

ESTATE NO. 11-253839
COURT NO. H-140638
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA
IN THE MATTER OF THE RECEIVERSHIP OF
MOUNT BALDY SKI CORPORATION AND MOUNT BALDY REAL ESTATE, ULC

BETWEEN:

STARK BC VENTURE, LLC

PETITIONER

AND:

MOUNT BALDY REAL ESTATE, ULC
WINTER RECREATION, ULC
MOUNT BALDY SKI CORPORATION
ROBERT BOYLE
BRETT SWEEZY
BRENT ALAN BAKER ALSO KNOWN AS BRENT BAKER
LAURA LESLIE BREUNINGER BAKER
VANTAGEONE CREDIT UNION
B.C. OPPORTUNITY FUND LLC
ATTORNEY GENERAL OF CANADA, AS REPRESENTATIVE OF
THE CROWN IN RIGHT OF CANADA
THE OWNERS, STRATA CORPORATION KAS1840

RESPONDENTS

SECOND REPORT OF THE RECEIVER

June 14, 2016



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Background and Purpose of the Report

1. By Order of the Supreme Court of British Columbia (the “**Court**”) dated the 19th day of December, 2014 (the “**Receivership Order**”), G. Powroznik Group Inc. of G-Force Group, was appointed the Receiver and Manager (the “**Receiver**”) in respect of the assets, undertakings and properties (the “**Assets**”) of Mount Baldy Ski Corporation and Mount Baldy Real Estate, ULC (collectively, “**Mount Baldy**”). The Assets of Mount Baldy primarily exist at the Mount Baldy Ski Resort (the “**Resort**”) which is located in the southern Okanagan region of British Columbia.
2. The Receivership Order was later amended on January 8, 2015, to reference the specific Food Primary and Liquor Primary Licenses of Mount Baldy in paragraph 2(p) of the order.
3. A copy of Court Orders and other documents pertinent to the receivership are posted on the Receiver’s website which can be located at the following URL:
<http://www.g-forcegroup.ca/mount-baldy-ski-resort/>
4. The Receiver submitted its First Report to Court on November 25, 2015 (“**First Report**”). This Second Report should be read in conjunction with the First Report, particularly with respect to the efforts that have been made to market the assets and find a suitable purchaser for the Resort and its Assets. Included in the First Report were all the prior reports of the Marketing Agent, submitted to this Honourable Court prior to the making of the Receivership order. Those reports contain a significant amount of background information with respect to the ultimate realization plan for the Assets.
5. The purpose of this Second Report is for the Receiver to:
 - a. update the Court on the Receiver’s activities generally since its First Report including key milestones achieved with respect to finding a purchaser for the Assets;
 - b. more specifically, inform the Court of the Receiver’s execution of an Asset Purchase Agreement with a purchaser in March 2016, and describe the offer and why it is the most beneficial for stakeholders;
 - c. describe the critical steps that will be required prior to the Receiver presenting an unconditional offer later in June 2016 to the Court for its approval;
 - d. recommend to this Honourable Court acceptance of the sale agreement, at such time it is unconditional; and
 - e. summarize the Receiver’s financial position and provide an interim Statement of Receipts and Disbursements.

6. In preparing this report, the Receiver has, in part, relied upon information received from:
 - a. the records of Mount Baldy;
 - b. the Petitioner, Stark BC Venture LLC (“**Petitioner**”), which is the primary secured creditor, and its legal counsel, Lawson Lundell LLP (“**Lawson**”);
 - c. third parties potentially interested in acquiring the Assets;
 - d. Matt Koenig, the Resort’s former general manager;
 - e. third party suppliers of goods or services to the Resort; and
 - f. other local stakeholders and interested persons.

The Receiver notes that it has not performed an audit on financial information received to ensure its accuracy or completeness except as indicated herein so readers are cautioned accordingly.

Receiver’s Activities Since its First Report

7. Since it submitted its First Report, the Receiver has performed, without limitation, the following activities:
 - a. in November 2015, received a proposal from a new purchaser group that emerged from the prior interested parties (the “**2015 Prospect**”); the 2015 Prospect submitted a conditional Letter of Intent (“**LOI**”) to purchase the Assets. The terms of the LOI were described in the First Report. Under the LOI, the prospect wished to quickly re-open the Resort for a shortened 2016 ski season, provided the Receiver could obtain Court approval to proceed with the LOI. Unfortunately, due to several factors including an opposition filed by the Baldy Capital Corp. (“**BCC**”) resulting in an adjournment, and the busy Court schedule prior to the Christmas holiday season generally, the Receiver’s December 2015 application could not be heard on a timely basis and the 2015 Prospect decided it could not proceed with a viable 2016 ski season as there simply was not enough time to prepare the Resort for opening. Instead, the 2015 Prospect stated that it planned to submit an offer to acquire the Resort’s Assets in the latter part of January 2016;
 - b. when it became clear that no one could open the Resort in time for a 2016 ski season in late December 2015, the Receiver proceeded to take steps to mothball the Resort for the winter including hiring local contractors to perform ski lift and other maintenance, remove snow, monitor unauthorized use of the property, place warning signs around the property with respect to unauthorized use, and conduct other ongoing maintenance activities throughout the balance of the winter season; However, the Receiver continued to monitor the intentions of the 2015 Prospect

to submit another offer and also to market the Resort and search for new prospects;

- c. settled several outstanding payables of Baldy Operating Corp. (“**BOC**”) relating to its operation of the 2014-15 ski season (described in paragraph 15 of the First Report) in an attempt to bring key suppliers back to the Resort to perform ongoing services and provide supplies to the Receiver. In total, the Receiver has paid over \$32,000 in settlement payments to several of BOC’s creditors. As part of settlement efforts, the Receiver was able to re-hire Matt Koenig, the Resort’s former General Manager, on or about January 4, 2016, which was critical to the Receiver’s ongoing care and maintenance activities at the Resort;
- d. placed property and liability insurance coverage for the Assets;
- e. since November 2015, continued to market the Resort for sale and pursued approximately four interested parties who expressed an interest in learning more about the acquisition opportunity;
- f. on January 18, 2016, received another offer and a draft asset purchase agreement from BCC which incorporated some of the initial terms of the MOU from December 2014 between BCC and Petitioner. The offer was not acceptable to the Receiver or the Petitioner and was rejected outright. Further, there was no evidence that BCC had any access to financing to support this or any offer;
- g. as part of efforts described in (e) above, also in January 2016, made contact with a party who expressed interest in acquiring the Assets. This party, known as 1063205 B.C. Ltd. (the “**Purchaser**”) executed a confidentiality agreement with the Receiver and began to review the various documents located in the Receiver’s electronic Data Room. The Purchaser decided it wished to proceed with attempting to acquire the Resort, and formal negotiations for the purchase of the Assets ensued during February and early March 2016;
- h. executed an Asset Purchase Agreement (“**APA**”) with the Purchaser for the Assets of Mount Baldy on March 11, 2016 (described in detail later in this report);
- i. facilitated the Purchaser’s due diligence process including providing various documents and information and answering their questions with respect to the Resort and its Assets;

- j. assisted the Purchaser in preparing detailed cash flow projections and other information for the British Columbia Mountain Resorts Branch (“**Resorts Branch**”) which is the government body having oversight over the Resort and other similar resorts in the Province;
 - k. submitted an application to the Resorts Branch to seek its approval to assign the Mount Baldy Master Development Agreement (“**MDA**”) to the Purchaser which is a key step in order to allow the Purchaser to acquire the assets and operate the Resort. The assignment application was formally submitted to Resorts Branch on May 11, 2016;
 - l. continued to liaise with Resorts Branch and the Purchaser with respect to the MDA assignment process and answer Resorts Branch questions and provide additional information to facilitate their review;
 - m. liaised with the Purchaser and the Osoyoos Indian Band (“**OIB**”), a key stakeholder in this process, in order to help facilitate the signing of a new Benefits Agreement (“**Benefits Agreement**”) which outlines the business terms between the Purchaser and the OIB with respect to the Purchaser’s ownership and operation of the Resort, and the social and economic benefits that will flow to OIB. The completion of the Benefits Agreement was also a key step in order to allow Resorts Branch to proceed with its review process to approve the assignment of the MDA to the Purchaser. The Purchaser and the OIB executed a formal Benefits Agreement on May 18, 2016;
 - n. provided Matt Koenig with a mandate to provide ongoing critical maintenance and obtain feedback and provide advice on dealing with other important matters including minimizing the unauthorized use of the Resort ski terrain and recovering assets held by the Johnston Respondents, hereinafter defined;
 - o. continued to communicate with local residents and other stakeholders to exchange information and keep apprised of current events at Mount Baldy; and
 - p. continued to pay suppliers and contractors for their services performed for the Receiver at Mount Baldy.
8. Also, in April 21, 2016, the Receiver made an application to Court for its assistance in obtaining the return of various Mount Baldy assets (the “**Missing Assets**”) that were in the possession of Mr. Fred Johnston and/or Baldy Capital, BOC and other related entities (collectively, the “**Johnston Respondents**”). Since BOC’s operation of the 2014-15 ski season, the Johnston Respondents had kept possession, or had knowledge of the

whereabouts, of several Mount Baldy assets including computers, related equipment, the www.skibaldy.com web domain, key information relating to Mount Baldy's customers and operations, and various other items. On May 4, 2016, the Court made an Order, by consent of the Johnston Respondents, requiring all Mount Baldy assets in the Johnston Respondents' possession be returned forthwith to the Receiver (the "May 4 Order"). Attached hereto as **Appendix "A"** is a copy of the May 4 Order.

9. Since the time of the May 4 Order, the Johnston Respondents have provided information and facilitated the return of most of the Missing Assets to the Receiver and have also assisted in transferring the www.skibaldy.com domain to the Receiver. Unfortunately, at the time of writing this report, an important laptop computer, containing historical season pass-holder information for the Resort, remains unaccounted for. The Receiver and its legal counsel remain in communication with the Johnston Respondents, and other third parties who the Johnston Respondents were dealing with, in order to attempt to locate it.

Receiver's Statement of Receipts and Disbursements

10. Attached hereto as **Appendix "B"** is the Receiver's Statement of Receipts and Disbursements as at May 31, 2016. The Receiver currently has \$9,634 of cash available in its bank account.
11. Since December 2015, the principal for the Petitioner has funded the Receiver's custodial and maintenance activities at the Resort through Receiver Certificates. As at the time of writing this report, a total sum of \$466,249 in Receiver Certificates have been issued to those parties who provided funding to the Receiver during the course of the receivership. Comments on expected repayment of these *pari passu* borrowings will follow.

Asset Purchase Agreement with the Purchaser and Estimated Stakeholder Recoveries

12. The First Report of the Receiver, as well as the prior reports of the Marketing Agent, have discussed extensively the efforts undertaken to expose the Assets to a broad market and also summarized the previous offers or expressions of interest that have been received. The Receiver will not repeat the contents of those reports here, except to summarize where this information can be found in prior reports:
 - a. The Marketing Agent's November 3, 2014 Report contains a detailed summary of the Marketing Agent's efforts to expose the Assets to the market, the number of parties contacted and number of confidentiality agreements received, and summary of proposals received at that time; and
 - b. The Receiver's First Report summarizes additional efforts to sell the Assets since the Marketing Agent role was terminated in December 2014, and in particular

describes the various efforts undertaken during late 2014 and much of 2015 to come to an agreement with Baldy Capital for its purchase of the Resort, and it also describes the related difficulties encountered by the Receiver with Baldy Capital and BOC.

