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Glen D. Watkins
Jones Waldo Holbrook & McDonough PC
170 South Main Street, Suite 1500
Salt Lake City, UT 84101

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Easements PAGE 1/15
MARY ANN TRUSSELL, SUMMIT COUNTY RECORDER
FEE 41.00 BY TCFC PROPCO LLC



EASEMENT AGREEMENT
(Golf Course Easements for Platted Lower Village Land)

THIS EASEMENT AGREEMENT (Golf Course Easements for Platted Lower Village Land) ("Agreement") is made as of February ___, 2018, ("Effective Date") by and between TCFC PropCo LLC, a Delaware limited liability company, and The Canyons Golf Club, LLC, a Utah limited liability company ("TCGC") (individually, a "Party" and collectively, the "Parties").

A. The Parties own or have certain easement or use rights with respect to certain real property located in Summit County, Utah, which real property is more particularly described on the attached **Exhibit "A"** (collectively, the **"Lower Village Platted Parcels"** or individually, the **"Lower Village Platted Parcel"**). The Lower Village Platted Parcels have been subdivided and platted by that certain Lower Village Development Area Master Plat ("Lower Village Master Plat"), recorded in the official records of the Summit County, Utah Recorder ("Official Records"), and by that certain Lower Village Development Area Master Plat Amendment and LV1-A Subdivision Plat, recorded in the Official Records on ~~February 6~~^{MARCH}, 2018, as Entry No. 01087524, in Book 2452, beginning at Page 1851 ("LV1-A Plat"). The tracts of land comprising the Lower Village Platted Parcels (each, individually a "Parcel") may be referred to in this Agreement by the alphanumerical reference depicted on the Lower Village Master Plat and the LV1-A Plat.

B. TCGC owns those Lower Village Platted Parcels depicted on the Lower Village Master Plat as Parcel **"LV2A,"** Parcel **"LV2B,"** and Parcel **"LV3"** (collectively, the **"Golf Course Property"**). This Agreement grants certain easements for the benefit of the Golf Course Property for purposes and in furtherance of the following activities on the Golf Course Property: (i) Open Space Uses (as defined below); and (ii) Golf Course Operations (as defined below).

C. The Parties believe that the use, development, construction, maintenance, repair, and operation of the Golf Course Property for the Golf Course Operations and the Open Space Uses will enhance the value and marketability of the Lower Village Platted Parcels. Accordingly, the Parties desire to enter into this Agreement for purposes and in furtherance of that use, development, construction, maintenance, repair, and operation of the Golf Course Property for the Golf Course Operations and the Open Space Uses, as the case may be.

IN CONSIDERATION of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

IN CONSIDERATION of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties agree as follows:

1. DEFINITIONS.

1.1 Definitions. As used in this Agreement, the following capitalized terms will have the following meanings:

“2011 Golf Plans” means the plans for the Golf Course approved by Summit County pursuant to the Low Impact Permit (as that term is defined in the Snyderville Basin Development Code) issued by the County on September 10, 2010, as amended on July 21, 2011.

“**Arbitration**” is defined in Section 2.3.4.

“**Arbitration Act**” is defined in Section 2.3.4.

“Affiliated Persons” means, with respect to the Golf Course Owner or the operator of the Golf Course, as applicable, their respective managers, members, authorized agents, officers, directors, employees and contractors.

“**Approving Representative**” is defined in Section 4.8.

“Burdened Parcel” means that Lower Village Platted Parcel depicted on the LV1-A Plat as Parcel “LV1-A”.

“Claims” means any and all rights, claims, demands, causes of action, judgments, losses, expenses, damages, attorneys’ fees, costs, and liabilities with respect to, or from, specified conduct.

“Errant Golf Equipment” means golf balls, golf clubs, golf bags, golf accessories, and other golf-related equipment, or any parts thereof, of a Golf Course User which unintentionally enters a Burdened Parcel from the Golf Course.

