

SUPPLEMENTAL DECLARATION OF LAND USE RESTRICTIONS

Pertaining to Tract I, Block 3 Beaver Creek Subdivision Eighth Filing

I.

INTRODUCTION & PURPOSE

1.1 This Supplemental Declaration (a) is filed pursuant to Paragraph 7.2 of the Amended and Restated General Declaration for Beaver Creek (the "Declaration") recorded December 27, 1979 in Book 296 at Page 446 of the real property records of Eagle County, Colorado, and (b) affects only Tract I, Block 3, of Beaver Creek Subdivision Eighth Filing, according to the recorded plat thereof and any amendments thereto (the "Affected Property").

1.2 The purposes of this Supplemental Declaration are to set forth additional limitations and restrictions with respect to the use, density and design of improvement on the Affected Property in order to preserve the natural beauty of Beaver Creek and its setting, to maintain Beaver Creek as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of the Affected Property.

II.

DEFINITIONS

2.1 "Living Unit" shall mean one or more rooms designed for or which may readily be occupied exclusively by one family, or group of people living independently from any other family or group of people, and having not more than one cooking facility.

2.2 "Cooking Facility" shall mean fixtures and equipment for food storage and preparation of meals, including at least a sink, oven and refrigerator.

2.3 "Single Family Structure" shall mean a detached building which contains one Living Unit.

2.4 "Duplex Structure" shall mean a detached building which contains two Living Units.

2.5 "Plat" shall mean the Plat for Beaver Creek Subdivision, Eighth Filing recorded in the real property records of Eagle County, Colorado or any amendment thereto.

2.6 "Building Improvements" shall mean any material improvement of any of the Affected Property including but not limited to landscaping, site preparation, paving, fencing, building construction, exterior changes, or interior changes which would change the use of any interior space to an unauthorized use.

2.7 "Lot" shall mean one of the following: (a) each Single Family Structure; or (b) each Living Unit of a Duplex Structure.

2.8 Other capitalized terms used herein shall have the meaning set forth in the Declaration or in this Supplemental Declaration.

III.

LIMITATION ON BUILDING IMPROVEMENTS

3.1 The Affected Property has been zoned "Residential Low Density" in the Plat and may not contain any Building Improvements except:

- (a) Single Family Structures and/or Duplex Structures which contains no more than 52 Living Units or dwelling units; plus
- (b) A garage of a size and at a location approved in writing by the Review Board; and
- (c) Such enclosed service areas for garbage, trash, utilities, clothes lines and other maintenance facilities as may be approved in writing by the Review Board; and
- (d) Such fences, walls, driveways and parking areas as may be approved in writing by the Review Board; and

- (e) Landscaping improvement approved in writing by the Review Board; and
- (f) Swimming pools, hot tubs, tennis courts, other recreational facilities which may or may not be housed within an enclosed structure, solar devices, and greenhouses approved in writing by the Review Board.

3.2 Notwithstanding the provisions of Paragraph 3.1(a), if the original deed conveying the Affected Property from Vail Associates, Inc. to a third party allows the third party to construct a "Manager's Unit" (as hereinafter defined) in conjunction with a recreational facility built upon the Affected Property, the maximum number of Living Units or dwelling units which may be constructed upon the Affected Property shall be increased to 53. For purposes of this Paragraph 3.2, a "Manager's Unit" is a dwelling unit or Living Unit (a) which is owned by either the owner of all of the Affected Property or by a nonprofit corporation created pursuant to the provisions of Paragraph 4.3 hereof and (b) which may be occupied only by a person (or family of a person) who devotes substantially full time as an employee of either the owner of all of the Affected Property or a nonprofit corporation created pursuant to Paragraph 4.3 hereof. The Manager's Unit may not be sold or owned by any party other than those specified above without the prior written consent of Declarant, which consent may be withheld in Declarant's sole discretion.

3.3 Any Building Improvement built upon the Affected Property must be built entirely within the property lines of the Affected Property.

3.4 No fireplace may be constructed within the Affected Property or any Lot therein except a fireplace meeting the requirements and limitations set forth in Paragraph 7.13 of the Declaration. All fireplaces are subject to regulation under the rules and regulations of the Resort Company from time to time in force and effect.

3.5 Each Owner of the Affected Property (or any Lot therein) agrees that he will not apply to Eagle County, Colorado, or any other governmental authority for permission to construct any Building Improvements on the Affected Property (or Lot) other than those permitted by this Article III, without the prior express written authorization of Resort Company and Declarant.

3.6 No Duplex Structure shall be approved by the Review Board if the exterior appearance of the structure is such that it appears that two substantially similar Living Units are contained in such structure.

