

JOINT ACCESS EASEMENT

STATE OF TEXAS

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KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF TRAVIS

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This Joint Access Easement (this "**Agreement**") is made and entered into the date set forth below by TERRABROOK FALCON POINTE, LLC, a Delaware limited liability company ("**Terrabrook**").

RECITALS:

A. Terrabrook is the owner of Commercial Lot 1 and Commercial Lot 2 of FALCON POINTE -SECTION NINETEEN FINAL PLAT, a subdivision located in the Travis County, Texas, according to the map or plat recorded under Document No. 201500083 of the Official Public Records of Travis, Texas (said lots are individually referred to as "**Lot 1**" and "**Lot 2**," respectively, and jointly, as the "**Lots**").

B. Terrabrook desires to grant and impose a non-exclusive, perpetual reciprocal access easement, subject to the terms and conditions set forth herein, over and across the Lots for common benefit of the owners and occupants of the Lots to provide for access to and from the Lots and Colorado Sand Drive and East Pflugerville Parkway as hereinafter provided.

NOW, THEREFORE, for and in consideration of the premises, the covenants, conditions and agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Terrabrook does hereby declare and agree as follows:

1. GRANT OF EASEMENT.

(a) Terrabrook does hereby IMPOSE upon each of the Lots, and does hereby GRANT unto the future owners of each of the Lots, on and subject to the terms and conditions hereinafter set forth, a perpetual, non-exclusive access easement over, across and upon those portions of the Lots consisting of the vehicular circulation lanes, the driveways and the traffic aisles within all parking lots, areas and facilities (the "**Access Improvements**") which are now or hereafter constructed and located on each of the Lots from time to time (the "**Easement Areas**") to provide free and uninterrupted ingress and egress and vehicular access to and from the Lots and the driveway providing connection to the median break in Colorado Sand Drive at the northern portion of Lot 1 and to and from the Lots and the driveways that provide connection to Colorado Sand Drive or East Pflugerville Parkway along the boundaries of either of the Lots.

(b) It is expressly understood and agreed that the easements, rights and privileges granted hereby are solely for the purpose of providing ingress and egress for vehicular traffic as set forth herein and for no other purpose. The easements, rights and privileges shall not be construed or deemed in any manner to create or grant any rights to the public generally, or create or grant any

right to use any portion of the Lots for any purpose other than the Easement Areas as they may exist from time to time as expressly provided herein, or to create or grant any rights to the owner of, or for the benefit of, any other land. This Easement does not in any way grant any parking rights or privileges to or by the owners of Lots or their respective employees, guests, invitees, contractors or visitors with respect to any portion of the Lots.

(c) Terrabrook does hereby bind itself, its successors and assigns, to warrant and forever defend all and singular said easements unto the future owners of each of the Lots, and their respective successors and assigns, on and subject to the reservations, terms, conditions and exceptions set forth herein, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Terrabrook, but not otherwise.

2. TERMS AND CONDITIONS.

(a) Terrabrook expressly reserves and retains unto itself, its successors and assigns, and unto the future owners of either of the Lots, the right to place, construct, operate, repair, replace and maintain public and/or private utility systems, lines, conduits and facilities (including without limitation, water, landscape irrigation, wastewater, stormwater and drainage, gas, electric, telephone, cable television and electronic data transmission lines and systems) in, over, under and across the Easement Areas as they may exist from time to time, and to grant public and/or private easements for such purposes; provided (i) that such uses shall not unreasonably interfere with or prevent the use of the Easement Areas by the owners of the Lots for the purposes of vehicular ingress and egress, (ii) no permanent structures or improvements (other than the Access Improvements) shall be installed, placed or constructed on the surface of the Easement Areas; and (iii) any damage to the Access Improvements resulting from the construction of such utilities or other improvements shall be repaired by the owner causing the same to be constructed and the Access Improvements restored to substantially the same condition as existed prior to such construction.

(b) Notwithstanding the foregoing, no barriers may be placed permanently or temporarily (except for reasonable periods during actual construction and/or repair) on or within the Access Improvements that would result in obstructing vehicular or pedestrian traffic over the Easement Areas; provided, nothing contained herein shall prevent temporary barriers for purposes of directing traffic away from or around areas where construction or repairs are taking place. It is expressly understood and agreed that each of the owners of the Lots may at any time and from time to time construct, replace and relocate the Access Improvements located on and within any portion of such owner's Lot, and any temporary and reasonable interference with the use of the Access Improvements created thereby shall not be a breach of this Easement so long as such Access Improvements as so constructed, replaced and relocated provide reasonably direct access and connection to the driveway providing access to the median break in Colorado Sand Drive and to the other driveways providing access to Colorado Sand Drive or East Pflugerville Parkway.

(c) The easements, rights and privileges hereby granted are further made by Terrabrook and accepted by the future owners of each of the Lots subject to any and all easements, covenants, rights-of-way, conditions, restrictions, mineral reservations and royalty reservations, if any, relating to the Lots to the extent, but only to the extent, that the same may still be in force and effect, and

either shown of record in the Office of the County Clerk of Travis County, Texas, or apparent on the ground.

