

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Joseph E. Lubinski
Jacobs Chase Frick Kleinkopf & Kelley LLC
1050 - 17th Street, Suite 1500
Denver, Colorado 80265



520491

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JANICE K VOS CAUDILL PITKIN COUNTY CO R 46.00

EASEMENT AGREEMENT

This Easement Agreement (this "**Easement Agreement**") is entered into to be effective as of October 13, 2005, between BRUSH CREEK LAND COMPANY, LLC, a Colorado limited liability company, ("**Grantor**") and ASPEN SKIING COMPANY, LLC, a Colorado limited liability company, as the owner and operator of the Snowmass Resort (the "**Operator**").

Recitals

A. Grantor, together with certain other entities, are the owners of certain real property located in the Town of Snowmass Village, Colorado, more particularly described on Exhibit "A" attached hereto (the "**Property**").

B. Grantor now desires to grant to Operator a nonexclusive easement over those portions of the Property generally depicted on Exhibit "B" attached hereto, subject to the terms and conditions set forth herein (the "**Easement Areas**").

Agreement

In consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereto hereby acknowledge, the parties hereto agree as follows:

1. Grant of Easement. Subject to the terms and conditions of this Easement Agreement, Grantor hereby grants to Operator, its successors and assigns, over the Easement Areas a permanent nonexclusive easement (the "**Easement**") to enter, re-enter, occupy, and use the Easement Areas for recreation and business-related purposes, which shall include, without limitation, the right to permit Operator's customers, guests, licensees and invitees to ski thereon; the right to clear, shape, bridge, groom and maintain the surface of the Easement Areas as may be necessary, appropriate or convenient for skiing and, in general, the right to do all customary things which are necessary and consistent with the full use and enjoyment of the Easement Areas for recreational activities, and the passage of skiers over, upon and across the Easement Areas. In connection with the exercise of its rights pursuant to the Easement, Operator may permit its contractors, subcontractors, employees and agents to enter upon the Easement Areas for the purposes set forth above.

2. Improvements. Subject to complying with any local, state or federal laws and receiving the prior approval of the Planning Director of the Town of Snowmass Village, if necessary, Operator may construct within the Easement Areas such bridges, decks, snowmaking equipment, platforms and other improvements as may be necessary, appropriate or convenient for recreation activities or any other valid business purpose as Operator may reasonably determine.



3. Reserved Rights. The Easement is subject to the following additional rights reserved by Grantor:

(a) Grantor reserves the right to use the Easement Areas for any purpose that does not unreasonably interfere with Operator's use of the Easement.

(b) Grantor reserves the right to grant additional easements and other rights to third parties over, under and within the Easement Areas, on the condition that such easements and other rights do not deprive or unreasonably hinder Operator's use of the Easement.

(c) Grantor reserves the right to restrict access temporarily to all or any portion of the Easement Areas at any time and from time to time in connection with construction, maintenance and repair activities on the Property or special events to be conducted thereon.

4. Maintenance and Repair.

(a) During the period of each year during which the Snowmass Ski Area is open to the public for skiing, Operator shall maintain the Easement Areas in good working order and repair, including, without limitation, ensuring that snow is adequately maintained and controlled across the Easement Areas.

(b) At all times during each year, Operator shall maintain and keep in good working order and repair all improvements placed on the Easement Areas by Operator.

(c) Except when an emergency requires immediate maintenance of the Easement Areas, Operator shall deliver written notice to Grantor at least 7 days prior to any maintenance or other work in the Easement Areas which could affect any improvements located on or above the Easement Areas, which notice shall describe Operator's intended activities with respect thereto. In cases of emergency requiring immediate maintenance of the Easement Areas, Operator shall notify Grantor as soon as possible in respect thereof.

(d) Operator shall (i) make reasonable efforts to cooperate with Grantor to minimize damage to and interference with the use and operation of any improvements located on the Easement Areas; (ii) not damage or interfere with the use and operation of any improvements on or within the real property outside of the Easement Areas; and (iii) complete its installation, construction, maintenance, alteration, repair or operation as quickly as reasonably practicable.

(e) Operator shall repair and restore any damage to the surface of the Property or any improvements located thereon caused by its use or maintenance of the Easement Areas.