13. On March 11, 2016, the Receiver and the Purchaser entered into a conditional APA for all the Assets of Mount Baldy including the shares of Mount. Baldy Waterworks Inc., a 100%-owned subsidiary of Mount Baldy Ski Corporation. The APA is subject to Court approval. The purchase price for the Assets is \$3,400,000 Canadian dollars, plus one serviced lot (in the Mount Baldy subdivision) for the Petitioner (the “**Lot Consideration**”). The Lot Consideration is estimated to have a value of \$300,000. With the exception of the Lot Consideration, this is an all-cash offer.
14. A copy of the executed March 11, 2016 APA is attached hereto as **Appendix “C”**. The Receiver and the Purchaser are currently finalizing schedules A, C, D and E to the APA. A complete APA with schedules will be included in the Receiver’s supplemental report which will be filed before the time set to hear the application for approval of the sale.
15. Pursuant to the terms of the APA, the Purchaser was to remove its subject conditions by May 25, 2016. The subject condition removal date has subsequently been amended on four occasions, by agreement between the Receiver and the Purchaser; the most recent amendment agreement states that the subject removal date is June 20, 2016. The extensions of time have allowed for the Purchaser’s execution of a Benefits Agreement with the OIB and for the Resorts Branch to complete its review process of the proposed assignment of the MDA to the Purchaser. This date can be further extended to accommodate Resorts Branch if it needs additional time to provide its approval.
16. The Purchaser’s offer is the best offer received by the Receiver to date. The Receiver respectfully recommends that the Court approve this offer, for the following reasons:
 - a. it is the only offer received that was acceptable to the Receiver and to the Petitioner;
 - b. the proceeds of the sale, with the exception of the Lot Consideration, are all cash and do not require the Petitioner to carry any financing in the future and there is no “subject to financing” condition;
 - c. the Receiver has received confirmation of substantial funding from the Purchaser to support its obligation under the APA, including \$360,000 placed in a trust account which will become a non-refundable deposit at the time the Purchaser removes its subject conditions;

- d. the Purchaser advises that, by the time the Receiver appears in Court with respect to the sale approval application, it expects that will have the full amount of the cash purchase price held in trust;
 - e. the Purchaser has agreed to replace deposits and letters of credits with various government bodies (i.e. Resorts Branch and BC Liquor Branch) without adjustment to the Receiver;
 - f. the Purchaser is anxious to close the sale quickly, possibly by June 30, 2016, but no later than 10 days after Court approval is granted;
 - g. the Purchaser has already agreed to and executed a Benefits Agreement with the Osoyoos Indian Band (“OIB”) who is a key stakeholder in this process. Having the Resort open and operating again will provide ongoing economic and social benefits to the OIB, where there have been none recently due to the Resort facing insolvency and being closed;
 - h. there are no other terms or adjustments that are prejudicial to the Receiver or the Petitioner in the Asset Purchase Agreement, beyond what would normally be expected in a receivership sale. The offer is made on an “as is, where is” basis; and
 - i. the offer supports payment of the following items in the receivership:
 - i. all outstanding professional costs;
 - ii. payment in full of all Receiver’s Certificates including interest;
 - iii. payment of a deemed trust claim for outstanding payroll deductions to Canada Revenue Agency; and
 - iv. the Petitioner supports the offer because it is expected to receive an estimated net cash recovery in the range of CDN \$1.6-1.8 million on closing (exclusive of the Lot Consideration), subject to final calculations of professional costs and interest on Receiver’s Certificates, plus a serviced lot.
17. The Petitioner supports the Purchaser’s offer, notwithstanding the fact the Petitioner will suffer a significant shortfall on the amount owing to it. It also supports the Receiver’s activities to date to find a suitable buyer, and the estimated net cash recovery and Lot Consideration that will flow to it upon closing.
18. The Purchaser’s offer represents the best possible outcome for the Petitioner and some of the other stakeholders like the OIB and the local residents and community after a lengthy and difficult process to find a suitable purchaser for the Resort’s Assets. If this offer is

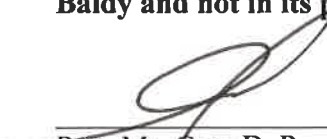
not accepted, the Receiver and the Petitioner are greatly concerned with the amount of time, and costs, which would be required to find another suitable purchaser.

Timing and Request for Court Approval of Sale

19. The Receiver has filed its application for Court approval prior to the Purchaser removing its subject conditions. However, based upon the feedback from the Resorts Branch and the Purchaser's progress with its due diligence, the Purchaser is confident that all the conditions will be removed by the date of the actual hearing of the application. The main reason for filing the Receiver's application at this time is to provide the required notice of the application while the Resorts Branch is completing its review to approve the assignment of the MDA. By conducting these processes concurrently, the potential Closing is advanced to the earliest possible date to allow the Purchaser as much time as possible to ready the Resort for the upcoming ski season. If Court approval for the sale is received prior to June 30, 2016, the Receiver expects the Purchaser to close on or before July 10, 2016.
20. The expected events that will occur prior to the Court application, which based on current timing is estimated to occur prior to the end of June 2016, are summarized as follows:
 - a. Resorts Branch previously expected to provide confirmation that they are prepared to consent to the assignment of the MDA to the Purchaser on or before June 15, 2016 ("**Resorts Branch Consent**"). As of the date of this report, Resorts Branch Consent has not yet been received however it is still expected Resorts Branch Consent will be given prior to the Court application for approval of the sale;
 - b. At such time the Purchaser receives Resorts Branch Consent, it will confirm to the Receiver that:
 - i. it has removed its subject conditions in the APA, and
 - ii. it has its non-refundable deposit of \$360,000 in its lawyer's trust account;
 - c. Once the information in paragraph 20 (b) is received, the Receiver will file a brief Supplemental Report with this Honourable Court to confirm that these events have occurred and that the Receiver is ready for the Court to approve the unconditional sale to the Purchaser; and
 - d. To the extent Resorts Branch Consent is delayed, the Receiver will simply defer the application to a future date when the Receiver can present the Court with an unconditional sale to be approved.

All of which is respectfully submitted this 14th day of June, 2016.

**G. Powroznik Group Inc.
in its capacity as Receiver and Manager for Mount
Baldy and not in its personal capacity**



Per: Mr. Gary D. Powroznik
Managing Director

Appendix A

Order Made after Application
dated May 4, 2016





No. H-140638
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

STARK BC VENTURE, LLC

PETITIONER

AND:

MOUNT BALDY REAL ESTATE, ULC, WINTER RECREATION ULC,
MOUNT BALDY SKI CORPORATION, ROBERT BOYLE, BRETT SWEEZY,
BRENT ALAN BAKER ALSO KNOWN AS BRENT BAKER, LAURA
LESLIE BREUNINGER BAKER, VANTAGEONE CREDIT UNION, B.C.
OPPORTUNITY FUND LLC, ATTORNEY GENERAL OF CANADA, AS
REPRESENTATIVE OF THE CROWN IN RIGHT OF CANADA, THE
OWNERS, STRATA CORPORATION KAS1840

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE))	
)	THE HONOURABLE JUSTICE)	04/May/2016
)	KELLEHER)	
))	

ON THE APPLICATION of G. Powroznik Group Inc. (the "Receiver") coming on for hearing at Vancouver on 04/May/2016 and on hearing Dennis K. Fitzpatrick, counsel for the Receiver, Bonita Lewis-Hand, counsel for the Petitioner, Fred Johnston, appearing on his own behalf and on behalf of Baldy Operating Corporation, Baldy Capital Corporation., Meridian Management Corporation, Equity Development Inc. (collectively, the "Johnston Respondents") and no one else appearing although duly served;

AND UPON the Johnston Respondents making the following representations to the Receiver and to the Court:

- (a) that all paper accounting records including invoices, statements, reports, estimates and correspondence (the "Paper Files") for the ski resort at Baldy Mountain (the "Resort") are located at the office rented by Baldy Operating Corporation ("BOC") from 0960015 BC

Ltd and Nathan Ondrus at Unit #4-100 Cougar Road, Oliver, B.C. (the "Cougar Office"), previously rented by the Johnston Respondents;

- (b) the computer server ("Hercules Server") described in paragraph (a) of Exhibit "Z" to the Affidavit #2 of Gary Powroznik, sworn April 19 2016, contains the accounting records of the resort and it is located in the Cougar Office;
- (c) the P.O.S. server ("POS Server") described in paragraph (c) of Exhibit "Z" to the Affidavit #2 of Gary Powroznik, sworn April 19 2016, are located in the Cougar Office;
- (d) the laptop ("Identicam Laptop") described in paragraph (c) of Exhibit "Z" to the Affidavit #2 of Gary Powroznik, sworn April 19 2016, and the Mount Baldy Laptop which contains the seasons pass program information are located at #236, 15 Park Place Osoyoos, B.C. (the "Osoyoos Office");
- (e) The accounting records to April of 2015 are located on a computer known as "Gail's computer, a black desktop now located (based on the advice of Randall Smith) in the Waterworks building at Mount Baldy;
- (f) That the Johnston Respondents no longer have possession or control of the computers or financial records of the Resort;
- (g) That Fred Johnston has no knowledge of the passwords for the Instagram, Twitter or Pinterest accounts described below; and
- (h) Fred Johnston has discarded all keys which he had in his possession for the Resort.

THIS COURT ORDERS that:

1. the Receiver is authorized and directed to take such steps as are, in the opinion of the Receiver, necessary or incidental for the recovery of the property from the Johnston Respondents, wherever situate, owned by Mount Baldy Ski Corporation and Mount Baldy Real Estate, ULC (collectively, the "Resort" or "Mount Baldy") including property previously located on the Resort property at 2680 Mount Baldy Rd, Oliver, B.C. and in particular, the Osoyoos Office and the Cougar Office.
2. the Johnston Respondents have no right title or possessory interest in and shall grant immediate possession to the Receiver of the following documentation and property forthwith at its office at 250-750 West Pender Street or to a location specified below or otherwise in accordance with a direction of the Receiver:
 - (a) all documents accounting records, invoices, estimates, repair records, correspondence for the Resort now located in the Cougar office or wherever situate but primarily at the Cougar Office, whether in paper or electronic form;

