

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-Q

Quarterly Report Pursuant To Section 13 Or 15(d) Of The Securities Exchange Act Of 1934

For the quarterly period October 31,
ended 2002

Transition Report Pursuant To Section 13 Or 15(d) Of The Securities Exchange Act Of 1934

For the transition period from _____ to _____

Commission 1-
File Number: 9614

Vail Resorts, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

51-

0291762

(I.R.S. Employer
Identification No.)

Post Office Box 7 Vail, Colorado

(Address of principal executive offices)

81658

(Zip Code)

(970) 476-5601

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

Yes No

As of December 9, 2002, 7,439,834 shares of Class A Common Stock and 27,746,874 shares of Common Stock were issued and outstanding.

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PART I FINANCIAL INFORMATION

Item 1. Financial Statements--Unaudited

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Vail Resorts, Inc.
Consolidated Condensed Balance Sheets
(In thousands, except share and per share amounts)

| | <u>October 31,</u> <u>2002</u> | <u>July 31,</u> <u>2002</u> | <u>October 31,</u> <u>2001</u> |
|--|-----------------------------------|--------------------------------|-----------------------------------|
| | (unaudited) | | (As Restated) (unaudited) |
| Assets | | | |
| Current assets: | | | |
| Cash and cash equivalents | \$ 25,165 | \$ 25,965 | \$ 21,044 |
| Receivables, net | 34,924 | 31,837 | 20,343 |
| Inventories, net | 41,089 | 32,326 | 35,607 |
| Other current assets | <u>24,500</u> | <u>19,288</u> | <u>26,851</u> |
| Total current assets | 125,678 | 109,416 | 103,845 |
| Property, plant and equipment, net | 919,720 | 913,806 | 691,778 |
| Real estate held for sale and investment | 152,760 | 161,778 | 172,962 |
| Intangibles, net | 216,584 | 217,586 | 190,873 |
| Other assets | <u>40,406</u> | <u>45,124</u> | <u>39,308</u> |
| Total assets | <u>\$ 1,455,148</u> | <u>\$ 1,447,710</u> | <u>\$ 1,198,766</u> |
| Liabilities and Stockholders' Equity | | | |
| Current liabilities: | | | |
| Accounts payable and accrued expenses (Note 5) | \$ 165,272 | \$ 140,230 | \$ 140,027 |
| Income taxes payable | 3,231 | 7,934 | -- |
| Long-term debt due within one year (Note 4) | <u>3,485</u> | <u>4,754</u> | <u>3,143</u> |
| Total current liabilities | 171,988 | 152,918 | 143,170 |
| Long-term debt (Note 4) | 625,044 | 598,032 | 415,023 |
| Other long-term liabilities | 96,332 | 90,584 | 75,214 |
| Deferred income taxes | 55,620 | 73,434 | 76,426 |
| Commitments and contingencies (Note 7) | -- | -- | -- |
| Minority interest in net assets of consolidated joint ventures | 23,326 | 25,474 | 18,024 |
| Stockholders' equity: | | | |
| Preferred stock, \$0.01 par value, 25,000,000 shares authorized, no shares issued and outstanding | -- | -- | -- |
| Common stock: | | | |
| Class A common stock, convertible to common stock, \$0.01 par value, 20,000,000 shares authorized, 7,439,834 shares issued and outstanding | 74 | 74 | 74 |

| | | | |
|--|---------------------|---------------------|---------------------|
| Common stock, \$0.01 par value, 80,000,000 shares authorized, 27,742,707, 27,714,220, and 27,693,821 shares issued and outstanding as of October 31, 2002, July 31, 2002, and October 31, 2001, respectively | 277 | 277 | 277 |
| Additional paid-in capital | 415,715 | 415,688 | 414,044 |
| Deferred compensation | (985) | (1,348) | (2,363) |
| Retained earnings | <u>67,757</u> | <u>92,577</u> | <u>58,877</u> |
| Total stockholders' equity | <u>482,838</u> | <u>507,268</u> | <u>470,909</u> |
| Total liabilities and stockholders' equity | <u>\$ 1,455,148</u> | <u>\$ 1,447,710</u> | <u>\$ 1,198,766</u> |

The accompanying Notes to Consolidated Condensed Financial Statements are an integral part of these financial statements.

Vail Resorts, Inc.
Consolidated Condensed Statements of Operations
(In thousands, except per share amounts)
(Unaudited)

| | Three Months Ended | |
|--|---------------------------|--------------------|
| | October 31, | |
| | <u>2002</u> | <u>2001</u> |
| | | (As Restated) |
| Net revenue: | | |
| Mountain | \$ 34,441 | \$ 29,417 |
| Lodging | 40,058 | 28,607 |
| Real estate | <u>39,354</u> | <u>14,994</u> |
| Total net revenue | 113,853 | 73,018 |
| Operating expense: | | |
| Mountain | 65,463 | 54,016 |
| Lodging | 38,747 | 29,079 |
| Real estate | 27,531 | 9,539 |
| Depreciation and amortization | <u>17,985</u> | <u>15,362</u> |
| Total operating expense | <u>149,726</u> | <u>107,996</u> |
| Loss from operations | (35,873) | (34,978) |
| Other income (expense): | | |
| Mountain equity investment income | 1,061 | 450 |
| Lodging equity investment loss | (1,311) | - |
| Real estate equity investment income | 3,070 | 856 |
| Investment income | 259 | 712 |
| Interest expense | (11,964) | (7,862) |
| Gain (loss) on disposal of fixed assets | (16) | 52 |
| Other income (expense) | 30 | (31) |
| Minority interest in loss of consolidated joint ventures | <u>2,024</u> | <u>2,340</u> |
| Loss before benefit for income taxes | (42,720) | (38,461) |
| Benefit for income taxes | <u>17,900</u> | <u>14,038</u> |
| Loss before cumulative effect of change in accounting principle | (24,820) | (24,423) |
| Cumulative effect of change in accounting principle, net of income taxes | <u>-</u> | <u>(1,708)</u> |
| Net loss | <u>\$ (24,820)</u> | <u>\$ (26,131)</u> |
| Per share amounts (basic) (Note 3): | | |
| Loss before cumulative effect of change in accounting principle | \$ (0.71) | \$ (0.70) |
| Cumulative effect of change in accounting principle, net of income taxes | <u>-</u> | <u>(0.05)</u> |
| Net loss | <u>\$ (0.71)</u> | <u>\$ (0.75)</u> |
| Per share amounts (diluted) (Note 3): | | |

| | | | | |
|--|----|---------------|----|---------------|
| Loss before cumulative effect of change in accounting principle | \$ | (0.71) | \$ | (0.70) |
| Cumulative effect of change in accounting principle, net of income taxes | | <u>—</u> | | <u>(0.05)</u> |
| Net loss | \$ | <u>(0.71)</u> | \$ | <u>(0.75)</u> |

The accompanying Notes to Consolidated Condensed Financial Statements are an integral part of these financial statements.

Vail Resorts, Inc.
Consolidated Condensed Statements of Cash Flows
(In thousands)
(Unaudited)

| | Three Months Ended | |
|--|---------------------------|--------------------|
| | October 31, | |
| | <u>2002</u> | <u>2001</u> |
| Net cash provided by (used in) operating activities: | \$ 13,872 | \$ (2,258) |
| Cash flows from investing activities: | | |
| Capital expenditures | (23,535) | (21,173) |
| Investments in real estate | (14,935) | (13,785) |
| Other investing activities | <u>(1,090)</u> | <u>363</u> |
| Net cash used in investing activities | (39,560) | (34,595) |
| Cash flows from financing activities: | | |
| Proceeds from borrowings under long-term debt | 71,900 | 80,100 |
| Payments on long-term debt | (46,830) | (50,314) |
| Other financing activities | <u>(182)</u> | <u>117</u> |
| Net cash provided by financing activities | <u>24,888</u> | <u>29,903</u> |
| Net decrease in cash and cash equivalents | (800) | (6,950) |
| Cash and cash equivalents: | | |
| Beginning of period | <u>25,965</u> | <u>27,994</u> |
| End of period | <u>\$ 25,165</u> | <u>\$ 21,044</u> |

The accompanying Notes to Consolidated Condensed Financial Statements are an integral part of these financial statements.

Vail Resorts, Inc.
Notes to Consolidated Condensed Financial Statements
(Unaudited)

1. Basis of Presentation

Vail Resorts, Inc. ("Vail Resorts") is organized as a holding company and operates through various subsidiaries. Vail Resorts and its subsidiaries (collectively, the "Company") currently operate in three business segments: Mountain, Lodging and Real Estate. The Vail Corporation (d/b/a Vail Associates, Inc.), an indirect wholly owned subsidiary of Vail Resorts, and its subsidiaries (collectively, "Vail Associates") operate five world-class ski resorts and related amenities at Vail, Breckenridge, Keystone and Beaver Creek mountains in Colorado and Heavenly Ski Resort ("Heavenly") in the Lake Tahoe area of California and Nevada. In addition to the ski resorts, Vail Associates owns Grand Teton Lodge Company ("GTLC"), which operates three resorts within Grand Teton National Park (under a National Park Service concessionaire contract) and the Jackson Hole Golf & Tennis Club in Wyoming. Vail Associates also owns a 51% interest in Snake River Lodge & Spa ("SRL&S") located near Jackson, Wyoming and owns 100% of the Lodge at Rancho Mirage ("Rancho Mirage") near Palm Springs, California. The Company also holds a majority interest in RockResorts International, LLC ("RockResorts"), a luxury hotel management company. Vail Resorts Development Company ("VRDC"), a wholly owned subsidiary of Vail Associates, conducts the operations of the Company's Real Estate segment. The Company's mountain and lodging businesses are seasonal in nature. The Company's mountain and most of its lodging operations typically have operating seasons from late October through April; the Company's operations at GTLC generally run from mid-May through mid-October.

In the opinion of the Company, the accompanying Consolidated Condensed Financial Statements reflect all adjustments necessary to present fairly the Company's financial position, results of operations and cash flows for the interim periods presented. All such adjustments are of a normal recurring nature. Results for interim periods are not indicative of the results for the entire year. The accompanying Consolidated Condensed Financial Statements should be read in conjunction with the audited Consolidated Financial Statements for the year ended July 31, 2002 included in the Company's Annual Report on Form 10-K for the fiscal year ended July 31, 2002.

2. Summary of Significant Accounting Policies

Use of Estimates--The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the balance sheet date and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Reclassifications--Certain reclassifications have been made to the accompanying Consolidated Condensed Financial Statements for the three months ended October 31, 2001 to conform to the present period presentation.

New Accounting Pronouncements-- In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standard ("SFAS") No. 143, "Accounting for Asset Retirement Obligations". SFAS No. 143 addresses financial accounting and reporting for obligations associated with the retirement of tangible long-lived assets and the associated asset retirement costs. It applies to legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and (or) the normal operation of a long-lived asset, except for certain obligations of lessees. The Company adopted the provisions of SFAS No. 143 on August 1, 2002. The Company does not currently have any obligations falling under the scope of SFAS No. 143. Adoption of SFAS No. 143 did not have a significant impact on the Company's financial position or results of operations.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets". SFAS No. 144 supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of", but retains the requirements of SFAS No.121 to (a) recognize an impairment loss only if the carrying amount of a long-lived asset is not recoverable from its undiscounted cash flows and (b) measure an impairment loss as the difference between the carrying amount and fair value of the asset. SFAS No. 144 removes goodwill from its scope as the impairment of goodwill is addressed pursuant to SFAS No. 142. The Company adopted the provisions of SFAS No. 144 on August 1, 2002. Adoption of SFAS No. 144 did not have a significant impact on the Company's financial position or results of operations.

In April 2002, the FASB issued SFAS No. 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections". This Statement rescinds SFAS No. 4, "Reporting Gains and Losses from Extinguishment of Debt", SFAS No. 44, "Accounting for Intangible Assets of Motor Carriers" and SFAS No. 64, "Extinguishments of Debt Made to Satisfy Sinking-Fund Requirements". This statement amends SFAS No. 13, "Accounting for Leases", to eliminate an inconsistency between the required accounting for sale-leaseback transactions and the required accounting for certain lease modifications that have economic effects that are similar to sale-leaseback transactions. SFAS No. 145 is generally effective for the Company for fiscal year 2003. Adoption of SFAS No. 145 did not have a significant impact on the Company's financial position or results of operations.

In July 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities". This statement requires that a liability for a cost that is associated with an exit or disposal activity be recognized when the liability is incurred. This statement nullifies the guidance of the Emerging Issues Task Force ("EITF") Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in Restructuring)". Under EITF No. 94-3, an entity recognized a liability for an exit cost on the date that the entity committed itself to an exit plan. SFAS No. 146 acknowledges that an entity's commitment to a plan does not, by itself, create a present obligation to other parties that meets the definition of a liability. SFAS No. 146 also establishes that fair value is the objective for the initial measurement of the liability. SFAS No. 146 will be effective for exit or disposal activities that are initiated after December 31, 2002. Management does not anticipate any exit or disposal activities within the scope of SFAS No. 146 subsequent to December 31, 2002.

In May 2002, the EITF reached consensus on EITF Issue No. 01-14, "Income Statement Characterization of Reimbursements Received for "Out-of-Pocket" Expenses Incurred". This issue requires that reimbursements received for out-of-pocket expenses incurred should be characterized as revenue in the income statement. EITF Issue No. 01-14 should be applied in financial reporting periods beginning after December 15, 2001. The Company adopted the provisions of EITF Issue 01-14 on August 1, 2002. Adoption of EITF Issue 01-14 did not have a significant impact on the Company's financial position or results of operations.

In November 2002, the FASB issued FASB Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including indirect Guarantees of Indebtedness of Others". This interpretation elaborates on the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. It also clarifies that a guarantor is required to recognize, at inception of a guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. The initial recognition and initial measurement provisions of this Interpretation are applicable on a prospective basis to guarantees issued or modified after December 31, 2002. The disclosure requirements in the interpretation are effective for financial statements of interim or annual periods ending after December 15, 2002. The Company is currently evaluating the impact that the implementation of this interpretation will have on its financial statements.

3. Net Income (Loss) Per Common Share

SFAS No. 128, "Earnings Per Share" ("EPS"), establishes standards for computing and presenting EPS. SFAS No. 128 requires the dual presentation of basic and diluted EPS on the face of the income statement and requires a reconciliation of numerators (net income) and denominators (weighted-average shares outstanding) for both basic and diluted EPS in the footnotes. Basic EPS excludes dilution and is computed by dividing net income (loss) available to common shareholders by the weighted-average shares outstanding. Diluted EPS reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised, resulting in the issuance of common shares that would then share in the earnings of the Company.

| | For the three months ended | | | |
|--|--|----------------|--------------|----------------|
| | October 31, | | | |
| | 2002 | | 2001 | |
| | (As Restated) | | | |
| | (In thousands, except per share amounts) | | | |
| | <u>Basic</u> | <u>Diluted</u> | <u>Basic</u> | <u>Diluted</u> |
| Net loss per common share: | | | | |
| Loss before cumulative effect of change in accounting principle | \$ (24,820) | \$ (24,820) | \$ (24,423) | \$ (24,423) |
| Cumulative effect of change in accounting principle, net of income taxes | — | — | (1,708) | (1,708) |
| Net loss | \$ (24,820) | \$ (24,820) | \$ (26,131) | \$ (26,131) |

| | | | | |
|--|------------------|------------------|------------------|------------------|
| Weighted-average shares outstanding | 35,166 | 35,166 | 35,130 | 35,130 |
| Effect of dilutive securities | <u>—</u> | <u>—</u> | <u>—</u> | <u>—</u> |
| Total shares | <u>35,166</u> | <u>35,166</u> | <u>35,130</u> | <u>35,130</u> |
| | | | | |
| Loss before cumulative effect of change in accounting principle per common share | \$ (0.71) | \$ (0.71) | \$ (0.70) | \$ (0.70) |
| Cumulative effect of change in accounting principle, net of income taxes, per common share | <u>—</u> | <u>—</u> | <u>(0.05)</u> | <u>(0.05)</u> |
| Net loss per common share | <u>\$ (0.71)</u> | <u>\$ (0.71)</u> | <u>\$ (0.75)</u> | <u>\$ (0.75)</u> |

The number of shares issuable on the exercise of common stock options that were excluded from the calculation of diluted net loss per share because the effect of their inclusion would have been anti-dilutive totaled 2.6 million and 2.0 million, as of October 31, 2002 and 2001, respectively. The shares were anti-dilutive because the Company recorded net losses for the periods presented.

4. Long-Term Debt

Long-term debt as of October 31, 2002, July, 31 2002 and October 31, 2001 is summarized as follows (in thousands):

| | | October 31, 2002 | July 31, 2002 | October 31, 2001 |
|---|---------------------|---------------------------------|--------------------------|---------------------------------|
| | Maturity (f) | | | |
| Industrial Development Bonds (a) | | | \$ | \$ |
| | 2007-2020 | \$ 61,700 | 63,200 | 63,200 |
| Credit Facilities (b) | 2004-2005 | 181,450 | 154,900 | 151,150 |
| Senior Subordinated Notes(c) | 2009 | 360,000 | 360,000 | 200,000 |
| Discount on Senior Subordinated Notes (c) | | (6,711) | (6,892) | — |
| Olympus Note (d) | 2004 | 25,000 | 25,000 | — |
| Discount on Olympus Note (d) | | (2,069) | (2,521) | — |
| Other (e) | 2003-2029 | <u>9,159</u> | <u>9,099</u> | <u>3,816</u> |
| | | 628,529 | 602,786 | 418,166 |
| Less: Current Maturities | | <u>3,485</u> | <u>4,754</u> | <u>3,143</u> |
| | | <u>\$ 625,044</u> | <u>\$ 598,032</u> | <u>\$ 415,023</u> |

(a) The Company has outstanding \$61.7 million of Industrial Development Bonds (collectively, the "Industrial Development Bonds"). \$41.2 million of the Industrial Development Bonds were issued by Eagle County, Colorado (the "Eagle County Bonds") and mature, subject to prior redemption, on August 1, 2019. These bonds accrue interest at 6.95% per annum, with interest being payable semi-annually on February 1 and August 1. The Promissory Note with respect to the Eagle County Bonds between Eagle County and the Company is collateralized by the U.S. Forest Service Permits for Vail Mountain and Beaver Creek Mountain. In addition, the Company has outstanding two series of refunding bonds (collectively, the "Summit County Bonds"). The Series 1990 Sports Facilities Refunding Revenue Bonds, issued by Summit County, Colorado, have an aggregate outstanding principal amount of \$19.0 million, maturing in installments in 2006 and 2008. These bonds bear interest at a rate of 7.75% for bonds maturing in 2006 and 7.875% for bonds maturing in 2008. The Series 1991 Sports Facilities Refunding Revenue Bonds (the "1991 Bonds"), issued by Summit County, Colorado, have an aggregate outstanding principal amount of \$1.5 million maturing in 2010 and bear interest at 7.375%. The Company made a principal payment of \$1.5 million during the quarter ended October 31, 2002 pursuant to the terms of the 1991 Bonds. The Promissory Note with respect to the Summit County Bonds between Summit County and the Company is pledged and endorsed to The Bank of New York as Trustee under the Indenture of Trust. The Promissory Note is also collateralized in accordance with a Guaranty from Ralston Purina Company (subsequently assumed by The Vail Corporation) to the Trustee for the benefit of the registered owners of the bonds.

(b) The Company's credit facilities include a revolving credit facility ("Credit Facility") that provides for debt financing up to an aggregate principal amount of \$421.0 million. The Company's subsidiary, The Vail Corporation, is the borrower under the Credit Facility. The Vail Corporation's obligations under the Credit Facility are guaranteed by the Company and certain of its subsidiaries and are collateralized by a pledge of all of the capital stock of The Vail Corporation and substantially all of its subsidiaries. The proceeds of the loans made under the Credit Facility may be used to fund the Company's working capital needs, capital expenditures and other general corporate purposes, including the issuance of letters of credit. Borrowings under the Credit Facility, as amended, bear interest annually at the Company's option at the rate of (i) LIBOR (1.69% at October 31, 2002) plus a margin or (ii) the agent's prime lending rate, (4.75% at October 31, 2002) plus a margin. The Company also pays a quarterly unused commitment fee. The interest margins fluctuate based upon the ratio of the Company's total Funded Debt to the Company's Adjusted EBITDA (as defined in the underlying Credit Facility). The Credit Facility matures on November 13, 2004. There was \$163 million outstanding under the Credit Facility as of October 31, 2002. The Company's Credit Facility provides for affirmative and negative covenants that restrict, among other things, the Company's ability to incur indebtedness, dispose of assets, make capital expenditures and make investments. In addition, the agreement includes certain restrictive financial covenants, the most restrictive of which are the funded debt to adjusted EBITDA ratio (as defined), senior debt to adjusted EBITDA ratio, minimum fixed charge coverage ratio, minimum net worth and the interest coverage ratio. The Company was in compliance with all relevant covenants in its debt instruments as of October 31, 2002. The Credit Facility was amended on October 28, 2002, to increase the funded debt to adjusted EBITDA ratio to be measured for the covenant compliance period ending October 31, 2002. The Company expects it will meet all applicable quarterly financial tests in its debt instruments, including the funded debt ratio contained in the Credit Facility, in fiscal 2003. However, there can be no assurance that the Company will meet its financial covenants. If such covenants are not met, the Company would be required to seek a waiver or amendment from the banks participating in the Credit Facility. While the Company anticipates that it would obtain such waiver or amendment, if any were necessary, there can be no assurance that such waiver would be granted, which could have a material adverse impact on the liquidity of the Company.

SSI Venture LLC ("SSV"), a fully consolidated retail/rental joint venture in which the company has a 51.9% ownership interest, has a credit facility ("SSV Facility") that provides debt financing up to an aggregate principal amount of \$25 million. The SSV Facility consists of (i) a \$15 million Tranche A revolving credit facility and (ii) a \$10 million Tranche B term loan facility. The SSV Facility matures on the earlier of December 31, 2003 or the termination date of the Credit Facility discussed above. The Vail Corporation guarantees the SSV Facility. The principal amount outstanding on the Tranche A revolving loan was \$12.2 million as of October 31, 2002. The principal amount outstanding on the Tranche B term loan was \$6.25 million at October 31, 2002. Future minimum amortization under the Tranche B term loan facility is \$0.75 million and \$5.5 million during fiscal years 2003 and 2004, respectively. The SSV Facility bears interest annually at the rates prescribed above for the Credit Facility. SSV also pays a quarterly unused commitment fee at the same rates as the unused commitment fee for the Credit Facility.

(c) The Company has outstanding \$360 million of Senior Subordinated Notes (collectively, the "Notes"), \$200 million of which were issued in May 1999 (the "1999 Notes") and \$160 million of which were issued in November 2001 (the "2001 Notes"). The 1999 Notes and 2001 Notes have substantially similar terms. The 2001 Notes were issued with an original issue discount for federal income tax purposes that yielded gross proceeds to the Company of approximately \$152.6 million. The Notes have a fixed annual interest rate of 8.75%, with interest due semi-annually on May 15 and November 15. The Notes will mature on May 15, 2009 and no principal payments are due to be paid until maturity. The Company has certain early redemption options under the terms of the Notes. Substantially all of the Company's subsidiaries have guaranteed the Notes (see Note 9). The Notes are subordinated to certain of the Company's debts, including the Credit Facility, and will be subordinated to certain of the Company's future debts. The Company's payment obligations under the Notes are jointly and severally guaranteed by all of the Company's consolidated subsidiaries designated as Guarantors, as defined in the terms of the Notes.

(d) In connection with the Company's acquisition of Rancho Mirage in November 2001, the Company entered into a note payable to Olympus Real Estate Partners (the "Olympus Note"). The Olympus Note has a principal amount of \$25 million and matures November 15, 2003. The terms of the Olympus Note do not provide for interest; therefore, the Company has imputed an interest rate of 8% per annum, which has been recorded as a discount on the Olympus Note and is being amortized as interest expense over the life of the Olympus Note.

(e) Other obligations bear interest at rates ranging from 5.45% to 18.3% and have maturities ranging from 2003 to 2029.

(f) Maturities are based on the Company's July 31 fiscal year end.

Aggregate maturities for debt outstanding as of October 31, 2002 are as follows (in thousands):

| Due during the twelve months ending July 31: | |
|--|------------------|
| 2003 | \$ 3,153 |
| 2004 | 41,938 |
| 2005 | 164,507 |
| 2006 | 733 |
| 2007 | 4,208 |
| Thereafter | <u>413,990</u> |
| Total debt | <u>\$628,529</u> |

The Company was in compliance with all of its financial and operating covenants required to be maintained under its debt instruments for all periods presented.

5. Supplementary Balance Sheet Information (in thousands)

The composition of accounts payable and accrued expenses follows:

| | October 31, <u>2002</u> | July 31, <u>2002</u> | October 31, <u>2002</u> (As Restated) (unaudited) |
|---|-------------------------------|-------------------------|---|
| | | \$ | |
| Trade payables | \$ 65,863 | 55,586 | \$ 51,228 |
| Deferred revenue | 34,118 | 15,158 | 32,579 |
| Deposits | 9,436 | 15,720 | 11,130 |
| Accrued salaries and wages | 13,922 | 16,439 | 11,240 |
| Self-insurance reserves (medical and worker's compensation) | 10,627 | 11,169 | 9,304 |
| Accrued interest | 16,274 | 8,159 | 10,790 |
| Property taxes | 8,745 | 6,666 | 5,992 |
| Liability to complete real estate sold, short term | 2,347 | 3,507 | 5,723 |
| Other accruals | <u>3,940</u> | <u>7,826</u> | <u>2,041</u> |
| Total accounts payable and accrued expenses | <u>\$ 165,272</u> | <u>\$ 140,230</u> | <u>\$ 140,027</u> |

6. Related Party Transactions

In 1991, the Company loaned Andrew P. Daly, the Company's former President, \$300,000, \$150,000 of which bears interest at a rate of 9% per annum and the remainder of which is non-interest bearing. The principal sum plus accrued interest is due October 1, 2003, or, if earlier, no later than one year following the termination, for any reason, Mr. Daly's employment with the Company. The proceeds of the loan were used to finance the purchase and improvement of real property and the loan is secured by a deed of trust on such property. Effective October 31, 2002, Mr. Daly ceased to be an employee of the Company, and accordingly, the loan to Mr. Daly is payable in full on October 1, 2003. In 1995, Mr. Daly's spouse received financial terms more favorable than those available to the general public in connection with the purchase of a homesite at Bachelor Gulch Village. Rather than payment of an earnest money deposit with the entire balance due in cash at closing, the contract provided for no earnest money deposit with the entire purchase price (which was below fair market value) to be paid under a promissory note of \$438,750. Mrs. Daly's note was secured by a first deed of trust and amortized over 25 years at a rate of 8% per annum interest. Mrs. Daly repaid the note in full on November 4, 2002.

Effective October 31, 2002, Mr. Daly ceased to be an employee of the Company. The Company recorded \$1.3 million of compensation expense in its first fiscal quarter of 2002 in relation to Mr. Daly's severance agreement.

In connection with the employment of Blaise Carrig as Chief Operating Officer of Heavenly Valley Limited Partnership ("Heavenly LP"), Heavenly LP agreed to invest up to \$600,000, but not to exceed 50% of the purchase price, for the purchase of a residence for Mr. Carrig and his family in the greater Lake Tahoe area. In November 2002, the Company contributed \$449,500 toward the purchase price of the residence and thereby obtained a 50% undivided ownership interest in such residence. Upon the resale of the residence, or within approximately 18 months of the termination of Mr. Carrig's employment with Heavenly LP, whichever is earlier, Heavenly LP is entitled to receive its proportionate share of the resale price of the residence, less certain deductions.

7. Commitments and Contingencies

Smith Creek Metropolitan District ("SCMD") and Bachelor Gulch Metropolitan District ("BGMD") were organized in November 1994 to cooperate in the financing, construction and operation of basic public infrastructure serving the Company's Bachelor Gulch Village development. SCMD was organized primarily to own, operate and maintain water, street, traffic and safety, transportation, fire protection, parks and recreation, television relay and translation, sanitation and certain other facilities and equipment of the BGMD. SCMD is comprised of approximately 150 acres of open space land owned by the Company and members of the Board of Directors of the SCMD. In two planned unit developments, Eagle County has granted zoning approval for 1,395 dwelling units within Bachelor Gulch Village, including various single-family homesites, cluster homes and townhomes, and lodging units. As of October 31, 2002, the Company has sold 108 single-family homesites and 22 parcels to developers for the construction of various types of dwelling units. Currently, SCMD has outstanding \$27.9 million of variable rate revenue bonds maturing on October 1, 2035, which have been enhanced with a \$29.6 million letter of credit issued against the Company's Credit Facility. It is anticipated that as the Bachelor Gulch community expands, BGMD will become self supporting and that within 25 to 30 years will issue general obligation bonds, the proceeds of which will be used to retire the SCMD revenue bonds. Until that time, the Company has agreed to subsidize the interest payments on the SCMD revenue bonds. The Company has estimated the present value of this aggregate subsidy to be \$15.1 million and \$14.8 million at October 31, 2002 and July 31, 2002, respectively, and has recorded the entire amount as a liability in the accompanying financial statements. The total subsidy incurred as of October 31, 2002 and 2001 was \$10.4 million and \$9.1 million, respectively.

Holland Creek Metropolitan District ("HCMD") and Red Sky Ranch Metropolitan District ("RSRMD") were organized in December 2000 to cooperate in the financing, construction and operation of basic public infrastructure serving the Company's Red Sky Ranch development. HCMD was organized primarily to own, operate and maintain water, street, traffic and safety, transportation, fire protection, parks and recreation, television relay and translation, sanitation and certain other facilities and equipment of RSRMD. HCMD is comprised of approximately 150 acres of open space land owned by the Company and members of the Board of Directors of HCMD. In two planned unit developments, Eagle County has granted zoning approval for 87 dwelling units, two golf courses, and related facilities for the property within the districts. Seven of the dwelling units are owned by a third party developer. The Company's current plans call for approximately 53 home sites to be sold over the next two years, and all 80 units to be constructed over the next eleven years. As of October 31, 2002, the Company has sold 34 of the 53 home sites, and has placed an additional 10 homesites under contract. Currently, HCMD has outstanding \$12 million of variable rate revenue bonds maturing on June 1, 2041, which have been enhanced with a \$12.1 million letter of credit issued against the Company's Credit Facility (as defined herein). It is anticipated that, as Red Sky Ranch expands, RSRMD will become self supporting and that within 5 to 15 years it will issue general obligation bonds, the

proceeds of which will be used to retire the HCMD revenue bonds. Until that time, the Company has agreed to subsidize the interest payments on the HCMD revenue bonds. The Company has estimated that the present value of the aggregate subsidy to be \$1.9 million at October 31, 2002 and July 31, 2002 and has recorded that amount as a liability in the accompanying financial statements. The total subsidy incurred as of October 31, 2002 and 2001 was \$400,000 and \$0, respectively.

The Company has ownership interests in four entities (BC Housing LLC, The Tarnes at BC, LLC, Tenderfoot Seasonal Housing, LLC and Breckenridge Terrace, LLC) which were formed to construct, own and operate employee housing facilities in and around Beaver Creek, Keystone and Breckenridge. The Company's ownership interest in each entity ranges from 26% to 50%. The Company accounts for each of these investments under the equity method. Each entity has issued interest-only taxable bonds with weekly low-floater rates tied to LIBOR (the "Housing Bonds") in two series, Tranche A and Tranche B. The Housing Bonds do not have stated maturity dates. The Tranche A Housing Bonds have principal amounts which range from \$5.7 million to \$15 million (\$37.8 million in the aggregate), enhanced with letters of credit issued against the Company's Credit Facility in amounts ranging from \$5.8 million to \$15.2 million (\$38.3 million in aggregate). The Tranche B Housing Bonds range in principal amount from \$1.5 million to \$5.9 million (\$14.8 million in aggregate) and are collateralized by the assets of the entities. The proceeds of the Housing Bonds were used to construct the housing facilities. The housing facilities (except Breckenridge Terrace, LLC) are located on land owned by the Company which is leased to each respective entity. The Company has the right to use a certain percentage of the units in the housing facilities to provide seasonal housing for its employees in return for a rental payment. In aggregate, the Company paid rents of \$1.8 million and \$1.4 million to the four entities for the three months ended October 31, 2002 and 2001, respectively.

At October 31, 2002 the Company had various other letters of credit outstanding in the aggregate amount of \$12.7 million.

The Company is a party to various lawsuits arising in the ordinary course of business. Management believes the Company has adequate insurance coverage and accrued loss contingencies for all matters and that, although the ultimate outcome of such claims cannot be ascertained, current pending and threatened claims are not expected to have a material adverse impact on the financial position, results of operations and cash flows of the Company.

The Company has executed as lessee operating leases for the rental of office space, employee residential units and office equipment through fiscal 2008. For the three months ended October 31, 2002 and 2001, the Company recorded lease expense related to these agreements of \$4.0 million and \$2.3 million, respectively, which is included in the accompanying consolidated statements of operations.

Future minimum lease payments under these leases as of October 31, 2002 are as follows (in thousands):

| Due during fiscal years ending July 31: | |
|--|------------------|
| 2003 | \$ 6,297 |
| 2004 | 6,050 |
| 2005 | 5,133 |
| 2006 | 4,781 |
| 2007 | 3,740 |
| Thereafter | <u>19,389</u> |
| Total | \$ <u>45,390</u> |

8. Restatements

As announced in the Company's Form 10-K/A for the year ended July 31, 2001, the Company changed its method of revenue recognition for private club membership initiation fees from an immediate-recognition basis to a deferred basis. The Company is now deferring membership initiation fee revenue over the estimated life of the club facilities, which the Company has estimated to be 30 years. In addition, as noted in the Company's Form 10-K for the year ended July 31, 2002, the Company recorded a goodwill impairment loss of \$1.7 million, net of taxes, in connection with the adoption of SFAS No. 142, "Goodwill and Other Intangible Assets". The impairment was recorded as a cumulative effect of a change in accounting principle in the three months ended October 31, 2001.

For a comparison of the originally reported quarterly statement of operations data for the three months ended October 31, 2001 and the restated quarterly statement of operations data for the same period, refer to the Company's Form 10-K for the year ended July 31, 2002. The restatement created no adjustments to the Consolidated Condensed Statement of Cash Flows for the three months ended October 31, 2001 included in this Form 10-Q. The following table presents a comparison of the quarterly statement of financial position data as reported in the October 31, 2001 Form 10-Q to the Company's current presentation:

| Balance Sheet: | As of October 31, 2001 | | |
|---------------------------------------|------------------------|-----------------|---------------|
| | Previously | As | Percent |
| | <u>Reported</u> | <u>Restated</u> | <u>Change</u> |
| Property, plant, and equipment, net | \$ 680,935 | \$ 691,778 | 1.6% |
| Intangible assets, net | 193,627 | 190,873 | (1.4)% |
| Total assets | 1,194,367 | 1,198,766 | 0.4% |
| Accounts payable and accrued expenses | 146,828 | 140,027 | (4.6)% |
| Total current liabilities | 149,971 | 143,170 | (4.5)% |
| Other long term liabilities | 28,608 | 75,214 | 162.9% |
| Deferred income taxes | 87,847 | 76,426 | (13.0)% |
| Additional paid-in capital | 411,418 | 414,044 | 0.6% |
| Deferred compensation | - | (2,363) | (100.0)% |
| Retained earnings | 83,125 | 58,877 | (29.2)% |
| Total stockholders' equity | 494,894 | 470,909 | (4.8)% |

Total liabilities and stockholders' equity \$ 1,194,367 \$ 1,198,766 0.4%

9. Guarantor Subsidiaries and Non-Guarantor Subsidiaries

The Company's payment obligations under the 8.75% Senior Subordinated Notes due 2009 (see Note 4), are fully and unconditionally guaranteed on a joint and several, senior subordinated basis by substantially all of the Company's consolidated subsidiaries (collectively, and excluding Non-Guarantor Subsidiaries (as defined below), the "Guarantor Subsidiaries") except for Boulder/Beaver LLC, Colter Bay Corporation, Eagle Park Reservoir Company, Forest Ridge Holdings, Inc., Gros Ventre Utility Company, Jackson Lake Lodge Corporation, Jenny Lake Lodge, Inc., Mountain Thunder, Inc., Resort Technology Partners, LLC, RT Partners, Inc., SSV, Vail Associates Investments, Inc., and VR Holdings, Inc. (together, the "Non-Guarantor Subsidiaries").

Presented below is the consolidated condensed financial information of Vail Resorts, Inc. (the "Parent Company"), the Guarantor Subsidiaries and the Non-Guarantor Subsidiaries. Financial information for Larkspur Restaurant & Bar, LLC ("Larkspur"), RockResorts and JHL&S, LLC ("JHL&S") are presented separately as the Company owns less than 100% of these Guarantor Subsidiaries. Financial information for the Non-Guarantor subsidiaries is presented in the column titled "Other Subsidiaries". Balance sheet data is presented as of October 31, 2002 and July 31, 2002. Statement of operations and statement of cash flows data are presented for the three months ended October 31, 2002 and 2001.

Investments in subsidiaries are accounted for by the Parent Company and Guarantor Subsidiaries using the equity method of accounting. Net income (loss) of Guarantor and Non-Guarantor Subsidiaries is, therefore, reflected in the Parent Company's and Guarantor Subsidiaries' investments in and advances to (from) subsidiaries. Net income (loss) of the Guarantor and Non-Guarantor Subsidiaries is reflected in Guarantor Subsidiaries and Parent Company as equity in consolidated subsidiaries. The elimination entries eliminate investments in Other Subsidiaries and intercompany balances and transactions for consolidated reporting purposes.