IV. USE OF RESTRICTED LOTS

4.1 The Affected Property may be used for residential purposes with customary accessory uses (including but not limited to long or short term rentals to persons who use such improvements for residential or lodging purposes) except as permitted under Paragraph 4.5.

4.2 No Owner of the Affected Property or any Lot therein may apply to Eagle County, Colorado, or any governmental jurisdiction to change the zoning applicable to the Affected Property or any Lot therein, or to subdivide the Affected Property without the prior written approval of the Resort Company and the Declarant.

4.3 No Owner of the Affected Property or any Lot therein shall dedicate or submit such Affected Property or Lot to a condominium form of ownership without the specific prior written approval of the Resort Company and the Declarant.

4.4 No Owner of the Affected Property or any Lot therein shall offer or sell the Affected Property or any such Lot to a "timesharing" or "interval ownership" plan, or any similar plan, without the specific prior written approval of the Resort Company and the Declarant. Such approval shall be evidenced by a permit signed by the president or vice president of the Resort Company identifying the portion of the Affected Property to which the "timesharing," "interval ownership" or other plan pertains, and giving such other information with respect to such plan as the Resort Company or Declarant shall reasonably require.

4.5 The Affected Property may not be used for any commercial activity unless the Resort Company has issued a written permit for such activity; however, this provision shall not prohibit the use of any Lot with the Affected Property for skiing and ski related activities. The Resort Company may refuse to issue a permit in its sole and absolute discretion, and it will not issue a permit for any commercial activity if, in the Resort Company's reasonable judgment, such activity would:

- (a) create additional vehicular traffic to or from such Lot;
- (b) employ persons at such Lot other than those residing at such Lot;
- (c) require storage of any significant materials, machinery, inventory or other items at such Lot;
- (d) require processing of materials into finished products or the assembly of parts produced off site;
- (e) require additional parking at such Lot, whether for customers, delivery or otherwise; and
- (f) otherwise violate the provisions of Article VII or VIII of the Declaration.

4.6 Any permit for commercial activity issued by the Resort Company shall be limited to a two-year period, and may be revoked without cause by the Resort Company.

4.7 At such time as any Building Improvements are completed on any portion of the Affected Property, such Building Improvements must provide a minimum of two parking spaces per dwelling unit constructed. In addition, (a) with respect to Building Improvements containing more than 3,000 square feet of Gross Residential Floor Area, the Review Board may require additional parking spaces to be provided, and (b) the Review Board may require additional off-street parking within any portion of the Affected Property in cases where, in the Review Board's opinion, there is insufficient off-street parking available near such portion of the Affected Property.

4.8 No Building Improvement on any portion of the Affected Property may have a building height of more than 35 feet. In determining building height of each Single Family Structure or Duplex Structure, a vertical distance shall be taken at a series of points at equal intervals around the perimeter of the building. The intervals may be of any equal distances less than 30 feet each. Within each interval, the height of any roof with a horizontal projection of 10 feet or greater shall be measured from finished grade to the respective mid-point between the eave and ridge. These heights shall then be averaged to determine the height for that specific interval of the building. Finally, the height of the building shall be determined by averaging the heights of all intervals around the building.

Finish grade for purposes of these height calculations shall be the final elevation of the surface material (soil, paving, decking, or plaza) adjacent to the building at the specific interval point as shown on the architect's site plan. No Owner of any portion of the Affected Property shall significantly increase the finished grade of the Affected Property without the prior written approval of the Resort Company.

V. BUILDING GUIDELINES

5.1 All Building Improvements on any portion of the Affected Property must be built strictly in accordance with the provisions of the Design Guidelines adopted by the Review Board.

5.2 By acquiring any interest in the Affected Property, the Owner of such Lot consents to and accepts the authority of the Review Board to review and approve the plans and specifications for any Building Improvements on such Lot in accordance with the Design Guidelines in effect from time to time. In particular, such Owner recognizes that certain of the judgments which will be made by the Review Board are subjective in nature, and such Owner agrees not to contest such subjective judgments unless they are made in bad faith or in an arbitrary and capricious manner.

VI. MISCELLANEOUS

6.1 Each provision contained in this Supplemental Declaration which is subject to the laws or rules sometimes referred to as the rule against perpetuities or the rule prohibiting unreasonable restraints on alienation shall continue and remain in full force and effect for the period of 21 years following the death of the survivor of Harry H. Frampton, III, Jack Acuff, and Larry E. Lichliter, of Vail, Colorado, and the now living children of said persons, or until this Supplemental Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions contained in this Supplemental Declaration shall continue and remain in full force and effect until January 1 in the year 2005 A.D., and thereafter for successive periods of 10 years each; unless at least 1 year prior to January 1, 2005 A.D., or at least 1 year prior to the expiration of any such 10 year period of extended duration, this Supplemental Declaration is terminated by recorded instrument, directing termination, signed by the Declarant and the Mountain Special Member and the Resort Company upon the Affirmative Vote of a

Majority of the Classes (as that term is defined in the Articles of Incorporation of the Resort Company).