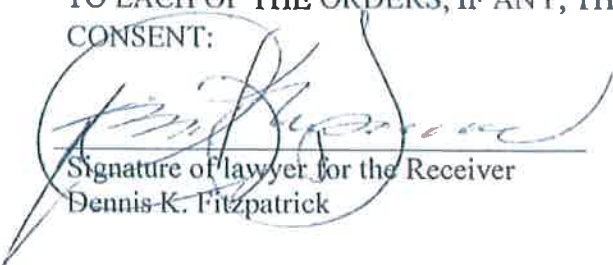
- (b) the Hercules Server and the POS Server now located in the Cougar Office and the Mount Baldy Laptop and the Indenticam Laptop which contains the season pass information and program, now located in the Osoyoos Office;
 - (c) any furniture, computers, printers, and equipment belonging to the Resort, including any that may now be located in the Osoyoos Office;
 - (d) any computer equipment passwords and keys, software licences and operating instructions related to the Resort determined hereafter to be currently or previously in the care and control of the Johnston Respondents;
 - (e) all rights to the website on the internet under URL "www.skibaldy.com" (the "Website"), the email addresses including mail@skibaldy.com and the domain name "skibaldy.com" (the "Domain Name"), (i) together with the website infrastructure including the content management system used for the Website; (ii) copies of all information which was posted on the Website; and (iii) all related source code, object code, URLs, content, files, user names or passwords, images, data, databases, domain names, configuration, emails, documents or records, marketing materials, training materials, whether electronic or written;
 - (f) All internet rights including the Facebook page at www.facebook.com/skibaldy ("Facebook"), Pinterest page at www.pinterest.com/skibaldy ("Pinterest"), instagram.com/skibaldy ("Instagram") and Twitter account at twitter.com/skibaldy ("Twitter"); and
 - (g) all point of sale equipment, passwords (within Fred Johnston's knowledge) and operating instructions.
3. the Johnston Respondents shall cease using any email address using the name 'skibaldy' or Mount Baldy or Mt Baldy any variants of that name and shall effect the cancellation of the following email account addresses, forthwith: (i) fred.johnston@skibaldy.com; (ii) gail.saunders@skibaldy.com; and shall release the email (iii) mattk@skibaldy.com to the Receiver.
4. The Johnston Respondents shall provide to the Receiver forthwith upon entry of this Order all documentation in their possession relation to:
- (a) the *Employment Standards Act* claim referred to in paragraph 23(b) of the Factual Basis of the Notice of Application;
 - (b) all documentation and an explanation of the terms which were entered into between BOC and Nathan Ondrus and 0960015 B.C. Ltd relative to the tenancy for the Cougar Office and what rents were payable by BOC and all correspondence and emails to that landlord;

- (c) the claim of Canada Revenue Agency referred to in paragraph 23(c) of the Factual Basis of the Notice of Application;
 - (d) all faxes in possession of the Johnston Respondents relevant to Mount Baldy;
 - (e) the terms of the Benefit Agreement entered into with the Osoyoos Indian Band;
 - (f) all correspondence relative to the liquor licence;
 - (g) documentation regarding insurance for the Resort where not already provided to the Receiver;
 - (h) a copy of the Seasons End Budget Versus Actual Analysis where not already provided to the Receiver; and
 - (i) all applications to the Province of British Columbia regarding the Resort and correspondence related thereto where not already provided to the Receiver.
5. this court declares that Mount Baldy Ski Corporation, by its Receiver, G. Powroznik Group Inc., shall on entry of this order be the sole legal and beneficial owner of the Domain Name and that the Receiver is entitled to have the domain "skibaldy" hosted by Hostmonster in the manner it shall determine, in its sole discretion, and that the Receiver shall have the right to appoint persons who are authorized to instruct Hostmonster and FastDomain to grant or refuse access to the site by the Johnston Respondents, to control content on the site at that domain, or to sell the site and the domain.
6. upon service of a copy of this Order by email to legal@hostmonster.com and abuse@hostmonster.com, FastDomain Inc. and Hostmonster are authorized and directed to change the owner of the Domain Name from "Meridian Management Corporation" to "Mount Baldy Ski Corporation by its Receiver-Manager G. Powroznik Group Inc." or to any assignee or transferee directed by the Receiver.
7. the Johnston Respondents shall release and transfer to the Receiver any documentation, interest, EPP Code, authority or other right which they now exercise over the Domain Name and the Website forthwith on approval of the terms of this Order by Johnston including the content management system access to Wordpress. If the EPP code will not effect the change of name for the website, then Fred Johnston will take all reasonable steps to effect the change of Domain name and transfer of the current content of the website to the Receiver
8. Osoyoos Shoreline Development Ltd., as landlord, and any current tenant of the Osoyoos Office is authorized and directed to provide access to the Receiver to enter into the business office of BOC for the Resort located at #236, 15 Park Place Osoyoos, B.C. to recover any property that the Johnston Respondents have located therein including the Identacam Computer and the Mount Baldy Laptop.

9. 0960015 BC Ltd and Nathan Ondrus., as landlord, is authorized and directed to provide access to the Receiver to enter into the business office of BOC for the Resort located at Unit #4-100 Cougar Road, Oliver, B.C. to recover any property and business records that the Johnston Respondents have located therein including the Hercules Server and the POS Server.
10. the Johnston Respondents and any of them are restrained, enjoined and prohibited from publishing, circulating, drafting, printing or communicating in any manner with the public or any individual on radio, television, internet, print media, or any online communication: (i) using the names "Baldy", "Ski Baldy", "Baldy Mountain", "Baldy Ski Hill", or "Baldy Ski Resort" in any manner whatsoever; or (ii) representing that any member of the Johnston Respondents has acquired or will acquire any interest in the Resort property or has reached an agreement for the acquisition of any interest in the Resort; (iii) soliciting business for the Resort including seasons passes; or (iv) otherwise representing that the Johnston Respondents are authorized by the Resort.
11. the Receiver may serve a copy of this Order on any person connected with, , agency for , employee, licensor, contractor, registrar, landlord of Baldy Operating Corporation and Baldy Capital Corporation and such person is authorized and directed to provide information, documentation, particulars of ownership or registration and records including computer records and passwords to the Receiver relating to the operation of the Resort during the 2014/15 season.
12. the Receiver may serve this Order on the Johnston Respondents at the following email: fred.johnston@mercidian.com.
13. leave is granted to 0960015 B.C. Ltd. and Nathan Ondrus to apply to the court to vary or set aside this Order on notice to the Receiver within the time period prescribed by the rules of Court.
14. the Receiver shall provide 8 days notice to the Johnston Respondents of any application to approve the sale of the Resort.
15. in the event that any of the representations being untrue in whole or in part, or on refusal to comply with a term of this Order, the Receiver shall have leave to apply to the Court for further relief on five (5) days notice to the Johnston Respondents.
16. the Johnston Respondents will render assistance reasonably required to implement the Order and/or recover records and property of the Resort described herein on request by the Receiver.

17. the approval of the parties as to form, except counsel for the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



Signature of lawyer for the Receiver
Dennis K. Fitzpatrick

By the Court



Registrar



Appendix B

Receiver's Statement of Receipts and Disbursements
as at May 31, 2016

In the matter of the receivership of Mount Baldy Ski Corporation and Mount Baldy Real Estate, ULC
Receiver's Statement of Receipts and Disbursements (notes 1, 2)
As at May 31, 2016

	\$
Receipts	
Receiver's borrowings	466,249
Interest	20
Miscellaneous refunds	6,363
Total receipts	472,631
Disbursements	
Advances to Receiver for fees, disbursements and taxes	80,233
Legal fees and disbursements	33,617
Advances to Baldy Operating Corporation	203,000
Refund to secured creditor for pre-receivership ski operation preparation costs	32,948
Refund to Baldy Capital Corp. for pre-receivership ski operation preparation costs	15,000
Settlement payments to Baldy Operating Corporation creditors from 2014-15 ski season	32,399
Utilities payments	17,369
Insurance	22,240
Contractor and consultant payments	19,673
Repairs and maintenance	3,589
Permitting and application fees	1,690
Other costs	1,241
Total disbursements	462,997
Cash balance as at May 31, 2016	9,634

Note 1 - We have compiled this Statement of Receipts and Disbursements for the period December 19, 2014 to May 31, 2016 from the receivership records which we have maintained in our capacity as Receiver-Manager of Mount Baldy Ski Corp. and Mount Baldy Real Estate, ULC. We have not engaged external accountants to audit, review, or otherwise attempt to verify the accuracy or completeness of the Statement of Receipts and Disbursements.

Note 2 - For the purposes of presentation, all amounts are rounded to the nearest dollar.

Appendix C

Asset Purchase Agreement dated March 11, 2016
between Receiver and 1063205 B.C. Ltd.

March 11, 2016

MOUNT BALDY REAL ESTATE ULC

- AND -

MOUNT BALDY SKI CORPORATION

**by their Receiver, G. Powroznik Group Inc.
under the Order made in Action No. H-140638, Vancouver Registry (the "Receiver")**

- AND -

1063205 B.C. LTD.

ASSET PURCHASE AGREEMENT

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.

ASSET PURCHASE AGREEMENT

THIS AGREEMENT made as of March 11, 2016 (the "**Execution Date**").

BETWEEN:

Mount Baldy Real Estate ULC

AND:

Mount Baldy Ski Corporation

(together as the "**Vendors**")

by their receiver, G. Powroznik Group Inc. under the Order made in Action NO. H-140638, Vancouver Registry (the "**Receiver**")

AND:

1063205 B.C. Ltd.

(the "**Purchaser**")

WHEREAS:

- A. The Vendors hold the assets in the Mount Baldy Ski Resort (the "**Business**").
- B. The Vendors have agreed to sell, transfer, assign, set over and convey the Purchased Assets (as defined herein) to the Purchaser and the Purchaser has agreed to purchase, acquire and assume the Purchased Assets on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and the sum of \$10.00 paid by each of the Vendor and the Purchaser to the other and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree and declare as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

The terms defined herein shall have, for all purposes of this Agreement, the following meanings, unless the context expressly or by necessary implication otherwise requires:

- (a) "**Accounts Receivable**" means all accounts receivable, trade accounts, notes receivable and other debts owing to the Vendors.
- (b) "**Adjustment Date**" means 11:59 P.M. PT on the day before the Closing Date.



- (c) **"Adjustments"** means the adjustments to the Purchase Price provided for and determined pursuant to Sections 3.4 and 3.5.
- (d) **"Agreement"** means this asset purchase agreement and the schedules attached hereto, as amended from time to time; **"Article"**, **"Section"** and **"Subsection"** mean and refer to the specified article, section and subsection of this Agreement.
- (e) **"Applicable Laws"** means, with respect to any Person, property, transaction, event or other matter, any law, rule, statute, regulation, order, judgment, decree, treaty or other requirement having the force of law relating or applicable to the Purchased Assets, such Person, property, transaction, event or other matter.
- (f) **"Approval Order"** means an order (or separate orders) of the Court, in form and substance satisfactory to each of the Vendors and the Purchaser, each acting reasonably and without delay, pursuant to which the Transaction is approved by the Court and pursuant to which all right, title and interest of the Vendors in the Purchased Assets shall be vested absolutely in and to the Purchaser on Closing, free and clear of all encumbrances other than Permitted Encumbrances.
- (g) **"Assignment and Assumption of Contracts"** means an assignment of the Vendors' interest in the Assumed Contracts and assumption by the Purchaser of all obligations of the Vendors under the Assumed Contracts, together with an indemnity by the Purchaser in favour of the Vendors with respect to all post-Closing obligations under the Assumed Contracts, such assignment and assumption to be delivered on Closing pursuant to Sections 6.1 and 6.2.
- (h) **"Assignment and Assumption of Permitted Encumbrances"** means an assignment by the Vendors and assumption by the Purchaser of all of the right, title and interest, and all liability, covenants and obligations, of the Vendor in, to and under any Permitted Encumbrances not already subject to the Assignment and Assumption of Contracts, such assignment and assumption to be delivered on Closing pursuant to Sections 6.1 and 6.2.
- (i) **"Assumed Contracts"** has the meaning ascribed thereto in Section 7.2.
- (j) **"Assumed Liabilities"** means all obligations and liabilities of the Vendors arising or accruing on and after the Closing Date in respect of the Assumed Contracts, but not including any liability or obligation for any breach thereof or default thereunder occurring prior to Closing.
- (k) **"Bill of Sale"** means a bill of sale for the Vendors' interest in and to the Chattels to be delivered on Closing pursuant to Section 6.1(d).
- (l) **"Books and Records"** means all technical, business and financial records relating to the Business including without limitation, all files, financial books, title documents, plans and specifications, drawings, advertising and promotional material, studies and reports, but not including those books and records which are part of the Excluded Assets.
- (m) **"Buildings"** means, individually or collectively, as the context requires, all of the buildings, structures and fixed improvements located on, in or under the Lands, and improvements and fixtures contained in or on such buildings and structures used in the operation of same, but excluding improvements and fixtures not owned by the Vendors; and **"Building"** means any one of the Buildings.