Supplemental Condensed Consolidating Balance Sheet As of October 31, 2002 (in thousands of dollars)

| | <u>Parent Company</u> | <u>100% Owned Guarantor Subsidiaries</u> | <u>JHL&S</u> | <u>RockResorts</u> | <u>Larkspur</u> | <u>Other Subsidiaries</u> | <u>Eliminating Entries</u> | <u>Consolidated</u> |
|---|---------------------------|--|------------------|--------------------|-----------------|-------------------------------|--------------------------------|---------------------|
| Current assets: | | | | | | | | |
| Cash and cash equivalents | - | 23,242 | 1 | - | 51 | 1,871 | - | 25,165 |
| Receivables, net | - | 29,359 | 1,713 | 1,989 | 49 | 1,814 | - | 34,924 |
| Inventories, net | - | 10,916 | 55 | - | 134 | 29,984 | - | 41,089 |
| Other current assets | <u>1,138</u> | <u>21,741</u> | <u>103</u> | <u>-</u> | <u>3</u> | <u>1,515</u> | <u>-</u> | <u>24,500</u> |
| Total current assets | 1,138 | 85,258 | 1,872 | 1,989 | 237 | 35,184 | - | 125,678 |
| Property, plant and equipment, net | - | 872,597 | 30,404 | - | 813 | 15,906 | - | 919,720 |
| Real estate held for sale | - | 141,633 | - | 900 | - | 10,227 | - | 152,760 |
| Deferred charges and other assets | 9,101 | 30,644 | - | 48 | - | 613 | - | 40,406 |
| Intangible assets, net | (10,188) | 194,673 | 2,077 | 10,374 | - | 19,648 | - | 216,584 |
| Investments in subsidiaries and advances to (from) parent | <u>855,741</u> | <u>(77,789)</u> | <u>(17,347)</u> | <u>-</u> | <u>(316)</u> | <u>(10,080)</u> | <u>(750,209)</u> | <u>-</u> |
| Total assets | <u>855,792</u> | <u>1,247,016</u> | <u>17,006</u> | <u>13,311</u> | <u>734</u> | <u>71,498</u> | <u>(750,209)</u> | <u>1,455,148</u> |
| Current liabilities: | | | | | | | | |
| Accounts payable and accrued expenses | 15,619 | 121,753 | 992 | 2,418 | 83 | 24,407 | - | 165,272 |
| Income taxes payable | 3,231 | (0) | - | - | - | - | - | 3,231 |
| Long-term debt due within one year | - | <u>1,485</u> | <u>1,000</u> | - | - | <u>1,000</u> | - | <u>3,485</u> |
| Total current liabilities | 18,850 | 123,238 | 1,992 | 2,418 | 83 | 25,407 | - | 171,988 |
| Long-term debt | 353,289 | 254,305 | - | - | - | 17,450 | - | 625,044 |
| Other long-term liabilities | 816 | 95,516 | - | - | - | - | - | 96,332 |
| Deferred income taxes | - | 53,977 | - | - | - | 1,643 | - | 55,620 |
| Minority interest in net assets of consolidated JV | - | 8,946 | 7,357 | 3,231 | 100 | 3,692 | - | 23,326 |
| Total stockholders' equity | <u>482,838</u> | <u>711,033</u> | <u>7,657</u> | <u>7,662</u> | <u>551</u> | <u>23,306</u> | <u>(750,209)</u> | <u>482,838</u> |
| Total liabilities and stockholders' equity | <u>855,793</u> | <u>1,247,015</u> | <u>17,006</u> | <u>13,311</u> | <u>734</u> | <u>71,498</u> | <u>(750,209)</u> | <u>1,455,148</u> |

Supplemental Condensed Consolidating Balance Sheet As of July 31, 2002 (in thousands of dollars)

| | <u>Parent Company</u> | <u>100% Owned Guarantor Subsidiaries</u> | <u>JHL&S</u> | <u>Rock Resorts</u> | <u>Larkspur</u> | <u>Other Subsidiaries</u> | <u>Eliminating Entries</u> | <u>Consolidated</u> |
|---------------------------|---------------------------|--|------------------|-------------------------|-----------------|-------------------------------|--------------------------------|---------------------|
| Current assets: | | | | | | | | |
| Cash and cash equivalents | - | 23,111 | 124 | - | 51 | 2,679 | - | 25,965 |

| | | | | | | | | |
|--|----------------|------------------|-----------------|---------------|--------------|-----------------|------------------|------------------|
| Receivables | 1,138 | 36,889 | 881 | 602 | 117 | 2,643 | - | 40,692 |
| Inventories, net | - | 11,194 | 89 | - | 129 | 20,914 | - | 32,326 |
| Other current assets | = | <u>7,657</u> | <u>137</u> | = | <u>7</u> | <u>1,054</u> | = | <u>8,855</u> |
| Total current assets | 1,138 | 78,851 | 1,231 | 602 | 304 | 27,290 | - | 109,416 |
| Property, plant and equipment, net | - | 867,117 | 30,203 | - | 852 | 15,634 | - | 913,806 |
| Real estate held for sale | - | 150,651 | - | 900 | - | 10,227 | - | 161,778 |
| Deferred charges and other assets | 9,450 | 35,119 | - | 34 | - | 521 | - | 45,124 |
| Intangible assets, net | - | 184,852 | 2,077 | 10,617 | - | 20,040 | - | 217,586 |
| Investments in subsidiaries and advances to (from) parent | <u>865,717</u> | <u>(217,450)</u> | <u>(15,705)</u> | = | = | <u>(10,313)</u> | <u>(622,248)</u> | = |
| Total assets | <u>876,305</u> | <u>1,099,140</u> | <u>17,806</u> | <u>12,153</u> | <u>1,156</u> | <u>63,399</u> | <u>(622,248)</u> | <u>1,447,710</u> |
| Current liabilities: | | | | | | | | |
| Accounts payable and accrued expenses | 7,728 | 112,265 | 1,535 | 1,852 | 178 | 16,672 | - | 140,230 |
| Income taxes payable | 7,934 | - | - | - | - | - | - | 7,934 |
| Long-term debt due within one year | = | <u>2,854</u> | <u>900</u> | = | = | <u>1,000</u> | = | <u>4,754</u> |
| Total current liabilities | 15,662 | 115,119 | 2,435 | 1,852 | 178 | 17,672 | - | 152,918 |
| Long-term debt | 353,108 | 231,898 | - | - | 126 | 12,900 | - | 598,032 |
| Other long-term liabilities | 267 | 90,317 | - | - | - | - | - | 90,584 |
| Deferred income taxes | - | 71,791 | - | - | - | 1,643 | - | 73,434 |
| Minority interest in net assets of consolidated subsidiaries | - | 1,454 | 7,531 | 3,231 | 100 | 13,158 | - | 25,474 |
| Total stockholders' equity | <u>507,268</u> | <u>588,561</u> | <u>7,839</u> | <u>7,070</u> | <u>752</u> | <u>18,026</u> | <u>(622,248)</u> | <u>507,268</u> |
| Total liabilities and stockholders' equity | <u>876,305</u> | <u>1,099,140</u> | <u>17,806</u> | <u>12,153</u> | <u>1,156</u> | <u>63,399</u> | <u>(622,248)</u> | <u>1,447,710</u> |

Supplemental Condensed Consolidating Statement of Operations
For the three months ended October 31, 2002
(in thousands of dollars)

| | <u>Parent</u> <u>Company</u> | <u>Guarantor</u> <u>Subsidiaries</u> | <u>JHL&S</u> | <u>RockResorts</u> | <u>Larkspur</u> | <u>Other</u> <u>Subsidiaries</u> | <u>Eliminating</u> <u>Entries</u> | <u>Consolidated</u> |
|--|---------------------------------|---|------------------|--------------------|-----------------|-------------------------------------|--------------------------------------|---------------------|
| Total revenues | - | 91,394 | 2,221 | 1,847 | 345 | 17,769 | 277 | 113,853 |
| Total operating expenses | <u>3,520</u> | <u>120,209</u> | <u>2,289</u> | <u>1,255</u> | <u>542</u> | <u>21,634</u> | <u>277</u> | <u>149,726</u> |
| Income from operations | (3,520) | (28,815) | (68) | 592 | (197) | (3,865) | - | (35,873) |
| Other income (expense) | (8,358) | (2,869) | (291) | - | (4) | (169) | - | (11,691) |
| Equity investment income | - | 2,820 | - | - | - | - | - | 2,820 |
| Minority interest in net income of consolidated joint venture | = | = | <u>175</u> | = | = | <u>1,849</u> | = | <u>2,024</u> |
| Income (loss) before income taxes | (11,878) | (28,864) | (184) | 592 | (201) | (2,185) | - | (42,720) |
| Benefit (provision) for income taxes | <u>4,977</u> | <u>12,923</u> | = | = | = | = | = | <u>17,900</u> |
| Net income (loss) before equity in income of consolidated subsidiaries | (6,901) | (15,941) | (184) | 592 | (201) | (2,185) | - | (24,820) |
| Cumulative effect of change in accounting principle | - | - | - | - | - | - | - | - |
| Equity in income of consolidated subsidiaries | <u>(17,919)</u> | <u>(1,977)</u> | = | = | = | = | <u>19,896</u> | = |
| Net income (loss) | <u>(24,820)</u> | <u>(17,918)</u> | <u>(184)</u> | <u>592</u> | <u>(201)</u> | <u>(2,185)</u> | <u>19,896</u> | <u>(24,820)</u> |

Supplemental Condensed Consolidating Statement of Operations
For the three months ended October 31, 2001
As Restated
(in thousands of dollars)

| | <u>Parent Company</u> | <u>Guarantor Subsidiaries</u> | <u>JHL&S</u> | <u>RockResorts</u> | <u>Larkspur</u> | <u>Other Subsidiaries</u> | <u>Eliminating Entries</u> | <u>Consolidated</u> |
|--|---------------------------|-----------------------------------|------------------|--------------------|-----------------|-------------------------------|--------------------------------|---------------------|
| Total revenues | - | 55,464 | 646 | N/A | 344 | 16,707 | (143) | 73,018 |
| Total operating expenses | <u>539</u> | <u>85,041</u> | <u>1,570</u> | <u>N/A</u> | <u>583</u> | <u>20,406</u> | <u>(143)</u> | <u>107,996</u> |
| Income from operations | (539) | (29,577) | (924) | N/A | (239) | (3,699) | - | (34,978) |
| Other income (expense) | (4,558) | (2,319) | (55) | N/A | (1) | (196) | - | (7,129) |
| Equity investment income | - | 1,306 | - | N/A | - | - | - | 1,306 |
| Minority interest in net income of consolidated joint venture | = | <u>(1)</u> | <u>480</u> | <u>N/A</u> | = | <u>1,861</u> | = | <u>2,340</u> |
| Income (loss) before income taxes | (5,097) | (30,591) | (499) | N/A | (240) | (2,034) | - | (38,461) |
| Benefit (provision) for income taxes | <u>1,860</u> | <u>12,178</u> | = | <u>N/A</u> | = | = | = | <u>14,038</u> |
| Net income (loss) before equity in income of consolidated subsidiaries | (3,237) | (18,413) | (499) | N/A | (240) | (2,034) | - | (24,423) |
| Cumulative effect of change in accounting principle | - | (1,708) | - | N/A | - | - | - | (1,708) |
| Equity in income of consolidated subsidiaries | <u>(22,894)</u> | <u>(2,773)</u> | = | <u>N/A</u> | = | = | <u>25,667</u> | = |
| Net income (loss) | <u>(26,131)</u> | <u>(22,894)</u> | <u>(499)</u> | <u>N/A</u> | <u>(240)</u> | <u>(2,034)</u> | <u>25,667</u> | <u>(26,131)</u> |

Supplemental Condensed Consolidating Statement of Cash Flows
For the three months ended October 31, 2002
(in thousands of dollars)

| | <u>Parent Company</u> | <u>100% Owned Guarantor Subsidiaries</u> | <u>JHL&S</u> | <u>RockResorts</u> | <u>Larkspur</u> | <u>Other Subsidiaries</u> | <u>Eliminating Entries</u> | <u>Consolidated</u> |
|---|---------------------------|--|------------------|--------------------|-----------------|-------------------------------|--------------------------------|---------------------|
| Cash flows from operating activities | (34,956) | 53,788 | (1,103) | - | (201) | (3,656) | - | 13,872 |
| Cash flows from investing activities: | | | | | | | | |
| Resort capital expenditures | - | (21,283) | (662) | - | - | (1,590) | - | (23,535) |
| Investments in real estate | - | (14,935) | - | - | - | - | - | (14,935) |
| Other investing activities | <u>49,640</u> | <u>(50,730)</u> | = | = | = | = | = | <u>(1,090)</u> |
| Net cash provided by (used in) investing activities | 49,640 | (86,948) | (662) | - | - | (1,590) | - | (39,560) |
| Cash flows from financing activities: | | | | | | | | |
| Other financing activities | (14,684) | 12,775 | 1,642 | - | 200 | (115) | - | (182) |
| Proceeds from borrowings under long-term debt | - | 67,350 | - | - | - | 4,550 | - | 71,900 |
| Payments on long-term debt | = | <u>(46,830)</u> | = | = | = | = | = | <u>(46,830)</u> |
| Net cash provided by financing activities | (14,684) | 33,295 | 1,642 | - | 200 | 4,435 | - | 24,888 |
| Net increase in cash and cash equivalents | - | 135 | (123) | - | (1) | (811) | - | (800) |
| Cash and cash equivalents: | | | | | | | | |
| Beginning of period | = | <u>23,108</u> | <u>124</u> | = | <u>52</u> | <u>2,681</u> | = | <u>25,965</u> |
| End of period | = | <u>23,242</u> | <u>1</u> | = | <u>51</u> | <u>1,870</u> | = | <u>25,165</u> |

Supplemental Condensed Consolidating Statement of Cash Flows
For the three months ended October 31, 2001
(in thousands of dollars)

| | <u>Parent</u> | <u>100% Owned</u> <u>Guarantor</u> | <u>JHL&S</u> | <u>RockResorts</u> | <u>Larkspur</u> | <u>Other</u> <u>Subsidiaries</u> | <u>Eliminating</u> <u>Entries</u> | <u>Consolidated</u> |
|---|---------------|---------------------------------------|------------------|--------------------|-----------------|-------------------------------------|--------------------------------------|---------------------|
| Cash flows from operating activities | (20,738) | 22,194 | (189) | N/A | (236) | (3,289) | - | (2,258) |
| Cash flows from investing activities: | | | | | | | | |
| Resort capital expenditures | - | (18,598) | (1,453) | N/A | (1) | (1,121) | - | (21,173) |
| Investments in real estate | - | (13,785) | - | N/A | - | - | - | (13,785) |
| Other investing activities | - | <u>363</u> | - | <u>N/A</u> | - | - | - | <u>363</u> |
| Net cash provided by (used in) investing activities | - | (32,020) | (1,453) | N/A | (1) | (1,121) | - | (34,595) |
| Cash flows from financing activities: | | | | | | | | |
| Other financing activities | 20,738 | (22,400) | 1,376 | N/A | 262 | 141 | - | 117 |
| Proceeds from borrowings under long-term debt | - | 75,550 | - | N/A | - | 4,550 | - | 80,100 |
| Payments on long-term debt | - | <u>(50,314)</u> | - | <u>N/A</u> | - | - | - | <u>(50,314)</u> |
| Net cash provided by financing activities | 20,738 | 2,836 | 1,376 | N/A | 262 | 4,691 | - | 29,903 |
| Net increase in cash and cash equivalents | - | (6,990) | (266) | N/A | 25 | 281 | - | (6,950) |
| Cash and cash equivalents: | | | | | | | | |
| Beginning of period | - | <u>24,386</u> | <u>568</u> | <u>N/A</u> | <u>48</u> | <u>2,992</u> | - | <u>27,994</u> |
| End of period | - | <u>17,396</u> | <u>302</u> | <u>N/A</u> | <u>73</u> | <u>3,273</u> | - | <u>21,044</u> |

10. Investments in Affiliates

The Company held the following investments in equity-method affiliates as of October 31, 2002:

| Equity Method Investees | Ownership Interest |
|---|---------------------------|
| Keystone JV | 50% |
| Slifer, Smith, and Frampton/Vail Associates Real Estate, LLC ("SSF/VARE") | 50% |
| Bachelor Gulch Resort, LLC | 49% |
| FFT Investment Partners | 45% |
| Eclipse Television & Sports Marketing, LLC | 25% |
| Eagle Park Reservoir Company | 46% |
| Tenderfoot Seasonal Housing, LLC | 50% |
| The Tames at BC, LLC | 31% |
| BC Housing, LLC | 26% |
| Breckenridge Terrace, LLC | 50% |
| Avon Partners II, LLC | 50% |

Condensed financial data for investments in significant equity method subsidiaries are summarized below (in thousands). The Keystone JV is presented for the three months ended September 30, 2002 and 2001.

| | <u>Keystone JV</u> (unaudited) |
|--|-----------------------------------|
| <i>Financial data for three months ended September 30, 2002:</i> | |
| Net revenue | \$ 1,558,286 |
| Operating income | (68,493) |
| Net income | (180,933) |
| <i>Financial data for three months ended September 30, 2001:</i> | |
| Net revenue | \$ 14,261,605 |
| Operating income | 2,457,490 |
| Net income | 2,381,933 |

Lodging:

| | | | | |
|--------------------------------|----------------|-----------|----------------|----------|
| Lodging operating revenue | \$ 40,058 | \$ 28,607 | \$ 11,451 | 40.0% |
| Lodging equity investment loss | <u>(1,311)</u> | <u>—</u> | <u>(1,311)</u> | (100.0)% |
| Total lodging revenue | 38,747 | 28,607 | 10,140 | 35.4% |
| Lodging operating expense | 38,747 | 29,079 | 9,668 | 33.2% |

Mountain revenue. The following discussion of mountain revenue includes both operating revenue and equity investment income. Mountain revenue for the three months ended October 31, 2002 and 2001 is presented by category as follows:

| | Three Months Ended | | Percentage | |
|------------------------|--------------------|------------------|-----------------|--------------|
| | October 31, | | Increase | Increase |
| | 2002 | 2001 | (Decrease) | (Decrease) |
| | | | | |
| | | (As Restated) | | |
| | | (unaudited) | | |
| Lift tickets | \$ (113) | \$ 207 | \$ (320) | (154.6)% |
| Ski school | 71 | 55 | 16 | 29.1% |
| Dining | 4,630 | 4,574 | 56 | 1.2% |
| Retail/rental | 16,330 | 14,641 | 1,689 | 11.5% |
| Other | <u>14,584</u> | <u>10,390</u> | <u>4,194</u> | <u>40.4%</u> |
| Total mountain revenue | <u>\$ 35,502</u> | <u>\$ 29,867</u> | <u>\$ 5,635</u> | <u>18.9%</u> |

Mountain revenue for the three months ended October 31, 2002 increased \$5.6 million, or 18.9%, as compared to the three months ended October 31, 2001. This increase in mountain revenue is due primarily to a 40.4% increase in other revenue and an 11.5% increase in retail/rental revenue compared to the three months ended October 31, 2001. The \$4.2 million increase in other revenue is due primarily to the inclusion of summer operations from Heavenly (\$1.3 million), which was acquired in May 2002. In addition, other revenue was positively affected by increases in private club operations (primarily with respect to the opening of Red Sky Golf Club), technology operations and brokerage operations (driven primarily by the real estate closings during the quarter). The increase in retail/rental revenue is due to the increased retail sales generated by SSV, the company's retail/rental joint venture, as a result of acquisitions in fiscal 2002. None of the Company's ski resorts were open in the first quarter of fiscal 2003; operations opened in November. Keystone resort was open for the final days of the first quarter in fiscal 2002. Mountain equity investment income includes the Company's proportionate share of income/loss from its investments in a real estate brokerage and employee housing facilities. Income for the three months ended October 31, 2002 and 2001 was \$1.1 million and \$0.5 million, respectively. The Company's proportionate share of depreciation expense included in equity investment income was approximately \$371,000 and \$285,000 for the three months ended October 31, 2002 and 2001 respectively.

Mountain operating expense. Mountain operating expense for the three months ending October 31, 2002 was \$65.5 million, an increase of \$11.4 million, or 21.2%, compared to the three months ending October 31, 2001. The increase in mountain operating expense is commensurate with the increase in mountain revenue for the same period and given the inclusion of Heavenly operating expense (\$7.0 million) in this off-season period. In addition, mountain operating expense includes a \$1.3 million pre-tax severance charge related to the termination of the Company's President.

Lodging revenue. The following discussion of lodging revenue covers revenue from operations as well as equity investment losses. Lodging revenue for the three months ending October 31, 2002 was \$38.7 million, an increase of \$10.1 million, or 35.4%, compared to the three months ending October 31, 2001. This increase is primarily due to a post-September 11 rebound in the conference business (including the associated golf and food and beverage businesses), an increase in available rooms inventory at SRL&S, an increase in property management operations and the acquisitions of the Lodge at Rancho Mirage and RockResorts in November 2001 and the Vail Marriott in December 2001, which had revenues of \$4.0 million, \$1.8 million, and \$1.5 million respectively, during the quarter. The Company's ADR for the three months ended October 31, 2002 for its owned hotels and condominium management operations was \$143.73, an increase of \$6.92 as compared to the three months ended October 31, 2001. The increase in ADR is attributable to the acquisitions of the Lodge at Rancho Mirage and the Vail Marriott, as well as pricing increases at GTLC and the Lodge at Vail. Lodging equity income includes the Company's proportionate share of income/loss from hotel operations of the Ritz-Carlton, Bachelor Gulch through the Company's investment in BG Resort, LLC. The hotel opened in November 2002. The equity loss for the quarter represents pre-opening costs for the hotel operation; the equity loss does not include any depreciation expense as the assets had not yet been placed in service as of October 31, 2002.

Lodging operating expense. Lodging operating expense for the three months ending October 31, 2002 was \$38.7 million, an increase of \$9.7 million, or 33.2%, compared to the three months ending October 31, 2001. The increase in lodging expense is commensurate with the increase in lodging revenue, given that a portion of the revenue increase was driven by pricing, not volume, and the cost savings measures implemented by the Company. In addition, the growth in revenue for SRL&S far exceeded the growth in expense for the hotel, given that the hotel was closed to guests for a portion of 2002's first fiscal quarter, thus had little revenue generated during that period.

Real estate revenue. The following discussion of real estate revenue includes both revenue from operations and real estate equity income. Real estate equity income includes both the Company's equity investment in the Keystone JV and the portion of the Company's equity investment in BG Resort, LLC related to the development and sale of condominiums at the Ritz-Carlton, Bachelor Gulch. Revenue from real estate operations for the three months ending October 31, 2002 was \$42.4 million, an increase of \$26.6 million, or 167.7%, compared to the three months ending October 31, 2001. This increase is primarily due to closings on Red Sky Ranch lots and Mountain Thunder condominium sales as well as equity income related to condominium closings at the Ritz-Carlton, Bachelor Gulch, offset slightly by a decline in equity income from the Keystone JV due to a decline in inventory and slower sales as a result of the soft economy.

Real estate operating expense. Real estate operating expense for the three months ending October 31, 2002 was \$27.5 million, an increase of

\$18.0 million, or 188.6%, compared to the three months ending October 31, 2001. Real estate operating expense consists primarily of the cost of sales and related real estate commissions associated with sales of real estate. Real estate operating expense also includes the selling, general and administrative expenses associated with the Company's real estate operations. The increase in real estate operating expense for the three months ending October 31, 2002 as compared to the three months ending October 31, 2001 is commensurate with the increase in real estate sales noted above.

Depreciation and amortization. Depreciation and amortization expense was \$18.0 million, an increase of \$2.6 million, or 17.1%, for the three months ending October 31, 2002 as compared to the three months ending October 31, 2001. The increase was primarily attributable to an increased fixed asset base due to the acquisitions of Heavenly, Rancho Mirage, RockResorts and the Vail Marriott, which accounted for \$2.5 million of the increase.

Interest expense. During the three months ending October 31, 2002 and 2001 the Company recorded interest expense of \$12.0 million and \$7.9 million, respectively, relating primarily to the Credit Facility, the Industrial Development Bonds and the Notes. The increase in interest expense for the three months ending October 31, 2002 compared to the three months ending October 31, 2001 is attributable to interest on the \$160 million 2001 Notes issued in November 2001.

Liquidity and Capital Resources

The Company has historically provided for operating expenditures, debt service, capital expenditures and acquisitions through a combination of cash flow from operations, short-term and long-term borrowings and sales of real estate.

Cash flows from the Company's operating activities were \$13.9 million for the three months ending October 31, 2002. Operating cash flows were comprised primarily of depreciation and amortization expense, non-cash costs related to real estate sales and deferred club revenues, offset by a \$24.8 million net loss for the quarter.

The Company's cash flows used for investing activities have historically consisted of payments for acquisitions, capital expenditures and investments in real estate. During the three months ended October 31, 2002 capital expenditures were \$23.5 million and investments in real estate were \$14.9 million. The primary projects included in capital expenditures were (i) renovations and remodeling of the Vail Marriott, (ii) lift replacements at Breckenridge, (iii) expansion of the grooming fleet and (iv) continued development of Peak 7 in Breckenridge. The primary projects included in investments in real estate were (i) continued development of the Red Sky Ranch golf community, (ii) construction of the Mountain Thunder Lodge condominium project at Breckenridge, (iii) development of the Vail Lionshead project and (iv) planning and development of projects in and around each of the Company's resorts.

The Company estimates that it will make capital expenditures related to its mountain and lodging segments of approximately \$35 million to \$45 million during the remainder of fiscal 2003. The primary projects are anticipated to include (i) snowmaking, on-mountain dining, and lift improvements at Heavenly, (ii) continued planning and development of Peak 7 in Breckenridge which includes slopes and trails, power and telecommunications, construction of a patrol hut and the purchase of snowmaking equipment, (iii) expansion and enhancement of grooming and snowmaking equipment at the Company's Colorado ski resorts, (iv) renovation of the public spaces, guestrooms and lobby of the Lodge at Rancho Mirage and (v) completion of the renovation of the lobby and guestrooms of the Vail Marriott. Investments in real estate during the remainder of fiscal 2003 are expected to total approximately \$35 million to \$45 million. The primary projects are anticipated to include (i) planning and development of projects at Vail, Bachelor Gulch, Arrowhead, Avon, Breckenridge, Keystone and the Jackson Hole Valley, (ii) continued development of Red Sky Ranch, (iii) development of Mountain Thunder Lodge at Breckenridge and (iv) investments in developable land at strategic locations at the four Colorado ski resorts. The Company plans to fund these capital expenditures and investments in real estate with cash flow from operations and borrowings under the Credit Facility.

During the three months ended October 31, 2002, the Company generated \$24.9 million in cash from its financing activities consisting primarily of \$25.1 million net long-term debt borrowings. During the three months ended October 31, 2002, 26,391 employee stock options were exercised at an exercise price of \$6.85. Additionally, 1,845 shares of restricted stock were issued to management.

For the three months ended October 31, 2001, cash flows used in operating activities were \$2.3 million. Capital expenditures for the three months ended October 31, 2001 were \$21.2 million and investments in real estate for that period were \$13.8 million. During the three months ended October 31, 2001, the Company generated \$29.9 million in cash from its financing activities, consisting primarily of \$29.8 million in net long-term debt borrowings.

Based on current anticipated levels of operations and cash availability, management believes the Company is in a position to satisfy its current working capital, debt service, and capital expenditure requirements for at least the next twelve months.

The Company was in compliance with all relevant covenants in its debt instruments as of October 31, 2002. The Credit Facility was amended on October 28, 2002, to increase the funded debt to adjusted EBITDA ratio to be measured for the covenant compliance period ending October 31, 2002. The Company expects it will meet all applicable quarterly financial tests in its debt instruments, including the funded debt ratio contained in the Credit Facility, in fiscal 2003. However, there can be no assurance that the Company will meet its financial covenants. If such covenants are not met, the Company would be required to seek a waiver or amendment from the banks participating in the Credit Facility. While the Company anticipates that it would obtain such waiver or amendment, if any were necessary, there can be no assurance that such waiver would be granted, which could have a material adverse impact on the liquidity of the Company.

As part of its ongoing operations, the Company enters into arrangements that obligate the Company to make future payments under contracts such as lease agreements and debt agreements. Debt obligations, which total \$628.5 million, are currently recognized as liabilities in the Company's Consolidated Condensed Balance Sheet. Operating lease obligations, which total \$45.4 million, are not recognized as liabilities in the Company's Consolidated Condensed Balance Sheet, which is in accordance with generally accepted accounting principles. A summary of the Company's contractual obligations as of October 31, 2002 is as follows:

| | | Payments Due by Period (in thousands) | | | |
|-------------------------|------------|---------------------------------------|------------|----------|------------|
| | | Less than | 2-3 | 4 - 5 | After 5 |
| Contractual Obligations | Total | 1 year | years | years | Years |
| Long-Term Debt | \$ 628,529 | \$ 3,153 | \$ 206,445 | \$ 4,941 | \$ 413,990 |

| | | | | | |
|---|-------------------|-----------------|-------------------|------------------|-------------------|
| Operating Leases | 45,390 | 6,297 | 11,183 | 8,521 | 19,389 |
| Other Long-Term Obligations ⁽¹⁾ | <u>17,000</u> | <u>--</u> | <u>--</u> | <u>--</u> | <u>--</u> |
| Total Contractual Cash Obligations | <u>\$ 690,919</u> | <u>\$ 9,450</u> | <u>\$ 217,628</u> | <u>\$ 13,462</u> | <u>\$ 433,379</u> |

(1) Other long-term obligations include amounts which become due based on deficits in underlying cash flows of the various metro districts as described in Note 7, Commitments and Contingencies, of the Consolidated Condensed Financial Statements. This amount has been recorded as a liability of the Company; however, the specific time period of performance is currently unknown.

In addition to the above contractual obligations, as part of its ongoing operations, the Company enters into certain arrangements that obligate the Company to make future payment only upon the occurrence of a future event that will result in the Company making a cash payment (e.g. guarantee debt of a third party should the third party be unable to perform). The following commercial obligations are not recognized as liabilities in the Company's Consolidated Condensed Balance Sheet, which is in accordance with generally accepted accounting principles. A summary of the Company's other commercial commitments, including commitments associated with equity method investments as of October 31, 2002, is as follows:

Amount of Commitment Expiration Per Period

| | (in thousands) | | | | |
|-------------------------------------|-------------------------|------------------|------------------|--------------|---------------|
| | Total Amounts Committed | Less than 1 year | 2-3 years | 4 - 5 years | After 5 Years |
| Other Commercial Commitments | | | | | |
| Letters of Credit | \$ 92,776 | \$ 7,573 | \$ 85,158 | \$ 45 | \$ -- |
| Guarantees ⁽²⁾ | <u>14,800</u> | <u>--</u> | <u>--</u> | <u>--</u> | <u>--</u> |
| Total Commercial Commitments | <u>\$ 107,576</u> | <u>\$ 7,573</u> | <u>\$ 85,158</u> | <u>\$ 45</u> | <u>\$ --</u> |

(2) This amount represents guarantees by a third party related to the Tranche B Housing Bonds as discussed in Note 7, Commitments and Contingencies, of the Consolidated Condensed Financial Statements, which, should the third party default, the Company would be required to perform under these guarantees; however, the specific time period of performance is currently unknown.

Based on current levels of operations and cash availability, management believes the Company is in a position to satisfy its current working capital, debt service, and capital expenditure requirements for at least the next twelve months.

Critical Accounting Policies

The preparation of the Consolidated Condensed Financial Statements in conformity with generally accepted accounting principles requires the Company to select appropriate accounting policies, and to make judgments and estimates affecting the application of those accounting policies. In applying the Company's accounting policies, different business conditions or the use of different assumptions may result in materially different amounts reported in the Consolidated Condensed Financial Statements.

In response to the Securities and Exchange Commission's ("SEC") Release No. 33-8040, "Cautionary Advice Regarding Disclosure About Critical Accounting Policies", the Company has identified the most critical accounting policies upon which the Company's financial status depends. The critical principles were determined by considering accounting policies that involve the most complex or subjective decisions or assessments. The most critical accounting policies identified relate to (i) revenue recognition, (ii) reserve estimates, (iii) intangible assets, (iv) income taxes and (v) real estate held for sale.

Revenue Recognition. Mountain and lodging revenues are derived from a wide variety of sources, including sales of lift tickets, ski/snowboard school tuition, dining, retail stores, equipment rental, hotel operations, property management services, travel reservation services, private club dues and fees, real estate brokerage, conventions, golf course greens fees, licensing and sponsoring activities and other recreational activities, and are recognized as products are delivered or services are performed. Revenues from real estate sales are not recognized until title has been transferred, and revenue is deferred if the related receivable is subject to subordination until such time that all costs have been recovered. Until the initial down payment and subsequent collection of principal and interest are by contract substantial, cash received from the buyer is reported as a deposit on the contract. Revenues from club initiation fees are initially deferred and recognized over the expected life of the club facilities.

Deferred Revenue. In addition to deferring certain revenues related to the Real Estate segment, the Company records deferred revenue related to the sale of season ski passes, certain daily lift ticket products and private club initiation fees. Season pass revenue is recognized each time a season pass is used to access a ski resort based on a rate established using the total estimated visits of a season pass holder for the ski season. During the ski season the estimated visits are compared to the actual visits and adjustments are made if necessary. Initiation fees are recognized over the expected life of the club facilities.

Reserve Estimates. The Company uses estimates to record reserves for certain liabilities, including medical claims and workers' compensation (for which the Company is self-insured), legal liabilities and liabilities for the completion of real estate sold by the Company, among other items. The Company estimates the total potential costs related to these liabilities that will be incurred, and records that amount as a liability in its financial statements. These estimates are reviewed and appropriately adjusted as the facts and circumstances related to the liabilities change.

Intangible Assets. The Company frequently obtains intangible assets, primarily through business combinations. The assignment of value to individual intangible assets generally requires the use of a specialist, such as an appraiser. The assumptions used in the appraisal process are forward-looking, and thus

are subject to significant interpretation. Because individual intangible assets (i) may be expensed immediately upon acquisition; (ii) amortized over their estimated useful life; or (iii) not amortized, the assigned values could have a material effect on current and future period results of operations. Further, intangibles are subject to certain judgments when evaluating impairment pursuant to Statement of Financial Accounting Standards No. 142, "Goodwill and Intangible Assets".

Income Taxes. The Company is required to estimate its income taxes in each jurisdiction in which it operates. This process requires the Company to estimate the actual current tax exposure together with assessing temporary differences resulting from differing treatment of items for tax and accounting purposes. These temporary differences result in deferred tax assets and liabilities on the Company's Consolidated Condensed Balance Sheets. The Company must then assess the likelihood that the deferred tax assets will be recovered from future taxable income and, to the extent recovery is not likely, must establish a valuation allowance. As of October 31, 2002, the Company had a net current deferred tax asset of \$10.4 million, which represented approximately 0.7% of total assets. The net deferred tax asset contains a valuation allowance representing the portion that management does not believe will be recovered from future taxable income. Management believes that sufficient taxable income will be generated in the future to realize the benefit of the Company's net deferred tax assets. The Company's assumptions of future profitable operations are supported by the Company's strong operating performance over the last several years and the absence of factors that would indicate this trend would be unlikely to continue.

Real Estate Held for Sale. The Company capitalizes as land held for sale the original acquisition cost, direct construction and development costs, property taxes, interest incurred on costs related to land under development, and other related costs (engineering, surveying, landscaping, etc.) until the property reaches its intended use. The cost of sales for individual parcels of real estate or condominium units within a project is determined using the relative sales value method. Selling expenses are charged against income in the period incurred. Estimates to complete for units that have been sold are accrued at the date of sale based on management's best estimate of the remaining costs to be incurred.

New Accounting Pronouncements

In June 2001, the FASB issued SFAS No. 143, "Accounting for Asset Retirement Obligations". SFAS No. 143 addresses financial accounting and reporting for obligations associated with the retirement of tangible long-lived assets and the associated asset retirement costs. It applies to legal obligations associated with the retirement of long-lived assets that result from the acquisition, construction, development and (or) the normal operation of a long-lived asset, except for certain obligations of lessees. The Company adopted the provisions of SFAS No. 143 on August 1, 2002. The Company does not currently have any obligations falling under the scope of SFAS No. 143. Adoption of SFAS No. 143 did not have a significant impact on the Company's financial position or results of operations.

In August 2001, the FASB issued SFAS No. 144, "Accounting for the Impairment or Disposal of Long-Lived Assets". SFAS No. 144 supersedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of", but retains the requirements of SFAS No. 121 to (a) recognize an impairment loss only if the carrying amount of a long-lived asset is not recoverable from its undiscounted cash flows and (b) measure an impairment loss as the difference between the carrying amount and fair value of the asset. SFAS No. 144 removes goodwill from its scope as the impairment of goodwill is addressed pursuant to SFAS No. 142. The Company adopted the provisions of SFAS No. 144 on August 1, 2002. Adoption of SFAS No. 144 did not have a significant impact on the Company's financial position or results of operations.

In April 2002, the FASB issued SFAS No. 145, "Rescission of FASB Statements No. 4, 44, and 64, Amendment of FASB Statement No. 13, and Technical Corrections". This Statement rescinds SFAS No. 4, "Reporting Gains and Losses from Extinguishment of Debt", SFAS No. 44, "Accounting for Intangible Assets of Motor Carriers" and SFAS No. 64, "Extinguishments of Debt Made to Satisfy Sinking-Fund Requirements". This statement amends SFAS No. 13, "Accounting for Leases", to eliminate an inconsistency between the required accounting for sale-leaseback transactions and the required accounting for certain lease modifications that have economic effects that are similar to sale-leaseback transactions. SFAS No. 145 is generally effective for the Company for fiscal year 2003. Adoption of SFAS No. 145 did not have a significant impact on the Company's financial position or results of operations.

In July 2002, the FASB issued SFAS No. 146, "Accounting for Costs Associated with Exit or Disposal Activities". This statement requires that a liability for a cost that is associated with an exit or disposal activity be recognized when the liability is incurred. This statement nullifies the guidance of the Emerging Issues Task Force ("EITF") Issue No. 94-3, "Liability Recognition for Certain Employee Termination Benefits and Other Costs to Exit an Activity (including Certain Costs Incurred in Restructuring)". Under EITF No. 94-3, an entity recognized a liability for an exit cost on the date that the entity committed itself to an exit plan. SFAS No. 146 acknowledges that an entity's commitment to a plan does not, by itself, create a present obligation to other parties that meets the definition of a liability. SFAS No. 146 also establishes that fair value is the objective for the initial measurement of the liability. SFAS No. 146 will be effective for exit or disposal activities that are initiated after December 31, 2002. Management does not anticipate any exit or disposal activities within the scope of SFAS No. 146 subsequent to December 31, 2002.

In May 2002, the EITF reached consensus on EITF Issue No. 01-14, "Income Statement Characterization of Reimbursements Received for "Out-of-Pocket" Expenses Incurred". This issue requires that reimbursements received for out-of-pocket expenses incurred should be characterized as revenue in the income statement. EITF Issue No. 01-14 should be applied in financial reporting periods beginning after December 15, 2001. The Company adopted the provisions of EITF Issue 01-14 on August 1, 2002. Adoption of EITF Issue 01-14 did not have a significant impact on the Company's financial position or results of operations.

In November 2002, the FASB issued FASB Interpretation No. 45, "Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others". This interpretation elaborates on the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. It also clarifies that a guarantor is required to recognize, at inception of a guarantee, a liability for the fair value of the obligation undertaken in issuing the guarantee. The initial recognition and initial measurement provisions of this Interpretation are applicable on a prospective basis to guarantees issued or modified after December 31, 2002. The disclosure requirements in the interpretation are effective for financial statements of interim or annual periods ending after December 15, 2002. The Company is currently evaluating the impact that the implementation of this interpretation will have on its financial statements.

Cautionary Statement

Statements in this Form 10-Q, other than statements of historical information, are forward-looking statements that are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. You can identify these statements by forward-looking words such as "may", "will", "expect", "plan", "intend", "anticipate", "believe", "estimate", and "continue" or similar words. Such forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those projected. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof. Such risks and uncertainties include, but are not limited to:

- a significant downturn in general business and economic conditions,
- unfavorable weather conditions, including inadequate snowfall in the early season,
- failure to achieve expected benefits of the cost reduction plan,
- failure to obtain necessary approvals needed to implement planned development projects,
- competition in the ski, hospitality and resort industries,
- failure to successfully integrate acquisitions,
- adverse changes in vacation real estate markets, and
- adverse trends in the leisure and travel industry as a result of terrorist activities.

Readers are also referred to the uncertainties and risks identified in the Company's Registration Statement on Form S-4 for its Senior Subordinated Debt exchange notes (Commission File No. 333-80621) and the Annual Report on Form 10-K for the year ended July 31, 2002.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk. The Company's exposure to market risk is limited primarily to the fluctuating interest rates associated with variable rate indebtedness. At October 31, 2002, the Company had \$181.5 million of variable rate indebtedness, representing 29% of the Company's total debt outstanding, at an average interest rate during the three months ended October 31, 2002 of 3.41% (see Note 4 of the Notes to Consolidated Condensed Financial Statements). Based on the average floating rate borrowings outstanding during the three months ended October 31, 2002 a 100 basis-point change in LIBOR would have caused the Company's monthly interest expense to change by approximately \$150,000.

Item 4. Controls and Procedures

Evaluation of disclosure controls and procedures. The Company's Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO") have evaluated the effectiveness of the Company's disclosure controls and procedures as of a date ("Evaluation Date") within 90 days prior to the filing of this Form 10-Q. The term "disclosure controls and procedures" means controls and other procedures established by the Company that are designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934 (the "Act") is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by the Company in the reports that it files or submits under the Act is accumulated and communicated to the Company's management, including its CEO and CFO, as appropriate to allow timely decisions regarding required disclosure. Based on such evaluation, the Company's CEO and CFO have concluded that, as of the Evaluation Date, the Company's disclosure controls and procedures are effective, subject to the limitations discussed below, in meeting the above-stated objectives.

Changes in internal controls. There were no significant changes in the Company's internal controls or in other factors that could significantly affect these controls subsequent to the Evaluation Date.

The Company, including its CEO and CFO, does not expect that the Company's disclosure and internal controls and procedures will prevent or detect all error and all fraud. A control system, no matter how well conceived or operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met.

PART II OTHER INFORMATION

Item 1. Legal Proceedings.

None.

Item 2. Changes in Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Submission of Matters to a Vote of Security Holders.

None.

Item 5. Other Information.

None.

