

Prepared by and after recording,

Please return to:

RaceTrac, Inc.

200 Galleria Parkway, Suite 900

Atlanta, Georgia 30339

Attn: Sr. Real Estate Counsel

ACCESS EASEMENT AGREEMENT WITH RESTRICTIONS

THIS ACCESS EASEMENT AGREEMENT (this "Agreement"), is made as of the ____ day of _____, 2024, by and between Jay Yoon Lee, Successor Trustee of TRUST NO. 21070 - 21090 dated November 15, 2008, as to a 25% Undivided Interest, Equity Trust Company, Custodian FBO Diep Ba Le IRA as to 40% Undivided Interest, Equity Trust Company, Custodian FBO Lisa N. Le IRA as to 5% Undivided Interest (collectively, "Common Owners"), and Dung Le, a married woman, as to 30% Interest as to Parcel A; Common Owners and Jay Yoon Lee as Successor Trustee of Trust No. 7197 dated November 15, 2008 as to Parcel B. (collectively "Equity"), and **RACETRAC, INC.**, a Georgia corporation ("RaceTrac"). Parcel A and Parcel B are described on Exhibit "A" attached hereto.

W I T N E S S E T H:

WHEREAS, Equity is the owner of that certain real property lying and being in Polk County, Florida, being more particularly described on **Exhibit "A"** attached hereto and by this reference made a part hereof (the "Equity Property"); and

WHEREAS, RaceTrac is the owner of that certain real property lying and being in Polk County, Florida, more particularly described on **Exhibit "B"** attached hereto and by this reference made a part hereof (the "RaceTrac Property"), which is adjacent to the Equity Property; and

WHEREAS, Equity agrees to grant to RaceTrac an access easement over a portion of the Equity Property (the "Access Easement Area #1"), which portion is more particularly depicted and described on **Exhibit "C"** attached hereto [to be attached at Closing] and incorporated herein by reference; and

WHEREAS, RaceTrac agrees to grant to Equity an access easement over a portion of the RaceTrac Property ("Access Easement Area #2"), which portion is more particularly depicted and described on **Exhibit "D"** attached hereto [to be attached at Closing] and incorporated herein by reference (Access Easement Area #1 and Access Easement Area #2 hereinafter collectively the "Access Easement Area"); and

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and of the mutual covenants herein contained, and for other valuable and good consideration in hand paid at or before the sealing of these presents, the sufficiency and receipt of which are hereby expressly acknowledged and confirmed, the parties hereby agree as follows:

1. Grant of Access Easements; Construction of Driveway. (a) Equity does hereby bargain, sell, grant and convey to RaceTrac, for the benefit of and as an appurtenance to the RaceTrac Property, a perpetual, non-exclusive right, privilege and easement on and over Access Easement Area #1 for pedestrian and vehicular access, ingress and egress to and from the RaceTrac Property and State Road 60 and RaceTrac does hereby bargain, sell, grant and convey to Equity, for the benefit of and as an appurtenance to the Equity Property, a perpetual, non-exclusive

right, privilege and easement on and over Access Easement Area #2 for pedestrian and vehicular access, ingress and egress to and from the Equity Property and State Road 60. Notwithstanding any contrary provision contained herein, without first obtaining RaceTrac's prior written approval (which shall not be unreasonably withheld, conditioned or delayed), (i) Equity shall not use the Driveway (a) during its clearing of the Equity Property and (b) for construction vehicles, and (ii) Equity shall not modify the Access Easement Area nor grant additional parties (other than its successors-in-interest and tenants, users, customers and invitees of the Equity Property) access to the Access Easement Area.

(b) RaceTrac shall construct and install a driveway (the "Driveway"), at RaceTrac's sole cost and expense and, to RaceTrac's reasonable specifications (which shall satisfy the requirements of the applicable governmental authorities), on those portions of the Access Easement Area as shown on Exhibit "E" attached hereto simultaneously with RaceTrac's development of the RaceTrac Property. Without limiting the foregoing, the Driveway shall be constructed in accordance with the driveway plan previously approved by the parties (the "Driveway Plan"). The portion of the Driveway shown on the Driveway Plan that is located on the Equity Property shall include raised curbing on the east side of the Driveway.