- (n) **"Business"** has the meaning given in Recital A.
- (o) **"Business Day"** means any day, other than a Saturday, Sunday or statutory holiday in British Columbia or Ontario.
- (p) **"Chattels"** means all tools, machinery, equipment, automobiles, furniture, fixtures, kitchens, ski lift equipment, maintenance equipment, computer hardware and software, office materials and supplies located at the Real Property and owned by the Vendors and used exclusively in connection with the Business, including all items listed in Schedule A attached hereto;
- (q) **"Claims"** means all past, present and future claims, suits, proceedings, liabilities, obligations, losses, damages, penalties, judgments, costs, expenses, fines, disbursements, legal fees on a solicitor and client basis and other professional fees and disbursements, interest, demands and actions of any nature or any kind whatsoever and **"Claim"** means any one of the foregoing.
- (r) **"Closing"** means the closing and consummation of this Agreement for the Purchased Assets including, without limitation, the payment of the Purchase Price and the delivery of the Closing Documents, on the Closing Date.
- (s) **"Closing Date"** means the date which is 10 (ten) days after the Approval Order has been obtained.
- (t) **"Closing Documents"** means the agreements, instruments and other documents to be delivered by the Vendor to the Purchaser pursuant to Section 6.1 and the agreements, instruments and other documents to be delivered by the Purchaser to the Vendors pursuant to Section 6.2.
- (u) **"Confidential Information"** has the meaning ascribed thereto in Section 8.16.
- (v) **"Contracts"** means, collectively, all contracts and agreements relating to Purchased Assets and the Business entered into by the Vendors or any manager or agent on behalf of the Vendors, or which have been assigned to the Vendors, or which otherwise bind and/or benefit the Vendors as owner of the Purchased Assets, including, without limitation (i) all forward commitments for supplies, inventories or materials; ; (ii) any related warranties; (iii) negative covenants agreements; (v) the Required Contracts; but excludes the Excluded Contracts and any contracts or agreements which are not assignable without the consent of the counterparty thereto.
- (w) **"Court"** means the Supreme Court of British Columbia.
- (x) **"Disclosed to the Purchaser"** means information which is or has been:
 - (i) made available for the Purchaser's review pursuant to Section 2.4 hereof;
 - (ii) otherwise communicated in writing by the Vendors or the Receiver or their representatives to the Purchaser; or
 - (iii) disclosed by registered title to all or parts of the Purchased Assets as of the Execution Date.
- (y) **"Due Diligence Materials"** has the meaning ascribed thereto in Section 2.4.



- (z) **"Encumbrances"** means all mortgages, pledges, charges, liens, construction liens, debentures, hypothecs, trust deeds, assignments by way of security, security interests, options, equitable interest or beneficial interest, conditional sales contracts or other title retention agreements or similar interests or instruments charging, or creating a security interest in, or against title to, the Purchased Assets or any part thereof or interest therein, including leases, easements, servitudes, rights of way, restrictions, any subdivision, site plan, development or other agreements with a Governmental Authority affecting the Real Property, executions or other charges or encumbrances (including notices or other registrations in respect of any of the foregoing) which encumber title to the Purchased Assets or any part thereof or interest therein.
- (aa) **"Environmental Claim"** means, with respect to any Person, any action, cause of action, investigation, suit, proceeding, judgment, award, fine, penalty, assessment or written notice or claim by any Person or entity alleging potential liability (including, without limitation, potential liability for investigatory costs, clean-up costs, governmental response costs, natural resources damages, property damages, personal injuries, or penalties) arising out of, based on, in connection with or resulting from:
- (i) the presence, discharge, migration or release into the environment, of any Hazardous Materials at any location, whether or not owned or operated by such Person; or
 - (ii) the generation, handling, use, treatment, recycling, storage, disposal or transport of any Hazardous Materials; or
 - (iii) any violation of Environmental Laws.
- (bb) **"Environmental Laws"** means all Applicable Laws including written policies and guidelines and directives, administrative rulings or interpretations, that are in effect and applicable to the Real Property or the Vendors, as well as the common law and any judicial or administrative order, consent decree or judgment, now in existence or which may come into existence from the Execution Date until Closing, governing or regulating the use, generation, storage, removal, recovery, treatment, handling, transport, disposal, control, discharge of, or exposure to Hazardous Materials or intended to protect the environment.
- (cc) **"ETA"** means the *Excise Tax Act* (Canada).
- (dd) **"Excluded Assets"** means collectively:
- (i) the Accounts Receivables;
 - (ii) cash, marketable securities and bank accounts of the Vendors or the Receiver;
 - (iii) the constating documents, tax payer and other identification numbers, seals, minute books and other documents relating to the incorporation, organization, maintenance and existence of the Vendor as a corporation;
 - (iv) all corporate, financial, taxation and other records of the Vendors not pertaining exclusively or primarily to the Business or the Purchased Assets;
 - (v) arrears and any other assets or property which, pursuant to this Agreement, remain the property of the Vendors after Closing;



- (vi) the Excluded Contracts;
 - (vii) all rights of action and claims of the Vendors or the Receiver against third persons in the conduct of the Business arising by reason of any facts or circumstances that occurred or existed before the Closing Date whether or not such proceedings shall have been commenced before the Closing Date, other than rights of action and claims that relate to any of the Purchased Assets or the Assumed liabilities; and
 - (viii) the rights of the Vendors under this Agreement.
- (ee) **"Excluded Contracts"** means all Contracts other than the Assumed Contracts.
- (ff) **"Excluded Liabilities"** means any Liabilities of the Vendor that are not included in the Assumed Liabilities.
- (gg) **"Execution Date"** means the date noted on page 1 of this Agreement.
- (hh) **"Final Adjustment Date"** means the first Business Day that is 60 days from the Closing Date.
- (ii) **"Goodwill"** means the goodwill of the Business, including
- (i) the Vendors' interest in the name used to carry on the Business and any related right to such name or associated marks;
 - (ii) all customer lists and supplier lists of the Business; and
 - (iii) where available, the website and all telephone and facsimile numbers, listings and addresses insofar as such numbers, listings and addresses relate specifically and exclusively to the Business;
- (jj) **"Governmental Authority"** means any government, regulatory authority, government department, agency, utility, commission, board, tribunal, court or other rule making entity having jurisdiction on behalf of any nation, province or state or other subdivision thereof or any municipality, district or other subdivision thereof, or having jurisdiction over the relevant circumstances, or any person acting under the authority of any of the foregoing.
- (kk) **"GST"** has the meaning ascribed thereto in Section 5.3(b).
- (ll) **"Hazardous Materials"** means any contaminant, substance, pollutant, waste, hazardous material, toxic substance, radioactive substance, petroleum, its derivatives, by-products and other hydrocarbons, dangerous substance or dangerous goods or material that is:
- (i) deemed hazardous or toxic under Environmental Laws;
 - (ii) prohibited, controlled or regulated by any Governmental Authority pursuant to Environmental Laws; or
 - (iii) present to a degree or in an amount in excess of thresholds regulated under Environmental Laws.
- (mm) **"ITA"** means the *Income Tax Act* (Canada).
- (nn) **"Lands"** means the lands and premises legally described in Schedule B attached hereto.



- (oo) **"Liabilities"** means any indebtedness, obligations and other liabilities of a specified person whether absolute, accrued, contingent, fixed or otherwise or due or to become due.
- (pp) **"Notice"** has the meaning ascribed thereto in Section 8.17.
- (qq) **"OIBDC"** means Osoyoos Indian Band Development Corporation.
- (rr) **"OIBDC Parcel"** means the land with legal description: Lot 1, District Lot, 100S Similkameen Division Yale District Plan KAP49372 (except Plans KAP82817 and KAP87489), and parcel identifier number: 018-188-702.
- (ss) **"Permits"** means any permit, consents, waivers, licenses, certificates, approvals, authorizations, registrations, franchises, rights, privileges, quotas and exemptions, or any item with a similar effect, issued or granted by any person, but excluding Crown Rights.
- (tt) **"Permitted Encumbrances"** means:
 - (i) all those Encumbrances described in Schedule C attached hereto; and
 - (ii) any Encumbrances approved in writing by the Purchaser.
- (uu) **"Person"** means an individual, partnership (limited or general), corporation, trust, unincorporated organization, government or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.
- (vv) **"Purchase Price"** has the meaning ascribed thereto in Section 3.1.
- (ww) **"Purchased Assets"** means all the right, title and interest of the Vendors in and to all of the personal and real property used in connection with the Business under Section 2.1
- (xx) **"Purchaser's Condition Waiver Date"** means 45 days from the execution of this Agreement subject to Section 4.2
- (yy) **"Purchaser's GST Certificate"** has the meaning ascribed thereto in Section 5.3(f).
- (zz) **"Purchaser's Solicitors"** means D.S. Avocats or such other firm or firms of solicitors or agents as are retained by the Purchaser from time to time and Notice of which is provided to the Vendors.
- (aaa) **"Real Property"** means the Lands and the Buildings.
- (bbb) **"Required Contracts"** means the Contracts set out on Schedule D attached hereto.
- (ccc) **"Secured Lender"** means Stark BC Venture, LLC and any other lender or mortgagee that has a lien, security interest, mortgage or other encumbrance against the Purchased Assets.
- (ddd) **"Transaction"** means the purchase and sale of the Purchased Assets provided for in this Agreement.
- (eee) **"Transfer"** has the meaning ascribed thereto in Section 6.1(a).



(fff) **"Water Licenses"** means the following water licenses which are in the name of Mount Baldy Waterworks Inc. ("MBWI"):

License No.	Date Issued
36388	July 2, 1968
60809	February 4, 1981
64289	October 2, 1979

(ggg) **"Vendors' Solicitors"** means Burns Fitzpatrick LLP or such other firm or firms of solicitors or agents as are retained by the Vendor from time to time and Notice of which is provided to the Purchaser.

1.2 Schedules

The following schedules attached hereto form part of this Agreement:

- Schedule A - Chattels
- Schedule B - Lands
- Schedule C - Permitted Encumbrances
- Schedule D - Required Contracts
- Schedule E - Equipment Leases
- Schedule F - Form of Approval Order

1.3 Computation of Time Periods

Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day.

