



BROOME COUNTY – STATE OF NEW YORK  
 JOSEPH A. MIHALKO, COUNTY CLERK  
 60 HAWLEY STREET, P.O. BOX 2062  
 BINGHAMTON, NY 13902

COUNTY CLERK'S RECORDING PAGE  
 \*\*\*THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH\*\*\*



BOOK/PAGE: D2742 / 491  
 INSTRUMENT #: 202300023459  
 Receipt#: 20231201529  
 Clerk: GG  
 Rec Date: 11/14/2023 04:03:54 PM  
 Doc Grp: D  
 Descrip: EASEMENT  
 Num Pgs: 10  
 Rec'd Frm: HANCOCK ESTABROOK LLP

Party1: DOWNSIDE RISK INC  
 Party2: PEOPLE OF THE STATE OF NEW YORK  
 Town: TOWN OF VESTAL

Recording:  
 Cover Page 5.00  
 Recording Fee 65.00  
 Cultural Ed 14.25  
 Records Management - Coun 1.00  
 Records Management - Stat 4.75  
 TP584 10.00

Sub Total: 100.00

Transfer Tax  
 Transfer Tax - State 0.00  
 Transfer Tax - County 0.00

Sub Total: 0.00

Total: 100.00  
 \*\*\*\*\* NOTICE: THIS IS NOT A BILL \*\*\*\*\*

\*\*\*\*\* Transfer Tax \*\*\*\*\*  
 Transfer Tax #: TT001671  
 Transfer Tax  
 Consideration: 0.00

Total: 0.00

WARNING\*\*\*

This sheet constitutes the clerks endorsement,  
 required by Section 316-A (5) & Section 319 of the  
 Real Property Law of the State of New York. DO  
 NOT DETACH.

Joseph A. Mihalko  
 Broome County Clerk

Record and Return To:

HANCOCK ESTABROOK LLP  
 1800 AXA TOWER I  
 100 MADISON ST STE 1800  
 SYRACUSE NY 13202-9945

ENVIRONMENTAL EASEMENT GRANTED PURSUANT TO ARTICLE 71, TITLE 36  
OF THE NEW YORK STATE ENVIRONMENTAL CONSERVATION LAW

THIS INDENTURE made this 6th day of November, 2023 between Owner, Downside Risk, Inc., having an office at 200 Plaza Drive, Vestal, County of Broome, State of New York (the "Grantor"), and The People of the State of New York (the "Grantee"), acting through their Commissioner of the Department of Environmental Conservation (the "Commissioner", or "NYSDEC" or "Department" as the context requires) with its headquarters located at 625 Broadway, Albany, New York 12233,

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to encourage the remediation of abandoned and likely contaminated properties ("sites") that threaten the health and vitality of the communities they burden while at the same time ensuring the protection of public health and the environment; and

WHEREAS, the Legislature of the State of New York has declared that it is in the public interest to establish within the Department a statutory environmental remediation program that includes the use of Environmental Easements as an enforceable means of ensuring the performance of operation, maintenance, and/or monitoring requirements and the restriction of future uses of the land, when an environmental remediation project leaves residual contamination at levels that have been determined to be safe for a specific use, but not all uses, or which includes engineered structures that must be maintained or protected against damage to perform properly and be effective, or which requires groundwater use or soil management restrictions; and

WHEREAS, the Legislature of the State of New York has declared that Environmental Easement shall mean an interest in real property, created under and subject to the provisions of Article 71, Title 36 of the New York State Environmental Conservation Law ("ECL") which contains a use restriction and/or a prohibition on the use of land in a manner inconsistent with engineering controls which are intended to ensure the long term effectiveness of a site remedial program or eliminate potential exposure pathways to hazardous waste or petroleum; and

WHEREAS, Grantor, is the owner of real property located at the address of 3201 Stewart Road, in the <sup>Town</sup> ~~City~~ of Vestal, County of Broome and State of New York, known and designated on the tax map of the County Clerk of Broome as tax map parcel number: Section 158.11 Block 1 Lot 15, being the same as that property conveyed to Grantor by deed dated April 29, 1983 recorded in the Broome County Clerk's Office in Liber and Page 1371/232; deed dated November 13, 1986 recorded in the Broome County Clerk's Office in Liber and Page 1684/310; and deed dated September 30, 1996 recorded in the Broome County Clerk's Office in Liber and Page 1870/269. The property subject to this Environmental Easement (the "Controlled Property") comprises approximately 3.558 +/- acres and is hereinafter more fully described in the Land Title Survey dated April 18, 2022 and revised on May 13, 2022 prepared by Edward Ripic, Jr., which will be attached to the Site Management Plan. The Controlled Property description is set forth in and attached hereto as Schedule A; and

WHEREAS, the Department accepts this Environmental Easement in order to ensure the protection of public health and the environment and to achieve the requirements for remediation

established for the Controlled Property until such time as this Environmental Easement is extinguished pursuant to ECL Article 71, Title 36; and

**NOW THEREFORE**, in consideration of the mutual covenants contained herein and the terms and conditions of Order on Consent Index Number: R7-20220610-32, Grantor conveys to Grantee a permanent Environmental Easement pursuant to ECL Article 71, Title 36 in, on, over, under, and upon the Controlled Property as more fully described herein ("Environmental Easement").

