

Smugglers' Notch Resort

LEASE

This CONTRACT and INDENTURE made and entered into by and between the STATE OF VERMONT, by its Commissioner of Forests, Parks, and Recreation, hereinafter called the STATE, and SMUGGLERS' NOTCH FOOD & BEVERAGE COMPANY, INC., a Vermont corporation having a place of business in Cambridge, Vermont, hereinafter called LESSEE:

W I T N E S S E T H :

WHEREAS, the STATE desires to provide for the public good by promoting winter and summer sports and recreational facilities on its land, which is the primary purpose of this Lease; and

WHEREAS, the LESSEE has emplaced facilities for disposal of treated wastewater on a portion of the leased area and on adjacent lands of the STATE; and

WHEREAS, the STATE and the LESSEE presently have certain leases for development of the STATE lands hereinafter described (the "Old Leases"); and

WHEREAS, both parties agree they wish to replace the Old Leases by this Lease, to more fully and accurately reflect present conditions and needs; and

WHEREAS, it has been determined by the Commissioner of Forests, Parks and Recreation that the execution of this instrument is in her judgment advantageous to the STATE with the objective of the highest orderly management of this portion of the STATE'S lands;

NOW THEREFORE, it is mutually agreed by the parties hereto:

1. Substitution of Lease.

1.1 This instrument shall serve to combine and replace the several leases in which the **LESSEE** is the original Lessee or successor in interest as Lessee. Said leases are described as follows, and are identified as the "Old Leases":

- (a) Lease dated April 9, 1962 between State of Vermont and Smuggler's Notch Ski Ways, Inc.;
- (b) Lease dated January 31, 1975 between State of Vermont and Madonna Mountain Corporation, recorded in Volume 47, Page 359 of the Land Records of the Town of Cambridge;
- (c) Lease dated January 8, 1964 between State of Vermont and Smuggler's Notch Ski Ways, Inc. as extended by letter dated June 25, 1973 to Madonna Mountain Corporation, recorded in Volume 47, Page 271 of the Land Records of the Town of Cambridge;
- (d) Lease dated October 29, 1968 between State of Vermont and Madonna Mountain Corporation, recorded in Volume 47, Page 301 of the Land Records of the Town of Cambridge and amended on November 30, 1974, and extended by a letter dated December 15, 1978 to Stanmar, Incorporated.

It is intended by both parties that this instrument shall replace the Old Leases as the governing document and upon execution hereof the Old Leases and all rights appurtenant thereto shall be of no further force or effect whatsoever except as specifically provided for herein.

2. Leased Premises; Term of Lease.

2.1 Fixed Term. Upon and subject to the conditions and limitations set forth below, the **STATE** lets and leases to the **LESSEE**, and the **LESSEE** rents from the **STATE**, the following property, real and personal, in the Towns of Cambridge and Morristown, Vermont (the "Premises"):

- (a) A portion of the Mount Mansfield State Forest in the Towns of Cambridge and Morristown, as more fully depicted on the map attached as Exhibit A, commonly known as the Sterling Range. Said parcel is that portion of the Morse Block of the Mount Mansfield State Forest in Cambridge and Morristown bounded on the south by Sterling Brook, on the east by the Forest boundary line and the height of land running over White Face Mountain, on the north by the brook

which flows from Daniel's Notch to the Snowmaking Pond, and on the west by the Forest boundary and Vermont Route 108;

- (b) The Ski Shelter constructed by the **STATE** and the premises adjacent thereto and used in connection therewith (the "State Shelter"); and
- (c) A piece or parcel of land, 75 feet by 100 feet, located westerly of the **LESSEE'S** base lodge, currently used as employee housing by the **LESSEE**, and more particularly described as follows: Beginning at a point in the center of the old town highway, said point being approximately 350 feet south of the center of the large culvert pipe under Vermont Route 108 and approximately 230 feet westerly of the westernmost corner of the base lodge, so-called; thence proceeding 75 feet westerly from said point along the center line of the old town highway; thence turning to the right at an angle of 90 degrees and proceeding 100 feet; thence turning to the right at an angle of 90 degrees and proceeding 75 feet; thence turning to the right at an angle of 90 degrees and proceeding 100 feet to the point of beginning (the "Employee Lodge");

together with all buildings, structures and improvements now or hereafter located thereon, and all rights of way or use, servitudes, licenses, easements and appurtenances now or hereafter belonging or pertaining to any of the foregoing, meaning to include in the Premises all real property leased to the **LESSEE** under the Old Leases, subject to all easements and agreements of record.

TO HAVE AND TO HOLD the Premises unto the **LESSEE**, subject to all of the terms, conditions and provisions hereof, for a Fixed Term to and including June 30, 1995 (the "Fixed Term"), and, at the option of the **LESSEE**, for each Extended Term provided for in Section 2.2, unless this Lease shall sooner terminate as provided herein.

2.2 Extended Term. At the end of the Fixed Term (and at the end of any additional term provided for herein) the **LESSEE** shall have the option to renew this Lease for an additional term of ten years, as long as an Event of Default has not then occurred or if one has occurred has then been remedied as set forth herein, provided, however, that the last of said additional terms shall in any event terminate on June 30, 2058. Each such additional term is referred to herein as an "Extended Term". The **LESSEE** shall exercise its option or options by giving written notice of such exercise to the **STATE** not less than 60 days, nor more

than 180 days, before the expiration of the Fixed Term or of the Extended Term then ending.

3. Basic Rent.

3.1 Basic Rent. The LESSEE will pay to the STATE as a net basic annual rent (the "Basic Rent") the sum equal to the aggregate of the following:

- (a) 5 percent of the gross receipts from ticket sales for all lifts operated or to be operated by the LESSEE (whether now in existence or to be built), multiplied by a fraction, the numerator of which is the linear footage of that portion of such lifts crossing the Premises and the denominator of which is the total linear footage of such lifts wherever located, it being agreed and understood that the linear footage of the lifts on lands conveyed by the STATE to LESSEE on May 20, 1968 is to be included in the numerator; plus
- (b) 2½ percent of the gross receipts from the operation of restaurants, sport shops, warming shelters, and ski schools by the LESSEE on the Premises; plus
- (c) 3 percent of the gross receipts from the operations of the State Shelter; plus
- (d) \$200.00 on account of the Employee Lodge.

