land Records, and being more-particularly described therein as follows:.

"Being a portion of all and the same land and premises conveyed to Northern Star Management Corporation by Quitclaim Deed of NS Vermont, Inc. dated May 29, 1996 and recorded in Book 69, Page 240, of Burke Land Records, wherein said portion is more particularly described as follows:

'Also included in this conveyance is all water systems, wells, springs, including all cisterns, reservoirs, holding tanks, pipelines and appurtenances thereto of the Grantor herein, including an non-exclusive easement across, over, under and through other land and premises of the Grantor herein, its successors and assigns, to construct, repair, replace and rebuild said water systems and appurtenances thereto, reserving to the Grantor, its successors and assigns, the right, but not the obligation, to construct, repair, replace and rebuild said water systems, wells, springs, including all cisterns, reservoirs, holding tanks, pipelines and appurtenances thereto.'"

LAND AND PREMISES OF MOUNTAIN ROAD MANAGEMENT COMPANY

Parcel F13:

Being the same land and premises conveyed to Northern Star Management Corporation by Quitclaim Deed of NS Vermont, Inc. dated May 29, 1996 and recorded in Volume 69, Page 240 of the Burke Land Records, EXCEPT for that portion conveyed by Mountain Road Management Company, formerly known as Northern Star Management Corporation, to Burke Mountain Water Company by Quitclaim Deed dated November 6, 2003 and recorded in Volume 94, Page 226 of the Burke Land Records.

SCHEDULE A-2

Purchase Price Allocation

Current assets (e.g., inventory and receivables) Land 20%

Building 70%

FF&E 10%

Intangibles 0%

Total 100%

SCHEDULE 2.1.c(ii)

Excluded FF&E

1. Vehicle Lease Agreement dated September 7, 2021 by and between Burke Mountain Operating Company and Foust Fleet Leasing/Foust Fleet Services, LLC
2. Equipment Lease Agreement dated June 8, 2021 by and between Burke Mountain Operating Company and Foust Fleet Services, LLC dba Foust Fleet Leasing
3. Equipment Lease Agreement dated October 22,2024 by and between Burke Mountain Operating Co and Foust Fleet Services, LLC dba Foust Fleet Leasing
4. Phase II Dishmachine Rental Agreement dated November 14, 2018 by and between Ecolab Inc and Burke Mountain Tamarack Grill
5. Equipment Lease Agreement dated December 22, 2021 by and between Foust Fleet Services, LLC dba Foust Fleet Leasing and Burke Mountain Operating Agreement
6. Equipment Lease Agreement dated December 22, 2021 by and between Foust Fleet Services, LLC dba Foust Fleet Leasing and Burke Mountain Operating Company

SCHEDULE 2.1.c(v)

Excluded Intangible Property

NONE

SCHEDULE 3.1(b)

Operating Contracts, Space Leases and Equipment Leases

1. The BMA/BRI Contracts
2. The Ground Lease
3. Servicing and Monitoring Agreement dated July 8, 2024 by and between Burke Mountain and PowerGrid Partners LTD
4. Fixed Pricing and Volume Commitment for Propane dated on or about August 12, 2024 by and between AmeriGas Propane, L.P. and Burke Mountain – Transport and related Customer Agreement, and Fixed Pricing and Volume Commitment for Propane dated on or about August 15, 2024 by and between AmeriGas Propane, L.P. and Burke Mountain – Bulk and related Customer Agreement
5. Building and Rooftop Lease Agreement dated November 18, 2020 between Michael Goldberg as Receiver for Q Burke Mountain Resort, LLC, being the Sole Member of Burke 2000 LLC and Bell Atlantic Mobile Systems LLC d/b/a Verizon Wireless
6. Contract No. 12041 dated March 3, 2022 by and between Burke Mountain Resort and Valhalla Corporation
7. License Agreement for Pole Attachments dated October 21, 2013 Burke 2000 LLC and Telephone Operating Company of Vermont LLC between Burke Mountain Operating Company and Consolidated Communications, Inc.
8. Universal Agreement dated November 26, 2013 by and between Agilysys NV, LLC and Burke Mountain Operating Co.
9. Master Agreement dated February 2, 2015 by and between Q Burke Mountain Resort and Northwind Canada Inc. d/b/a Maestro PMS, Software License Schedule dated February 2, 2015 by and between Q Burke Mountain Resort and Northwind Canada Inc. and Internet Service Schedule dated February 2, 2015 by and between Q Burke Mountain Resort and Northwind Canada Inc. and related agreements
10. Vehicle Lease Agreement dated September 7, 2021 by and between Burke Mountain Operating Company and Foust Fleet Leasing/Foust Fleet Services, LLC
11. [Reserved]
12. Equipment Lease Agreement dated June 8, 2021 by and between Burke Mountain Operating Company and Foust Fleet Services, LLC dba Foust Fleet Leasing
13. [Reserved]
14. Equipment Lease Agreement dated October 22,2024 by and between Burke Mountain Operating Co and Foust Fleet Services, LLC dba Foust Fleet Leasing
15. [Reserved]
16. Purchase Agreement for Salesware Software System dated December 15, 2005 by and between Siriusware, Inc. and Ginn Technology Group, LLC and Computer Software

License Agreement dated December 15, 2005 by and between Siriusware, Inc. and Ginn Technology Group, LLC

17. Product Activation with Sage Software Inc., Order Number: 1006914905, Account: Burke Mountain Operating Company - Account ID: 4007189994

18. Inntopia System and Services Agreement dated October 1, 2020 by and between Burke Mountain Operating Company, dba Burke Mountain Resort, and Sterling Valley Systems, Inc. d/b/a Inntopia

19. Agreement dated November 28, 2022 with respect to Planned Maintenance and AAADM Inspections, Purchase Order Number 14100 dated November 28, 2022 between Burke Mountain Operating Company and Assa Abloy Entrance Systems US Inc.