(c) Following the construction of the Driveway, the Access Easement Area shall be deemed reduced to the area of the Driveway plus ten (10) feet on either side thereof.

(d) At the time of RaceTrac's construction of the Driveway, RaceTrac shall stub a water line to that portion of the Equity Property fronting State Road 60 that is within one hundred (100) feet east of the western boundary of the Equity Property, subject to applicable permits and approvals.

(e) Either party may construct or extend the Driveway within the Access Easement Area once the plans for such extension are approved by the parties.

2. Slope, Grading and Temporary Construction Easement. RaceTrac and Equity do hereby bargain, sell, grant and convey to each other, for the benefit of and as an appurtenance to the RaceTrac Property and the Equity Property, slope, grading and temporary construction easements over and across those portions of the RaceTrac Property and the Equity Property lying within twenty (20) feet of the Access Easement Area, to grade, slope, maintain lateral support for, and to construct the improvements contemplated in Paragraph 1. The temporary construction easement created hereby shall terminate upon the completion of the Driveway. The grading and slope easements shall terminate at such time as the RaceTrac Property or Equity Property is developed in such a manner as to provide lateral support for the Driveway.

3. Maintenance. (a) From and after the construction of the Driveway, RaceTrac shall maintain and repair the portion of the Driveway constructed by RaceTrac, at RaceTrac's sole cost and expense, provided, however, from and after the commencement of any infrastructure work on the Equity Property (excluding clearing the land), if Equity or its successors and/or assigns are using the constructed Driveway, Equity shall reimburse to RaceTrac Equity's pro rata share of all costs incurred to maintain, repair and replace the Driveway (the "Maintenance Costs"). Equity shall not be obligated to reimburse the Maintenance Costs for limited work performed by Equity for which Equity has requested and received prior written approval from RaceTrac to commence. RaceTrac shall first allocate to each of the RaceTrac Property and the Equity Property an estimated number of vehicle trips based on the land use category of each such property, using the Institute of Transportation Engineers' Trip Generation Manual. Equity's pro rata share shall then be calculated by multiplying the Maintenance Costs by a fraction, the numerator of which is the number of vehicle trips allocated to the Equity Property, and the denominator of which is the

aggregate number of trips allocated to both the RaceTrac Property and the Equity Property collectively. In the event Equity disputes its pro rata share calculation, it may engage a third-party traffic study, at its sole cost, to calculate traffic patterns and traffic intensities to accurately allocate road maintenance costs based on actual usage.

(b) In the event a party constructs or extends any portion of the Driveway pursuant to Paragraph 1(e) above, such party shall be responsible for maintenance of same and all other parties that use the extended Driveway shall be responsible for reimbursement as provided above (if applicable).

(c) Notwithstanding any contrary provision contained herein, in the event any improvements contemplated in this Agreement are damaged by a party hereto (or any agent thereof), such party shall be responsible for one hundred percent (100%) of all costs of repairing such damage except to the extent such damage is a result of the other party's gross negligence or willful misconduct.

(d) If a party fails to perform the maintenance required of it under paragraph (a), (b) or (c) above (if applicable), then the other party may perform such maintenance and be reimbursed by the non-maintaining party for the non-maintaining party's pro rata share of the Maintenance Costs (as determined above).

(e) Any reimbursement due to RaceTrac or Equity pursuant to paragraphs (a) through (d) above shall be due within thirty (30) days following receipt of any invoice and request for the appropriate party's share of such expenses. If the responsible party shall fail to reimburse such amounts within said thirty (30) day period, such unpaid amounts shall incur interest at the rate of twelve percent (12%) per annum until paid and the party to whom reimbursement is owed shall have the right to pursue any remedies available at law or in equity.

4. Not a Parking Easement; Regarding Parking. Notwithstanding anything to the contrary contained herein, the easements created hereby grant no parking rights on a party's property. Without limiting the foregoing, neither RaceTrac nor Equity shall construct or install parking spaces immediately adjacent to the Access Easement Area unless such spaces are separated from the Access Easement Area by curbing or landscaping, it being the intent hereof that the Access Easement Area shall not be obstructed or congested with motor vehicles pulling into or out of parking spaces.

