

EXECUTION VERSION

WHEN RECORDED MAIL TO:

Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
P.O. Box 45898  
Salt Lake City, Utah 84145-0898  
Attention: Shawn C. Ferrin

01041112 B: 2342 P: 1757

Page 1 of 12

Mary Ann Trussell Summit County Utah Recorder  
03/18/2016 03:52:38 PM Fee \$32.00

By US Title - Park City  
Electronically Recorded

---

*Space Above for County Recorder's Use*

Tax Parcel ID Nos.: PP-75-D; PP-75-4; PP-75-G-1-B

**RESTRICTIVE COVENANTS AGREEMENT**  
**[Parcel RC22]**

THIS RESTRICTIVE COVENANTS AGREEMENT [Parcel RC22] (this "**Agreement**") dated March 18, 2016 ("**Effective Date**") is between TCFC PropCo LLC, a Delaware limited liability company ("**TCFC**"); VR CPC Holdings, Inc., a Delaware corporation ("**VR CPC**"); and Krofcheck Property Holdings, LLC, a Utah limited liability company ("**KPH**") (TCFC, VR CPC, and KPH are referred to individually as a "**Party**" and collectively as the "**Parties**"), with reference to the following:

A. TCFC is the "Master Developer" under the Amended and Restated Development Agreement for The Canyons Specially Planned Area, dated November 15, 1999, and recorded with the Summit County Recorder on November 24, 1999, as Entry No. 553911, in Book 1297, beginning at Page 405, as amended ("**SPA Development Agreement**") and owns numerous development parcels of real property located in and around the Canyons Village (f/k/a the "Canyons Resort") in Summit County, Utah, ("**TCFC Property**").

B. VR CPC leases, owns, and operates real property located near the TCFC Property as part of its development and operations of the Canyons Village, including that real property defined as "Demised Premises" in that certain Master Agreement of Lease, dated as of May 29, 2013, as amended by that certain Amendment to Master Agreement of Lease, dated September 11, 2014, notice of which is recorded in that certain Memorandum of Lease, dated May 29, 2013, and recorded with the Summit County Recorder's Office on May 31, 2013, as Entry No. 971416, in Book 2189, beginning at Page 569, and by that certain First Amendment to Memorandum of Lease, dated September 22, 2014, and recorded with the Summit County Recorder's Office on March 20, 2015, as Entry No. 1015140, in Book 2284, beginning at Page 806 ("**VR CPC Property**").

C. Simultaneous with the execution of this Agreement, KPH is purchasing from TCFC that portion of the TCFC Property known as Parcel RC22 ("**Parcel RC22**") and described on **Exhibit A**.

D. To help promote the planned development of all of the TCFC Property and protect certain operations on the VR CPC Property, the Parties are entering into this Agreement for the purpose of imposing certain restrictions on Parcel RC22 for the benefit of the TCFC Property and the VR CPC Property.

FOR GOOD AND VALUABLE CONSIDERATION, the Parties agree as follows:

1. **Restrictions on Parcel RC22.** The following restrictions apply to the use, ownership, and operation of Parcel RC22:

(a) **Skier Food and Beverage Outlet.**

(i) No portion of Parcel RC22 may be used, without VR CPC's consent, which consent may be granted or withheld in VR CPC's sole and absolute discretion, as a Skier Food and Beverage Outlet (defined below). Notwithstanding the foregoing, nothing in this paragraph 1(a) restricts the operation of any food and beverage operations to the extent providing service to customers prior to 11:00 a.m. or after 3:00 p.m.

(ii) The term "**Skier Food and Beverage Outlet**" means any quick-serve, self-serve, fast food or cafeteria-style food and beverage outlet whether or not customers are charged directly for food and beverage, but expressly excludes any restaurant or food and beverage outlet which (A) primarily operates with waiter services; and (B) operates as part of a hotel independently operated by a third party management company, even if that outlet offers a buffet, take out, or take away meals.

(b) **Winter Sport Retail.**

(i) No portion of Parcel RC22 may be used, without VR CPC's consent, which consent may be granted or withheld in VR CPC's sole and absolute discretion, for Winter Sports Retail (defined below).

(ii) The term "**Winter Sports Retail**" means any retail establishment engaged in the sale or rental of winter recreation equipment within a hotel.

(c) **Ski Terrain and Facilities.** No portion of Parcel RC22 may be developed, used, or operated for, or improved with, without VR CPC's consent, which consent may be granted or withheld in VR CPC's sole and absolute discretion, ski terrain, ski lifts, ski infrastructure or on-mountain vertical transportation systems traditionally associated with mountain resorts (including, without limitation, people movers, hill-tracts, gondolas and magic carpets). Notwithstanding the foregoing, the Parties acknowledge and agree that, subject to VR CPC's consent, KPH may develop ski trails that are solely for the purpose of providing ski-in and ski-out access for the owners, residents and guests of properties located on Parcel RC22. The Parties also acknowledge and agree that VR CPC is not responsible for any ski-in or ski-out ski trails, including without limitation any maintenance or snowmaking. In accordance with paragraph 7, KPH is responsible for all Claims associated with any such ski-in or ski-out trails that may be developed by KPH.