The Basic Rent shall be paid annually not later than June 1 for the preceding year, which shall commence January 1, of each year and cease on December 31 each year.

3.2 Basic Rent; Manner of Payment. The Basic Rent and all other sums payable to the STATE shall be paid to the STATE at the address set forth herein or to such agent or person or persons or at such other address as the STATE may designate from time to time. Together with payment, the LESSEE shall deliver a financial report for the annual period for which payment is made, prepared by a certified or registered public accountant, and a schedule of investment values determined as of the preceding December 31 pursuant to Section 17(b) of this Lease.

3.3 Basic Rent; Calculation. For the purposes of this Lease, "Gross Receipts" shall mean receipts from all sales of the LESSEE identified as "Gross Receipts" in Section 3.1(a), (b), and (c) whether evidenced by check, credit, charge account or cash, and shall include the amounts received from the sale of lift tickets, meals, beverages, services performed, or merchandise. "Gross Receipts" shall not

include sales for which refunds have been made, or returns accepted, nor shall it include any State sales, use, or gross receipts tax. "Lift" shall mean lifts, tows, funiculars, gondolas and any other method of uphill conveyance of passengers. The STATE may, at its expense, examine and audit the LESSEE'S books and records on account of such rental payments. The STATE covenants and agrees it shall keep in confidence all information furnished to it either in the form of the financial report delivered by the LESSEE, or any information which it might gain or gather in connection therewith, except as required by law. Notwithstanding the provision of Section 3.1(a), the LESSEE covenants that at least 20 percent of the total linear footage of the 2-car passenger tramway and 20 percent of all other lifts of the LESSEE will be located on the leased Premises.

3.4 Effluent Disposal Site. The LESSEE is utilizing under Land Use Permit 6L0135-6 about forty (40) acres of the Premises, thirty-five (35) of which is for spray disposal of no more than 120,000 gallons of treated wastewater per day from LESSEE'S facilities. As rent for the use of the State land for this purpose, LESSEE shall pay the STATE the sum of Two Thousand Dollars (\$2,000.00) per annum, increased or decreased by the same ratio as the Gross Receipts (as defined in this Lease) for the current year bears to said Gross Receipts for the year 1986, but in no event less than \$2,000 per annum. Said rental shall be payable until such use of this parcel ceases and surface facilities are removed to the satisfaction of the STATE in accordance with said Permit. Said sum is to be included as part of the Basic Rent, and be subject to the same remedies set out in respect thereto.

4. LESSEE'S Improvements.

4.1 Rights of LESSEE. Subject to the provisions of Section 4.2, the LESSEE may at its sole cost, erect, make, build, construct and complete buildings, structures including the facilities described in Section 5(g) below, roads and roadways, trails and ski trains, lifts, or other conveyances (individually or collectively, the "Improvements") on the Premises, compatible with the purposes of this instrument.

4.2 Requirements of Approval, Laws, etc. Any improvement shall be designed, constructed, made and completed to satisfy or exceed the laws, regulations and minimum standards established by the State of Vermont including but not limited to, safety, environment, trail width, drainage and the like. The LESSEE shall comply with and obtain all licenses, permits, and consents from all

governmental entities having jurisdiction over any such improvement. The STATE shall be a coapplicant for such licenses or permits as are required by laws and regulations, provided such improvements have been included in an annual detailed work plan submitted according to regulations of the Secretary of the Agency of Environmental Conservation and fully approved by the Commissioner of Forests, Parks and Recreation.

No such improvement shall be commenced without the prior approval of the Commissioner, which approval shall not be unreasonably withheld. In connection therewith, the LESSEE shall submit to the Commissioner, 60 days prior to anticipated commencement, its plans and specifications and locations therefor. Unless the Commissioner shall object within 60 days of receipt of such filing, the approval of the STATE shall be deemed to have been granted.

4.3 Emergency Improvements. Notwithstanding the provisions of Section 4.2, the LESSEE, setting out the emergency need, may request the Commissioner to immediately approve a proposed improvement in reliance upon the most recent and available plans and specifications.

4.4 Survey. LESSEE shall provide STATE with adequate survey data to delineate the spray field with its fence and pipeline routing, which survey shall be tied to the STATE boundary.

5. Use of Property.

The LESSEE may use the Premises for any lawful purpose consistent with the intent of this Lease. In addition,

(a) With respect to the State Shelter, the LESSEE shall (i) heat and supply hot water thereto, at its sole cost; (ii) provide all furniture and furnishings to be used thereat (including such furniture and furnishings as are owned by the STATE); (iii) keep all walks leading thereto or therefrom (including the parking lot) in a clean, safe and sanitary condition consistent with weather conditions; (iv) care for the lawn and open areas during the summer months; (v) make available for public use at all reasonable times the public rooms and toilets; (vi) repair and maintain the building and adjoining premises in a business-like manner (but shall not be responsible to repair damage caused by war or Act of God).

(b) No lodging for hire shall be permitted on the Premises.

- (c) The STATE may use the State Shelter for public meetings unless such uses shall interfere with the normal use thereof by the LESSEE. Regardless, the STATE shall have access to and from the State Shelter at all times.
- (d) The design, erection and operation of all lifts shall satisfy the requirements and standards of the Vermont Department of Labor and Industry's safety standards for passenger tramways.