20. Elevator Service & Maintenance Agreement dated March 8, 2022 by and between Alpha Elevator and Burke Mountain Operating Company

21. [Reserved]

22. [Reserved]

23. [Reserved]

24. [Reserved]

25. [Reserved]

26. Carddog Merchant Agreement dated on or about July 22, 2020 by and between Transaction Resources, Inc. and Burke Mountain Operating Company, Inc.

27. ATM Owner Driving Agreement dated on or about October 30, 2014 and between International Merchant Services, Inc. and Burke Mountain Operating Company

28. Service Agreement dated on or about November 9, 2015 and between International Merchant Services, Inc. and Burke Mountain Operating Company

29. Service Renewal Agreement dated on or about December 26, 2021 by and between JP Pest Services, Inc. and Burke Mtn Sherburne Base Lodge

30. Service Renewal Agreement dated on or about December 27, 2021 by and between JP Pest Services, Inc. and Burke Mountain Hotel

31. Service Renewal Agreement dated on or about December 26, 2021 by and between JP Pest Services, Inc. and Burke Mtn Mid Base Lodge

32. Trane Service Agreement dated December 1, 2022 by and between Trane U.S. Inc. and Burke Mountain Resorts

33. Preventative Maintenance Agreement Renewal dated on or about October 3, 2024 by and between VHV Company and Burke Hotel & Conference Center

34. [Reserved]

35. [Reserved. These are included on Schedule 4.6(a).]

36. Service Agreement dated December 1, 2020 by and between Burke Mountain Operating Company and Casella Waste Management, Inc.

37. End User License & Support Agreement dated June 29, 2016 by and between Q Burke Mountain Resort Hotel and Conference Center LP and Embed USA LLC

38. Trail Permission Agreement dated June 5, 2014 by and between QBurke Mountain Resort and Mountain Brook Condominium Association

39. Service Order dated June 23, 2022 by and between Charter Communications Operating, LLC (Spectrum Enterprise) and Burke Mountain Resort

40. Fiscal Year 2006 Joint Funding Agreement and Fiscal Year 2015 Joint Funding Agreement by and between the U.S. Geological Survey, United States Department of the Interior and the Town of Burke, Vermont; Email from Richard Kiah, U.S. Geological Survey regarding 2022

41. Vermont Commercial Lease Agreement effective August 4, 2016 by and between Burke Mountain Operating Company ("Landlord") and Kingdom Trails ("Tenant")

42. Phase II Dishmachine Rental Agreement dated November 14, 2018 by and between Ecolab Inc and Burke Mountain Tamarack Grill

43. Equipment Lease Agreement dated December 22, 2021 by and between Foust Fleet Services, LLC dba Foust Fleet Leasing and Burke Mountain Operating Agreement

44. Equipment Lease Agreement dated December 22, 2021 by and between Foust Fleet Services, LLC dba Foust Fleet Leasing and Burke Mountain Operating Company

45. Participation Agreement dated _____, 2025 by and between Indy Ski Pass and Burke Mountain Operating Co.

46. Ongoing contracts and or purchase orders described in item 5 of Schedule 4.6(a) –

Special Assumed Obligations, related to the Assets.

SCHEDULE 3.1(j)

ENVIRONMENTAL MATTERS

NONE

SCHEDULE 3.1(k)

EMPLOYEE BENEFIT MATTERS

NONE

SCHEDULE 3.1(m)(iv)

RELEASES OF HAZARDOUS MATERIALS

NONE

SCHEDULE 3.1(k)

EMPLOYEE COMPENSATION AND BENEFIT MATTERS

1. Information for this schedule is contained in the Akerman data room file "SDP 2023.pdf"

SCHEDULE 4.1(d)(vii)

BUYER'S MANAGEMENT, CONTROL, AND OWNERSHIP INTEREST DISCLOSURE

Per the disclosures required by Section 4.1(d)(vii) of the Agreement:

1. Buyer is member managed. Buyer's sole member is Bear Den Investors LLC, a Delaware limited liability company.

2. Kenneth Graham shall serve as Buyer's Knowledge Party as stipulated in Section 1.1 of the Agreement and as Buyer's key person.

3. As stipulated in Section 14.8 of the Agreement, notices shall be sent to:

Bear Den Partners LLC

c/o Inverness Graham Company

1275 Drummers Ln #300, Wayne, PA 19087

Attention: Denis Connell

Email: dconnell@invernessgraham.com

4. Buyer's signatory to the Agreement shall be Bear Den Partners LLC by its member Bear Den Investors LLC by its Manager Kenneth Graham.

