

WHEN RECORDED, RETURN TO:

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00537597 Ex:01253 Pg00252-00258

ALAN SPRIGGS, SUMMIT CO RECORDER
1999 APR 30 13:50 PM FEE \$33.00 BY DMG
REQUEST: FIRST AMERICAN TITLE CO UTAH

**DECLARATION OF
EASEMENT AND EASEMENT AGREEMENT**
(Parcel A-2)

This Declaration of Easement and Easement Agreement ("Agreement") is made and entered into this 23~~rd~~ day of April, 1999, by and between American Skiing Company Resort Properties, Inc., a Maine corporation ("ASCRP"), and The Canyons Resort Properties, Inc., a Maine corporation ("TCRP") (ASCRP and TCRP are referred to collectively as the "Parties" and individually as a "Party"), with reference to the following:

A. TCRP is the owner of, or simultaneous with the execution of this Agreement will acquire, certain real property located in Summit County, Utah more particularly described on Exhibit A ("TCRP Parcel").

B. ASCRP is the owner of a parcel of real property located in Summit County, Utah and more particularly described on Exhibit B ("ASCRP Parcel"). The ASCRP Parcel is contiguous to or near the TCRP Parcel (the TCRP Parcel and the ASCRP Parcel are referred to collectively as the "Parcels" and individually as a "Parcel").

C. ASCRP desires to create of record an easement across that portion of the ASCRP Parcel described on Exhibit C ("Easement Parcel"), in accordance with the terms of this Agreement.

D. TCRP desires to obtain from ASCRP for the benefit of the TCRP Parcel, and ASCRP is willing to grant to TCRP, an easement across the Easement Parcel in accordance with the terms of this Agreement.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and adequacy of which are hereby acknowledged, ASCRP and Owner agree as follows:

1. Grant of Easement. ASCRP grants, declares, and conveys a non-exclusive easement ("Easement") benefiting the ASCRP Parcel and the TCRP Parcel on, over, across and through the Easement Parcel for construction, and ingress and egress to and from the ASCRP Parcel and the TCRP Parcel, and installing utility lines to service buildings and developments on the ASCRP Parcel and the TCRP Parcel. Without limiting the generality of the foregoing, ASCRP's and TCRP's rights under the Easement shall include the right to design, engineer, construct, repair, maintain, replace and operate roadways, curbs, gutters, medians, pedestrian and bike paths, sidewalks, berms, side hill cuts, retaining walls and related structures, and water, storm water, sewer, gas, electricity, telephone, cable television and similar utility lines and systems (all

such improvements, together with any and all other improvements located on, or constructed within, the Easement Parcel pursuant to this Agreement are referred to as the "Improvements").

2. Duration. This Agreement and the Easement and undertaking set forth herein shall be perpetual.

3. Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of Easement Parcel to or for the general public or for any public purposes whatsoever, it being the intention of the Parties that this Agreement be strictly limited to and for the purposes expressed herein.

4. Mutuality; Reciprocity; Runs With the Land.

(a) The Easement, and the rights and obligations granted or created by this Agreement are appurtenances to the Parcels and none of the easements, rights or obligations may be transferred, assigned or encumbered except as an appurtenance to the Parcels; provided, however, ASCRP shall have the right (i) to transfer and assign the Easement, and the rights and obligations under this Agreement, to individuals or entities affiliated with ASCRP and to other parcels of property owned or controlled by ASCRP and its affiliates; and (ii) to grant and assign to individuals and entities providing water, storm water, sewer, gas, electricity, telephone, cable television, and similar utility lines and systems the rights in, to and under the Easement, and the rights and obligations under this Agreement to design, construct, repair, maintain and replace such lines and systems. For the purposes of the easements and rights set forth herein, the Parcel benefited thereby shall constitute the dominant estate, and the Parcel burdened thereby shall constitute the servient estate.

(b) Each of the easements and rights contained in this Agreement (whether affirmative or negative in nature) (i) shall constitute covenants running with the land; (ii) shall bind every person having a fee, leasehold or other interest in any portion of the Parcels at any time or from time to time to the extent such portion is affected or bound by the easement or right in question, or to the extent that easement or right is to be performed on such portion; (iii) shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns as to their respective Parcels; and (iv) shall create mutual, equitable servitudes upon each Parcel in favor of the other Parcels.

5. Severability. In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other condition, covenant or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such condition, covenant or other provision shall be deemed invalid to the extent of the scope and breadth permitted by law.

6. Integration. This Agreement contains the entire agreement between the Parties with respect to the matters set forth herein. This Agreement cannot be altered or otherwise amended except pursuant to an instrument in writing signed by each of the Parties.