“Golf Cart Path” or **“Golf Cart Paths”** means the golf cart paths to be constructed within the Golf Cart Path Areas pursuant to the terms and conditions of this Agreement.

“Golf Cart Path Areas” means those areas of the Lower Village Platted Parcels designated on the Lower Village Master Plat as Easement No. 82 (Non-Exclusive Utility & 15' Wide Golf Cart Path Easement), Easement No. 83 (Golf Cart Path Access Easement, 12' Wide), and Easement No. 84 (12' Wide Golf Cart Path Easement).

“Golf Course” means a golf course and related facilities constructed on the Golf Course Property and certain other surrounding lands.

“Golf Course Benefitted Party” or “Golf Course Benefitted Parties” means the Golf Course Owner and the operator of the Golf Course, and their respective Affiliated Persons.

“Golf Course Modifications” means changes to the Golf Course layout and improvements that are made by, through or under the Golf Course Owner. Notwithstanding the foregoing, “**Golf Course Modifications**” do not include: (i) subject to the written notice requirements set forth in the following sentence, modifications to the layout and improvements contemplated by the 2011 Golf Course Plans which are approved by Summit County pursuant to an amendment of the Low Impact Permit issued for the 2011 Golf Plans, or otherwise in connection with, issuance by Summit County of a final certificate of completion or certificate of occupancy for the Golf Course; (ii) any minor field adjustments or minor modifications in the layout and improvements contemplated by the 2011 Golf Plans, as otherwise modified pursuant to part (i) of this definition, that are required by conditions on the ground or are required to correct plan deficiencies; or (iii) modifications to the 2011 Golf Plans, as otherwise modified pursuant to part (i) of this definition, required by applicable law or by order or direction of governmental authorities having jurisdiction over the Golf Course. The exclusion set forth in part (i) of this definition will only be effective as to an Owner of a specific Burdened Parcel if: (A) the Golf Course Owner delivers written notice to the Owner not later than three business days after submitting an application for approval of the modification to Summit County, acting in its governmental capacity, for approval of the modification; or (B) the Owner has actual knowledge of the application prior to approval of the modification by Summit County, acting in its governmental capacity.

“Golf Course Operations” means, for purposes of this Agreement only, the development, construction, use, operation, maintenance, and repair of the Golf Course Property as the Golf Course, which operations include, without limitation, development, construction, use, operation, maintenance, and repair of the Golf Course Property by motorized vehicles operated by the Golf Course Benefitted Parties.

“Golf Course Owner” means: (i) TCGC, so long as TCGC is the Owner of the Golf Course Property; and thereafter; (ii) any successor Owner or Owners of the Golf Course Property.

“Golf Course Property” is defined in Recital B of this Agreement.

“Golf Risks” means any and all damage and loss to real and personal property and to any natural individual person occurring on the Burdened Parcel arising in whole or in part from: (i) Golf Course Operations including, without limitation, any and all damage and loss to real and personal property and to any natural person occurring on the Burdened Parcel relating to Errant Golf Equipment; and (ii) the exercise of the easements granted in Sections 2.1, 2.2, and 2.3.

“Golf Course User” or **“Golf Course Users”** means golfers and other guests or invitees of the Golf Course Benefitted Parties that are presently engaging in golfing on the Golf Course Property at the times, and to the extent, the Golf Course Property is used as the Golf Course.

“Increased Golf Risks” means any actual increase in Golf Risks with respect to the Burdened Parcel that results from or is caused by Golf Course Modifications.

“Increased Golf Risks Notice” is defined in Section 2.3.3.

“Lower Village Master Plat” is defined in Recital A.

“Lower Village Platted Parcel” or **“Lower Village Platted Parcels”** have the meanings given in Recital A.

“Management Agreement” is defined in Section 4.13.

“Master Easement Agreement” means that certain Master Easement Agreement (Lower Village Development Area), recorded July 28, 2011, as Entry No. 927110, in Book 2089, at Page 1120 in the Official Records.

“Official Records” is defined in Recital A.

“Open Space User” or **“Open Space Users”** means guests and invitees of the Golf Course Benefitted Parties for Open Space Uses.