- (e) The open lands on the Premises shall be available to all members of the public without fee, subject to such reasonable rules and regulations as the **LESSEE** may promulgate from time to time.
- (f) In operations or construction care shall be taken by **LESSEE** to preserve survey markings designating any property boundaries. Destroyed markings shall be replaced by **LESSEE**.
- (g) The **STATE** will allow **LESSEE** to dispose of wastewater by spray irrigation on a parcel of land as set out and indicated as Disposal Area (D) Site #26 on the map submitted to the Department of Dufresne-Henry Engineering, dated July 16, 1985 and labeled as "Plan of Wastewater Treatment and Disposal Facilities" page one appearing to occupy 40 acres, 35 of which is for spray disposal equipment and includes a forced pressure main location.
- (h) The **STATE** will not build any structure within 300 feet of the storage lagoons as located on the aforesaid map.
- (i) It is not the intent of the spray site to provide for expansion of the development by **LESSEE**, but to replace the volume formerly entering a failed disposal system, and no expansion is permitted on this replacement site.

Should **LESSEE**, its affiliates, or assigns, expand facilities adjacent to, or associated with those served by this disposal system, such that additional disposal will be required, then, and in that event, they shall reduce the disposal on the site herein described by an amount equal to the increased volume, gallon for gallon.

In the event that sufficient volume reduction shall occur to obtain no residual use of this spray site, **LESSEE** shall remove all aboveground equipment and return the site to as near its original condition as is feasible, to the satisfaction of the **STATE** within 24 months of its abandonment as a spray site.

- (j) A fence consisting of welded or woven metal wire or plastic 42 inches or more in height shall be maintained around the perimeter of the spray area, with suitable notices posted to prevent inadvertent entrance.

- (k) When maintaining or repairing facilities, **LESSEE** shall coordinate activities with **STATE'S** District Forester to avoid unreasonable delay with any logging operations which the **STATE** may be conducting. There shall be no more than 100 feet of ditch left open overnight and disturbed soil shall be mulched promptly upon completion of repairs.

6. Maintenance and Repairs, etc.

The **LESSEE**, at its expense, will maintain the Premises, including lifts, trails, slopes, ponds, water courses, parking areas, buildings, facilities, structures, roadways and other appurtenances, in good and business-like manner and condition, shall comply with all applicable legal requirements and will promptly make all necessary or appropriate repairs, replacements and renewals unless excused pursuant to Section 10. All repairs, replacements and renewals shall be at least equal in quality and class to the original work. In the event that the **STATE** creates logging roads pursuant to Section 11.2(b), the **LESSEE** shall, only if it chooses to use such roads, have the obligations with respect thereto set forth above.

7. Indemnification by LESSEE.

The **LESSEE** will protect, indemnify and save harmless the **STATE**, its agents, servants and officials acting within their official capacities, from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against the **STATE** by reason of the **LESSEE'S** use, maintenance or operation of lifts, or caused by the **LESSEE'S** use of the Premises or any appurtenance thereto. In case any action, suit or proceeding is brought against the **STATE** by reason of any such occurrence, the **LESSEE**, upon request, will at its expense, resist and defend such action or suit or cause the same to be resisted and defended by counsel designated by the **LESSEE**.

8. Insurance.

- (a) The **LESSEE** shall, with respect to the Premises and all Improvements, at its expense, procure and maintain insurance against loss or damage by fire and the perils commonly covered under the extended coverage endorsements to the extent of the full insurable value thereof and shall name the **STATE** (and

all **STATE** officials and employees) and the **LESSEE** as insured parties as their interests may appear.

- (b) The **LESSEE** shall, at its expense, with respect to the operation of lifts and trails, and with respect to buildings open to the public, procure and maintain insurance against liability in an amount not less than \$3,000,000 and shall name the **STATE** (and all **STATE** officials and employees) and the **LESSEE** as insured parties as their interests may appear. This amount shall change every five years to reflect changes in the consumer price index.
- (c) The **LESSEE** shall deliver to the **STATE**, promptly upon request, certified copies of all insurance policies (or, in the case of blanket policies, certificates thereto) with respect to the Premises which the **LESSEE** is required to maintain pursuant to this Section 8, together with evidence as to the payment of all premiums then due thereon, and at the request of the **STATE** shall confer from time to time in respect to the matters herein set forth. The matters provided for in this Section 8 shall not constitute an "Event of Default" under this Lease until after a written decision under Section 8(d) by the Commissioner after notification to and consultation with the **LESSEE**.
- (d) The Commissioner of Forests, Parks and Recreation, in his or her sole discretion, may from time to time modify the insurance requirements imposed by this Section 8; provided, however, that he or she may not increase the requirements of the **LESSEE** under this Section 8.

9. Improvements as Real Estate.

All lifts and snowmaking equipment (including towers, cables, chairs, railings, platforms) and all buildings on the Premises shall be deemed to be real estate immediately upon construction and erection, and thereafter each shall be deemed to be property of the **STATE**, subject only to the leasehold rights of the **LESSEE**, and any security interests therein held by creditors of the **LESSEE** described on Exhibit B hereto, and any other interests hereafter approved by the **STATE** which approval shall not be unreasonably withheld.

Notwithstanding the foregoing, the **LESSEE** may, at any time at its sole cost, substitute or replace the facilities

even though the foregoing may be real estate, for new facilities of substantially like or better kind and quality.

10. Damage To Or Destruction Of Improvements.

In the event any lift, trail, slope, pond, water course, parking area, building, facility, structure or other appurtenance on the premises is destroyed or substantially damaged by any reason other than war or Act of God, then the LESSEE shall reconstruct or repair the property so destroyed or damaged. Any reconstruction or repair shall conform to the provisions of Section 4. Notwithstanding the foregoing, in the event the State Shelter is destroyed, from whatever cause, the LESSEE shall have no duty to reconstruct.

11. Public Obligations.

11.1 Notice of fees. The LESSEE shall print and publish annually or more frequently a list of its fees for the use of all lifts on the Premises, and the LESSEE shall deliver a copy thereof to the Commissioner; the published list shall remain effective until replaced by another list which is printed and published and a copy thereof is delivered to the Commissioner.