2. **Covenants Run With the Land.** The rights and obligations granted or created in this Agreement are appurtenances to Parcel RC22 and the VR CPC Property (individually a “**Restriction Property**” and collectively the “**Restriction Properties**”) and none of the rights or obligations may be transferred, assigned, or encumbered except as an appurtenance to the Restriction Properties. Each of the rights contained in this Agreement (whether affirmative or negative in nature) (i) constitute covenants running with the land; (ii) bind every person having a fee, leasehold, or other interest in any portion of the Restriction Properties at any time or from time-to-time, including an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement; (iii) inure to the benefit of and are binding upon the owners of the Restriction Properties and their respective successors and assigns as to their respective Restriction Property; and (iv) create mutual, equitable servitudes upon each Restriction Property in favor of the other Restriction Properties. For the purposes of this Agreement, the Restriction Property or Restriction Properties benefited by the rights granted in this Agreement constitutes the dominant estate, and the Restriction Property or Restriction Properties burdened by the rights granted in this Agreement constitutes the servient estate.

3. **Enforcement and Designation of Benefited Property.** The rights and restrictive covenants granted in paragraph 1 are appurtenances to and run to the benefit of VR CPC and its interest in the VR CPC Property and VR CPC has the right to enforce the provisions of this Agreement. If at any time or for any reason VR CPC elects to release or terminate all or any portion of the beneficial rights arising under this Agreement and running to the benefit of the VR CPC Property, VR CPC, without the approval or consent of any other Party, may do so by recording a notice against Parcel RC22 and all or a portion of the VR CPC Property specifying the nature and extent of the release or termination. VR CPC’s election to release or terminate all or any portion of the beneficial rights arising under this Agreement and running to the benefit of the VR CPC Property or any portion of the VR CPC Property will not terminate or release all or any portion of the beneficial rights arising under this Agreement and running to the benefit of the VR CPC Property or that portion of the VR CPC Property not released or terminated. In addition, the rights and restrictive covenants granted in paragraph 1 run to the benefit of TCFC as the Master Developer under the SPA Development Agreement, and TCFC has the right to enforce the provisions of this Agreement; provided, however, TCFC will not pursue enforcement of this Agreement without the prior written consent of VR CPC, which consent VR CPC will not unreasonably withhold, condition, or delay.

4. **Default.** In the event any Party fails to perform any provision of this Agreement, that failure will constitute a default and any other Party may thereafter institute legal action against the defaulting Party for specific performance, declaratory or injunctive relief, monetary damages, or any other remedy provided by law.

5. **Attorneys’ Fees.** In the event any Party commences litigation to enforce this Agreement, the unsuccessful Party to that litigation will pay, within ten (10) days of the date when any judgment becomes final and all rights of appeal therefrom have expired, all costs and expenses, including attorneys’ fees, incurred by the successful Party (which costs and expenses will be included in the amount of the judgment). The Parties waive their right to a jury trial in any dispute regarding the enforcement of this Agreement or the transactions contemplated by this Agreement.

6. **Notices.** Any notice or demand to be given by a Party to another Party must be given in writing by personal delivery; electronic transmittal (with a duplicate copy also given by any other delivery method permitted); express mail, FedEx, UPS, or any other similar form of delivery service that keeps delivery receipts; or United States mail, postage prepaid, certified and return receipt requested, and addressed to that Party at the address specified on that Party's signature page. Any Party may change the address at which it desires to receive notice on written notice of that change to the other Party. Any notice will be deemed to have been given, and will be effective, on delivery to the notice address then applicable for the Party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated will not defeat or delay the giving of a notice.

7. **Indemnification.** KPH and each and every person having a fee, leasehold, or other ownership or other beneficial interest in any portion of Parcel RC22 that fails to comply with or is in breach of this Agreement (but excluding, for avoidance of doubt, VR CPC) (each, an "**Indemnifying Party**") agrees to protect, defend, indemnify, and hold harmless TCFC, VR CPC, and any person or entity which controls, is controlled by, or is under common control with TCFC and VR CPC, and their respective employees, officers, directors, managers, shareholders, members, controlling persons, agents, representatives and assigns ("**Indemnified Parties**") from and against any and all claims, demands, causes of action, liabilities, judgments, costs and expenses of any kind or nature whatsoever ("**Claims**"), including, without limitation, reasonable attorneys' and accountants' fees and investigation costs, asserted against or incurred by the Indemnified Parties, as a result of or relating to any failure to comply with or breach of this Agreement by such Indemnifying Party, including the ownership, use, operation, or development of Parcel RC22 in violation of the restrictions in paragraph 1.