“Open Space Uses” means, for purposes of this Agreement only, the development, use, operation, maintenance and repair of the Golf Course Property for uses allowed by open space declarations of record from time to time with respect to the Golf Course Property.

“Operation Standards” is defined in Section 2.4.

“Owner” or **“Owners”** means any Person holding record fee title to the Golf Course Property and Parcel **“LV1A”**.

“Person” means any natural person, trust, estate, partnership, association, limited liability company, corporation or other legally recognized entity.

“Released Golf Persons” means each of the following Persons, and their Affiliated Persons: (i) The Canyons Resort Village Association, Inc., a Utah non-profit corporation (doing business as The Canyons Village Association) (“**Association**”), ASC Utah LLC, a Delaware limited liability company, d/b/a The Canyons, TCGC, the Golf Course Owner, the Golf Course Benefitted Parties, the architect, engineer, designer, or builder of the Golf Course; and any sponsor or promoter of any tournament or other organized activity on the Golf Course Property; and (ii) any authorized agent of any of the Persons listed in part (i) of this definition at any level removed. The foregoing Persons will only be

Released Golf Persons when the Persons are acting in their described capacity and not otherwise, including, without limitation, when the Persons are Golf Course Users.

“Released Golf Risks” means all Golf Risks other than the following Golf Risks: (i) Golf Risks that arise out of or in connection with the Golf Course Owner’s failure to conduct Golf Course Operations in accordance with the Operation Standards; (ii) as to each Golf Course Benefitted Party, Golf Risks arising from the intentional misconduct or gross negligence of the Golf Course Benefitted Party; and (iii) Increased Golf Risks except and to the extent the Golf Course Owner takes commercially reasonable actions (as the standard is defined in Section 2.3.5) to ameliorate the Increased Golf Risks.

“Reserved Claims” means all Claims of the Owner of the Burdened Parcel that do not arise from Released Golf Risks including, without limitation; (i) Claims for damage or loss to real or personal property or personal injury occurring outside of the boundaries of the Burdened Parcel owned by the Owner, whether the Claims arise from Golf Course Operations or otherwise; and (ii) Claims for damage or loss to real or personal property or personal injury arising from activities other than Golf Course Operations.

“SPA Development Agreement” the Amended and Restated Development Agreement for The Canyons Specially Planned Area, dated November 15, 1999, and recorded on November 24, 1999, as Entry No. 553911, in Book 1297, beginning at Page 405, in the Official Records, together with amendments.

“Trails Agreement” means the Snyderville Basin Special Recreation District Regional Trails Agreement (originally Exhibit I.2.3 to the SPA Development Agreement), recorded May 20, 2010 as Entry No. 899057, in Book 2032, beginning at Page 1797 of the Official Records, as amended and supplemented from time to time.

2. GOLF COURSE EASEMENTS.

2.1 Errant Golf Equipment. The Owner of the Burdened Parcel grants to the Golf Course Owner, for use only in connection with the Golf Course Operations, a perpetual, non-exclusive easement over, through, and across the Burdened Parcel for the following purposes only: (i) permitting the Errant Golf Equipment to enter upon, over, through, or across the Burdened Parcel, and (ii) permitting the Golf Course Users and Golf Course Benefitted Parties at reasonable times, for reasonable periods, and in a reasonable manner and subject to the limitations set forth below in this Section 2.1, to come upon, over, through, and across the Burdened Parcel from the Golf Course to retrieve Errant Golf Equipment. The easements granted by this Section 2.1 are appurtenant to the Golf Course Property and are not intended to grant any right or easement for use by the general public of the Burdened Parcel. Notwithstanding the provisions of the foregoing sentence, if the Burdened Parcel is fenced or walled, neither the Golf Course Users nor the Golf Course Benefitted Parties will be entitled to enter a fenced or walled area of the Burdened Parcel without the prior oral or written permission of the Owner of the Burdened Parcel before entry; and provided that, in any case, neither the Golf Course Users nor the Golf Course Benefitted Parties will be entitled to enter or access any building or structure

constructed upon the Burdened Parcel without prior oral or written permission before entry; and provided further that neither the Golf Course Users nor the Golf Course Benefitted Parties will not be entitled to play a golf ball from any portion of the Burdened Parcel.