5. The following natural persons own more than 25% interest in Buyer directly:

No natural person owns more than a 25% interest directly. The only holders of more than a 25% indirect interest in the Buyer are the Graham Descendants Trust and the Graham Generational Trust.

SCHEDULE 4.3(a)

Employees & Severance Obligations

1. Information for this schedule is contained in the Akerman data room file "Employee PTO Balance (April 9 2025).pdf"

SCHEDULE 4.6(a)

SPECIAL ASSUMED OBLIGATIONS

1. The BMA/BRI Contracts

2. The BMA Right of First Refusal Agreement

3. The BMA Easement

4. Operation of the water system and related utility functions by Burke Mountain Water Company

5. Ongoing contracts or obligations in connection with construction, improvement, maintenance and renovation, limited to the following:

FIXED ASSET SUMMARY 2025/2026		
Project #	Description	Committed at Closing
	New Projects for 2025/2026	
2526-01	MBE Communiations Line Replacement	$160,000
2526-07	Hotel Electrical Panel	$9,000
	Total New Projects	$169,000
	Current Capital Projects still open from prior years' budget	
2425-01	Maintenace Shop Roof	$13,274
	Total Capital Project carried over	$13,274
	Total Commitments at Closing	$182,274

SCHEDULE 8.2(a)

None

EXHIBIT A

FORM OF ASSIGNMENT OF CONTRACTS AND SPACE LEASES

ASSIGNMENT AND ASSUMPTION OF CONTRACTS AND SPACE LEASES dated as of _____ ___, 2025, by and between _____, having an address at _____ (collectively, "Assignor"), and _____, a _____ having an address at _____ ("Assignee").

Background

This Assignment and Assumption of Contracts and Space Leases is being executed and delivered pursuant to that certain Agreement of Purchase and Sale dated as of _____, 2023 (as assigned and/or amended, the "Purchase Agreement") between Assignor, as seller, and Assignee, as buyer. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

Assignment and Assumption

In consideration of Ten ($10.00) Dollars in hand paid by Assignee, the receipt and sufficiency of which is hereby acknowledged, Assignor does hereby assign, transfer and set over unto Assignee, all of Assignor's right, title and interest in and to:

(i) all Operating Contracts, including, without limitation the BMA/BRI Contracts (collectively, the "Contracts");

(ii) all Equipment Leases;

(iii) all Space Leases;

(iv) to the extent assignable, all of Assignor's right, title and interest in and to all warranties and guarantees, if any, relating to the personal property located on the Land or in the buildings and other improvements located thereon (collectively, the "Warranties"); and

(v)all Bookings at the Resort for dates after the date hereof. TO HAVE AND TO HOLD, the same unto Assignee, its successors and assigns, from and after the date hereof, subject to the terms, covenants, conditions and provisions set forth in the Agreements.

Assignee hereby assumes the performance of all of the terms, covenants and conditions of Contracts, Equipment Leases, Space Leases, and the Bookings on the Assignor's part to be performed thereunder from and after the date hereof and will perform all of the terms, covenants and conditions of Contracts, Equipment Leases, Space Leases, and the Bookings arising or accruing from and after the date hereof.

Assignor warrants that Assignor has not previously assigned any of the rights assigned to Assignee hereunder. Except as provided herein and in Section 3.1(b) of the Purchase Agreement, this Assignment is made without warranty or representation, express or implied, by, or recourse against, Assignor of any kind or nature whatsoever.

This Assignment may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the Assignor and Assignee have duly executed this instrument as of the day first above written.

ASSIGNOR:

_____,

a

By: _____

Name: _____

Title: _____

ASSIGNEE:

_____,

a

By: _____

Name: _____

Title: _____

EXHIBIT C

FORM OF ASSIGNMENT AND ASSUMPTION OF INTANGIBLE PROPERTY

ASSIGNMENT AND ASSUMPTION OF INTANGIBLE PROPERTY dated as of _____ ___, 2025, by and between _____, having an address at _____ (collectively, "Assignor"), and _____ having an address at _____ ("Assignee").

Background

This Assignment and Assumption of Intangible Property is being executed and delivered pursuant to that certain Agreement of Purchase and Sale dated as of _____, 2023 (as assigned and/or amended, the "Purchase Agreement") between Assignor, as seller, and Assignee, as buyer. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

Assignment and Assumption

In consideration of Ten ($10.00) Dollars in hand paid by Assignee, the receipt and sufficiency of which is hereby acknowledged, Assignor does hereby assign, transfer and set over unto Assignee, and Assignee does hereby assume, other than (in either case) with respect to any Excluded Property, all of Assignor's right, title and interest in and to:

(i) to the extent assignable, the Intangible Property; and

(ii) to the extent assignable, the Licenses and Permits. TO HAVE AND TO HOLD, the same unto Assignee, its successors and assigns, from and after the date hereof, subject to the terms, covenants, conditions and provisions set forth therein.

This Assignment is made without warranty or representation, express or implied, by, or recourse against, Assignor of any kind or nature whatsoever.

IN WITNESS WHEREOF, the Assignor and Assignee have duly executed this instrument as of the day first above written.