5. Metes and Bounds Description of Easement. The parties hereto acknowledge and agree that the depiction of the Easement on Exhibit "B" represents a rough approximation of the actual location of the Easement Areas and that, not later than upon completion of development of the Property, the parties shall execute an amended easement agreement in form and substance similar to this Easement Agreement which specifies by metes and bounds description the precise location of the Easement on the Property.

6. Insurance.

(a) Operator shall maintain, at its cost, commercial general liability insurance, with a primary limit of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate per policy period,

supplemented by umbrella excess liability insurance with a limit of not less than \$5,000,000 per occurrence. This insurance must include premises operations, personal injury, contractual liability, products/completed operations hazard and broad form property damage coverages. In addition, Operator shall cause all of its independent contractors and their subcontractors to carry similar insurance in similar amounts.

(b) All policies of liability insurance maintained by Operator under this Agreement shall name Grantor and such other persons as Grantor reasonably requires as additional named insureds. Executed copies of such policies or certificates thereof shall be delivered to Grantor prior to Operator's use and enjoyment of the Easement and thereafter at least thirty days prior to the expiration of the term of each such policy or at such other times as either Grantor reasonably requests. The policies shall require at least thirty days written notice sent by registered or certified mail to Grantor before any cancellation or material change that reduces or restricts the insurance.

(c) All insurance policies maintained or caused to be maintained by Operator shall provide that (i) each such policy shall be primary without right of contribution from any other insurance that may be carried by Operator or a Grantor and all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured, and (ii) the insurance company will have no right of subrogation against any Grantor or a Relevant Person.

7. Release and Indemnification.

(a) To the fullest extent permitted by law, Operator hereby releases Grantor, its members and all of its respective directors, officers, employees and agents (each, a "Relevant Person"), and no Relevant Person shall be liable in any manner to Operator or any other person claiming through Operator for any death, injury, loss, damage, cost or expense of any nature whatsoever resulting from any act or omission occurring on or about the Easement Areas relating to the use, operation or control of the Easement, except to the extent that the same results from the negligence or willful misconduct of the Relevant Person.

(b) Operator shall indemnify, defend and hold harmless each Relevant Person from any claim, suit, proceeding, loss, damage, cost or expense, including, without limitation, attorneys' fees and consultants' fees, asserted against or incurred by the Relevant Person as a result of or in connection with:

(i) any act or omission occurring in, on or about the Easement Areas related to the purposes for which this Easement is granted, except to the extent that the act or omission results from the negligence or willful misconduct of the Relevant Person; or

(ii) Operator's failure to perform or observe any obligation or condition to be performed or observed by Operator under this Easement Agreement.

8. Condemnation. If the Easement Areas are taken in whole or in part by condemnation or a sale-in-lieu of a condemnation, Operator shall, at its sole cost and expense, make such repairs or replacements as may be necessary as a result thereof, and Grantor and Operator may separately petition for and retain the award arising out of the taking of their respective interests.

9. Mechanic's Liens. Operator shall not permit any mechanic's or materialman's liens to be enforced against the Easement Areas in connection with any work performed over, under or across the Easement Areas by or at the direction of Operator or materials furnished in connection with such work. If such a lien is filed, Operator shall cause the lien to be removed of record within 30 days thereafter, or, if



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any foreclosure action to enforce the lien actually commences, within 5 days after commencement of such foreclosure action.

10. Amendment. This Easement Agreement may be amended only by a written instrument duly executed, delivered by Operator (or its successors or assigns, as appropriate) and Grantor, and recorded in the records of Pitkin County, Colorado.

11. Termination. Notwithstanding anything to the contrary herein, in the event that Operator abandons the use of the premises for skiing purposes, this Easement Agreement shall terminate and the interest and estate of Operator, its successors and assigns, shall revert to the then owner of the Easement Areas.

12. Easements Appurtenant. The burdens of the Easement and covenants herein with respect to Grantor shall run with and be appurtenant to the Easement Areas, such that a transfer of legal title to all or a portion of the Easement Areas shall automatically transfer an interest in such burdens. Notwithstanding anything to the contrary set forth above, upon the creation of a master planned community upon the portion of the Property owned by Brush Creek Land Company, LLC, the right to enforce the benefits of this Easement Agreement pertaining to that portion of the Property shall be vested solely in the "master association" of such master planned community on behalf of itself and its owners and members. The benefits, burdens and covenants of the Easement shall constitute an easement in gross running to the benefit of Operator and Operator's successors and assigns.