11.2 Forestry.

- (a) The LESSEE may cut any trees necessary in connection with the construction, maintenance or repair of any building, lift or trail, upon the written consent of the Commissioner, after request, which consent shall not be unreasonably withheld. After felling, the LESSEE may remove any tree by any method except burning. The LESSEE shall pay the STATE, as additional rent, the prevailing stumpage value for trees cut.
- (b) The STATE may make selective cuttings of timber or wood on the Premises, provided that such cutting shall not unreasonably interfere with the LESSEE'S operations.
- (c) Tree removal by LESSEE on the spray site shall be minimal, only that absolutely necessary, and shall be only by agreement with STATE'S District Forester. No road construction will be allowed on spray site. Waterbars shall be maintained when necessary on abandoned roads, to divert any excess water and prevent erosion.

- 11.3 Ski School. The LESSEE shall have the exclusive right to conduct, on the Premises, a ski school, under competent leadership, for the purpose of ski instruction.
- 11.4 Lift Operations. The LESSEE shall operate lifts on the Premises at all reasonable times during the winter season, provided that in the judgment of the LESSEE (reasonably determined) proper skiing conditions exist. The annual operation of one or more lifts shall not be less than 40 days unless prevented by Act of God, war, forest fire, labor dispute, other unusual circumstances, or by agreement of the parties. Breach by the LESSEE of this covenant shall be an Event of Default justifying termination of the Lease pursuant to Section 12.

12. Events of Default; Termination.

- (a) Upon breach by the LESSEE of any material covenant (each being an "Event of Default") and such breach shall not be corrected within 30 days after the LESSEE receives written notice of such failure from the STATE, the STATE may at any time thereafter, during the continuance of any such default, give a written termination notice to the LESSEE specifying a future date on which this Lease shall terminate, and on such date the term of this Lease shall expire and terminate by limitation and all rights of the LESSEE under this Lease shall cease, unless before such date all Events of Default at the time existing under this Lease shall have been fully remedied or the LESSEE has commenced to cure and is diligently pursuing the same, all to the reasonable satisfaction of the STATE.
- (b) Upon the breach by the STATE of any material covenant (each being an "Event of Default") and if such breach shall not be corrected within 30 days after the STATE receives written notice of such failure from the LESSEE, then the LESSEE may at any time thereafter take such action or actions as may be afforded it under law or at equity.

13. Remedies, etc., Cumulative.

Each right, power and remedy of the parties provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by any party of any one or more of the rights, powers or

remedies provided for in this Lease or now or hereafter existing at law or in equity, or by statute or otherwise shall not preclude the simultaneous or later exercise by such party of any or all such other rights, powers or remedies.

14. Other Lands Of State.

14.1 Competition. The **STATE** covenants and agrees that it will not build, maintain or lease, nor permit the building, maintenance or leasing, on any land now owned or hereafter acquired by the **STATE** in Cambridge or Morristown, or on the westerly side of the Sterling Range, so-called, within a radius of 10 miles of the perimeter of the Premises, any lift or other conveyance of whatsoever type, or design or land intended for uphill transportation of persons, without the prior written consent of the **LESSEE**.

14.2 Easement. The **LESSEE** may enter upon other lands of the **STATE** contiguous or proximate to the Premises for all proper business purposes relating to the **LESSEE'S** operations. Upon the written consent of the Commissioner, the **LESSEE** may construct such temporary roads and structures on such lands as shall satisfy the **STATE** and as shall be reasonably necessary for the construction, repair or replacement of any lift, building or structure.

15. End Of Lease Term.

Upon the expiration or other termination of this Lease, the **LESSEE**, at its expense, shall quit and surrender the Premises.

16. Inspection.

The **STATE** reserves the right to enter upon the Premises at reasonable times and inspect the Premises during the term of this Lease.

17. Option To Purchase; Calculation of Price.

(a) At any time during the last six months of the Fixed Term or any Extended Term, the **STATE** shall have the option to purchase, but only in its entirety, the rights of the **LESSEE** pursuant to this Lease, provided that during such six month period, **STATE** shall notify the **LESSEE**, in writing, of its intention to exercise its option pursuant to this Section. Upon giving of such notice by the **STATE**, this Lease shall terminate at the end of the Term then governing the affairs of the parties pursuant hereto, provided, however, that the **STATE** and any assignee of the **STATE** shall

continue to offer such ski-lift services for which pre-payment has been received as a part of the Basic Rent and specifically so acknowledged by the STATE, to the specific persons for whom such pre-payment was made by LESSEE, without further compensation or fee. The price to be paid by the STATE in the event it should exercise the option pursuant to this Section shall be an amount equal to the "investment value" of the Improvements as defined below plus 10 percent of the LESSEE'S Gross Receipts for the three year period preceding the end of that Term during which the option is exercised.

- (b) The "investment value" of the Improvements shall be the original costs of lifts, architectural, planning and survey expenses, the cost of installation and erection of lifts, snow-making equipment, and other structures, and any and all other expenditures relative to the installation and construction of the lifts and associated structures, roads, parking areas and building or buildings, together with the equipment therein, and the actual construction cost of ski trails and slopes. The foregoing amount shall be reduced by 1 percent thereof for each full year period which shall have elapsed between the date on which each of said expenditures shall have been made and the end of that Term.

18. Assignment.

The STATE may permit the assignment of this Lease by the LESSEE to persons of good standing in the State of Vermont and which display financial capacity commensurate with the capital needs of the area, and said permission shall not be unreasonably withheld.

19. Miscellaneous.

This Lease embodies the entire agreement and understanding of parties with respect to the subject matter hereof and supersedes all prior agreements, leases and understandings of the parties relating hereto. If any term of this Lease or any application thereof shall be invalid or unenforceable, the remainder of this Lease and any other application of such term shall not be affected thereby. This Lease may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against whom enforcement of such change, waiver, discharge or termination is sought. This Lease shall be construed and enforced in accordance with the governed by the laws of the State of Vermont. The headings in this Lease are

for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

20. Notice.

All notices shall be in writing and shall be deemed to have been given when mailed by first class registered or certified mail, postage prepaid, addressed, if to the **STATE**, to the Commissioner, and if to the **LESSEE**, to the attention of Stanley Snider, c/o Stanmar, Inc., Boston Post Road, Sudbury, Massachusetts, or as to such other address as the parties may designate from time to time.