ASSIGNOR:

_____,

a

By: _____

Name: _____

Title: _____

ASSIGNEE:

_____,

a

By: _____

Name: _____

Title: _____

EXHIBIT D

FORM OF DEED

THIS INSTRUMENT PREPARED BY
AND RETURNED TO:

_____

_____

_____

Tax Parcel I.D. (Folio) No:_____

RECEIVER'S DEED

KNOW ALL PERSONS BY THESE PRESENT THAT MICHAEL I. GOLDBERG, RECEIVER OF [Seller entities], pursuant to authority granted by the United States District Court for the Southern District of Florida in Case No.: 16-cv-21301-GAYLES, and for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) paid to Grantor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by these present does hereby grant, sell and convey unto _____, a _____ ("Grantee"), whose post office address is _____, all that certain land located in the Town of Burke, Vermont, and being more particularly described in Exhibit A attached hereto and incorporated herein by reference, together with all improvements located on such land (such land and improvements being collectively referred to as the "Property").

This conveyance is made and accepted subject to all matters set forth in Exhibit B, attached hereto and incorporated herein by reference (the "Permitted Exceptions") but reference to same shall not operate to reimpose same.

TO HAVE AND HOLD the Property, together with all and singular the rights and appurtenances pertaining thereto, including all right, title, and interest held by Grantor, or the entities for whom Grantor is receiver, in and to adjacent streets, alleys and rights-of-way, unto Grantee and Grantee's successors and assigns in fee simple forever, without covenant, representation, or warranty whatsoever, subject, however to the Permitted Exceptions.

FURTHER, GRANTEE, BY ITS ACCEPTANCE OF DELIVERY OF THIS RECEIVER'S DEED, ACKNOWLEDGES AND AGREES THAT (i) GRANTOR HAS NOT

MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE OWNERSHIP, TITLE, POSSESSION, HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY OR ANY PORTION THEREOF OR ANY IMPROVEMENTS THERETO, (H) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE PROPERTY, OR (i) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING, WITHOUT LIMITATION, THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS; (ii) GRANTEE HAS FULLY INSPECTED THE PROPERTY AND THAT THE CONVEYANCE AND DELIVERY HEREUNDER OF THE PROPERTY IS "AS IS" AND "WITH ALL FAULTS", AND GRANTOR HAS NO OBLIGATION TO ALTER, REPAIR, OR IMPROVE THE PROPERTY OR ANY PORTION THEREOF OR ANY IMPROVEMENTS THERETO; AND (iii) NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM, OR COURSE OF DEALING WITH GRANTOR, AND ALL STATUTORY, COMMON LAW, AND CUSTOMARY COVENANTS AND

WARRANTIES, IF ANY, OF WHATEVER KIND, CHARACTER, NATURE, PURPOSE, OR EFFECT, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, ARE HEREBY EXPRESSLY, UNCONDITIONALLY, AND IRREVOCABLY WAIVED, DISCLAIMED, AND EXCLUDED FROM THIS RECEIVER'S DEED, NOTWITHSTANDING ANY CUSTOM OR PRACTICE TO THE CONTRARY, OR ANY STATUTORY, COMMON LAW, DECISIONAL, HISTORICAL, OR CUSTOMARY MEANING, IMPLICATION, SIGNIFICANCE, EFFECT, OR USE OF CONTRARY IMPORT OF ANY WORD, TERM, PHRASE OR PROVISION HEREIN.

Grantee or anyone claiming by, through, or under Grantee, hereby fully releases Grantor, its employees, officers, directors, representatives, and agents from any and all claims, costs, losses, liabilities, damages, expenses, demands, actions, or causes of action that it may now have or hereafter acquire, whether direct or indirect, known or unknown, suspected or unsuspected, liquidated or contingent, arising from or related to the Property in any manner whatsoever. This covenant releasing Grantor shall be a covenant running with the Property and shall be binding upon Grantee, its successors and assigns.

The fact that certain encumbrances, limitations, or other matters or conditions may be mentioned, disclaimed, or excepted in any way herein, whether specifically or generally, and whether in the body hereof or any exhibit hereto, shall not be a covenant, representation, or warranty of Grantor as to any encumbrances, limitations, or any other matters or conditions not mentioned, disclaimed, or excepted. Notwithstanding anything herein to the contrary, however, nothing herein shall be construed or deemed as an admission by Grantor or Grantee to any third party of the existence, validity, enforceability, scope or location of any encumbrances, limitations, or other matters or conditions mentioned, disclaimed, or excepted in any way herein, and nothing shall be construed or deemed as a waiver by Grantor or Grantee of its respective rights, if any, but without obligation, to challenge or enforce the existence, validity, enforceability, scope, or location of same against third parties.

(signature on next page)

EXECUTED on the date set forth in the acknowledgment attached hereto, to be effective upon delivery. MICHAEL I. GOLDBERG, Receiver for [Seller entity]

_____

Name: Michael I. Goldberg

Title: Receiver

STATE OF _____

COUNTY OF_____

This instrument was acknowledged before me on the __ day of _____, 2025, by Michael I. Goldberg, Receiver for [Seller entity] . He/She is personally known to me or produced a _____ driver's license as identification.

