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Mary Ann Trussell, Summit County Utah Recorder

05/31/2013 01:43:04 PM Fee \$54.00

By COALITION TITLE AGENCY, INC.

Electronically Recorded

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

GIBSON, DUNN & CRUTCHER LLP
333 SOUTH GRAND AVENUE, 49th FLOOR
LOS ANGELES, CALIFORNIA 90071

ATTN: DREW FLOWERS

Space above this line for Recorder's Use

ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT

21934

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT (this "Assignment Agreement"), is made and dated as of May 29, 2013 (the "Effective Date"), by and among Talisker Canyons LeaseCo LLC, a Delaware limited liability company, as assignor ("Assignor"), and Talisker Canyons PropCo LLC, a Delaware limited liability company, having its principal place of business at 145 Adelaide Street West, Toronto, Ontario, M5H 4E5, Canada ("Talisker PropCo"), and VR CPC Holdings, Inc., a Delaware corporation, having its principal place of business at c/o Vail Resorts Management Company, 390 Interlocken Crescent, Broomfield, Colorado 80021 ("VRI Tenant"), as assignees, (Talisker PropCo and VRI Tenant are collectively referred to herein as "Assignees"), with reference to the following:

A. Assignor's Affiliate is the owner of that certain ski area and related amenities commonly known as Canyons Resort, and located in portions of Summit County and Salt Lake County, Utah (the "Canyons Resort");

B. Assignor, Talisker PropCo, certain of their Affiliates and VRI Tenant have entered into that certain Transaction Agreement, dated May 24, 2013 (the "Transaction Agreement"), pursuant to which Assignor, Talisker PropCo and certain of their Affiliates have agreed to transfer and sell to VRI Tenant the business of operating the Canyons Resort (as more particularly described in the Transaction Agreement);

C. Pursuant to the Transaction Agreement, concurrently herewith Assignor and VRI Tenant are entering into that certain Master Agreement of Lease (as modified, amended and/or supplemented from time to time, the "Lease"), pursuant to which Assignor has agreed to grant and lease to VRI Tenant, and VRI Tenant has agreed to accept and lease from Assignor, the Demised Premises (as defined in the Lease), subject to, upon and in accordance with the terms, covenants, conditions and provisions of the Lease. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Lease;

D. The State of Utah, acting by and through the Director of the School and Institutional Trust Lands Administration ("SITLA"), as landlord, and Assignor, as tenant, are the parties to that certain Amended and Restated Lease Agreement Number 419, dated July 1, 1998 (the "SITLA Lease"), as amended by that certain First Amendment to Amended and Restated

Lease Agreement No. 419, dated December 11, 2011 (the “**SITLA Amendment**”) (the SITLA Lease and the SITLA Amendment are collectively referred to as the “**SITLA Agreement**”).

E. The SITLA Agreement concerns certain property located in Summit County, Utah more particularly described on **Exhibit A** (the “**Leased Premises**”). A record notice of the SITLA Agreement was provided by a Notice of Lease, dated December 11, 2001, executed by SITLA and Assignor, and recorded with the Summit County, Utah Recorder’s Office on December 12, 2001, as Entry No. 605787, in Book 1419, beginning at page 429.

F. Assignor has agreed to assign to Assignees all of Assignor’s rights, title, interest and obligations in, to and under the SITLA Agreement and with respect to the Leased Premises, and Assignees desire to accept the assignment of the rights, title, interest and obligations in, to and under the SITLA Agreement and with respect to the Leased Premises, subject to this Assignment Agreement.

FOR GOOD AND VALUABLE CONSIDERATION, Assignor and Assignees agree as follows:

1. **Key Defined Terms.** The following capitalized terms have the following meanings:

(a) “**Assigned Rights and Obligations**” means the “Assigned Rights” and “Assumed Obligations.”

(b) “**Assigned Rights**” means all of Assignor’s rights, title and interests in, to and under the SITLA Agreement and/or with respect to the Leased Premises, including, without limitation, the “Ski Rights” described in Section 2.6 of the SITLA Agreement with respect to the “Ski Parcels” more particularly described in Section II of Exhibit A attached hereto.

(c) “**Assumed Obligations**” means all of Assignor’s obligations under the SITLA Agreement and/or with respect to the Leased Premises.

