

After recording return to:

AMROCK, LLC  
COMMERCIAL TEAM, 9TH FLOOR  
JOANIE ZIMMER  
662 WOODWARD AVENUE  
DETROIT, MI 48226

## EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this "**Agreement**"), dated as of the 10<sup>th</sup> day of JUNE, 2021 (the "**Effective Date**"), is entered into between OREGON AVE., LLC, an Oregon limited liability company (hereinafter, the "**Grantor**"), having an address at 8321 Hill Road, Klamath Falls, OR 97603, and TERRAVET KLAMATH WEST LLC, a Delaware limited liability company (hereinafter, the "**Grantee**"), having an address at 33 Rock Hill Road, Suite 320, Bala Cynwyd, PA 19004.

### WITNESSETH:

**WHEREAS**, Grantor is the fee owner of certain land located in the City of Klamath Falls, County of Klamath, and State of Oregon, designated as tax parcel number 3809-029BC-03800, hereinafter referred to as "**Parcel A**" and more particularly described as set forth on Exhibit A attached hereto and made a part hereof;

**WHEREAS**, simultaneously with the grant of easement in this Agreement, Grantee is acquiring from an affiliate of Grantor certain land located in the City of Klamath Falls, County of Klamath, and State of Oregon, designated as tax parcel number 3809-029BC-03900, hereinafter referred to as "**Parcel B**" and more particularly described as set forth on Exhibit B attached hereto and made a part hereof;

**WHEREAS**, as Grantee's acquisition of Parcel B is conditional upon Grantor granting a perpetual parking and access easement to Grantee, its heirs, legal representatives, successors, and assigns over Parcel A; and

**WHEREAS**, Grantor is willing to grant to Grantee an easement for parking and access to Parcel B over Parcel A (the "**Easement Area**");

**NOW, THEREFORE**, for Ten Dollars (\$10.00) and other good and valuable consideration paid by Grantee to Grantor and the mutual covenants, terms, and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant. Grantor hereby grants and conveys to Grantee, its heirs, legal representatives, successors, and assigns, and to any future owner of Parcel B, a perpetual, non-exclusive parking and access easement (the "**Easement**") in, under, upon, about, over, and through the Easement Area located on Parcel A, for the benefit of Parcel B. The Easement shall serve the purpose of access to and parking for Parcel B.

2. Use. Grantee may use the easement for the following purposes:

(a) Ingress to and egress from Parcel B;

(b) The passage and parking of vehicles by Grantee, and its employees, tenants, contractors, agents, customers, and invitees in the areas designed for same in an amount no less than the number of parking spaces required for Parcel B pursuant to the zoning requirements applicable to Parcel B; and

(c) The passage and accommodation of pedestrians.

3. Maintenance and Repair. In the event any portion of the Easement Area is damaged or disturbed by Grantee's exercise of any of its easement rights under this Agreement or due to Grantee's gross negligence or willful misconduct, Grantee shall restore such area to the condition in which it existed prior to such damage or disturbance. Notwithstanding the foregoing, Grantor retains, at its cost and expense, all general maintenance and repair obligations to keep the Easement Area at all times in the same condition as existed on the Effective Date of this Agreement.

4. Reservation of Rights. All right, title, and interest in and to the Easement Area under this Agreement, which may be used and enjoyed without interfering with the rights conveyed by this Agreement are reserved to Grantor, provided, however, that Grantor shall not enact or maintain any buildings or improvements which may cause damage to or interfere with the use of the Easement Areas for reasonable parking and access. Grantor shall have the right to grant additional easement rights in the Easement Area, provided same shall not interfere with, or otherwise adversely affect any of Grantee's rights herein.

5. Representations and Warranties. Grantor hereby represents and warrants to Grantee that: (a) it has the full right, power, title, and interest to make the within grant of Easement to Grantee; (b) such grant of Easement and any rights granted under this Agreement may be fully and thoroughly enjoyed and utilized by Grantee pursuant to the terms hereof; and (c) Grantee's easement rights hereunder shall not be defeased, impaired, and adversely affected by superior title.

6. Grantor's Use of Property. Grantor reserves the right to use Parcel A in any manner and for any purpose that does not interfere with Grantee's Easement rights and its use of the Easement.