3. CONSTRUCTION OF THE ACCESS IMPROVEMENTS.

The owner of each of the Lots shall construct, or cause to be constructed, at its sole cost and expense, the Access Improvements, consisting of appropriately prepared base material and paving of the surface, within such owner's Lot and to perimeter boundaries of such Lot so as to provide access to and from the boundaries of such Lot over and across such Lot to the driveway providing connection to the median break in Colorado Sand Drive at the northern portion of Lot 1, to any driveways that provide connection to Colorado Sand Drive along the boundaries of either of the Lots or to or East Pflugerville Parkway on the boundary of Lot 2, as applicable. The owner of Lot 1 shall use commercially reasonable, good faith efforts to obtain the permits and approvals necessary to construct the driveway providing connection to and from the median break in Colorado Sand Drive and the owner of Lot 2 shall use commercially reasonable, good faith efforts to obtain the permits and approvals necessary to construct the driveway providing connection to and from East Pflugerville Parkway. Such Access Improvements shall be constructed and installed at the time of the construction of the primary improvements on such Lot, and shall be completed and available for use prior to the occupancy and use of such improvements. It is understood that the owner of each of the Lots shall be entitled to construct the Access Improvements as separate driveway(s) or as part of the parking lot or facilities constructed on its Lot so long as the Access Improvements provide for the free and uninterrupted access for vehicular traffic over and across such Lot to and from the applicable driveway(s) providing connection to the median break in Colorado Sand Drive and/or Colorado Sand Drive or East Pflugerville Parkway along the boundaries of the Lot. Notwithstanding the foregoing, other than the driveway providing connection to the median break in Colorado Sand Drive at the northern portion of Lot 1, which shall be required in all events, it is understood and agreed that the construction of driveways providing other connections to Colorado Sand Drive along the boundaries of either of the Lots shall be at the option of the owner of each of the Lots and shall not be required, and the obligation of the owner of Lot 2 to provide connection to East Pflugerville Parkway shall be subject to the approval of such driveway connection by the City of Pflugerville in accordance with the then applicable ordinances, rules and regulations for such driveway connection.

4. TEMPORARY CONSTRUCTION EASEMENTS.

In addition to the permanent access easements created and granted above, Terrabrook hereby further IMPOSES upon each of the Lots, and does hereby GRANT unto the future owners of each of the Lots, on and subject to the terms and conditions hereinafter set forth, a temporary easement and right to construct, at each owner's sole cost and expense, Access Improvements, consisting of appropriately prepared base material and paving of the surface, over and across those portions of the Lots described as the "Reciprocal Joint Use Emergency Access Easement" on Exhibit A attached hereto and made a part hereof, in connection with the development of each of the Lots; it being understood that construction of Access Improvements within such Reciprocal Joint Use Emergency Access Easement on both Lots shall be required to obtain a Certificate of Occupancy from the City of Pflugerville for the improvements constructed on one of the Lots if the Access Improvements have not then been constructed on the other Lot. The foregoing temporary easement shall continue

until such time as the permanent Access Improvements are constructed within the other Lot at the time the buildings and other improvements are constructed on the other Lot as provided in Paragraph 3 above and have been approved or otherwise satisfy the requirements of the City of Pflugerville for the issuance of Certificates of Occupancy for the improvements constructed on each of the Lots; provided, however, if a driveway providing connection to East Pflugerville Parkway is not approved by the City of Pflugerville, the easement granted hereby with respect to the Reciprocal Joint Use Emergency Access Easement shall become a permanent, non-exclusive and perpetual easement for the benefit of the owners of each of the Lots on and subject to the terms of this Easement.

5. MAINTENANCE OF THE DRIVEWAY IMPROVEMENTS.

(a) The owner of each of the Lots shall be responsible for the maintenance, operation and repair of the Access Improvements located on and within such owner's Lot, including regular and routine maintenance and repairs as well as Emergency Maintenance and Repairs (as hereinafter defined), so as to keep the same in good repair and condition and as otherwise may be required by applicable ordinances, rules and regulations of any governmental authority with jurisdiction over the Lots. Such maintenance shall include, but not be limited to, maintaining and repairing the surface of the driveway in good repair and in a clean, safe and usable condition; removing all papers, debris and other refuse from the Access Improvements; periodically sweeping the surface of the driveway; and maintaining marking, directional signs and/or signals, lines and striping as each owner of the Lots may reasonably determine. The owners of the other Lots shall have no responsibility or obligation with respect to the maintenance, operation or repair of the Access Improvements located on and within the other Lot, except each owner shall have the right to maintain and repair the Access Improvements in the event of the failure of the owner of any of the Lots to maintain and repair the Access Improvements located on such owner's Lot as hereinafter provided.