1. Purposes. Grantor and Grantee acknowledge that the Purposes of this Environmental Easement are: to convey to Grantee real property rights and interests that will run with the land in perpetuity in order to provide an effective and enforceable means of encouraging the reuse and redevelopment of this Controlled Property at a level that has been determined to be safe for a specific use while ensuring the performance of operation, maintenance, and/or monitoring requirements; and to ensure the restriction of future uses of the land that are inconsistent with the above-stated purpose.

2. Institutional and Engineering Controls. The controls and requirements listed in the Department approved Site Management Plan ("SMP") including any and all Department approved amendments to the SMP are incorporated into and made part of this Environmental Easement. These controls and requirements apply to the use of the Controlled Property, run with the land, are binding on the Grantor and the Grantor's successors and assigns, and are enforceable in law or equity against any owner of the Controlled Property, any lessees and any person using the Controlled Property.

A. (1) The Controlled Property may be used for:

**Commercial as described in 6 NYCRR Part 375-1.8(g)(2)(iii) and Industrial as described in 6 NYCRR Part 375-1.8(g)(2)(iv)**

(2) All Engineering Controls must be operated and maintained as specified in the Site Management Plan (SMP);

(3) All Engineering Controls must be inspected at a frequency and in a manner defined in the SMP;

(4) The use of groundwater underlying the property is prohibited without necessary water quality treatment as determined by the NYSDOH or the Broome County Department of Health to render it safe for use as drinking water or for industrial purposes, and the user must first notify and obtain written approval to do so from the Department;

(5) Groundwater and other environmental or public health monitoring must be performed as defined in the SMP;

(6) Data and information pertinent to Site Management of the Controlled Property must be reported at the frequency and in a manner defined in the SMP;

(7) All future activities on the property that will disturb remaining

contaminated material must be conducted in accordance with the SMP;

(8) Monitoring to assess the performance and effectiveness of the remedy must be performed as defined in the SMP;

(9) Operation, maintenance, monitoring, inspection, and reporting of any mechanical or physical components of the remedy shall be performed as defined in the SMP;

(10) Access to the site must be provided to agents, employees or other representatives of the State of New York with reasonable prior notice to the property owner to assure compliance with the restrictions identified by this Environmental Easement.

B. The Controlled Property shall not be used for Residential or Restricted Residential purposes as defined in 6NYCRR 375-1.8(g)(2)(i) and (ii), and the above-stated engineering controls may not be discontinued without an amendment or extinguishment of this Environmental Easement.

C. The SMP describes obligations that the Grantor assumes on behalf of Grantor, its successors and assigns. The Grantor's assumption of the obligations contained in the SMP which may include sampling, monitoring, and/or operating a treatment system, and providing certified reports to the NYSDEC, is and remains a fundamental element of the Department's determination that the Controlled Property is safe for a specific use, but not all uses. The SMP may be modified in accordance with the Department's statutory and regulatory authority. The Grantor and all successors and assigns, assume the burden of complying with the SMP and obtaining an up-to-date version of the SMP from:

Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, New York 12233  
Phone: (518) 402-9553

D. Grantor must provide all persons who acquire any interest in the Controlled Property a true and complete copy of the SMP that the Department approves for the Controlled Property and all Department-approved amendments to that SMP.

E. Grantor covenants and agrees that until such time as the Environmental Easement is extinguished in accordance with the requirements of ECL Article 71, Title 36 of the ECL, the property deed and all subsequent instruments of conveyance relating to the Controlled Property shall state in at least fifteen-point bold-faced type:

**This property is subject to an Environmental Easement held by the New York State Department of Environmental Conservation pursuant to Title 36 of Article 71 of the Environmental Conservation**

## Law.

F. Grantor covenants and agrees that this Environmental Easement shall be incorporated in full or by reference in any leases, licenses, or other instruments granting a right to use the Controlled Property.

G. Grantor covenants and agrees that it shall, at such time as NYSDEC may require, submit to NYSDEC a written statement by an expert the NYSDEC may find acceptable certifying under penalty of perjury, in such form and manner as the Department may require, that:

(1) the inspection of the site to confirm the effectiveness of the institutional and engineering controls required by the remedial program was performed under the direction of the individual set forth at 6 NYCRR Part 375-1.8(h)(3).

(2) the institutional controls and/or engineering controls employed at such site:  
(i) are in-place;  
(ii) are unchanged from the previous certification, or that any identified changes to the controls employed were approved by the NYSDEC and that all controls are in the Department-approved format; and

(iii) that nothing has occurred that would impair the ability of such control to protect the public health and environment;

(3) the owner will continue to allow access to such real property to evaluate the continued maintenance of such controls;

(4) nothing has occurred that would constitute a violation or failure to comply with any site management plan for such controls;

(5) the report and all attachments were prepared under the direction of, and reviewed by, the party making the certification;

(6) to the best of his/her knowledge and belief, the work and conclusions described in this certification are in accordance with the requirements of the site remedial program, and generally accepted engineering practices; and

(7) the information presented is accurate and complete.

