

**THIS EASEMENT IS BEING RE-RECORDED TO CORRECT/MODIFY THE LEGAL DESCRIPTION OF SCHEDULE D IN THE PREVIOUSLY RECORDED EASEMENT & MAINTENANCE AGREEMENT FILED IN LIBER 11304 OF DEEDS AT PAGE 5816 ON NOVEMBER 4, 2016.**

**EASEMENT**

THIS INDENTURE made this 5<sup>th</sup> day of August, 2017 between David DiPietro and Theresa DiPietro, residing at 16 Nye Hill Road, East Aurora, NY 14052, (hereinafter referred to as "DiPietro Parcel" or "Parcel A") as described in Schedule A, Alexander Y. Kruglov and Ellen A. Kruglov residing at 16 Templeton Trail, Orchard Park, NY 14127, (hereinafter referred to as "Kruglov Parcel" or "Parcel B") as described in Schedule B, and Franklin George Downing, Jr. and Shari Ann Downing residing at 34 Symphony Circle, Orchard Park, NY 14127, (hereinafter referred to as "Downing Parcel" or "Parcel C") as described in Schedule C. The parties are hereinafter collectively referred to as "Owners."

WITNESSETH

WHEREAS Parcels A, B and C are adjacent parcels of vacant land on Knox Road in East Aurora, NY, and are subject to an Easement and Maintenance Agreement providing ingress and egress and utilities over and through the area, as more fully described on Schedule D attached hereto, the "Easement Area" and as depicted on the Survey prepared by Nussbaumer & Clarke, Inc., dated March 4, 2016 and revised April 7, 2016 as shown on Schedule E; and

WHEREAS, as a condition to the approval of the Open Development Area Plan for said Parcels by the Aurora Town Board, the Owners of Parcels A, B and C were required to construct and maintain a driveway within the Easement Area (the "Driveway") allowing ingress, egress, and utilities over and through Parcels A, B, and C; and

WHEREAS, in the event that the Owners of said Parcels, their heirs, successors or assigns, wish to develop said Parcel at any time in the future, the Owners of said Parcels hereby agree as follows:

1. Owners of Parcels A, B, and C shall cause to be constructed a 20 foot gravel driveway (the "Driveway") within the Easement Area located within the boundaries of Parcel A, B and C in accordance with the requirements of the Aurora Town Board as set forth in the minutes of the Town Board Meeting. All work performed or required hereunder shall be done in strict compliance with all applicable laws, regulations and codes, and only after receiving all applicable approvals from the Town, permitting authority, and/or any other governmental approval. See Schedule F attached hereto;
2. Owners of Parcels A, B and C, their employees, invitees, agents, contractors and/or subcontractors, shall not park an automobile or any type of vehicle within the Easement Area, and shall not block access to or use of the Easement Area;
3. Owners of Parcels A, B and C shall perpetually maintain the portion of the Driveway located within its Parcel and shall be responsible for all costs associated with separately maintaining and repairing the Driveway on each Parcel, except each Parcel shall share equally in the initial cost of the construction of the Driveway; Parcel A, B and C will also share equally in the cost of snow removal except the duty to share in the cost of snow removal will not apply to an Owner until his/her home is constructed.

**FILED**

OCT 30 2017

ERIE COUNTY  
CLERK'S OFFICE

4. Owners of Parcels A, B and C shall share equally in the cost of the installation of the sources for all utilities to be connected to the 3 Parcels; thereafter each Parcel shall pay separately for the connection of each utility to each individual Parcel;
5. Owners of Parcels A, B and C shall indemnify, defend and hold harmless each other and their respective successors, distributees, heirs and assigns from any loss, claim or expenses, including attorney's fees, incurred by each Parcel arising from each Parcel's acts or omissions and/or the acts or omissions of each Parcel's employees, invitees, agents, contractors and/or subcontractors in connection with the use of such Easement Area;
6. This Easement and Maintenance Agreement shall be binding on any owner of said Parcels and future purchasers of the said Parcels and shall run with and touch the land.

