

**RIGHT OF WAY AND COMMON DRIVEWAY AGREEMENT
SUN8 PDC, LLC, c/o DISTRIBUTED SUN, LLC SUBDIVISION
DRYDEN, NEW YORK**

THIS RIGHT OF WAY AGREEMENT (“**Agreement**”) is made this ____ day of _____, 2017 by **SCOTT PINNEY**, an individual residing at 22 Oakwood Drive, Ithaca 14850 (“**Pinney**”).

WHEREAS, Pinney is the owner of that certain real property located at 2150 Dryden Road in the Town of Dryden, County of Tompkins and State of New York, of approximately 158.145 acres and identified as Tax Map Parcel No. 38.-1-3.1 and as more further described in a deed recorded in the Tompkins County Clerk’s Office as instrument number 598288-001 (“**Pinney Land**”);

WHEREAS, Pinney is subdividing the Pinney Land into five lots (“**Subdivision**”) as more particularly shown on a certain subdivision map of the Pinney Lands entitled “SUN8 PDC LLC, c/o Distributed Sun, LLC Subdivision” filed in the Tompkins County Clerk’s Office as map _____;

WHEREAS, as a condition of the approval of the Subdivision, and to benefit the future owners of the Lots 1, 2, 3, and 4 within the Subdivision, Pinney is dedicating a common right of way for ingress and egress for foot and vehicular traffic that is sixteen feet wide and the centerline of which is more particularly described on Exhibit “A” annexed hereto (“**Sun Road**”);

WHEREAS, it is the intent of Pinney to set forth the future lot owners’ respective rights and obligations regarding the easement for right of way granted herein.

NOW, THEREFORE, for good and valuable consideration, the receipt of which the parties hereto do acknowledge, the parties agree as follows:

1. The above recitals are incorporated by reference and are hereby made a part of this Agreement.
2. Pinney intends this Agreement to supersede and replace any and all previous agreements regarding any private rights of way over the Pinney Land.
3. Pinney hereby dedicates, grants, conveys and releases unto the future owners, their heirs, successors and assigns a permanent easement for right of way over Sun Road for the purpose of ingress and egress of foot and vehicular traffic.
4. The easement for right of way is dedicated and granted herein and all the terms and conditions are to be held by the parties, their heirs, successors and assigns, as appurtenant to the land owned by said parties and this Agreement or any interest therein shall not be let, assigned or transferred except as an appurtenance to all the premises owned by each of the future lot owners.
5. Neither Pinney nor any future owner of any lot in the Subdivision shall obstruct, impede, or interfere with the reasonable use of Sun Road by the other, and neither

shall park, or permit their invitees to park vehicles, on Sun Road in a manner that would unreasonably impede ingress and egress by the other party.

6. The responsibility and cost to use, maintain, repair and replace Sun Road to comply with Town of Dryden Code provisions governing common driveways, shall be shared equally between the future owners of all lots within the Subdivision, with twenty five percent (25%) of all such costs attributable to each lot.
7. If a future lot owner fails to reasonably discharge its use, maintenance, repair and replacement obligations, the other lot owners shall have the right, but not the obligation, to perform such maintenance and repair and to be reimbursed for the cost and expense thereof by the defaulting party, including costs and reasonable attorneys' fees incurred in collection.
8. Notwithstanding the previous paragraph, if Sun Road is damaged during the course of construction on any property within the Subdivision, or through the negligence of an owner or its invitees, the owner of that property shall bear the cost of restoring Sun Road to the condition it was in prior to the construction and damage. Damage caused by the negligence of an owner or its invitees shall be repaired as soon as practicable after the damage occurs.
9. To the extent the State of New York has any right in title or interest to Sun Road, the State of New York may exercise any right or benefit granted hereunder.
10. In the event of a violation or breach of any provision contained in this Agreement by any of the parties, Pinney and any future lot owner shall have the right to enforce this Agreement by appropriate judicial proceedings.
11. Each future lot owner agrees to defend, hold harmless and indemnify the other from any and all claims, liability, loss or damage arising out of the use of Sun Road by each party and their tenants, visitors, servants and licensees.
12. Pinney represents and warrants that he has full authority to enter into this Agreement, and that he has good and marketable title to the Pinney Land.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date above written.