Item 6. Exhibits and Reports on Form 8-K.

a) The following exhibits are either filed herewith or, if so indicated, incorporated by reference to the documents indicated in parentheses, which have previously been filed with the Securities and Exchange Commission.

| <u>Exhibit Number</u> | <u>Description</u> | <u>Sequentially Numbered Page</u> |
|---------------------------|--|---|
| 3.1 | Amended and Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware on the Effective Date. (Incorporated by reference to Exhibit 3.1 of the Registration Statement on Form S-4 of Gillett Holdings, Inc. (Registration No 333-05341) including all amendments thereto.) | |

- 3.2(a) Amended and Restated By-Laws adopted on the Effective Date.
(Incorporated by reference to Exhibit 3.2 on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 2002, including all amendments thereto.)
- 3.2(b) Amended and Restated By-Laws adopted on the Effective Date. 19
- 4.2(a) Purchase Agreement, dated as of May 6, 1999 among Vail Resorts, Inc., the guarantors named on Schedule I thereto, Bear Stearns & Co. Inc., NationsBanc Montgomery Securities LLC, BT Alex. Brown Incorporated, Lehman Brothers Inc. and Salomon Smith Barney Inc. (Incorporated by reference to Exhibit 4.2 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-80621) including all amendments thereto.)
- 4.2(b) Purchase Agreement, dated as of November 16, 2001 among Vail Resorts, Inc., the guarantors names on Schedule I thereto, Deutsche Banc Alex. Brown Inc., Banc of America Securities LLC, Bear, Stearns & Co. Inc., CIBC World Markets Corp. and Fleet Securities, Inc. (Incorporated by reference to Exhibit 4.1 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-76956-01) including all amendments thereto.)
- 4.3(a) Indenture, dated as of May 11, 1999, among Vail Resorts, Inc., the guarantors named therein and the United States Trust Company of New York, as trustee. (Incorporated by reference to Exhibit 4.3 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-80621) including all amendments thereto.)
- 4.3(b) Indenture, dated as of November 21, 2001, among Vail Resorts, Inc., the guarantors named therein and The Bank of New York, as trustee. (Incorporated by reference to Exhibit 4.2 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-76956-01) including all amendments thereto.)
- 4.4(a) Form of Global Note (Included in Exhibit 4.4(a) incorporated by reference to Exhibit 4.3 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-80621) including all amendments thereto.)
- 4.4(b) Form of Global Note (Included in Exhibit 4.4(b) by reference to Exhibit 4.2 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-76956-01) including all amendments thereto.)
- 4.5(a) Registration Rights Agreement, dated as of May 11, 1999 among Vail Resorts, Inc., the guarantors signatory thereto, Bear Stearns & Co. Inc., NationsBanc Montgomery Securities LLC, BT Alex. Brown Incorporated, Lehman Brothers Inc. and Salomon Smith Barney Inc. (Incorporated by reference to Exhibit 4.5 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-80621) including all amendments thereto.)
- 4.5(b) Registration Rights Agreement dated as of November 21, 2001 among Vail Resorts, Inc., the guarantors signatory thereto, Deutsche Banc Alex. Brown Inc., Banc of America Securities LLC, Bear Stearns & Co. Inc., CIBC World Markets Corp. and Fleet Securities, Inc. (Incorporated by reference to Exhibit 4.5 of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-76956-01) including all amendments thereto.)
- 4.6(a) First Supplemental Indenture, dated as of August 22, 1999, among the Company, the guarantors named therein and the United States Trust Company of New York, as trustee. (Incorporated by reference to Exhibit 4.6(a) of the Registration Statement on Form S-4 of Vail Resorts, Inc. (Registration No. 333-80621) including all amendments thereto.)
- 4.6(b) Second Supplemental Indenture, dated as of November 16, 2001 to the Indenture dated May 11, 1999, among Vail Resorts, Inc., the guarantors therein and The Bank of New York, as successor trustee to United States Trust Company of New York. (Incorporated by reference to Exhibit 4.6(b) on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 2002, including all amendments thereto.)
- 4.6(c) Third Supplemental Indenture, dated as of January 16, 2001, to the Indenture dated May 11, 1999, among Vail Resorts, Inc., the guarantors therein and the Bank of New York, as successor trustee to the United States Trust Company of New York. (Incorporated by reference to Exhibit 4.6(c) on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 2002, including all amendments thereto.)
- 4.6(d) First Supplemental Indenture, dated as of January 16, 2001, to the Indenture dated November 21, 2001, among Vail Resorts Inc., the guarantors therein and The Bank of New York, as trustee. (Incorporated by reference to Exhibit 4.3 of the registration statement on Form S-4 of Gillett Holdings, Inc. (Registration No. 33-52854) including all amendments thereto.)

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| 4.6(e) | Fourth Supplemental Indenture, dated as of October 18, 2002, to the Indenture dated May 11, 1999, among Vail Resorts, Inc., the guarantors therein and the Bank of New York, as successor trustee to the United States Trust Company of New York. | 20 |
| 4.6(f) | Second Supplemental Indenture, dated as of October 18, 2002, to the Indenture dated November 21, 2001, among Vail Resorts Inc., the guarantors therein and the Bank of New York, as trustee. | 28 |
| 10.1 | Management Agreement by and between Beaver Creek Resort Company of Colorado and Vail Associates, Inc. (Incorporated by reference to Exhibit 10.1 of the Registration Statement on Form S-4 of Gillett Holdings, Inc. (Registration No. 33-52854) including all amendments thereto.) | |
| 10.2 | Forest Service Term Special Use Permit for Beaver Creek ski area. (Incorporated by reference to Exhibit 10.2 of the Registration Statement on Form S-4 of Gillett Holdings, Inc. (Registration No. 33-52854) including all amendments thereto.) | |
| 10.3 | Forest Service Special Use Permit for Beaver Creek ski area. (Incorporated by reference to Exhibit 10.3 of the Registration Statement on Form S-4 of Gillett Holdings, Inc. (Registration No. 33-52854) including all amendments thereto.) | |
| 10.4 | Forest Service Unified Permit for Vail ski area. (Incorporated by reference to Exhibit 10.4 of the Registration Statement on Form S-4 of Gillett Holdings, Inc. (Registration No. 33-52854) including all amendments thereto.) | |
| 10.11 | 1993 Stock Option Plan of Gillett Holdings, Inc. (Incorporated by reference to Exhibit 10.20 of the report on Form 10-K of Gillett Holdings, Inc. for the period from October 9, 1992 through September 30, 1993.) | |
| 10.12(a) | Employment Agreement dated October 30, 2001 by and between RockResorts International, LLC and Edward Mace. (Incorporated by reference to Exhibit 10.21 of the report on Form 10-K of Vail Resorts, Inc. for the year ended July 31, 2002.) | |
| 10.12(b) | Addendum to the Employment Agreement dated October 30, 2001 by and between RockResorts International, LLC and Edward Mace. (Incorporated by reference to Exhibit 10.21 of the report on Form 10-K of Vail Resorts, Inc. for the year ended July 31, 2002.) | |
| 10.13(a) | Employment Agreement dated October 1, 2000 by and between Vail Resorts, Inc., Vail Associates, Inc. and Andrew P. Daly. (Incorporated by reference to Exhibit 10.13 of the report on Form 10-K of Vail Resorts, Inc. for the year ended July 31, 2001.) | |
| 10.13(b) | Separation Agreement dated October 31, 2002 by and between Vail Resorts, Inc., Vail Associates, Inc. and Andrew P. Daly. | 36 |
| 10.14(a) | Employment Agreement dated July 29, 1996 between Vail Resorts, Inc. and Adam M. Aron. (Incorporated by reference to Exhibit 10.21 of the report on Form S-2/A of Vail Resorts, Inc. (Registration # 333-5341) including all amendments thereto.) | |
| 10.14(b) | Amendment to the Employment Agreement dated May 1, 2001 between Vail Resorts, Inc. and Adam M. Aron. (Incorporated by reference to Exhibit 10.14(b) of the report on form 10-K of Vail Resorts, Inc. for the year ended July 31, 2001.) | |
| 10.15(a) | Shareholder Agreement among Vail Resorts, Inc., Ralston Foods, Inc., and Apollo Ski Partners, L.P. dated January 3, 1997. (Incorporated by reference to Exhibit 2.4 of the report on Form 8-K of Vail Resorts, Inc. dated January 8, 1997.) | |
| 10.15(b) | First Amendment to the Shareholder Agreement dated as of November 1, 1999, among Vail Resorts, Inc., Ralcorp Holdings, Inc. (f/k/a Ralston Foods, Inc.) and Apollo Ski Partners, L.P. (Incorporated by reference to Exhibit 10.17(b) of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 2000.) | |
| 10.16 | 1996 Stock Option Plan (Incorporated by reference from the Company's Registration Statement on Form S-3, File No. 333-5341). | |
| 10.17 | 2002 Long Term Incentive and Share Award Plan. | 47 |
| 10.18(a) | Sports and Housing Facilities Financing Agreement between the Vail Corporation (d/b/a "Vail Associates, Inc.") and Eagle County, Colorado, dated April 1, 1998. (Incorporated by reference to Exhibit 10 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended April 30, 1998.) | |
| 10.18(b) | Trust Indenture dated as of April 1, 1998 securing Sports and Housing Facilities Revenue Refunding Bonds by and between Eagle County, Colorado and U.S. Bank, N.A., as Trustee. (Incorporated by reference to Exhibit 10.1 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended April 30, 1998.) | |
| 10.19 | Credit agreement dated December 30, 1998 between SSI Venture LLC and NationsBank of Texas, N.A., (Incorporated by reference to Exhibit 10.24 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 1999.) | |

| | | |
|---------|--|-----|
| 10.20 | Second Amendment to Amended and Restated Credit Agreement among The Vail Corporation (d/b/a "Vail Associates, Inc."), Borrower, Bank of America, N.A., Agent, and the other lenders party thereto dated as of November 13, 2001. (Incorporated by reference to Exhibit 10.20 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended January 31, 2002.) | |
| 10.21 | First Amendment to Second Amended and Restated Credit Agreement among the Vail Corporation (d/b/a "Vail Associates, Inc."), Borrower, Bank of America, N.A., Agent, and the other lenders party thereto dated as of October 28, 2002. (Incorporated by reference to Exhibit 10.21 of the report on Form 10-K of Vail Resorts, Inc. for the year ended July 31, 2002.) | |
| 10.22 | Employment Agreement dated October 28, 1996 by and between Vail Resorts, Inc. and James P. Donohue. (Incorporated by reference to Exhibit 10.24 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended October 31, 1999.) | |
| 10.23 | Vail Resorts, Inc. 1999 Long Term Incentive and Share Award Plan. (Incorporated by reference to the Company's registration statement on Form S-8, File No. 333-32320.) | |
| 10.24 | Vail Resorts Deferred Compensation Plan effective as of October 1, 2000. (Incorporated by reference to Exhibit 10.23 of the report on Form 10-K of Vail Resorts, Inc. for the fiscal year ended July 31, 2000.) | |
| 21 | Subsidiaries of Vail Resorts, Inc. (Incorporated by reference to Exhibit 21 of the report on Form 10-K of Vail Resorts, Inc. for the fiscal year ended July 31, 2001.) | |
| 23.1 | Consent of Independent Accountants for report dated October 28, 2002 for Vail Resorts, Inc. (Incorporated by reference to Exhibit 23.1 of the report on Form 10-K of Vail Resorts, Inc. for the year ended July 31, 2002.) | |
| 99.1 | Forest Service Unified Permit for Heavenly ski area. (Incorporated by reference to Exhibit 99.1 of the report on Form 10-Q of Vail Resorts, Inc. for the quarter ended April 30, 2002.) | |
| 99.2(a) | Forest Service Unified Permit for Keystone ski area. | 62 |
| 99.2(b) | Amendment to Forest Service Unified Permit for Keystone ski area. | 84 |
| 99.3(a) | Forest Service Unified Permit for Breckenridge ski area. | 90 |
| 99.3(b) | Amendment to Forest Service Unified Permit for Breckenridge ski area. | 112 |
| 99.4(a) | Forest Service Unified Permit for Beaver Creek ski area. | 117 |
| 99.4(b) | Exhibits to Forest Service Unified Permit for Beaver Creek ski area. | 138 |
| 99.5(a) | Forest Service Unified Permit for Vail ski area. | 143 |
| 99.5(b) | Exhibits to Forest Service Unified Permit for Vail ski area. | 166 |
| 99.5(c) | Amendment to Forest Service Unified Permit for Vail ski area. | 170 |

b) Reports on Form 8-K

None.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized on December 13, 2002.

Vail Resorts, Inc.

By: /s/ James P. Donohue
James P. Donohue
Senior Vice President and
Chief Financial Officer

Dated: December 13, 2002

**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE**

SARBANES-OXLEY ACT OF 2002

I, Adam M. Aron, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Vail Resorts, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report; and
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
 - a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: December 13, 2002

/s/ ADAM M. ARON

Adam M. Aron
Chairman of the Board and
Chief Executive Officer

**CERTIFICATION OF THE CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, James P. Donohue, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Vail Resorts, Inc.;
2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report; and
3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this quarterly report;

4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the registrant and have:
 - a) designed such disclosure controls and procedures to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;
 - b) evaluated the effectiveness of the registrant's disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the "Evaluation Date"); and
 - c) presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - a) all significant deficiencies in the design or operation of internal controls which could adversely affect the registrant's ability to record, process, summarize and report financial data and have identified for the registrant's auditors any material weaknesses in internal controls; and
 - b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal controls; and
6. The registrant's other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: December 13, 2002

/s/ JAMES P.
DONOHUE
James P. Donohue
Senior Vice President and
Chief Financial Officer

**CERTIFICATION OF THE CHIEF EXECUTIVE OFFICER
AND THE CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, each of the undersigned hereby certifies in his capacity as an officer of Vail Resorts, Inc. (the "Company") that the quarterly report of the Company on Form 10-Q for the three months ended October 31, 2002 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that the information contained in such Report fairly presents, in all material respects, the financial condition and the results of operations of the Company at the end of and for the periods covered by such Report.

Date: December 13, 2002

/s/ ADAM M. ARON
Adam M. Aron
Chairman of the Board and
Chief Executive Officer

Date: December 13, 2002

/s/ JAMES P.
DONOHUE
James P. Donohue
Senior Vice President and

Chief Financial Officer

This certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, is not a part of the Form 10-Q to which it refers, and is, to the extent permitted by law, provided by each of the above signatories to the extent of his respective knowledge.

**VAIL RESORTS, INC.
2002 LONG TERM INCENTIVE AND SHARE AWARD PLAN**

1. Purposes.

The purposes of the 2002 Long Term Incentive and Share Award Plan are to advance the interests of Vail Resorts, Inc. and its shareholders by providing a means to attract, retain, and motivate employees, consultants and directors of the Company upon whose judgment, initiative and efforts the continued success, growth and development of the Company is dependent.

2. Definitions.

For purposes of the Plan, the following terms shall be defined as set forth below:

- a. "Affiliate" means any entity other than the Company and its Subsidiaries that is designated by the Board or the Committee as a participating employer under the Plan; provided, however, that the Company directly or indirectly owns at least 20% of the combined voting power of all classes of stock of such entity or at least 20% of the ownership interests in such entity.
- b. "Award" means any Option, SAR, Restricted Share, Restricted Share Unit, Performance Share, Performance Unit, Dividend Equivalent, or Other Share-Based Award granted to an Eligible Person under the Plan.
- c. "Award Agreement" means any written agreement, contract, or other instrument or document evidencing an Award.
- d. "Beneficiary" means the person, persons, trust or trusts which have been designated by an Eligible Person in his or her most recent written beneficiary designation filed with the Company to receive the benefits specified under this Plan upon the death of the Eligible Person, or, if there is no designated Beneficiary or surviving designated Beneficiary, then the person, persons, trust or trusts entitled by will or the laws of descent and distribution to receive such benefits.
- e. "Board" means the Board of Directors of the Company.
- f. "Code" means the Internal Revenue Code of 1986, as amended from time to time. References to any provision of the Code shall be deemed to include successor provisions thereto and regulations thereunder.
- g. "Committee" means the Compensation Committee of the Board or a subcommittee thereof, or such other Board committee (or if the Board so designates, the entire Board) as may be designated by the Board to administer the Plan; provided, however, that, unless otherwise determined by the Board, the Committee shall consist of two or more directors of the Company, each of whom is a "non-employee director" within the meaning of Rule 16b-3 under the Exchange Act, to the extent applicable, and each of whom is an "outside director" within the meaning of Section 162(m) of the Code, to the extent applicable; provided, further, that the mere fact that the Committee shall fail to qualify under either of the foregoing requirements shall not invalidate any Award made by the Committee which Award is otherwise validly made under the Plan.
- h. "Company" means Vail Resorts, Inc., a corporation organized under the laws of Delaware, or any successor corporation.
- i. "Director" means a member of the Board who is not an employee of the Company, a Subsidiary or an Affiliate.
- j. "Dividend Equivalent" means a right, granted under Section 5(g), to receive cash, Shares, or other property equal in value to dividends paid with respect to a specified number of Shares. Dividend Equivalents may be awarded on a free-standing basis or in connection with another Award, and may be paid currently or on a deferred basis.
- k. "Eligible Person" means (i) an employee or consultant of the Company, a Subsidiary or an Affiliate, including any director who is an employee, or (ii) a Director. Notwithstanding any provisions of this Plan to the contrary, an Award may be granted to an employee or consultant, in connection with his or her hiring or retention prior to the date the employee or consultant first performs services for the Company, a Subsidiary or an Affiliate; provided, however, that any such Award shall not become vested prior to the date the employee or consultant first performs such services.
- l. "Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time. References to any provision of the Exchange Act shall be deemed to include successor provisions thereto and regulations thereunder.
- m. "Fair Market Value" means, with respect to Shares or other property, the fair market value of such Shares or other property determined by such methods or procedures as shall be established from time to time by the Committee. If the Shares are listed on any established stock exchange or a national market system, unless otherwise determined by the Committee in good faith, the Fair Market Value of Shares shall mean the mean between the high and low selling prices per Share on the immediately preceding date (or, if the Shares were not traded on that day, the next preceding day that the Shares were traded) on the principal exchange or market system on which the Shares are traded, as such prices are officially quoted on such exchange.
- n. "ISO" means any option intended to be and designated as an incentive stock option within the meaning of Section 422 of the Code.
- o. "NQSO" means any Option that is not an ISO.
- p. "Option" means a right granted under Section 5(b), to purchase Shares.
- q. "Other Share-Based Award" means a right, granted under Section 5(h), that relates to or is valued by reference to Shares.
- r. "Participant" means an Eligible Person who has been granted an Award under the Plan.
- s. "Performance Share" means a performance share granted under Section 5(f).
- t. "Performance Unit" means a performance unit granted under Section 5(f).
- u. "Plan" means this 2002 Long Term Incentive and Share Award Plan.
- v. "Restricted Shares" means an Award of Shares under Section 5(d) that may be subject to certain restrictions and to a risk of forfeiture.
- w. "Restricted Share Unit" means a right, granted under Section 5(e), to receive Shares or cash at the end of a specified deferral period.
- x. "Rule 16b-3" means Rule 16b-3, as from time to time in effect and applicable to the Plan and Participants, promulgated by the Securities and Exchange Commission under Section 16 of the Exchange Act.
- y. "SAR" or "Share Appreciation Right" means the right, granted under Section 5(c), to be paid an amount measured by

the difference between the exercise price of the right and the Fair Market Value of Shares on the date of exercise of the right, with payment to be made in cash, Shares, or property as specified in the Award or determined by the Committee.

- z. "Shares" means common stock, \$.01 par value per share, of the Company.
- aa. "Subsidiary" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company if each of the corporations (other than the last corporation in the unbroken chain) owns shares possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in the chain.

3. Administration.

- a. Authority of the Committee. The Plan shall be administered by the Committee, and the Committee shall have full and final authority to take the following actions, in each case subject to and consistent with the provisions of the Plan:
 - i. to select Eligible Persons to whom Awards may be granted;
 - ii. to designate Affiliates;
 - iii. to determine the type or types of Awards to be granted to each Eligible Person;
 - iv. to determine the type and number of Awards to be granted, the number of Shares to which an Award may relate, the terms and conditions of any Award granted under the Plan (including, but not limited to, any exercise price, grant price, or purchase price, and any bases for adjusting such exercise, grant or purchase price, any restriction or condition, any schedule for lapse of restrictions or conditions relating to transferability or forfeiture, exercisability, or settlement of an Award, and waiver or accelerations thereof, and waivers of performance conditions relating to an Award, based in each case on such considerations as the Committee shall determine), and all other matters to be determined in connection with an Award;
 - v. to determine whether, to what extent, and under what circumstances an Award may be settled, or the exercise price of an Award may be paid, in cash, Shares, other Awards, or other property, or an Award may be canceled, forfeited, exchanged, or surrendered;
 - vi. to determine whether, to what extent, and under what circumstances cash, Shares, other Awards, or other property payable with respect to an Award will be deferred either automatically, at the election of the Committee, or at the election of the Eligible Person;
 - vii. to prescribe the form of each Award Agreement, which need not be identical for each Eligible Person;
 - viii. to adopt, amend, suspend, waive, and rescind such rules and regulations and appoint such agents as the Committee may deem necessary or advisable to administer the Plan;
 - ix. to correct any defect or supply any omission or reconcile any inconsistency in the Plan and to construe and interpret the Plan and any Award, rules and regulations, Award Agreement, or other instrument hereunder;
 - x. to accelerate the exercisability or vesting of all or any portion of any Award or to extend the period during which an Award is exercisable; and
 - xi. to make all other decisions and determinations as may be required under the terms of the Plan or as the Committee may deem necessary or advisable for the administration of the Plan.
- b. Manner of Exercise of Committee Authority. The Committee shall have sole discretion in exercising its authority under the Plan. Any action of the Committee with respect to the Plan shall be final, conclusive, and binding on all persons, including the Company, Subsidiaries, Affiliates, Eligible Persons, any person claiming any rights under the Plan from or through any Eligible Person, and shareholders. The express grant of any specific power to the Committee, and the taking of any action by the Committee, shall not be construed as limiting any power or authority of the Committee. The Committee may delegate to other members of the Board or officers or managers of the Company or any Subsidiary or Affiliate the authority, subject to such terms as the Committee shall determine, to perform administrative functions and, with respect to Awards granted to persons not subject to Section 16 of the Exchange Act, to perform such other functions as the Committee may determine, to the extent permitted under Rule 16b-3 (if applicable) and applicable law.
- c. Limitation of Liability. Each member of the Committee shall be entitled to, in good faith, rely or act upon any report or other information furnished to him or her by any officer or other employee of the Company or any Subsidiary or Affiliate, the Company's independent certified public accountants, or other professional retained by the Company to assist in the administration of the Plan. No member of the Committee, and no officer or employee of the Company acting on behalf of the Committee, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Committee and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company with respect to any such action, determination, or interpretation.
- d. Limitation on Committee's Discretion. Anything in this Plan to the contrary notwithstanding, in the case of any Award which is intended to qualify as "performance-based compensation" within the meaning of Section 162(m)(4)(C) of the Code, if the Award Agreement so provides, the Committee shall have no discretion to increase the amount of compensation payable under the Award to the extent such an increase would cause the Award to lose its qualification as such performance-based compensation.
- e. No Option or SAR Repricing Without Shareholder Approval. Except as provided in the first sentence of Section 4(c) hereof relating to certain antidilution adjustments, unless the approval of shareholders of the Company is obtained, Options and SARs issued under the Plan shall not be amended to lower their exercise price and Options and SARs issued under the Plan will not be exchanged for other Options or SARs with lower exercise prices.

4. Shares Subject to the Plan.

- a. Subject to adjustment as provided in Section 4(c) hereof, the total number of Shares reserved for issuance in connection with Awards under the Plan shall be 2,500,000. No Award may be granted if the number of Shares to which such Award relates, when added to the number of Shares previously issued under the Plan, exceeds the number of Shares reserved under the preceding sentence. If any Awards are forfeited, canceled, terminated, exchanged or surrendered or such Award is settled in cash or otherwise terminates without a distribution of Shares to the Participant, any Shares counted against the number of Shares reserved and available under the Plan with respect to such Award shall, to the extent of any such forfeiture, settlement, termination, cancellation, exchange or surrender, again be available for Awards under the Plan. Upon the exercise of any Award granted in tandem with any other Awards, such related Awards shall be canceled to the extent of the number of Shares as to which the Award is exercised.
- b. Subject to adjustment as provided in Section 4(c) hereof, the maximum number of Shares (i) with respect to which

Options or SARs may be granted during a calendar year to any Eligible Person under this Plan shall be 1,000,000 Shares, and (ii) with respect to Performance Shares, Performance Units, Restricted Shares or Restricted Share Units intended to qualify as performance-based compensation within the meaning of Section 162(m)(4)(C) of the Code shall be the equivalent of 200,000 Shares during a calendar year to any Eligible Person under this Plan.

- c. In the event that the Committee shall determine that any dividend in Shares, recapitalization, Share split, reverse split, reorganization, merger, consolidation, spin-off, combination, repurchase, or share exchange, or other similar corporate transaction or event, affects the Shares such that an adjustment is appropriate in order to prevent dilution or enlargement of the rights of Eligible Persons under the Plan, then the Committee shall make such equitable changes or adjustments as it deems appropriate and, in such manner as it may deem equitable, adjust any or all of (i) the number and kind of shares which may thereafter be issued under the Plan, (ii) the number and kind of shares, other securities or other consideration issued or issuable in respect of outstanding Awards, and (iii) the exercise price, grant price, or purchase price relating to any Award; provided, however, in each case that, with respect to ISOs, such adjustment shall be made in accordance with Section 424(a) of the Code, unless the Committee determines otherwise. In addition, the Committee is authorized to make adjustments in the terms and conditions of, and the criteria and performance objectives included in, Awards in recognition of unusual or non-recurring events (including, without limitation, events described in the preceding sentence) affecting the Company or any Subsidiary or Affiliate or the financial statements of the Company or any Subsidiary or Affiliate, or in response to changes in applicable laws, regulations, or accounting principles; provided, however, that, if an Award Agreement specifically so provides, the Committee shall not have discretion to increase the amount of compensation payable under the Award to the extent such an increase would cause the Award to lose its qualification as performance-based compensation for purposes of Section 162(m)(4)(C) of the Code and the regulations thereunder.
- d. Any Shares distributed pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or treasury Shares including Shares acquired by purchase in the open market or in private transactions.

5. Specific Terms of Awards.

- a. General. Awards may be granted on the terms and conditions set forth in this Section 5. In addition, the Committee may impose on any Award or the exercise thereof, at the date of grant or thereafter (subject to Section 7(d)), such additional terms and conditions, not inconsistent with the provisions of the Plan, as the Committee shall determine, including terms regarding forfeiture of Awards or continued exercisability of Awards in the event of termination of service by the Eligible Person.
- b. Options. The Committee is authorized to grant Options, which may be NQSOs or ISOs, to Eligible Persons on the following terms and conditions:
- Exercise Price. The exercise price per Share purchasable under an Option shall be determined by the Committee; provided, however, that the exercise price per Share of an Option shall not be less than the Fair Market Value of a Share on the date of grant of the Option. The Committee may, without limitation, set an exercise price that is based upon achievement of performance criteria if deemed appropriate by the Committee.
 - Option Term. The term of each Option shall be determined by the Committee; provided, however, that such term shall not be longer than ten years from the date of grant of the Option.
 - Time and Method of Exercise. The Committee shall determine at the date of grant or thereafter the time or times at which an Option may be exercised in whole or in part (including, without limitation, upon achievement of performance criteria if deemed appropriate by the Committee), the methods by which such exercise price may be paid or deemed to be paid (including, without limitation, broker-assisted exercise arrangements), the form of such payment (including, without limitation, cash, Shares, notes or other property), and the methods by which Shares will be delivered or deemed to be delivered to Eligible Persons; provided, however, that in no event may any portion of the exercise price be paid with Shares acquired either under an Award granted pursuant to this Plan, upon exercise of a stock option granted under another Company plan or as a stock bonus or other stock award granted under another Company plan unless, in any such case, the Shares were acquired and vested more than six months in advance of the date of exercise.
 - ISOs. The terms of any ISO granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code, including but not limited to the requirement that the ISO shall be granted within ten years from the earlier of the date of adoption or shareholder approval of the Plan. ISOs may only be granted to employees of the Company or a Subsidiary.
- c. SARs. The Committee is authorized to grant SARs (Share Appreciation Rights) to Eligible Persons on the following terms and conditions:
- Right to Payment. An SAR shall confer on the Eligible Person to whom it is granted a right to receive with respect to each Share subject thereto, upon exercise thereof, the excess of (1) the Fair Market Value of one Share on the date of exercise (or, if the Committee shall so determine in the case of any such right, the Fair Market Value of one Share at any time during a specified period before or after the date of exercise) over (2) the exercise price of the SAR as determined by the Committee as of the date of grant of the SAR (which shall not be less than the Fair Market Value per Share on the date of grant of the SAR and, in the case of a SAR granted in tandem with an Option, shall be equal to the exercise price of the underlying Option).
 - Other Terms. The Committee shall determine, at the time of grant or thereafter, the time or times at which an SAR may be exercised in whole or in part (which shall not be more than ten years after the date of grant of the SAR), the method of exercise, method of settlement, form of consideration payable in settlement, method by which Shares will be delivered or deemed to be delivered to Eligible Persons, whether or not an SAR shall be in tandem with any other Award, and any other terms and conditions of any SAR. Unless the Committee determines otherwise, an SAR (1) granted in tandem with an NQSO may be granted at the time of grant of the related NQSO or at any time thereafter and (2) granted in tandem with an ISO may only be granted at the time of grant of the related ISO.
- d. Restricted Shares. The Committee is authorized to grant Restricted Shares to Eligible Persons on the following terms and conditions:
- Issuance and Restrictions. Restricted Shares shall be subject to such restrictions on transferability and other restrictions, if any, as the Committee may impose at the date of grant or thereafter, which restrictions may lapse separately or in combination at such times, under such circumstances (including, without limitation, upon

- achievement of performance criteria if deemed appropriate by the Committee), in such installments, or otherwise, as the Committee may determine. Except to the extent restricted under the Award Agreement relating to the Restricted Shares, an Eligible Person granted Restricted Shares shall have all of the rights of a shareholder including, without limitation, the right to vote Restricted Shares and the right to receive dividends thereon. If the lapse of restrictions is conditioned on the achievement of performance criteria, the Committee shall select the criterion or criteria from the list of criteria set forth in Section 5(f)(i). The Committee must certify in writing prior to the lapse of restrictions conditioned on achievement of performance criteria that such performance criteria were in fact satisfied.
- ii. Forfeiture. Except as otherwise determined by the Committee, at the date of grant or thereafter, upon termination of service during the applicable restriction period, Restricted Shares and any accrued but unpaid dividends or Dividend Equivalents that are at that time subject to restrictions shall be forfeited; provided, however, that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that restrictions or forfeiture conditions relating to Restricted Shares will be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of Restricted Shares.
 - iii. Certificates for Shares. Restricted Shares granted under the Plan may be evidenced in such manner as the Committee shall determine. If certificates representing Restricted Shares are registered in the name of the Eligible Person, such certificates shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Shares, and the Company shall retain physical possession of the certificate.
 - iv. Dividends. Dividends paid on Restricted Shares shall be either paid at the dividend payment date, or deferred for payment to such date as determined by the Committee, in cash or in unrestricted Shares having a Fair Market Value equal to the amount of such dividends. Shares distributed in connection with a Share split or dividend in Shares, and other property distributed as a dividend, shall be subject to restrictions and a risk of forfeiture to the same extent as the Restricted Shares with respect to which such Shares or other property has been distributed.
- e. Restricted Share Units. The Committee is authorized to grant Restricted Share Units to Eligible Persons, subject to the following terms and conditions:
- i. Award and Restrictions. Delivery of Shares or cash, as the case may be, will occur upon expiration of the deferral period specified for Restricted Share Units by the Committee (or, if permitted by the Committee, as elected by the Eligible Person). In addition, Restricted Share Units shall be subject to such restrictions as the Committee may impose, if any (including, without limitation, the achievement of performance criteria if deemed appropriate by the Committee), at the date of grant or thereafter, which restrictions may lapse at the expiration of the deferral period or at earlier or later specified times, separately or in combination, in installments or otherwise, as the Committee may determine. If the lapse of restrictions is conditioned on the achievement of performance criteria, the Committee shall select the criterion or criteria from the list of criteria set forth in Section 5(f)(i). The Committee must certify in writing prior to the lapse of restrictions conditioned on the achievement of performance criteria that such performance criteria were in fact satisfied.
 - ii. Forfeiture. Except as otherwise determined by the Committee at date of grant or thereafter, upon termination of service (as determined under criteria established by the Committee) during the applicable deferral period or portion thereof to which forfeiture conditions apply (as provided in the Award Agreement evidencing the Restricted Share Units), or upon failure to satisfy any other conditions precedent to the delivery of Shares or cash to which such Restricted Share Units relate, all Restricted Share Units that are at that time subject to deferral or restriction shall be forfeited; provided, however, that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in any individual case, that restrictions or forfeiture conditions relating to Restricted Share Units will be waived in whole or in part in the event of termination resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of Restricted Share Units.
- f. Performance Shares and Performance Units. The Committee is authorized to grant Performance Shares or Performance Units or both to Eligible Persons on the following terms and conditions:
- i. Performance Period. The Committee shall determine a performance period (the "Performance Period") of one or more years and shall determine the performance objectives for grants of Performance Shares and Performance Units. Performance objectives may vary from Eligible Person to Eligible Person and shall be based upon one or more of the following performance criteria as the Committee may deem appropriate: appreciation in value of the Shares, total shareholder return, earnings per share, operating income, net income, pretax earnings, pretax earnings before interest, depreciation and amortization, pro forma net income, return on equity, return on designated assets, return on capital, economic value added, earnings, revenues, expenses, operating profit margin, operating cash flow, net profit margin, free cash flow, cash flow return on investment, and operating margin. The performance objectives may be determined by reference to the performance of the Company, or of a Subsidiary or Affiliate, or of a division or unit of any of the foregoing. Performance Periods may overlap and Eligible Persons may participate simultaneously with respect to Performance Shares and Performance Units for which different Performance Periods are prescribed.
 - ii. Award Value. At the beginning of a Performance Period, the Committee shall determine for each Eligible Person or group of Eligible Persons with respect to that Performance Period the range of number of Shares, if any, in the case of Performance Shares, and the range of dollar values, if any, in the case of Performance Units, which may be fixed or may vary in accordance with such performance or other criteria specified by the Committee, which shall be paid to an Eligible Person as an Award if the relevant measure of Company performance for the Performance Period is met. The Committee must certify in writing that the applicable performance criteria were satisfied prior to payment under any Performance Shares or Performance Units.
 - iii. Significant Events. If during the course of a Performance Period there shall occur significant events as determined by the Committee which the Committee expects to have a substantial effect on a performance objective during such period, the Committee may revise such objective; provided, however, that, if an Award Agreement so provides, the Committee shall not have any discretion to increase the amount of compensation payable under the Award to the extent such an increase would cause the Award to lose its qualification as performance-based compensation for purposes of Section 162(m)(4)(C) of the Code and the regulations thereunder.

- iv. Forfeiture. Except as otherwise determined by the Committee, at the date of grant or thereafter, upon termination of service during the applicable Performance Period, Performance Shares and Performance Units for which the Performance Period was prescribed shall be forfeited; provided, however, that the Committee may provide, by rule or regulation or in any Award Agreement, or may determine in an individual case, that restrictions or forfeiture conditions relating to Performance Shares and Performance Units will be waived in whole or in part in the event of terminations resulting from specified causes, and the Committee may in other cases waive in whole or in part the forfeiture of Performance Shares and Performance Units.
- v. Payment. Each Performance Share or Performance Unit may be paid in whole Shares, or cash, or a combination of Shares and cash either as a lump sum payment or in installments, all as the Committee shall determine, at the time of grant of the Performance Share or Performance Unit or otherwise, commencing as soon as practicable after the end of the relevant Performance Period. The Committee must certify in writing prior to the payment of any Performance Share or Performance Unit that the performance objectives and any other material terms were in fact satisfied.
- g. Dividend Equivalents. The Committee is authorized to grant Dividend Equivalents to Eligible Persons. The Committee may provide, at the date of grant or thereafter, that Dividend Equivalents shall be paid or distributed when accrued or shall be deemed to have been reinvested in additional Shares, or other investment vehicles as the Committee may specify; provided, however, that Dividend Equivalents (other than freestanding Dividend Equivalents) shall be subject to all conditions and restrictions of the underlying Awards to which they relate.
- h. Other Share-Based Awards. The Committee is authorized, subject to limitations under applicable law, to grant to Eligible Persons such other Awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, or related to, Shares, as deemed by the Committee to be consistent with the purposes of the Plan, including, without limitation, unrestricted shares awarded purely as a "bonus" and not subject to any restrictions or conditions, other rights convertible or exchangeable into Shares, purchase rights for Shares, Awards with value and payment contingent upon performance of the Company or any other factors designated by the Committee, and Awards valued by reference to the performance of specified Subsidiaries or Affiliates. The Committee shall determine the terms and conditions of such Awards at date of grant or thereafter. Shares delivered pursuant to an Award in the nature of a purchase right granted under this Section 5(h) shall be purchased for such consideration, paid for at such times, by such methods, and in such forms, including, without limitation, cash, Shares, notes or other property, as the Committee shall determine. Cash awards, as an element of or supplement to any other Award under the Plan, shall also be authorized pursuant to this Section 5(h).

6. Certain Provisions Applicable to Awards.

- a. Stand-Alone, Additional, Tandem and Substitute Awards. Awards granted under the Plan may, in the discretion of the Committee, be granted to Eligible Persons either alone or in addition to, in tandem with, or in exchange or substitution for, any other Award granted under the Plan or any award granted under any other plan or agreement of the Company, any Subsidiary or Affiliate, or any business entity to be acquired by the Company or a Subsidiary or Affiliate, or any other right of an Eligible Person to receive payment from the Company or any Subsidiary or Affiliate. Awards may be granted in addition to or in tandem with such other Awards or awards, and may be granted either as of the same time as or a different time from the grant of such other Awards or awards. Subject to the provisions of Section 3(e) hereof prohibiting Option and SAR repricing without shareholder approval, the per Share exercise price of any Option, grant price of any SAR, or purchase price of any other Award conferring a right to purchase Shares which is granted, in connection with the substitution of awards granted under any other plan or agreement of the Company or any Subsidiary or Affiliate or any business entity to be acquired by the Company or any Subsidiary or Affiliate, shall be determined by the Committee, in its discretion.
- b. Terms of Awards. The term of each Award granted to an Eligible Person shall be for such period as may be determined by the Committee; provided, however, that in no event shall the term of any Option or an SAR granted in tandem therewith exceed a period of ten years from the date of its grant (or such shorter period as may be applicable under Section 422 of the Code).
- c. Form of Payment Under Awards. Subject to the terms of the Plan and any applicable Award Agreement, payments to be made by the Company or a Subsidiary or Affiliate upon the grant, maturation, or exercise of an Award may be made in such forms as the Committee shall determine at the date of grant or thereafter, including, without limitation, cash, Shares, or other property, and may be made in a single payment or transfer, in installments, or on a deferred basis. The Committee may make rules relating to installment or deferred payments with respect to Awards, including the rate of interest to be credited with respect to such payments, and the Committee may require deferral of payment under an Award if, in the sole judgment of the Committee, it may be necessary in order to avoid nondeductibility of the payment under Section 162(m) of the Code.
- d. Nontransferability. Unless otherwise set forth by the Committee in an Award Agreement, Awards (except for vested shares) shall not be transferable by an Eligible Person except by will or the laws of descent and distribution (except pursuant to a Beneficiary designation) and shall be exercisable during the lifetime of an Eligible Person only by such Eligible Person or his guardian or legal representative. An Eligible Person's rights under the Plan may not be pledged, mortgaged, hypothecated, or otherwise encumbered, and shall not be subject to claims of the Eligible Person's creditors.
- e. Noncompetition. The Committee may, by way of the Award Agreements or otherwise, establish such other terms, conditions, restrictions and/or limitations, if any, of any Award, provided they are not inconsistent with the Plan, including, without limitation, the requirement that the Participant not engage in competition with the Company.

7. General Provisions.

- a. Compliance with Legal and Trading Requirements. The Plan, the granting and exercising of Awards thereunder, and the other obligations of the Company under the Plan and any Award Agreement, shall be subject to all applicable federal and state laws, rules and regulations, and to such approvals by any regulatory or governmental agency as may be required. The Company, in its discretion, may postpone the issuance or delivery of Shares under any Award until completion of such stock exchange or market system listing or registration or qualification of such Shares or other required action under any state or federal law, rule or regulation as the Company may consider appropriate, and may require any Participant to make such representations and furnish such information as it may consider appropriate in

connection with the issuance or delivery of Shares in compliance with applicable laws, rules and regulations. No provisions of the Plan shall be interpreted or construed to obligate the Company to register any Shares under federal or state law. The Shares issued under the Plan may be subject to such other restrictions on transfer as determined by the Committee.