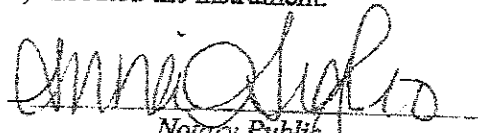
IN WITNESS WHEREOF, the respective parties hereto have caused this instrument to be signed by their own hand this 25<sup>th</sup> day of September, 2017

  
 \_\_\_\_\_  
 David DiPietro

  
 \_\_\_\_\_  
 Theresa DiPietro

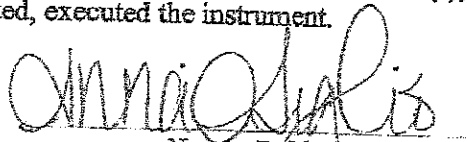
STATE OF NEW YORK     )  
 COUNTY OF ERIE        ) SS.:

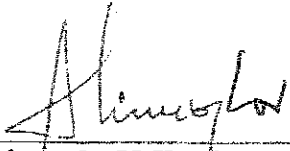
On September 25, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared David DiPietro, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
 \_\_\_\_\_  
 Notary Public  
 ANNA GIGLIO  
 Notary Public, State of New York  
 No. 01616345347  
 Qualified in Erie County  
 My Commission Expires July 25, 2020

STATE OF NEW YORK     )  
 COUNTY OF ERIE        ) SS.:

On September, 2017 before me the undersigned, a Notary Public in and for said State, personally appeared Theresa DiPietro, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
 \_\_\_\_\_  
 Notary Public  
 ANNA GIGLIO  
 Notary Public, State of New York  
 No. 01616345347  
 Qualified in Erie County  
 My Commission Expires July 25, 2020

  
Alexander Y. Kruglov

  
Ellen A. Kruglov

STATE OF NEW YORK     )  
COUNTY OF ERIE       ) SS.:

On Oct. 23, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared Alexander Y. Kruglov, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacit(y)(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

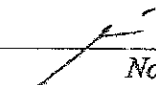
Michael S. Rakowski  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 9/20/20 21

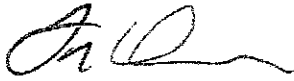
  
Notary Public

STATE OF NEW YORK     )  
COUNTY OF ERIE       ) SS.:

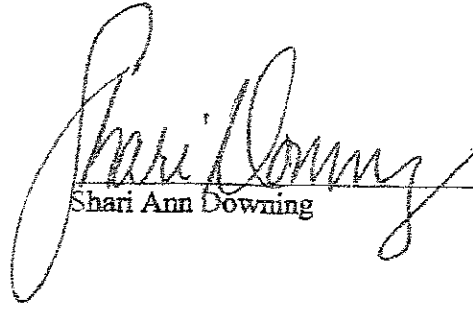
On Oct. 23, 2017 before me the undersigned, a Notary Public in and for said State, personally appeared Ellen A. Kruglov, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacit(y)(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Michael S. Rakowski  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 9/20/20 21

  
Notary Public



Franklin George Downing, Jr.

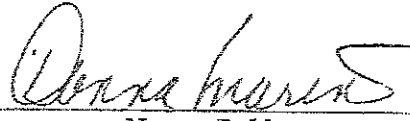


Shari Ann Downing

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:

On Aug. 5, 2017, before me the undersigned, a Notary Public in and for said State, personally appeared Franklin George Downing, Jr. personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacit(y)(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

**DONNA MARINO**  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01MA6113943  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES AUG 9, 2020



Notary Public

STATE OF NEW YORK )  
COUNTY OF ERIE ) SS.:

On Aug. 5, 2017 before me the undersigned, a Notary Public in and for said State, personally appeared Shari Ann Downing, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) (is)(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacit(y)(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

**DONNA MARINO**  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 01MA6113943  
QUALIFIED IN ERIE COUNTY  
MY COMMISSION EXPIRES AUG 9, 2020



Notary Public

# SCHEDULE A

15J5-0015DiPietro  
2/7/17

## "DiPietro Parcel" TOWN OF AURORA

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of the former Big Tree Road, distant 821.59 feet westerly from the west line of Knox Road; thence N 88°51'02" W, 313.43 feet to a point; thence S 04°27'03" E, 33.16 feet to a point in the north line of Lot 47; thence N 88°51'02" W and along the north line of Lot 47, 222.95 feet to the northeast corner of lands deeded to Adrian L. Dodge by deed recorded in the Erie County Clerk's Office in Liber 2023 of Deeds at page 478; thence S 23°13'58" W along the east line of said Dodge's lands, 400 feet to a point; continuing along Dodge's east line and S 38°05'58" W, 365 feet more or less to a point in the center line of Cazenovia Creek; thence southeasterly along the center line of Cazenovia Creek 562 feet more or less to a point; thence N 24°49'44" E, 1104 feet more or less to the center line of former Big Tree Road and the point or place of beginning.