2. **Assignment.** Assignor assigns, transfers, and conveys to VRI Tenant and Talisker PropCo, each as to an undivided 50% cotenant leasehold, all of the Assigned Rights and Obligations.

3. **Assumption.** Assignees accept Assignor’s assignment of the Assigned Rights and assume the Assumed Obligations accruing and to be performed on or after the Effective Date, it being the express intention of Assignor and Assignees that, upon execution of this Assignment Agreement, Assignees will become substituted for Assignor as “lessee” under the SITLA Agreement with respect to the Assigned Rights and Obligations.

4. **Covenant; Further Assurances.** Each of the Assignees covenants that during the term of the Lease it will comply with the Assigned Rights and Obligations. Assignor and Assignees each covenant that it (or they, as applicable) will, at any time and from time to time, execute any documents and take such additional actions as the other, or its (or their, as

applicable) respective successors or assigns, will reasonably require in order to more completely or perfectly carry out the purposes of this Assignment Agreement.

5. **Reversion to Assignor.** Upon expiration, termination, or cancellation of the Lease, this Assignment Agreement shall terminate and all Assigned Rights and Obligations shall revert to Assignor.

6. **No Joint Venture.** Nothing contained in this Assignment Agreement will be construed as creating a joint venture, agency, or any other relationship between the parties other than that of assignor and assignees.

7. **Time of the Essence.** Time is of the essence in the performance by Assignor and Assignees of their obligations under this Assignment Agreement.

8. **Notices.** Any notice, request, statement, demand, consent, approval or other communication required or permitted to be given, rendered or made by either Assignor or Assignees pursuant to this Assignment Agreement (each a "**Notice**" and collectively, "**Notices**") must be in writing and will be deemed effective: (a) on the date personally delivered to the address below, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (b) on the third (3rd) business day after being sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; or (c) on the first (1st) business day after being deposited into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to the party at the address specified below, for next business day delivery. For purposes of this Section 8, the addresses of the parties for all notices are as follows (or to such other address or party as either party may have furnished to the other in writing in accordance herewith, except that notice of change of address or addresses will only be effective upon receipt):

If to Assignor:	c/o Talisker Corp. 145 Adelaide Street West Toronto, Ontario M5H 4E5 Canada Attention: Jack Bistricher
with a copy to:	Talisker Corp. 145 Adelaide Street West Toronto, Ontario M5H 4E5 Canada Attention: Chief Financial Officer
with another copy to:	Talisker Mountain P.O. Box 4349 Park City, Utah 84060 United States Attention: David J. Smith

with another copy to: Paul Hastings LLP
75 East 55th Street
New York, New York 10022
United States
Attention: Bruce S. DePaola, Esq.

If to Assignees: c/o Talisker Corp.
145 Adelaide Street West
Toronto, Ontario M5H 4E5
Canada
Attention: Jack Bistricher

with a copy to: Talisker Corp.
145 Adelaide Street West
Toronto, Ontario M5H 4E5
Canada
Attention: Chief Financial Officer

with another copy to: Talisker Mountain
P.O. Box 4349
Park City, Utah 84060
United States
Attention: David J. Smith

with another copy to: Paul Hastings LLP
75 East 55th Street
New York, New York 10022
United States
Attention: Bruce S. DePaola, Esq.

The attorney for any party may send notices on that party's behalf. Assignor and Assignees will each have the right to designate additional or substitute parties or address(es) to receive notices on their behalf in accordance with this Section 8.

9. **Dispute Resolution.** The provisions of Article 15 of the Lease are hereby incorporated by reference into this Assignment Agreement to the same extent and with the same force as if fully set forth herein.

10. **Affirmative Waivers.** ASSIGNOR AND ASSIGNEES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY AGAINST ANOTHER PARTY ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS ASSIGNMENT AGREEMENT, INCLUDING ANY CLAIM OF INJURY OR DAMAGE, AND ANY EMERGENCY AND OTHER STATUTORY REMEDY WITH RESPECT THERETO.

11. **No Waivers.** No delay or omission by Assignor or Assignees in exercising a right or remedy will exhaust or impair that right or remedy or constitute a waiver of, or acquiescence in, any default by the other party. A single or partial exercise of a right or remedy will not preclude a further exercise of that right or remedy, or the exercise of another right or remedy, from time to time.