- b. No Right to Continued Employment or Service. Neither the Plan nor any action taken thereunder shall be construed as giving any employee, consultant or director the right to be retained in the employ or service of the Company or any of its Subsidiaries or Affiliates, nor shall it interfere in any way with the right of the Company or any of its Subsidiaries or Affiliates to terminate any employee's, consultant's or director's employment or service at any time.
- c. Taxes. The Company or any Subsidiary or Affiliate is authorized to withhold from any Award granted, any payment relating to an Award under the Plan, including from a distribution of Shares, or any payroll or other payment to an Eligible Person, amounts of withholding and other taxes due in connection with any transaction involving an Award, and to take such other action as the Committee may deem advisable to enable the Company and Eligible Persons to satisfy obligations for the payment of withholding taxes and other tax obligations relating to any Award. This authority shall include authority to withhold or receive Shares or other property and to make cash payments in respect thereof in satisfaction of an Eligible Person's tax obligations.
- d. Changes to the Plan and Awards. The Board may amend, alter, suspend, discontinue, or terminate the Plan or the Committee's authority to grant Awards under the Plan without the consent of shareholders of the Company or Participants, except that any such amendment or alteration as it applies to ISOs shall be subject to the approval of the Company's shareholders to the extent such shareholder approval is required under Section 422 of the Code; provided, however, that, without the consent of an affected Participant, no amendment, alteration, suspension, discontinuation, or termination of the Plan may materially and adversely affect the rights of such Participant under any Award theretofore granted to him or her. The Committee may waive any conditions or rights under, amend any terms of, or amend, alter, suspend, discontinue or terminate, any Award theretofore granted, prospectively or retrospectively; provided, however, that, without the consent of a Participant, no amendment, alteration, suspension, discontinuation or termination of any Award may materially and, adversely affect the rights of such Participant under any Award theretofore granted to him or her.
- e. No Rights to Awards; No Shareholder Rights. No Eligible Person or employee shall have any claim to be granted any Award under the Plan, and there is no obligation for uniformity of treatment of Eligible Persons and employees. No Award shall confer on any Eligible Person any of the rights of a shareholder of the Company unless and until Shares are duly issued or transferred to the Eligible Person in accordance with the terms of the Award.
- f. Unfunded Status of Awards. The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant pursuant to an Award, nothing contained in the Plan or any Award shall give any such Participant any rights that are greater than those of a general creditor of the Company; provided, however, that the Committee may authorize the creation of trusts or make other arrangements to meet the Company's obligations under the Plan to deliver cash, Shares, other Awards, or other property pursuant to any Award, which trusts or other arrangements shall be consistent with the "unfunded" status of the Plan unless the Committee otherwise determines with the consent of each affected Participant.
- g. Nonexclusivity of the Plan. Neither the adoption of the Plan by the Board nor its submission to the shareholders of the Company for approval shall be construed as creating any limitations on the power of the Board to adopt such other incentive arrangements as it may deem desirable, including, without limitation, the granting of options and other awards otherwise than under the Plan, and such arrangements may be either applicable generally or only in specific cases.
- h. Not Compensation for Benefit Plans. No Award payable under this Plan shall be deemed salary or compensation for the purpose of computing benefits under any benefit plan or other arrangement of the Company for the benefit of its employees, consultants or directors unless the Company shall determine otherwise.
- i. No Fractional Shares. No fractional Shares shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash, other Awards, or other property shall be issued or paid in lieu of such fractional Shares or whether such fractional Shares or any rights thereto shall be forfeited or otherwise eliminated.
- j. Governing Law. The validity, construction, and effect of the Plan, any rules and regulations relating to the Plan, and any Award Agreement shall be determined in accordance with the laws of Colorado without giving effect to principles of conflict of laws.
- k. Effective Date; Plan Termination. The Plan shall become effective as of October 8, 2002 (the "Effective Date") subject to approval by the shareholders of the Company. The Plan shall terminate as to future awards on the date which is ten (10) years after the Effective Date.
- l. Titles and Headings. The titles and headings of the sections in the Plan are for convenience of reference only. In the event of any conflict, the text of the Plan, rather than such titles or headings, shall control.

VAIL RESORTS, INC.

AMENDMENT TO RESTATED BYLAWS

As Adopted and in Effect on

November 7, 2002

11. Number, Election and Terms. The Board shall be comprised of no fewer than 10 and no more than 20 directors, consisting of two-thirds (2/3) Class I directors and one-third (1/3) Class II directors. Each director shall serve a one year term. Unless provided by the Restated Certificate of Incorporation, directors need not be stockholders.

FOURTH SUPPLEMENTAL INDENTURE

Dated as of October 18, 2002

to

INDENTURE

Dated as of May 11, 1999

among

VAIL RESORTS, INC., as Issuer,

the Guarantors named therein, as Guarantors,

and

THE BANK OF NEW YORK, as Successor Trustee to

UNITED STATES TRUST COMPANY OF NEW YORK

up to \$300,000,000

8 3/4 % Senior Subordinated Notes due 2009

FOURTH SUPPLEMENTAL INDENTURE, dated as of October 18, 2002, among Vail Resorts, Inc., a Delaware corporation (the "Issuer"), the Guarantors named on the signature pages hereto (the "Guarantors"), the Additional Guarantors named on the signature pages hereto (collectively the "Additional Guarantors"), and The Bank of New York, as Successor to United States Trust Company of New York, as Trustee (the "Trustee").

WHEREAS, the Issuer and the Guarantors have heretofore executed and delivered to the Trustee an Indenture dated as of May 11, 1999, as amended and supplemented by the First Supplemental Indenture dated as of August 27, 1999, by the Second Supplemental Indenture dated as of November 16, 2001, and by the Third Supplemental Indenture dated as of January 16, 2002 (together, the "Indenture") providing for the issuance of up to \$300,000,000 aggregate principal amount of 8 3/4% Senior Subordinated Notes due 2009 of the Company (the "Notes"); and

WHEREAS, subsequent to the execution of the Indenture and the issuance of \$200,000,000 aggregate principal amount of the Notes, each of the Additional Guarantors have become guarantors under the Credit Agreement; and

WHEREAS, pursuant to and as contemplated by Sections 4.18 and 9.01 of the Indenture, the parties hereto desire to execute and deliver this Supplemental Indenture for the purpose of providing for the Additional Guarantors to expressly assume all the obligations of a Guarantor under the Notes and the Indenture;

NOW, THEREFORE, in consideration of the above premises, each party agrees, for the benefit of the other and for the equal and ratable benefit of the Holders of the Notes, as follows:

I.

ASSUMPTION OF GUARANTEES

The Additional Guarantors, as provided by Section 4.18 of the Indenture, jointly and severally, hereby unconditionally expressly assume all of the obligations of a Guarantor under the Notes and the Indenture to the fullest as set forth in Article 12 of the Indenture; and the Additional Guarantors may expressly exercise every right and power of a Guarantor under the Indenture with the same effect as if they had been named Guarantors therein.

II.

MISCELLANEOUS PROVISIONS

A. Terms Defined.

For all purposes of this Fourth Supplemental Indenture, except as otherwise defined or unless the context otherwise requires, terms used in capitalized form in this Fourth Supplemental Indenture and defined in the Indenture have the meanings specified in the Indenture.

B. Indenture.

Except as amended hereby, the Indenture and the Notes are in all respects ratified and confirmed and all the terms shall remain in full force and effect.

C. Governing Law.

THIS FOURTH SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED ENTIRELY WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

D. Successors.

All agreements of the Company, the Guarantors and the Additional Guarantors in this Fourth Supplemental Indenture, the Notes and the Guarantees shall bind their respective successors. All agreements of the Trustee in this Fourth Supplemental Indenture shall bind its successors.

E. Duplicate Originals.

The parties may sign any number of copies of this Fourth Supplemental Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Fourth Supplemental Indenture to be duly executed, all as of the date first written above.

ISSUER:

VAIL RESORTS, INC.

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

GUARANTORS:

GHTV, INC.

GILLETT BROADCASTING, INC.

VAIL HOLDINGS, INC.

THE VAIL CORPORATION

BEAVER CREEK ASSOCIATES, INC.

BEAVER CREEK CONSULTANTS, INC.

LODGE PROPERTIES, INC.

VAIL FOOD SERVICES, INC.

VAIL RESORTS DEVELOPMENT COMPANY

VAIL SUMMIT RESORTS, INC.

VAIL TRADEMARKS, INC.

VAIL/ARROWHEAD, INC.

VAIL/BEAVER CREEK RESORT PROPERTIES, INC.

BEAVER CREEK FOOD SERVICES, INC.

LODGE REALTY, INC.

VAIL ASSOCIATES CONSULTANTS, INC.

VAIL ASSOCIATES HOLDINGS, LTD.

VAIL ASSOCIATES MANAGEMENT COMPANY

VAIL ASSOCIATES REAL ESTATE, INC.

VAIL/BATTLE MOUNTAIN, INC.

KEYSTONE CONFERENCE SERVICES, INC.

KEYSTONE DEVELOPMENT SALES, INC.

KEYSTONE FOOD AND BEVERAGE COMPANY

KEYSTONE RESORT PROPERTY

MANAGEMENT COMPANY

PROPERTY MANAGEMENT ACQUISITION

CORP., INC.

THE VILLAGE AT BRECKENRIDGE

ACQUISITION CORP., INC.

GRAND TETON LODGE COMPANY

LARKSPUR RESTAURANT & BAR, LLC

BRECKENRIDGE RESORT PROPERTIES, INC.

COMPLETE TELECOMMUNICATIONS, INC.

(F/K/A VR TELECOMMUNICATIONS, INC.)

JACKSON HOLE GOLF AND TENNIS CLUB, INC.

TETON HOSPITALITY SERVICES, INC.

VAIL RR, INC.

VA RANCHO MIRAGE I, INC.

VA RANCHO MIRAGE II, INC.

VAMHC, INC.

ROCKRESORTS INTERNATIONAL, LLC

ROCKRESORTS LLC

ROCKRESORTS CASA MADRONA, LLC

ROCKRESORTS CHEECA, LLC

ROCKRESORTS EQUINOX, INC.

ROCKRESORTS LAPOSADA, LLC

ROCKRESORTS ROSARIO, LLC

Each by its authorized officer:

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

GUARANTORS (CONTINUED):

JHL&S, LLC

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Authorized Signatory

VA RANCHO MIRAGE RESORT, L.P.

By: VA Rancho Mirage I, Inc., its General Partner

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

ADDITIONAL GUARANTORS:

VR HEAVENLY I, INC.

VR HEAVENLY II, INC.

Each by its Authorized Officer:

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

HEAVENLY VALLEY, LIMITED PARTNERSHIP

By: VR Heavenly I, Inc., Its General Partner,

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

TRUSTEE:

THE BANK OF NEW YORK, as Successor Trustee to
UNITED STATES TRUST COMPANY OF NEW YORK, as
Trustee

By: /s/ Cynthia Chaney

Name: Cynthia Chaney

Title: Vice President

SECOND SUPPLEMENTAL INDENTURE

Dated as of October 18, 2002

to

INDENTURE

Dated as of November 21, 2001

among

VAIL RESORTS, INC., as Issuer,

the Guarantors named therein, as Guarantors,

and

THE BANK OF NEW YORK, as Trustee

up to \$300,000,000

8 3/4 % Senior Subordinated Notes due 2009

SECOND SUPPLEMENTAL INDENTURE, dated as of October 18, 2002, among Vail Resorts, Inc., a Delaware corporation (the "Issuer"), the Guarantors named on the signature pages hereto (the "Guarantors"), the Additional Guarantors named on the signature pages hereto (collectively the "Additional Guarantors"), and The Bank of New York, as Trustee (the "Trustee").

WHEREAS, the Issuer and the Guarantors have heretofore executed and delivered to the Trustee an Indenture dated as of November 21, 2001, as amended and supplemented by the First Supplemental Indenture dated as of January 16, 2002 (together, the "Indenture"), providing for the issuance of up to \$300,000,000 aggregate principal amount of 8 3/4% Senior Subordinated Notes due 2009 of the Company (the "Notes"); and

WHEREAS, subsequent to the execution of the Indenture and the issuance of \$160,000,000 aggregate principal amount of the Notes, each of the Additional Guarantors have become guarantors under the Credit Agreement; and

WHEREAS, pursuant to and as contemplated by Sections 4.18 and 9.01 of the Indenture, the parties hereto desire to execute and deliver this Second Supplemental Indenture for the purpose of providing for the Additional Guarantors to expressly assume all the obligations of a Guarantor under the Notes and the Indenture;

NOW, THEREFORE, in consideration of the above premises, each party agrees, for the benefit of the other and for the equal and ratable benefit of the Holders of the Notes, as follows:

I.

ASSUMPTION OF GUARANTEES

The Additional Guarantors, as provided by Section 4.18 of the Indenture, jointly and severally, hereby unconditionally expressly assume all of the obligations of a Guarantor under the Notes and the Indenture to the fullest as set forth in Article 12 of the Indenture; and the Additional Guarantors may expressly exercise every right and power of a Guarantor under the Indenture with the same effect as if they had been named Guarantors therein.

II.

MISCELLANEOUS PROVISIONS

A. Terms Defined.

For all purposes of this Second Supplemental Indenture, except as otherwise defined or unless the context otherwise requires, terms used in capitalized form in this Second Supplemental Indenture and defined in the Indenture have the meanings specified in the Indenture.

B. Indenture.

Except as amended hereby, the Indenture and the Notes are in all respects ratified and confirmed and all the terms shall remain in full force and effect.

C. Governing Law.

THIS SECOND SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED ENTIRELY WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

D. Successors.

All agreements of the Company, the Guarantors and the Additional Guarantors in this Second Supplemental Indenture, the Notes and the Guarantees shall bind their respective successors. All agreements of the Trustee in this Second Supplemental Indenture shall bind its successors.

E. Duplicate Originals.

The parties may sign any number of copies of this Second Supplemental Indenture. Each signed copy shall be an original, but all of them together shall represent the same agreement.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Indenture to be duly executed, all as of the date first written above.

ISSUER:

VAIL RESORTS, INC.

By: /s/ Martha Dugan Rehm

Name: Martha Dugan Rehm

Title: Senior Vice President

GUARANTORS:

GHTV, INC.

GILLETT BROADCASTING, INC.

VAIL HOLDINGS, INC.

THE VAIL CORPORATION

BEAVER CREEK ASSOCIATES, INC.

BEAVER CREEK CONSULTANTS, INC.

LODGE PROPERTIES, INC.

VAIL FOOD SERVICES, INC.

VAIL RESORTS DEVELOPMENT COMPANY

VAIL SUMMIT RESORTS, INC.

VAIL TRADEMARKS, INC.

VAIL/ARROWHEAD, INC.

VAIL/BEAVER CREEK RESORT PROPERTIES, INC.

BEAVER CREEK FOOD SERVICES, INC.

LODGE REALTY, INC.

VAIL ASSOCIATES CONSULTANTS, INC.

VAIL ASSOCIATES HOLDINGS, LTD.

VAIL ASSOCIATES MANAGEMENT COMPANY

VAIL ASSOCIATES REAL ESTATE, INC.

VAIL/BATTLE MOUNTAIN, INC.

KEYSTONE CONFERENCE SERVICES, INC.

KEYSTONE DEVELOPMENT SALES, INC.

KEYSTONE FOOD AND BEVERAGE COMPANY

KEYSTONE RESORT PROPERTY MANAGEMENT COMPANY

PROPERTY MANAGEMENT ACQUISITION CORP., INC.

THE VILLAGE AT BRECKENRIDGE ACQUISITION CORP., INC.

GRAND TETON LODGE COMPANY

LARKSPUR RESTAURANT & BAR, LLC

BRECKENRIDGE RESORT PROPERTIES, INC.

COMPLETE TELECOMMUNICATIONS, INC. (F/K/A VR TELECOMMUNICATIONS, INC.)

JACKSON HOLE GOLF AND TENNIS CLUB, INC.

TETON HOSPITALITY SERVICES, INC.

VAIL RR, INC.
VA RANCHO MIRAGE I, INC.
VA RANCHO MIRAGE II, INC.
VAMHC, INC.
ROCKRESORTS INTERNATIONAL, LLC
ROCKRESORTS LLC
ROCKRESORTS CASA MADRONA, LLC
ROCKRESORTS CHEECA, LLC
ROCKRESORTS EQUINOX, INC.
ROCKRESORTS LAPOSADA, LLC
ROCKRESORTS ROSARIO, LLC

Each by its authorized officer:

By: /s/ Martha Dugan Rehm
Name: Martha Dugan Rehm
Title: Senior Vice President

GUARANTORS (CONTINUED):

JHL&S, LLC
By: /s/ Martha Dugan Rehm
Name: Martha Dugan Rehm
Title: Authorized Signatory

VA RANCHO MIRAGE RESORT, L.P.

By: VA Rancho Mirage I, Inc., its General Partner
By: /s/ Martha Dugan Rehm
Name: Martha Dugan Rehm
Title: Senior Vice President

ADDITIONAL GUARANTORS:

VR HEAVENLY I, INC.
VR HEAVENLY II, INC.

By: /s/ Martha Dugan Rehm
Name: Martha Dugan Rehm
Title: Senior Vice President

HEAVENLY VALLEY, LIMITED PARTNERSHIP

By: VR Heavenly I, Inc., Its General Partner
By: /s/ Martha Dugan Rehm
Name: Martha Dugan Rehm
Title: Senior Vice President

TRUSTEE:

THE BANK OF NEW YORK
as Trustee

By: /s/ Cynthia Chaney
Name: Cynthia Chaney

Title: Vice President

FS-2700-24 (7/96)

OMB No 0596 - 0082

| | | | |
|--|-----------------------|------------|-------------|
| USDA - Forest Service SKI AREA TERM SPECIAL USE PERMIT Act of October 22, 1986 (Ref. FSM 2710) | Holder No. | Type Site | Authority |
| | 5289 / 01 | 161 | 545 |
| | Auth. Type | Issue Date | Expir. Date |
| | 18 | 12/30/96 | 12/31/32 |
| | Location Sequence No. | | Stat. Ref. |
| | 0215100811703 | | 08 |
| | Latitude | Longitude | LOS Case |
| | - - | - - | |

RALSTON RESORTS, INC. of P.O. BOX 38
 (Holder Name) (Billing Address - 1)
KEYSTONE CO 80435
 (Billing Address - 2) (City) (State) (Zip Code)

(hereafter called the holder) is hereby authorized to use National Forest System lands, on the White River National Forest, for the purposes of constructing, operating, and maintaining a winter sports resort including food service, retail sales, and other ancillary facilities, described herein, known as the Keystone ski area and subject to the provisions of this term permit. This permit covers approximately 5,571 acres described here and as shown on the attached map dated 8/23/93 by Erik Martin (identified as Exhibit A).

The following improvements, whether on or off the site, are authorized:

Ski lifts and tows, ski trails, day lodge, restaurants, maintenance and snowmaking facilities, roads, utilities, parking, signs, radio base station, explosive cache, and other facilities and improvements needed in the operation and maintenance of a four-season resort.

Attached Clauses. This term permit is accepted subject to the conditions set forth herein on pages 2 through 19, and to exhibits A to C attached or referenced hereto and made a part of this permit. (Map, GFA, M.P.)

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS.

ACCEPTED:

/s/ JOHN RUTTER 12/31/96
 HOLDER'S NAME AND SIGNATURE DATE

APPROVED:

/s/ VETO J. LASALLE 12/31/96
 VETO J. LASALLE FOREST SUPERVISOR DATE

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TERMS AND CONDITIONS

I. AUTHORITY AND USE AND TERM AUTHORIZED.

A. Authority. This term permit is issued under the authority of the Act of October 26, 1986, (Title 16, United States Code 497b), and Title 36, Code of Federal Regulations, Sections 251.50-251-64.

B. Authorized Officer. The authorized officer is the Forest Supervisor. The authorized officer may designate a representative for administration of specific portions of this authorization.

C. Rules, Laws and Ordinances. The holder, in exercising the privileges granted by this term permit, shall comply with all present and future regulations of the Secretary of Agriculture and federal laws; and all present and future, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit to the extent they are not in conflict with federal law, policy or regulation. The Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

D. Term.

1. This authorization is for a term of N/A years to provide for the holder to prepare a Master Development Plan. Subject to acceptance of the Master Development Plan by the authorized officer, this authorization shall be extended for an additional N/A years, for a total of

N/A years, to provide the holder sufficient time to construct facilities approved in the Master Development Plan within the schedule outlined in clause II.B. (Site Development Schedule), so that the area may be used by the public. Further Provided; This authorization shall be extended by its terms for an additional N/A years, for a total of N/A years, if it is in compliance with the site development schedule in the Master Development Plan and being in operation by the 10-year anniversary date of the issuance of this authorization. Failure of the holder to comply with all or any provisions of this clause shall cause the authorization to terminate under its terms.

2. Unless sooner terminated or revoked by the authorized officer, in accordance with the provisions of the authorization, this permit shall terminate on December 31, 2032, but a new special-use authorization to occupy and use the same National Forest land may be granted provided the holder shall comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands. The holder shall notify the authorized officer in writing not less than six (6) months prior to said date that such new authorization is desired.

E. Nonexclusive Use. This permit is not exclusive. The Forest Service reserves the right to use or permit others to use any part of the permitted area for any purpose, provided such use does not materially interfere with the rights and privileges hereby authorized.

F. Area Access. Except for any restrictions as the holder and the authorized officer may agree to be necessary to protect the installation and operation of authorized structures and developments, the lands and waters covered by this permit shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads or roads as may be constructed by the holder, shall remain open to the public, except for roads as may be closed by joint agreement of the holder and the authorized officer.

G. Master Development Plan. In consideration of the privileges authorized by this permit, the holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire winter sports resort presently envisioned for development in connection with the National Forest lands authorized by this permit, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area authorized for use by this permit. The accepted Master Development Plan shall become a part of this permit.

For planning purposes, a capacity for the ski area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process.

H. Periodic Revision.

1. The terms and conditions of this authorization shall be subject to revision to reflect changing times and conditions so that land use allocation decisions made as a result of revision to Forest Land and Resource Management Plan may be incorporated.

2. At the sole discretion of the authorized officer this term permit may be amended to remove authorization to use any National Forest System lands not specifically covered in the Master Development Plan and/or needed for use and occupancy under this authorization.

II. IMPROVEMENTS.

A. Permission. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named in the Master Development Plan and approved in the annual operating plan, or further authorized in writing by the authorized officer.

B. Site Development Schedule. As part of this permit, a schedule for the progressive development of the permitted area and installation of facilities shall be prepared jointly by the holder and the Forest Service. Such a schedule shall be prepared by N/A, and shall set forth an itemized priority list of planned improvements and the due date for completion. This schedule shall be made a part of this permit. The holder may accelerate the scheduled date for installation of any improvement authorized, provided the other scheduled priorities are met; and provided further, that all priority installations authorized are completed to the satisfaction of the Forest Service and ready for public use prior to the scheduled due date.

1. All required plans and specifications for site improvements, and structures included in the development schedule shall be properly certified and submitted to the Forest Service at least forty-five (45) days before the construction date stipulated in the development schedule.

2. In the event this is agreement with the Forest Service to expand the facilities and services provided on the areas covered by this permit, the holder shall jointly prepare with the Forest Service a development schedule for the added facilities prior to any construction and meet requirements of paragraph

II.D of this section. Such schedule shall be made a part of this permit.

C. Plans. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be accepted by the authorized officer before the commencement of any work. A holder may be required to furnish as-built plans, maps, or surveys upon the completion of construction.

D. Amendment. This authorization may be amended to cover new, changed, or additional use(s) or area not previously considered in the approved Master Development Plan. In approving or denying changes or modifications, the authorized officer shall consider among other things, the findings or recommendations of other involved agencies and whether their terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

E. Ski Lift Plans and Specifications. All plans for uphill equipment and systems shall be properly certified as being in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A complete set of drawings, specifications, and records for each lift shall be maintained by the holder and made available to the Forest Service upon request. These documents shall be retained by the holder for a period of three (3) years after the removal of the system from National Forest land.

III. OPERATIONS AND MAINTENANCE.

A. Conditions of Operations. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. Standards are subject to periodic change by the authorized officer. This use shall normally be exercised at least 365 days each year or season. Failure of the holder to exercise this minimum use may result in termination pursuant to VIII.B.

B. Ski Lift, Holder Inspection. The holder shall have all passenger tramways inspected by a qualified engineer or tramway specialist. Inspections shall be made in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A certificate of inspection, signed by an officer of the holder's company, attesting to the adequacy and safety of the installations and equipment for public use shall be received by the Forest Service prior to public operation stating as a minimum:

"Pursuant to our special use permit, we have had an inspection to determine our compliance with the American National Standard B77.1. We have received the results of that inspection and have made corrections of all deficiencies noted. The facilities are ready for public use."

C. Operating Plan. The holder of designated representative shall prepare and annually revise by June 1 and November 15 an Operating Plan. The plan shall be prepared in consultation with the authorized officer or designated representative and cover winter and summer operations as appropriate. The provisions of the Operating Plan and the annual revisions shall become a part of this permit and shall be submitted by the holder and approved by the authorized officer or their designated representatives.

This plan shall consist of at least the following sections:

1. Ski patrol and first aid.
2. Communications.
3. Signs.
4. General safety and sanitation.
5. Erosion control.
6. Accident reporting.
7. Avalanche control.
8. Search and rescue.
9. Boundary management.
10. Vegetation and management.
11. Designation of representatives.
12. Trail routes for nordic skiing.

The authorized officer may require a joint annual business meeting agenda to:

- a. Update Gross Fixed Assets and lift-line proration when the fee is calculated by the Graduated Rate Fee System.
- b. Determine need for performance bond for construction projects, and amount of bond.
- c. Provide annual use reports.

D. Cutting of Trees. Trees or shrubbery on the permitted area may be removed or destroyed only after the authorized officer has approved and marked, or otherwise designated, that which may be removed or destroyed.

Timber cut or destroyed shall be paid for by the holder at appraised value, provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the holder at no stumpage cost to the holder.

E. Signs. Signs or advertising devices erected on National Forest lands, shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

F. Temporary Suspension. Immediate temporary suspension of the operation, in whole or in part, may be required when the authorized

officer, or designated representative, determines it to be necessary to protect the public health or safety, or the environment. The order for suspension may be given verbally or in writing. In any such case, the superior of the authorized officer, or designated representative, shall, within ten (10) days of the request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior shall take prompt action to affirm, modify or cancel the temporary suspension.

IV. NONDISCRIMINATION. During the performance of this permit, the holder agrees:

A. In connection with the performance of work under this permit, including construction, maintenance, and operation of the facility, the holder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap. (Ref. Title VII of the Civil Rights Act of 1964 as amended).

B. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, religion, sex, national origin, age or handicap, by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. (Ref. Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments, and the Age Discrimination Act of 1975).

C. The holder shall include and require compliance with the above nondiscrimination provisions in any subcontract made with respect to the operations under this permit.

D. Signs setting forth this policy of nondiscrimination to be furnished by the Forest Service will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

E. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States of the State in which the breach or violation occurs.

V. LIABILITIES.

A. Third Party Rights. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. Indemnification of the United States. The holder shall hold harmless the United States from any liability from damage to life or

property arising from the holder's occupancy or use of National Forest lands under this permit.

C. Damage to United States Property. The holder shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit. The holder shall pay the United States the full cost of any damage resulting from negligence or activities occurring under the terms of this permit or under any law or regulation applicable to the national forests, whether caused by the holder, or by any agents or employees of the holder.

D. Risks. The holder assumes all risk of loss to the improvements resulting from natural or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees, and other hazardous events. If the improvements authorized by this permit are destroyed or substantially damaged by natural or catastrophic events, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed.

The analysis shall be provided to the holder within six (6) months of the event.

E. Hazards. The holder has the responsibility of inspecting the area authorized for use under this permit for evidence of hazardous conditions which could affect the improvements or pose a risk of injury to individuals.

F. Insurance. The holder shall have in force public liability insurance covering: (1) property damage in the amount of Fifty Thousand dollars (\$ 50,000.00), and (2) damage to persons in the minimum amount of Three Hundred Thousand dollars (\$ 300,000.00) in the event of death or injury to one individual, and the minimum amount of One Million dollars (\$ 1,000,000.00) in the event of death or injury to more than one individual. These minimum amounts and terms are subject to change at the sole discretion of the authorized officer at five-year anniversary date of this authorization. The coverage shall extend to property damage, bodily injury, or death rising out of the holder's activities under the permit including, but not limited to, occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as an additionally insured.

The holder shall send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company.

Rider Clause (for insurance companies)

"It is understood and agreed that the coverage provided under this policy shall not be cancelled or its provisions changed or deleted before thirty (30) days of receipt of written notice to the Forest Supervisor, Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company."

VI. FEES.

A. Holder to pay fair market value for the permitted use. The holder must pay fair market value for the use of National Forest System land.

1. The provisions of the Graduated Rate Fee System (GRFS) identified under this permit may be revised by the Forest Service to reflect changed times and conditions. Changes shall become effective when:

- a. Mutually agreed; or,
- b. Permit is amended for other purposes; or
- c. A new permit is issued including reissue after termination.

2. The Graduated Rate Fee System may be replaced in its entirety by the Chief of the Forest Service if a new generally applicable fee system is imposed affecting all holders of authorizations under Public Law 99-522. Replacement shall become effective on the beginning of the holder's business year following establishment.

B. Fees - Graduated Rate Fee System. The annual fees due the United States for those activities authorized by this permit shall be calculated on sales according to the following schedule:

| <u>Kind of Business</u> | <u>Break-even point</u> | <u>Balance of</u> | |
|-------------------------|-------------------------|---------------------|---------------------|
| | <u>(Sales to GFA)</u> | <u>Rate Base</u> | <u>Sales rate</u> |
| | <u>(Percentage)</u> | <u>(Percentage)</u> | <u>(Percentage)</u> |
| Grocery | 70 | .75 | 1.13 |
| Service, food | 70 | 1.25 | 1.88 |
| Service, car | 70 | 1.50 | 1.95 |
| Merchandise | 70 | 1.50 | 2.25 |
| Liquor Service | 60 | 1.80 | 2.70 |
| Outfitting/Guiding | 50 | 2.00 | 3.00 |
| Rental and Services | 30 | 4.50 | 6.75 |

| | | | |
|------------------------------|----|------|------|
| Lodging | 40 | 4.00 | 6.00 |
| Lifts, Tows, and Ski Schools | 20 | 2.00 | 5.00 |

1. A weighted-average break-even point (called the break-even point) and a weighted-average rate base (called the rate base) shall be calculated and used when applying the schedule to mixed business. If the holder's business records do not clearly segregate the sales into the business categories authorized by this permit, they shall be placed in the most logical category. If sales with a different rate base are grouped, place them all in the rate category that shall yield the highest fee. Calculate the fee on sales below the break-even point using 50 percent of the rate base. Calculate the fee on sales between the break-even point and twice the break-even point using 150 percent of the rate base. Calculate the fee on sales above twice the break-even point using the balance of sales rate.

2. The minimum annual fee for this use, which is due in advance and is not subject to refund, shall be equal to the fee that would result when sales are 40 percent of the break-even point. This fee shall be calculated and billed by the Forest Service during the final quarter of the holder's fiscal year, using the most recent GFA figure and previously reported sales data for the current year, plus, if the operating season is still active, estimated sales for the remainder of the year.

3. Mixed Ownership. This use occupies both private and public land.

For purposes of the fee calculation, the calculated fee shall be adjusted by the slope-transport-feet percentage representing the portion of the use attributed to National Forest land. Slope-transport feet is determined by the slope distance traveled by lifts over each ownership, multiplied by the lift capacity.

C. Surcharge. A surcharge of N/A percent shall be applied to and added to the basic fee. The surcharge shall be applied for N/A years beginning with the year that sales first occur under this operation.

D. Definitions of Sales Categories and Gross Fixed Assets (GFA).

1. Sales categories. For purposes of recording and reporting sales, and sales-related information including the cost of sales, the activities of the concessioner are divided into:

Grocery. Includes the sale of items usually associated with grocery stores such as staple foods, meats, produce, household supplies. Includes the sale of bottled soft drinks, beer and wine, when included in the grocery operation.

Service, Food. Includes the serving of meals, sandwiches, and other items either consumed on the premises or prepared for carry out. Snack bars are included.

Service, Cars. Includes servicing and sale of fuels, lubricants, and all kinds of articles used in servicing and repairing autos, boats, snowmobiles, and aircraft.

Merchandise. Includes the sale of clothing, souvenirs, gifts, ski and other sporting equipment. Where a "Service, Cars" category of business is not established by this permit, the sale of auto accessories is included in this category.

Service, Liquor. Includes the sale of alcoholic drinks for consumption on the premises and other sales ordinarily a part of a bar or cocktail-lounge business. Where a bar is operated in conjunction with a restaurant or overnight accommodations liquor, beer and wine sales shall be accounted for consistent with the holder's normal business practice. The sale of alcoholic beverages for consumption off the premises is also included in this item, except as indicated in "Grocery".

Outfitting, Guiding. Includes all activities or commercial guiding services involving back-country travel, regardless of mode of travel, when associated with a resort or dude ranch with a mixture of business. All fees charged are considered sales.

Lodging. Includes lodging where daily maid service is furnished.

Rentals and Services. Includes lodging where daily maid service is not furnished by the holder; the rental of camping space, ski equipment and other equipment rentals; fees for the use of cross-country ski trails.

Also included are services such as barbershops, and amusements including video games.

Lifts, Tows, and Ski Schools. Includes charges for use of all types of uphill transportation facilities and for sports lessons and training.

2. Gross Fixed Assets. The capitalized cost of improvements, equipment, and fixtures necessary and used to generate sales and other revenue during the permit year on the permitted area or within the development boundary shown in this permit.

GFA shall be established by and changed at the sole discretion of the authorized officer based on the current interpretation of guidelines supporting the Graduated Rate Fee System.

a. Costs of the following items as presented by the holder and verified by a representative of the authorized officer to be in existence and in use are included:

(1) Identifiable structures, major equipment, such as road maintenance equipment, or land improvements which play a distinct role in the permitted activity.

(2) Identifiable holder costs, to provide utility services to the area. Utility services that extend beyond the development boundary may be included in GFA to the extent they are necessary for the generation of sales and are paid by the holder. Costs for user surcharge or demand rates are not included as GFA.

b. The following, and similar items, are not part of GFA:

(1) Assets that ordinarily qualify for inclusion in GFA, but which are out of service for the full operating year for which fees are being determined.

(2) Land.

(3) Expendable or consumable supplies.

(4) Intangible assets, such as goodwill, permit value, organization expense, and liquor licenses.

(5) Improvements not related to the operation.

(6) Luxury assets, to the extent their design and cost exceed functional need.

(7) The prorata share of GFA assets used in off-site activities not directly associated with the authorized use.

(8) Expensed assets.

(9) Operating leases.

As of the date of this permit, (12/30/96) the initial GFA under this ownership has been determined to be \$ 66,726,115.00 as of 9/30/92 as shown in detail on attached exhibit B. If an error is found in the GFA amount, it shall be changed to the correct amount retroactive to the date the error occurred and fees adjusted accordingly.

E. Change of Gross Fixed Asset Amount Upon Sale or Change in Controlling Interest. Upon change of ownership, effective dominion or controlling interest or upon sale of assets or common stock which results in a change of ownership, effective dominion, or controlling interest, the value of Gross Fixed Assets shall be established applying Generally Accepted Accounting Principles (GAAP).

F. Determining Sales and Other Revenue. Sales and Gross Fixed Assets shall be derived from all improvements and facilities, including those of sublessees, which constitute a logical single overall integrated business operation regardless of the land ownership. A map shall be prepared designating the development boundary and may be augmented by narrative or table and shall become a part of this permit.

1. Sales. Fees shall be assessed against all receipts from sales unless specifically exempted. Sales for the purpose of fee calculation include, (1) all revenue derived from goods and services sold which are related to operations under this permit and all revenue derived within the development boundary, unless otherwise excluded, (2) the value of goods and services traded-off for goods and services received (bartering) and (3) the value of gratuities.

a. Definitions.

(1) Gratuities. Goods, services or privileges that are provided without charge or at deep discount to such individuals as employees, owners, and officers or immediate families of employees, owners and officers and not available to the general public.

(2) Acceptable Discounts. Transactions for goods or services below stated, listed or otherwise presented prices to the public at large. Included are such things as group sales and organized programs. These are included in sales at the actual transaction price.

(3) Discriminatory Pricing. Rates based solely on residence, race, color, or religion. Discounts based on age or disability are not discriminatory pricing.

(4) Preferential Discounts. Discounts offered to certain classes or individuals based on their status, such as members of boards of directors, contractors, advertisers, doctors, and VIP's. etc.

(5) Market Price. The price generally available to an informed public excluding special promotions. It may not be the "window price".

(6) Bartering or Trade Offs. The practice of exchanging goods or services between individuals or companies.

(7) Commissions. Commissions are payments received by the holder for collecting revenue on behalf of others as an agent or providing services not directly associated with the operations, such as selling hunting and fishing licenses, bus or sightseeing tickets for trips off or predominantly off the permitted area, accommodating telephone toll calls, and so forth.

(8) Franchise Receipts. These are payments made to specific permittees by sublessees solely for the opportunity to do business at a specific location. The permittee provides little, if anything, in the way of facilities or services. They may be the only fee paid to the permittee or, if some facilities or services are provided by the permittee, they may be made in addition to a rental fee. The franchise receipts may be in the form of fixed amounts of money or in reduced prices for the franchiser's product or service.

b. Inclusions. The following items shall be included as gross receipts to arrive at sales:

(1) Gratuities. Daily and season passes are valued at market price unless the permit holder has sufficient records of daily individual use to substantiate a "value of use". Value of use is the number of days the pass is used times the market price. Does not include employees. See (4) below.

(2) Preferential Discounts. Include the amount that would have been received had the transaction been made at the market price.

(3) Value of Discriminatory Pricing. Discriminatory pricing is disallowed. Include the amount that would have been received had the transaction been made at the market price.

(4) Employee discounts in excess of 30 percent of market price. These discounts are exclusively given or provided to employees, owners, officers or immediate families of employees, owners or officers are gratuities and are included in sales at 70 percent of market price. Employee discounts less than 30 percent are recorded at transaction price.

(5) Value of bartered goods and services (trade offs).

(6) Gross sales of sublessees. Includes sales of State controlled liquor stores.

(7) Fifty percent of franchise receipts.

(8) All other revenue items not specifically excluded below shall be included as sales.

c. Exclusions. The following items shall be excluded from gross receipts or revenue to arrive at sales:

(1) Value of goods and services provided to employees, agents, contractors or officials to facilitate the accomplishment of their assigned duties or work-related obligation or to others for educational or technical competence related to the type of permitted use such as lift operation, ski patrol, water safety, avalanche control, etc. Similarly, local, state and federal government officials including Forest Service employees who in the course of their oversight responsibilities or otherwise on official business, use goods or services. The holder is not required to report the value of such duty-related or official use as sales for fee calculation purposes.

(2) The value of meals and lodging furnished by an employer to an employee for the employer's convenience if, in the case of meals, they are furnished on the employer's business premises. The fact that the employer imposes a partial charge for, or that the employee may accept or decline meals does not affect the exclusion if all other conditions are met. If employer imposes a charge for meals and lodging it shall be included at the transaction price. The holder need not keep records of employee meals and lodging more detailed than those required by the Internal Revenue Service.

(3) Refunds from returned merchandise and receipts from sales of real and nonrental personal property used in the operation.

(4) Rents paid to the permittee by sublessees, even if based on sales.

(5) Taxes collected on site from customers, accounted for as such in the holder's accounting records, and that were paid or are payable to taxing authorities. Taxes included in the purchase price of gasoline, tobacco and other products, but paid to the taxing authority by the manufacturer or wholesaler are included in sales, and subject to the permit fee.

(6) Amounts paid or payable to a Government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets.

(7) Value of sales and commissions where the holder is serving as an agent for businesses not directly associated with the permitted operation. This includes such things as bus or sightseeing-ticket sales for trips not related to activities on the permitted area, telephone-toll charges, and accident-insurance sales.

(8) Sales of operating equipment. Rental equipment, capitalized assets or other assets used in operations shall be excluded from gross receipts. Examples are such items as, used rental skis and boots, ski lifts,

or grooming equipment, which are sold periodically and replaced.

G. Concession Payment, Graduated Rate Fee System. Reports and deposits required as outlined above shall be tendered in accordance with the schedule below. They shall be sent or delivered to the Collection Officer, Forest Service, USDA, at the address furnished by the Forest Supervisor. Checks or money orders shall be payable to "Forest Service, USDA."

1. The holder shall report sales, calculate fees due and make payment each calendar month, except for periods in which no sales take place and the holder has notified the authorized officer and the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the 30th of the month following the end of each reportable period.

2. The authorized officer, prior to January 01, shall furnish the holder with a tentative rate which shall be applied to sales in the fee calculation (item 1), such rate to be one that shall produce the expected fee based on past experience. The correct fee shall be determined at the end of the year and adjustments made as provided under item (5). Any balance that may exist shall be credited and applied against the next payment due.

3. During the final fiscal month, pay within 30 days of billing by the Forest Service, the annual minimum fee for the next year.

4. The holder must also provide within three (3) months after close of its operating year, a balance sheet representing its financial condition at the close of its business year, an annual operating statement reporting the results of operations including yearend adjustments for itself and each sublessee for the same period, and a schedule of Gross Fixed Assets adjusted to comply with the terms of this permit in a format and manner prescribed by the authorized officer.

If the holder fails to report all sales in the period they were made or misreports Gross Fixed Assets and the authorized officer determines that additional fees are owed, the holder shall pay the additional fee plus interest. Such interest shall be assessed at the rate specified in Clause I and shall accrue from the date the sales or correct Gross Fixed Assets should have been reported and fee paid until the date of actual payment of the underpaid fee.