TOGETHER with ingress and egress over premises described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, *a part of Lot 48,* Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the north line of Lot 47, said line being also the south line of Knox Road at its intersection with the extension south of the west line of the east one-third of Lot 48, said point being a measured distance of 1295.53 feet west of the northeast corner of Lot 47; thence the following courses and distances: N 88°51'02" W, 33 feet to a point; N 00°40'37" E, 20.53 feet to a point; S 36°55'18" W, 23.06 feet to a point; along a curve to the right a radius of 50 feet, an arc distance of 55.36 feet to a point; N 79°38'38" W, 72.14 feet to a point; a curve to the left a radius of 525.00 feet, an arc distance of 84.36 feet; N 88°51'02" W, 583.51 feet to a point; along a curve to the left, a radius of 135 feet, an arc distance of 109.22 feet to a point; S 44°47'48" W, 23.00 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; along a curve to the left a radius of 65 feet, an arc distance of 324.75 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; N 44°47'48" E, 23.00 feet to a point; along a curve to the right a radius of 85 feet, an arc distance of 68.77 feet to a point; S 88°51'02" E, 583.51 feet to a point; along a curve to the right a radius of 475 feet, an arc distance of 76.33 feet to a

point; S 79°38'38" E, 72.14 feet to a point; along a curve to the left a radius of 100 feet, an arc distance of 110.71 feet to a point; N 36°55'18" E, 10.67 feet to a point; N 00°40'37" E, 18.75 feet to the point of beginning.

## SCHEDULE B

15J5-0015Kruglov  
2/7/17

### "Kruglov Parcel" TOWN OF AURORA

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of the former Big Tree Road, distant 309.66 feet westerly from the west line of Knox Road; thence N 88°51'02" W and along the center line of the former Big Tree Road, 511.93 feet to a point; thence S 24°49'44" W, 1104 feet more or less to a point in the center line of Cazenovia Creek; thence southeasterly along the center line of Cazenovia Creek 492 feet more or less to a point; thence N 24°49'44" E, 1460 feet more or less to the center line of former Big Tree Road and the point or place of beginning.

TOGETHER with ingress and egress over premises described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the north line of Lot 47, said line being also the south line of Knox Road at its intersection with the extension south of the west line of the east one-third of Lot 48, said point being a measured distance of 1295.53 feet west of the northeast corner of Lot 47; thence the following courses and distances: N 88°51'02" W, 33 feet to a point; N 00°40'37" E, 20.53 feet to a point; S 36°55'18" W, 23.06 feet to a point; along a curve to the right a radius of 50 feet, an arc distance of 55.36 feet to a point; N 79°38'38" W, 72.14 feet to a point; a curve to the left a radius of 525.00 feet, an arc distance of 84.36 feet; N 88°51'02" W, 583.51 feet to a point; along a curve to the left, a radius of 135 feet, an arc distance of 109.22 feet to a point; S 44°47'48" W, 23.00 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; along a curve to the left a radius of 65 feet, an arc distance of 324.75 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; N 44°47'48" E, 23.00 feet to a point; along a curve to the right a radius of 85 feet, an arc distance of 68.77 feet to a point; S 88°51'02" E, 583.51 feet to a point; along a curve to the right a radius of 475 feet, an arc distance of 76.33 feet to a point; S 79°38'38" E, 72.14 feet to a point; along a curve to the left a radius of 100 feet, an arc distance of 110.71 feet to a point; N 36°55'18" E, 10.67 feet to a point; N 00°40'37" E, 18.75 feet to the point of beginning.

## SCHEDULE C

15J5-0015Downing  
2/7/17

### "Downing Parcel" TOWN OF AURORA

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

#### Parcel "A"

BEGINNING at a point in the north line of Lot 47, said north line of Lot 47 also being the south line of Knox Road (66 feet wide and fka Big Tree or Middle Road), 1,295.53 feet west of the northeast corner of Lot Number 47 and the center line of Knox Road as extended southerly; running N 88°51'02" W and along the north line of Lot Number 47, a distance of 357.40 feet to a point; thence S 24°49'44" W, a distance of 1,424 feet more or less to a point in the center line of Cazenovia Creek; thence southeasterly along the center line of Cazenovia Creek a distance of 523 feet more or less to a point, said point being the southwest corner of lands conveyed to Seymour H. Knox IV by deed recorded in the Erie County Clerk's Office in Liber 10970 of Deeds at page 4465; thence N 24°49'44" E and along the westerly line of lands so conveyed to Knox by deed aforesaid, a distance of 1,254 feet more or less to an angle point in said westerly line; thence N 00°40'37" E and continuing along the westerly line of said lands so conveyed to Knox by deed aforesaid, a distance of 447.50 feet to the point of beginning.

