

PRIVATE ROAD AMENDED EASEMENT AND MAINTENANCE DECLARATION

AMENDED DECLARATION, dated this _____ day of _____, 2022, by Nima Contracting, Inc., a domestic corporation having offices at 3121 Rt 9W, New Windsor, NY 12553, (the "Declarant").

WHEREAS, Declarant is the owner of certain real property located in the Town of Marlborough, Ulster County, New York, which premises are described as Lot 9 and a portion of Lot 11 on a map entitled "Map for American Land Preservation" filed in the office of the Ulster County Clerk on May 18, 1988 as Map No. 11073, as well as an additional parcel being the balance of lot 11 on the aforesaid map, which premises are identified on the tax map of the Town of Marlborough as Section 103.3 Block 3 Lots 28.900, 28.121 and 28.122, further described in Schedule "A" annexed hereto and made a part hereof (the "premises"); and

WHEREAS Declarant, has by Declaration dated _____ and recorded _____ established a Private Driveway Easement and Maintenance Declaration for said private driveway, and

WHEREAS Declarant, has, modified the existing private driveway as depicted on Map No 11073, by map entitled _____ dated _____, 2022 and filed in the office of the Ulster County Clerk as Map No. _____ (the "Private Road Map") in order to upgrade same to Private Road specifications (the "Private Road") as required by the Town of Marlborough, and

WHEREAS, Declarant by this instrument wishes to supercede the existing Private Driveway Easement and Declaration, and establish in its place a private road which is to be used for purposes of ingress and egress, and for delivery of utilities to the aforesaid premises, (collectively referred to throughout this document as the "private road");

NOW, THEREFORE, for the mutual protection and advantage of all present and future lot owners, the Declarant does make and declare the following agreement pertaining to the lots herein, which agreement shall run with the land and shall be binding on future owners, their heirs, distributees, successors, and assigns forever.

1. The Declarant will record this Agreement in the Ulster County Clerk's Office and each owner will refer to the same in all deeds conveying title to the lots as shown on the hereinbefore referred to filed map and by said reference all of said lot owners will assume the obligation of said Agreement by acceptance of title to the respective lots.

2. The owners, their heirs, distributees, successors, and assigns, shall have the joint, equal and mutual right to use the private road as designated and shown on the aforesaid Private Road Map for the purpose of residential ingress and egress and for the installation and maintenance of utilities serving their respective lot, as provided herein, for their mutual convenience and benefit. No vehicles shall be parked on any portion of the private road.

3. The word "maintenance" as used in this Agreement shall be defined as all costs and expenses in connection with said private road, including the cost of snow removal, sweeping, surfacing and resurfacing, regravelling, filling in of holes, and all those items necessary so as to make it convenient and safe for the owners of the aforesaid lots to use said private road and to maintain said private road to a minimum passable specification.

4. The owners shall agree, on an annual basis, upon the method of determining the standards to be utilized in hiring contractors who shall perform maintenance on said private road, including but not limited to the removal of snow or application of sand when snow or ice conditions prevail. The owner of each lot shall pay one third (1/3) of the expense of repairing and maintaining said private road. In the event any lot is further subdivided, or additional parties agree to be bound by this agreement, each owner shall pay a share of any expense incurred expressed as a fraction of the total expense, where the numerator of such fraction shall be the number of lots owned by each owner, and the denominator shall be the total number of lots subject to this Agreement. The Manager shall break any tie vote.

5. Unless otherwise unanimously agreed, each owner agrees that said private road shall always be maintained so as to be passable by ordinary passenger vehicles, and this shall include prompt repair of any "potholes" in excess of three inches in depth or other defects which cause said private road to fail to meet a minimum specification of passability, and that in the event the accumulation of snow exceeds three inches in depth, as the average depth, to engage a contractor to remove the snow from the private road. In the event any areas are disturbed or damaged as a result of any lot owner's exercise of rights pursuant to the easement created hereunder or otherwise, such disturbed or damaged areas shall be restored at the lot owner's sole cost and expense.

6. In the event one of the lot owners fails to pay their proportionate share of the expenses within seven (7) days after demand therefore is made by a contractor, or by another owner who has advanced any sums pursuant to this agreement, the lot owner who has not paid his or her proportionate share shall subject his or her lot to a Mechanic's Lien in favor of the contractor, or the other lot owner if he or she have advanced any sums under this Agreement. The lot owner who has paid may also commence an action against the defaulting lot owner in a court of appropriate jurisdiction to recover the unpaid monies, together with interest thereon at 16% per annum. In any action commenced against the defaulting lot owner, there shall be a presumption that the maintenance work for which monies are owing was validly authorized by the lot owners and was competently performed by the contractor. The defaulting lot owner shall be liable for all costs and expenses in recovering such sums, including, but not limited to, reasonable attorney's fees which are incurred by the property owners in recovering said defaulting lot owner's unpaid share. In addition, and not in lieu of attorneys fees, any lot owner having to appear in court in connection with the recovery of the unpaid monies of a defaulting lot owner shall be compensated by the defaulting

lot owner in the amount of Five Hundred (\$500.00) Dollars for each court appearance as liquidated damages.

7. "Utility" or "Utilities" as used herein, shall be defined as the installation and maintenance of overhead or underground electric, telephone, cable television, internet, water, natural gas, or any other utility wires, poles, guys, pipes or conduits, in, over or under the private road, together with the right to convey same to a public utility as necessary.

8. As long as Declarant shall own any lot subject to this Agreement, a party designated by Declarant shall serve as Road Manager. At such time as Declarant no longer owns any lot or no longer wishes to designate a Manager, the then owners shall elect a Manager. The Manager so elected shall serve for a term of one (1) year or such other term(s) as the Owners by majority vote shall determine.

In witness whereof, the Declarant has set its hand the date indicated above.

Nima Contracting, Inc.

BY: Nicholas Galella, Pres.

STATE OF NEW YORK)ss.:
COUNTY OF ORANGE)

On the day of , 2022, before me, the undersigned, a Notary Public in and for the State of New York, personally Nicholas Galella, 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 said individual executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument

Notary Public

Record & Return:
Todd A. Kelson, P.C.
542 Union Avenue
New Windsor, NY 12553