

COPY

**EASEMENT AGREEMENT  
(Access to Development Property)**

**THIS EASEMENT AGREEMENT** is made and entered into between **THE STEAMBOAT GRAND RESORT HOTEL CONDOMINIUM ASSOCIATION, INC.**, a Colorado nonprofit corporation (“Association”) and **STEAMBOAT SKI & RESORT CORPORATION**, a Delaware corporation (“SSRC”).

**RECITALS**

**WHEREAS**, capitalized terms used but not defined in this Easement Agreement shall have the meanings set forth in the Declaration of Condominium and Plan of Quartershare Ownership recorded at Reception No. 533317 of the Routt County records (as amended, the “Declaration”).

**WHEREAS**, the Association is the association of unit Owners under the Declaration for the Steamboat Grand Resort Hotel Condominiums (“Condominiums”) which is located on Lot 1, The Knoll Subdivision (“Lot 1”), according to the plat of the Condominiums, recorded at File No. 12907, as supplemented by a First Supplement to Condominium Map and Plat recorded on December, 20, 2001 at Reception No. 556606 and at File No. 13075, by Second Supplement thereto recorded July 1, 2005 at Reception No. 621249 and at File No. 13510, and by the Third Supplement thereto recorded November 23, 2005 at Reception No. 629642 and at File No. 13556, all of the Routt County public records (collectively the “Plat”).

**WHEREAS**, the Association is authorized to grant easements across the Common Elements of the Condominium in accordance with the Act and the Declaration.

**WHEREAS**, the Association is also the Owner of the real property described as the Parking Unit.

**WHEREAS**, SSRC is the owner or holder, as applicable, of certain Special Declarant Rights, Development Rights and rights to grant easements and licenses at the Condominium (collectively the “Reserved Declarant Rights”) pursuant to the Declaration and that certain Assignment of Special Declarant Rights and Development Rights dated March 1, 2007 between Grand Summit Resort Properties, Inc., a Maine corporation and SSRC recorded March 7, 2007 at Reception Number 653148 of the Routt County real property records.

**WHEREAS**, the Association desires to grant SSRC certain pedestrian and vehicular easements as hereinafter described.

**WHEREAS**, the persons entitled to cast at least 67% of the votes in the Association, including 67% of the votes allocated to Units not owned by Declarant, and not less than 67% of the Eligible Mortgage Holders, have approved the conveyance of the easements

described herein and granted the Executive Board of the Association (“Executive Board”) the authority to authorize the officers of the Association to execute the necessary instruments of conveyance.

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF** the foregoing recitals, the promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easements. Association does hereby sell, convey and grant to SSRC, its successors and assigns:

(a) a perpetual and non-exclusive easement for pedestrian and vehicular access from Mount Werner Circle, on, over and across the Common Elements located outside the Building currently constructed on Lot 1 to any Building(s) or Units constructed in the area designated Area Subject to Development Rights shown on the Second Supplement (“Development Property”); and

(b) a perpetual and non-exclusive easement for vehicular and pedestrian access from Mount Werner Circle, on, over and across any access road providing access to the Parking Unit and on, over, across and through the Parking Unit to any Building(s) constructed on the Development Property.

The above described easements shall be referred to herein as the “Easements” and the property upon which such Easements are located shall be referred to herein as the “Easement Areas”. The Easements are granted and conveyed subject to existing deeds of trust, mortgages, reservations, restrictions and covenants of record, and the Declaration and amendments and supplements thereto and the Plat. The Association shall execute and deliver to SSRC on demand such further documents as are reasonably required to grant SSRC insurable title to the Easements.

2. Burdened and Benefited Property. The property burdened by this Easement are the Common Elements and the Parking Unit. The property benefited by this Easement is any and all property and improvements located within the Development Property.