6.2 Any provision contained in this Supplemental Declaration may be amended or repealed, upon the affirmative vote of Owners of Sites within the Affected Property owning at least one-half of the Sites within the Affected Property, and the written approval of the Resort Company and the Declarant, as evidenced by the recording of a written instrument or instruments specifying the amendment or the repeal, executed by at least the required number of Owners, and by the Declarant and the Resort Company.

6.3 Each provision of this Supplemental Declaration, and a promise, covenant and undertaking to comply with each such provision, (a) shall be deemed incorporated in each deed or other instrument by which any right, title or interest in any of the Affected Property is granted, devised or conveyed, (b) shall by virtue of acceptance of any right, title or interest in any of the Affected Property by an Owner, be deemed accepted, ratified, adopted and declared as a personal covenant of such Owner and shall be binding on such Owner or his respective heirs, personal representatives, successors or assigns, to, with and for the benefit of the Resort Company and the Declarant, and (c) shall be deemed a covenant, obligation and restriction secured by a lien binding, burdening and encumbering the title to all of such Owner's right, title and interest to any of the Affected Property, which lien shall be deemed a lien in favor of the Resort Company and Declarant, jointly and severally, as their respective interests may appear.

6.4 Each provision of this Supplemental Declaration with respect to an Owner may be enforced by Declarant or the Resort Company by a proceeding for prohibitive or mandatory injunction or by a suit or action to recover damages or, in the discretion of the Resort Company, for so long as such Owner fails to comply with any of such provisions, by exclusion of such Owner and such Owner's Lessees and Guests from use of any Facility and from enjoyment of any Function. If court proceedings are instituted in connection with the rights of enforcement or remedies provided in this Supplemental Declaration, the prevailing party shall be entitled to recover its costs and expenses in connection therewith, including reasonable attorneys' fees.

6.5 No violation or breach of, or failure to comply with, any provision of this Supplemental Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any

mortgage, deed of trust or other lien on any property taken in good faith and for value and perfected by recording in the office of the Clerk and Recorder of Eagle County, Colorado, prior to the time of recording in said office of an instrument describing such property and listing the name or names of the owner or owners of fee simple title to the property and giving notice of such violation, breach, or failure to comply; nor shall such violation, breach, failure to comply or action to enforce affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien or result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure shall, however, take subject to this Supplemental Declaration with the exception of violations or breaches of, or failures to comply with, any provisions of this Supplemental Declaration which occurred prior to the vesting of fee simple title in such purchaser shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives, successors or assigns.

6.6 Neither Declarant, the Resort Company, the Review Board, the board of directors of the Resort Company nor any member, agent or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

6.7 Except as otherwise provided herein, this Supplemental Declaration shall be binding upon and shall inure to the benefit of Declarant, the Resort Company, and each Owner and the respective heirs, personal representatives, successors and assigns of each.

6.8 Invalidity or unenforceability of any provision of this Supplemental Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Supplemental Declaration.

6.9 When necessary for proper construction, the masculine of any word used in this Supplemental Declaration shall include the feminine or neuter gender, and the singular the plural, and vice versa.

6.10 Failure to enforce any provision of this Supplemental Declaration shall not operate as a waiver of any such provision or of any other provision of this Supplemental Declaration.

IN WITNESS WHEREOF, Declarant has executed this Supplemental Declaration the 12th day of March, 1985.

ATTEST: (Corporate Seal) VAIL ASSOCIATES, INC.,
a Colorado corporation

/s/ Jean A. Dennison By: /s/ Charles I. Madison
Assistant Secretary Vice President

ATTEST: (Corporate Seal) BEAVER CREEK RESORT COMPANY,
a Colorado corporation

/s/ Mary A. Morgan By: /s/ Ross E. Bowker
Secretary President

STATE OF COLORADO)
) ss.
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this 12th day of March, 1985 by Charles I. Madison as Vice President and Jean A. Dennison as Assistant Secretary of VAIL ASSOCIATES, INC., a Colorado corporation, on behalf of such corporation.

My commission expires: September 24, 1985.

Witness my hand and official seal.

/s/ Diane L. Gorman
Notary Public
P.O. Box 7, Vail, CO 81658

STATE OF COLORADO)
) ss.
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this 13th day of March, 1985, by Ross E. Bowker as President and Mary Morgan as Secretary of BEAVER CREEK RESORT COMPANY, a Colorado corporation, on behalf of such corporation.

My commission expires: September 24, 1985.

Witness my hand and official seal.

/s/ Diane L. Gorman
Notary Public
P.O. Box 7, Vail, CO 81658