#### Parcel "B"

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at the intersection of the north line of Lot Number 47, said north line of Lot Number 47 also being the south line of the former Big Tree or Middle Road and the west line of Knox Road (66' wide), said point being 1,328.53 feet west of the northeast corner of Lot Number 47; running thence North 00°40'37" East and along the west line of Knox Road, a distance of 33 feet to the center line of the former Big Tree or Middle Road; thence N 88°51'02" W and along the center line of the former Big Tree or Middle Road, a distance of 309.40 feet to a point; thence S 24°49'44" W, a distance of 36.03 feet to a point in the north line of Lot Number 47; thence S 88°51'02" E and along the north line of Lot Number 47 a distance of 324.40 feet to the point of beginning.



TOGETHER with ingress and egress over premises described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the north line of Lot 47, said line being also the south line of Knox Road at its intersection with the extension south of the west line of the east one-third of Lot 48, said point being a measured distance of 1295.53 feet west of the northeast corner of Lot 47; thence the following courses and distances: N 88°51'02" W, 33 feet to a point; N 00°40'37" E, 20.53 feet to a point; S 36°55'18" W, 23.06 feet to a point; along a curve to the right a radius of 50 feet, an arc distance of 55.36 feet to a point; N 79°38'38" W, 72.14 feet to a point; a curve to the left a radius of 525.00 feet, an arc distance of 84.36 feet; N 88°51'02" W, 583.51 feet to a point; along a curve to the left, a radius of 135 feet, an arc distance of 109.22 feet to a point; S 44°47'48" W, 23.00 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; along a curve to the left a radius of 65 feet, an arc distance of 324.75 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; N 44°47'48" E, 23.00 feet to a point; along a curve to the right a radius of 85 feet, an arc distance of 68.77 feet to a point; S 88°51'02" E, 583.51 feet to a point; along a curve to the right a radius of 475 feet, an arc distance of 76.33 feet to a point; S 79°38'38" E, 72.14 feet to a point; along a curve to the left a radius of 100 feet, an arc distance of 110.71 feet to a point; N 36°55'18" E, 10.67 feet to a point; N 00°40'37" E, 18.75 feet to the point of beginning.

# SCHEDULE D

15J5-0015EASEMENT  
2/7/17

## "THE EASEMENT" TOWN OF AURORA

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Aurora, County of Erie and State of New York, being part of Lot No. 47, Township 9, Range 6 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point on the north line of Lot 47, said line being also the south line of Knox Road at its intersection with the extension south of the west line of the east one-third of Lot 48, said point being a measured distance of 1295.53 feet west of the northeast corner of Lot 47; thence the following courses and distances: N 88°51'02" W, 33 feet to a point; N 00°40'37" E, 20.53 feet to a point; S 36°55'18" W, 23.06 feet to a point; along a curve to the right a radius of 50 feet, an arc distance of 55.36 feet to a point; N 79°38'38" W, 72.14 feet to a point; a curve to the left a radius of 525.00 feet, an arc distance of 84.36 feet; N 88°51'02" W, 583.51 feet to a point; along a curve to the left, a radius of 135 feet, an arc distance of 109.22 feet to a point; S 44°47'48" W, 23.00 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; along a curve to the left a radius of 65 feet, an arc distance of 324.75 feet to a point; along a curve to the right a radius of 35 feet, an arc distance of 32.46 feet to a point; N 44°47'48" E, 23.00 feet to a point; along a curve to the right a radius of 85 feet, an arc distance of 68.77 feet to a point; S 88°51'02" E, 583.51 feet to a point; along a curve to the right a radius of 475 feet, an arc distance of 76.33 feet to a point; S 79°38'38" E, 72.14 feet to a point; along a curve to the left a radius of 100 feet, an arc distance of 110.71 feet to a point; N 36°55'18" E, 10.67 feet to a point; N 00°40'37" E, 18.75 feet to the point of beginning.



PEGGY A. LAGREE, ACTING ERIE COUNTY CLERK  
REF:

DATE: 10/30/2017  
TIME: 4:35:27 PM  
RECEIPT: 17190560

RAKOWSKI MICHAEL BOX 200  
ACCOUNT #: 2034

ITEM - 01 706  
RECD: 10/30/2017 4:40:05 PM  
FILE: 2017219586 BK/PD D 11320/8961  
Deed Sequence: TT2017007150

DIPIETRO DAVID  
Recording Fees 100.50  
TP584 30.00

Subtotal 130.50

TOTAL DUE	\$130.50
PAID TOTAL	\$130.50
PAID ESCROW	\$130.50

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REC BY: Diane  
COUNTY RECORDER