3. Construction of Improvements. No Improvements (“Improvements”) shall be constructed on the Easement Area unless the plans and specifications for such Improvements are first approved by the Association and are consistent with the building requirements of the City of Steamboat Springs (“City”) and Routt County. Any Improvements proposed by SSRC shall be consistent architecturally with the exterior of the Condominiums and shall not exceed a reasonable height or mass. Notwithstanding the foregoing and the provisions of Section 4.6 of the Declaration, the Association agrees that the approval of the Executive Board shall not be unreasonably withheld. The Executive Board further agrees not to oppose, but to reasonably support, all efforts of SSRC to obtain any permit, approval or authorization to construct the Improvements and to use all reasonable efforts to deter any individual Owner from opposing SSRC’s application for a permit, approval or authorization to construct the Improvements. SSRC

shall pay the reasonable attorneys' fees and out of pocket expenses incurred by the Association in taking the actions required of it under this Paragraph 3. SSRC shall also be responsible for the cost to construct the Improvements and the cost to obtain any permits, approvals or authorizations from any governmental entity for such Improvements.

SSRC agrees to indemnify and hold harmless the Association from any and all claims, costs, charges, expenses, and any other liability, including but not limited to any mechanics, materialmen's, and any and all similar liens which might encumber the Development Property, related to any construction or similar related activity under the direction of SSRC that occurs upon the Development Property.

4. Maintenance of Easement. If SSRC is the exclusive user of the Easement, SSRC, at its sole expense, shall keep, maintain and repair the Easement Areas in a good, serviceable, safe and attractive condition, including without limitation removal of snow from all walkways and access roads when it accumulates in excess of four inches (4") or more. If the Association is the exclusive user of the Easement, the Association, at its sole expense, shall keep, maintain and repair the Easement Areas in a good, serviceable, safe and attractive condition, including without limitation removal of snow from all walkways and access roads when is accumulates in excess of four inches (4") or more. If both the Association and SSRC use the Easement, the costs and expenses of any maintenance and repair of the Easement Areas, shall be borne equally by the Parties. If SSRC or the Association fails to keep, maintain or repair the Easement Areas related to the their respective use, the Association or SSRC, after providing reasonable notice to the defaulting Party, shall have the right (but not the obligation) to perform such maintenance and repair at the expense of the defaulting Party. Upon written notice of demand on the Association or SSRC, the defaulting Party shall reimburse SSRC or the Association for its reasonable costs for performing such maintenance or repair.

5. Indemnification.

(a) SSRC shall indemnify and hold Association harmless from any and all claims for personal injury or property damage of any nature arising from SSRC's occupancy and use of the Easements or from any negligence, omission or breach of this Easement Agreement by SSRC, or any director, officer, agent, employee, licensee or invitee of SSRC, and from all costs, attorneys' fees, expenses and liabilities incurred by Association in defending, compromising, satisfying, or otherwise incurred in dealing with any such claim or action. In case any such action or proceeding is brought against Association, SSRC (upon notice from Association) shall defend the same at SSRC's expense by counsel reasonably satisfactory to Association.

(b) Association shall indemnify and hold SSRC harmless from any and all claims for personal injury or property damage of any nature arising from Association's occupancy and use of the Easements or from any negligence, omission or breach of this Easement Agreement by Association, or any director, officer, agent, employee, licensee or invitee of Association, and from all costs, attorneys' fees, expenses and liabilities

incurred by SSRC in defending, compromising, satisfying, or otherwise incurred in dealing with any such claim or action. In case any such action or proceeding is brought against SSRC, Association (upon notice from SSRC) shall defend the same at Association's expense by counsel reasonably satisfactory to SSRC.

6. No Public Dedication. This Easement Agreement does not constitute a public dedication and will not be so construed.

7. Representation and Warranty. Association warrants and represents to SSRC that it has obtained all necessary and proper approvals, including the approval of Owners and Eligible Mortgage Holders (to the extent required), to convey the Easements to SSRC and has the express authority and power to enter into this Easement Agreement.

8. Notices. Whenever notice is given pursuant hereto, said notice shall be in writing and shall be given by mailing the same to the party entitled thereto, said mailing to be certified United States Mail, return receipt requested, postage prepaid, said notice to be deemed effective two (2) days after the date mailed. Until changed by notice given in the manner herein provided for, any such notice shall be given as follows:

If to Association:                   The Steamboat Grand Resort Hotel Condominium  
Association, Inc.  
2300 Mount Werner Circle  
Steamboat Springs, Colorado 80487

With copy to:                       David J. Nagel, Esq.  
Feldmann, Nagel & Associates, LLC  
P.O. Box 775628  
1120 S. Lincoln Avenue, Suite A  
Steamboat Springs, CO 80477

If to SSRC:                           Steamboat Ski & Resort Corporation  
2305 Mount Werner Circle  
Steamboat Springs, Colorado 80487

With copy to:                       Robert G. Weiss, Esq.  
Weiss and Van Scoyk, LLP  
600 S. Lincoln Ave., Suite 202  
Steamboat Springs, CO 80487

9. Title Insurance. SSRC may, at its expense, purchase for its own behalf such title insurance insuring the Easements as SSRC may desire.