_____

Notary Public, State and County Aforesaid

Print Name: _____

My commission expires: _____

My commission number: _____

(NOTARIAL SEAL)

Exhibit A to Receiver's Deed

Exhibit B to Receiver's Deed

EXHIBIT E

FORM OF BILL OF SALE

[_____], having an address at _____ (hereinafter referred to as "Seller"), in consideration of Ten ($10.00) Dollars in hand paid by _____ having a mailing address at _____ (hereinafter referred to as "Buyer"), the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, assign, convey, transfer, set over, and quit-claim unto Buyer, its successors and assigns, other than with respect to any Excluded Property, all of Seller's right, title and interest in and to the FF&E, the Property and Equipment, the Inventories, the Retail Merchandise, and the Assigned Accounts Receivable (all of the property and interests hereinbefore described are hereinafter referred to as the "Property").

TO HAVE AND TO HOLD the Property unto Buyer, its successors and assigns forever.

This Bill of Sale is made without warranty or representation, express or implied, by, or recourse against, Seller of any kind or nature whatsoever except as expressly provided in Section 3.1(b) of the Purchase and Sale Agreement between Buyer and Seller (as assigned and/or amended), dated as of _____, 202_ (the "Purchase Agreement"). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

This Bill of Sale has been duly executed by Seller as of the ____ day of _____, 2025.

SELLER:

SELLER:

_____,

a

By: _____

Name: _____

Title: _____

EXHIBIT F

FORM OF FIRPTA

ENTITY TRANSFEROR

FOREIGN INVESTORS REAL PROPERTY

TAX ACT CERTIFICATION AND AFFIDAVIT

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. In addition, Section 1446(f) of the Internal Revenue Code provides that, a transferee of an interest in a partnership may be required to withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Sections 1445 and 1446(f)), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. [_____, a _____] ("Transferor") is the owner of a disregarded entity, _____, a _____, which disregarded entity holds certain interests in certain real property located in the Town of Burke, Caledonia County, State of Vermont (the "Property"). To inform _____, a _____ ("Transferee"), the transferee of certain interests in the Property, that withholding of tax is not required upon the disposition of such U.S. real property interest by Transferor, the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Transferor is not a disregarded entity as defined in §1.1445 2(b)(2)(iii);

3. Transferor's U.S. employer identification number is: [_____]; and

4. Transferor's office address is [_____].

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement set forth herein could be punished by fine, imprisonment or both.

Under penalties of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, _____

[_____],
a [_____]

By: _____
Name: _____
Title: _____

EXHIBIT G

FORM OF ASSIGNMENT AND ASSUMPTION OF GROUND LEASE

(see next page)

ASSIGNMENT AND ASSUMPTION OF STATE LEASE

This Assignment and Assumption of State Lease (the "Agreement") is made as of _____, 2025, by and among **BURKE 2000, LLC**, a Vermont limited liability company, having its principal place of business in East Burke, Vermont ("Assignor"), [_____], a [_____], having its principal place of business in [_____] ("Assignee") and the **STATE OF VERMONT**, acting through its Commissioner of Forests, Parks and Recreation (the "State"), having its principal place of business in Montpelier, Vermont.

Preliminary Statement.

1. Assignor leases certain land from the State, as set forth in a Lease from the State of Vermont to Burke Mountain Recreation, Inc., dated April 21, 1975 and recorded with an Assignment of State Lease from Burke Mountain Recreation, inc. to Burke Mountain Enterprises Ltd., dated March 3, 1988, recorded in Volume 52 at Page 134 of the Town of Burke Land Records, as most recently assigned to Burke 2000 LLC by Assignment and Assumption of Lease, dated October 31, 2000; and as most recently amended by Amendment to Lease dated June 26, 2008, recorded in Volume 124 at Page 295 of the Town of Burke Land Records (the "Lease") with respect to the Darling State Forest, so-called.

2. The Lease was for a term of ten (10) years commencing on December 1, 1974. Pursuant to the terms of the Lease

> *The Lessee shall have the option to extend the terms of this Lease for six (6) additional terms of ten (10) years each; each said option to be exercised at the end of each term as set forth above and each additional term to be subject to the provisions of this lease, as amended. This Lease, if so extended, shall terminate on December 1, 2054.*

3. Michael Goldberg is the court-appointed receiver over the assets of Assignor, pursuant to that certain Order Granting Plaintiff Securities and Exchange Commission's Motion for Appointment of Receiver dated April 13, 2016, issued in Case No. 16-cv-21301-GAYLES, is now pending in the United States District Court for the Southern District of Florida.

4. Assignor desires to assign and transfer the Lease and all its rights and obligations thereunder to Assignee and Assignee desires to accept said assignment and transfer upon the terms and conditions hereinafter set forth.

N O W, T H E R E F O R E,

In consideration of the premises and the mutual covenants herein set forth and One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

Section 1. **Assignment**: Assignor hereby assigns and transfers to Assignee, without recourse, any and all of its right, title and interest in, to and under the Lease.

Section 2. **Acceptance**: Assignee hereby accepts the within assignment and transfer and covenants and agrees with the State to pay all rent pursuant to the Lease and to faithfully perform all covenants, stipulations, agreements and obligations under the Lease accruing after the date hereof or otherwise attributable to the period commencing on the date hereof and continuing thereafter.

Section 3. **Representations of Assignor; Acceptance by State**: Assignor hereby represents that as of the date hereof Assignor and the State have no claims or defenses one against the other by reason of the Lease. The State does not waive any rights or claims it may have against Assignor with respect to the Lease that are not known as of the date of this Assignment Agreement.