ARTICLE 2 AGREEMENT OF PURCHASE AND SALE

2.1 Purchase and Sale of the Purchased Assets

Upon and subject to the terms and conditions of this Agreement, the Vendors agree to sell, and the Purchaser agrees to purchase, in consideration of the payment of the Purchase Price, the following assets (the **"Purchased Assets"**):

- (a) the Lands and Buildings in Schedule B;
- (b) all Chattels;
- (c) all Contracts;
- (d) all Books and Records;
- (e) all Permits issued or granted in respect of the Purchased Business;



- (f) Goodwill;
- (g) Licenses, authorizations and permits held by the Vendors or the Receiver in connection with the Business; and
- (h) The shares of MBWI which holds Water Licenses;

The Transaction shall be completed on the Closing Date subject to the terms and conditions of this Agreement.

2.2 Assumed Liabilities

As of the Closing Date and on the terms and subject to the fulfilment of the conditions of this Agreement, the Purchaser agrees to assume the Assumed Liabilities from the Vendors and to pay, perform, discharge or otherwise be responsible for the Assumed Liabilities. For greater certainty, the Purchaser will not assume and will not be responsible for any liabilities other than the Assumed Liabilities.

2.3 Binding Agreement

The agreements of the Vendors and the Purchaser set forth herein create and constitute a binding agreement of purchase and sale for the Purchased Assets in accordance with the provisions of this Agreement.

2.4 Due Diligence

As soon as practicable but in no event later than 5 Business Days after the execution of this Agreement, the Receiver shall provide the Purchaser with the following materials which are in its possession, and shall use reasonable efforts to assist the Purchaser to obtain other materials which are not in the Vendors' possession but are deemed necessary by the Purchaser, acting reasonably (collectively, the "Due Diligence Materials"):

- (a) all books, records, files and documentation (in whatever paper or electronic medium and wherever situate) relating to the Business or the Purchased Assets as are in the possession or under the control of the Receiver or to which it is entitled;
- (b) any agreements, plans, titles surveys and other documentation related to the Purchased Assets;
- (c) soil conditions and environmental reports; and
- (d) building and utility inspections.

The Purchaser shall be entitled to carry out its due diligence in respect of the Purchased Assets and the Business which may include, without limitation, investigations with respect to all existing municipal, regional, provincial, federal and native entitlements affecting the Business and the Purchased Assets and the Purchaser and its advisors and consultants are hereby authorized to contact relevant Governmental Authorities and make inquiries with respect thereto without notice to the Vendors or the Receiver.

2.5 Acknowledgement of Purchaser as to Conditions of the Purchased Assets

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that:

- (a) The Purchased Assets are being sold and purchased and the Transaction is being effected, on an "as-is, where-is" basis, without any representation, warranty or covenant by the Vendors, except as set out in Section 5.1(a), or by the Receiver as set out in Section 5.1(b) or any other Person.
- (b) As part of the Purchaser's agreement to purchase the Purchased Assets and to accept the Purchased Assets in "as-is, where-is" condition, and not as a limitation on such agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendors pursuant to any statutory or implied warranty of any kind or type relating to the Purchased Assets or any other assets, the conditions of the Purchased Assets or any other aspect of the Transaction.
- (c) The Vendors shall, to the best of their ability and extent possible, produce abstract of title, deed or documents or copies thereof or evidence as to title within 10 business days following the execution of this Agreement, except those documents the Purchaser can obtain from the Land Title Office.

The provisions of this Section 2.5 shall not merge on, but shall survive, Closing.

2.6 Court Approval and Governmental Consents

(a) Court Approval

The Vendors and the Receiver shall use all commercially reasonable efforts to seek the Approval Order and shall apply to the court for the Approval Order by Notice of Application in the Action as soon as practicable following the Purchaser's delivery notice to the Receiver that the Purchaser's Conditions in respect to subsections 4.2(a) have been satisfied or waived in full. In connection therewith, the Vendors, the Receiver and the Purchaser will cooperate with each other, each acting in good faith and reasonably, to agree upon the form and substance of the Approval Order, which shall be substantially in the form of Schedule F. The Vendor and the Receiver shall apprise the Purchaser of all scheduled Court dates relating specifically to this Transaction as soon as such dates are known to the Vendor and shall apprise the Purchaser of whether or not the Court has granted the Approval Order. The Purchaser shall promptly cooperate with the Vendor and the Receiver connection with the application for the Approval Order from time to time. Without limiting the foregoing, the Purchaser shall forthwith provide such information and documentation as may be required by the Vendors or the Receiver, acting reasonably, from time to time in order to facilitate the granting of the Approval Order subject to paragraph 2.4.

Governmental Consents

- (i) The Receiver shall join in with the Purchaser in the preparation, execution and filing of, any application or other documents as the Purchaser may reasonably request to apply for required authorizations, approvals and consent (collectively, the "Government Consents") of applicable or any third party to any contracts affecting the Purchased Assets, in particular without limitation from the province of British Columbia, the transfer or assignment to the Purchaser of the following in each case on terms satisfactory to the Purchaser in its sole discretion:

- A. Master Development Agreement dated May 19, 2006 including Schedule A;
- B. Safekeeping Agreement dated July 11, 2007;

- C. Consent to Non-Disturbance Agreement date June 17, 2011;
- D. License of Occupation number 343536 dated November 1, 2007;
- E. Statutory Right-of-Way Agreement number 343095 dated September 14, 2007;
- F. Certified of Public Convenience and Necessity number 1358 with respect to the possible water system used at the Business;
- G. Consents to all related water licenses;
- H. License of Occupation for the existing water treatment plant located on the provincial Crown land; and
- I. License of Occupation for the existing water storage tank located on the provincial Crown land.

2.7 Receiver's Capacity

The Purchaser acknowledges and agrees that the Receiver, acting in its capacity as the receiver of the assets, undertakings and properties of the Vendors and the Business will have no liabilities in connection with this Agreement whatsoever, subject to Section 5.1, in its capacity as the Receiver, in its personal capacity or otherwise.

2.8 Physical Access

As and from the date of this Agreement, the Receiver grants to the Purchaser non-exclusive access to the Lands and Buildings for purposes of conducting investigations, taking surveys, measurements and elevations and undertaking its own environmental assessment and evaluation of the Lands and Buildings.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

- (a) The Purchase Price for the Purchased Assets shall be **CDN\$3,600,000.00 (Three Million Six Hundred Thousand)** (the "Purchase Price") exclusive of GST where applicable plus the lot consideration described in paragraph 3.1 (c). Subject to adjustment in accordance with Sections 3.4 and 3.5, the Purchase Price shall be paid to the Receiver subject to Adjustments, by wire transfer payable to the Receiver or as it may direct on the Closing Date.

The Purchase Price shall be payable as follows:

- (i) by a refundable deposit (the "Initial Deposit") to the Purchaser's Solicitors in the amount of CDN \$25,000 payable within 10 Days from the date that this Agreement is fully executed; and shall be refunded to the Purchaser in full if the Purchaser does not waive the Purchaser's conditions as set out in Section 4.2, or, if the Purchaser waives the said conditions, becomes non-refundable;
- (ii) by a non refundable deposit in the amount of \$360,000 (Three Hundred Sixty Thousand Dollars in total) (the "Deposit") payable within five (5) Business Days from the Purchaser's Condition Waiver Date which shall be the additional sum of \$335,000 and shall be combined with the Initial Deposit to be the Deposit; and

- (iii) the balance of the Purchase Price as adjusted shall be paid by the Purchaser on the Closing Date.
- (b) The Deposit shall be applied on account of the Purchase Price on the Closing Date, provided that:
 - (i) If all of the Purchaser's Conditions Precedent are satisfied or waived on or before the Purchaser's Condition Waiver Date, and if the Approval Order is obtained, and the Transaction not completed due to the default of the Purchaser, the Deposit shall be forfeited to the Vendors as liquidated damages; and
 - (ii) If all of the Purchaser's Conditions Precedent are satisfied or waived on or before the Purchaser's Condition Waiver Date, and the Transaction is not completed due to the default of the Vendors, or the Approval Order cannot be obtained within 90 days from the Purchaser's Condition Waiver Date, the Deposit shall be returned to the Purchaser in full.
- (c) In addition to the cash portion of the Purchase Price, the Purchaser shall transfer to the Vendor for transfer to the Secured Creditor one of the 34 proposed serviced lots in the McKinney I and II Subdivision planned for the Lands. The Purchaser shall identify 3 serviced lots in the Subdivision and the Vendor shall choose one such lot. The Purchaser will transfer the lot to the Purchaser within 30 days after title to the lot is registered in the Land Title Office.
- (d) For the purposes of the allocation of the Purchase Price only, the lot shall have a deemed value of \$100,000.

3.2 ETA Election

Subject to the advice of the Purchaser's tax counsel, the Vendors and Purchaser shall, on the Closing Date, elect jointly under subsection 167(1) of the ETA, in the form prescribed for the purposes of that subsection, in respect of the sale and transfer of the Purchased Assets. The Purchaser shall file such election with the Canada Revenue Agency not later than the day on which it is required to file its GST return for its reporting period which includes the Closing Date and shall provide evidence of such filing to the Vendors.

3.3 Transfer Taxes

The Purchaser shall be responsible for and pay any land transfer taxes payable on the transfer of the Real Property, all registration fees payable in respect of registration by it of any documents on Closing and all federal and provincial sales and other taxes payable by a purchaser upon or in connection with the conveyance or transfer of the Purchased Assets, including provincial sales tax and goods and services tax.

3.4 General Adjustments

- (a) All revenues and expenses of the Businesses and relating to the Purchased Assets will be adjusted (the "Adjustments") as at the Closing Date to the effect that except as otherwise set forth herein:
 - (i) up to the Closing Date, the Vendors will bear all expenses and receive all revenues relating to the Businesses and the Purchased Assets and the Assumed Liabilities; and



- (ii) from and after the Closing Date, the Purchaser will bear all expenses and receive all revenues relating to the Businesses and the Purchased Assets and the Assumed Liabilities.

- (b) Subject to those items referred to in Section 3.5, the Adjustments shall include all rents, realty taxes, local improvement rates and charges, and utilities established by usual practice in each municipality in which the Real Property is located for the purchase and sale of similar properties, as the case may be. The Adjustments shall also include deposits or letters of credit previously provided to any Governmental Authority (in particular a \$50,000. (Fifty Thousand Dollar) deposit placed by the Vendors prior to the receivership with the Minister of Forests Minerals and Natural Resources) in relation to the permits, license or approvals for liquor, safety, and ski lift operation. In addition, the Adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.

- (c) Adjustments shall be made as of the Adjustment Date on an accrual basis. From and after the Adjustment Date, the Purchaser shall be responsible for all expenses and shall be entitled to all revenue from the Purchased Assets. The Vendors shall be responsible for all expenses and entitled to all revenue from the Purchased Assets for that period ending on the Adjustment Date.

- (d) If the final cost or amount of an item which is to be adjusted cannot be determined at Closing, then an initial adjustment for such item shall be made at Closing, such amount to be estimated by the Vendors, acting reasonably, on the basis of the best evidence available at the Closing as to what the final cost or amount of such item will be. In each case, when such cost or amount is determined, the Vendors or Purchaser, as the case may be, shall provide a complete statement thereof to the other and within 60 days thereafter the parties shall make a final Adjustment as of the Closing Date for the item in question. Notwithstanding the foregoing any and all readjustments shall be completed on or before the Final Adjustment Date and no Claim shall be made by either party in respect of such readjustments after the Final Adjustment Date.