12. **Authority of Parties.**

(a) Assignees represent and warrant that this Assignment Agreement has been duly authorized, executed and delivered by each of the Assignees and constitutes the legal, valid and binding obligation of each of the Assignees.

(b) Assignor represents and warrants that this Assignment Agreement has been duly authorized, executed and delivered by Assignor and constitutes the legal, valid and binding obligation of Assignor.

13. **Governing Law.** This Assignment Agreement is governed by, and construed in accordance with, the laws of the State of Utah without regard to principles of conflicts of laws.

14. **Limited Recourse.** The provisions of Section 14.8 of the Lease are hereby incorporated by reference into this Assignment Agreement to the same extent and with the same force as if fully set forth herein.

15. **Entire Agreement; Modifications.** This Assignment Agreement, the Lease, the Transaction Agreement, and the Transaction Documents (as defined in the Transaction Agreement) represent the entire agreement of the parties with respect to the subject matter hereof, and, accordingly, all understandings and agreements heretofore had between the parties are merged in this Assignment Agreement and such other documents, which alone fully and completely express the agreement of the parties. No amendment, surrender or other modification of this Assignment Agreement will be effective unless in writing and signed by the party to be charged therewith.

16. **Severability.** If any provision of this Assignment Agreement or the application thereof to any person or circumstance will, for any reason and to any extent, be invalid or unenforceable, the remainder of this Assignment Agreement and the application of that provision to other persons or circumstances will not be affected but rather will be enforced to the extent permitted by law.

17. **Interpretation.** The captions, headings and titles in this Assignment Agreement are solely for convenience of references and do not affect its interpretation. This Assignment Agreement will be construed without regard to any presumption or other rule requiring construction against the party causing this Assignment Agreement to be drafted. Each covenant, agreement, obligation or other provision of this Assignment Agreement on Assignees' part to be performed will be deemed and construed as a separate and independent covenant of Assignees, not dependent on any other provision of this Assignment Agreement. Whenever in this Assignment Agreement the singular number is used, that includes the plural, and the masculine gender includes the feminine and neuter genders, and, in each case, vice versa, as the context

may require. Each of Assignor and Assignees acknowledges that each party to this Assignment Agreement has been represented by legal counsel in connection with this Assignment Agreement and the transactions contemplated by this Assignment Agreement. Accordingly, any rule of law or any legal decision that would require interpretation of any claimed ambiguities in this Assignment Agreement against the drafting party has no application and is expressly waived.

18. **Prevailing Party Attorney's Fees.** If either Assignor or Assignees bring an action or proceeding in any court of competent jurisdiction to enforce its rights or the other party's obligations under this Assignment Agreement, then the prevailing party in that action or proceeding will be entitled to be reimbursed by the non-prevailing party for all reasonable attorneys' fees and disbursements incurred by the prevailing party in connection with the action or proceeding. If neither party prevails in the action or proceeding, or if both parties prevail in part in that action or proceeding, then the court must determine whether, and the extent to which, one party will reimburse the other party for all or any portion of the reasonable attorneys' fees and disbursements incurred by the other party in connection with the action or proceeding. Any reimbursement required under this Section 18 will be made within fifteen (15) days after written demand (which demand must be accompanied by reasonably satisfactory evidence that the amounts for which reimbursement is sought have been paid).

19. **Counterparts.** This Assignment Agreement may be executed in several counterparts, all of which, when taken together, constitute one and the same instrument.

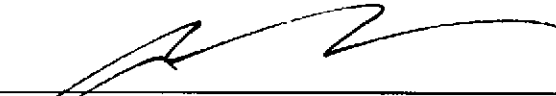
20. **No Third Party Beneficiaries.** The rights in favor of Assignor and Assignees set forth in this Assignment Agreement are for the exclusive benefit of Assignor and Assignees, respectively, and their respective permitted successors and assigns, it being the express intention of the parties that in no event will the rights be conferred upon or for the benefit of any third party.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

EXECUTED by Assignor and Assignees as of the Effective Date.