21. Status Of Lease.

21.1 Legislative Approval. The General Assembly through Joint Resolution JRH 43 of the Acts and Resolves of the 1987 Session has approved this Lease pursuant to 10 V.S.A. Section 2606(b). As set out in that Resolution, this Lease shall become operative upon its signing by both parties hereto, and it shall replace and supercede all previous leases as described in Section 1.1 of this instrument.

21.2 Authority of Mr. Snider. Mr. Snider, who is executing this Lease on behalf of the **LESSEE**, is President of the **LESSEE**, duly elected, is executing this Lease under authority granted to him by the Board of Directors of the **LESSEE**, and this Lease, when executed by him, shall be a valid and binding document enforceable on the **LESSEE** in accordance with its terms.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the 19th day of June, 1987.

THE LESSOR

**STATE OF VERMONT
DEPARTMENT OF FORESTS, PARKS
AND RECREATION**

IN PRESENCE OF:

Rita Casloni
Witness

Victoria Lory
Witness

By: Mollie U. Butler
Commissioner

STATE OF VERMONT
WASHINGTON COUNTY, SS.

At Waterbury in the County of Washington this 19th day of June, Mollie H. Beattie personally appeared, and upon being duly sworn upon oath acknowledged the foregoing to be her free act and deed and the free act and deed of the State of Vermont.

Before me: Peter Casalone
Notary Public

My Commission Expires: 2/10/91

THE LESSEE

SMUGGLERS' NOTCH FOOD &
BEVERAGE COMPANY, INC.

IN THE PRESENCE OF:

Walter K. Soper
Witness

John M. Dora
Witness

By: Stanley Snider
President

STATE OF Massachusetts
Middlesex COUNTY, SS.

At Sudbury in the County of Middlesex this 29th day of July, Stanley Snider personally appeared, and upon being duly sworn upon oath acknowledged the foregoing to be his free act and deed and the free act and deed of SMUGGLERS' NOTCH FOOD & BEVERAGE COMPANY, INC.

Before me: Gene J. Barney
Notary Public

My Commission Expires: 9-5-91

EXHIBIT B

DEBTOR

SECURED PARTY

COLLATERAL

Smugglers' Notch

D & L Thomas Equipment
Corporation

Compressor Equipment including
Air Track

Smugglers' Notch Food & Beverage
Co., Inc.

Bank of Vermont

All furniture, fixtures,
machinery, equipment and all
other personal property. . . o
lands leased from the State of
Vermont.

Stanmar, Inc.

Bank of Vermont

Conditional assignment of leases
with State of Vermont.

Stanmar, Inc.

Vermont Industrial
Development Authority

Fixtures and equipment.

State of Vermont
Agency of Natural Resources
Department of Forests, Parks & Recreation

Amendment to Lease with
Smuggler's Notch Management Company, Ltd.

WHEREAS, a **CONTRACT** and **INDENTURE** was made and entered into by and between the **STATE OF VERMONT**, by its Commissioner of Forests, Parks & Recreation, hereinafter called the **STATE**, and **SMUGGLERS' NOTCH FOOD & BEVERAGE COMPANY, INC.** (now known as **SMUGGLERS' NOTCH MANAGEMENT COMPANY, LTD.**), a Vermont corporation having a place of business in Cambridge, Vermont, hereinafter called **LESSEE**, in 1987 and was approved by Act No. R-76 of the 1987 session of the Vermont General Assembly; and

WHEREAS, the **STATE** and the **LESSEE** entered into an Addendum to Lease in 1990, which was approved by Act No. R-83 of the 1991 session of the Vermont General Assembly; and

WHEREAS, the **STATE** and the **LESSEE** entered into an Amendment to Lease in August, 1996, which was approved by Act No. R-170 of the 1996 session of the Vermont General Assembly; and

WHEREAS, the **STATE** and the **LESSEE** wish to amend the lease once again, in order to reconfigure the perimeter and expand the present leasehold by the addition of a parcel located in the Town of Stowe; and

WHEREAS this amendment was approved by Act No. R-223(5)(A) of the 1998 session of the Vermont General Assembly;

NOW THEREFORE, the Parties agree to the following change:

1. Page2 - Substitute section 2.1(a) with the following language:

The Lease Area being a portion Mount Mansfield State Forest located in the Towns of Cambridge, Morristown and Stowe, and being two parcels of land designated as Lease Parcels A and B as depicted in Exhibit A attached hereto and being more particularly described as follows:

Lease Parcel A:

Being 2158 acres, more or less, on the easterly side of Vermont Route 108 and being located in the Towns of Cambridge, Morristown and Stowe. Said parcel being located and described as follows:

Beginning at the most southerly corner of a certain 300-acre parcel of land conveyed by the State of Vermont to Madonna Corporation by deed dated May 24, 1968.

Amendment to Lease

Lessor: State of Vermont

Lessee: Smugglers' Notch Management Company, Ltd.

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Thence northerly along the easterly boundary of said 300-acre parcel to the southwesterly corner of a certain 71.29-acre parcel of land conveyed by the State of Vermont to The Nature Conservancy by deed dated December 14, 1988.

Thence southeasterly, easterly, northerly and northwesterly along the several courses comprising the southerly, easterly and northerly boundaries of said 71.29-acre parcel to the northwesterly corner of the same.

Thence northerly along the easterly boundary of the aforementioned 300-acre parcel to the northeast corner of the same.