5. Within 30 days of receipt of a statement from the Forest Service, pay any additional fee required to correct fees paid for the past year's operation.

6. Payments shall be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

7. All fee calculations and records of sales and Gross Fixed Assets are subject to periodic audit. Errors in calculation or payment shall be corrected as needed for conformance with those audits. Additional fees and interest due as a result of such audits shall be in accordance with item 4, paragraph 2.

8. Disputed fees must be paid in a timely manner.

9. Correction of errors includes any action necessary to establish the cost of gross fixed assets to the current holder, sales, slope transport feet calculation, or other data required to accurately assess and calculate fees. For fee calculation purposes, error may include:

a. Misreporting or misrepresentations of amounts,

b. Arithmetic mistakes,

c. Typographic mistakes,

d. Variation from Generally Accepted Accounting Principles (GAAP), when such variations are inconsistent with the terms and conditions of the authorization.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, with past fees adjusted accordingly. Changed effected by agency policy including definition of assets included in GFA, shall only be made prospectively.

H. Interest and Penalties.

1. Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, or subsequent changes thereto, interest shall be charged on any fee not paid by the date the fee or fee calculation financial statements specified in this permit was due.

2. Interest shall be assessed using the higher of (1) the most current rate prescribed by the United States Department of the Treasury Financial Manual (TFM-6-8025.40) or (2) the prompt payment rate prescribed by the United States Department of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 USC 611). Interest shall accrue from the date the fee or fee calculation financial statement is due. In the event the account becomes delinquent, administrative costs to cover processing and handling

of the delinquent debt may be assessed.

3. A penalty of 6 percent per year shall be assessed on any fee overdue in excess of 90 days, and shall accrue from the due date of the first billing or the date the fee calculation financial statement was due. The penalty is in addition to interest and any other charges specified in item 2.

4. Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 et seq.).

I. Nonpayment. Failure of the holder to make timely payments, pay interest charges or any other charges when due, constitutes breach and shall be grounds for termination of this authorization. This permit terminates for nonpayment of any monies owed the United States when more than 90 days in arrears.

J. Access to Records. For the purpose of administering this permit (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the holder agrees to make all of the accounting books and supporting records to the business activities, as well as those of sublessees operating within the authority of this permit, available for analysis by qualified representatives of the Forest Service or other Federal agencies authorized to review the Forest Service activities.

Review of accounting books and supporting records shall be made at dates convenient to the holder and reviewers. Financial information so obtained shall be treated as confidential as provided in regulations issued by the Secretary of Agriculture.

The holder shall retain the above records and keep them available for review for 5 years after the end of the year involved, unless disposition is otherwise approved by the authorized officer in writing.

K. Accounting Records. The holder shall follow Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at own expense, shall have the annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service. The holder shall require sublessees to comply with these same requirements. The minimum acceptable accounting system shall include:

1. Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this permit. Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be supported by source documents such as cash-register tapes, sale invoices, rental records, and cash accounts from other sources.

2. A permanent record of investments in facilities (depreciation schedule), current source documents for acquisition costs of capital items.

3. Preparation and maintenance of such special records and accounts as may be specified by the authorized officer.

VII. TRANSFER AND SALE.

A. Subleasing. The holder may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized upon prior written notice to the authorized officer. The Forest Service reserves the right to disapprove sublessees. In any circumstance, only those facilities and activities authorized by this permit may be subleased. The holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet. The holder may not sublease direct management responsibility without prior written approval by the authorized officer.

B. Notification of Sale. The holder shall immediately notify the authorized officer when a sale and transfer of ownership of the permitted improvements is planned.

C. Divestiture of Ownership. Upon change in ownership of the facilities authorized by this permit, the rights granted under this authorization may be transferred to the new owner upon application to and approval by the authorized officer. The new owner must qualify and agree to comply with and be bound by the terms and conditions of the authorization. In granting approval, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and state land use plans, laws, regulations or other management decisions.

VIII. TERMINATION.

A. Termination for Higher Public Purpose. If, during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his or her authority shall determine by his or her planning for the uses of the National Forest that the public interest

requires termination of this permit, this permit shall terminate upon one hundred-eighty (180) day's written notice to the holder of such determination, and the United States shall have the right thereupon, subject to Congressional authorization and appropriation, to purchase the holder's improvements, to remove them, or to require the

holder to remove them, at the option of the United States. The United States shall be obligated to pay an equitable consideration for the improvements or for removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: Provided, that if mutual agreement is not reached, the Forest Service shall determine the amount, and if the holder is dissatisfied with the amount thus determined to be due him may appeal the determination in accordance with the Appeal Regulations, and the amount as determined on appeal shall be final and conclusive on the parties hereto; Provided further, that upon the payment to the holder of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

B. Termination, Revocation and Suspension. The authorized officer may suspend, revoke, or terminate this permit for (1) noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed agreed upon condition, event, or time occurs. Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to correct curable noncompliance.

IX. RENEWAL

A. Renewal. The authorized use may be renewed. Renewal requires the following conditions: (1) the land use allocation is compatible with the Forest Land and Resource Management Plan; (2) the site is being used for the purposes previously authorized; and (3) the enterprise is being continually operated and maintained in accordance with all the provisions of the permit. In making a renewal, the authorized officer may modify the terms, conditions, and special stipulations.

X. RIGHTS AND RESPONSIBILITIES UPON TERMINATION OR NONRENEWAL.

A. Removal of Improvements. Except as provided in Clause VIII.A., upon termination or revocation of this special use permit by the Forest Service, the holder shall remove within a reasonable time as established by the authorized officer, the structures and improvements, and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States without compensation to the holder, but that shall not relieve the holder's liability for the removal and site restoration costs.

XI. MISCELLANEOUS PROVISIONS.

A. Members of Congress. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

B. Inspection, Forest Service. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permitted facilities and improvements at any time for compliance with the terms of this permit. Inspections by the Forest Service do not relieve the holder of responsibilities under other terms of this permit.

C. Regulating Services and Rates. The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices significantly different than those charged by comparable or competing enterprises.

D. Advertising. The holder, in advertisements, signs, circulars, brochures, letterheads, and like materials, as well as orally, shall not misrepresent in any way either the accommodations provided, the status of the permit, or the area covered by it or the vicinity. The fact that the permitted area is located on the National Forest shall be made readily apparent in all of the holder's brochures and print advertising regarding use and management of the area and facilities under permit.

E. Bonding. The authorized officer may require the holder to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or any applicable law, regulation, or order.

Bonds, Performance. As a further guarantee of the faithful performance of the provisions of terms and

conditions when applicable of this permit, the holder agrees to deliver and maintain a surety bond or other acceptable security in the amount of when applicable. Should the sureties or the bonds delivered under this permit become unsatisfactory to the Forest Service, the holder shall, within thirty (30) days of demand, furnish a new bond with surety, solvent and satisfactory to the Forest Service. In lieu of a surety bond, the holder may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in the amounts provided for above, or negotiable securities of the United States having a market value at the time of deposit of not less than the dollar amounts provided above.

The holder's surety bond shall be released, or deposits in lieu of a bond, shall be returned thirty (30) days after certification by the Forest Service that priority installations under the development plan are complete, and upon furnishing by the holder of proof satisfactory to the Forest Service that all claims for labor and material on said installations have been paid or released and satisfied. The holder agrees that all moneys deposited under this permit may, upon failure on his or her part to fulfill all and singular the requirements herein set forth or made a part hereof, be retained by the United States to be applied to satisfy obligations assumed hereunder, without prejudice whatever to any rights and remedies of the United States.

Prior to undertaking additional construction or alteration work not provided for in the above terms and conditions or when the improvements are to be removed and the area restored, the holder shall deliver and maintain a surety bond in an amount set by the Forest Service, which amount shall not be in excess of the estimated loss which the Government would suffer upon default in performance of this work.

F. Water Rights. This authorization confers no rights to the use of water by the holder. Such rights must be acquired under State law. All water rights acquired or claimed by the holder during the term of this permit which involve diversion of water directly from National Forest System Lands, to the extent the same are applied to beneficial uses on National Forest System lands authorized under this permit, shall be acquired by the holder and transferred to the United States. Such transactions are subject to the permit holder's right to use.

G. Current Addresses. The holder and the Forest Service shall keep each informed of current mailing addresses including those necessary for billing and payment of fees.

H. Identification of Holder. Identification of the holder shall remain sufficient that the Forest Service shall know the true identify of the entity.

Corporation Status Notification:

1. The holder shall notify the authorized officer within fifteen (15) days of the following changes:
 - a. Names of officers appointed or terminated.
 - b. Names of stockholders who acquire stock shares causing their ownership to exceed 50 percent of shares issued or otherwise acquired, resulting in gaining controlling interest in the corporation.
2. The holder shall furnish the authorized officer:
 - a. A copy of the articles of incorporation and bylaws.
 - b. An authenticated copy of a resolution of the board of directors specifically authorizing a certain individual or individuals to represent the holder in dealing with the Forest Service.
 - c. A list of officers and directors of the corporation and their addresses.
 - d. Upon request, a certified list of stockholders and amount of stock owned by each.
 - e. The authorized officer may require the holder to furnish additional information as set forth in 36 CFR 251.54(e) (1) (iv).

Partnership Status Notification:

The holder shall notify the authorized officer within fifteen (15) days of the following changes. Names of the individuals involved shall be included with the notification.

1. Partnership makeup changes due to death, withdrawal, or addition of a partner.
2. Party or parties assigned financed interest in the partnership by existing partner(s).
3. Termination, reformation, or revision of the partnership agreement.
4. The acquisition of partnership interest, either through purchase of an interest from an existing partner or partners, or contribution of assets, that exceeds 50 percent of the partnership permanent investment.

I. Archaeological-Paleontological Discoveries. The holder shall immediately notify the authorized officer

of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this permit, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

J. Protection of Habitat of Endangered, Threatened, and Sensitive Species.

Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, as amended, or listed as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this permit, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

K. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof, and any of the following clauses or any provision thereof, the preceding clauses shall control.

L. Superseded Permit. This permit replaces a special use permit issued to:

Ralston Resorts, Inc. on December 1, 19 94.
(Holder Name) (Date)

M. Disputes. Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto. The procedures for these appeals are set forth in 36 CFR 251 published in the Federal Register at 54 FR 3362, January 23, 1989.

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington D.C.20050; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0596-0082), Washington, D.C. 20503.

Authorization ID: DIL528901

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Contact ID: KEYSTONE_SKI_AREA

FS-2700-23 (4/97)

OMB No. 0596-0082

U. S. DEPARTMENT OF AGRICULTURE
Forest Service

AMENDMENT
FOR
SPECIAL USE AUTHORIZATION
AMENDMENT NUMBER: 2

This amendment is attached to and made a part of the special use authorization (indicated above) issued to KEYSTONE SKI AREA on 12/31/1996, which is hereby amended as follows:

Remove clauses A - G of Section "VI FEES" and replace with the following clauses:

A-9. Ski Area Permit Fees. The Forest Service shall adjust and calculate permit fees authorized by this permit to reflect any revisions to permit fee provisions in 16 U.S.C. 497c or to comply with any new permit fee system based on fair market value that may be adopted by statute or otherwise after issuance of this permit.

A. Fee Calculation. The annual fee due the United States for the activities authorized by this permit shall be calculated using the following formula:

$$SAPF = (.015 \times AGR \text{ in bracket 1}) + (.025 \times AGR \text{ in bracket 2}) + (.0275 \times AGR \text{ in bracket 3}) + (.04 \times AGR \text{ in bracket 4})$$

Where:

$$AGR = [(LT + SS) \times (\text{proration } \%)] + GRAF$$

- AGR is adjusted gross revenue;
- LT is revenue from sales of alpine and nordic lift tickets and passes;
- GRAF is gross year-round revenue from ancillary facilities;
- Proration % is the factor to apportion revenue attributable to use of National Forest System lands;
- SAPF is the ski area permit fee for use of National Forest System lands; and
- SS is revenue from alpine and nordic ski school operations.

1. SAPF shall be calculated by summing the results of multiplying the indicated percentage

rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets. Follow direction in paragraph 2 to determine AGR. The permit fee shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually by the consumer price index issued in FSH 2709.11, chapter 30. The revenue brackets shall be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

The revenue brackets and percentages displayed in Exhibit 01 shall be used as shown in the preceding formula to calculate the permit fee.

Exhibit 01

Adjusted Gross Revenue (AGR) Brackets and Associated Percentage Rates for Use in Determining Ski Area Permit Fee (SAPF)

Revenue Brackets (updated annually by CPI*)
and Percentage Rates

| Holder FY | Bracket 1 (1.5%) | Bracket 2 (2.5%) | Bracket 3 (2.75%) | Bracket 4 (4%) |
|-----------|---------------------|---------------------|----------------------|-------------------|
| FY 1996 | All revenue | \$ 3,000,000 | \$15,000,000 | All revenue |
| CPI: | below | to | to | over |
| N/A | \$3,000,000 | <\$15,000,000 | \$50,000,000 | \$50,000,000 |
| FY 1997 | All revenue | \$ 3,090,000 | \$15,450,000 | All revenue |
| CPI: | below | to | to | over |
| 1.030 | \$3,090,000 | <\$15,450,000 | \$51,500,000 | \$51,500,000 |
| FY 1998 | All revenue | \$ 3,158,000 | \$15,790,000 | All revenue |
| CPI: | below | to | to | over |
| 1.022 | \$3,158,000 | <\$15,790,000 | \$52,633,000 | \$52,633,000 |
| FY 1999 | All revenue | \$ 3,212,000 | \$16,058,000 | All revenue |
| CPI: | below | to | to | over |
| 1.017 | \$3,212,000 | <\$16,058,000 | \$53,528,000 | \$53,528,000 |

FY 2000 and beyond

BRACKETS WILL BE UPDATED ANNUALLY BY CPI*

*The authorized officer shall notify the holder of the updated revenue brackets based on the Consumer Price Index (CPI) which is revised and issued annually in FSH 2709.11, chapter 30.

2. AGR shall be calculated by summing the revenue from lift tickets and ski school operations prorated for use of National Forest System lands and from ancillary facility operations conducted on National Forest System lands.

Revenue inclusions shall be income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue.

Discriminatory pricing, a rate based solely on race, color, religion, sex, national origin, age, disability, or place of residence, is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price, the price generally available to an informed public, excluding special promotions.

Revenue exclusions shall be income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

Include the following in AGR:

- a. Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;
- b. Gross year-round revenue from temporary and permanent ancillary facilities located on National Forest System lands;
- c. The value of bartered goods and complimentary lift tickets, which are goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) valued at market price shall be included in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

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d. Special event revenue from events, such as food festivals, foot races, and concerts. Special event revenue shall be included in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in the following paragraphs 5 and 6.

3. LT is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year, including revenue that is generated on private land (such as from tickets sold on private land).

4. SS is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing,

snowboarding, or snowshoeing, including revenue that is generated on private land (such as from tickets sold on private land).

5. Proration % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues altogether; then sum them with GRAF to arrive at AGR. Use one or both of the following methods, as appropriate:

- a. STFP shall be the method used to prorate alpine revenue. The STFP direction contained in FSM 2715.11c effective in 1992 shall be used. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.

b. Nordic trail length is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length.

6. GRAF is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. Do not include revenue that is generated on private land. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the total facility square footage. Special event revenue allocatable to GRAF shall be prorated by the ratio of use on National Forest System lands to the total use.

7. In cases when the holder has no AGR for a given fiscal year, the holder shall pay a permit fee of \$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer.

B. Fee Payments. Reports and deposits shall be tendered in accordance with the following schedule. They shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to: USDA, Forest Service.

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1. The holder shall calculate and submit an advance payment which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average permit fee for 3 operating year, when available. When past permit fee information is not available, the advance payment shall equal 20 percent of the permit fee, based on the prior holder's average fee or projected AGR. For ski areas not expected to generate AGR for a given payment cycle, advance payment of the permit fee as calculated in item A, paragraph 7 (\$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer) shall be made. The advance payment shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

2. The holder shall report sales, calculate fees due based on a tentative percentage rate, and make interim payments each calendar [MONTH], except for periods in which no sales take place and the holder has notified the authorized officer that the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the end of the month following the end of each reportable period. Interim payments shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

3. Within 90 days after the close of the ski area's payment cycle, the holder shall provide a financial statement, including a completed permit fee information form, Form FS-2700-91a, representing the ski area's financial condition at the close of its business year and an annual operating statement reporting the results of operations, including a final payment which includes year-end adjustments for the holder and each subholder for the same period. Any balance that exists may be credited and applied against the next payment due or refunded, at the discretion of the permit holder.

4. Within 30 days of receipt of a statement from the Forest Service, the holder shall make any additional payment required to ensure that the correct ski area permit fee is paid for the past year's operation.

5. Payments shall be credited on the date received by the designated collection officer. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not accrue until the close of business on the next workday.

6. All permit fee calculations and records of sales are subject to review or periodic audit as determined by the authorized officer. Errors in calculation or payment shall be corrected as needed for conformance with those reviews or audits. In accordance with the Interest and Penalties clause contained in this authorization, interest and penalties shall be assessed on additional fees due as a result of reviews or audits.

7. Correction of errors includes any action necessary to calculate the holder's sales or slope transport fee percentage or to make any other determination required to calculate permit fees accurately.

For fee calculation purposes, an error may include:

- a. Misreporting or misrepresentation of amounts;
- b. Arithmetic mistakes;

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c. Typographic mistakes; or

d. Variation from generally accepted accounting principles (GAAP), when such variations are inconsistent with the terms of this permit. Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past fees shall be adjusted accordingly.

This Amendment is accepted subject to the conditions set forth herein, and to conditions N/A to N/A attached hereto and made a part of this Amendment.

Holder: VAIL SUMMIT RESORTS, INC.

Authorized Officer: /s/

Holder: /s/ Martha Dugan Rehm, SVP

Title: for Forest Supervisor

Date: November 14, 2001

Date: 11/20/01

| | | | |
|--|-----------------------|------------|-------------|
| USDA - Forest Service SKI AREA TERM SPECIAL USE PERMIT Act of October 22, 1986 (Ref. FSM 2710) | Holder No. | Type Site | Authority |
| | 5289 / 04 | 161 | 545 |
| | Auth. Type | Issue Date | Expir. Date |
| | 18 | 12/30/96 | 12/31/29 |
| | Location Sequence No. | | Stat. Ref. |
| | 0215100811703 | | 08 |
| | Latitude | Longitude | LOS Case |
| | - - | - - | |

RALSTON RESORTS, INC. of P.O. BOX 38

(Holder Name) (Billing Address - 1)

KEYSTONE CO 80435

(Billing Address - 2) (City) (State) (Zip Code)

(hereafter called the holder) is hereby authorized to use National Forest System lands, on the White River National Forest, for the purposes of constructing, operating, and maintaining a winter sports resort including food service, retail sales, and other ancillary facilities, described herein, known as the Breckenridge ski area and subject to the provisions of this term permit. This permit covers approximately 3156 acres described here and as shown on the attached map dated 10/05/95 by Erik Martin (identified as Exhibit A).

The following improvements, whether on or off the site, are authorized:

Ski lifts and tows, ski trails, day lodge, restaurants, maintenance and snowmaking facilities, roads, utilities, parking, signs, radio base station, explosive cache, and other facilities and improvements needed in the operation and maintenance of a four-season resort.

Attached Clauses. This term permit is accepted subject to the conditions set forth herein on pages 2 through 19, and to exhibits A to C attached or referenced hereto and made a part of this permit. (Map, GFA, M.P.)

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS.

ACCEPTED:

/s/ JOHN RUTTER 12/31/96

HOLDER'S NAME AND SIGNATURE DATE

APPROVED:

/s/ VETO J. LASALLE 12/31/96

VETO J. LASALLE FOREST SUPERVISOR DATE

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TERMS AND CONDITIONS

I. AUTHORITY AND USE AND TERM AUTHORIZED.

A. Authority. This term permit is issued under the authority of the Act of October 26, 1986, (Title 16, United States Code 497b), and Title 36, Code of Federal Regulations, Sections 251.50-251-64.

B. Authorized Officer. The authorized officer is the Forest Supervisor. The authorized officer may designate a representative for administration of specific portions of this authorization.

C. Rules, Laws and Ordinances. The holder, in exercising the privileges granted by this term permit, shall comply with all present and future regulations of the Secretary of Agriculture and federal laws; and all present and future, state, county, and municipal laws, ordinances, or regulations which are applicable to

the area or operations covered by this permit to the extent they are not in conflict with federal law, policy or regulation. The Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

D. Term.

1. This authorization is for a term of N/A years to provide for the holder to prepare a Master Development Plan. Subject to acceptance of the Master Development Plan by the authorized officer, this authorization shall be extended for an additional N/A years, for a total of N/A years, to provide the holder sufficient time to construct facilities approved in the Master Development Plan within the schedule outlined in clause II.B. (Site Development Schedule), so that the area may be used by the public. Further Provided; This authorization shall be extended by its terms for an additional N/A years, for a total of N/A years, if it is in compliance with the site development schedule in the Master Development Plan and being in operation by the 10-year anniversary date of the issuance of this authorization. Failure of the holder to comply with all or any provisions of this clause shall cause the authorization to terminate under its terms.

2. Unless sooner terminated or revoked by the authorized officer, in accordance with the provisions of the authorization, this permit shall terminate on December 31, 2029, but a new special-use authorization to occupy and use the same National Forest land may be granted provided the holder shall comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands. The holder shall notify the authorized officer in writing not less than six (6) months prior to said date that such new authorization is desired.

E. Nonexclusive Use. This permit is not exclusive. The Forest Service reserves the right to use or permit others to use any part of the permitted area for any purpose, provided such use does not materially interfere with the rights and privileges hereby authorized.

F. Area Access. Except for any restrictions as the holder and the authorized officer may agree to be necessary to protect the installation and operation of authorized structures and developments, the lands and waters covered by this permit shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads or roads as may be constructed by the holder, shall remain open to the public, except for roads as may be closed by joint agreement of the holder and the authorized officer.

G. Master Development Plan. In consideration of the privileges authorized by this permit, the holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire winter sports resort presently envisioned for development in connection with the National Forest lands authorized by this permit, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area authorized for use by this permit. The accepted Master Development Plan shall become a part of this permit.

For planning purposes, a capacity for the ski area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process.

H. Periodic Revision.

1. The terms and conditions of this authorization shall be subject to revision to reflect changing times and conditions so that land use allocation decisions made as a result of revision to Forest Land and Resource Management Plan may be incorporated.

2. At the sole discretion of the authorized officer this term permit may be amended to remove authorization to use any National Forest System lands not specifically covered in the Master Development Plan and/or needed for use and occupancy under this authorization.

II. IMPROVEMENTS.

A. Permission. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named in the Master Development Plan and approved in the annual operating plan, or further authorized in writing by the authorized officer.

B. Site Development Schedule. As part of this permit, a schedule for the progressive development of the permitted area and installation of facilities shall be prepared jointly by the holder and the Forest Service. Such a schedule shall be prepared by N/A, and shall set forth an itemized priority list of planned improvements and the due date for completion. This schedule shall be made a part of this permit. The holder may accelerate the scheduled date for installation of any improvement authorized, provided the other scheduled priorities are met; and provided further, that all priority installations authorized are completed to the satisfaction of the Forest Service and ready for public use

prior to the scheduled due date.

1. All required plans and specifications for site improvements, and structures included in the development schedule shall be properly certified and submitted to the Forest Service at least forty-five (45) days before the construction date stipulated in the development schedule.

2. In the event this is agreement with the Forest Service to expand the facilities and services provided on the areas covered by this permit, the holder shall jointly prepare with the Forest Service a development schedule for the added facilities prior to any construction and meet requirements of paragraph II.D of this section. Such schedule shall be made a part of this permit.

C. Plans. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be accepted by the authorized officer before the commencement of any work. A holder may be required to furnish as-built plans, maps, or surveys upon the completion of construction.

D. Amendment. This authorization may be amended to cover new, changed, or additional use(s) or area not previously considered in the approved Master Development Plan. In approving or denying changes or modifications, the authorized officer shall consider among other things, the findings or recommendations of other involved agencies and whether their terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

E. Ski Lift Plans and Specifications. All plans for uphill equipment and systems shall be properly certified as being in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A complete set of drawings, specifications, and records for each lift shall be maintained by the holder and made available to the Forest Service upon request. These documents shall be retained by the holder for a period of three (3) years after the removal of the system from National Forest land.

III. OPERATIONS AND MAINTENANCE.

A. Conditions of Operations. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. Standards are subject to periodic change by the authorized officer. This use shall normally be exercised at least 365 days each year or season. Failure of the holder to exercise this minimum use may result in termination pursuant to VIII.B.

B. Ski Lift, Holder Inspection. The holder shall have all passenger tramways inspected by a qualified engineer or tramway specialist. Inspections shall be made in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A certificate of inspection, signed by an officer of the holder's company, attesting to the adequacy and safety of the installations and equipment for public use shall be received by the Forest Service prior to public operation stating as a minimum:

"Pursuant to our special use permit, we have had an inspection to determine our compliance with the American National Standard B77.1. We have received the results of that inspection and have made corrections of all deficiencies noted. The facilities are ready for public use."

C. Operating Plan. The holder of designated representative shall prepare and annually revise by June 1 and November 15 an Operating Plan. The plan shall be prepared in consultation with the authorized officer or designated representative and cover winter and summer operations as appropriate. The provisions of the Operating Plan and the annual revisions shall become a part of this permit and shall be submitted by the holder and approved by the authorized officer or their designated representatives.

This plan shall consist of at least the following sections:

1. Ski patrol and first aid.
2. Communications.
3. Signs.
4. General safety and sanitation.
5. Erosion control.
6. Accident reporting.
7. Avalanche control.
8. Search and rescue.

9. Boundary management.
10. Vegetation and management.
11. Designation of representatives.
12. Trail routes for nordic skiing.

The authorized officer may require a joint annual business meeting agenda to:

- a. Update Gross Fixed Assets and lift-line proration when the fee is calculated by the Graduated Rate Fee System.
- b. Determine need for performance bond for construction projects, and amount of bond.
- c. Provide annual use reports.

D. Cutting of Trees. Trees or shrubbery on the permitted area may be removed or destroyed only after the authorized officer has approved and marked, or otherwise designated, that which may be removed or destroyed. Timber cut or destroyed shall be paid for by the holder at appraised value, provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the holder at no stumpage cost to the holder.

E. Signs. Signs or advertising devices erected on National Forest lands, shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

F. Temporary Suspension. Immediate temporary suspension of the operation, in whole or in part, may be required when the authorized officer, or designated representative, determines it to be necessary to protect the public health or safety, or the environment. The order for suspension may be given verbally or in writing. In any such case, the superior of the authorized officer, or designated representative, shall, within ten (10) days of the request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior shall take prompt action to affirm, modify or cancel the temporary suspension.

IV. NONDISCRIMINATION. During the performance of this permit, the holder agrees:

A. In connection with the performance of work under this permit, including construction, maintenance, and operation of the facility, the holder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap. (Ref. Title VII of the Civil Rights Act of 1964 as amended).

B. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, religion, sex, national origin, age or handicap, by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. (Ref. Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments, and the Age Discrimination Act of 1975).

C. The holder shall include and require compliance with the above nondiscrimination provisions in any subcontract made with respect to the operations under this permit.

D. Signs setting forth this policy of nondiscrimination to be furnished by the Forest Service will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

E. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States of the State in which the breach or violation occurs.

V. LIABILITIES.

A. Third Party Rights. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. Indemnification of the United States. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.

C. Damage to United States Property. The holder shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit. The holder shall pay the United States the full cost of any damage resulting from negligence or activities occurring

under the terms of this permit or under any law or regulation applicable to the national forests, whether caused by the holder, or by any agents or employees of the holder.

D. Risks. The holder assumes all risk of loss to the improvements resulting from natural or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees, and other hazardous events. If the improvements authorized by this permit are destroyed or substantially damaged by natural or catastrophic events, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis shall be provided to the holder within six (6) months of the event.

E. Hazards. The holder has the responsibility of inspecting the area authorized for use under this permit for evidence of hazardous conditions which could affect the improvements or pose a risk of injury to individuals.

F. Insurance. The holder shall have in force public liability insurance covering: (1) property damage in the amount of Fifty Thousand dollars (\$ 50,000.00), and (2) damage to persons in the minimum amount of Three Hundred Thousand dollars (\$ 300,000.00) in the event of death or injury to one individual, and the minimum amount of One Million dollars (\$ 1,000,000.00) in the event of death or injury to more than one individual. These minimum amounts and terms are subject to change at the sole discretion of the authorized officer at five-year anniversary date of this authorization. The coverage shall extend to property damage, bodily injury, or death rising out of the holder's activities under the permit including, but not limited to, occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as an additionally insured.

The holder shall send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company.

Rider Clause (for insurance companies) "It is understood and agreed that the coverage provided under this policy shall not be cancelled or its provisions changed or deleted before thirty (30) days of receipt of written notice to the Forest Supervisor, Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company."

VI. FEES.

A. Holder to pay fair market value for the permitted use. The holder must pay fair market value for the use of National Forest System land.

1. The provisions of the Graduated Rate Fee System (GRFS) identified under this permit may be revised by the Forest Service to reflect changed times and conditions. Changes shall become effective when:

- a. Mutually agreed; or,
- b. Permit is amended for other purposes; or
- c. A new permit is issued including reissue after termination.

2. The Graduated Rate Fee System may be replaced in its entirety by the Chief of the Forest Service if a new generally applicable fee system is imposed affecting all holders of authorizations under Public Law 99-522. Replacement shall become effective on the beginning of the holder's business year following establishment.

B. Fees - Graduated Rate Fee System. The annual fees due the United States for those activities authorized by this permit shall be calculated on sales according to the following schedule:

| Kind of Business | Break-even point | Balance of | |
|------------------|--------------------------------|---------------------------|----------------------------|
| | (Sales to GFA) (Percentage) | Rate Base (Percentage) | Sales rate (Percentage) |
| Grocery | 70 | .75 | 1.13 |
| Service, food | 70 | 1.25 | 1.88 |
| Service, car | 70 | 1.50 | 1.95 |

| | | | |
|---------------------------------|----|------|------|
| Merchandise | 70 | 1.50 | 2.25 |
| Liquor Service | 60 | 1.80 | 2.70 |
| Outfitting/Guiding | 50 | 2.00 | 3.00 |
| Rental and Services | 30 | 4.50 | 6.75 |
| Lodging | 40 | 4.00 | 6.00 |
| Lifts, Tows, and Ski Schools | 20 | 2.00 | 5.00 |

1. A weighted-average break-even point (called the break-even point) and a weighted-average rate base (called the rate base) shall be calculated and used when applying the schedule to mixed business. If the holder's business records do not clearly segregate the sales into the business categories authorized by this permit, they shall be placed in the most logical category. If sales with a different rate base are grouped, place them all in the rate category that shall yield the highest fee. Calculate the fee on sales below the break-even point using 50 percent of the rate base. Calculate the fee on sales between the break-even point and twice the break-even point using 150 percent of the rate base. Calculate the fee on sales above twice the break-even point using the balance of sales rate.

2. The minimum annual fee for this use, which is due in advance and is not subject to refund, shall be equal to the fee that would result when sales are 40 percent of the break-even point. This fee shall be calculated and billed by the Forest Service during the final quarter of the holder's fiscal year, using the most recent GFA figure and previously reported sales data for the current year, plus, if the operating season is still active, estimated sales for the remainder of the year.

3. Mixed Ownership. This use occupies both private and public land. For purposes of the fee calculation, the calculated fee shall be adjusted by the slope-transport-feet percentage representing the portion of the use attributed to National Forest land. Slope-transport feet is determined by the slope distance traveled by lifts over each ownership, multiplied by the lift capacity.

C. Surcharge. A surcharge of N/A percent shall be applied to and added to the basic fee. The surcharge shall be applied for N/A years beginning with the year that sales first occur under this operation.

D. Definitions of Sales Categories and Gross Fixed Assets (GFA).

1. Sales categories. For purposes of recording and reporting sales, and sales-related information including the cost of sales, the activities of the concessioner are divided into:

Grocery. Includes the sale of items usually associated with grocery stores such as staple foods, meats, produce, household supplies. Includes the sale of bottled soft drinks, beer and wine, when included in the grocery operation.

Service, Food. Includes the serving of meals, sandwiches, and other items either consumed on the premises or prepared for carry out. Snack bars are included.

Service, Cars. Includes servicing and sale of fuels, lubricants, and all kinds of articles used in servicing and repairing autos, boats, snowmobiles, and aircraft.

Merchandise. Includes the sale of clothing, souvenirs, gifts, ski and other sporting equipment. Where a "Service, Cars" category of business is not established by this permit, the sale of auto accessories is included in this category.

Service, Liquor. Includes the sale of alcoholic drinks for consumption on the premises and other sales ordinarily a part of a bar or cocktail-lounge business. Where a bar is operated in conjunction with a restaurant

or overnight accommodations liquor, beer and wine sales shall be accounted for consistent with the holder's normal business practice. The sale of alcoholic beverages for consumption off the premises is also included in this item, except as indicated in "Grocery".

Outfitting, Guiding. Includes all activities or commercial guiding services involving back-country travel, regardless of mode of travel, when associated with a resort or dude ranch with a mixture of business. All fees charged are considered sales.

Lodging. Includes lodging where daily maid service is furnished.

Rentals and Services. Includes lodging where daily maid service is not furnished by the holder; the rental of camping space, ski equipment and other equipment rentals; fees for the use of cross-country ski trails.

Also included are services such as barbershops, and amusements including video games.

Lifts, Tows, and Ski Schools. Includes charges for use of all types of uphill transportation facilities and for sports lessons and training.

2. Gross Fixed Assets. The capitalized cost of improvements, equipment, and fixtures necessary and used to generate sales and other revenue during the permit year on the permitted area or within the development boundary shown in this permit.

GFA shall be established by and changed at the sole discretion of the authorized officer based on the current interpretation of guidelines supporting the Graduated Rate Fee System.

a. Costs of the following items as presented by the holder and verified by a representative of the authorized officer to be in existence and in use are included:

(1) Identifiable structures, major equipment, such as road maintenance equipment, or land improvements which play a distinct role in the permitted activity.

(2) Identifiable holder costs, to provide utility services to the area. Utility services that extend beyond the development boundary may be included in GFA to the extent they are necessary for the generation of sales and are paid by the holder. Costs for user surcharge or demand rates are not included as GFA.

b. The following, and similar items, are not part of GFA:

(1) Assets that ordinarily qualify for inclusion in GFA, but which are out of service for the full operating year for which fees are being determined.

(2) Land.

(3) Expendable or consumable supplies.

(4) Intangible assets, such as goodwill, permit value, organization expense, and liquor licenses.

(5) Improvements not related to the operation.

(6) Luxury assets, to the extent their design and cost exceed functional need.

(7) The prorata share of GFA assets used in off-site activities not directly associated with the authorized use.

(8) Expensed assets.

(9) Operating leases.

As of the date of this permit, (12/30/96) the initial GFA under this ownership has been determined to be \$ 47,468,541.78 as of 4/14/93 as shown in detail on attached exhibit B. If an error is found in the GFA amount, it shall be changed to the correct amount retroactive to the date the error occurred and fees adjusted accordingly.

E. Change of Gross Fixed Asset Amount Upon Sale or Change in Controlling Interest. Upon change of ownership, effective dominion or controlling interest or upon sale of assets or common stock which results in a change of ownership, effective dominion, or controlling interest, the value of Gross Fixed Assets shall be established applying Generally Accepted Accounting Principles (GAAP).

F. Determining Sales and Other Revenue. Sales and Gross Fixed Assets shall be derived from all improvements and facilities, including those of sublessees, which constitute a logical single overall integrated business operation regardless of the land ownership. A map shall be prepared designating the development boundary and may be augmented by narrative or table and shall become a part of this permit.

1. Sales. Fees shall be assessed against all receipts from sales unless specifically exempted. Sales for the purpose of fee calculation include, (1) all revenue derived from goods and services sold which are related to operations under this permit and all revenue derived within the development boundary, unless otherwise excluded, (2) the value of goods and services traded-off for goods and services received (bartering) and (3) the value of gratuities.

a. Definitions.

(1) Gratuities. Goods, services or privileges that are provided without charge or at deep discount to such individuals as employees, owners, and officers or immediate families of employees, owners and officers and not available to the general public.

(2) Acceptable Discounts. Transactions for goods or services below stated, listed or otherwise presented prices to the public at large. Included are such things as group sales and organized programs. These are included in sales at the actual transaction price.

(3) Discriminatory Pricing. Rates based solely on residence, race, color, or religion. Discounts based on age or disability are not discriminatory pricing.

(4) Preferential Discounts. Discounts offered to certain classes or individuals based on their status, such as members of boards of directors, contractors, advertisers, doctors, and VIP's. etc.

(5) Market Price. The price generally available to an informed public excluding special promotions. It may not be the "window price".

(6) Bartering or Trade Offs. The practice of exchanging goods or services between individuals or companies.

(7) Commissions. Commissions are payments received by the holder for collecting revenue on behalf of others as an agent or providing services not directly associated with the operations, such as selling hunting and fishing licenses, bus or sightseeing tickets for trips off or predominantly off the permitted area, accommodating telephone toll calls, and so forth.

(8) Franchise Receipts. These are payments made to specific permittees by sublessees solely for the opportunity to do business at a specific location. The permittee provides little, if anything, in the way of facilities or services. They may be the only fee paid to the permittee or, if some facilities or services are provided by the permittee, they may be made in addition to a rental fee. The franchise receipts may be in the form of fixed amounts of money or in reduced prices for the franchiser's product or service.

b. Inclusions. The following items shall be included as gross receipts to arrive at sales:

(1) Gratuities. Daily and season passes are valued at market price unless the permit holder has sufficient records of daily individual use to substantiate a "value of use". Value of use is the number of days the pass is used times the market price. Does not include employees. See (4) below.

(2) Preferential Discounts. Include the amount that would have been received had the transaction been made at the market price.

(3) Value of Discriminatory Pricing. Discriminatory pricing is disallowed. Include the amount that would have been received had the transaction been made at the market price.

(4) Employee discounts in excess of 30 percent of market price. These discounts are exclusively given or provided to employees, owners, officers or immediate families of employees, owners or officers are gratuities and are included in sales at 70 percent of market price. Employee discounts less than 30 percent are recorded at transaction price.

(5) Value of bartered goods and services (trade offs).

(6) Gross sales of sublessees. Includes sales of State controlled liquor stores.

(7) Fifty percent of franchise receipts.

(8) All other revenue items not specifically excluded below shall be included as sales.

c. Exclusions. The following items shall be excluded from gross receipts or revenue to arrive at sales:

(1) Value of goods and services provided to employees, agents, contractors or officials to facilitate the accomplishment of their assigned duties or work-related obligation or to others for educational or technical competence related to the type of permitted use such as lift operation, ski patrol, water safety, avalanche control, etc. Similarly, local, state and federal government officials including Forest Service employees who in the course of their oversight responsibilities or otherwise on official business, use goods or services. The holder is not required to report the value of such duty-related or official use as sales for fee calculation purposes.

(2) The value of meals and lodging furnished by an employer to an employee for the employer's convenience if, in the case of meals, they are furnished on the employer's business premises. The fact that the employer imposes a partial charge for, or that the employee may accept or decline meals does not affect the exclusion if all other conditions are met. If employer imposes a charge for meals and lodging it shall be included at the transaction price. The holder need not keep records of employee meals and lodging more detailed than those required by the Internal Revenue Service.

(3) Refunds from returned merchandise and receipts from sales of real and nonrental personal property used in the operation.

(4) Rents paid to the permittee by sublessees, even if based on sales.

(5) Taxes collected on site from customers, accounted for as such in the holder's accounting records, and that were paid or are payable to taxing authorities. Taxes included in the purchase price of gasoline, tobacco and other products, but paid to the taxing authority by the manufacture or wholesaler are included

in sales, and subject to the permit fee.

(6) Amounts paid or payable to a Government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets.

(7) Value of sales and commissions where the holder is serving as an agent for businesses not directly associated with the permitted operation. This includes such things as bus or sightseeing-ticket sales for trips not related to activities on the permitted area, telephone-toll charges, and accident-insurance sales.

(8) Sales of operating equipment. Rental equipment, capitalized assets or other assets used in operations shall be excluded from gross receipts. Examples are such items as, used rental skis and boots, ski lifts, or grooming equipment, which are sold periodically and replaced.

G. Concession Payment, Graduated Rate Fee System. Reports and deposits required as outlined above shall be tendered in accordance with

the schedule below. They shall be sent or delivered to the Collection Officer, Forest Service, USDA, at the address furnished by the Forest Supervisor. Checks or money orders shall be payable to "Forest Service, USDA."