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7. No Partnership. The Parties do not by this Agreement, in any way or for any purpose, become partners or joint venturers of each other in the conduct of their respective businesses or otherwise.

8. Further Action. The Parties shall execute and deliver all documents, provide all information, take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

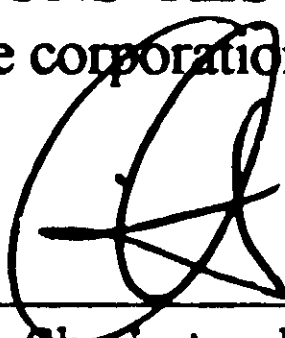
9. Counterparts. This Agreement may be executed in any number of counterpart originals, each of which shall be deemed an original instrument for all purposes, but all of which shall comprise one and the same instrument. This Agreement may be delivered by facsimile.

10. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

Executed the date and year first above written.

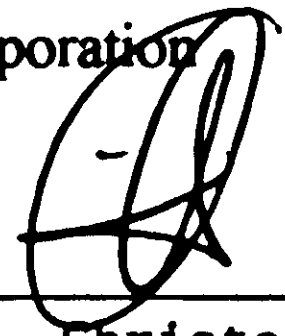
TCRP:

THE CANYONS RESORT PROPERTIES,
INC., a Maine corporation

By: 
Print Name: Christopher E. Howard
Its: Senior Vice President

ASCRP:

AMERICAN SKIING COMPANY
RESORT PROPERTIES, INC.,
a Maine corporation

By: 
Print Name: Christopher E. Howard
Its: Senior Vice President

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**EXHIBIT A
TO
DECLARATION OF EASEMENT AND EASEMENT AGREEMENT**

TCRP PARCEL

The TCRP Parcel is located in Summit County, Utah and is more particularly described as follows:

LOT 1, SUNDIAL LODGE AMENDED SITE PLAT, according to the Official Plat thereof, recorded January 20, 1999 as Entry No. 528029 and on file in the Office of the County Recorder of Summit County.

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**EXHIBIT B
TO
DECLARATION OF EASEMENT AND EASEMENT AGREEMENT**

ASCRP PARCEL

The ASCRP Parcel is located in Summit County, Utah and is more particularly described as follows:

LOTS 5, 6, 7, 8, 17, 18, 22, 23, 24, and the West Half of LOT 19, PARK CITY WEST, PLAT NO. 2, according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder.

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**EXHIBIT C
TO
DECLARATION OF EASEMENT AND EASEMENT AGREEMENT**

EASEMENT PARCEL

The Easement Parcel is located in Summit County, Utah and is more particularly described as follows:

An easement for access and utilities more particularly described as follows:

A 40 foot wide right of way and non-exclusive utility easement over, through and across the following described property, being 20 feet on each side of the following described centerline:

BEGINNING at a point on the Westerly line of the Red Pine right-of-way, said point being North 89°59'43" West along the Section line 706.01 feet and North 58.93 feet from the Southeast Corner of Section 36, Township 1 South, Range 3 East, Salt Lake Base and Meridian (basis of bearing being North 89°59'43" West between the said Southeast Corner of Section 36 and the South Quarter Corner of said Section 36), said point being the true point of beginning; thence North 85°00'15" West 67.61 feet to the point of curvature of a 250 foot radius tangent curve to the right; thence Northwesterly along the arc of said curve 163.55 feet through a central angle of 37°28'59"; thence North 47°31'16" West 463.87 feet to the point of curvature of a 60.00 foot radius tangent curve to the left; thence Northwesterly along the arc of said curve 149.90 feet through a central angle of 143°08'51"; thence South 10°40'07" East 97.48 feet to the point of curvature of a 225.00 foot radius tangent curve to the right; thence Southwesterly along the arc of said curve 395.42 feet through a central angle of 100°41'31"; thence North 89°58'37" West 301.76 feet to the point of curvature of a 225.00 foot radius tangent curve to the left; thence Southwesterly along the arc of said curve 56.01 feet through a central angle of 14°15'45"; thence North 14°14'22" West 45.72 feet to the point of curvature of a 150.00 foot radius tangent curve to the right; thence Northerly along the arc of said curve 37.27 feet through a central angle of 14°14'16"; thence North 00°00'06" West 27.91 feet to the point of curvature of a 200.00 foot radius tangent curve to the left; thence Northwesterly along the arc of said curve 136.06 feet through a central angle of 38°58'45"; thence North 02°09'29" West 130.91 feet to the point of curvature of a 42.00 foot radius tangent curve to the left; thence Northwesterly along the arc of said curve 62.36 feet through a central angle of 85°03'52" to the point of termination, said point being on the Southerly boundary of the Sundial Lodge property line, right-of-way lines extend to said property line and said Red Pine Westerly right-of-way line.

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