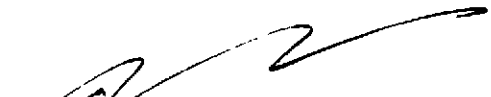
ASSIGNOR:

Talisker Canyons LeaseCo LLC,
a Delaware limited liability company

By: 
Name: Jack Bistricher
Title: Chairman

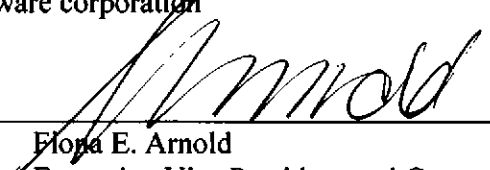
ASSIGNEE:

Talisker Canyons PropCo LLC,
a Delaware limited liability company

By: 
Name: Jack Bistricher
Title: Chairman

ASSIGNEE:

VR CPC Holding, Inc.,
a Delaware corporation

By: 
Name: Flora E. Arnold
Title: Executive Vice President and General
Counsel

STATE OF NEW YORK
COUNTY OF NEW YORK

)
) ss.
)

On May 2, 2013 before me, Daniel B. Blaser, Notary Public, personally appeared Jack Bistricer, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public


DANIEL B. BLASER
Notary Public, State of New York
No. 02BL6161638
Qualified in New York County
Commission Expires February 26, 2015

STATE OF NEW YORK
COUNTY OF NEW YORK

)
) ss.
)

On May 2, 2013 before me, Daniel B. Blaser, Notary Public, personally appeared Jack Bistricer, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public

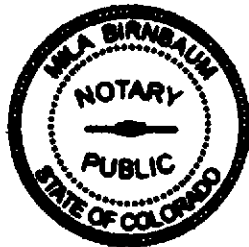
DANIEL B. BLASER
Notary Public, State of New York
No. 02BL6161638
Qualified in New York County
Commission Expires February 26, 2015

STATE OF)
COLORADO)

) ss.:

COUNTY OF)
BROOMFIELD)

On the 2nd day of May, 2013 before me, the undersigned, personally appeared Fiona E. Arnold, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



My Commission Expires March 7, 2016

[Handwritten Signature]
(Notary's official signature)

3/7/2016
(Commission expiration)

**EXHIBIT A
TO
ASSIGNMENT AND ASSUMPTION LEASE AGREEMENT**

Leased Premises

I. The Section 2 Parcel

Township 2 South, Range 3 East, SLB&M

All of Section 2, less and except the following portion:

Beginning at the Northwest corner of Government Lot 12, Section 1, Township 2 South, Range 3 East, Salt Lake Base & Meridian; thence Southwesterly to the Southwest Corner of Section 2, Township 2 South, Range 3 East, Salt Lake Base & Meridian; thence Easterly along the South line of said Section 2, to the South Quarter corner of said Section 2; thence Easterly along the South line of said Section 2 to the Southeast corner of said Section 2; thence Northerly along the East line of said Section 2 to the East Quarter Corner of said Section 2; thence Northerly along the East line of Section 2 to the said Northwest Corner of Government Lot 12, the point of beginning;

encompassing 560 acres, more or less.

II. The Ski Parcels (Lessee holds Ski Rights only, as that term is defined in the SITLA Agreement)

Township 2 South, Range 3 East, SLB&M

The following portion of Section 2: Beginning at the Northwest corner of Government Lot 12, Section 1, Township 2 South, Range 3 East, Salt Lake Base & Meridian; thence Southwesterly to the Southwest Corner of Section 2, Township 2 South, Range 3 East, Salt Lake Base & Meridian; thence Easterly along the South line of said Section 2, to the South Quarter corner of said Section 2; thence Easterly along the South line of said Section 2 to the Southeast corner of said Section 2; thence Northerly along the East line of said Section 2 to the East Quarter Corner of said Section 2; thence Northerly along the East line of Section 2 to the said Northwest Corner of Government Lot 12, the point of beginning, encompassing 240 acres, more or less.

Section 10: NE $\frac{1}{4}$, less and except that portion located in Salt Lake County, encompassing 149.55 acres, more or less. PP-5-1

Section 13: NE $\frac{1}{4}$ NW $\frac{1}{4}$, encompassing 40 acres, more or less. PP-11-7

Township 2 South, Range 4 East, SLB&M

Section 7: Lots 17, 18, 19, 20, 22, 23, 26, 27, encompassing 240.73 acres, more or less.

PP-25-B

Section 18: Lots 1, 2, 3, 4, 9, 17, 18, 20, 21, 22, encompassing 260.03 acres, more or less.

PP-32-A

Total acreage of "Ski Rights" only parcels is 930.31 acres, more or less.