SCOTT PINNEY

STATE OF NEW YORK)
COUNTY OF TOMPKINS) ss:

On the ___ day of _____ in the year Two Thousand and _____ before me, the undersigned, a notary public in and for said state, personally appeared **Scott Pinney** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT "A"

"SUN ROAD" CENTERLINE ACCESS DRIVEWAY

Commencing at a point marked by a found 3/4" Rebar & Cap - Reagan Surveying in the northerly right of way for Dryden Road (N.Y.S. ROUTE 13) at its intersection with the division line between the lands now or formerly of Scott Pinney tax parcel number 38.0-1-3.1 on the east and lands now or formerly of the Willow Glen Cemetery tax parcel number 38.0-1-5 on the west;
thence

- A) N 68°26'55" E along said right of way a distance of 4.35 feet to a point; thence
- B) N 27°09'43" E continuing along said right of way a distance of 43.65 feet to a point;
thence
- C) N 67°15'26" E continuing along said right of way a distance of 52.08 feet to the point of beginning; thence

Through the lands now or formerly of Scott Pinney tax parcel number 38.0-1-3.1 the following courses and distances

- 1) N 21°40'38" W feet a distance of 20.19 to a point on a curve having a radius of 90.00 feet and a central angle of 99°44'46"; thence
- 2) along the arc of said curve to the right a distance of 156.68 feet to a point, said arc subtended by a chord bearing N 28°11'45" E, a distance of 137.63 feet; thence
- 3) N 78°04'08" E, a distance of 127.90 feet to a point on a curve having a radius of 140.00 feet and a central angle of 122°41'31"; thence
- 4) along the arc of said curve to the left a distance of 299.79 feet to a point, said arc subtended by a chord bearing N 16°43'22" E, a distance of 245.71 feet; thence
- 5) N 44°37'23" W a distance of 40.08 feet to a point on a curve having a radius of 150.00 feet and a central angle of 13°22'57"; thence
- 6) along the arc of said curve to the right a distance of 35.03 feet to a point, said arc subtended by a chord bearing N 37°55'55" W, a distance of 34.96 feet; thence
- 7) N 31°14'27" W a distance of 63.96 feet to a point on a curve having a radius of 150.00 feet and a central angle of 24°33'13"; thence

- 8) along the arc of said curve to the right a distance of 64.28 feet to a point, said arc subtended by a chord bearing N 18°57'50" W, a distance of 63.79 feet; thence
- 9) N 6°41'13" W a distance of 397.89 feet to a point on a curve having a radius of 175.00 feet and a central angle of 34°37'26"; thence
- 10) along the arc of said curve to the left a distance of 105.75 feet to a point, said arc subtended by a chord bearing N 10°37'30" E, a distance of 104.15 feet; thence
- 11) N 27°56'13" E a distance of 78.66 feet to a point on a curve having a radius of 100.00 feet and a central angle of 81°29'06"; thence
- 12) along the arc of said curve to the left a distance of 142.22 feet to a point, said arc subtended by a chord bearing N 12°48'20" W, a distance of 130.53 feet; thence
- 13) N 53°32'52" W a distance of 210.61 feet to a point; thence
- 14) N 62°30'27" W a distance of 98.01 feet to a point on a curve having a radius of 180.00 feet and a central angle of 67°17'16"; thence
- 15) along the arc of said curve a distance of 211.39 feet to a point, said arc subtended by a chord bearing N 28°51'49" W, a distance of 199.45 feet; thence
- 16) N 4°46'49" E a distance of 164.40 feet to a point; thence
- 17) N 2°26'49" E a distance of 528.05 feet to a point in the southerly boundary of Lot 1 as shown on a map be labella Associates DPC titled " Proposed Subdivision Plan Final Plat 2150 Dryden Road" Dated September 6, 2017.