1. The holder shall report sales, calculate fees due and make payment each calendar month, except for periods in which no sales take place and the holder has notified the authorized officer and the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the 30th of the month following the end of each reportable period.

2. The authorized officer, prior to January 01, shall furnish the holder with a tentative rate which shall be applied to sales in the fee calculation (item 1), such rate to be one that shall produce the expected fee based on past experience. The correct fee shall be determined at the end of the year and adjustments made as provided under item (5). Any balance that may exist shall be credited and applied against the next payment due.

3. During the final fiscal month, pay within 30 days of billing by the Forest Service, the annual minimum fee for the next year.

4. The holder must also provide within three (3) months after close of its operating year, a balance sheet representing its financial condition at the close of its business year, an annual operating statement reporting the results of operations including yearend adjustments for itself and each sublessee for the same period, and a schedule of Gross Fixed Assets adjusted to comply with the terms of this permit in a format and manner prescribed by the authorized officer.

If the holder fails to report all sales in the period they were made or misreports Gross Fixed Assets and the authorized officer determines that additional fees are owed, the holder shall pay the additional fee plus interest. Such interest shall be assessed at the rate specified in Clause I and shall accrue from the date the sales or correct Gross Fixed Assets should have been reported and fee paid until the date of actual payment of the underpaid fee.

5. Within 30 days of receipt of a statement from the Forest Service, pay any additional fee required to correct fees paid for the past year's operation.

6. Payments shall be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

7. All fee calculations and records of sales and Gross Fixed Assets are subject to periodic audit. Errors in calculation or payment shall be corrected as needed for conformance with those audits. Additional fees and interest due as a result of such audits shall be in accordance with item 4, paragraph 2.

8. Disputed fees must be paid in a timely manner.

9. Correction of errors includes any action necessary to establish the cost of gross fixed assets to the current holder, sales, slope transport feet calculation, or other data required to accurately assess and calculate fees. For fee calculation purposes, error may include:

a. Misreporting or misrepresentations of amounts,

b. Arithmetic mistakes,

c. Typographic mistakes,

d. Variation from Generally Accepted Accounting Principles (GAAP), when such variations are inconsistent with the terms and conditions of the authorization.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit

period, whichever is more recent, with past fees adjusted accordingly. Changed effected by agency policy including definition of assets included in GFA, shall only be made prospectively.

H. Interest and Penalties.

1. Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, or subsequent changes thereto, interest shall be charged on any fee not paid by the date the fee or fee calculation financial statements specified in this permit

was due.

2. Interest shall be assessed using the higher of (1) the most current rate prescribed by the United States Department of the Treasury Financial Manual (TFM-6-8025.40) or (2) the prompt payment rate prescribed by the United States Department of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 USC 611). Interest shall accrue from the date the fee or fee calculation financial statement is due. In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquent debt may be assessed.

3. A penalty of 6 percent per year shall be assessed on any fee overdue in excess of 90 days, and shall accrue from the due date of the first billing or the date the fee calculation financial statement was due. The penalty is in addition to interest and any other charges specified in item 2.

4. Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 et seq.).

I. Nonpayment. Failure of the holder to make timely payments, pay interest charges or any other charges when due, constitutes breach and shall be grounds for termination of this authorization. This permit terminates for nonpayment of any monies owed the United States when more than 90 days in arrears.

J. Access to Records. For the purpose of administering this permit (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the holder agrees to make all of the accounting books and supporting records to the business activities, as well as those of sublessees operating within the authority of this permit, available for analysis by qualified representatives of the Forest Service or other Federal agencies authorized to review the Forest Service activities.

Review of accounting books and supporting records shall be made at dates convenient to the holder and reviewers. Financial information so obtained shall be treated as confidential as provided in regulations issued by the Secretary of Agriculture.

The holder shall retain the above records and keep them available for review for 5 years after the end of the year involved, unless disposition is otherwise approved by the authorized officer in writing.

K. Accounting Records. The holder shall follow Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at own expense, shall have the annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service. The holder shall require sublessees to comply with these same requirements. The minimum acceptable accounting system shall include:

1. Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this permit. Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be supported by source documents such as cash-register tapes, sale invoices, rental records, and cash accounts from other sources.

2. A permanent record of investments in facilities (depreciation schedule), current source documents for acquisition costs of capital items.

3. Preparation and maintenance of such special records and accounts as may be specified by the authorized officer.

VII. TRANSFER AND SALE.

A. Subleasing. The holder may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized upon prior written notice to the authorized officer. The Forest Service reserves the right to disapprove subleasees. In any circumstance, only those facilities and activities authorized by this permit may be subleased. The holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet. The holder may not sublease direct management responsibility without prior written approval by the authorized officer.

B. Notification of Sale. The holder shall immediately notify the authorized officer when a sale and transfer of ownership of the permitted improvements is planned.

C. Divestiture of Ownership. Upon change in ownership of the facilities authorized by this permit, the rights granted under this authorization may be transferred to the new owner upon application to and approval by the authorized officer. The new owner must qualify and agree to comply with and be bound by the terms and conditions of the authorization. In granting approval, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and state land use plans, laws, regulations or other management decisions.

VIII. TERMINATION.

A. Termination for Higher Public Purpose. If, during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his or her authority shall determine by his or her planning for the uses of the National Forest that the public interest requires termination of this permit, this permit shall terminate upon one hundred-eighty (180) day's written notice to the holder of such determination, and the United States shall have the right thereupon, subject to Congressional authorization and appropriation, to purchase the holder's improvements, to remove them, or to require the holder to remove them, at the option of the United States. The United States shall be obligated to pay an equitable consideration for the improvements or for removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: Provided, that if mutual agreement is not reached, the Forest Service shall determine the amount, and if the holder is dissatisfied with the amount thus determined to be due him may appeal the determination in accordance with the Appeal Regulations, and the amount as determined on appeal shall be final and conclusive on the parties hereto; Provided further, that upon the payment to the holder of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

B. Termination, Revocation and Suspension. The authorized officer may suspend, revoke, or terminate this permit for (1) noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed agreed upon condition, event, or time occurs. Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to correct curable noncompliance.

IX. RENEWAL

A. Renewal. The authorized use may be renewed. Renewal requires the following conditions: (1) the land use allocation is compatible with the Forest Land and Resource Management Plan; (2) the site is being used for the purposes previously authorized; and (3) the enterprise is being continually operated and maintained in accordance with all the provisions of the permit. In making a renewal, the authorized officer may modify the terms, conditions, and special stipulations.

X. RIGHTS AND RESPONSIBILITIES UPON TERMINATION OR NONRENEWAL.

A. Removal of Improvements. Except as provided in Clause VIII.A., upon termination or revocation of this special use permit by the Forest Service, the holder shall remove within a reasonable time as established by the authorized officer, the structures and improvements, and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States without compensation to the holder, but that shall not relieve the holder's liability for the removal and site restoration costs.

XI. MISCELLANEOUS PROVISIONS.

A. Members of Congress. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

B. Inspection, Forest Service. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permitted facilities and improvements at any time for compliance with the terms of this permit. Inspections by the Forest Service do not relieve the holder of responsibilities under other terms of this permit.

C. Regulating Services and Rates. The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices significantly different than those charged by comparable or competing enterprises.

D. Advertising. The holder, in advertisements, signs, circulars, brochures, letterheads, and like

materials, as well as orally, shall not misrepresent in any way either the accommodations provided, the status of the permit, or the area covered by it or the vicinity. The fact that the permitted area is located on the National Forest shall be made readily apparent in all of the holder's brochures and print advertising regarding use and management of the area and facilities under permit.

E. Bonding. The authorized officer may require the holder to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or any applicable law, regulation, or order.

Bonds, Performance. As a further guarantee of the faithful performance of the provisions of terms and conditions when applicable of this permit, the holder agrees to deliver and maintain a surety bond or other acceptable security in the amount of when applicable. Should the sureties or the bonds delivered under this permit become unsatisfactory to the Forest Service, the holder shall, within thirty (30) days of demand, furnish a new bond with surety, solvent and satisfactory to the Forest Service. In lieu of a surety bond, the holder may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in the amounts provided for above, or negotiable securities of the United States having a market value at the time of deposit of not less than the dollar amounts provided above.

The holder's surety bond shall be released, or deposits in lieu of a bond, shall be returned thirty (30) days after certification by the Forest Service that priority installations under the development plan are complete, and upon furnishing by the holder of proof satisfactory to the Forest Service that all claims for labor and material on said installations have been paid or released and satisfied. The holder agrees that all moneys deposited under this permit may, upon failure on his or her part to fulfill all and singular the requirements herein set forth or made a part hereof, be retained by the United States to be applied to satisfy obligations assumed hereunder, without prejudice whatever to any rights and remedies of the United States.

Prior to undertaking additional construction or alteration work not provided for in the above terms and conditions or when the improvements are to be removed and the area restored, the holder shall deliver and maintain a surety bond in an amount set by the Forest Service, which amount shall not be in excess of the estimated loss which the Government would suffer upon default in performance of this work.

F. Water Rights. This authorization confers no rights to the use of water by the holder. Such rights must be acquired under State law. All water rights acquired or claimed by the holder during the term of this permit which involve diversion of water directly from National Forest System Lands, to the extent the same are applied to beneficial uses on National Forest System lands authorized under this permit, shall be acquired by the holder and transferred to the United States. Such transactions are subject to the permit holder's right to use.

G. Current Addresses. The holder and the Forest Service shall keep each informed of current mailing addresses including those necessary for billing and payment of fees.

H. Identification of Holder. Identification of the holder shall remain sufficient that the Forest Service shall know the true identify of the entity.

Corporation Status Notification:

1. The holder shall notify the authorized officer within fifteen (15) days of the following changes:

- a. Names of officers appointed or terminated.
- b. Names of stockholders who acquire stock shares causing their ownership to exceed 50 percent of shares issued or otherwise acquired, resulting in gaining controlling interest in the corporation.

2. The holder shall furnish the authorized officer:

- a. A copy of the articles of incorporation and bylaws.
- b. An authenticated copy of a resolution of the board of directors specifically authorizing a certain individual or individuals to represent the holder in dealing with the Forest Service.
- c. A list of officers and directors of the corporation and their addresses.
- d. Upon request, a certified list of stockholders and amount of stock owned by each.
- e. The authorized officer may require the holder to furnish additional information as set forth in 36 CFR 251.54(e)(1)(iv).

Partnership Status Notification:

The holder shall notify the authorized officer within fifteen (15) days of the following changes. Names of the individuals involved shall be included with the notification.

1. Partnership makeup changes due to death, withdrawal, or addition of a partner.
2. Party or parties assigned financed interest in the partnership by existing partner(s).
3. Termination, reformation, or revision of the partnership agreement.
4. The acquisition of partnership interest, either through purchase of an interest from an existing partner or partners, or contribution of assets, that exceeds 50 percent of the partnership permanent investment.

I. Archaeological-Paleontological Discoveries. The holder shall immediately notify the authorized officer of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this permit, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

J. Protection of Habitat of Endangered, Threatened, and Sensitive Species.

Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, as amended, or listed as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this permit, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

K. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof, and any of the following clauses or any provision thereof, the preceding clauses shall control.

L. Superseded Permit. This permit replaces a special use permit issued to:

Keystone Resorts Management, Inc. (named changed to "Ralston Resorts, Inc." per Amendment Number 1, dated 3/23/95) on May 3, 19 93.

(Holder Name)

(Date)

M. Disputes. Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto. The procedures for these appeals are set forth in 36 CFR 251 published in the Federal Register at 54 FR 3362, January 23, 1989.

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington D.C. 20050; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0596-0082), Washington, D.C. 20503.

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Contact ID: BRECKENRIDGE

FS-2700-23 (4/97)

OMB No. 0596-0082

U. S. DEPARTMENT OF AGRICULTURE

Forest Service

AMENDMENT

FOR

SPECIAL USE AUTHORIZATION

AMENDMENT NUMBER: 1

This amendment is attached to and made a part of the special use authorization (indicated above) issued to BRECKENRIDGE SKI AREA on 12/31/1996, which is hereby amended as follows:

Remove clauses A - G of Section "VI FEES" and replace with the following clauses:

A-9. Ski Area Permit Fees. The Forest Service shall adjust and calculate permit fees authorized by this permit to reflect any revisions to permit fee provisions in 16 U.S.C. 497c or to comply with any new permit fee system based on fair market value that may be adopted by statute or otherwise after issuance of this permit.

A. Fee Calculation. The annual fee due the United States for the activities authorized by this permit shall be calculated using the following formula:

$$SAPF = (.015 \times AGR \text{ in bracket 1}) + (.025 \times AGR \text{ in bracket 2}) + (.0275 \times AGR \text{ in bracket 3}) + (.04 \times AGR \text{ in bracket 4})$$

Where:

$$AGR = [(LT + SS) \times (\text{proration } \%)] + GRAF$$

- AGR is adjusted gross revenue;
- LT is revenue from sales of alpine and nordic lift tickets and passes;
- GRAF is gross year-round revenue from ancillary facilities;
- Proration % is the factor to apportion revenue attributable to use of National Forest System lands;
- SAPF is the ski area permit fee for use of National Forest System lands; and
- SS is revenue from alpine and nordic ski school operations.

1. SAPF shall be calculated by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets. Follow direction in paragraph 2 to determine AGR. The permit fee shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually by the consumer price index issued in FSH 2709.11, chapter 30. The revenue brackets shall be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

The revenue brackets and percentages displayed in Exhibit 01 shall be used as shown in the preceding formula to calculate the permit fee.

Exhibit 01

Adjusted Gross Revenue (AGR) Brackets and Associated Percentage Rates for Use in Determining Ski Area Permit Fee (SAPF)

Revenue Brackets (updated annually by CPI*)
and Percentage Rates

| Holder FY | Bracket 1 (1.5%) | Bracket 2 (2.5%) | Bracket 3 (2.75%) | Bracket 4 (4%) |
|-----------|---------------------|---------------------|----------------------|-------------------|
| FY 1996 | All revenue | \$ 3,000,000 | \$15,000,000 | All revenue |
| CPI: | below | to | to | over |
| N/A | \$3,000,000 | <\$15,000,000 | \$50,000,000 | \$50,000,000 |
| FY 1997 | All revenue | \$ 3,090,000 | \$15,450,000 | All revenue |
| CPI: | below | to | to | over |
| 1.030 | \$3,090,000 | <\$15,450,000 | \$51,500,000 | \$51,500,000 |
| FY 1998 | All revenue | \$ 3,158,000 | \$15,790,000 | All revenue |
| CPI: | below | to | to | over |
| 1.022 | \$3,158,000 | <\$15,790,000 | \$52,633,000 | \$52,633,000 |
| FY 1999 | All revenue | \$ 3,212,000 | \$16,058,000 | All revenue |
| CPI: | below | to | to | over |
| 1.017 | \$3,212,000 | <\$16,058,000 | \$53,528,000 | \$53,528,000 |

FY 2000 and
beyond

BRACKETS WILL BE UPDATED ANNUALLY BY CPI*

*The authorized officer shall notify the holder of the updated revenue brackets based on the Consumer

2. AGR shall be calculated by summing the revenue from lift tickets and ski school operations prorated for use of National Forest System lands and from ancillary facility operations conducted on National Forest System lands.

—
Revenue inclusions shall be income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue. Discriminatory pricing, a rate based solely on race, color, religion, sex, national origin, age, disability, or place of residence, is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price, the price generally available to an informed public, excluding special promotions.

Revenue exclusions shall be income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

Include the following in AGR:

- a. Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;
- b. Gross year-round revenue from temporary and permanent ancillary facilities located on National Forest System lands;
- c. The value of bartered goods and complimentary lift tickets, which are goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) valued at market price shall be included in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

d. Special event revenue from events, such as food festivals, foot races, and concerts. Special event revenue shall be included in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in the following paragraphs 5 and 6.

3. LT is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year, including revenue that is generated on private land (such as from tickets sold on private land).

4. SS is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing, including revenue that is generated on private land (such as from tickets sold on private land).

5. Proration % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues altogether; then sum them with GRAF to arrive at AGR. Use one or both of the following methods, as appropriate:

- a. STFP shall be the method used to prorate alpine revenue. The STFP direction contained in FSM 2715.11c effective in 1992 shall be used. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on

both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.

b. Nordic trail length is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length.

6. GRAF is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. Do not include revenue that is generated on private land. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the total facility square footage. Special event revenue allocatable to GRAF shall be prorated by the ratio of use on National Forest System lands to the total use.

7. In cases when the holder has no AGR for a given fiscal year, the holder shall pay a permit fee of \$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer.

B. Fee Payments. Reports and deposits shall be tendered in accordance with the following schedule. They shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to: USDA, Forest Service.

Page 5 of 6

1. The holder shall calculate and submit an advance payment which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average permit fee for 3 operating year, when available. When past permit fee information is not available, the advance payment shall equal 20 percent of the permit fee, based on the prior holder's average fee or projected AGR. For ski areas not expected to generate AGR for a given payment cycle, advance payment of the permit fee as calculated in item A, paragraph 7 (\$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer) shall be made. The advance payment shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

2. The holder shall report sales, calculate fees due based on a tentative percentage rate, and make interim payments each calendar [MONTH], except for periods in which no sales take place and the holder has notified the authorized officer that the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the end of the month following the end of

each reportable period. Interim payments shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

3. Within 90 days after the close of the ski area's payment cycle, the holder shall provide a financial statement, including a completed permit fee information form, Form FS-2700-91a, representing the ski area's financial condition at the close of its business year and an annual operating statement reporting the results of operations, including a final payment which includes year-end adjustments for the holder and each subholder for the same period. Any balance that exists may be credited and applied against the next payment due or refunded, at the discretion of the permit holder.

4. Within 30 days of receipt of a statement from the Forest Service, the holder shall make any additional payment required to ensure that the correct ski area permit fee is paid for the past year's operation.

5. Payments shall be credited on the date received by the designated collection officer. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not accrue until the close of business on the next workday.

6. All permit fee calculations and records of sales are subject to review or periodic audit as determined by the authorized officer. Errors in calculation or payment shall be corrected as needed for conformance with those reviews or audits. In accordance with the Interest and Penalties clause contained in this authorization, interest and penalties shall be assessed on additional fees due as a result of reviews or audits.

7. Correction of errors includes any action necessary to calculate the holder's sales or slope transport fee percentage or to make any other determination required to calculate permit fees accurately.

For fee calculation purposes, an error may include:

a. Misreporting or misrepresentation of amounts;

b. Arithmetic mistakes;

c. Typographic mistakes; or

Page 6 of 6

d. Variation from generally accepted accounting principles (GAAP), when such variations are inconsistent with the terms of this permit. Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past fees shall be adjusted accordingly.

This Amendment is accepted subject to the conditions set forth herein, and to conditions N/A to N/A attached hereto and made a part of this Amendment.

| | |
|---|-------------------------------------|
| Holder: <u>VAIL SUMMIT RESORTS, INC.</u> | Authorized Officer: <u>/s/</u> |
| Holder: <u>/s/ Martha Dugan Rehm, SVP</u> | Title: <u>for Forest Supervisor</u> |
| Date: <u>November 14, 2001</u> | Date: <u>11/20/01</u> |

| | | | |
|--|-----------------------|------------|-------------|
| USDA Forest Service SKI AREA TERM SPECIAL USE PERMIT Act of October 22, 1986 (Ref. FSM 2710) | Holder No. | Use Code | Authority |
| | 4065-03 | 161 | 545 |
| | Auth. Type | Issue Date | Expir. Date |
| | 18 | | 12/31/38 |
| | Location Sequence No. | | Stat. Ref. |
| | 0215010809703 | | 08 |
| | Latitude | Longitude | LOS Case |

_____ Beaver Creek Associates, Inc. of _____ P.O. Box 7

 (Holder Name) (Billing Address - 1)
 _____ of _____ Vail, CO
 _____ 81658
 (Billing Address - 2) (City, State & ZipCode)

(hereafter called the holder) is hereby authorized to use National Forest System lands, on the White River National Forest, for the purposes of constructing, operating, and maintaining a winter sports resort including summer uses, food service, retail sales, and other ancillary facilities, described herein, known as the Beaver Creek ski area and subject to the provisions of this term permit. This permit covers 2,695 acres described here and as shown on the attached map dated 4/17/97, prepared by E.Martin (identified as Exhibit A).

The following improvements, whether on or off the site, are authorized:

Ski lifts and tows, ski trails, mountain restaurants, signs, snowmaking facilities, and other facilities and structures needed in the operation and maintenance of a four-season resort.

Attached Clauses. This term permit is accepted subject to the conditions set forth herein on pages 2 through 19, and to exhibits A and D attached or referenced hereto and made a part of this permit.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL OF ITS TERMS AND CONDITIONS.

ACCEPTED:

/s/ Andrew P. Daly,
President

11/10/99

BEAVER CREEK ASSOCIATES, INC.

DATE

APPROVED:

/s/ Martha J. Ketelle

Forest Supervisor

11/17/99

MARTHA J. KETELLE

TITLE

DATE

TERMS AND CONDITIONS

I. AUTHORITY AND USE AND TERM AUTHORIZED.

A. Authority. This term permit is issued under the authority of the Act of October 22, 1986, (Title 16, United States Code, Section 497b), and Title 36, Code of Federal Regulations, Sections 251.50-251-64.

B. Authorized Officer. The authorized officer is the Forest Supervisor. The authorized officer may designate a representative for administration of specific portions of this authorization.

C. Rules, Laws and Ordinances. The holder, in exercising the privileges granted by this term permit, shall comply with all present and future regulations of the Secretary of Agriculture and federal laws; and all present and future, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit to the extent they are not in conflict with federal law, policy or regulation. The Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

D. Term.

1. This authorization is for a term of N/A years to provide for the holder to prepare a Master Development Plan. Subject to acceptance of the Master Development Plan by the authorized officer, this authorization shall be extended for an additional N/A years, for a total of N/A years, to provide the holder sufficient time to construct facilities approved in the Master Development Plan within the schedule outlined in clause II.B. (Site Development Schedule), so that the area may be used by the public. Further Provided; This authorization shall be extended by its terms for an additional N/A years, for a total of N/A years, if it is in compliance with the site development schedule in the Master Development Plan and being in operation by the 10-year anniversary date of the issuance of this authorization. Failure of the holder to comply with all provisions of this clause shall cause the authorization to terminate under its terms.

2. Unless sooner terminated or revoked by the authorized officer, in accordance with the provisions of the authorization, this permit shall terminate on November 8, 2039, but a new special-use authorization to occupy and use the same National Forest land may be granted provided the holder shall comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands. The holder shall notify the authorized officer in writing not less than six (6) months prior to said date that such new authorization is desired.

E. Nonexclusive Use. This permit is not exclusive. The Forest Service reserves the right to use or permit others to use any part of the permitted area for any purpose, provided such use does not materially interfere with the rights and privileges hereby authorized.

F. Area Access. Except for any restrictions as the holder and the authorized officer may agree to be necessary to protect the installation and operation of authorized structures and developments, the lands and waters covered by this permit shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads or roads as may be constructed by the holder, shall remain open to the public, except for roads as may be closed by joint agreement of the holder and the authorized officer.

G. Master Development Plan. In consideration of the privileges authorized by this permit, the holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire winter sports resort presently envisioned for development in connection with the National Forest lands authorized by this permit, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area authorized for use by this permit. The accepted Master Development Plan shall become a part of this permit. For planning purposes, a capacity for the ski area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process.

H. Periodic Revision.

1. The terms and conditions of this authorization shall be subject to revision to reflect changing times and conditions so that land use allocation decisions made as a result of revision to Forest Land and Resource Management Plan may be incorporated.

2. At the sole discretion of the authorized officer this term permit may be amended to remove authorization to use any National Forest System lands not specifically covered in the Master Development Plan and/or needed for use and occupancy under this authorization.

II. IMPROVEMENTS.

A. Permission. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named in the Master Development Plan and approved in the annual operating plan, or further authorized in writing by the authorized officer.

B. Site Development Schedule. As part of this permit, a schedule for the progressive development of the permitted area and installation of facilities shall be prepared jointly by the holder and the Forest Service. Such a schedule shall be prepared by N/A, and shall set forth an itemized priority list of planned improvements and the due date for completion. This schedule shall be made a part of this permit. The holder may accelerate the scheduled date for installation of any improvement authorized, provided the other scheduled priorities are met; and provided further, that all priority installations authorized are completed to the satisfaction of the Forest Service and ready for public use prior to the scheduled due date.

1. All required plans and specifications for site improvements, and structures included in the development schedule shall be properly certified and submitted to the Forest Service at least forty-five (45) days before the construction date stipulated in the development schedule.

2. In the event this is agreement with the Forest Service to expand the facilities and services provided on the areas covered by this permit, the holder shall jointly prepare with the Forest Service a development schedule for the added facilities prior to any construction and meet requirements of paragraph II.D of this section. Such schedule shall be made a part of this permit.

C. Plans. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be accepted by the authorized officer before the

commencement of any work. A holder may be required to furnish as-built plans, maps, or surveys upon the completion of construction.

D. Amendment. This authorization may be amended to cover new, changed, or additional use(s) or area not previously considered in the approved Master Development Plan. In approving or denying changes or modifications, the authorized officer shall consider among other things, the findings or recommendations of other involved agencies and whether their terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

E. Ski Lift Plans and Specifications. All plans for uphill equipment and systems shall be properly certified as being in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A complete set of drawings, specifications, and records for each lift shall be maintained by the holder and made available to the Forest Service upon request. These documents shall be retained by the holder for a period of three (3) years after the removal of the system from National Forest land.

III. OPERATIONS AND MAINTENANCE.

A. Conditions of Operations. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. Standards are subject to periodic change by the authorized officer. This use shall normally be exercised at least 365 days each year or season. Failure of the holder to exercise this minimum use may result in termination pursuant to VIII.B.

B. Ski Lift Holder Inspection. The holder shall have all passenger tramways inspected by a qualified engineer or tramway specialist. Inspections shall be made in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A certificate of inspection, signed by an officer of the holder's company, attesting to the adequacy and safety of the installations and equipment for public use shall be received by the Forest Service prior to public operation stating as a minimum:

"Pursuant to our special use permit, we have had an inspection to determine our compliance with the American National Standard B77.1. We have received the results of that inspection and have made corrections of all deficiencies noted. The facilities are ready for public use."

C. Operating Plan. The holder of designated representative shall prepare and annually revise by June 1 and November 15 an Operating Plan. The plan shall be prepared in consultation with the authorized officer or designated representative and cover winter and summer operations as appropriate. The provisions of the Operating Plan and the annual revisions shall become a part of this permit and shall be submitted by the holder and approved by the authorized officer or their designated representatives. This plan shall consist of at least the following sections:

1. Ski patrol and first aid.
2. Communications.
3. Signs.
4. General safety and sanitation.
5. Erosion control.
6. Accident reporting.
7. Avalanche control.
8. Search and rescue.
9. Boundary management.
10. Vegetation and management.
11. Designation of representatives.
12. Trail routes for nordic skiing.

The authorized officer may require a joint annual business meeting agenda to:

- a. Update Gross Fixed Assets and lift-line proration when the fee is calculated by the Graduated Rate Fee System.
- b. Determine need for performance bond for construction projects, and amount of bond.
- c. Provide annual use reports.

D. Cutting of Trees. Trees or shrubbery on the permitted area may be removed or destroyed only after the authorized officer has approved and marked, or otherwise designated, that which may be removed or destroyed. Timber cut or destroyed shall be paid for by the holder at appraised value, provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the holder at no stumpage cost to the holder.

E. Signs. Signs or advertising devices erected on National Forest lands, shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

F. Temporary Suspension. Immediate temporary suspension of the operation, in whole or in part, may be required when the authorized officer, or designated representative, determines it to be necessary to protect the public health or safety, or the environment. The order for suspension may be given verbally or in writing. In any such case, the superior of the authorized officer, or designated representative, shall, within ten (10) days of the request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior shall take prompt action to affirm, modify or cancel the temporary suspension.

IV. NONDISCRIMINATION. During the performance of this permit, the holder agrees:

A. In connection with the performance of work under this permit, including construction, maintenance, and operation of the facility, the holder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap. (Ref. Title VII of the Civil Rights Act of 1964 as amended)

B. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, religion, sex, national origin, age or handicap, by cur-tailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. (Ref. Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments, and the Age Discrimination Act of 1975).

C. The holder shall include and require compliance with the above nondiscrimination provisions in any subcontract made with respect to the operations under this permit.

D. Signs setting forth this policy of nondiscrimination to be furnished by the Forest Service will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

E. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States of the State in which the breach or violation occurs.

V. LIABILITIES.

A. Third Party Rights. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. Indemnification of the United States. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.

C. Damage to United States Property. The holder shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit. The holder shall pay the United States the full cost of any damage resulting from negligence or activities occurring under the terms of this permit or under any law or regulation applicable to the national forests, whether caused by the holder, or by any agents or employees of the holder.

D. Risks. The holder assumes all risk of loss to the improvements resulting from natural or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees, and other hazardous events. If the improvements authorized by this permit are destroyed or substantially damaged by natural or catastrophic events, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis shall be provided to the holder within six (6) months of the event.

E. Hazards. The holder has the responsibility of inspecting the area authorized for use under this permit for evidence of hazardous conditions which could affect the improvements or pose a risk of injury to individuals.

F. Insurance. The holder shall have in force public liability insurance covering: (1) property damage in the amount of fifty thousand dollars (\$ 50,000.00), and (2) damage to persons in the minimum amount of three hundred thousand dollars (\$ 300,000.00) in the event of death or injury to one individual, and the minimum amount of one million dollars (\$ 1,000,000.00) in the event of death or injury to more than one individual. These minimum amounts and terms are subject to change at the sole discretion of the authorized officer at the five-year anniversary date of this authorization. The coverage shall extend to property damage, bodily injury, or death arising out of the holder's activities under the permit including, but not limited to, occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as an additionally insured. The holder shall send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company.

Rider Clause (for insurance companies)

"It is understood and agreed that the coverage provided under this policy shall not be cancelled or its provisions changed or deleted before thirty (30) days of receipt of written notice to the Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company."

VI. FEES.

Ski Area Permit Fees. The Forest Service shall adjust and calculate permit fees authorized by this permit to reflect any revisions to permit fee provisions in 16 U.S.C. 497c or to comply with any new permit fee system based on fair market value that may be adopted by statute or otherwise after issuance of this permit.

A. Fee Calculation. The annual fee due the United States for the activities authorized by this permit shall be calculated using the following formula:

$$\text{SAPF} = (.015 \times \text{AGR in bracket 1}) + (.025 \times \text{AGR in bracket 2}) + \\ (.0275 \times \text{AGR in bracket 3}) + (.04 \times \text{AGR in bracket 4})$$

Where:

$$\text{AGR} = [(\text{LT} + \text{SS}) \times (\text{proration } \%)] + \text{GRAF}$$

- AGR is adjusted gross revenue;
- LT is revenue from sales of alpine and nordic lift tickets and passes;
- GRAF is gross year-round revenue from ancillary facilities;
- Proration % is the factor to apportion revenue attributable to use of National Forest System lands;
- SAPF is the ski area permit fee for use of National Forest System lands; and
- SS is revenue from alpine and nordic ski school operations.

1. SAPF shall be calculated by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets. Follow direction in paragraph 2 to determine AGR. The permit fee shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually by the consumer price index issued in FSH 2709.11, chapter 30. The revenue brackets shall be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

The revenue brackets and percentages displayed in Exhibit 01 shall be used as shown in the preceding formula to calculate the permit fee.

Exhibit 01

Adjusted Gross Revenue (AGR) Brackets and Associated Percentage Rates
for Use in Determining Ski Area Permit Fee (SAPF)

| Revenue Brackets (updated annually by CPI*) and Percentage Rates | | | | |
|---|---------------------|---------------------|----------------------|-------------------|
| Holder FY | Bracket 1 (1.5%) | Bracket 2 (2.5%) | Bracket 3 (2.75%) | Bracket 4 (4%) |
| FY 1996 | All revenue | \$3,000,000 | \$15,000,000 | All revenue |
| CPI: | below | to | to | over |
| N/A | \$3,000,000 | <\$15,000,000 | \$50,000,000 | \$50,000,000 |
| FY 1997 | All revenue | \$ 3,090,000 | \$15,450,000 | All revenue |
| CPI: | below | to | to | over |
| 1.030 | \$3,090,000 | <\$15,450,000 | \$51,500,000 | \$51,500,000 |
| FY 1998 | All revenue | \$ 3,158,000 | \$15,790,000 | All revenue |
| CPI: | below | to | to | over |

| | | | | |
|-------|-------------|---------------|--------------|--------------|
| 1.022 | \$3,158,000 | <\$15,790,000 | \$52,633,000 | \$52,633,000 |
|-------|-------------|---------------|--------------|--------------|

| | | | | |
|---------|-------------|---------------|--------------|--------------|
| FY 1999 | All revenue | \$ 3,212,000 | \$16,058,000 | All revenue |
| CPI: | below | to | to | over |
| 1.017 | \$3,212,000 | <\$16,058,000 | \$53,528,000 | \$53,528,000 |

FY 2000 and beyond BRACKETS WILL BE UPDATED ANNUALLY BY CPI*

*The authorized officer shall notify the holder of the updated revenue brackets based on the Consumer Price Index (CPI) which is revised and issued annually in FSH 2709.11, chapter 30.

2. AGR shall be calculated by summing the revenue from lift tickets and ski school operations prorated for use of National Forest System lands and from ancillary facility operations conducted on National Forest System lands.

Revenue inclusions shall be income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations; gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge to the holder's friends or relatives); and special event revenue. Discriminatory pricing, a rate based solely on race, color, religion, sex, national origin, age, disability, or place of residence, is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price, the price generally available to an informed public, excluding special promotions.

Revenue exclusions shall be income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

Include the following in AGR:

- a. Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;
- b. Gross year-round revenue from temporary and permanent ancillary facilities located on National Forest System lands;
- c. The value of bartered goods and complimentary lift tickets, which are goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) valued at market price shall be included in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

d Special event revenue from events, such as food festivals, foot races, and concerts. Special event revenue shall be included in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in the following paragraphs 5 and 6.

3. LT is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year, including revenue that is generated on private land (such as from tickets sold on private land).

4. SS is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing, including revenue that is generated on private land (such as from tickets sold on private land).

5. Proration % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues altogether; then sum them with GRAF to arrive at AGR. Use one or both of the following methods, as appropriate:

a. STFP shall be the method used to prorate alpine revenue. The STFP direction contained in FSM 2715.11c effective in 1992 shall be used. Include in the calculation only uphill devices (lifts, tows, and tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas or between parking areas and lodges and offices.

b. Nordic trail length is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length.

6. GRAF is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. Do not include revenue that is generated on private land. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the

total facility square footage. Special event revenue allocatable to GRAF shall be prorated by the ratio of use on National Forest System lands to the total use.

7. In cases when the holder has no AGR for a given fiscal year, the holder shall pay a permit fee of \$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer.

B. Fee Payments. Reports and deposits shall be tendered in accordance with the following schedule. They shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to:

USDA, Forest Service.

1. The holder shall calculate and submit an advance payment which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average permit fee for 3 operating year, when available. When past permit fee information is not available, the advance payment shall equal 20 percent of the permit fee, based on the prior holder's average fee or projected AGR. For ski areas not expected to generate AGR for a given payment cycle, advance payment of the permit fee as calculated in item A, paragraph 7 (\$2 per acre for National Forest System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer) shall be made. The advance payment shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

2. The holder shall report sales, calculate fees due based on a tentative percentage rate, and make interim payments each calendar month, except for periods in which no sales take place and the holder has notified the authorized officer that the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the end of the month following the end of each reportable period. Interim payments shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

3. Within 90 days after the close of the ski area's payment cycle, the holder shall provide a financial statement, including a completed permit fee information form, Form FS-2700-91a, representing the ski area's financial condition at the close of its business year and an annual operating statement reporting the results of operations, including a final payment which includes year-end adjustments for the holder and each subholder for the same period. Any balance that exists may be credited and applied against the next payment due or refunded, at the discretion of the permit holder.

4. Within 30 days of receipt of a statement from the Forest Service, the holder shall make any additional payment required to ensure that the correct ski area permit fee is paid for the past year's operation.

5. Payments shall be credited on the date received by the designated collection officer. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not accrue until the close of business on the next workday.

6. All permit fee calculations and records of sales are subject to review or periodic audit as determined by the authorized officer. Errors in calculation or payment shall be corrected as needed for conformance with those reviews or audits. In accordance with the Interest and Penalties clause contained in this authorization, interest and penalties shall be assessed on additional fees due as a result of reviews or audits.

7. Correction of errors includes any action necessary to calculate the holder's sales or slope transport fee percentage or to make any other determination required to calculate permit fees accurately. For fee calculation purposes, an error may include:

a. Misreporting or misrepresentation of amounts;

b. Arithmetic mistakes;

c. Typographic mistakes; or

d. Variation from generally accepted accounting principles (GAAP), when such variations are inconsistent with the terms of this permit.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past fees shall be adjusted accordingly.

C. Interest and Penalties.

1. Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, or subsequent changes thereto, interest shall be charged on any fee not paid by the date the fee or fee calculation financial statements specified in this permit was due.

2. Interest shall be assessed using the higher of (1) the most current rate prescribed by the United States Department of the Treasury Financial Manual (TFM-6-8025.40), or (2) the prompt payment rate prescribed by the United States Department of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 USC 611). Interest shall accrue from the date the fee or fee calculation financial statement is due. In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquent debt may be assessed.

3. A penalty of 6 percent per year shall be assessed on any fee overdue in excess of 90 days, and shall accrue from the due date of the first billing or the date the fee calculation financial statement was due. The penalty is in addition to interest and any other charges specified in item 2.

4. Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 et seq.).

D. Nonpayment. Failure of the holder to make timely payments, pay interest charges or any other charges when due, constitutes breach and shall be grounds for termination of this authorization. This permit terminates for nonpayment of any monies owed the United States when more than 90 days in arrears.

E. Access to Records. For the purpose of administering this permit (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the holder agrees to make all of the accounting books and supporting records to the business activities, as well as those of sublessees operating within the authority of this permit, available for analysis by qualified representatives of the Forest Service or other Federal agencies authorized to review the Forest Service activities. Review of accounting books and supporting records shall be made at dates convenient

to the holder and reviewers. Financial information so obtained shall be treated as confidential as provided in regulations issued by the Secretary of Agriculture.

The holder shall retain the above records and keep them available for review for 5 years after the end of the year involved, unless disposition is otherwise approved by the authorized officer in writing.

F. Accounting Records. The holder shall follow Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at own expense, shall have the annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service.

The holder shall require sublessees to comply with these same requirements. The minimum acceptable accounting system shall include:

1. Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this permit. Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be supported by source documents such as cash-register tapes, sale invoices, rental records, and cash accounts from other sources.
2. A permanent record of investments in facilities (depreciation schedule), and current source documents for acquisition costs of capital items.
3. Preparation and maintenance of such special records and accounts as may be specified by the authorized officer.

VII. TRANSFER AND SALE.

A. Subleasing. The holder may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized upon prior written notice to the authorized officer. The Forest Service reserves the right to disapprove sub- leasees. In any circumstance, only those facilities and activities authorized by this permit may be subleased. The holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet. The holder may not sublease direct management responsibility without prior written approval by the authorized officer.

B. Notification of Sale. The holder shall immediately notify the authorized officer when a sale and transfer of ownership of the permitted improvements is planned.

C. Divestiture of Ownership. Upon change in ownership of the facilities authorized by this permit, the rights granted under this authorization may be transferred to the new owner upon application to and approval by the authorized officer. The new owner must qualify and agree to comply with, and be bound by the terms and conditions of the authorization. In granting approval, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and state land use plans, laws, regulations or other management decisions.

VIII. TERMINATION.

A. Termination for Higher Public Purpose. If, during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his or her authority shall determine by his or her planning for the uses of the National Forest that the public interest requires termination of this permit, this permit shall terminate upon one hundred-eighty (180) day's written notice to the holder of such determination, and the United States shall have the right thereupon, subject to Congressional authorization and appropriation, to purchase the holder's improvements, to remove them, or to require the holder to remove them, at the option of the United States. The United States shall be obligated to pay an equitable consideration for the improvements or for the removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: Provided, that if mutual agreement is not reached, the Forest Service shall determine the amount, and if the holder is dissatisfied with the amount thus determined to be due him may appeal the determination in accordance with the Appeal Regulations, and the amount as determined on appeal shall be final and conclusive on the parties hereto; Provided further, that upon the payment to the holder of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending the final decision on appeal.

B. Termination, Revocation and Suspension. The authorized officer may suspend, revoke, or terminate this permit for (1) noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed agreed upon condition, event, or time occurs. Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to correct curable noncompliance.