2.2 *Golf Course Irrigation and Maintenance.* The Owner of the Burdened Parcel grants to the Golf Course Owner, for use only by the Golf Course Benefitted Parties, a perpetual, non-exclusive easement over, through, under, and across portions of the Burdened Parcel immediately adjacent to the Golf Course Property, for overspray of effluent from any irrigation systems used for including, without limitation, water, fertilizers, pesticides, herbicides, and other materials used in connection with the upkeep and maintenance of grass, hazards, or other groundcover or vegetation on the Golf Course Property reasonably necessary for the Golf Course Operations and Open Space Uses. The easements granted by this Section 2.2 are appurtenant to the Golf Course Property and are not intended to grant any right or easement for use by the general public of the Burdened Parcel. The Golf Course Benefitted Parties may use treated effluent in the irrigation system serving the Golf Course Property.

2.3 *Acknowledgments and Releases Regarding Golf Course Operations.*

2.3.1 The Owner of the Burdened Parcel acknowledges the existence of any and all Released Golf Risks.

2.3.2 Notwithstanding any other provision of this Agreement, the Owner of the Burdened Parcel acknowledges and agrees that the Released Golf Persons will not be held liable for, and releases the Released Golf Persons from, any and all Claims arising from Released Golf Risks, but expressly reserves any and all other Claims including specifically, without limitation, Reserved Claims.

2.3.3 Notwithstanding any other provision of this Agreement, if Golf Course Modifications are made and the Owner of the Burdened Parcel notifies the Golf Course Owner and the Association in writing of resulting Increased Golf Risks, which written notice will describe the Golf Course Modifications and the Increased Golf Risks in sufficient detail to allow the Golf Course Owner to evaluate whether Increased Golf Risks have occurred and to determine what actions, if any, it could take to ameliorate actual Increased Golf Risks (the notice, an "**Increased_Golf_Risks_Note**"). After receiving an Increased Golf Risks Notice, unless the Golf Course Owner reasonably believes there is no Increased Golf Risks, the Golf Course Owner will take commercially reasonable actions (as that standard is defined in Section 2.3.5) to ameliorate the Increased Golf Risks; provided that the Golf Course Owner will not be required to take any actions in addition to commercially reasonable actions. Notwithstanding the foregoing: (i) if an Increased Golf Risks Notice is not delivered prior to December 31 of the calendar year following the calendar year in which Golf Course Modifications were made, then the Owner of the Burdened Parcel will be deemed to have agreed that the Golf Course Modifications do not result in Increased Golf Risks; and (ii) if an Increased Golf Risks Notice is delivered prior to December 31 of the calendar year following the calendar year in which Golf Course Modifications were made, the Owner of the Burdened Parcel will be deemed to have agreed that

the Increased Golf Risks it describes in the Increased Golf Risks Notice are the only Increased Golf Risks resulting from the Golf Course Modifications.

2.3.4 Notwithstanding any other provision of this Agreement, any Claim arising from, related to, or in connection with alleged Increased Golf Risks, unless otherwise resolved by the Golf Course Owner and the Owner of the Burdened Parcel, will be subject to mandatory, binding arbitration (“**Arbitration**”) and will not be maintained in any federal or state court or in any other forum. The Arbitration will be governed by the Utah Uniform Arbitration Act, Utah Code Annotated 78B-11-101 *et seq.* (“**Arbitration Act**”). The Arbitration will be referred to and conducted by a single arbitrator agreed upon by the parties to the Arbitration, and if no single arbitrator can be agreed upon by the parties, any party to the controversy may seek appointment of an arbitrator in accordance with the Arbitration Act. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof in accordance with the Arbitration Act. Except as provided below, the arbitrator will define the issues involved in the Arbitration including, without limitation, how the cost and expense of the Arbitration, including, without limitation, all fees and expenses of the arbitrator, will be allocated between and paid by the parties to the Arbitration. The order of the arbitrator will be final and binding and will not be subject to review or appeal by any court or in any other forum. In the Arbitration, the Owner of a Burdened Parcel will bear the burden of proof in establishing each of the following:

- (i) A Golf Course Modification occurred;
- (ii) The Golf Course Modification was made by, through or under the Golf Course Owner;
- (iii) The Golf Course Modification resulted in Increased Golf Risks to the Burdened Parcel;
- (iv) The Owner of the Burdened Parcel timely provided an adequate Increased Golf Risks Notice to the Golf Course Owner; and
- (v) The Golf Course Owner did not take commercially reasonable actions (as that standard is defined in 2.3.5) available to ameliorate the Increased Golf Risks articulated in an Increased Golf Risks Notice.

2.3.5 For purposes of this Section 2.3, “commercially reasonable actions” means that the Golf Course Owner has acted in a manner consistent with (i) economic prudence based on considerations of the nature and extent of the Increased Golf Risks and the anticipated costs of, and benefits derived from, an action to ameliorate the Increased Golf Risks; (ii) its obligations under Section 2.3.3 of this Agreement; and (iii) parts (ii)-(iv) of Operation Standards, as defined in Section 2.4.

2.3.6 Nothing contained in this Section 2.3 will be construed so as to release or waive any Claim arising from any action or omission of a Golf Course User.

2.4 Compliance with Applicable Law. Golf Course Owner will comply with, and will cause all Golf Course Benefitted Parties to comply with, the following: (i) the covenants of this Agreement; (ii) applicable law, including, without limitation, all laws relating to noise, dust, lighting or other disturbances; (iii) all government permits, approvals, and requirements applicable to the Golf Course and Golf Course Operations; and (iv) to the extent not covered by subparts (i), (ii) or (iii) of this Section 2.4, with customary golf course use, operation and maintenance practices of other comparable “target” resort golf courses located in resort communities surrounded by a mountainside resort mixed-use commercial buildings, office buildings, residential condominium buildings and hotels (collectively, “Operation Standards”).

2.5 Scope of Agreement. By limiting the use of any easement set forth in this Agreement to Golf Course Operations and Open Space Uses, there is no intent to restrict or impose any limitation or restriction on the use of the Golf Course Property or the Golf Course themselves. The use may be governed by other agreements or instruments recorded in the Official Records or to be recorded from time to time in the Official Records.

3. DEFAULT.

3.1 Default by Owner. In the event of a default or breach by Owner of the Burdened Parcel of the terms, covenants, provisions, easements, and requirements granted in Section 2, the Golf Course Owner (but not any of the respective shareholders, officers, directors, trustees, guests, invitees, managers, members, agents, employees, or licensees of the Golf Course Owner) will be entitled to commence proceedings (at law or in equity) against the Owner of the Burdened Parcel for full and adequate relief, and/or compensation from the consequences of any actual default or breach; provided, however, that the compensation will not include consequential damages of any nature, including, without limitation, lost profits or punitive damages. These remedies will include, without limitation, the right to specific performance and/or injunctive relief and may be in addition to (and not in lieu of) any other rights or remedies to which the Golf Course Benefitted Parties (as that term is limited in this Agreement) may be entitled.