Section 4. **Consent by State**. State hereby consents to the assumption of the Lease by Assignee and to the assignment by Assignor of the Lease. The State hereby covenants and warrants that the Lease is in full force and effect and that to the State's knowledge, as of the date hereof neither the Assignor nor the Assignee are in default or breach of the Lease. The State

acknowledges that as of the date hereof all rents due under the terms of the Lease have been paid in full and that no further amounts will be due and owing until _____.

Section 5. **Agreement Binding**: This Agreement shall be binding upon the successors and assigns of the Assignor, the Assignee and the State. All parties agree to execute and deliver any such further and additional documents as may be necessary to evidence or carry out the provisions of this Agreement.

Section 6. **Counterparts**. This Agreement may be executed in one or more counterparts and it is not necessary that signatures of all the parties appear on the same counterpart, but such counterparts together will constitute a single binding Agreement between and among all parties and signatories thereto.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have executed and caused to be written this Assignment and Assumption Agreement on the __ day of _____, 2025.

BURKE 2000, LLC

By: _____

Duly Authorized Agent: _____

STATE OF _____

COUNTY OF_____, SS

Before me, on this _____ day of _____, 2025, personally appeared _____, Duly Authorized Agent of BURKE 2000, LLC, known to me to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of BURKE 2000, LLC.

Notary Public – State of Vermont

Print Name: _____

My Commission No: _____

My Commission Expires: _____

IN WITNESS WHEREOF, the parties hereto have executed and caused to be written this Assignment and Assumption Agreement on the ___ day of _____, 2025.

[_____]

By: _____

Duly Authorized Agent: _____

STATE OF _____

COUNTY OF_____, SS

Before me, on this _____ day of _____, 2025, personally appeared _____, Duly Authorized Agent of [_____], known to me to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of [_____].

Notary Public – State of Vermont

Print Name: _____

My Commission No: _____

My Commission Expires: 1/31/25

IN WITNESS WHEREOF, the State of Vermont hereunto sets its hand seal by its duly authorized agent as of the date first above written.

STATE OF VERMONT,
Acting through its commissioner of Forests, Parks and Recreation By: _____

Printed Name: _____

Title: _____

STATE OF VERMONT

_____ County, SS.

At _____ this ___ day of _____, 2025, _____, the _____ and duly authorized officer of the State of Vermont, personally appeared and he/she acknowledged this instrument by him/her sealed and subscribed to be his/her free act and deed and the free act and deed of the State of Vermont.

Before Me: _____

Notary Public: _____

Commission Expires: _____

Credential #: _____

EXHIBIT H

OWNER'S AFFIDAVIT

CATIC

AFFIDAVIT AND AGREEMENT

The undersigned, as Receiver in the matter of SEC v. Quiros, et al. Case No. 16-cv-21301-GAYLES, and as the transferor of real property known generally as Burke Mountain Resort pursuant to an Order Approving Sale of Assets To [_____] Free and Clear of All Liens, Claims, and Encumbrances (the "Order"), which Order references the "Owned Real Property" (which is fully identified in a certain Agreement of Purchase and Sale dated _____, 2025, as the same may be amended and assigned, the "PSA") between [_____] ("Buyer") and the sellers described therein ("Sellers"), being the same property as described in the Commitment, hereinafter defined, (the "Property") makes the following statements in connection with the issuance of a policy of title insurance by CATIC pursuant to Commitment having an effective date of _____ at 8:00 a.m., [revised _____ (the "Last Certification," and the "Commitment," respectively) based on his actual knowledge without any duty of independent investigation or inquiry of any person:

A. **LIENS: During his period of appointment as Receiver:** no one has furnished any labor, service or materials in connection with the construction or repair of any buildings or improvements or site work on the Property on behalf of Sellers; no labor, service or materials has been contracted for future construction, repair, materials or site work on the Property for which payment has not been made; and no contractor, surveyor, engineer or architect has been hired to provide any such service or materials on behalf of Sellers, for which payment has not been made, in all events other than as set forth in the Commitment or any Grand list searches, liens searches or tax certificates obtained in connection therewith ("Lien Searches"), or those that will be paid in the ordinary course or as to which payment has been made or are not the Sellers' obligations as of the Closing Date.

B. **POSSESSION**: Except as disclosed in the Commitment, PSA, Lien Searches or which would be disclosed by a visible inspection or an accurate survey of the Property, the

undersigned has not received written notice that, and does not have actual knowledge that, any of the Sellers under the PSA do not enjoy peaceful and undisturbed possession of the Property subject to any tenants, leases, and disclosed or known persons in possession, including, without limitation, hotel guests with transient occupancy rights. The undersigned has no actual knowledge of a dispute or disagreement as to the location of any boundary line(s) of, or vehicular access to, the Property. As applicable, all real estate taxes, common charges, association dues, common interest community assessments, special taxing district charges, water and sewer charges, municipal charges and assessments which are due and payable as of the Last Certification, are current and all other installments or payments are not yet due and payable.

C. **ORDER**: All terms and conditions of the Order to be performed or complied with by Sellers have been so performed or complied with, or will be complied with, either prior to, or simultaneous with, the transfer of title to the Property to the Buyer in all material respects.