IX. RENEWAL

A. Renewal. The authorized use may be renewed. Renewal requires the following conditions: (1) the land use allocation is compatible with the Forest Land and Resource Management Plan; (2) the site is being used for the purposes previously authorized; and (3) the enterprise is being continually operated and maintained in accordance with all the provisions of the permit. In making a renewal, the authorized officer may modify the terms, conditions, and special stipulations.

X. RIGHTS AND RESPONSIBILITIES UPON TERMINATION OR NONRENEWAL.

A. Removal of Improvements. Except as provided in Clause VIII.A., upon termination or revocation of this special use permit by the Forest Service, the holder shall remove within a reasonable time as established by the authorized officer, the structures and improvements, and shall restore the site to a condition satisfactory to the authorized officer, unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States without compensation to the holder, but that shall not relieve the holder's liability for the removal and site restoration costs.

XI. MISCELLANEOUS PROVISIONS.

A. Members of Congress. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

B. Inspection, Forest Service. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permitted facilities and improvements at any time for compliance with the terms of this permit. Inspections by the Forest Service do not relieve the holder of responsibilities under other terms of this permit.

C. Regulating Services and Rates. The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices significantly different than those charged by comparable or competing enterprises.

D. Advertising. The holder, in advertisements, signs, circulars, brochures, letterheads, and like materials, as well as orally, shall not misrepresent in any way either the accommodations provided, the status of the permit, or the area covered by it or the vicinity. The fact that the permitted area is located on the National Forest shall be made readily apparent in all of the holder's brochures and print advertising regarding use and management of the area and facilities under permit.

E. Bonding. The authorized officer may require the holder to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or any applicable law, regulation, or order.

Bonds, Performance. Use the following text, when bonding is called for: As a further guarantee of the faithful performance of the provisions of terms and conditions when applicable of this permit, the holder agrees to deliver and maintain a surety bond or other acceptable security in the amount of when applicable. Should the sureties or the bonds delivered under this permit become unsatisfactory to the Forest Service, the holder shall, within thirty (30) days of demand, furnish a new bond with surety, solvent and satisfactory to the Forest Service. In lieu of a surety bond, the holder may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in the amounts provided for above, or negotiable securities of the United States having a market value at the time of deposit of not less than the dollar amounts provided above.

The holder's surety bond shall be released, or deposits in lieu of a bond, shall be returned thirty (30) days after certification by the Forest Service that priority installations under the development plan are complete, and upon furnishing by the holder of proof satisfactory to the Forest Service that all claims for labor and material on said installations have been paid or released and satisfied. The holder agrees that all moneys deposited under this permit may, upon failure on his or her part to fulfill all and singular the requirements herein set forth or made a part hereof, be retained by the United States to be applied to satisfy obligations assumed hereunder, without prejudice whatever to any rights and remedies of the United States.

Prior to undertaking additional construction or alteration work not provided for in the above terms and conditions or when the improvements are to be removed and the area restored, the holder shall deliver and maintain a surety bond in an amount set by the Forest Service, which amount shall not be in excess of the estimated loss which the Government would suffer upon default in performance of this work.

F. Water Rights. This authorization confers no rights to the use of water by the holder. Such rights must be acquired under State law.

G. Current Addresses. The holder and the Forest Service shall keep each informed of current mailing addresses including those necessary for billing and payment of fees.

H. Identification of Holder. Identification of the holder shall remain sufficient so that the Forest Service shall know the true identity of the entity.

Corporation Status Notification:

1. The holder shall notify the authorized officer within fifteen (15) days of the following changes:
 - a. Names of officers appointed or terminated.
 - b. Names of stockholders who acquire stock shares causing their ownership to exceed 50 percent of shares issued or otherwise acquired, resulting in gaining controlling interest in the corporation.
 2. The holder shall furnish the authorized officer:
 - a. A copy of the articles of incorporation and bylaws.
 - b. An authenticated copy of a resolution of the board of directors specifically authorizing a certain individual or individuals to represent the holder in dealing with the Forest Service.
 - c. A list of officers and directors of the corporation and their addresses.
 - d. Upon request, a certified list of stockholders and amount of stock owned by each.
 - e. The authorized officer may require the holder to furnish additional information as set forth in 36 CFR 251.54(e)(1)(iv).

Partnership Status Notification:

The holder shall notify the authorized officer within fifteen (15) days of the following changes. Names of the individuals involved shall be included with the notification.

1. Partnership makeup changes due to death, withdrawal, or addition of a partner.
2. Party or parties assigned financial interest in the partnership by existing partner(s).

3. Termination, reformation, or revision of the partnership agreement.

4. The acquisition of partnership interest, either through purchase of an interest from an existing partner or partners, or contribution of assets, that exceeds 50 percent of the partnership permanent investment.

I. Archaeological-Paleontological Discoveries. The holder shall immediately notify the authorized officer of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to, historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this permit, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

J. Protection of Habitat of Endangered, Threatened, and Sensitive Species.

Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, as amended, or listed as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this permit, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

K. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof, and any of the following clauses or any provision thereof, the preceding clauses shall control.

L. Drinking Water Systems.

1. The holder, as the water supplier and owner or operator of the drinking water system, is re-sponsible for compliance with all applicable Federal, State, and local drinking waters laws and regulations for the operation and maintenance of a public water system. This includes, but is not limited to, developing, operating, and maintaining the system, and conducting drinking water testing and taking the appropriate corrective and follow-up actions in accordance with Federal, State, and any other applicable requirements. For the purposes of this authorization, public water systems are defined in the Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.), and in the National Primary Drinking Water Regulations, Title 40, Code of Federal Regulations, part 141 (40 CFR part 141), or by State regulations if more stringent.

2. When the permit holder operates Federally owned systems (for example, when the permit is authorized under the Granger-Thye Act), the holder shall meet additional requirements for public and nonpublic water systems consistent with FSM 7420. Requirements under FSM 7420 applicable to the permit holder are set forth in an appendix to the permit entitled "Operation of Federally Owned Drinking Water Systems" (Form FS-2700-4h-Appendix F).

3. For Federally owned systems, the holder shall notify and consult with the Forest Service within 24 hours or on the next business day after notification by the laboratory of a sample that tests positive for microbiological contamination. The holder shall notify and consult with the Forest Service within 48 hours of notification of a maximum contaminant level violation or an acute violation.

4. The holder shall retain all records as required by applicable laws and regulations. The holder agrees to make the records available to the Forest Service and to any other regulatory agency authorized to review Forest Service activities. Copies of microbiological test results for Federally owned water systems shall be forwarded monthly to the Forest Service by the 15th of the month following the sampling date. Copies of other required records for Federally owned systems shall be forwarded annually to the Forest Service within 15 days of the end of the operating season for seasonal sites or within 15 days of the end of the calendar year for year-round operations. The holder shall surrender all records for a Federally owned system to the Forest Service upon permit termination or revocation.

5. For Federally owned systems, the holder shall provide the name of the water system operator in writing to the Forest Service and notify the authorized officer within 72 hours of a change in personnel.

M. Water Rights, Ownership. All water rights acquired by the Holder during the term of this authorization which involve diversion of water from National Forest System lands, to the extent the same are applied to beneficial uses on National Forest System lands, shall be acquired in the name of or transferred to the United States. Such transactions are subject to the Holder's right of use.

N. Disputes. Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto. The procedures for these appeals are set forth in 36 CFR 251 published in the Federal Register at 54 FR 3362, January 23, 1989.

O. Superseded Permit. This permit replaces a special use permit issued to:

_____ Beaver Creek Associates, Inc. _____ on _____ January 19 _____, 19 _____ 80 _____.

Note: Additional provisions may be added by the authorized officer to reflect local conditions.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations for the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information is estimated to average 12 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington D.C. 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0596-0082), Washington, D.C. 20503.

EXHIBIT A
BOUNDARY MAP

EXHIBIT B
SCHEDULE OF GFA

EXHIBIT C
MASTER PLAN
(ON FILE IN SUPERVISOR'S OFFICE)

EXHIBIT D
Parking Requirements

The existing 1976 EAR for Beaver Creek stated that the ski area would be designed for 7,500 skiers per day and on peak demand days would accommodate approximately 9,000...An important objective of the Beaver Creek Development Plan would be to create a pedestrian core village which would be closely coupled to skiing...A key element in attaining these goals is to minimize the impact of the private automobile on land use and the environment in Beaver Creek...Vail Associates plans to provide a reception center and parking facilities at the entrance to the property restricting the majority of guest and employee cars to the base of the valley...Parking facilities would be linked to the village core by a mass transportation system consisting of a fleet of low emission mini-busses.

Parking for a total of 2100 automobiles is ultimately planned in three locations along State Highway 6. As development occurs, actual parking needs would be reviewed annually, no later than June 1, between Vail Associates, Inc. and the Forest Service, with adjustments being made for the following season.

This Exhibit is designed to fulfill this requirement in the 1976 EAR Master Plan for Beaver Creek.

The permittee will provide adequate public parking for those activities generally associated with the development, maintenance, and operation of a public summer/winter sports site on National Forest land. This includes, but is not limited to, parking for the day skier, day backpacker, overnight backpacker, employees of the permittee and its contractors, public conveyances, etc.

The purpose of this requirement is to provide the day skier with comparable convenience in access to National Forest lands as that which is

provided the overnight guest. The location and amount of such parking will change as the base area develops and transportation systems improve.

The permittee shall make available to the Forest Service, data showing information on parking usage. Minimum data shall include:

1. Actual number of employees of the permittee for the past operating season and number expected for the coming operating season.
2. Average number and percent of day skiers during the past operating season. Data should show individual averages for weekdays and weekends.
3. Surveys reflecting the average number of persons/car.
4. Actual number of contractors, subcontractors, or concessionaires' personnel expected to be employed during the coming operating season.

Annually, by August 1, the permittee will submit plans for Forest Service approval showing where and how the parking requirement will be provided. The plan will include a map showing all public parking provided by the permittee, capacity of lots, transportation system plans including mass transit and other related information.

1996/97 Winter Operating Plan: Beaver Creek Mountain

3302 Resort Facilities, Services, Buildings & Concessions on Private Land Skier related facilities at the Beaver Creek Resort for the 1996-97 season have been designed to accommodate an estimated 8,557 or more skiers on a peak day.

3302.01 Parking Facilities 1999-2000 ski season:

| Parking Supply | Public | Employee | | |
|---------------------|--------|----------|-----|---------|
| East Lot | 580 | 70 | | |
| West Lot | 540 | 200 | | |
| Confluence overflow | | 200 | | |
| Tarnes | | 40 | | |
| Municipal Services | | 41 | | |
| Arrowhead | 250 | 174 | | |
| Village Hall | | 174 | | |
| Villa Montagne | 160 | | | |
| St James Place | 92 | 45 | | |
| Service Center | | | | |
| TOTAL | 1,774 | + | 782 | = 2,556 |

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TERMS AND CONDITIONS

I. AUTHORITY AND USE AND TERM AUTHORIZED.

A. Authority. This term permit is issued under the authority of the Act of October 26, 1986, (16, U.S.C 497b), and Title 36, Code of Federal Regulations, Sections 251.50-251-64.

B. Authorized Officer. The authorized officer is the Forest Supervisor. The authorized officer may designate a representative for administration of specific portions of this authorization.

C. Rules, Laws and Ordinances. The holder, in exercising the privileges granted by this term permit, shall comply with all present and future regulations of the Secretary of Agriculture and federal laws; and all present and future, state, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit to the extent they are not in conflict with federal law, policy or regulation. The Forest Service assumes no responsibility for enforcing laws, regulations, ordinances and the like which are under the jurisdiction of other government bodies.

D. Term.

1. This authorization is for a term of N/A years to provide for the holder to prepare a Master Development Plan. Subject to acceptance of the Master Development Plan by the authorized officer, this authorization shall be extended for an additional N/A years, for a total of N/A years, to provide the holder sufficient Time to construct facilities approved in the Master Development Plan within the schedule outlined in clause II.B. (Site Development Schedule), so that the area may be used by the public. Further Provided; This authorization shall be extended by its terms for an additional N/A years, for a total of N/A years, if it is in compliance with the site development schedule in the Master Development Plan and being in operation by the 10-year anniversary date of the issuance of this authorization. Failure of the holder to comply with all or any provisions of this clause shall cause the authorization to terminate under its terms.

2. Unless sooner terminated or revoked by the authorized officer, in accordance with the provisions of the authorization, this permit shall terminate on December 1, 2031, but a new special-use authorization to occupy and use the same National Forest land may be granted provided the holder shall comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands. The holder shall notify the authorized officer in writing not less than six (6) months prior to said date that such new authorization is desired.

E. Nonexclusive Use. This permit is not exclusive. The Forest Service reserves the right to use or permit others to use any part of the permitted area for any purpose, provided such use does not materially interfere with the rights and privileges hereby authorized.

F. Area Access. Except for any restrictions as the holder and the authorized officer may agree to be necessary to protect the installation and operation of authorized structures and developments, the lands and waters covered by this permit shall remain open to the public for all lawful purposes. To facilitate public use of this area, all existing roads or roads as may be constructed by the holder, shall remain open to the public, except for roads as may be closed by joint agreement of the holder and the authorized officer.

G. Master Development Plan. In consideration of the privileges authorized by this permit, the holder agrees to prepare and submit changes in the Master Development Plan encompassing the entire winter sports resort presently envisioned for development in connection with the National Forest lands authorized by this permit, and in a form acceptable to the Forest Service. Additional construction beyond maintenance of existing improvements shall not be authorized until this plan has been amended. Planning should encompass all the area authorized for use by this permit. The accepted Master Development Plan shall become a part of this permit. For planning purposes, a capacity for the ski area in people-at-one time shall be established in the Master Development Plan and appropriate National Environmental Policy Act (NEPA) document. The overall development shall not exceed that capacity without further environmental analysis documentation through the appropriate NEPA process.

H. Periodic Revision.

1. The terms and conditions of this authorization shall be subject to revision to reflect changing times and conditions so that land use allocation decisions made as a result of revision to Forest Land and Resource Management Plan may be incorporated.

2. At the sole discretion of the authorized officer this term permit may be amended to remove authorization to use any National Forest System lands not specifically covered in the Master Development Plan and/or needed for use and occupancy under this authorization.

II. IMPROVEMENTS.

A. Permission. Nothing in this permit shall be construed to imply permission to build or maintain any improvement not specifically named in the Master Development Plan and approved in the annual operating plan, or further authorized in writing by the authorized officer.

B. Site Development Schedule. As part of this permit, a schedule for the progressive development of the permitted area and installation of facilities shall be prepared jointly by the holder and the Forest Service. Such a schedule shall be prepared by 12/31/96, and shall set forth an itemized

priority list of planned improvements and the due date for completion. This schedule shall be made a part of this permit. The holder may accelerate the scheduled date for installation of any improvement authorized, provided the other scheduled priorities are met; and provided further, that all priority installations authorized are completed to the satisfaction of the Forest Service and ready for public use prior to the scheduled due date.

1. All required plans and specifications for site improvements, and structures included in the development schedule shall be properly certified and submitted to the Forest Service at least forty-five (45) days before the construction date stipulated in the development schedule.

2. In the event there is agreement with the Forest Service to expand the facilities and services provided on the areas covered by this permit, the holder shall jointly prepare with the Forest Service a development schedule for the added facilities prior to any construction and meet requirements of paragraph II.D of this section. Such schedule shall be made a part of this permit.

C. Plans. All plans for development, layout, construction, reconstruction or alteration of improvements on the site, as well as revisions of such plans, must be prepared by a licensed engineer, architect, and/or landscape architect (in those states in which such licensing is required) or other qualified individual acceptable to the authorized officer. Such plans must be accepted by the authorized officer before the commencement of any work. A holder may be required to furnish as-built plans, maps, or surveys upon the completion of construction.

D. Amendment. This authorization may be amended to cover new, changed, or additional use(s) or area not previously considered in the approved Master Development Plan. In approving or denying changes or modifications, the authorize officer shall consider among other things, the findings or recommendations of other involved agencies and whether their terms and conditions of the existing authorization may be continued or revised, or a new authorization issued.

E. Ski Lift Plans and Specifications. All plans for uphill equipment and systems shall be properly certified as being in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A complete set of drawings, specifications, and records for each lift shall be maintained by the holder and made available to the Forest Service upon request. These documents shall be retained by the holder for a period of three (3) years after the removal of the system from National Forest land.

III. OPERATIONS AND MAINTENANCE.

A. Conditions of Operations. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer. Standards are subject to periodic change by the authorized officer. This use shall normally be exercised at least 365 days each year or season. Failure of the holder to exercise this minimum use may result in termination pursuant to VIII.B.

B. Ski Lift, Holder Inspection. The holder shall have all passenger tramways inspected by a qualified engineer or tramway specialist. Inspections shall be made in accordance with the American National Standard Safety Requirements for Aerial Passenger Tramways (B77.1). A certificate of inspection, signed by an officer of the holder's company, attesting to the adequacy and safety of the installations and equipment for public use shall be received by the Forest Service prior to public operation stating as a minimum:

"Pursuant to our special use permit, we have had an inspection to determine our compliance with the American National Standard B77.1. We have received the results of that inspection and have made corrections of all deficiencies noted. The facilities are ready for public use."

C. Operating Plan. The holder of designated representative shall prepare and annually revise by November 15 (Month/Day) an Operating Plan. The plan shall be prepared in consultation with the authorized officer or designated representative and cover winter and summer operations as appropriate. The provisions of the Operating Plan and the annual revisions shall become a part of this permit and shall be submitted by the holder and approved by the authorized officer or their designated representatives. This plan shall consist of at least the following sections:

1. Ski patrol and first aid.
2. Communications.
3. Signs.
4. General safety and sanitation.
5. Erosion control.

6. Accident reporting.
7. Avalanche control.
8. Search and rescue.
9. Boundary management.
10. Vegetation and management.
11. Designation of representatives.
12. Trail routes for nordic skiing.
13. Schedule of GFA

The authorized officer may require a joint annual business meeting agenda to:

- a. Update Gross Fixed Assets and lift-line proration when fee is calculated by the Graduated Rate Fee System.
- b. Determine need for performance bond for construction projects, and amount of bond.
- c. Provide annual use reports.

D. Cutting of Trees. Trees or shrubbery on the permitted area may be removed or destroyed only after the authorized officer has approved and marked, or otherwise designated, that which may be removed or destroyed. Timber cut or destroyed shall be paid for by the holder at appraised value: Provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the holder at no stumpage cost to the holder.

E. Signs. Signs or advertising devices erected on National Forest lands, shall have prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to neat and presentable standards, as determined by the Forest Service.

F. Temporary Suspension. Immediate temporary suspension of the operation, in whole or in part, may be required when the authorized officer, or designated representative, determines it to be necessary to protect the public health or safety or the environment. The order for suspension may be given verbally or in writing. In any such case, the superior of the authorized officer, or designated representative, shall, within ten (10) days of the request of the holder, arrange for an on-the-ground review of the adverse conditions with the holder. Following this review the superior shall take prompt action to affirm, modify or cancel the temporary suspension.

IV. NONDISCRIMINATION. During the performance of this permit, the holder agrees:

A. In connection with the performance of work under this permit, including construction, maintenance, and operation of the facility, the holder shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, or handicap. (Ref. Title VII of the Civil Rights Act of 1964 as amended).

B. The holder and employees shall not discriminate by segregation or otherwise against any person on the basis of race, color, religion, sex, national origin, age or handicap, by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally. (Ref. Title VI of the Civil Rights Act of 1964 as amended, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments, and the Age Discrimination Act of 1975).

C. The holder shall include and require compliance with the above nondiscrimination provisions in any subcontract made with respect to the operations under this permit.

D. Signs setting forth this policy of nondiscrimination to be furnished by the Forest Service will be conspicuously displayed at the public entrance to the premises, and at other exterior or interior locations as directed by the Forest Service.

E. The Forest Service shall have the right to enforce the foregoing nondiscrimination provisions by suit for specific performance or by any other available remedy under the laws of the United States of the State in which the breach or violation occurs.

V. LIABILITIES.

A. Third Party Rights. This permit is subject to all valid existing rights and claims outstanding in third parties. The United States is not liable to the holder for the exercise of any such right or claim.

B. Indemnification of the United States. The holder shall hold harmless the United States from any liability from damage to life or property arising from the holder's occupancy or use of National Forest lands under this permit.

C. Damage to United States Property. The holder shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit. The holder shall pay the United States the full cost of any damage resulting from negligence or activities occurring under the terms of this permit or under any law or regulation applicable to the national forests, whether caused by the holder, or by any agents or employees of the holder.

D. Risks. The holder assumes all risk of loss to the improvements resulting from natural or catastrophic events, including but not limited to, avalanches, rising waters, high winds, falling limbs or trees and other hazardous events.

If the improvements authorized by this permit are destroyed or substantially damaged by natural or catastrophic events, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. The analysis shall be provided to the holder within 6 months of the event.

E. Hazards. The holder has the responsibility of inspecting the area authorized for use under this permit for evidence of hazardous conditions which could affect the improvements or pose a risk of injury to individuals.

F. Insurance. The holder shall have in force public liability insurance covering: (1) property damage in the amount of Fifty Thousand dollars (\$ 50,000.00), and (2) damage to persons in the minimum amount of Three Hundred Thousand dollars (\$ 300,000.00) in the event of death or injury to one individual, and the minimum amount of One Million dollars (\$ 1,000,000.00) in the event of death or injury to more than one individual. These minimum amounts and terms are subject to change at the sole discretion of the authorized officer at five-year anniversary date of this authorization. The coverage shall extend to property damage, bodily injury, or death rising out of the holder's activities under the permit including, but not limited to, occupancy or use of the land and the construction, maintenance, and operation of the structures, facilities, or equipment authorized by this permit. Such insurance shall also name the United States as an additionally insured. The holder shall send an authenticated copy of its insurance policy to the Forest Service immediately upon issuance of the policy. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provisions changed or deleted before thirty (30) days written notice to the Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company.

Rider Clause (for insurance companies)

"It is understood and agreed that the coverage provided under this policy shall not be cancelled or its provisions changed or deleted before thirty (30) days of receipt of written notice to the Forest Supervisor, White River National Forest; P.O. Box 948; Glenwood Springs, CO 81602, by the insurance company.

VI. FEES.

AA. Holder to pay fair market value for the permitted use. [For new ski areas or ski areas with little National Forest System land under permit and therefore not on GRFS.]

In consideration for this use, the holder shall pay to the Forest Service, U.S. Department of Agriculture, the sum of N/A dollars (\$ _____) for the period from _____, 19__, to _____ 19__, and thereafter annually on _____, _____ dollars (\$ _____). Provided, however, that the charges for this use may be readjusted as of, and effective on, the beginning of each 5-year period from the due date of the first annual payment in order to place the charges on a basis commensurate with the value of use authorized by this permit.

A. Holder to pay fair market value for the permitted use. The holder must pay fair market value for the use of National Forest System land.

1. The provisions of the Graduated Rate Fee System (GRFS) identified under this permit may be revised by the Forest Service to reflect changed times and conditions. Changes shall become effective when:

- a. Mutually agreed; or,
- b. Permit is amended for other purposes; or
- c. A new permit is issued including reissue after termination.

2. The Graduated Rate Fee System may be replaced in its entirety by the Chief of the Forest Service if a new generally applicable fee system is imposed affecting all holders of authorizations under PL99-522. Replacement shall become effective on the beginning of the holder's business year following establishment.

B. Fees - Construction Period - Flat Fee. An annual flat fee shall be due the United States during the initial construction period (VI.AA) and until exceeded by fees determined by the Graduated Rate Fee System described below;

Thereafter, the annual fees due the United States for those activities authorized by this permit shall be calculated on sales according to the schedule below.

C. Fees - Graduated Rate Fee System. The annual fees due the United States for those activities authorized by this permit shall be calculated on sales according to the following schedule:

| Kind of Business | Break-even point | Rate Base | Balance of |
|---------------------------------|------------------|--------------|--------------|
| | (Sales to GFA) | | Sales rate |
| | (Percentage) | (Percentage) | (Percentage) |
| Grocery | 70 | .75 | 1.13 |
| Service, food | 70 | 1.25 | 1.88 |
| Service, car | 70 | 1.50 | 1.95 |
| Merchandise | 70 | 1.50 | 2.25 |
| Liquor Service | 60 | 1.80 | 2.70 |
| Outfitting/Guiding | 50 | 2.00 | 3.00 |
| Rental and Services | 30 | 4.50 | 6.75 |
| Lodging | 40 | 4.00 | 6.00 |
| Lifts, Tows, and Ski Schools | 20 | 2.00 | 5.00 |

1. A weighted-average break-even point (called the break-even point) and a weighted-average rate base (called the rate base) shall be calculated and used when applying the schedule to mixed business. If the holder's business records do not clearly segregate the sales into the business categories authorized by this permit, they shall be placed in the most logical category. If sales with a different rate base are grouped, place them all in the rate category that shall yield the highest fee. Calculate the fee on sales below the break-even point using 50 percent of the rate base. Calculate the fee on sales between the break-even point and twice the break-even point using 150 percent of the rate base. Calculate the fee on sales above twice the break-even point using the balance of sales rate.

2. The minimum annual fee for this use, which is due in advance and is not subject to refund, shall be equal to the fee that would result when sales are 40 percent of the break-even point. This fee shall be calculated and billed by the Forest Service during the final quarter of the holder's fiscal year, using the most recent GFA figure and previously reported sales data for the current year, plus, if the operating season is still active, estimated sales for the remainder of the year.

3. Mixed Ownership. [Use when operation is in mixed ownership.] This use occupies both private and public land. For purposes of the fee calculation, the calculated fee shall be adjusted by the slope-transport-feet percentage representing the portion of the use attributed to National Forest land.

Slope-transport feet is determined by the slope distance traveled by lifts over each ownership, multiplied by the lift capacity.

D. Surcharge. [Use when there is a surcharge.] A surcharge of N/A percent shall be applied to and added to the basic fee. The surcharge shall be applied for N/A years beginning with the year that sales first occur under this operation.

E. Definitions of Sales Categories and Gross Fixed Assets (GFA).

1. Sales categories. For purposes of recording and reporting sales, and sales-related information including the cost of sales, the activities of the concessioner are divided into:

Grocery. Includes the sale of items usually associated with grocery stores such as staple foods, meats, produce, household supplies. Includes the sale of bottled soft drinks, beer and wine, when included in the grocery operation.

Service, Food. Includes the serving of meals, sandwiches, and other items either consumed on the premises or prepared for carry out. Snack bars are included.

Service, Cars. Includes servicing and sale of fuels, lubricants, and all kinds of articles used in servicing and repairing autos, boats, snowmobiles, aircraft.

Merchandise. Includes the sale of clothing, souvenirs, gifts, ski and other sporting equipment. Where a "Service, Cars" category of business is not established by this permit, the sale of auto accessories is included in this category.

Service, Liquor. Includes the sale of alcoholic drinks for consumption on the premises and other sales ordinarily a part of a bar or cocktail-lounge business. Where a bar is operated in conjunction with a restaurant or overnight accommodations liquor, beer and wine sales shall be accounted for consistent with holder's normal business practice. The sale of alcoholic beverages for consumption off the premises is also included in this item, except as indicated in "Grocery."

Outfitting, Guiding. Includes all activities or commercial guiding services involving back-country travel, regardless of mode of travel, when associated with a resort or dude ranch with a mixture of business. All fees charged are considered sales.

Lodging. Includes lodging where daily maid service is furnished.

Rentals and Services. Includes lodging where daily maid service is not furnished by the holder; the rental of camping space, ski equipment and other equipment rentals; fees for the use of cross-country ski trails. Also included are services such as barbershops, and amusements including video games.

Lifts, Tows, and Ski Schools. Includes charges for use of all types of uphill transportation facilities and for sports lessons and training.

2. Gross Fixed Assets. The capitalized cost of improvements, equipment, and fixtures necessary and used to generate sales and other revenue during the permit year on the permitted area or within the development boundary shown in this permit.

GFA shall be established by and changed at the sole discretion of the authorized officer based on the current interpretation of guidelines supporting the Graduated Rate Fee System.

a. Costs of the following items as presented by the holder and verified by a representative of the authorized officer to be in existence and in use are included:

(1) Identifiable structures, major equipment, such as road maintenance equipment, or land improvements which play a distinct role in the permitted activity.

(2) Identifiable holder costs, to provide utility services to the area. Utility services that extend beyond the development boundary may be included in GFA to the extent they are necessary for the generation of sales and are paid by the holder. Costs for user surcharge or demand rates are not included as GFA.

b. The following, and similar items, are not part of GFA:

(1) Assets that ordinarily qualify for inclusion in GFA, but which are out of service for the full operating year for which fees are being determined.

(2) Land.

(3) Expendable or consumable supplies.

(4) Intangible assets, such as goodwill, permit value, organization expense, and liquor licenses.

(5) Improvements not related to the operation.

(6) Luxury assets, to the extent their design and cost exceed functional need.

(7) The prorata share of GFA assets used in off-site activities not directly associated with the authorized use.

(8) Expensed assets.

(9) Operating leases.

As of the date of this permit, (11/23/93) the initial GFA under this ownership has been determined to be \$ *64571382* as of 9/30/90 as shown in detail on attached exhibit B. If an error is found in the GFA amount, it shall be changed to the correct amount retroactive to the date the error occurred and fees adjusted accordingly.

F. Change of Gross Fixed Asset Amount Upon Sale or Change in Controlling Interest. Upon change of ownership, effective dominion or controlling interest or upon sale of assets or common stock which results in a change of ownership, effective dominion, or controlling interest, the value of Gross Fixed Assets shall be established applying Generally Accepted Accounting Principles (GAAP).

G. Determining Sales and Other Revenue. Sales and Gross Fixed Assets shall be derived from all improvements and facilities, including those of sublessees, which constitute a logical single overall integrated business operation regardless of land ownership. A map shall be prepared designating the development boundary and may be augmented by narrative or table and shall become a part of this permit.

1. Sales. Fees shall be assessed against all receipts from sales unless specifically exempted. Sales for the purpose of fee calculation include, (1) all revenue derived from goods and services sold which are related to operations under this permit and all revenue derived within the development boundary, unless otherwise excluded, (2) the value of goods and services traded-off for goods and services received (bartering) and (3) the value of gratuities.

a. Definitions.

(1) Gratuities. Goods, services or privileges that are provided without charge or at deep discount to such individuals as employees, owners, and officers or immediate families of employees, owners and officers and not available to the general public.

(2) Acceptable Discounts. Transactions for goods or services below stated, listed or otherwise presented prices to the public at large. Included are such things as group sales and organized programs. These are included in sales at the actual transaction price.

(3) Discriminatory Pricing. Rates based solely on residence, race, color, or religion. Discounts based on age or disability are not discriminatory pricing.

(4) Preferential Discounts. Discounts offered to certain classes or individuals based on their status, such as members of boards of directors, contractors, advertisers, doctors, and VIP's. etc.

(5) Market Price. The price generally available to an informed public excluding special promotions. It may not be the "window price".

(6) Bartering or Trade Offs. The practice of exchanging goods or services between individuals or companies.

(7) Commissions. Commissions are payments received by the holder for collecting revenue on behalf of others as an agent or providing services not directly associated with the operations, such as selling hunting and fishing licenses, bus or sightseeing tickets for trips off or predominantly off the permitted area, accommodating telephone toll calls, and so forth.

(8) Franchise Receipts. These are payments made to specific permittees by sublessees solely for the opportunity to do business at a specific location.

The permittee provides little, if anything, in the way of facilities or services. They may be the only fee paid to the permittee or, if some facilities or services are provided by the permittee, they may be made in addition to a rental fee. The franchise receipts may be in the form of fixed amounts of money or in reduced prices for the franchiser's product or service.

b. Inclusions. The following items shall be included as gross receipts to arrive at sales:

(1) Gratuities. Daily and season passes are valued at market price unless the permit holder has sufficient records of daily individual use to substantiate a "value of use". Value of use is the number of days the pass is used times the market price. Does not include employees. See (4) below.

(2) Preferential Discounts. Include the amount that would have been received had the transaction been made at the market price.

(3) Value of Discriminatory Pricing. Discriminatory pricing is disallowed. Include the amount that would

have been received had the transaction been made at the market price.

(4) Employee discounts in excess of 30 percent of market price. These discounts are exclusively given or provided to employees, owners, officers or immediate families of employees, owners or officers are gratuities and are included in sales at 70 percent of market price. Employee discounts less than 30 percent are recorded at transaction price.

(5) Value of bartered goods and services (trade offs).

(6) Gross sales of sublessees. Includes sales of State controlled liquor stores.

(7) Fifty percent of franchise receipts.

(8) All other revenue items not specifically excluded below shall be included as sales.

c. Exclusions. The following items shall be excluded from gross receipts or revenue to arrive at sales:

(1) Value of goods and services provided to employees, agents, contractors or officials to facilitate the accomplishment of their assigned duties or work-related obligation or to others for educational or technical competence related to the type of permitted use such as lift operation, ski patrol, water safety, avalanche control, etc. Similarly, local, state and federal government officials including Forest Service employees who in the course of their oversight responsibilities or otherwise on official business use goods or services. The holder is not required to report the value of such duty-related or official use as sales for fee calculation purposes.

(2) The value of meals and lodging furnished by an employer to an employee for the employer's convenience is if, in the case of meals, they are furnished on the employer's business premises. The fact that the employer imposes a partial charge for or that the employee may accept or decline meals does not affect the exclusion if all other conditions are met. If employer imposes a charge for meals and lodging it shall be included at transaction price. The holder need not keep records of employee meals and lodging more detailed than those required by the Internal Revenue Service.

(3) Refunds from returned merchandise and receipts from sales of real and nonrental personal property used in the operation.

(4) Rents paid to the permittee by sublessees, even if based on sales.

(5) Taxes collected on site from customers, accounted for as such in the holder's accounting records, and that were paid or are payable to taxing authorities. Taxes included in the purchase price of gasoline, tobacco and other products, but paid to the taxing authority by the manufacture or wholesaler are included in sales, and subject to the permit fee.

(6) Amounts paid or payable to a Government licensing authority or recreation administering agency from sales of hunting or fishing licenses and recreation fee tickets.

(7) Value of sales and commissions where the holder is serving as an agent for businesses not directly associated with the permitted operation. This includes such things as bus or sightseeing-ticket sales for trips not related to activities on the permitted area, telephone-toll charges, and accident-insurance sales.

(8) Sales of operating equipment. Rental equipment, capitalized assets or other assets used in operations shall be excluded from gross receipts. Examples are such items as, used rental skis and boots, ski lifts, grooming equipment which are sold periodically and replaced.

H. Concession Payment, Graduated Rate Fee System. Reports and deposits required as outlined above shall be tendered in accordance with the schedule below. They shall be sent or delivered to the Collection Officer, Forest Service, USDA, at the address furnished by the Forest Supervisor. Checks or money orders shall be payable to "Forest Service, USDA."

1. The holder shall report sales, calculate fees due and make payment each calendar month except for periods in which no sales take place and the holder has notified the authorized officer and the operation has entered a seasonal shutdown for a specific period. Reports and payments shall be made by the 30th of the month following the end of each reportable period.

2. The authorized officer, prior to January 1, shall furnish the holder with a tentative rate which shall be applied to sales in the fee calculation (item 1), such rate to be one that shall produce the expected fee based on past experience. The correct fee shall be determined at the end of the year and adjustments made as provided under item (5). Any balance that may exist shall be credited and applied against the next payment due.

3. During the final fiscal month, pay within 30 days of billing by the Forest Service, the annual minimum fee for the next year.

4. The holder must also provide within three (3) months after close of its operating year a balance sheet

representing its financial condition at the close of its business year, an annual operating statement reporting the results of operations including yearend adjustments for itself and each sublessee for the same period, and a schedule of Gross Fixed Assets adjusted to comply with the terms of this permit in a format and manner prescribed by the authorized officer.

If the holder fails to report all sales in the period they were made or misreports Gross Fixed Assets and the authorized officer determines that additional fees are owed, the holder shall pay the additional fee plus interest. Such interest shall be assessed at the rate specified in Clause I and shall accrue from the date the sales or correct Gross Fixed Assets should have been reported and fee paid until the date of actual payment of the underpaid fee.

5. Within 30 days of receipt of a statement from the Forest Service, pay any additional fee required to correct fees paid for the past year's operation.

6. Payments shall be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation financial statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

7. All fee calculations and records of sales and Gross Fixed Assets are subject to periodic audit. Errors in calculation or payment shall be corrected as needed for conformance with those audits. Additional fees and interest due as a result of such audits shall be in accordance with item 4, paragraph 2.

8. Disputed fees must be paid in a timely manner.

I. Interest and Penalties.

1. Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, or subsequent changes thereto, interest shall be charged on any fee not paid within 30 days from the date the fee or fee calculation financial statements specified in this permit was due.

2. Interest shall be assessed using the higher of (1) the most current rate prescribed by the United States Department of the Treasury Financial Manual (TFM-6-8025.40) or (2) the prompt payment rate prescribed by the United States Department of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 USC 611). Interest shall accrue from the date the fee or fee calculation financial statement is due. In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquent debt may be assessed.

3. A penalty of 6 percent per year shall be assessed on any fee overdue in excess of 90 days, and shall accrue from the due date of the first billing or the date the fee calculation financial statement was due. The penalty is in addition to interest and any other charges specified in item 2.

4. Delinquent fees and other charges shall be subject to all the rights and remedies afforded the United States pursuant to federal law and implementing regulations. (31 U.S.C. 3711 et seq.)

J. Nonpayment. Failure of the holder to make timely payments, pay interest charges or any other charges when due, constitutes breach and shall be grounds for termination of this authorization. This permit terminates for nonpayment of any monies owed the United States when more than 90 days in arrears.

K. Access to Records. For the purpose of administering this permit (including ascertaining that fees paid were correct and evaluating the propriety of the fee base), the holder agrees to make all of the accounting books and supporting records to the business activities, as well as those of sublessees operating within the authority of this permit, available for analysis by qualified representatives of the Forest Service or other Federal agencies authorized to review the Forest Service activities. Review of accounting books and supporting records shall be made at dates convenient to the holder and reviewers. Financial information so obtained shall be treated as confidential as provided in regulations issued by the Secretary of Agriculture.

The holder shall retain the above records and keep them available for review for 5 years after the end of the year involved, unless disposition is otherwise approved by the authorized officer in writing.

L. Accounting Records. The holder shall follow Generally Accepted Accounting Principles or Other Comprehensive Bases of Accounting acceptable to the Forest Service in recording financial transactions and in reporting results to the authorized officer. When requested by the authorized officer, the holder at own expense, shall have the annual accounting reports audited or prepared by a licensed independent accountant acceptable to the Forest Service. The holder shall require sublessees to comply with these same requirements. The minimum acceptable accounting system shall include:

1. Systematic internal controls and recording by kind of business the gross receipts derived from all sources of business conducted under this permit. Receipts should be recorded daily and, if possible, deposited into a bank account without reduction by disbursements. Receipt entries shall be supported by source documents such as cash-register tapes, sale invoices, rental records, and cash accounts from other sources.

2. A permanent record of investments in facilities (depreciation schedule), current source documents for acquisition costs of capital items.

3. Preparation and maintenance of such special records and accounts as may be specified by the authorized officer.

VII. TRANSFER AND SALE.

A. Subleasing. The holder may sublease the use of land and improvements covered under this permit and the operation of concessions and facilities authorized upon prior written notice to the authorized officer. The Forest Service reserves the right to disapprove subleasees. In any circumstance, only those facilities and activities authorized by this permit may be supplied. The holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet. The holder may not sublease direct management responsibility without prior written approval by the authorized officer.

B. Notification of Sale. The holder shall immediately notify the authorized officer when a sale and transfer of ownership of the permitted improvements is planned.

C. Divestiture of Ownership. Upon change in ownership of the facilities authorized by this permit, the rights granted under this authorization may be transferred to the new owner upon application to and approval by the authorized officer. The new owner must qualify and agree to comply with and be bound by the terms and conditions of the authorization. In granting approval, the authorized officer may modify the terms, conditions, and special stipulations to reflect any new requirements imposed by current Federal and state land use plans, laws, regulations or other management decisions.

VIII. TERMINATION.

A. Termination for Higher Public Purpose. If, during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his or her authority shall determine by his or her planning for the uses of the national forest that the public interest requires termination of this permit, this permit shall terminate upon one hundred-eighty (180) day's written notice to the holder of such determination, and the United States shall have the right thereupon, subject to Congressional authorization and appropriation, to purchase the holder's improvements, to remove them, or to require the holder to remove them, at the option of the United States, and the United States shall be obligated to pay an equitable consideration for the improvements or for the removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the holder and shall be accepted by the holder in full satisfaction of all claims against the United States under this clause: Provided, That if mutual agreement is not reached, the Forest Service shall determine the amount and if the holder is dissatisfied with the amount thus determined to be due him he may appeal the determination in accordance with the Appeal Regulations and the amount as determined on appeal shall be final and conclusive on the parties hereto; Provide further, that upon the payment to the holder of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

B. Termination, Revocation and Suspension. The authorized officer may suspend, revoke, or terminate this permit for (1) noncompliance with applicable statutes, regulations, or terms and conditions of the authorization; (2) for failure of the holder to exercise the rights and privileges granted; (3) with the consent of the holder; or (4) when, by its terms, a fixed agreed upon condition, event, or time occurs. Prior to suspension, revocation, or termination, the authorized officer shall give the holder written notice of the grounds for such action and reasonable time to correct cureable noncompliance.