Thence passing through said Mt. Mansfield State Forest the following lines comprising the northerly, easterly, southerly and westerly bounds of the herein leased area:

1. Southeasterly in a line at a right angle to the easterly line of the aforementioned 300-acre parcel to Daniel's Brook, so-called;
2. Northeasterly and easterly along said Daniel's Brook to the town line between the Towns of Cambridge and Johnson;
3. Southerly along said town line to a point being southwest corner of Johnson and the northwest corner of Morristown;
4. Southeasterly along the town line between Johnson and Morristown to a point on the height of land running over White Face Mountain, so-called;
5. Southerly and southwesterly along the height of land and passing over White Face Mountain to a point in the boundary of land conveyed to the State of Vermont by Kristina Harrison by deed dated December 13, 1991;
6. Westerly along said boundary of the former Harrison property to the northwest corner of the same;
7. Southerly along said boundary of the former Harrison property to a point on the height of land running over Morse Mountain, so-called;
8. Southwesterly and southerly along the height of land and passing over Morse Mountain to a point in the boundary the said former Harrison property;
9. Southerly along the boundary the said former Harrison property to a point in the easterly edge of the Chilcott Trail so-called;
10. Continuing southerly along the boundary of the said former Harrison property; and running along a portion of the said former Harrison property on which the Lessee has a permanent easement by virtue of a Deed of Easement conveyed by Philip Burling (predecessor to the said Harrison and the State) to Stanmar, Inc. (predecessor to the Lessee) dated March 31, 1981 and recorded in Book 76 at pages 528-529 of the Morristown Land Records; to a corner located on the town line between the Towns of Morristown and Stowe, and being the northwest corner of a certain 500-acre parcel of land conveyed to the State of Vermont by Vermont Land Trust, Inc. by deed dated July 6, 1995;
11. Southerly along the westerly line of said 500-acre parcel to a point;

Amendment to Lease

Lessor: State of Vermont

Lessee: Smugglers' Notch Management Company, Ltd.

April 2005 - Page 3 of 4

12. N 85°57'25" W (Vermont Grid North) for a distance of approximately 3200 feet, passing through a certain 966 acre parcel of land conveyed to the State of Vermont by Mt. Mansfield Company, Inc. by deed dated February 11, 2004, to a point in the town line between the Towns Cambridge and Stowe, said point being located N 27°06'48" E (Vermont Grid North) of and 850 feet from the most westerly corner of said 966 acre parcel;
13. S 27°06'48" W (Vermont Grid North) along said town line and being westerly line of said 966 acre parcel to the north shore of Sterling Pond, so-called;
14. Westerly along the north shore of said Sterling Pond to the southwest edge of the Upper Rumrunner Trail, so-called;
15. Northerly along the westerly or southwesterly edge of the Upper Rumrunner Trail to a point;
16. Westerly along a line running parallel to, and located 500 feet northerly and northeasterly of Sterling Brook, so-called, to a point in the easterly right-of-way limit of VT Route 108;
17. Northerly and northwesterly along said easterly right-of-way limit of VT Route 108 to a point where said right-of-way limit would intersect with the southerly extension of the easterly boundary of the aforementioned 300-acre parcel conveyed by the State of Vermont to Madonna Corporation.
18. Northerly along said extension to the place of beginning.

Lease Parcel B - ski area parking lots 2 and 3:

Being 12.5 acres, more or less, on the westerly or northwesterly side of VT Route 108, across the road from the base of the Sterling lift, and being located in the Town of Cambridge and is more particularly described as follows:

Beginning at the point of intersection of the northwesterly right-of-way limit of VT Route 108 and the centerline of the entrance into Parking Lot # 2;

Thence southwesterly 925 feet along said right-of-way limit to a point;

Thence northwesterly 632 feet on a line perpendicular to the centerline of said VT Route 108 to a point';

Thence easterly 532 feet on a line deflecting to the right on an angle of 108° 00' from a prolongation of the previous course to a point;

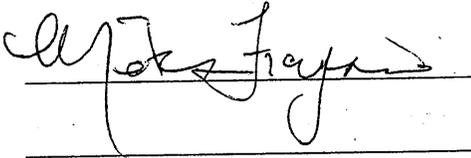
Thence easterly 938 feet, more or less, on a line deflecting to the right on an angle of 15° 20' from a prolongation of the previous course to a point in the aforementioned right-of-way limit of VT Route 108 to a point;

Thence southwesterly 400 feet, more or less, along said right-of-way limit to the point of beginning.

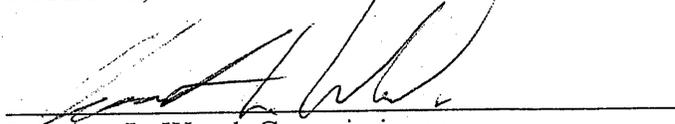
2. Page 3 – Delete section 2.1(c) in its entirety.
3. All of the other terms and conditions of the above mentioned Lease Agreement and Addendum to Lease shall remain unchanged and continue in full force and effect.

Amendment to Lease
Lessor: State of Vermont
Lessee: Smugglers' Notch Management Company, Ltd.
April 2005 - Page 4 of 4

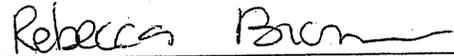
IN PRESENCE OF:



STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF
FORESTS, PARKS AND RECREATION


Jonathan L. Wood, Commissioner

STATE OF VERMONT)
WASHINGTON COUNTY) § At Waterbury, in said County this 16th day of
JUNE A.D., 2005, personally appeared Jonathan L. Wood, Commissioner of the
Department of Forests, Parks & Recreation, and acknowledged the foregoing instrument by him
subscribed to be his free act and deed and the free act and deed of the State of Vermont.