The undersigned understands that CONNECTICUT ATTORNEYS TITLE INSURANCE COMPANY ("CATIC") will rely upon the truth of the statements and any obligations made in this Affidavit and Agreement when it issues its policy or policies of title insurance insuring the title to the Property. By acceptance **of, and reliance upon, this Affidavit and Agreement CATIC acknowledges and agrees that notwithstanding anything to the contrary contained in this affidavit, liability for damages or misrepresentations made in completing this affidavit is limited solely to representations made in his capacity as Receiver and in no event in his individual capacity.**

By: _____

Michael Goldberg, as Receiver

Subscribed and sworn to, before me _____, 2025.

_____

Notary Public: _____

Print Name: _____

Commission Expires: _____

Certificate No.: _____

EXHIBIT I

UTILITY OPERATING AGREEMENT

This Utility Operating Agreement ("Agreement") is made as of May ___, 2025 by and among Bear Den Water Utility Company LLC, a Vermont limited liability company ("Bear Den Water"), its parent company Bear Den Partners LLC ("BDP"), and Burke Mountain Water Company, a Vermont corporation.

Preliminary Statement.

A. Burke Mountain Water Company owns and operates a water system (the "Water System") that serves the Burke Mountain Resort in Burke, Caledonia County, Vermont (the "Resort") and other properties in the vicinity of the Resort in Burke, Vermont.

B. The Resort is owned by Burke 2000 LLC, a Vermont limited liability company ("Burke 2000"). Burke Mountain Water Company is the wholly owned subsidiary of Burke 2000.

C. Burke Mountain Water Company's operation of the Water System is subject to and benefited by a Certificate of Public Good issued by the Vermont Public Utility Commission ("PUC") in Docket 6063 and as amended in later dockets (the "CPG"), and by Public Community Water System Permit to Operate for Water System ID No. 5503 (together with the CPG, the "Permits") issued by the Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division (the "DEC").

D. BDP is acquiring the Resort from Burke 2000 pursuant to the terms of that certain Purchase and Sale Agreement executed on or about April 15, 2025 (the "PSA"). In connection with that PSA, BDP has formed Bear Den Water to acquire the assets of Burke Mountain Water Company. The closing of BDP's acquisition of the Resort is referred to in this Agreement as the "Closing."

E. Burke Mountain Water Company cannot complete the transfer of the Water System assets until (i) Bear Den Water has obtained (a) a new CPG from the PUC for its operation of the Water System pursuant to 30 V.S.A. § 231 and (b) a Public Community Water System Permit to Operate for Water System ID No. 5503 from the DEC (the "Water System Operation Permit") in its name, and (ii) Burke Mountain Water Company has obtained PUC approval for its sale of the Water System assets to Bear Den Water pursuant to 30 V.S.A. § 107 (collectively, the "Transfer Conditions").

F. Until the Water System assets are transferred to Bear Den Water, Burke Mountain Water Company remains the owner and controller of the Water System.

G. Burke Mountain Water Company has agreed to operate Burke Mountain Water Company until the Termination Date, and Bear Den Water and BDP have agreed to be fully responsible for the costs associated with the operation of Burke Mountain Water Company from and after the Closing and until the Termination Date.

H. Burke Mountain Water Company, Bear Den Water and Leisure Hotels LLC shall enter into a short term management agreement pursuant to which Leisure Hotels LLC shall manage the operation of the Water System until the Termination Date (the "LH Management Agreement").

Now, therefore, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and meaning and intending to be bound hereby, the parties hereby agrees as follows:

1. Term. Bear Den Water shall use its best efforts to expeditiously satisfy the Transfer Conditions within ninety (90) days of Closing and shall be solely responsible for doing so, although Burke Mountain Water Company will cooperate with Bear Den Water including by

serving as a co-petitioner on PUC filings (without cost to Burke Mountain Water Company). Bear Den Water (with Burke Mountain Water Company as co-petitioner) shall submit petitions, applications or other materials and information necessary or appropriate to satisfying the Transfer Conditions to the appropriate governmental, administrative, or quasi-governmental or administrative bodies within 14 days of the date of this Agreement. Bear Den Water will keep Burke Mountain Water Company apprised in writing of its activity, actions and responses, in connection with the Transfer Conditions on weekly basis. Burke Mountain Water Company will continue to oversee the management and operation of the Water System from and after the date of Closing, which is scheduled for May __, 2025, until the earliest of (i) the date on which the Transfer Conditions have been satisfied, (ii) the date that is ninety (90) days from Closing, or (iii) the date that Burke Mountain Water Company terminates this Agreement based on a breach of the obligations of Bear Den Water or BDP (the "Termination Date"), or unless otherwise agreed by the parties.

2. Scope of Services. The scope of services to be provided by Burke Mountain Water Company or its agent includes the following:

a. Day-to-day oversight and management of the operation of the Water System.

b. Maintenance of the existing general liability insurance policy for operating Burke Mountain Water Company.

c. Administrative and bookkeeping services in connection with the operation of Burke Mountain Water Company, including administering payroll for any employees of the Burke Mountain Water Company; processing accounts payable of Burke Mountain Water Company; and processing any correspondence or miscellaneous administrative duties required to support the

accounting and operational duties of Burke Mountain Water Company, including but not limited to communication with customers and vendors.