8. **Injunctive Relief.** In the event of any violation or threatened violation of this Agreement, any Party has the right to enjoin that violation or threatened violation in court. The right of injunction is in addition to all other remedies set forth in this Agreement or provided by law or in equity.

9. **Breach Will Not Permit Termination.** No breach of this Agreement will entitle a Party to terminate this Agreement, but that limitation does not affect in any manner any other rights or remedies which a Party may have by reason of any breach of this Agreement.

10. **Time is of the Essence.** Time is of the essence with respect to the performance by the Parties of this Agreement.

11. **Governing Law.** This Agreement is governed by the laws of the State of Utah.

12. **Successors and Assigns; Covenant to Enforce.** This Agreement is binding upon and inures to the benefit of KPH and VR CPC and their respective successors and assigns, and inures to the benefit of any successor to TCFC's interest as Master Developer under the SPA Development Agreement. In the event KPH transfers its title or interest to all or any specific portions of Parcel RC22 to a third-party purchaser or owner, all of the then owners of Parcel RC22 or the transferred portion of Parcel RC22 and any owners' associations that may be created to manage Parcel RC22 or that portion of Parcel RC22 will assume automatically the

benefits of and be responsible for their own compliance with the rights, covenants, benefits, responsibilities, and duties in connection with this Agreement. KPH and any owners' associations that may be created to manage Parcel RC22 or portions thereof covenant, at their sole cost and expense, to enforce the restrictions imposed pursuant to this Agreement on all third party purchasers and owners of Parcel RC22, including, to seek to enjoin the violation or threatened violation in court, and KPH and any such owners' associations agree to be jointly and severally liable in the event of any violation thereof by such third party purchasers and/or owners.

13. **Captions; Interpretation.** The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. All Exhibits referenced in and attached to this Agreement are incorporated in this Agreement. Unless otherwise specifically indicated, any references in this Agreement to paragraphs are to paragraphs in this Agreement.

14. **Further Assurances.** Each Party will use reasonable commercial efforts and exercise reasonable diligence to accomplish and effect the transactions contemplated by this Agreement and will execute and deliver all further documents as may be reasonably requested by the other Party in order to fully carry out the transactions contemplated by this Agreement.

15. **Counterparts.** This Agreement may be executed in counterpart originals.

16. **Waiver.** Failure of either Party to exercise any right under this Agreement or to insist upon strict compliance with regard to any provision of this Agreement, will not constitute a waiver of that Party's right to exercise that right or to demand strict compliance with this Agreement.

17. **Severability.** The invalidity or unenforceability of a particular provision of this Agreement does not affect the other provisions of this Agreement, and this Agreement will be construed in all respects as if the invalid or unenforceable provision were omitted.

18. **Date for Performance.** If the time period by which any right, option, or election provided under this Agreement must be exercised, or by which any act required by this Agreement must be performed, expires on a Saturday, Sunday or legal or bank holiday, then that time period will be automatically extended through the close of business on the next regularly scheduled business day.

19. **Construction.** The Parties acknowledge that (i) each Party is of equal bargaining strength; (ii) each Party has actively participated in the drafting, preparation, and negotiation of this Agreement; (iii) each Party has consulted with its own independent counsel, and those other professional advisors as it has deemed appropriate, relating to any and all matters contemplated under this Agreement; (iv) each Party and its counsel and advisors have reviewed this Agreement; (v) each Party has agreed to enter into this Agreement following that review and the rendering of that advice; and (vi) any rule of construction to the effect that ambiguities are to be resolved against the drafting Parties does not apply in the interpretation of this Agreement.

20. **Relationship of Parties.** This Agreement will not be deemed or construed, either by the Parties or by any third party, to create the relationship of principal and agent or create any partnership, joint venture, or other association between the Parties.

21. **Authorization.** Each individual executing this Agreement represents that they have been duly authorized to execute and deliver this Agreement in the capacity and for the entity for whom that individual signs.

22. **Entire Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to the matters addressed in this Agreement and cannot be amended except pursuant to an instrument in writing signed by the Parties.

*[Signature Pages and Acknowledgements Follow]*

**TCFC SIGNATURE PAGE**

THIS AGREEMENT has been signed by TCFC to be effected as of the Effective Date.

