

DRIVEWAY EASEMENT

THIS DRIVEWAY EASEMENT (this “**Agreement**”) is made this ____ day of _____, 20__, by and between _____, a(n) _____ (“**Grantor**”) and _____, a(n) _____ (“**Grantee**”).

RECITALS

- A. Grantor is the owner of the real property located in Multnomah County, Oregon, and described on Exhibit “A” (the “**Grantor Property**”)
- B. Grantor is the owner of the real property located in Multnomah County, Oregon, and described on Exhibit “B” (the “**Grantee Property**”)
- B. Grantee requested from Grantor a perpetual, non-exclusive appurtenant access easement over and across certain portions of the Grantor Property and Grantor desires to grant such easement to Grantee on the terms and conditions set forth herein.

AGREEMENT:

1. Grant of Easement. Grantor hereby grants to Grantee, for the benefit of the Grantee Property, a perpetual, non-exclusive easement (the “**Easement**”), for the purpose of the use, upkeep, maintenance, repair, reconstruction and resurfacing of a driveway located on the Grantor Property (the “**Driveway**”) over the Easement Area (as defined below), together with access over the Easement Area for the purposes set forth above.
2. Easement Area. The area which is the subject of the Easement shall be twenty (20) feet in width, being ten (10) feet on each side of the centerline of the Driveway, as more particularly described in Exhibit “C” attached hereto and as depicted in Exhibit “D” attached hereto (the “**Easement Area**”).
3. Use of Easement Area by Grantee. Grantee shall have the right to use the Easement Area for any and all uses consistent with the use of the Easement Area as a driveway, including, without limitation, pedestrian and vehicular ingress and egress, loading and unloading of vehicles, and other like and similar uses. The Easement Area shall not be used for parking vehicles.
4. Benefited Parcel. The Easement shall be appurtenant to the Grantee Property, and the Easement and covenants granted herein shall run with the land.
5. Maintenance, Repair and Replacement. Grantor shall maintain the Driveway in a good and safe condition, ordinary wear and tear excepted; provided, however, that Grantee shall be responsible for one hundred percent (100%) of the reasonable costs of repairs and replacements to the Driveway to the extent such repairs and replacements are necessitated due to Grantee’s actions, misuse, or negligence.

6. Miscellaneous.

6.1 Dispute Resolution. The parties agree to resolve any dispute arising out of this Agreement by binding arbitration. If the parties do not mutually agree to an arbitration process, then the parties shall use the commercial arbitration rules of the Arbitration Service of Portland (“ASP”). If the ASP no longer exists, then the parties shall submit to the Circuit Court of Clackamas County, Oregon, the issue for determination of a substitute arbitration process. Notwithstanding the foregoing, in the event of any violation or threatened violation of any of the agreements set forth in this Agreement, if the nondefaulting parties believes in good faith that it will suffer damage which would be irreparable and not fully compensable by money damages, said party may, in addition to the right to collect damages and other rights and remedies as provided herein by law, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

6.2 Indemnification. Grantee shall indemnify, defend, and hold Grantor harmless for, from and against any and all claims, demands, liability, damages, costs, and expenses, including without limitation, court costs and reasonable attorneys’ fees, resulting from any and all loss of life or property, or from injury or damage to the person or property of any person, firm, corporation, or entity, including the parties and their officers, agents, and employees, arising out of or in connection with such owner’s (or such owner’s agents, employees, tenants or invitees) use of the Easement Area.

6.3 Attorney Fees. In the event legal action is commenced in connection with this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorney fees and costs incurred in the trial court and any appeal therefrom. The term “action” shall be deemed to include any arbitration action commenced in the Bankruptcy Court of the United States and any other court of general or limited jurisdiction. The reference to “costs” includes, but is not limited to, deposition costs (discovery and otherwise), witness fees (expert and otherwise), out-of-pocket costs, title search and report expenses, survey costs, surety bonds and any other reasonable expenses.

6.4 Time is of the Essence. Time is expressly made of the essence of each provision of this Agreement.

6.5 Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the state of Oregon.

6.6 Nonwaiver. Failure by any party at any time to require performance by any other party of any of the provisions hereof shall in no way affect the party’s rights hereunder to enforce the same, nor shall any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

6.7 Compliance with Laws. Each party shall comply with all federal, state, county, city and other applicable governmental laws, statutes, codes, ordinances and regulations in connection with the use of the Easement Areas that are the subject of this Agreement and in performing the agreements provided for herein.

6.8 Binding Effect. This Agreement and the Easement granted herein are subject to all prior easements or other encumbrances of record. The rights, covenants and obligations contained in this instrument are perpetual, run with the land, and shall bind and burden the Grantor Property, and benefit the Grantee Property and its successors, assigns, lessees, invitees, agents and mortgagees (or beneficiaries under a deed of trust).

[Signatures and acknowledgments appear on following page]

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

GRANTOR:

_____,
a(n) _____

By: _____
Name: _____
Title: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this _____ day of _____,
20____, by _____, the _____ of _____, a(n)
_____, on behalf of the limited liability company.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

[Signatures and acknowledgements continue on following page]

GRANTEE:

_____,
a(n) _____

By: _____

Name: _____

Title: _____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this _____ day of _____,
20____, by _____, the _____ of _____, a(n)
_____, on behalf of the limited liability company.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT A
LEGAL DESCRIPTION OF GRANTOR PROPERTY

EXHIBIT B

LEGAL DESCRIPTION OF GRANTEE PROPERTY

EXHIBIT C

LEGAL DESCRIPTION OF EASEMENT AREA

EXHIBIT D
DEPICTION OF EASEMENT AREA