(b) If the owner of either Lot fails to maintain and repair the Access Improvements located on and within such owner's Lot in accordance with the terms of this Easement, the owner of the other Lot shall have the right (but not the obligation) to cause such maintenance or repairs to be performed, completed or made at any time after the expiration of thirty (30) days after written notice to the defaulting owner of such failure. Notwithstanding the foregoing, at any time in the event immediate maintenance or repairs are required from reasons creating a hazardous situation, or are required for the use or occupancy of either of the Lots (or any part thereof), or are required by any governmental authority with jurisdiction over the Access Improvements or any part of the Lots ("**Emergency Maintenance and Repairs**"), the owner of the other Lot shall have the right to cause the required maintenance or repairs to be performed, completed or made without the necessity of prior notice to the defaulting owner. Any such repairs and maintenance by the owner of the other lot shall be at the sole cost and expense of such other owner, and the owner of the Lot on which such maintenance and repairs were not performed shall have no obligation to reimburse the owner of the other Lot for any maintenance or repair costs.

(c) Notwithstanding anything contained herein to the contrary, each of the owners of the Lots shall be solely responsible for the cost of repairing any damage to the Access Improvements or the land or improvements on the other Lot caused by such owner or such owner's contractors,

tenants, employees or guests; and each of the owners of the Lots shall defend, indemnify and hold harmless the owner of the other Lot from and against any and all losses, claims, demands and expenses incurred by or asserted against the owner of the other Lot and/or the other Lot from and against any liens, as a result of any intentional act or any negligent act or omission on the part of the indemnifying owner or such owner's contractors, tenants, employees, invitees or guests with respect to the use of the Access Improvements and/or the exercise of any right granted by this Easement.

6. MISCELLANEOUS.

(a) Notices. Any notice required or permitted hereunder shall be in writing and shall be deemed given and received on the first to occur of the following: (i) actual receipt by the party to be notified, or (ii) two (2) business days after the deposit of such notice, by certified mail, return receipt requested, addressed to the party to be notified at the address as shown in the ownership records maintained for real estate tax purposes as provided by the tax appraisal district for Travis County, Texas, or such other address as the parties may designate from time to time in writing by notice to the other parties hereto.

(b) No Termination for Breach. Notwithstanding anything contained herein to the contrary, no breach by the owner of either of the Lots shall entitle the owner of the other Lot to cancel, rescind or other terminate this Easement. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon either of the Lots made in good faith for value, and the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any owner of the Lot whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

(c) Amendment. This Easement may be amended, modified and/or terminated (in whole or in part) only by the written instrument executed by the owners of both of the Lots at the time of such amendment, modification or termination. Such amendment, modification or termination shall only become effective after it has been reduced to writing, signed by all such owners, and filed with the Office of the County Clerk of Travis County, Texas, for recording in the Official Public Records of Travis County, Texas.

(d) Attorney's Fees. In the event that either party brings suit for the breach of any covenant, condition or agreement contained herein, or to otherwise enforce the terms and provisions of this Easement, in addition to any remedies provided for herein or to which the parties may otherwise be entitled, the prevailing party shall be entitled to recover all reasonable attorney's fees and expenses in connection therewith.

(e) Place of Performance. All obligations under this Easement are performable in Travis County, Texas.

(f) Time of Essence. Time is of the essence in this Easement.

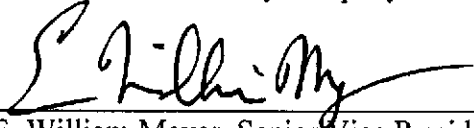
(g) Construction; Severability. This Easement shall be construed under and in accordance with the laws of the State of Texas. In the event any one or more of the provisions contained in this Easement shall for any reason be held to be invalid, illegal, or unenforceable, such

invalidity, illegality or unenforceability shall not affect the remainder of this Easement, which shall continue in full force and effect. No waiver of any provision hereof shall be deemed to imply or constitute a further waiver thereof or of any other provision set forth herein.

(h) Covenant Running with Land. The provisions of this Easement shall be a covenant which shall run with the land, and shall inure to the benefit of, and be binding upon, the owners of the Lots, or any part thereof. Each of the owners of the Lots shall have personal liability for payment of sums due under this Easement only to the extent such obligations accrue or arise during the time of their respective property ownership.

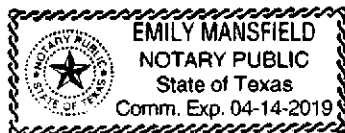
EXECUTED this 22nd day of September, 2015.

TERRABROOK FALCON POINTE, LLC,
a Delaware limited liability company

By: 
E. William Meyer, Senior Vice President

THE STATE OF TEXAS §
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COUNTY OF Travis §

This instrument was acknowledged before me on the 22 day of September, 2015, by E. William Meyer, as Senior Vice President of TERRABROOK FALCON POINTE, LLC, a Delaware limited liability company, on behalf of said limited liability company.




Notary Public, State of Texas
Print Name: _____

AFTER RECORDING, PLEASE RETURN TO:

11-GF# 201403043 em
RETURN TO: HERITAGE TITLE
401 CONGRESS AVE., STE.1500
AUSTIN, TEXAS 78701