- (e) The provisions of this Section 3.4 shall not merge on, but shall survive Closing.

3.5 Specific Adjustments

The Vendors and the Purchaser hereby acknowledge and agree that:

- (a) In the event that there are any realty or business tax appeals for the calendar year prior to the calendar year in which the Closing occurs for the Purchased Assets, the Vendors shall, at its option, be entitled to continue such appeals and shall be entitled to receive any payment resulting therefrom. In the event there are realty or business tax appeals for the calendar year in which Closing occurs for the Purchased Assets, the Vendors may, at their option, continue such appeals and any payments received resulting therefrom shall be paid to the Vendors and Purchaser on a per diem basis determined by reference to the periods of their respective ownership of the Real Property in question during such calendar year after reimbursement to the Purchaser of its reasonable out-of-pocket costs relating to such appeals. To the extent the Purchaser receives any of the aforementioned payments on or after the Closing Date in respect of realty or business tax appeals for any year prior to the 2016 calendar year, it shall forthwith remit them to the Vendor.



- (b) From and after the Closing Date, the Purchaser shall provide to the Vendors and their auditors, during normal business hours at any time and from time to time upon reasonable prior notice to the Purchaser, ongoing access to the accounting books, files, records and information of the Purchaser relating to the Purchased Assets, for the purpose of calculating or verifying the amount of any adjustments.
- (c) The provisions of this Section 3.5 shall not merge on, but shall survive, Closing.

3.6 Statement of Adjustments

The statement of adjustments shall be delivered to the Purchaser by the Vendors at least 5 Business Days prior to the Closing Date and shall have annexed to it the calculations used by the Vendors to arrive at all debits and credits on the statement of adjustments. The Vendors shall give the Purchaser's representatives reasonable access to the Vendors' working papers and backup materials in order to confirm the statement of adjustments.

3.7 Purchase Price Allocation

The allocation of the Purchase Price between different components of the Purchased Assets shall be made on a basis which is mutually agreeable to the Purchaser and the Vendors on or before Closing. Failure to agree on the allocation shall not result in the termination of this Agreement, but rather shall result in the nullity of the application of this Section, such that each party shall be free to make its own allocation. The parties will cooperate in the filing of all elections under the ITA and other taxation statutes as required to give effect to the allocation for tax purposes and each party will prepare and file its tax returns in a manner consistent with that allocation and those elections.

3.8 Distribution

The Purchaser acknowledges and agrees that it will not object to any distribution made pursuant to the Approval Order of all or any part of the Purchase Price to such Person as the Court may determine is lawfully entitled thereto, following the Closing. The Receiver shall distribute the Purchase Price following the Closing or shortly thereafter in accordance with the Approval Order and any other order of the Court, and the Purchaser agrees that it shall:

- (a) not have any Claim against or in respect of any such distribution with respect to this Agreement or the Transaction, including, without limitation, in respect of any obligation or liability of the Vendor:
 - (i) with respect to any representation, warranty, covenant or condition contained herein; or
 - (ii) with respect to the Transaction after the closing of the Transaction;
- (b) have no claims against the Vendors, the Receiver or any Secured Lender in respect of any such distribution and shall have no right to trace or otherwise recover any portion of any such distribution from the Receiver or any Secured Lender; and
- (c) not, at any hearing held for the purpose of obtaining Court approval of any distribution of all or part of the Purchase Price, object to such approval or such distribution or appeal any order of the Court approving any such distribution.



This section shall not merge on, but shall survive, Closing.

ARTICLE 4 CONDITIONS

4.1 Conditions for Vendors

The obligation of the Vendors to complete the agreement of purchase and sale constituted on the execution and delivery of this Agreement shall be subject to the following conditions:

- (a) on the Closing Date, all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Purchaser shall have been complied with or performed in all material respects;
- (b) on the Closing Date, all of the representations and warranties of the Purchaser set out in Section 5.2 shall be true and accurate in all material respects as if made as of the Closing; and
- (c) on Closing, receipt of all deliveries to be made by the Purchaser as set out in Section 6.2; and
- (d) on the Closing Date, the Vendor will have received confirmation that Mount Baldy Real Estate ULC and Mount Baldy Ski Corporation are bankrupt.

The conditions set forth in this Section 4.1 are for the sole benefit of the Vendors and may be waived in whole or in part by the Vendor by Notice in writing to the Purchaser prior to the applicable date set forth above for their respective waiver or satisfaction.

4.2 Conditions for Purchaser

- (a) The obligation of the Purchaser to complete the agreement of purchase and sale constituted on the execution and delivery of this Agreement shall be subject to the conditions contained in this Section 4.2. In particular, the Purchaser shall waive or be satisfied with the conditions contained in Subsections (i)-(viii) hereunder no later than 5:00 P.M. (Vancouver time) on the Purchaser's Condition Waiver Date:
 - (i) titles to the Lands and all instrument, encumbrances, restrictions, leases and registrations affecting same;
 - (ii) any agreements, plans and documents in the Due Diligence Materials, including but not limited to any plans, proposals and forecasts prepared by the Vendors or the Receiver relating to or in connection with the operations of the Business;
 - (iii) the physical condition of the Purchased Assets, including, without limitation, the results of such environmental, geotechnical and archaeological reviews or tests as the Purchaser may deem necessary or desirable;
 - (iv) the results of any of any other reviews or investigations in respect of the Purchased Assets as the Purchaser may consider necessary or desirable, at its sole discretion;



- (v) the Purchaser has completed the negotiation and entered into a binding agreement for the purchase of the OIBDC Parcel from the OIBDC on terms and conditions satisfactory to the Purchaser;
- (vi) the Purchaser has entered into a benefits Agreement with the Osoyoos Indian Band in a form acceptable to the Purchaser or the Purchaser has obtained written confirmation from the Osoyoos Indian Band that it will, on or prior to the Closing Date, enter into said benefits Agreement in a form acceptable to the Purchaser;
- (vii) all of the Government Consents have been obtained; and
- (viii) the Purchaser has negotiated an allotment of Entrepreneur Immigration spots with the relevant British Columbia Government Authority, under the British Columbia Provincial Nomination Program, on terms and conditions satisfactory to the Purchaser;

the following being satisfied, on the Closing Date, that:

- (b) all of the terms, covenants and conditions of this Agreement to be complied with or performed by the Vendors shall have been complied with or performed in all material respects;
- (c) all of the representations and warranties of the Vendors and the Receiver set out in Section 5.1 shall be true and accurate in all material respects as if made as of the Closing;
- (d) there has been no material loss or damages to the Purchased Assets; and
- (e) receipt of all deliveries to be made by the Vendors as set out in Section 6.1.

Upon request made by the Purchaser to the Vendor, not Later than 40 days after the Execution Date; and on payment of an extension fee which is the actual out of pocket administrative cost for the delay, the Purchaser's Condition Waiver Date will be extended and delayed to take effect 30 days later, such that the definition set out in paragraph 1.1(xx) shall read "**Purchaser's Condition Waiver Date**" means 75 days from the execution of this Agreement.

4.3 Mutual Conditions

The obligation of the Purchaser and Vendors to complete the agreement of purchase and sale constituted on the execution and delivery of this Agreement shall be subject to the following condition:

- (a) the Approval Order shall have been granted by the Court and such Approval Order shall not have been enjoined, restricted, stayed, reversed, dismissed and/or appealed, or if appealed, the appeal shall have been dismissed and all relevant appeal periods shall have expired (the "**Mutual Condition**").

The condition set forth in this Section 4.3 is for the benefit of the Purchaser and the Vendors, and may be satisfied in whole by Notice from each party to the other prior to the applicable date set forth above for the waiver or satisfaction of such condition



4.4 Satisfaction of Conditions

Each party agrees to proceed in good faith, with promptness and reasonable diligence to attempt to satisfy those conditions contained in Sections 4.1, 4.2 and 4.3, as applicable, that are within its control, acting reasonably; provided that nothing in this Agreement shall be interpreted as requiring the Vendors to spend money to satisfy any conditions, or to address any defects, deficiencies or concerns identified by the Purchaser (including any defects, deficiencies or concerns with title) with respect to the Purchased Assets or any other matter or aspect of the Transaction whatsoever. As soon as practicable after the Purchaser has waived or is satisfied with the conditions set forth under Subsections 4.2(a), the parties shall co-operate with each other and the Purchaser shall provide the Vendors with information in its possession or control necessary to seek the Approval Order.

4.5 Non-Satisfaction of Conditions

- (a) If any of the conditions set out in Section 4.1 or 4.3 are not satisfied or waived on or before the Closing Date, the Vendors may terminate this Agreement by Notice in writing to the Purchaser given on the Closing Date, after 5:00 P.M. PT in which event this Agreement shall be terminated and of no further force or effect whatsoever, each of the parties shall be released from all of its liabilities and obligations under this Agreement save for those specified to survive termination and the Deposit shall be returned to the Purchaser. Notwithstanding the foregoing, if the condition or conditions that have not been satisfied or waived, the Vendors may waive compliance with any of the conditions set out in Section 4.1 in whole or in part if it sees fit to do so, without prejudice to their rights of termination in the event of non-fulfilment of any other condition contained in Section 4.1 in whole or in part.
- (b) If any of the conditions set out in Section 4.2 or 4.3 are not satisfied or waived on or before the Closing Date, the Purchaser may terminate this Agreement by Notice in writing to the Vendors given on or before the Closing Date, in which event this Agreement shall be terminated the Purchaser shall be released from all of its liabilities and obligations under this Agreement save for those specified to survive termination and the Deposit shall be returned to the Purchaser. Notwithstanding the foregoing, if the condition or conditions that have not been satisfied or waived were not satisfied solely as a result of a default of the Vendors, the Purchaser shall have all rights and remedies against the Vendors at law and in equity (including the remedy of specific performance). However, the Purchaser may waive compliance with any of the conditions set out in Section 4.2 in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition contained in Section 4.2 in whole or in part.
- (c) Provided that if the Purchaser's Conditions Precedent described in Section 4.2(a) are satisfied or waived on or before the Purchaser's Condition Waiver Date, and if the Approval Order is declared when required, and the sale and purchase of the Purchased Assets is not completed due to the default of the Purchaser, the Deposit shall be forfeited to the Receiver as liquidated damages in full and final resolution of the Purchaser's default, and the Vendors and the Receiver shall have no other recourse, rights and remedies against the Purchaser.
- (d) Closing Conditions. All conditions to be satisfied on Closing shall be deemed to be satisfied if Closing occurs.