3.2 Default by Golf Course Benefitted Parties. In the event of a default or breach by any of the Golf Course Benefitted Parties, the Owner of the Burdened Parcel (but not its respective shareholders, officers, directors, trustees, guests, invitees, managers, members, agents, employees, or licensees) will be entitled to commence proceedings (at law or in equity) for full and adequate relief, and/or compensation from the consequences of any actual default or breach against the Golf Course Owner; provided, however, that the compensation will not include consequential damages of any nature, including, without limitation, lost profits or punitive damages; and provided further that prior to seeking any compensation, the defaulting Golf Course Benefitted Party or the Golf Course Owner will have 30 days after receipt of written notice from a complaining Owner of the Burdened Parcel to payoff and cure any sought after compensation. The remedies will include, without limitation, the right to specific performance and/or injunctive relief and may be in addition to (and not in lieu of) any rights or remedies to which the Owner may be entitled. Nothing in this Agreement will preclude or prevent the Golf Course Owner or Owner of the Burdened Parcel (but not their respective shareholders, officers, directors, trustees, guests, invitees, managers, members, agents, employees or licensees) from

maintaining an action against the other Golf Course Benefitted Parties, the Golf Course Users, or the Open Space Users to enforce the terms of this Agreement.

3.3 Breach Will Not Permit Termination. It is expressly agreed that no default or breach of this Agreement will entitle any Owner, Party, or any of the Golf Course Benefitted Parties to terminate this Agreement, but the limitation will not affect in any manner any other rights or remedies which any Owner, Party or any of the Golf Course Benefitted Parties may have under this Agreement by reason of any default or breach of this Agreement. Any default or breach of this Agreement will not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value; provided that this Agreement will not entitle any Person to place a lien on any part of the Burdened Parcel.

4. MISCELLANEOUS.

4.1 Effective Date. This Agreement will be effective and binding only upon recording in the Official Records.

4.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when executed and delivered will be an original, but all counterparts will constitute one and the same agreement.

4.3 Easements Appurtenant. The terms, covenants, provisions, easements, and requirements granted or created in this Agreement will be appurtenant to the Golf Course Property. The Golf Course Property will constitute the dominant estates, and the Burdened Parcel will constitute the servient estates.

4.4 Covenants to Run With the Land. This Agreement and the other terms, covenants, provisions, and requirements created by this Agreement are intended by the Parties to be and will constitute covenants running with the land as to the Burdened Parcel and the Golf Course Property, and will be binding upon and will inure to the benefit of any Person who acquires or comes to have any interest in any portion of the Burdened Parcel or in the Golf Course Property, and their respective grantees, transferees, lessees, successors, and assigns. The Owner will comply with, and all interests in the Burdened Parcel and the Golf Course Property will be subject to, the terms of this Agreement. By acquiring, in any way coming to have any interest in, or occupying the Burdened Parcel or the Golf Course Property, the Person so acquiring, coming to have an interest in, or occupying a Burdened Parcel or the Golf Course Property, will be deemed to have consented to, and will be bound by, each and every provision of this Agreement.

4.5 Authority to Execute and Deliver this Agreement; Further Agreements. Each Party represents and warrants that it has the right, power, legal capacity, authority, and means to enter into and perform this Agreement and that, to the best of its knowledge, the same will not contravene or result in the violation of any indenture, mortgage, deed of trust, lease, contract, instrument, or agreement. The Golf Course Owner and the Owner of the Burdened Parcel may enter into separate agreements to modify or supplement the terms, covenants, provisions,

easements, and requirements set forth in this Agreement. The Golf Course Owner will provide a copy of each separate agreement to the Association.

4.6 Amendment. This Agreement may not be modified or amended except by a written instrument executed by the Owner of the Burdened Parcel affected by the amendment and the Golf Course Owner, which written instrument is recorded in the Official Records.

4.7 Approving Representative. In the event that at any time or for any reason more than one Person is the Owner of the Burdened Parcel, then the Persons owning or holding interests in that parcel will be required to designate in a written notice to the Golf Course Owner one Person to receive all notices and give all necessary consents and approvals required by the terms of this Agreement with respect to all of the Owners of the Burdened Parcel (“**Approving Representative**”).

a. The Approving Representative must be one of the following Persons: (i) if there is no owners’ or condominium association, the Approving Representative will be one Person which is the owner or holder of some interest in the Burdened Parcel; (ii) if there is an owners’ or condominium association with respect to the Burdened Parcel, then the only Person that may be the Approving Representative will be the owners’ association or condominium association, as applicable.