13. Compliance with Law. Operator shall, at its sole cost and expense, comply with all codes, laws, ordinances, orders, rules, regulations, statutes and other governmental requirements regarding the use and operation of the Easement Areas.

14. Costs of Legal Proceedings. If any party institutes legal proceedings with respect to this Easement Agreement against any other party, the prevailing party shall be entitled to court costs and reasonable attorneys' fees incurred by such party or parties in connection with such legal proceedings. The "prevailing party" shall be determined, at the conclusion of any appeals, if any, by the entity before whom the dispute was brought, based upon an assessment of which party's major arguments or positions taken in the suit or proceeding could fairly be said to have prevailed over the other party's major arguments or positions on major disputed issues, in the final decision of the court or any appellate court.

15. Governing Law. This Easement Agreement shall be construed in accordance with and governed by the laws of the State of Colorado.

16. Entire Agreement. This Easement Agreement constitutes the entire agreement between Operator and Grantor concerning the subject matter hereof, and supersedes any prior or contemporaneous agreements between Operator and Grantor concerning the subject matter hereof.

17. Counterparts. This Easement Agreement may be executed in 2 or more counterparts, each of which, when executed, shall be deemed an original and both of which together shall be deemed one and the same instrument.



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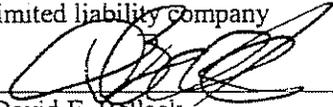
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Executed to be effective as of the date first set forth above.

GRANTOR

BRUSH CREEK LAND COMPANY, LLC,
a Colorado limited liability company

By: 

David E. Bellack

Attorney-in-Fact pursuant to Resolutions
of Manager dated 12/6/04

and recorded ~~as~~ Reception # 505270
in the records of the Clerk and Recorder
of Pitkin County, Colorado

OPERATOR

ASPEN SKIING COMPANY, LLC, a Colorado limited
liability company

By: 

David E. Bellack

Attorney-in-Fact pursuant to Resolutions
of Manager dated 10/8/2002

and recorded ~~as~~ Reception # 474956
in the records of the Clerk and Recorder
of Pitkin County, Colorado



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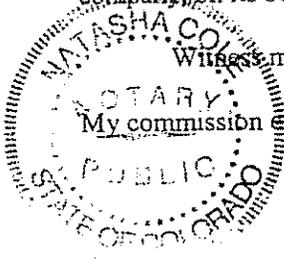
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JANICE K VOS CAUDILL PITKIN COUNTY CO R 45.00 D 0.00

STATE OF COLORADO)
) ss.
COUNTY OF Pitkin)

The foregoing instrument was acknowledged before me this 13th day of October, 2005, by David E. Bellack as attorney-in-fact for of Brush Creek Land Company, LLC, a Colorado limited liability company, on its behalf.

Witness my hand and official seal.

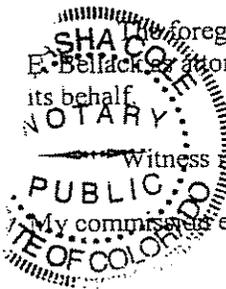


Natasha Cole
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF Pitkin)

The foregoing instrument was acknowledged before me this 13th day of October, 2005, by David E. Bellack as attorney-in-fact for Aspen Skiing Company, LLC, a Colorado limited liability company, on its behalf.

Witness my hand and official seal.



Natasha Cole
Notary Public



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EXHIBIT "A"

Legal Description of Property

Lots 1-9, Base Village Subdivision, according to the Plat thereof filed under Reception No. 520483,
in official records of the Pitkin County Clerk and Recorder; and

Parcels E and F, Base Village Subdivision, according to the Plat thereof filed under Reception No.
520483, in official records of the Pitkin County Clerk and Recorder.