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IX. RENEWAL

A. Renewal. The authorized use may be renewed. Renewal requires the following conditions: (1) the land use allocation is compatible with the Forest Land and Resource Management Plan; (2) the site is being used for

the purposes previously authorized; and (3) the enterprise is being continually operated and maintained in accordance with all the provisions of the permit. In making a renewal, the authorized officer may modify the terms, conditions, and special stipulations.

X. RIGHTS AND RESPONSIBILITIES UPON TERMINATION OR NONRENEWAL.

A. Removal of Improvements. Except as provided in Clause VIII.A., upon termination or revocation of this special use permit by the Forest Service, the holder shall remove within a reasonable time as established by the authorized officer, the structures and improvements, and shall restore the site to a condition satisfactory to the authorized officer; unless otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States without compensation to the holder, but that shall not relieve the holder's liability for the removal and site restoration costs.

XI. MISCELLANEOUS PROVISIONS.

A. Members of Congress. No Member of or Delegate to Congress, or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

B. Inspection, Forest Service. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permitted facilities and improvements at any time for compliance with the terms of this permit. Inspections by the Forest Service do not relieve the holder of responsibilities under other terms of this permit.

C. Regulating Services and Rates. The Forest Service shall have the authority to check and regulate the adequacy and type of services provided the public and to require that such services conform to satisfactory standards. The holder may be required to furnish a schedule of prices for sales and services authorized by the permit. Such prices and services may be regulated by the Forest Service: Provided, that the holder shall not be required to charge prices significantly different than those charged by comparable or competing enterprises.

D. Advertising. The holder, in advertisements, signs, circulars, brochures, letterheads, and like materials, as well as orally, shall not misrepresent in any way either the accommodations provided, the status of the permit, or the area covered by it or the vicinity. The fact that the permitted area is located on the National Forest shall be made readily apparent in all of the holder's brochures and print advertising regarding use and management of the area and facilities under permit.

E. Bonding. The authorized officer may require the holder to furnish a bond or other security to secure all or any of the obligations imposed by the terms of the authorization or any applicable law, regulation, or order.

Bonds, Performance. When bonding is called for the following shall be used: As a further guarantee of the faithful performance of the provisions of terms and conditions when applicable of this permit, the holder agrees to deliver and maintain a surety bond or other acceptable security in the amount of when applicable. Should the sureties or the bonds delivered under this permit become unsatisfactory to the Forest Service, the holder shall, within thirty (30) days of demand, furnish a new bond with surety, solvent and satisfactory to the Forest Service. In lieu of a surety bond, the holder may deposit into a Federal depository, as directed by the Forest Service, and maintain therein, cash in the amounts provided for above, or negotiable securities of the United States having a market value at time of deposit of not less than the dollar amounts provided above.

The holder's surety bond shall be released, or deposits in lieu of a bond, shall be returned thirty (30) days after certification by the Forest Service that priority installations under the development plan are complete, and upon furnishing by the holder of proof satisfactory to the Forest Service that all claims for labor and material on said installations have been paid or released and satisfied. The holder agrees that all moneys deposited under this permit may, upon failure on his or her part to fulfill all and singular the requirements herein set forth or made a part hereof, be retained by the United States to be applied to satisfy obligations assumed hereunder, without prejudice whatever to any rights and remedies of the United States.

Prior to undertaking additional construction or alteration work not provided for in the above terms and conditions or when the improvements are to be removed and the area restored, the holder shall deliver and maintain a surety bond in an amount set by the Forest Service, which amount shall not be in excess of the estimated loss which the Government would suffer upon default in performance of this work.

F. Water Rights. This authorization confers no rights to the use of water by the holder. Such rights must be acquired under State law. All water rights acquired or claimed by the holder during the term of this permit which involve diversion of water directly from National Forest system lands, to the extent the same are applied to beneficial uses on National Forest system lands authorized under this permit, shall be acquired by the holder and transferred to the United States. Such transactions are subject to the permit holder's right of use.

G. Current Addresses. The holder and the Forest Service shall keep each informed of current mailing addresses including those necessary for billing and payment of fees.

H. Identification of Holder. Identification of the holder shall remain sufficient that the Forest Service shall know the true identify of the entity.

Corporation Status Notification:

1. The holder shall notify the authorized officer within fifteen (15) days of the following changes:

a. Names of officers appointed or terminated.

b. Names of stockholders who acquire stock shares causing their ownership to exceed 50 percent of shares issued or otherwise acquired controlling interest in the corporation.

2. The holder shall furnish the authorized officer:

a. A copy of the articles of incorporation and bylaws.

b. An authenticated copy of a resolution of the board of directors specifically authorizing a certain individual or individuals to represent the holder in dealing with the Forest Service.

c. A list of officers and directors of the corporation and their addresses.

d. Upon request, a certified list of stockholders and amount of stock owned by each.

e. The authorized officer may require the holder to furnish additional information as set forth in 36 CFR 251.54(e)(1)(iv).

Partnership Status Notification:

The holder shall notify the authorized officer within fifteen (15) days of the following changes. Names of the individuals involved shall be included with the notification.

1. Partnership makeup changes due to death, withdrawal, or addition of a partner.

2. Party or parties assigned financed interest in the partnership by existing partner(s).

3. Termination, reformation, or revision of the partnership agreement.

4. The acquisition of partnership interest, either through purchase of an interest from an existing partner or partners, or contribution of assets, that exceeds 50 percent of the partnership permanent investment.

I. Archaeological-Paleontological Discoveries. The holder shall immediately notify the authorized officer of any and all antiquities or other objects of historic or scientific interest. These include, but are not limited to,

historic or prehistoric ruins, fossils, or artifacts discovered as the result of operations under this permit, and shall leave such discoveries intact until authorized to proceed by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder.

J. Protection of Habitat of Endangered, Threatened, and Sensitive Species.

Location of areas needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act of 1973, as amended, or as sensitive by the Regional Forester under authority of FSM 2670, derived from ESA Section 7 consultation, may be shown on a separate map, hereby made a part of this permit, or identified on the ground. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the permit holder. If protection measures prove inadequate, if other such areas are discovered, or if new species are listed as Federally threatened or endangered or as sensitive by the Regional Forester, the authorized officer may specify

additional protection regardless of when such facts become known. Discovery of such areas by either party shall be promptly reported to the other party.

K. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding clauses shall control.

L. Superseded Permit. This permit replaces a special use permit issued to:

Vail Associates, Inc. on December 23, 19 91.
(Holder Name) (Date)

M. Disputes. Appeal of any provisions of this authorization or any requirements thereof shall be subject to the appeal regulations at 36 CFR 251, Subpart C, or revisions thereto. The procedures for these appeals are set forth in 36 CFR 251 (54 Fed. Reg. 3362, January 23, 1989).

N. Correcting Errors - Correction of errors includes any action necessary to establish the cost of gross fixed assets to the current holder, sales, slope transport feet calculation, or other data required to accurately assess and calculate fees. For fee calculation purposes, errors may include:

1. Misreporting or misrepresentation of amounts,
2. Arithmetic mistakes,
3. Typographical mistakes,
4. Variation from Generally Accepted Accounting Principles (GAAP), when such variations are inconsistent with the terms and conditions of the authorization.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, with past fees adjusted accordingly.

Changes effected by agency policy including definition of assets included in GFA, shall only be made prospectively.

Public reporting burden for this collection of information is estimated to average 16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington D.C.20050; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0596-0082), Washington, D.C. 20503.

EXHIBIT A
 BOUNDARY MAP
 (ON FILE IN SUPERVISOR'S OFFICE)

EXHIBIT B
 SCHEDULE OF GFA

EXHIBIT B
 DETERMINATION OF GFA

The initial GFA for this permit is agreed to be \$64,571,382 (*), which amount was determined by making the following alterations and adjustments to the \$60,527,828 GFA amount as of September 30, 1987:

- (a) an amount of \$9,334,109 was subtracted representing the revaluation of assets of November 1, 1985.
- (b) an amount of \$20,792,510 (*) was added to reflect all additions to GFA put in service by holder from October 1, 1987 to the date of this permit as shown in the schedule below;
- (c) an amount of \$973,137 (*) was subtracted to reflect all deletions to GFA from October 1, 1987 to the date of this permit as shown in the schedule below.
- (d) an amount of \$3,000,753 was subtracted to reflect all deletions to GFA from October 1, 1987 to the date of this permit as shown in the schedule below.
- (e) an amount of \$1,287,515 was subtracted representing the amount of all operating leases included in GFA as of September 30, 1987; and
- (f) an amount of \$2,153,442 was subtracted representing the cost of capital on additions for the period 4/30/85 to 9/30/87.

ADDITIONS AND RETIREMENTS BY YEAR

Year Ending Additions Retirements

| | | |
|--------------------|---------------------|------------------|
| September 30, 1988 | \$ 1,563,025 | \$787,827 |
| September 30, 1989 | 11,287,607 | 110,015 |
| September 30, 1990 | <u>7,941,878</u> | <u>75,295</u> |
| Totals | <u>\$20,792,510</u> | <u>\$973,137</u> |

(* All amounts as of 9/30/90 (need to be updated to 9/30/91).

EXHIBIT C

MASTER PLAN

(ON FILE IN SUPERVISOR'S OFFICE)

Authorization ID: HOL405601

Contact ID: VAIL_ASSOCIATES FS-2700-23 (4/97)

OMB No. 0596-0082

U. S. DEPARTMENT OF AGRICULTURE
Forest Service

AMENDMENT
FOR
SPECIAL USE AUTHORIZATION
AMENDMENT NUMBER: 2

This amendment is attached to and made a part of the special use authorization (indicated above) issued to VAIL ASSOCIATES on 11/23/1993, which is hereby amended as follows:

Remove clauses AA - H of Section "VI FEES" and replace with the following clauses:

A-9. Ski Area Permit Fees. The Forest Service shall adjust and calculate permit fees authorized by this permit to reflect any revisions to permit fee provisions in 16 U.S.C. 497c or to comply with any new permit fee system based on fair market value that may be adopted by statute or otherwise after issuance of this permit.

A. Fee Calculation. The annual fee due the United States for the activities authorized by this permit shall be calculated using the following formula:

$$\text{SAPF} = (.015 \times \text{AGR in bracket 1}) + (.025 \times \text{AGR in bracket 2}) + (.0275 \times \text{AGR in bracket 3}) + (.04 \times \text{AGR in bracket 4})$$

Where:

$$\text{AGR} = [(\text{LT} + \text{SS}) \times (\text{proration } \%)] + \text{GRAF}$$

| | | |
|-------------|----|--|
| AGR | is | adjusted gross revenue; |
| LT | is | revenue from sales of alpine and nordic lift tickets and passes; |
| GRAF | is | gross year-round revenue from ancillary facilities; |
| Proration % | is | the factor to apportion revenue attributable to use of National Forest System lands; |
| SAPF | is | the ski area permit fee for use of National Forest System lands; and |
| SS | is | revenue from alpine and nordic ski school operations. |

1. SAPF shall be calculated by summing the results of multiplying the indicated percentage rates by the amount of the holder's adjusted gross revenue (AGR), which falls into each of the four brackets. Follow direction in paragraph 2 to determine AGR. The permit fee shall be calculated based on the holder's fiscal year, unless mutually agreed otherwise by the holder and the authorized officer.

The four revenue brackets shall be adjusted annually by the consumer price index issued in FSH 2709.11, chapter 30. The revenue brackets shall be indexed for the previous calendar year. The holder's AGR for any fiscal year shall not be split into more than one set of indexed brackets. Only the levels of AGR defined in each bracket are updated annually. The percentage rates do not change.

The revenue brackets and percentages displayed in Exhibit 01 shall be used as shown in the preceding formula to calculate the permit fee.

Exhibit 01

Adjusted Gross Revenue (AGR) Brackets and Associated Percentage Rates

for Use in Determining Ski Area Permit Fee (SAPF)

Revenue Brackets (updated annually by CPI*) and Percentage Rates

| Holder FY | Bracket 1 (1.5%) | Bracket 2 (2.5%) | Bracket 3 (2.75%) | Bracket 4 (4%) |
|-----------------------|---|----------------------------------|---------------------------------|----------------------------------|
| FY 1996 CPI: N/A | All revenue below \$3,000,000 | \$ 3,000,000 to <\$15,000,000 | \$15,000,000 to \$50,000,000 | All revenue over \$50,000,000 |
| FY 1997 CPI: 1.030 | All revenue below \$3,090,000 | \$3,090,000 to <\$15,450,000 | \$15,450,000 to \$51,500,000 | All revenue over \$51,500,000 |
| FY 1998 CPI: 1.022 | All revenue below \$3,158,000 | \$3,158,000 to <\$15,790,000 | \$15,790,000 to \$52,633,000 | All revenue over \$52,633,000 |
| FY 1999 CPI: 1.017 | All revenue below \$3,212,000 | \$3,212,000 to <\$16,058,000 | \$16,058,000 to \$53,528,000 | All revenue over \$53,528,000 |
| FY 2000 and beyond | BRACKETS WILL BE UPDATED ANNUALLY BY CPI* | | | |

*The authorized officer shall notify the holder of the updated revenue brackets based on the Consumer Price Index (CPI) which is revised and issued annually in FSH 2709.11, chapter 30.

2. AGR shall be calculated by summing the revenue from lift tickets and ski school operations prorated for use of National Forest System lands and from ancillary facility operations conducted on National Forest System lands.

—
Revenue inclusions shall be income from sales of alpine and nordic tickets and ski area passes; alpine and nordic ski school operations;

gross revenue from ancillary facilities; the value of bartered goods and complimentary lift tickets (such as lift tickets provided free of charge

to the holder's friends or relatives); and special event revenue.

Discriminatory pricing, a rate based solely on race, color, religion, sex, national origin, age, disability, or place of residence, is not allowed, but if it occurs, include the amount that would have been received had the discriminatory pricing transaction been made at the market price, the price generally available to an informed public, excluding special promotions.

Revenue exclusions shall be income from sales of operating equipment; refunds; rent paid to the holder by subholders; sponsor contributions to special events; any amount attributable to employee gratuities or employee lift tickets; discounts; ski area tickets or passes provided for a public safety or public service purpose (such as for National Ski Patrol or for volunteers to assist on the slope in the Special Olympics); and other goods or services (except for bartered goods and complimentary lift tickets) for which the holder does not receive money.

Include the following in AGR:

- a. Revenue from sales of year-round alpine and nordic ski area passes and tickets and revenue from alpine and nordic ski school operations prorated according to the percentage of use between National Forest System lands and private land in the ski area;
- b. Gross year-round revenue from temporary and permanent ancillary facilities located on National Forest System lands;
- c. The value of bartered goods and complimentary lift tickets, which are goods, services, or privileges that are not available to the general public (except for employee gratuities, employee lift tickets, and discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) and that are donated or provided without charge in exchange for something of value to organizations or individuals (for example, ski area product discounts, service discounts, or lift tickets that are provided free of charge in exchange for advertising).

Bartered goods and complimentary lift tickets (except for employee gratuities, employee lift tickets, discounts, and except for ski area tickets and passes provided for a public safety or public service purpose) valued at market price shall be included in the AGR formula as revenue under LT, SS, or GRAF, depending on the type of goods, services, or privileges donated or bartered; and

- d. Special event revenue from events, such as food festivals, foot races, and concerts. Special event revenue shall be included in the AGR formula as revenue under LT, SS, or GRAF, as applicable. Prorate revenue according to the percentage of use between National Forest System lands and private land as described in the following paragraphs 5 and 6.

3. LT is the revenue from sales of alpine and nordic lift tickets and passes purchased for the purpose of using a ski area during any time of the year, including revenue that is generated on private land (such as from tickets sold on private land).

4. SS is the revenue from lessons provided to teach alpine or nordic skiing or other winter sports activities, such as racing, snowboarding, or snowshoeing, including revenue that is generated on private land (such as from tickets sold on private land).

5. Proration % is the method used to prorate revenue from the sale of ski area passes and lift tickets and revenue from ski school operations between National Forest System lands and private land in the ski area. Separately prorate alpine and nordic revenue with an appropriate proration factor. Add prorated revenues altogether; then sum them with GRAF to arrive at AGR. Use one or both of the following methods, as appropriate:

a. STFP shall be the method used to prorate alpine revenue. The STFP direction contained in FSM 2715.11c effective in 1992 shall be used. Include in the calculation only uphill devices (lifts, tows, and

tramways) that are fundamental to the winter sports operation (usually those located on both Federal and private land). Do not include people movers whose primary purpose is to shuttle people between parking areas

or between parking areas and lodges and offices.

b. Nordic trail length is the method used to prorate nordic revenue. Use the percentage of trail length on National Forest System lands to total trail length.

6. GRAF is the revenue from ancillary facilities, including all of the holder's or subholder's lodging, food service, rental shops, parking, and other ancillary operations located on National Forest System lands. Do not include revenue that is generated on private land. For facilities that are partially located on National Forest System lands, calculate the ratio of the facility square footage located on National Forest System lands to the total facility square footage. Special event revenue allocatable to GRAF shall be prorated by the ratio of use on National Forest System lands to the total use.

7. In cases when the holder has no AGR for a given fiscal year, the holder shall pay a permit fee of \$2 per acre for National Forest

System lands under permit or a percentage of the appraised value of National Forest System lands under permit, at the discretion of the authorized officer.

B. Fee Payments. Reports and deposits shall be tendered in accordance with the following schedule. They shall be sent or delivered to the collection officer, USDA, Forest Service, at the address furnished by the authorized officer. Checks or money orders shall be made payable to:

USDA, Forest Service.

1. The holder shall calculate and submit an advance payment

which is due by the beginning of the holder's payment cycle. The advance payment shall equal 20 percent of the holder's average permit fee for 3 operating year, when available. When past permit fee information is not available, the advance payment shall equal 20 percent of the permit fee, based on the prior holder's average fee or projected AGR. For ski areas

not expected to generate AGR for a given payment cycle, advance payment

of the permit fee as calculated in item A, paragraph 7 (\$2 per acre for National Forest System lands under permit or a percentage of the

appraised value of National Forest System lands under permit, at the discretion of the authorized officer) shall be made. The advance payment shall be credited (item B, paragraph 3) toward the total ski area

permit fee for the payment cycle.

2. The holder shall report sales, calculate fees due based on a tentative percentage rate, and make interim payments each calendar

[MONTH], except for periods in which no sales take

place and the holder has notified the authorized officer that the

operation has entered a seasonal shutdown for a specific period. Reports

and payments shall be made by the end of the month following the end of

each reportable period. Interim payments shall be credited (item B, paragraph 3) toward the total ski area permit fee for the payment cycle.

3. Within 90 days after the close of the ski area's payment

cycle, the holder shall provide a financial statement, including a

completed permit fee information form, Form FS-2700-91a, representing

the ski area's financial condition at the close

of its business year and an annual operating statement reporting the

results of operations, including a final payment which includes year-end adjustments for the holder and each subholder for the same period. Any balance that exists may be credited and applied against the next payment

due or refunded, at the discretion of the permit holder.

4. Within 30 days of receipt of a statement from the Forest

Service, the holder shall make any additional payment required to ensure

that the correct ski area permit fee is paid for the past year's

operation.

5. Payments shall be credited on the date received by the

designated collection officer. If the due date for the fee or fee

calculation financial statement falls on a non-workday, the charges shall

not accrue until the close of business on the next workday.

6. All permit fee calculations and records of sales are subject

to review or periodic audit as determined by the authorized officer.

Errors in calculation or payment shall be corrected as needed for

conformance with those reviews or audits. In accordance with the

Interest and Penalties clause contained in this authorization, interest

and penalties shall be assessed on additional fees due as a result of

reviews or audits.

7. Correction of errors includes any action necessary to

calculate the holder's sales or slope transport fee percentage or to make

any other determination required to calculate permit fees accurately.

For fee calculation purposes, an error may include:

a. Misreporting or misrepresentation of amounts;

b. Arithmetic mistakes;

c. Typographic mistakes; or

d. Variation from generally accepted accounting principles (GAAP), when

such variations are inconsistent with the terms of this permit.

Correction of errors shall be made retroactively to the date the error was made or to the previous audit period, whichever is more recent, and past fees shall be adjusted accordingly.

This Amendment is accepted subject to the conditions set forth herein, and to conditions N/A to N/A attached hereto and made a part of this

Amendment.

Holder: THE VAIL CORPORATION Authorized Officer: /s/

Holder: /s/ Martha Dugan Rehm, SVP Title: for Forest Supervisor

Date: November 14, 2001 Date: 11/20/01

SEPARATION AGREEMENT AND MUTUAL GENERAL RELEASE

This Separation Agreement and Mutual General Release (referred to as "Agreement") is by and between Andrew P. Daly (referred to as "EXECUTIVE") and Vail Resorts, Inc. and its wholly owned subsidiary, Vail Associates, Inc. (referred to together as "COMPANY"). EXECUTIVE and the COMPANY may be referred to collectively as the "Parties".

WHEREAS, EXECUTIVE and the COMPANY are parties to that certain Employment Agreement dated October 1, 2000 ("Employment Agreement");

WHEREAS, pursuant to Section 3. (c) of the Employment Agreement, the parties agree that on October 31, 2002, EXECUTIVE's active employment with the COMPANY will terminate ("active employment end date"); and

WHEREAS, EXECUTIVE and the COMPANY agree that the Parties wish to avoid the expense and uncertainty of a dispute between the Parties regarding EXECUTIVE's employment and termination of employment with the COMPANY.

In consideration of the mutual promises contained in this Agreement, the COMPANY and the EXECUTIVE agree as follows:

1. EXECUTIVE and the COMPANY agree that after EXECUTIVE's active employment end date, EXECUTIVE will no longer perform personal/professional services as an employee of the COMPANY. COMPANY will pay EXECUTIVE all wages with accrued and unpaid paid-time-off pay through EXECUTIVE's active employment end date, less whatever deductions the law requires. Notwithstanding the foregoing, EXECUTIVE will remain on the COMPANY's payroll at his current Base Salary until the first anniversary of the active employment end date, i.e. October 31, 2003 ("inactive employment end date"), unless EXECUTIVE secures employment with a different employer in which event Paragraphs 3 and 4 shall control. The EXECUTIVE shall receive such salary continuation on the same periodic basis as the COMPANY otherwise make payroll payments and a prorated bonus pursuant to paragraph 3. (c)(ii) of the Employment Agreement. The EXECUTIVE shall not, however, accrue or receive any paid time off pay after EXECUTIVE's active employment end date and said salary continuation payments shall not be eligible to participate in the COMPANY's 401k plan(s) nor will any deductions or matching contributions for the COMPANY's 401k plan(s) be made after EXECUTIVE's active employment end date.

2. In addition to the salary continuation provided for in Paragraph 1 above and as additional consideration for EXECUTIVE entering into this Agreement, the COMPANY agrees that except as provided for in Paragraph 4 below, COMPANY shall provide continued health, disability and life insurance benefits through Executives inactive employment end date. Any EXECUTIVE contributions related to providing such benefits shall be deducted from the salary continuation payments set forth in Paragraph 1 above.

3. EXECUTIVE and COMPANY understand and agree that, if EXECUTIVE obtains and begins employment with another employer prior to EXECUTIVE's inactive employment end date, EXECUTIVE agrees to provide COMPANY immediate notice and EXECUTIVE agrees not to begin employment with another employer for three (3) business days after giving such notice in order to give COMPANY the opportunity to remove EXECUTIVE from the COMPANY's payroll. EXECUTIVE shall be paid any remaining but unpaid salary continuation payments provided for in Paragraph 1 above in a lump sum, within ten (10) days after receipt of said notice from EXECUTIVE.

4. EXECUTIVE and COMPANY understand and agree that if EXECUTIVE obtains and begins employment with another employer, or EXECUTIVE otherwise obtains other health, disability or life insurance benefit coverage during the benefit continuation period set forth in Paragraph 2 above, EXECUTIVE's health, disability and life insurance benefits shall be discontinued upon the effective date of such other employment or benefit coverage with the other provider(s), as the case may be. The COMPANY shall reimburse EXECUTIVE a pro rata amount for any contributions previously made by EXECUTIVE to receive such benefits, to the extent the contributions relate to periods after termination of the benefits. Notwithstanding the foregoing, this Paragraph 4 shall not be construed to limit EXECUTIVE's eligibility to continue to participate in the COMPANY's health insurance benefits after the inactive employment end date as required by law (i.e. COBRA). To the extent the Company is required to provide medical coverage to the EXECUTIVE and his dependents under COBRA after the inactive employment end date, the Company agrees to pay (for up to 18 months after the inactive employment end date) the premium cost of COBRA coverage for EXECUTIVE and his dependents in excess of the rate that would have been paid by EXECUTIVE if still on the Company's payroll.

5. EXECUTIVE agrees:

(a) to cooperate with and assist the COMPANY whenever reasonably possible, so that all EXECUTIVE's duties, responsibilities and pending matters can be transferred in an orderly way;

(b) to return all COMPANY materials that may have been issued to EXECUTIVE, including, but not limited to, books, credit cards, cash advances and to file an outstanding final expense report;

(c) not to use or to disclose, either directly or indirectly, to anyone not connected with the COMPANY any confidential information or trade secrets which EXECUTIVE obtained during the term of his employment with the COMPANY; and

(d) not to make any copies for use outside of the COMPANY of any client lists or any memoranda, books, records, or documents which contain confidential information or trade secrets belonging to the COMPANY.

6. It is understood and agreed that only the payments made through EXECUTIVE's active employment end date, will be considered benefit earnings for applicable benefit plans of the COMPANY. Any other monies paid to EXECUTIVE pursuant to this Agreement shall not constitute earnings for benefit plan purposes.

7. In return for the consideration and other promises by COMPANY described in this Agreement, the EXECUTIVE for himself and his representatives, heirs, and assigns, hereby releases and discharges COMPANY, and any predecessor, successor, parent, affiliate, or subsidiary company of the COMPANY, their present and former officers, directors, employees, agents, representatives, legal representatives, accountants, successors, and assigns, from all claims, demands, and actions of any nature, known or unknown, that he may have against COMPANY and/or related companies, their officers, directors, and/or employees, including, but not limited to, claims that in any manner relate to, arise out of or

involve any aspect of his employment with COMPANY, and the termination of that employment, including, but not limited to, any rights or claims under the Colorado Anti-Discrimination Act, Colo. Rev. Stat. Section 21-34-401, et seq.; Federal Family and Medical Leave Act, 29 U.S.C. Section 2601 et seq.; Federal Age Discrimination in Employment Act, 29 U.S.C. Section 621 et seq.; Federal Civil Rights Act of 1964, as amended, 42 U.S.C., Section 2000e, et seq.; Federal Vocational Rehabilitation Act, 29 U.S.C. Section 701, et seq.; Federal Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq.; Executive Order 11246; the Civil Rights Act of 1866, as reenacted, 42 U.S.C. Section 1981; and any and all other municipal, state, and/or federal statutory, executive order, or constitutional provisions pertaining to an employment relationship. This release and waiver also specifically includes, but is not limited to, any claims in the nature of tort or contract claims, including specifically but not limited to any claim of wrongful discharge, breach of contract, promissory estoppel, intentional or negligent infliction of emotional distress, interference with contract, libel, slander, breach of covenant of good faith and fair dealing, or other such claims, including, but not limited to, those arising out of or involving any aspect of his employment with the COMPANY. This release includes any and all claims concerning attorney fees, costs, and any and all other expenses related to the claims released herein. Provided, however, that his release and waiver shall not apply to any rights which, by law, may not be waived; to rights and claims which arise from acts or events occurring after the effective date of this Agreement; or to claims for breach of this Agreement. The EXECUTIVE also specifically covenants that he will not bring suit or file any charge, grievance or complaint, of any nature in relation to any claim or right waived herein.

SUMMARY OF RELEASE AND WAIVER OF CLAIMS: Please read the immediately preceding paragraph carefully and have it explained to you by your attorney. In general summary, but without limiting that paragraph, what the paragraph says and what you, EXECUTIVE, agree to do by executing this Agreement is to give up your right to pursue any legal claim which you might have against the COMPANY (Vail Associates, Inc.) and related companies (Vail Resorts, Inc.), their officers, directors and/or employees. It applies whether or not you are aware of the claims. It applies to claims which arose (meaning the important facts and occurrences which create or support the claim happened) at any time up to and including the time of your execution of this Agreement. It does not apply to any claims which might arise (meaning that the important facts or occurrences, which create or support the claim happen) after the date of execution of this Agreement. As stated above, the release and waiver includes, but is not limited to, any and all claims arising from your employment or the termination of your employment with the COMPANY. Such claims would include claims of employment discrimination or wrongful discharge and claims arising under any federal, state, and local laws, including, but not limited to, those listed by name above. Once you have entered into this Agreement, you have agreed not to seek to bring those claims in a court or other forum at any time in the future. In effect, you are exchanging your right to bring or pursue those claims, whether they are worth anything or not, for the actions to be taken for your benefit by the COMPANY and other promises in this Agreement.

8. In return for the consideration and other promises by EXECUTIVE described in this Agreement, the COMPANY for itself and any affiliate or subsidiary of the COMPANY, hereby releases and discharges EXECUTIVE and his heirs from all claims, demands, and actions of any nature, known or unknown, that the COMPANY may have against EXECUTIVE, including, but not limited to, claims that in any manner relate to, arise out of or involve any aspect of his employment with the COMPANY. This release includes any and all claims concerning attorney fees, costs, and any and all other expenses related to the claims released herein. Provided, however, that his release and waiver shall not apply to any rights which, by law, may not be waived; to rights and claims which arise from acts or events occurring after the effective date of this Agreement; or to claims for breach of this Agreement.

9. EXECUTIVE understands and agrees that, if he should attempt to prosecute claims waived in Paragraph 7 above in a court or other forum and if he is allowed to do so despite the release and waiver of such claims stated in this Agreement, to the extent allowable under applicable law, he immediately forfeits any right to the consideration listed in Paragraphs 1 (other than that paid through EXECUTIVE's active employment end date) and 2, above, and to all other promises of COMPANY in this Agreement, and he must return and/or take such other steps, as are necessary to reimburse the COMPANY for all expenses, costs and losses of any nature, incurred in providing the consideration and to divest himself of any benefits realized by him as a result of his receipt of the consideration. To the extent allowable under applicable law, he must do so immediately upon receipt of a written demand from the COMPANY, and his failure to do so shall be grounds for a stay of his prosecution of the claim until such time as he has complied fully.

10. The entry into this Agreement by the Parties is not and shall not be construed to be an admission of any act, practice or policy by the COMPANY in violation of any statute, common law duty, constitution, or administrative rule or regulation. Further, this Agreement shall not constitute evidence of any such proscribed or wrongful act, practice or policy by the COMPANY.

11. The Parties agree that this Agreement shall not be tendered or admissible as evidence in any proceeding by either Party for any purpose, except that this Agreement may be offered as evidence in a proceeding involving one or both of the Parties in which this Agreement or any part of this Agreement, an alleged breach of this Agreement, the enforcement of this Agreement, and/or the validity of any term of this Agreement is at issue.

12. Except as may be required by applicable law or the disclosure rules of applicable securities law or the New York Stock Exchange relating to the COMPANY, the COMPANY and the EXECUTIVE will refrain from disclosing to any person or entity the terms and conditions of this Agreement. The EXECUTIVE may, however, disclose this Agreement to the EXECUTIVE's immediate family, legal counsel, and tax advisor, as necessary, provided that they are instructed and agree, not to disclose the terms and conditions to anyone, and COMPANY may disclose to such personnel on a need to know basis for their job function or expert advice. EXECUTIVE understands and agrees that the COMPANY may include the terms of this Agreement in its proxy statement, and may file this Agreement as an exhibit to any public filing if required by applicable law and rules and regulations.

13. The COMPANY advises the EXECUTIVE to consult with an attorney before signing this Agreement.

14. EXECUTIVE acknowledges the adequacy and sufficiency of the consideration for his promises set forth in this Agreement. EXECUTIVE is estopped from raising and hereby expressly waives any defense regarding the receipt and/or legal sufficiency of the consideration provided under this Agreement.

15. EXECUTIVE hereby acknowledges his understanding that, had he wished to do so, he could have taken up to twenty-one (21) days to consider this Agreement, that he has read this Agreement and understands its terms and significance, and that he executes this Agreement voluntarily and with full knowledge of its effect, having carefully read and considered all terms of this Agreement and, if he has chosen to consult with an attorney, having had all terms and their significance fully explained to him by his attorney.

16. EXECUTIVE hereby certifies his understanding that he may revoke this Agreement, as it applies to him, within seven (7) days following execution of this Agreement and that this Agreement, as it applies to him, shall not become effective or enforceable until that revocation period

has expired. He also understands that, should he revoke this Agreement within the seven-day period, this Agreement, as it applies to him, would be voided in its entirety.

17. This Agreement shall be binding upon the Parties, their heirs, successors and assigns and embodies the entire Agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this contract shall supersede all previous communications, representations or agreements, either oral or written, between the Parties, including (except as otherwise expressly provided herein) the Employment Agreement.

18. There may be no modification of this Agreement, except in writing, executed with the same formalities as this Agreement.

19. All options to purchase stock of Vail Resorts, Inc. and restricted shares of stock of Vail Resorts, Inc. held by EXECUTIVE which were unvested on the date of execution of this Agreement shall be forfeited to the COMPANY and have no further force or effect as of such date.

20. Notwithstanding any provision in this Agreement to the contrary (other than the proviso in this Paragraph 20 below), Sections 3 (c), 4, 5, 6, 7 and 8 of the Employment Agreement shall survive in accordance with their terms; provided, however, that clause (ii) of Section 4 of the Employment Agreement is amended by deleting the words "states of Colorado and Utah" and replacing them with "State of Colorado", so that the Executive's noncompetition covenant will apply only in the State of Colorado.

21. All items provided for herein shall be net of applicable income and employment taxes required to be withheld therefrom. EXECUTIVE agrees and understands that EXECUTIVE is responsible for paying all applicable income tax in respect of the payments and benefits provided under or in connection with this Agreement.

22. Any controversy or claim arising out of, or relating to, this Agreement, or its breach, shall be governed by the laws of the State of Colorado and shall be resolved by final and binding arbitration, in accordance with the rules for contractual disputes then applicable, of the Judicial Arbitrator Group, Denver, Colorado, and judgment on the award rendered may be entered in any court having jurisdiction.

23. The COMPANY and EXECUTIVE agree to the items set forth on Attachment A hereto, and by this reference incorporated herein.

EXECUTIVE

VAIL ASSOCIATES, INC.

Andrew P. Daly

Name: Martha Dugan Rehm

Signed this ____ day of October 2002.

Title: Senior Vice President

Signed this ____ day of October 2002.

VAIL RESORTS, INC.

Name: Martha Dugan Rehm

Title: Senior Vice President and General Counsel

Signed this ____ day of October 2002.

Attachment A

to

Separation Agreement and Mutual General Release

In addition to Executive's entitlements otherwise set forth in the Agreement, the Parties also agree to the following provisions:

(1) Resolution of Existing Indebtedness.

Executive is indebted to the Company under two notes in the original principal amounts of \$435,000 ("Note 1") and \$300,000 ("Note 2"), respectively. Executive hereby agrees to pay or cause to be paid Note 1 in accordance with its terms, and Executive hereby agrees to pay or cause to be paid Note 2 in accordance with Section 2 (f) of the Employment Agreement.

(2) Counseling Services.

The Company shall provide to Executive and pay directly or reimburse Executive for the cost at professional reasonable rates of outplacement employment counseling services generally provided by the Company to employees and used by Executive during the period November 1, 2002 through October 31, 2003. Executive shall make the selection of any such counselor subject to the approval of the Company, which shall not be

unreasonably withheld.

(3) Lifetime Skiing Privileges.

The Company agrees to issue or otherwise provide to Executive, his wife, Lucinda and their sons, Will and Andrew, Jr., lifetime ski passes to use, free of charge, all alpine and Nordic facilities at all ski resorts in which and while the Company has a majority equity interest. The level of ski benefits afforded to Executive and his family hereunder shall be at the highest level offered by the Company to any senior executive. Executive, on behalf of himself and his family, acknowledges that such lifetime benefits are not assignable and that each beneficiary thereof has the obligation to comply with the rules and regulations of general applicability established by the Company for the use of such ski facilities by the Company's customers and invitees. Executive shall be entitled to ten private ski instructor lessons at no cost to Executive during each of the eight twelve-month periods beginning November 1, 2002 (the first such twelve-month period shall begin on November 1, 2002 and the last such twelve-month period shall end on October 31, 2010).

(4) Red Sky Ranch Golf Club Membership.

(a) The Company agrees to provide to Executive, at the Company's expense, a full (i.e., golf, dining, social and other privileges) membership in the Red Sky Ranch Golf Club ("Red Sky"), which membership shall be owned and fully transferable by Executive in accordance with the rules and regulations of Red Sky generally applicable to its members.

(b) The Company agrees that Executive, at his sole cost and expense, shall have the right and option through October 31, 2005 to purchase at Red Sky's original offering price of \$150,000 an additional membership in Red Sky, which membership Executive shall have the right to transfer and convey to the purchaser of any single family residence lot owned by Executive in Eagle County, Colorado. Executive acknowledges that any such membership transfer shall be in accordance with the rules and regulations of Red Sky generally applicable to its members.

(5) Specialty Sports Ventures ("SSV") Discount Privileges.

The Company shall provide to Executive and his immediate family discount purchasing privileges at SSV (or any successor thereto) for so long as the Company owns, directly or indirectly, a majority equity interest in SSV. The discount purchasing privileges afforded to Executive and his immediate family shall be the same as those afforded, from time to time, to senior executives of the Company.

(6) Club Dues.

The Company shall pay directly or reimburse Executive for all membership dues and assessments for the following clubs through October 31, 2003:

- o Cascade Athletic Club
- o Game Creek Club
- o Passport Club
- o Red Sky Ranch Golf Club
- o Eagle Springs Golf Club

(7) Vail Valley Foundation Friends of Vail Benefits.

The Company shall provide the Executive, through October 31, 2003, with access to the benefits the Company receives by virtue of its contribution to the Vail Valley Foundation on a basis comparable to that which executive officers of the Company have.

(8) Executive Suite Office.

The Company shall provide to Executive and pay the commercially reasonable costs of rental, furnishing, equipping (including telephone, facsimile machine, computer line and internet service), setting up and operating an executive suite office for Executive for the period commencing November 1, 2002 through the date Executive begins other employment or October 31, 2003, whichever first occurs. The Company agrees that "operating costs" shall include all rental, parking and telephone charges.

(9) Conveyance of Laptop Computer.

The Company shall convey to Executive by bill of sale the H-P lap-top computer and docking station, together with all installed software (but without any proprietary information of the Company), currently being used by Executive.

(10) Cellular Phone.

The Company shall pay for or reimburse Executive for all service charges incurred by Executive for the use of his cellular phone through October 31, 2003, for a maximum of \$500.00 per month.

(11) Colorado Avalanche Season Tickets.

The Company acknowledges that Executive is the owner of and shall retain all rights with respect to four (4) season tickets to the Colorado Avalanche, which tickets the Company has in the past purchased from Executive and used for its business purposes. Executive acknowledges that the Company has no continuing commitment to purchase Colorado Avalanche tickets from Executive and that there is no amount owed to Executive with respect to such tickets. However, for the current 2002-03 hockey regular season, the Company has paid for the season tickets and will retain the tickets, except for tickets to up to seven games selected by Executive, for which Executive shall have the exclusive right to use the tickets. The Executive shall pay the Company the face value price for each such ticket as to which he has the exclusive use. The Executive shall have the exclusive right to use any playoff tickets for the 2002-03 hockey season, and Executive shall be responsible for obtaining and paying the cost of any such playoff tickets.

(12) Reimbursement of Legal Fees.

The Company shall pay directly or reimburse Executive for all reasonable legal fees and related expenses incurred by Executive in connection with the negotiation and drafting of the Agreement.

(13) Beaver Creek Parking.

The Company shall transfer a deeded parking space in the Beaver Creek parking garage to Executive.

(14) Hotel Discount Privileges.

The Company shall provide to Executive for use by Executive and members of his immediate family, during the period commencing November 1, 2002 through October 31, 2005, priority booking and discount privileges at all hotels and other lodging facilities in which the Company or any of its affiliates now or hereafter owns an equity interest. The discount privileges afforded to Executive shall be the same as those afforded, from time to time, to line level employees of the Company.