**ARTICLE 5
REPRESENTATIONS AND WARRANTIES**

5.1 Representations and Warranties of the Vendor and Receiver

- (a) Each of the Vendors represents and warrants to and in favour of the Purchaser that as of the date of this Agreement:
- (i) Status. Each of the Vendor is duly organized and subsisting under the laws of their respective jurisdiction of organization. Subject to the issuance of the Approval Order, and in accordance with the order under which the Receiver was appointed, the Vendor has all necessary power, authority and capacity to enter into this Agreement and all other agreements contemplated by this Agreement and to perform its obligations under this Agreement and all other agreements contemplated by this Agreement.
 - (ii) Authorization. Subject to the issuance of the Approval Order, the execution and delivery of this Agreement and all other agreements contemplated by this Agreement by the Vendors, and the consummation of the Transaction contemplated by this Agreement, have been duly authorized by all necessary corporate action of the Vendor.
 - (iii) Enforceability. Subject to the issuance of the Approval Order, this Agreement and all other instruments and agreements to be executed and delivered by the Vendors as contemplated hereby have been duly and validly executed and delivered by the Vendors, and each is a valid and legally binding obligation of the Vendor enforceable against each of them in accordance with its terms.
 - (iv) No Breach of Instruments or Applicable Laws. Neither the entering into nor the delivery of this Agreement nor the completion by the Vendors of the Transaction contemplated hereby will conflict with, or constitute a default under, or result in a violation of:
 - A. any of the provisions of the constating documents or organizational documents of the Vendors; or
 - B. any Applicable Laws.
 - (v) Good Title. The Approval Order will vest title to the Purchased Assets, in the Purchaser free and clear of all Encumbrances of the parties to the foreclosure proceeding in which the Vendor was appointed other than Permitted Encumbrances
 - (vi) Residence. Each of the Vendors is not a non-resident of Canada for the purposes of the *Income Tax Act (Canada)*.
- (b) The Receiver represents and warrants to and in favour of the Purchaser that as of the date of this Agreement:
- (i) The Receiver, as the Receiver appointed in the Court Action, has all necessary power, capacity and authority to enter into this Agreement, and subject to the granting of the Approval Order, and obtaining the Government Consents, to execute and deliver all

other agreements, documents and instruments to be delivered by it under the Agreement and to perform the transactions contemplated by this Agreement.

- (ii) At the Receiver's option it may apply to the court for directions as to the preferred manner to complete the sale and as to the interest of other parties in the assets.

5.2 Representations and Warranties of Purchaser

The Purchaser covenants, represents and warrants to and in favour of the Vendors that, as of the date of this Agreement:

- (a) **Status.** The Purchaser is duly organized and subsisting under the laws of its jurisdiction of organization. The Purchaser has all necessary power, authority and capacity to enter into this Agreement and all other agreements contemplated by this Agreement and to perform its obligations under this Agreement and all other agreements contemplated by this Agreement.
- (b) **Authorization.** The execution and delivery of this Agreement and all other agreements contemplated by this Agreement by the Purchaser and the consummation of the Transaction contemplated by this Agreement by the Purchaser have been duly authorized by all necessary corporate action on the part of the Purchaser.
- (c) **Enforceability.** This Agreement and all other instruments and agreements to be executed and delivered by the Vendors as contemplated hereby have been duly and validly executed and delivered by the Vendors and each is a valid and legally binding obligation of the Vendors enforceable against it in accordance with its terms, subject, as to enforcement, by bankruptcy, insolvency and other laws affecting creditors' rights generally and to general principles of equity.
- (d) **No Breach.** Neither the entering into nor the delivery of this Agreement nor the completion by the Purchaser of the Transaction contemplated hereby will conflict with, or constitute a default under, or result in a violation of:
 - (i) any of the provisions of the constating documents or organizational documents of the Purchaser; or
 - (ii) any Applicable Laws.
- (e) **No Bankruptcy.** The Purchaser:
 - (i) is not an insolvent Person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) or the *Winding-up and Restructuring Act* (Canada);
 - (ii) has not made an assignment in favour of its creditors or a proposal in bankruptcy to its creditors or any class thereof;
 - (iii) has not had any petition for a receiving order presented in respect of it; and
 - (iv) has not initiated proceedings with respect to a compromise or arrangement with its creditors or for its winding up, liquidation or dissolution.



- (f) GST. The Purchaser will on Closing be a GST registrant under the ETA and be the sole "recipient" of a supply as defined thereunder.
- (g) No Broker. The Purchaser has not retained the services of any real estate broker or agent in connection with the Transaction.

5.3 GST

The Purchaser hereby represents and warrants to the Vendor as follows:

- (a) the Purchaser shall be purchasing the Purchased Assets on the Closing Date, as principal for its own account and not as an agent, trustee or otherwise on behalf of another person; the Purchaser's GST Certificate shall contain the GST registration number of the Purchaser and shall be signed by Purchaser;
- (b) the Purchaser shall be registered under subdivision d of Division V of Part IX of the Act for the purposes of collection and remittance of goods and services tax ("GST");
- (c) the Purchaser shall be liable, shall self-assess and remit to the appropriate governmental authority all GST which is payable under the ETA in connection with the transfer of the Purchased Assets made pursuant to the Agreement, all in accordance with the ETA;
- (d) the Vendor shall not collect GST on Closing regarding the Purchased Assets and shall allow the Purchaser to self-assess and remit GST to the Receiver General in accordance with the ETA;
- (e) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any inaccuracy, misstatement or misrepresentation made by the Purchaser on the Closing Date in connection with any matter raised in this Section 5.3 or contained in any declaration referred to herein; and
- (f) the Purchaser (and the Purchaser Beneficial Owner, if any) shall tender on Closing a certificate and indemnity including verification of its registration number issued by Canada Revenue Agency under the *Income Tax Act* (Canada) (the "Purchaser's GST Certificate").

ARTICLE 6 CLOSING DOCUMENTS

6.1 Vendors' Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendors shall execute or cause to be executed and shall deliver or cause to be delivered to the Purchaser the following:

- (a) a vesting order required for title to the Real Property to be registered in the name of the Purchaser=;
- (b) the Assignment and Assumption of Contracts and such other assignment, assumption or other documents as are required by the terms of the Assumed Contracts;



- (c) the Assignment and Assumption of Permitted Encumbrances, and such other assignment assumption or other documents as are required by the terms of the Permitted Encumbrances;
- (d) the Bill of Sale;
- (e) Form GST-44;
- (f) a statement of adjustments prepared and delivered in accordance with Section 3.6;
- (g) a certificate of an officer of the Vendor (in such capacity and without personal liability) dated the Closing Date confirming that it is not a non-resident pursuant to the provisions of the *Income Tax Act* (Canada) and that the representations and warranties set out in Section 5.1(a) are true and accurate in all material respects;
- (h) a certificate of the Receiver dated the Closing date confirming that the representations and warranties set out in Section 5.1(b) are true and correct in all material respects;
- (i) to the extent in the Vendors' possession or control, all keys to the Buildings, all security cards relating to the Real Property;
- (j) to the extent in the Vendors' possession or control all Assumed Contracts, if any;
- (k) a copy of the Approval Order; and
- (l) a transfer of the shares of MBI and the Water Licenses or a new certificate of public convenience and necessity and related water licenses and/or other water rights to be issued in respect of the supply of potable water to the Business.

Except as otherwise set out in this Agreement, all documentation shall be prepared by the Purchaser's Solicitors and shall be in form and substance acceptable to the Purchaser and the Vendors each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendors or the Purchaser than those expressly set forth in this Agreement.

6.2 Purchaser's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall execute or cause to be executed and shall deliver or cause to be delivered to the Receiver's Solicitors or the Receiver, as applicable, the following:

- (a) the Purchase Price;
- (b) the Assignment and Assumption of Contracts, and such other assignment, assumption or other documents as are required by the terms of the Assumed Contracts;
- (c) the Assignment and Assumption of Permitted Encumbrances, and other assignment, assumption and other documents as are required by the terms of the Permitted Encumbrances;
- (d) a certificate of an officer of the Purchaser (in such capacity and without personal liability) confirming that the representations and warranties set out in Section 5.1 are true and accurate in all material respects;



- (e) the Purchaser's GST Certificate;
- (f) Form GST-44;
- (g) evidence of the receipt of the Government Consents;
- (h) evidence that security deposits, letters of credits or bonds with the provincial government have been replaced by securities or letters of credits issued by the Purchaser;
- (i) an acknowledgement in favour of the Vendors and the Receiver confirming that each of the Purchaser's conditions as set out in Section 4.2 have been satisfied or waived and that the Mutual Condition has been satisfied; and
- (j) such other documents as may be reasonably required by the Vendors to complete the purchase and sale of the Purchased Assets.

Except as otherwise set out in this Agreement, all documentation shall be prepared by the Purchaser's Solicitors and shall be in form and substance acceptable to the Purchaser and the Vendors each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Vendors or the Purchaser than those expressly set forth in this Agreement.

6.3 Registration and Other Costs

- (a) The Vendors shall be responsible for the costs of the Vendors' Solicitors in respect of this Transaction. The Purchaser shall be responsible for the costs of the Purchaser's Solicitors in respect of this Transaction.
- (b) The Purchaser shall indemnify and save harmless the Receiver and the Vendors and their shareholders, directors, officers, employees, advisors and agents from all claims, actions, causes of action, proceedings, losses, damages, costs, liabilities and expenses incurred, suffered or sustained as a result of a failure by the Purchaser:
 - (i) to pay any federal, provincial or other taxes payable by the Purchaser in connection with the conveyance or transfer of the Purchased Assets whether arising from a reassessment or otherwise, including provincial sales tax and goods and services tax, if applicable; and/or
 - (ii) to file any returns, certificates, filings, elections, notices or other documents required to be filed by the Purchaser with any federal, provincial or other taxing authorities in connection with the conveyance or transfer of the Purchased Assets.
- (c) This Section shall survive and not merge on Closing.

6.4 Closing Escrow

All Closing Documents (other than the Purchase Price) shall be delivered into escrow at the place of Closing on or before the Closing Date. Such Closing Documents shall be held by the Receiver's Solicitors in escrow until both parties, acting reasonably, are satisfied that all conditions set forth in Sections 4.1, 4.2 and 4.3 to be satisfied on or before Closing have been satisfied (or waived) other than:



- (a) the payment of the Purchase Price; and
- (b) the registration of the Transfers,

whereupon the Purchaser shall cause the Purchase Price to be wire transferred to the Receiver's account and, upon the Receiver receiving confirmation from the applicable bank that the Purchase Price has been deposited, the Vendors' Solicitors shall release the Transfers for registration in accordance with the usual practice in each jurisdiction in which the Property is located for the purchase and sale of similar properties, the Closing Documents shall be released from escrow and the payment of the Purchase Price, shall be delivered immediately to the Receiver and distributed.

6.5 Discharge of Vendors' Encumbrances

The Purchaser acknowledges and agrees that if the Vendors' title to any of the Purchased Assets is subject to any Encumbrance, the Vendors will not be required to clear title before the receipt of the net sale proceeds, unless otherwise required herein, but the Receiver will be obligated to do so within a reasonable time following Closing in accordance with the Approval Order.

ARTICLE 7 OPERATION OF THE BUSINESS

7.1 Possession Following Time of Closing

The Purchaser shall be entitled to take possession of and enjoy the Purchased Assets after the payment of the Purchase Price to the exclusion of the Receiver and the Vendors and the Purchased Assets shall be at the risk of the Purchaser from and after the Closing Date.

7.2 Contracts

On Closing, the Purchaser shall assume (the "Assumed Contracts"):

- (a) the Required Contracts; and
- (b) those other Contracts that the Purchaser advises the Vendors it wants to assume by Notice delivered to the Vendor at least 10 days prior to the Closing Date.