10. Parking. No Unit Owner within the Development Property (hereinafter Units constructed within the Development Property shall be referred to as the "Phase 2 Units" and the Owners of such Units and their tenants shall be referred to as the "Phase 2 Owners") shall have the right to park vehicles within the Parking Unit (including any

conversion of the Parking to Common Elements) unless such Phase 2 Units are included within the Condominium and made subject to the Declaration under Section 16.1 of the Declaration and such Phase 2 Unit Owners are members of the Association by virtue of such inclusion.

11. Miscellaneous.

(a) This Easement Agreement shall be binding upon and inure to the benefit of the parties hereto and their successor and assigns.

(b) If either party shall default in the full and timely performance of an affirmative obligation of such party contained in this Easement Agreement, then the party not in default shall be entitled to all remedies in equity and law, including (but not limited to) suit for specific performance or damages, or both, and for injunctive relief, and in any such suit, the prevailing party shall also be entitled to recover reasonable attorneys' fees and costs of suit.

(c) Each provision of this Easement Agreement is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restriction.

(d) No provision of this Easement Agreement may be waived except by an instrument in writing signed by the party to be charged with the waiver. No waiver shall be a continuing waiver unless expressly so stated in the instrument of waiver. The failure to enforce any provision of this Easement Agreement shall not constitute a waiver of or impair the effectiveness of this Easement Agreement.

(e) If any provision of this Easement Agreement shall be held invalid or become unenforceable, the other provisions shall not be affected or impaired but shall remain in full force and effect.

(f) This Easement Agreement shall be governed by and construed under the laws of the State of Colorado. The venue for any legal action arising from or related to this Easement Agreement shall be exclusively in the District Court of Routt County, Colorado.

(g) Entire Agreement. This Easement Agreement contains the entire agreement of the Parties and supersedes all prior negotiations and agreements concerning the subject matter hereof. There are no other agreements between the Parties concerning the subject matter hereof. No representations or inducements, oral or written, have been made from either Party to the other in connection with this Easement Agreement except as expressly set forth herein.

IN WITNESS WHEREOF, the undersigned have executed this Easement Agreement as of the 31<sup>st</sup> day of December 2008.

**THE STEAMBOAT GRAND RESORT  
HOTEL CONDOMINIUM ASSOCIATION, INC.,**  
a Colorado nonprofit corporation

By: *Joseph Fogliano*

Name: Joseph Fogliano

Title: President Steamboat Grand HOA

**STEAMBOAT SKI & RESORT CORPORATION,**  
a Delaware corporation

By: *Christopher S. Diamond*

Name: Christopher S. Diamond

Title: President

STATE OF COLORADO )

ss.

COUNTY OF ROUTT )

ACKNOWLEDGED before me this 31<sup>st</sup> day of December 2008 by Joseph Fogliano as President of THE STEAMBOAT GRAND RESORT HOTEL CONDOMINIUM ASSOCIATION, INC., a Colorado nonprofit corporation.

WITNESS my hand and official seal.

(SEAL)

**TESSA R DEVAULT  
NOTARY PUBLIC  
STATE OF COLORADO**

MY COMMISSION EXPIRES 9/20/2011

Tessa R DeVault  
Notary Public  
My commission expires: 9/20/11

STATE OF Colorado )

COUNTY OF Routt )

ss.

ACKNOWLEDGED before me this 31<sup>st</sup> day of December 2008 by  
Christopher Diamond as President of STEAMBOAT SKI &  
RESORT Corporation, a Delaware corporation.

WITNESS my hand and official seal.

(SEAL)  
TESSA R DEVAULT  
NOTARY PUBLIC  
STATE OF COLORADO  
MY COMMISSION EXPIRES 9/20/2011

Tessa R DeVault  
Notary Public  
My commission expires: 9/20/11