Before me, 
Notary Public
My commission expires, February 10, 2007

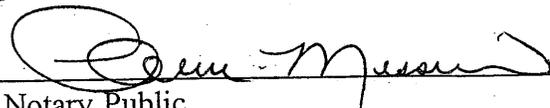
IN PRESENCE OF:




SMUGGLERS' NOTCH MANAGEMENT
COMPANY, LTD. DEPARTMENT OF

, President

STATE OF VERMONT)
LAMOILLE COUNTY) § At Cambridge, in said County this 23rd day of
June A.D., 2005, personally appeared Robert F. Mulcahy, President, and
acknowledged the foregoing instrument by him subscribed to be his free act and deed and the
free act and deed of the Smugglers' Notch Management Company, Ltd..

Before me, 
Notary Public
My commission expires, February 10, 2007

**State of Vermont
Agency of Natural Resources
Department of Forests, Parks & Recreation**

**Amendment to Lease with
Smuggler's Notch Management Company, Ltd.**

WHEREAS, a **CONTRACT** and **INDENTURE** was made and entered into by and between the **STATE OF VERMONT**, by its Commissioner of Forests, Parks & Recreation, hereinafter called the **STATE**, and **SMUGGLERS' NOTCH FOOD & BEVERAGE COMPANY, INC.** (now known as **SMUGGLERS' NOTCH MANAGEMENT COMPANY, LTD.**), a Vermont corporation having a place of business in Cambridge, Vermont, hereinafter called **LESSEE**, in 1987 and was approved by Act No. R-76 of the 1987 session of the Vermont General Assembly; and

WHEREAS, the **STATE** and the **LESSEE** entered into an Addendum to Lease in 1990, which was approved by Act No. R-83 of the 1991 session of the Vermont General Assembly; and

WHEREAS, the **STATE** and the **LESSEE** wish to amend the lease once again, in order to reconfigure the perimeter of the present leasehold, by taking a portion of the acreage out of the current leasehold and substituting it with an equal amount of land not included in the present leasehold; and

WHEREAS this amendment was approved by Act No. R-170 of the 1996 session of the Vermont General Assembly;

NOW THEREFORE, the Parties agree to the following change:

1. Page 2

a. Substitute section 2.1 (a) with the following language:

A portion of the Mount Mansfield State Forest in the Towns of Cambridge and Morrystown, as more fully depicted on the map attached as Exhibit A, labeled **State of Vermont, Agency of Natural Resources, Dept. of Forests, Parks & Recreation, Mount Mansfield State Forest, Smugglers' Notch Ski Area, Revised Lease Area, August 1996.**

**Amendment to Lease
State of Vermont
Smugglers' Notch Management Company, Ltd.
August 1996
Page 2**

Said parcel consists of that portion of the Morse Block of the Mount Mansfield State Forest in Cambridge and Morristown bounded on the south by a line starting at a point on Route 108, then along this line parallel to and 500' north of Sterling Brook, then along the southwest edge of the Upper Rumrunner Trail, then along the north shore of Sterling Pond, then on the east by the state forest boundary line and the height of land running over White Face Mountain, then on the north, along Daniel's Brook which flows from Daniel's Notch to the snowmaking pond, to a point in a southeasterly extension of the state forest boundary line, then northwesterly along this extension to a corner of the state forest boundary, and then on the west by the state forest boundary and Vermont Route 108, including a small area on the westerly side of Route 108, across the road from the base of the Sterling lift, which accommodates a ski area parking lot.

2. All of the other terms and conditions of the above mentioned Lease Agreement and Addendum to Lease shall remain unchanged and continue in full force and effect.

IN PRESENCE OF:

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF FORESTS, PARKS
AND RECREATION

Barbara Sheltra
Jan A. Neill

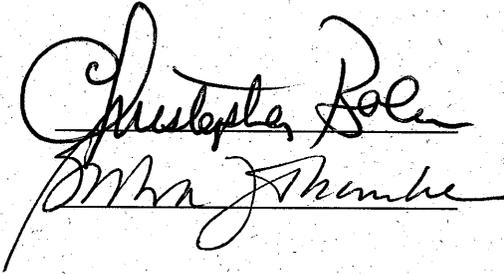
Ed Leary for
Conrad M. Motyka, Commissioner

STATE OF VERMONT)

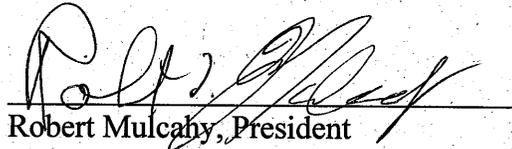
WASHINGTON COUNTY) § At Waterbury, in said county, this 22nd day of August A.D., 1996, personally appeared Ed Leary, Acting ~~Conrad M. Motyka~~, Commissioner of the Department of Forests, Parks & Recreation, and acknowledged the foregoing instrument by him subscribed to be his free act and deed and the free act and deed of the State of Vermont.