7. Transferability. The parties to this Agreement hereby acknowledge and agree that the easements and other rights conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors, and assigns. Any attempted assignment or delegation by Grantee, other than as part of a transfer of Parcel B, without the prior written consent of the Grantor shall be void ab initio.

8. Default and Remedies. In the event of a default by Grantor or Grantee, the non-defaulting party may seek any and all remedies permitted by law.

9. Grantor Not Liable. In no event shall Grantor be liable for any damage to, or loss of personal property or equipment sustained by Grantee within the Easement Area, whether or not it is insured, except to the extent such loss is caused by the gross negligence or willful misconduct of Grantor.

10. Limitation of Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN THE EVENT OF A DEFAULT BY EITHER PARTY

HEREUNDER, OR FOR ANY OTHER REASON, THE DEFAULTING PARTY SHALL NOT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES WHATSOEVER, INCLUDING LOSS OF GOODWILL OR LOSS OF PROFITS.

11. Indemnification. Grantee shall indemnify, defend, and hold Grantor harmless from and against any and all losses, costs, damages, liens, claims, liabilities, or expenses (including, but not limited to, reasonable attorneys' fees, court costs, and disbursements) incurred by Grantor arising from or by reason of Grantee's gross negligence or willful misconduct in the use of the Easement Area. Grantor shall indemnify, defend, and hold Grantee harmless from and against any and all losses, costs, damages, liens, claims, liabilities, or expenses (including, but not limited to, reasonable attorneys' fees, court costs, and disbursements) incurred by Grantee arising from or by reason of Grantor's gross negligence or willful misconduct on Parcel A.

12. Attorneys' Fees. In the event of any dispute between the parties regarding the enforcement or effect of this Agreement, including one subject to arbitration, the non-prevailing party in any such dispute shall pay the prevailing party's reasonable attorneys' fees and costs incurred. In the event of arbitration, the fees of the arbitrator and the cost of the arbitration shall be paid by the non-prevailing party. In the event that neither party wholly prevails, the court or arbitrator, as applicable, may apportion the costs or fees as the court or arbitrator deems appropriate.

13. Notice. Unless specifically stated otherwise in this Agreement, all notices, waivers, and demands required or permitted hereunder shall be in writing and delivered to the addresses set forth below, by one of the following methods: (a) hand delivery, whereby delivery is deemed to have occurred at the time of delivery; (b) a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier; or (c) registered United States mail, signature required and postage-prepaid, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service.

To Grantor: Oregon Ave., LLC  
8321 Hill Road  
Klamath Falls, OR 97603

with a copy to: Brisbee & Stockton LLC  
139 NE Lincoln Street  
PO Box 567  
Hillsboro, OR 97123  
Attn: Drake A. Hood, Esq.

To Grantee: c/o Terravet Real Estate Solutions  
33 Rock Hill Road, Suite 320  
Bala Cynwyd, PA 19004  
Attn: Daniel Eisenstadt

with a copy to: Terravet Real Estate Solutions  
33 Rock Hill Road, Suite 320  
Bala Cynwyd, PA 19004  
Attn: Joseph Stranix, Esq.

Any party may change its address for purposes of this Section 14 by giving written notice as provided in this Section 14. All notices and demands delivered by a party's attorney on a party's behalf shall be deemed to have been delivered by said party. Notices shall be valid only if served in the manner provided in this Section 14.

14. Amendment. This Agreement may not be modified, amended, or terminated except in a writing signed by each party hereto.

15. Time of the Essence. Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.

16. Governing Law. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OREGON. EACH PARTY HERETO AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE TRIED AND LITIGATED IN STATE OR FEDERAL COURTS LOCATED IN THE STATE OF OREGON, UNLESS SUCH ACTIONS OR PROCEEDINGS ARE REQUIRED TO BE BROUGHT IN ANOTHER COURT TO OBTAIN SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE EXTENT PERMITTED BY LAW, EACH PARTY HERETO IRREVOCABLY WAIVES ANY RIGHT ANY PARTY HERETO MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS, TO ASSERT THAT ANY PARTY HERETO IS NOT SUBJECT TO THE JURISDICTION OF THE AFORESAID COURTS, OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 17. SERVICE OF PROCESS, SUFFICIENT FOR PERSONAL JURISDICTION IN ANY ACTION AGAINST ANY PARTY HERETO, MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO ANY SUCH PARTY'S ADDRESS INDICATED IN SECTION 14 OF THIS AGREEMENT.

17. Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original for all purposes, and all such counterparts shall together constitute but one and the same instrument.

18. Authority. Both parties represent and warrant that they have the authority to execute this Agreement and each individual signing on behalf of a party to this Agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

19. Further Cooperation. Each of the signatories to this Agreement agree to execute such other documents and to perform such other acts as may be reasonably necessary or desirable to further the expressed intent and purpose of this agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

**GRANTOR:**

OREGON AVE., LLC, an Oregon limited liability company

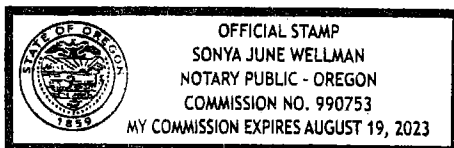
By: *Douglas D. McInnis*  
Name: Douglas D. McInnis  
Title: Member

STATE OF OREGON           )  
  )  
COUNTY OF Klamath )

This record was acknowledged before me this 09<sup>th</sup> day of June, 2021 by Douglas D. McInnis (name) as member (title) of OREGON AVE., LLC, an Oregon limited liability company, on behalf of the limited liability company.

[SEAL]

*Sonya June Wellman*  
Title: Banker  
My commission expires: 08/19/2023



**GRANTEE:**

TERRAVET KLAMATH WEST LLC, a

Delaware limited liability company

By: Terravet Real Estate Fund III LP, its sole member

By: Calico Real Estate Management Company II LLC, its investment manager

By: 

Name: Daniel Eisenstadt

Title: Manager

STATE OF PENNSYLVANIA )

)

COUNTY OF MONTGOMERY )

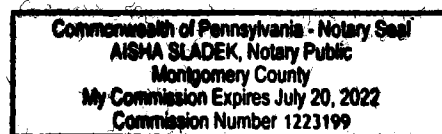
This record was acknowledged before me this 1<sup>st</sup> day of June, 2021 by Daniel Eisenstadt, manager of Calico Real Estate Management Company II LLC, a Delaware limited liability company, the investment manager of Terravet Real Estate Fund III LP, a Delaware limited partnership, the sole member of TERRAVET KLAMATH WEST LLC, a Delaware limited liability company, on behalf of the limited liability company.

[SEAL]



Title: Notary Public

My commission expires:



## EXHIBIT A

### LEGAL DESCRIPTION OF PARCEL A

Lots 1, 2 and 3, Block 66, BUENA VISTA ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon. EXCEPTING THEREFROM a strip of land one foot in width along the Westerly side of Lot 3, Block 66, BUENA VISTA ADDITION TO THE CITY OF KLAMATH FALLS, OREGON, AND also lying entirely Westerly of a concrete retaining wall marking the line of possession of said Lot 3 and being more particularly described as follows:

Beginning at a 3/4 inch iron pipe marking the Northwest corner of said Lot 3; thence Southerly along the Westerly line of said Lot 3, 95.00 feet; thence Easterly at right angles to said lot line, 1.00 foot; thence Northerly parallel to said lot line, 95.00 feet; thence Westerly 1.00 foot to the point of beginning.

After recording return to:

AMROCK, LLC  
COMMERCIAL TEAM, 9TH FLOOR  
JOANIE ZIMMER  
662 WOODWARD AVENUE  
DETROIT, MI 48226

**EXHIBIT B**

**LEGAL DESCRIPTION OF PARCEL<sup>1</sup>~~B~~**

Lot 4, Block 66, BUENA VISTA ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon,

TOGETHER WITH a strip of land one foot in width along the Westerly side of Lot 3, Block 66 of BUENA VISTA ADDITION to the City of Klamath Falls, and also lying entirely Westerly of a concrete retaining wall marking the line of possession of said lot 3 and being more particularly described as follows:

Beginning at a 3/4 inch iron pipe marking the Northwest corner of said Lot 3; thence Southerly along the Westerly line of said Lot 3, 95.00 feet; thence Easterly at right angles to said lot line, 1.00 foot; thence Northerly parallel to said lot line, 95.00 feet; thence Westerly 1.00 foot to the point of beginning.