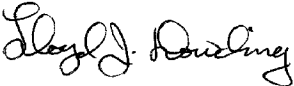


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REGISTER OF DEEDS



**CROSS-ACCESS AND USE EASEMENT AGREEMENT**

THIS CROSS-ACCESS AND USE EASEMENT AGREEMENT (this "Agreement") is executed to be effective as of August 30, 2016, by TS Apartments, LLC, a Nebraska limited liability company ("Lot 1 Owner") and Titan Springs, L.L.C., a Nebraska limited liability company ("Lot 2 Owner", and together with Lot 1 Owner, the "Owners" and each individually an "Owner").

**RECITALS**

WHEREAS, Lot 1 Onwer owns certain real estate located in Sarpy County, Nebraska and legally described as Lot 1, Titan Springs Replat 5, all as further depicted on Exhibit "A" attached hereto ("Lot 1");

WHEREAS, Lot 2 Owner owns certain real estate located in Douglas County, Nebraska and legally described as Lot 2, Titan Springs Replat 5, all as further depicted on Exhibit "A" attached hereto ("Lot 2"); and

WHEREAS, Owners desire to ensure that Lot 1 and Lot 2 (individually, each of Lot 1 and Lot 2 may be sometimes referred to as a "Lot" and collectively as the "Lots") each have access from Longview Street and 66<sup>th</sup> Street (to the extent dedicated access exists), and Owners desire to outline certain other rights which exist between Lot 1 and Lot 2 as set forth in this Agreement.

**AGREEMENT**

NOW, THEREFORE, for and in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owners hereby covenant and agree as follows:

1. Grant of Access Easement Area. Lot 1 Owner and Lot 2 Owner, as fee owners of Lot 1 and Lot 2, respectively, do hereby ESTABLISH, GIVE, GRANT and CONVEY to the other Owner, their heirs, successors and assigns, a perpetual, non-exclusive cross-access easement over the drive lanes located in each of Lot 1 and Lot 2 as now or in the future may be configured on such Lots, allowing for vehicular ingress and egress from any access road located adjacent to each Lot and running through each of the Lots for purposes of allowing access between each Lot and to any other adjoining roadway (the "Access Easement Area"). The Access Easement Area would include any drive lanes through parking lots surrounding improvements on each Lot, as well as any delivery access lanes located adjacent to improvements constructed upon each Lot. The rights and benefits granted herein shall also be available to each Owner's guests, employees, tenants and contractors (collectively, the "Invitees"). As of the date of this Agreement, Lot 2 Owner acknowledges that Lot 2 is currently

undeveloped and subject to final site plan approval by municipal authority(ies) prior to any such development. It is the intent of the Owners that the Access Easement Area for each Lot shall be based upon the then-current site plan for each Lot, whereby the Access Easement Area may change from time-to-time as the use of each Lot also changes; provided, however, in no event shall access between Lot 1 and Lot 2 be restricted by the Owners, whereby each Lot shall have at least one drive lane which adjoins and connects with the other Lot (i.e., based upon adjoining parking areas and/or delivery lane areas).

Notwithstanding the foregoing provisions of this Section 1, each Owner acknowledges and agrees that, during any period of time such Owner's Lot is being improved (i.e., grading, construction, etc.), any vehicles necessary to deliver items to said Lot or provide other services for such Lot shall only utilize access points on the Lot being improved during such construction. By way of example and not limitation, when Lot 2 is graded and improvements are built upon Lot 2, the grading equipment, cement delivery trucks, and other material delivery trucks and construction equipment shall only access Lot 2 through access points on Lot 2, and no heavy equipment or deliveries shall be made through the adjoining Lot 1.

2. Facility Use Easement. Lot 1 Owner and Lot 2 Owner, as fee owners of Lot 1 and Lot 2, respectively, do hereby ESTABLISH, GIVE, GRANT and CONVEY to the other Owner, their heirs, successors and assigns, a perpetual, non-exclusive easement over any common areas constructed for the benefit of the tenants of any multi-family structures constructed on the Lots (including, but not limited to, any clubhouse, gym, pool, hot tub or fire pit located on either Lot) (the "Facilities"). Access to the Facilities shall be from maintained sidewalks and drives connecting the Lots.

3. Covenants Running with the Land; Successors and Assigns; Duration. The grant of the Access Easement Area is a covenant running with the land and is binding upon and shall inure to the benefit of the Owner of each Lot, their heirs, successors and assigns; provided, however, that nothing herein shall be deemed to be a gift or dedication of any portion of the Access Easement Area to the general public or for any public purpose whatsoever. This Agreement shall not pass, nor shall the same be construed to pass any fee simple interest or title to either Lot to the other Owner.