b. The name and contact information of the Approving Representative will be provided to the Golf Course Owner in writing in a manner reasonably satisfactory to the Golf Course Owner.

c. Whenever notice is to be provided to the Owner of the Burdened Parcel under this Agreement, the Golf Course Owner may deliver the notice only to the designated Approving Representative and need not give notice to any other Person.

d. Whenever the consent or approval of the Owner of the Burdened Parcel is required under this Agreement, the Golf Course Owner may rely on the consent or approval of the designated Approving Representative and the Golf Course Owner need not obtain the consent or approval of any other Person.

e. The Approving Representative will have absolute discretion to make the decisions on behalf of the entire Burdened Parcel.

f. In the event the name and contact information of an Approving Representative is not properly provided to the Golf Course Owner, the Golf Course Owner will not be held liable for failure to provide notice to or seek approval from the Approving Representative or the Owner of the Burdened Parcel. The Golf Course Owner may rely on the name and contact information of the Approving Representative provided to the Golf Course Owner, regardless of whether the information is, in fact, incorrect or is disputed by the Owner of the Burdened Parcel. The Golf Course Owner is under no duty

to verify the authority or power of the Approving Representative or any other information given to the Golf Course Owner regarding the Approving Representative. Each Owner of an interest in the Burdened Parcel agrees to indemnify, defend, and hold harmless the Golf Course Owner in the event the Golf Course Owner contracts with, or gives notice to, a designated Approving Representative and that Approving Representative, for any reason, is not, or is disputed to be, the Approving Representative.

4.8 Attorneys' Fees. In the event any action is commenced by any Party against the other Party in connection with this Agreement and, except as otherwise determined by the arbitrator in connection with an Arbitration, the prevailing Party will be entitled to its costs and expenses, including reasonable attorneys' fees.

4.9 Captions and Recitals. The captions to the sections of this Agreement are for convenience only and will in no way affect the manner in which any provision is construed. Whenever a reference is made to a Section or Recital by number or letter, or both, without otherwise specifying where the Section or Recital occurs, the reference will be deemed to be to the corresponding Section or Recital in this Agreement.

4.10 Partial Invalidity. Should any provision of this Agreement prove to be invalid or otherwise ineffective, the other provisions of this Agreement will remain in full force and effect. There will be substituted for any invalid or ineffective provision a provision which, as far as legally possible, most nearly reflects the intention of the Parties.

4.11 Applicable Law. The laws of the State of Utah will govern the validity, construction, performance, and effect of this Agreement.

4.12 Management Agreement and SPA Development Agreement. Except as to the rights and obligations of the Parties specified in this Agreement, each Party reserves any rights to which it may be entitled, and will continue to be subject to obligations to which it may be bound under the SPA Development Agreement or The Canyons Resort Village Management Agreement, dated November 15, 1999 and recorded on December 15, 1999, as Entry No. 555285, in Book 1300, beginning at Page 1, in the Official Records, together with amendments thereto ("Management Agreement"). In the event and to the extent of any conflict between the terms and conditions of this Agreement, and the terms and conditions of the SPA Development Agreement or the Management Agreement, with respect to any rights and obligations of the Parties specified in this Agreement, the terms and conditions of this Agreement will govern and control.

4.13 Recitals and Exhibits. The recitals set forth in this Agreement and the attached exhibits are incorporated and made a part of this Agreement by this reference.

4.14 No Third-Party Beneficiaries. Nothing in this Agreement is intended to create an enforceable right, claim, or cause of action by any third-party against any Party.

4.15 No Waiver. The failure of a Party to insist upon strict performance of any of the terms, covenants, conditions, or agreements contained in this Agreement will not be deemed a waiver of any rights or remedies that a Party may have, and will not be deemed a waiver of any subsequent breach or default in any of the terms, covenants, conditions, or agreements contained in this Agreement by the same or any other Party.

4.16 Construction. The provisions of this Agreement will be construed as a whole and not strictly for or against any Party.