Before me, Jan A. Neill
Notary Public

**Amendment to Lease
State of Vermont
Smugglers' Notch Management Company, Ltd.
August 1996
Page 3**

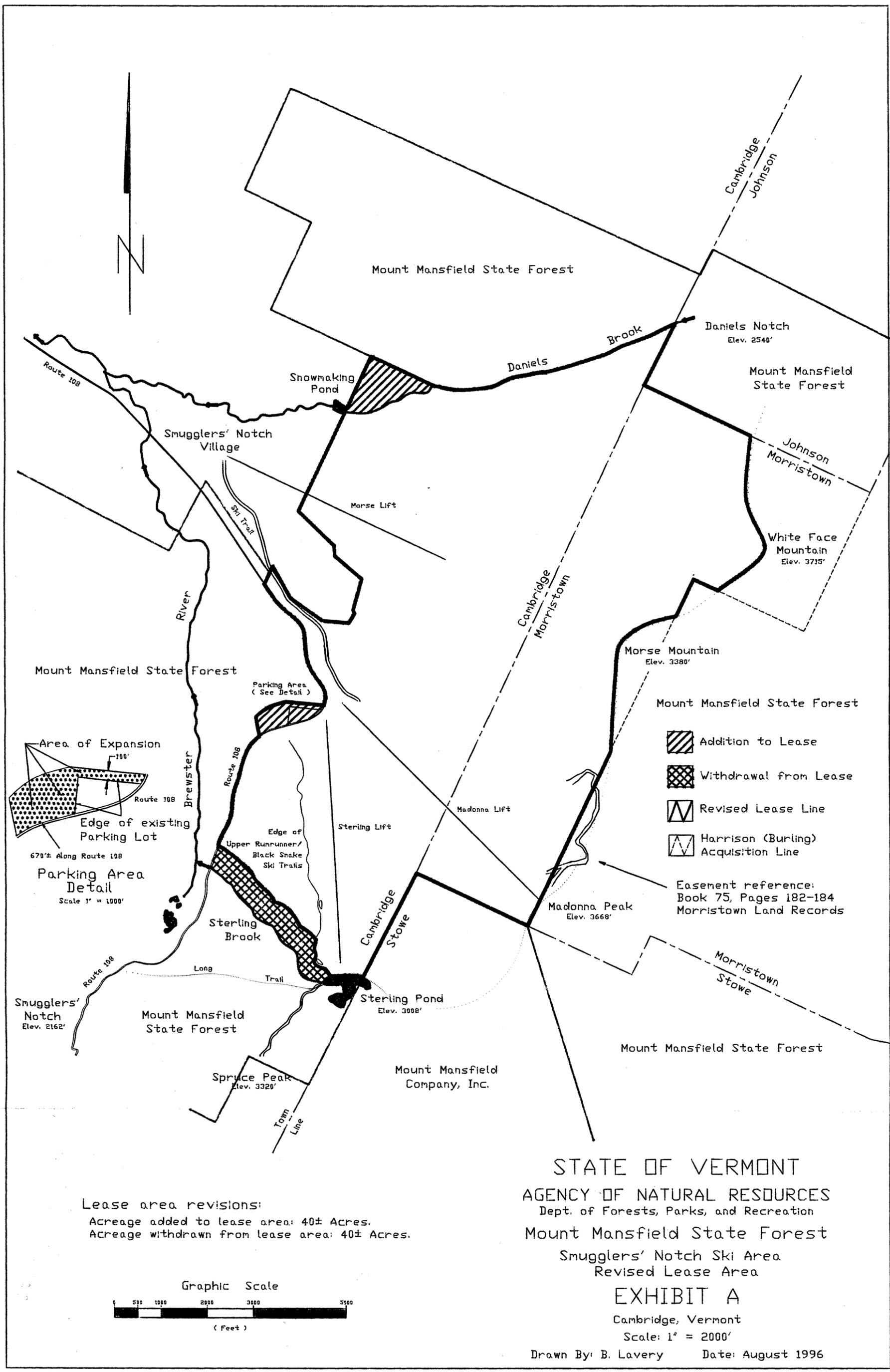

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SMUGGLERS' NOTCH MANAGEMENT
COMPANY, LTD.

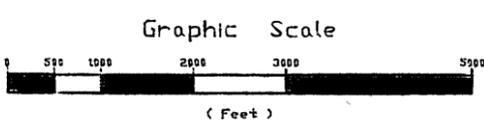

Robert Mulcahy, President

STATE OF VERMONT)
LAMOILLE COUNTY) § At Cambridge, in said county, this 20th day of
August A.D., 1996, personally appeared Robert Mulcahy, President, and
acknowledged the foregoing instrument by him subscribed to be his free act and deed and
the free act and deed of Smugglers' Notch Management Company, Ltd.

Before me, Couni Bill-156
Notary Public



Lease area revisions:
 Acreage added to lease area: 40± Acres.
 Acreage withdrawn from lease area: 40± Acres.



STATE OF VERMONT
 AGENCY OF NATURAL RESOURCES
 Dept. of Forests, Parks, and Recreation
 Mount Mansfield State Forest
 Smugglers' Notch Ski Area
 Revised Lease Area

EXHIBIT A

Cambridge, Vermont
 Scale: 1" = 2000'

Drawn By: B. Lavery Date: August 1996

Mr. Mansfield SF

STATE OF VERMONT
AGENCY OF NATURAL RESOURCES
DEPARTMENT OF FORESTS, PARKS AND RECREATION

ADDENDUM TO LEASE

This Contract and Indenture dated June 19, 1987 by and between the State of Vermont, by its Commissioner of the Department of Forests, Parks and Recreation, hereinafter referred to as "State," and Smugglers' Notch Food & Beverage Company, Inc., hereinafter referred to as "Lessee" is hereby REVISED, AMENDED and SUPPLEMENTED as follows:

WHEREAS, the Parties desire to amend the lease to eliminate reference to facilities for disposal of treated wastewater on the premises, and to include a reference to a dam and pond to be constructed for the purpose of storing water for snowmaking.

NOW, THEREFORE, the Parties agree to the following changes:

1. Page 1
 - a. The name of the Lessee shall be changed to: Smugglers' Notch Management Company, Ltd.
 - b. Delete paragraph #2 under WITNESSETH
2. Page 2
 - a. In section 2.1(a), after the word "map" in the third line, insert the following: (revised September 1990)
3. Page 5
 - a. Delete section 3.4
4. Page 6
 - a. Delete all of section 4.4 and substitute the following: Snowmaking Reservoir. Lessee is authorized to construct and maintain, under Land Use Permit #5L0706-7, an offstream dam and 6.5 million gallon snowmaking reservoir on Morse Mountain, location depicted on Exhibit A. Lessee assumes all responsibility and liability for the construction, operation, maintenance and safety of the dam, reservoir and associated snowmaking equipment.
5. Page 7
 - a. Delete section 5(g)
 - b. In section 5(h), delete the words "aforesaid map" after the word "the" in the second line and add the following: map prepared by Dufresne-Henry Engineering, dated July 16, 1985 and labeled as Plan of Wastewater Treatment and Disposal Facilities.
 - c. Delete Section 5(i)
6. Page 10
 - a. Delete section 11.2(c)