4. Maintenance.

a. Each Owner shall maintain the Access Easement Area located on its Lot in good condition; provided, however, in the event that either Owner (or their Invitees) has delivery trucks or other heavy equipment utilizing the Access Easement Area on the other Owner's Lot, and in the event such heavy equipment causes damage to the other Lot's Access Easement Area, then the Owner responsible for having such heavy equipment in the Access Easement Area shall be solely responsible for repairing such damage to the applicable Access Easement Area.

b. The Owners shall allocate the cost of maintenance of the Facilities as follows: (i) the number of living units built on Lot 1, divided by the sum total of the number of living units on both Lots shall be Lot 1's share of maintenance costs, and (ii) the number of living units built on Lot 2, divided by the sum total of the number of living units on both Lots, shall be Lot 2's share of maintenance costs. The Owner of either Lot shall reimburse the other for their share within thirty (30) days of receipt of an invoice from the other Owner. Maintenance costs shall include, without limitation, water and sewer charges; insurance premiums for the Facilities; license, permit and inspection

charges; utilities; service contracts; labor; management of the Facilities, including management and administrative fees; maintenance, repair and replacement of heating, air conditioning and ventilation systems; painting; wall coverings and carpeting; window repairs and replacements; repair and replacement of exercise equipment; pool and hot tub maintenance, repair and replacement; supplies; materials; caulking, waterproofing, sealing and repair of exterior surfaces and windows; security and security personnel, if any; garbage service; maintenance, repair, replacement and upkeep costs of outdoor landscaping; bathroom repairs and maintenance; building identification signs; and any and all other costs, expenses and disbursements necessary to maintain the Facilities in a first-class condition.

c. Each Owner shall be responsible for the maintenance of Facilities located on such Owner's Lot and for seeking reimbursement from the other Owner.

5. Insurance. Each Owner shall carry their own comprehensive or commercial general liability insurance on their respective Lot and said insurance shall also extend to the Access Easement Area. Each Owner shall indemnify, defend and hold the other Owner harmless from any claims arising by Invitees.

6. Miscellaneous.

a. This Agreement and the attached exhibits constitute the entire agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, written or oral, with respect thereto. The exhibits hereto are incorporated in and made a part of this Agreement

b. This Agreement may not be amended, modified or released except by written instrument executed jointly by the Owners.

c. In the event of any interference or threatened interference with the use of the Access Easement Area by either Owner, their successors or assigns, the rights of the other Owner under this Agreement may be enforced by restraining order(s) and injunction(s) (temporary or permanent) prohibiting such interference and requiring compliance with its terms. Such restraining orders and injunctions will be obtainable upon proof of the existence of such interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irrevocable harm; provided, however, this Section is not to be construed as an election of remedies or a waiver of any other rights or remedies available to either party at law or in equity.

d. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any waiver on the part of any party of any right, power or privilege hereunder operate as a waiver of any other right, power or privilege hereunder; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

e. All article and section titles and captions contained in this Agreement are for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

f. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska. Jurisdiction and venue for all matters related to this agreement shall lie in the county and the district in which the Lots are located.

**[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]**

EXECUTED to be effective on the date first above written.

TS Apartments, LLC

By: [Signature]  
Scott M. Brown, Manager

Titan Springs, L.L.C.

By: [Signature]  
Scott M. Brown, Manager

ACKNOWLEDGMENT

STATE OF NEBRASKA     )  
  ) ss  
COUNTY OF Douglas     )

This instrument was acknowledged before me on the 30<sup>th</sup> day of August, 2016, by Scott M. Brown, as Manager of TS Apartments, LLC, on behalf of said company.

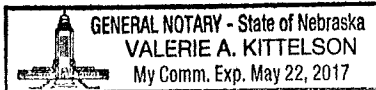


[Signature]  
Notary Public

My Commission Expires: May 22, 2017

STATE OF NEBRASKA     )  
  ) ss  
COUNTY OF Douglas     )

This instrument was acknowledged before me on the 30<sup>th</sup> day of August, 2016, by Scott M. Brown, as Manager of Titan Springs, L.L.C., on behalf of said company.



[Signature]  
Notary Public

My Commission Expires: May 22, 2017

EXHIBIT "A"

LOT 1 AND LOT 2