5. Indemnification and Insurance. Prior to entry upon the other party's property to perform any work contemplated herein, the party performing such work (the "Performing Party") shall maintain, and provide the other party with copies of certificates of insurance evidencing, commercial general liability insurance (naming the other party as an additional insured) which policy shall have limits of at least \$1,000,000 per occurrence/\$2,000,000 in the aggregate for property damage and personal injury (which limits may be met in whole or in part with umbrella policies). The Performing Party agrees to indemnify the other party from and against all costs or claims arising from such work. Such indemnification shall not apply to the extent of any negligence by the other party or its agents, contractors, employees or tenants.

6. Binding Effect. The benefits, burdens, terms and conditions of this Agreement shall run with the title to the RaceTrac Property and the Equity Property, respectively, and shall bind the owners, and their respective successors and/or successors-in-title thereof.

7. **Interpretation.** This Agreement and the rights and obligations of the respective parties hereunder shall be governed by and interpreted and enforced in accordance with the laws of the State of Florida.

8. **Attorneys' Fees.** In connection with any litigation arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing party, including all such attorneys' fees and costs which may be incurred in any trial, appellate or bankruptcy proceedings.

9. **Notices.** All notices, demands, or requests required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been properly given or served if by (i) hand delivery, or (ii) reputable national overnight courier service, or (iii) prepaid, certified U.S. Mail, return receipt requested, and shall be effective upon delivery or refusal. Any such notice, demand or request shall be addressed to the applicable party as follows:

To RaceTrac: RaceTrac, Inc.
200 Galleria Parkway, Suite 900
Atlanta, Georgia 30339
Attention: Sr. Real Estate Counsel

To Equity: Lisa Le
Email: lle@lislelaw.com

10. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.

11. **Restriction on Equity Property.** The Equity Property is hereby subjected to the following use restriction for the benefit of the RaceTrac Property, which restriction will run with the title to the Equity Property and prohibit, for the longest period allowed by law, a retail outlet for motor fuels or a convenience store or the advertising thereof on any portion of the Equity Property; provided however if any portion of the Equity Property is developed into a RV park, campground or other resort park, a sundry store offered to the visitors of the park is be permitted within the park provided such sundry store does not sell motor fuels. The term "retail outlet for motor fuels" shall include by way of illustration, but not by way of limitation, (i) a mobile dispensary or delivery service, and (ii) the provision of charging services or stations for electric vehicles, even if the foregoing are only temporarily located on the Equity Property; provided, however, the restriction in clause (ii) shall not prohibit the installation of charging stations as an ancillary benefit for the guests and employees of hotels, retail stores (excluding motor fuel outlets or convenience stores), banks, industrial uses or restaurants located on the Equity Property. The foregoing restriction shall be enforceable by RaceTrac and may not be terminated or modified without the express written consent of RaceTrac.

[Signatures Begin on Following Page]

**EQUITY TRUST COMPANY, CUSTODIAN FBO
DIEP BA LE IRA**, as to a 40% Undivided Interest in
Parcel A and Parcel B

By: _____
Name: _____
Title: _____

Executed this ____ day of _____, 2024

STATE OF _____ §
COUNTY OF _____ §

The foregoing instrument was acknowledged before me by means of ☐ physical
presence or ☐ online notarization, this ____ day of _____, 2024 by
_____ as _____ of _____, a
_____, on behalf of such _____, who is personally known to me or has produced
_____ as identification.

Notary Public

(Notarial Seal)
My commission expires:

[Signatures Continue on Following Page]

EQUITY TRUST COMPANY, CUSTODIAN FBO
LISA N. LE IRA, as to a 5% Undivided Interest in
Parcel A and Parcel B

By: _____
Name: _____
Title: _____

Executed this ____ day of _____, 2024

STATE OF _____ §
COUNTY OF _____ §

The foregoing instrument was acknowledged before me by means of ☐ physical
presence or ☐ online notarization, this ____ day of _____, 2024 by
_____ as _____ of _____, a
_____, on behalf of such _____, who is personally known to me or has produced
_____ as identification.