3. Fees. In consideration of the services to be provided by Burke Mountain Water Company under this Agreement, Bear Den Water shall reimburse Burke Mountain Water Company for its reasonable costs of performing the services hereunder, including, without limitation, all reasonable labor and employment costs, including the amounts due pursuant to any applicable benefit plan, fees, reimbursements and other amounts due pursuant to the LH Management Agreement, payable in advance such that neither Burke Mountain Water Company not Leisure Hotels LLC shall have a need to fund any of the costs or expenses of the Water System or the management thereof, with payments related to partial months of operation being equitably prorated. Burke Mountain Water Company shall not perform or authorize any work that is not included in the scope of services set forth above without prior written authorization from Bear Den Water, which shall not be unreasonably withheld, conditioned or delayed. No prior authorization shall be required to perform or authorize work in the event of an emergency within the Water System or involving any customer of the Water System. In the event of an emergency, Burke Mountain Water Company shall use reasonable, good faith efforts to notify Bear Den Water prior to or promptly after performing or authorizing any work.

4. Post-Closing Terms. From and after the Closing:

a. Bear Den Water and BDP, jointly and severally, shall be fully and solely responsible for the costs associated with operating Burke Mountain Water Company, and shall timely and reliably provide all funds necessary for all obligations, payments, costs, expenses and disbursements, of any kind or nature, related to the operation of Burke Mountain Water Company, including,

without limitation, management of such operations by Leisure Hotel LLC, but, for avoidance of doubt, excluding fees of counsel for Burke Mountain Water Company and Leisure Hotels LLC in connection with this Agreement, which shall be borne by Burke Mountain Water Company and Leisure Hotels LLC;

b. All revenues earned by Burke Mountain Water Company from operations shall accrue for the benefit of Bear Den Water, and Bear Den Water may use such revenues as the source from which to make the payments required by this Agreement and by the Permits. The parties acknowledge that payments made by customers of the Water System may be paid in arrears and the parties have addressed proration of such payments in the Purchase Agreement; and

c. Transfer of the Water System assets shall be conditioned on payment of all amounts required to be paid to Burke Mountain Water Company pursuant hereto on the date of such transfer. On the Termination Date: (a) Bear Den Water shall deliver to Burke Mountain Water Company and Leisure Hotel LLC a final accounting, reflecting the balance of income and expenses of the Water System and the management thereof as of the Termination Date and all amounts due Burke Mountain Water Company, including reimbursements, shall be paid in current funds. In the event of any overpayment by Bear Den Water as to amounts prepaid under Section 3, Burke Mountain Water Company and Leisure Hotel LLC shall reimburse such amount to Bear Den Water. Any party shall have the right to call for an adjustment of the reconciliation at Closing for a period of 6 months from the Termination Date.

d. Each party hereto shall have the right to audit the books and records of the other with respect to the financial matters hereunder.

5. Indemnification. From and after the Closing, Bear Den Water and BDP agree to and shall joint and severally indemnify and hold harmless Burke Mountain Water Company and its shareholders, directors and officers, from and against any cost, expense or other losses or damages resulting from or arising in connection with the ownership or operation of Burke Mountain Water Company, except to the extent any such cost, expense, losses or damages arise from the gross negligence or willful misconduct of Burke Water Management Company or Leisure Hotels LLC hereunder.

6. Transfer. Subject to and in accordance with the terms of the PSA, Burke Mountain Water Company shall transfer without representation or warranty and Bear Den Water shall accept title to the Water System assets once the Transfer Conditions have been satisfied, at which time this Agreement shall terminate except for any provisions expressly stated to survive the transfer which shall include the Indemnification under Section 5 and the commitment of the Parties to reconcile amounts paid and/or due in connection with this Agreement or the LH Management Agreement.

7. General. This Agreement is and shall be deemed to be made under and pursuant to the laws of the State of Vermont and shall, in all respects, be governed, construed and enforced in accordance with the laws of that state, without resort to principles of conflicts of laws. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and permitted assigns. In the event that any provision or clause of this Agreement conflicts with applicable law, such conflict shall not affect other provisions which can be given effect without the conflicting provisions, and to this end the provisions of this Agreement are declared to be severable. This Agreement may not be amended, changed, modified, altered or terminated except by written instrument executed and delivered by the parties. This Agreement (including the documents referred to herein, to the

extent they have related in any way to the subject matter hereof) constitutes the entire agreement between the parties with respect to the subject matter covered herein, and supersedes any prior understandings, agreements, or representations by or between the parties, written or oral, as to such subject matter. This Agreement may be executed in any number of counterparts, each counterpart shall constitute an original agreement, and all counterparts taken together shall constitute a single agreement. Confirmation of execution of this Agreement by facsimile or electronic signature shall be binding upon any party so confirming.

Signature Pages Follow

The parties have executed this Agreement as of the date and year first above written.

BURKE MOUNTAIN WATER COMPANY

By: _____

Name: _____

Title: _____

BEAR DEN PARTNERS LLC

By: _____

Name: _____

Title: _____

BEAR DEN WATER UTILITY COMPANY LLC

By: _____

Name: _____

Title: _____