**TCFC Contact Information:**

TCFC PropCo LLC  
Attention: COO  
1840 Sun Peak Drive, Suite A201  
Park City, Utah 84098  
Telephone: 435-200-8400  
Email: [notices@tc-fc.com](mailto:notices@tc-fc.com)

**TCFC:**

TCFC PropCo LLC,  
a Delaware limited liability company

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

With a copy to:

Shawn C. Ferrin  
Parsons Behle & Latimer  
201 S. Main Street  
P.O. Box 45898  
Salt Lake City, Utah 84145-0898  
Telephone: 801-532-1234  
Telecopier: 801-536-6111  
E-mail: [sferrin@parsonsbehle.com](mailto:sferrin@parsonsbehle.com)

By: *Lawrence J. White*  
Print Name: Lawrence J. White  
Title: CEO

STATE OF Utah )

COUNTY OF Summit ) : ss.

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of March, 2016, 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.

*Tara Mifflin*

NOTARY PUBLIC  
Residing at: 1840 Sun Peak 84098

My Commission Expires:  
06/13/2016



**DEVELOPER SIGNATURE PAGE**

THIS RESTRICTIVE COVENANTS AGREEMENT [PARCEL RC22] has been signed by Developer to be effected as of the Effective Date.

**Developer Contact Information:**

Krofcheck Property Holdings, LLC  
Attention: Joseph L. Krofcheck  
4535 Den Haag Road  
Warrenton, VA 20187  
Email: [jlkrofcheck@gmail.com](mailto:jlkrofcheck@gmail.com)

**DEVELOPER:**

Krofcheck Property Holdings, LLC,  
a Utah limited liability company

By: Joseph L. Krofcheck  
Print Name: JOSEPH L. KROFCHECK  
Title: Manager and Sole Member

With a copy to:

Ballard Spahr LLP  
One Utah Center, Suite 800  
201 South Main Street  
Salt Lake City, Utah 84111-2221  
Attention: Steven Peterson  
Telecopy: (801) 531-3001  
Telephone: (801) 531-3023  
Email: [petersons@ballardspahr.com](mailto:petersons@ballardspahr.com)

And to:

Ballard Spahr LLP  
One Utah Center, Suite 800  
201 South Main Street  
Salt Lake City, Utah 84111-2221  
Attention: Cristina Coronado  
Telecopy: (801) 531-3001  
Telephone: (801) 531-3038  
Email: [coronadoc@ballardspahr.com](mailto:coronadoc@ballardspahr.com)

*[Developer Acknowledgement Page Follows]*





**VR CPC SIGNATURE PAGE**

THIS AGREEMENT has been signed by VR CPC to be effected as of the Effective Date.

**VR CPC Contact Information:**

VR CPC Holdings, Inc.  
P.O. Box 39  
1310 Lowell Avenue  
Park City, Utah 84060  
Attn: Chief Operating Officer,  
Email: [wrock@vailresorts.com](mailto:wrock@vailresorts.com)

**VR CPC:**

VR CPC Holdings, Inc.,  
a Delaware corporation

By: William C. Rock  
Print Name: William C. Rock  
Title: SVP + COO

With a copy to:

VR CPC Holdings, Inc.  
c/o Vail Resorts Management Company  
390 Interlocken Crescent  
Broomfield, CO 80021  
Attention: EVP & General Counsel  
Email: [DTShapiro@vailresorts.com](mailto:DTShapiro@vailresorts.com) &  
[OBannon@vailresorts.com](mailto:OBannon@vailresorts.com)

And with a copy to:

Gibson, Dunn & Crutcher LLP  
1801 California St., Suite 4200  
Denver, CO 80202  
United States  
Attention: Beau Stark  
Telecopier: (303) 313-2839  
Email: [BStark@gibsondunn.com](mailto:BStark@gibsondunn.com)

***[VR CPC Acknowledgement Page Follows]***

VR CPC ACKNOWLEDGEMENT PAGE

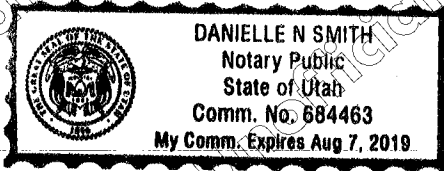
STATE OF Utah )  
COUNTY OF Summit : ss.

The foregoing instrument was acknowledged before me this 17 day of March, 2016, by William C. Beck, the SVP and COO of VR CPC Holdings, Inc., a Delaware corporation.

Danielle N Smith  
NOTARY PUBLIC  
Residing at: 547 W 400N, Heber City UT  
84032

My Commission Expires:

August 7, 2019



**EXHIBIT A  
TO  
RESTRICTIVE COVENANTS AGREEMENT**

---

**LEGAL DESCRIPTION OF PARCEL RC22**

The real property referenced in the foregoing Restrictive Covenants Agreement as "Parcel RC22" is located in Summit County, Utah and is more particularly described as follows:

PARCEL RC22, RESORT CORE DEVELOPMENT AREA – RC22 SUBDIVISION PLAT; according to the Official Plat thereof, on file and of record in the official records of the Summit County, Utah Recorder.