4.17 Notice. Any notice required to be sent under this Agreement may be sent by federal express, by certified mail, return receipt requested or by electronic transmission to the following: (i) if to the Owner of the Burdened Parcel, the address of the Approving Representative applicable to that Parcel, or (ii) if to the Golf Course Owner, the address of the registered agent on file with the State of Utah.

[INTENTIONALLY BLANK – SIGNATURE PAGES FOLLOW]

SIGNATURE PAGE FOR THE CANYONS GOLF CLUB, LLC

The undersigned has executed this Agreement as of the Effective Date.

TCGC Contact Information

The Canyons Golf Club, LLC
c/o ASC Utah LLC
1790 Sun Peak Drive, Suite B-104
Park City, UT 84098
Email: bmadassi@thecanyonsrvma.com

With a Copy To:

Glen D. Watkins
Jones Waldo Holbrook & McDonough PC
170 S. Main Street, Suite 1500
Salt Lake City, UT 84101
Email: gwatkins@joneswaldo.com

THE CANYONS GOLF CLUB, LLC,
a Utah limited liability company

By: ASC Utah LLC, a Delaware limited liability
company, d/b/a The Canyons

Its: Manager, *By TCGC Finance LLC*

It's sole member

By: *Lawrence J. White*

Name: Lawrence J. White

Title: CEO

STATE OF UTAH

)

COUNTY OF Summit

: ss.
)

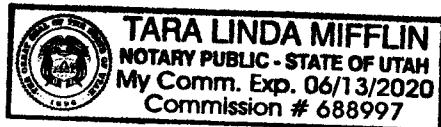
The foregoing instrument was acknowledged before me this 15th day of February, 2018, by Lawrence J. White, the CEO of ASC Utah LLC, a Delaware limited liability company, d/b/a The Canyons.

Notary Public

Residing at: 1790 Sun Peak Dr. 84098

My Commission Expires:

06/13/2020



GOLF COURSE EASEMENT (PLATTED LANDS)

SIGNATURE PAGE FOR TCFC PROPCO LLC

The undersigned has executed this Agreement as of the Effective Date.

TCFC PropCo LLC Contact Information:

TCFC PropCo LLC,
a Delaware limited liability company

TCFC PropCo LLC
1840 Sun Peak Drive, Suite A-201
P.O. Box 680033
Park City, UT 84098
Phone: 435.200.8410
Email: lwhite@tr-fc.com

By: TCFC Finance Co LLC,
a Delaware limited liability company
Its: Sole Member

By: Lawrence J. White
Print Name: Lawrence J. White
Title: Authorized Signatory

With a Copy To:

Shawn C. Ferrin
Parsons Behle & Latimer
201 South Main, Suite 1800
Salt Lake City, Utah 84111
Phone: (801) 536-6778
Email: sferrin@parsonsbehle.com

STATE OF UTAH)
: ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 15th day of February, 2018, by Lawrence J. White, the CEO of TCFC Finance Co LLC, a Delaware limited liability company, the Sole Member of TCFC PropCo LLC, a Delaware limited liability company.

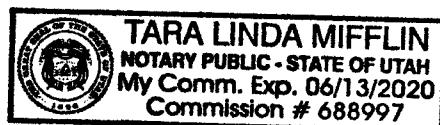


NOTARY PUBLIC

Residing at: 1890 Sun Peak Dr. 84098

My Commission Expires:

06/13/2020



GOLF COURSE EASEMENT (PLATTED LANDS)

EXHIBIT "A"
TO
EASEMENT AGREEMENT

(Golf Course Easements for Platted Lower Village Land)

Legal Description of Lower Village Platted Parcels

All of Parcels LV2A, LV2B, and LV3 LOWER VILLAGE DEVELOPMENT AREA MASTER PLAT; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder.

And

Parcel LV1-A, LOWER VILLAGE DEVELOPMENT AREA MASTER PLAT AMENDMENT AND LV1-A SUBDIVISION PLAT; according to the Official Plat thereof, on file and of record in the Office of the Summit County Recorder.