The Vendors, at their own cost and expense, shall terminate on or before the Closing Date, all Contracts other than the Assumed Contracts and obtain all necessary consents for the Assumed Contracts. The Purchaser shall assume the Assumed Contracts, to the extent they are assignable and in force on Closing, pursuant to the Assignment and Assumption of Contracts.

ARTICLE 8 GENERAL

8.1 Gender and Number

Words importing the singular include the plural and *vice versa*. Words importing gender include all genders.

8.2 Captions and Table of Contents

The caption, headings and table of contents contained herein are for reference only and in no way effect this Agreement or its interpretation.

8.3 Obligations as Covenants

Each agreement and obligation of any of the parties hereto in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

8.4 Applicable Law

This Agreement shall be construed and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and shall be treated in all respects as a British Columbia contract.

8.5 Currency

All reference to currency in this Agreement shall be deemed to be reference to Canadian dollars.

8.6 Invalidity

If any immaterial covenant, obligation, agreement or part thereof or the application thereof to any Person or circumstance, to any extent, shall be invalid or unenforceable, the remainder of this Agreement or the application of such covenant, obligation or agreement or part thereof to any Person, party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby. Each covenant, obligation and agreement in this Agreement shall be separately valid and enforceable to the fullest extent permitted by law.

8.7 Amendment of Agreement

Except as expressly provided otherwise in this Agreement, no supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the parties hereto in the same manner as the execution of this Agreement.

8.8 Time of the Essence

Time shall be of the essence of this Agreement.

8.9 Further Assurances

Each of the parties hereto shall from time to time hereafter and upon any reasonable request of the other, execute and deliver, make or cause to be made all such further acts, deeds, assurances and things as may be required or necessary to more effectually implement and carry out the true intent and meaning of this Agreement.

8.10 Entire Agreement

This Agreement and any agreements, instruments and other documents herein contemplated to be entered into between, by or including the parties hereto constitute the entire agreement between the parties hereto pertaining to the agreement of purchase and sale provided for herein and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect thereto, and there are no other warranties or representations and no other agreements between the parties hereto in connection with



the agreement of purchase and sale provided for herein except as specifically set forth in this Agreement or the Schedules attached hereto.

8.11 Waiver

No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided.

8.12 Solicitors as Agents and Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser's Solicitors on behalf of the Purchaser and by the Vendors' Solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendors' Solicitors and the Purchaser's Solicitors, as the case may be.

8.13 Merger

Except as otherwise expressly set out herein, this Agreement shall merge with the Closing of the Transaction contemplated herein.

8.14 Successors and Assigns

All of the covenants and agreements in this Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns and shall enure to the benefit of and be enforceable by the parties hereto and their respective successors and their permitted assigns pursuant to the terms and conditions of this Agreement.

8.15 Assignment

The Purchaser shall have the right to assign this Agreement, without the consent of the Vendors but on written notice to the Vendors upon such assignment taking place to an affiliate (as such term is defined in the *Canada Business Corporations Act*), provided in the case of such assignment that the assignee executes and delivers an agreement in favour of the Vendor agreeing to be bound by all obligations of the Purchaser hereunder. The Purchaser shall not otherwise assign its rights and/or obligations hereunder without the prior written consent of the Vendors, which consent may be unreasonably withheld in the Vendors' sole discretion. Notwithstanding any assignment the Purchaser shall not be released or relieved from any of its obligations hereunder until Closing and shall be solidarily liable with the assignee hereunder until Closing.

8.16 Confidentiality

- (a) Except as may be required by Applicable Laws, until Closing (and in the event this Agreement is terminated for any reason other than its completion, then also from and after such termination), the Purchaser and its consultants, agents, representatives, advisors, partners, solicitors, lenders and prospective lenders and their respective solicitors shall keep confidential all information, documentation and records obtained from the Vendors or its consultants, agents, representatives, advisors or solicitors with respect to the Purchased Assets, as well as any information arising out of the Purchaser's access to the Vendors' records and the Purchased Assets and the Purchaser's own due diligence with respect thereto (collectively, the

"Confidential Information"). The Purchaser shall not use any Confidential Information for any purposes not related to this Transaction or in any way knowingly detrimental to the Vendors. Nothing herein contained shall restrict or prohibit the Purchaser from disclosing the Confidential Information to its consultants, agents, representatives, advisors, partners, solicitors, lenders and prospective lenders and their respective solicitors so long as the Purchaser instructs such parties to keep such information confidential.

- (b) The Confidential Information referred to in this Section shall not include:
- (i) public information or information in the public domain at the time of receipt by the Purchaser or its consultants, agents, advisors, partners and solicitors;
 - (ii) information which becomes public through no fault or act of the Purchaser or its consultants, agents, advisors, partners and solicitors;
 - (iii) information required to be disclosed by law; or
 - (iv) information received in good faith from a third party lawfully in possession of the information and not in breach of any confidentiality obligations.
- (c) If this Agreement is terminated for any reason, the Purchaser shall promptly return to the Vendors, or destroy (and provide a certificate of an officer of the Purchaser certifying such destruction), all Confidential Information (other than the Purchaser's notes and due diligence materials) and similar material including all copies, and shall destroy all of the Purchaser's notes and due diligence materials in hard or soft copy containing Confidential Information related to this Transaction (and provide a certificate of an officer of the Purchaser certifying such destruction). The Purchaser shall also cause all of its consultants, agents, representatives, advisors, partners, solicitors, lenders and prospective lenders and their respective solicitors to comply with the terms of this Section 8.16(c) and to certify such compliance to the Vendor.

8.17 Notice

Any notice, demand, approval, consent, information, agreement, offer, request or other communication (a "Notice") to be given under or in connection with this Agreement shall be in writing and shall be given by personal delivery during regular business hours on any Business Day or by facsimile transmission or other electronic communication which results in a written or printed notice being given, addressed or sent as set out below or to such other address or electronic number as may from time to time be the subject of a Notice:

- (a) to the Vendors:

Mount Baldy Real Estate, ULC and Mount Baldy Ski Corporation care of G. Powroznik Group Inc.
250-750 West Pender Street
Vancouver, BC V6C 2T7

Attention: Gary Powroznik
Facsimile: 778-370-0043
Email: gpowroznik@g-forcegroup.ca



with a copy to the **Vendors' Solicitors:**

Burns Fitzpatrick Rogers Schwartz & Turner LLP
1400-510 Burrard Street
Vancouver, BC V6C 3A8

Attention: Dennis K. Fitzpatrick
Facsimile: 604-685-2104
Email: dfitzpatrick@bfrst.ca

(b) to the **Purchaser:**

1063205 B.C. LTD.

DS Lawyers Canada LLP
1055 West Georgia Street, Suite 2700
Vancouver, BC V6E 3P3

Attention: Victor Tsao
Facsimile: 604-669-8858
Email: vtsao@dsavocats.ca

(c) to the **Receiver:**

G. Powroznik Group Inc.
250-750 West Pender Street
Vancouver, BC V6C 2T7

Attention: Gary Powroznik
Facsimile: 778-370-0043
Email: gpowroznik@g-forcegroup.ca

with a copy to the **Receiver's Solicitors:**

Burns Fitzpatrick Rogers Schwartz & Turner LLP
1400-510 Burrard Street
Vancouver, BC V6C 3A8

Attention: Dennis K. Fitzpatrick
Facsimile: 604-685-2104
Email: dfitzpatrick@bfrst.ca

Any Notice, if personally delivered, shall be deemed to have been validly and effectively given and received on the date of such delivery and if sent by facsimile transmission or other electronic communication with confirmation of transmission prior to 5:00 P.M. PT, shall be deemed to have been validly and effectively given



and received on the Business Day it was sent unless the confirmation of transmission was after 5:00 P.M. PT in which case it shall be deemed to have been received on the next following Business Day.

8.18 Effect of Termination of Agreement

Notwithstanding the termination of this Agreement for any reason, the confidentiality provisions contained in Section 8.16 of this Agreement shall survive termination and shall remain in full force and effect.

8.19 No Registration of Agreement

The Purchaser covenants and agrees not to register this Agreement or any notice of this Agreement on title to the Lands or any part thereof or interest therein, save if the Vendors are in default hereunder.

8.20 Announcements

Except as otherwise required by Applicable Laws or a Governmental Authority, or as may be required to obtain the Approval Order, no press release or public announcement with respect to this Agreement or the Transaction may be made except with the prior written consent and joint approval of the Vendor and the Purchaser. Where the public disclosure is required by Applicable Laws, a Governmental Authority, the party required to make the public disclosure will use its reasonable commercial efforts to obtain the approval of the other party as to the form, nature and extent of the disclosure.

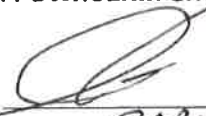
8.21 Counterparts; Electronic Transmission

This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute one and the same instrument. All parties agree that this Agreement may be transmitted by electronic transmission via email and that the reproduction of signatures by way of electronic transmission via email will be treated as though such reproduction were executed originals and each party undertakes to provide the other with a copy of this Agreement bearing original signatures within a reasonable time after the date of execution.

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.

IN WITNESS WHEREOF the Vendor and Purchaser have executed this Agreement as of the Execution Date.


MOUNT BALDY REAL ESTATE ULC
Per G. POWROZNIK GROUP INC.

By: 
Name: GARY POWROZNIK
Title: MANAGING DIRECTOR

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

MOUNT BALDY SKI CORPORATION
Per G. POWROZNIK GROUP INC.

By: 
Name: GARY POWROZNIK
Title: MANAGING DIRECTOR

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

1063205 B.C. LTD.

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

IN WITNESS WHEREOF the Vendor and Purchaser have executed this Agreement as of the Execution Date.

**MOUNT BALDY REAL ESTATE ULC
Per G. POWROZNIK GROUP INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

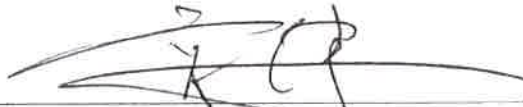
**MOUNT BALDY SKI CORPORATION
Per G. POWROZNIK GROUP INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

1063205 B.C. LTD.

By: 
Name: Victor Tsao
Title: Authorized Signatory

By: _____
Name:
Title:

I/We have authority to bind the Corporation.

SCHEDULE A

CHATELS

A handwritten signature or mark, possibly initials, located in the bottom right corner of the page.

SCHEDULE B

LANDS

1. PID: 027-328-759
Lot 1
District Lot 2708
Similkameen Division
Yale District
Plan KAP85510

("Lot 1, Plan KAP85510");
2. PID: 026-938-081
Lot 13
District Lot 100S
Similkameen Division
Yale District
Plan KAP82817

("Lot 13");
3. PID: 026-938-201
Lot 25
District Lot 100S
Similkameen Division
Yale District
Plan KAP82817

("Lot 25"); and
4. PID: 027-507-106
Block C of District Lot 100S
Similkameen Division
Yale District

("Block C").



SCHEDULE C
PERMITTED ENCUMBRANCES
[to be confirmed]

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.

SCHEDULE D

REQUIRED CONTRACTS

[to be confirmed]

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SCHEDULE E

FORM OF APPROVAL ORDER BY NOTICE OF APPLICATION

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