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EXHIBIT "B"

Depiction of Easement Areas

(see attached)



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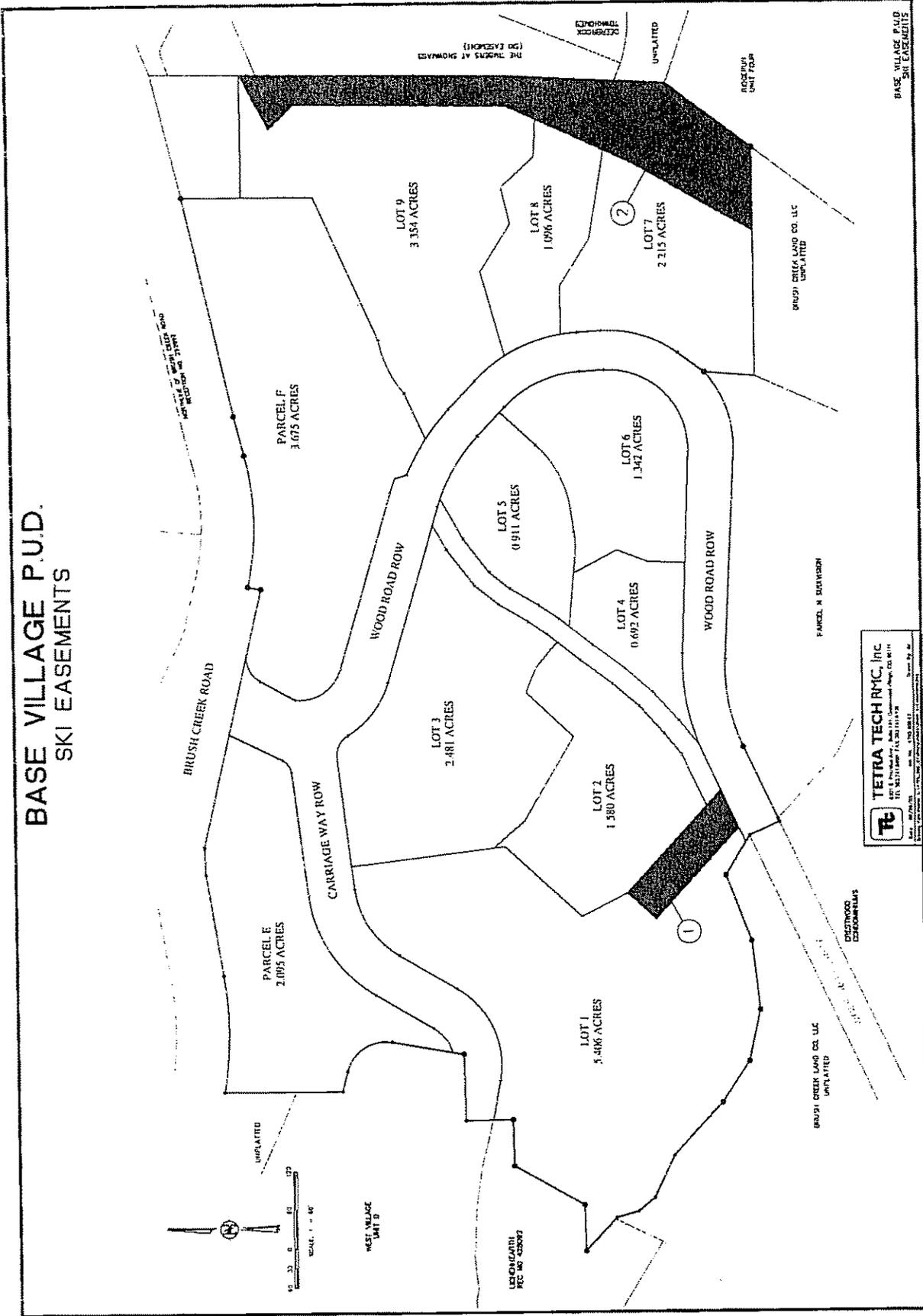
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BASE VILLAGE P.U.D. SKI EASEMENTS



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 407 E. 1st Street, Suite 101, Commerce, Oregon 97138
 TEL: 503/338-7428 FAX: 503/338-7428
 WWW: WWW.TETRA-TECH.COM
 1999-2004

BASE VILLAGE P.U.D.
SKI EASEMENTS