Notary Public

(Notarial Seal)
My commission expires:

[Signatures Continue on Following Page]

DUNG LE, A MARRIED WOMAN, as to a 30%
Undivided Interest in Parcel A

Executed this ____ day of _____, 2024

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me by means of ☐ physical
presence or ☐ online notarization, this ____ day of _____, 2024 by
_____ as _____ of _____, a
_____, on behalf of such _____, who is personally known to me or has produced
_____ as identification.

Notary Public

(Notarial Seal)
My commission expires:

[Signatures Continue on Following Page]

Jay Yoon Lee, Successor Trustee of TRUST NO. 7197
dated November 15, 2008, as to a 30% Undivided
Interest in Parcel B

By: _____
Name: _____
Title: _____

Executed this ____ day of _____, 2024

STATE OF _____ §
COUNTY OF _____ §

The foregoing instrument was acknowledged before me
by means of ☐ physical presence or ☐ online notarization,
this ____ day of _____, 2024 by
_____ as
_____ of _____, a
_____, on behalf of such _____, who is
personally known to me or has produced
_____ as identification.

Notary Public

(Notarial Seal)
My commission expires:

[Signatures Continue on Following Page]

RACETRAC

Witness

Print Name: _____

RACETRAC, INC.,
a Georgia corporation

Witness

Print Name: _____

By: _____

Name: Max E. McBrayer, Jr.

Title: Chief Executive Officer

STATE OF GEORGIA

§

§

COUNTY OF COBB

§

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2024 by Max E. McBrayer, Jr. as Chief Executive Officer of RACETRAC, INC., a Georgia corporation, on behalf of such company, who is personally known to me or has produced _____ as identification.

Notary Public

(Notarial Seal)

My commission expires:

EXHIBIT "A"

Equity Property

Parcel A :The West $\frac{1}{2}$ of the West $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 33, Township 29 South, Range 26 East, less road right of way for State Road 60, Polk County ,Florida
and

Parcel B :The East $\frac{1}{2}$ of the West $\frac{1}{2}$ of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 33, Township 29 South, Range 26 East, less road right of way for State Road 60, Polk County ,Florida

EXHIBIT "B"

RaceTrac Property

THAT PART OF U.S. GOVERNMENT LOT 1 SITUATED IN SECTION 32, TOWNSHIP 29 SOUTH, RANGE 26 EAST, LESS BORROW PIT AND HAUL ROUTE OF THE FLORIDA DEPARTMENT OF TRANSPORTATION LESS HIGHWAY 60 AND LESS THE FOLLOWING DESCRIBED PARCEL: BEGIN AT THE INTERSECTION OF THE EXTENSION OF THE SOUTH LINE OF LOT 6, GARFIELD PART AS SHOWN BY PLAT THEREOF RECORDED IN PLAT BOOK 4, PAGE 30, PUBLIC RECORDS OF POLK COUNTY, FLORIDA, AND THE SHORE LINE OF LAKE GARFIELD, RUN THENCE NORTHWESTERLY ALONG THE SHORE LINE 500 FEET; THENCE NORTHEASTERLY AND PARALLEL TO THE SOUTH LINE OF SAID LOT 6 TO THE EAST SECTION LINE OF SECTION 32, TOWNSHIP 29 SOUTH, RANGE 26 EAST, POLK COUNTY, FLORIDA; THENCE SOUTH TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS OF RECORD.

EXHIBIT "C"

Access Easement Area #1
(to be added prior to recording)

INGRESS/EGRESS EASEMENT #1 DESCRIPTION:

The above described land is more particularly shown on the following page.

EXHIBIT “C (Continued)”
(to be added prior to recording)

EXHIBIT "D"

Access Easement Area # 2
(to be added prior to recording)

The above described land is more particularly shown on the following page.

Exhibit "D" (Continued)
(to be added prior to recording)

Exhibit "E"

Driveway Plan

[to be replaced before recording with permitted plan]