3. Right to Enter and Inspect. Grantee, its agents, employees, or other representatives of the State may enter and inspect the Controlled Property in a reasonable manner and at reasonable times to assure compliance with the above-stated restrictions.

4. Reserved Grantor's Rights. Grantor reserves for itself, its assigns, representatives, and successors in interest with respect to the Property, all rights as fee owner of the Property, including:

A. Use of the Controlled Property for all purposes not inconsistent with, or limited by the terms of this Environmental Easement;

B. The right to give, sell, assign, or otherwise transfer part or all of the underlying fee interest to the Controlled Property, subject and subordinate to this Environmental Easement;

5. Enforcement

A. This Environmental Easement is enforceable in law or equity in perpetuity by Grantor, Grantee, or any affected local government, as defined in ECL Section 71-3603, against

the owner of the Property, any lessees, and any person using the land. Enforcement shall not be defeated because of any subsequent adverse possession, laches, estoppel, or waiver. It is not a defense in any action to enforce this Environmental Easement that: it is not appurtenant to an interest in real property; it is not of a character that has been recognized traditionally at common law; it imposes a negative burden; it imposes affirmative obligations upon the owner of any interest in the burdened property; the benefit does not touch or concern real property; there is no privity of estate or of contract; or it imposes an unreasonable restraint on alienation.

B. If any person violates this Environmental Easement, the Grantee may revoke the Certificate of Completion with respect to the Controlled Property.

C. Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

D. The failure of Grantee to enforce any of the terms contained herein shall not be deemed a waiver of any such term nor bar any enforcement rights.

6. Notice. Whenever notice to the Grantee (other than the annual certification) or approval from the Grantee is required, the Party providing such notice or seeking such approval shall identify the Controlled Property by referencing the following information:

County, NYSDEC Site Number, NYSDEC Brownfield Cleanup Agreement, State Assistance Contract or Order Number, and the County tax map number or the Liber and Page or computerized system identification number.

Parties shall address correspondence to:      Site Number: 704007  
Office of General Counsel  
NYSDEC  
625 Broadway  
Albany New York 12233-5500

With a copy to:    Site Control Section  
Division of Environmental Remediation  
NYSDEC  
625 Broadway  
Albany, NY 12233

All notices and correspondence shall be delivered by hand, by registered mail or by Certified mail and return receipt requested. The Parties may provide for other means of receiving and communicating notices and responses to requests for approval.

7. Recordation. Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the

recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

8. Amendment. Any amendment to this Environmental Easement may only be executed by the Commissioner of the New York State Department of Environmental Conservation or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.

9. Extinguishment. This Environmental Easement may be extinguished only by a release by the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner's Designee, and filed with the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the Real Property Law.


10. Joint Obligation. If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

11. Consistency with the SMP. To the extent there is any conflict or inconsistency between the terms of this Environmental Easement and the SMP, regarding matters specifically addressed by the SMP, the terms of the SMP will control.

**Remainder of Page Intentionally Left Blank**

IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Downside Risk, Inc.:

By: 

Print Name: PETER WALSH

Title: SECRETARY Date: 10/20/23

**Grantor's Acknowledgment**

STATE OF NEW YORK    )  
                                  ) ss:  
COUNTY OF Broome    )

On the 20<sup>th</sup> day of October, in the year 2023, before me, the undersigned, personally appeared Peter Walsh, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name 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 - State of New York

**KAREN A WALTER**  
Notary Public, State of New York  
No. 01WA4946164  
Qualified in Broome County 27  
Commission Expires January 27, 2025



**THIS ENVIRONMENTAL EASEMENT IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK,** Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: Andrew Guglielmi  
Andrew O. Guglielmi, Director  
Division of Environmental Remediation

**Grantee's Acknowledgment**

STATE OF NEW YORK    )  
  ) ss:  
COUNTY OF ALBANY    )

On the 6th day of November, in the year 2023 before me, the undersigned, personally appeared Andrew O. Guglielmi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/ executed the same in his/her/ capacity as Designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his/her/ signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Cheryl A. Salem  
Notary Public - State of New York

Cheryl A. Salem  
Notary Public State of New York  
Registration No. 01SA0002177  
Qualified In Albany County  
My Commission Expires March 3, 2027

SCHEDULE "A" PROPERTY DESCRIPTION

BEGINNING at the intersection of the west line of North Jenson Road and the north line of Stewart Road. Thence S 85°35'30" W along the north line of Stewart Road for a distance of 228.01 feet to a bent over 5/8" rebar. Thence continuing along said north line of Stewart Road S 40°47'05" W for a distance of 197.53 feet to a bent over 5/8" rebar marking the True Point of Beginning.

THENCE S 67°54'30" W along the north line of Stewart Road for a distance of 272.32 feet to a 5/8" rebar;

THENCE S 86°51'30" W along the north line of Stewart Road for a distance of 177.81 feet to a 5/8" rebar;

THENCE N 06°51'30" E for a distance of 472.81 feet to a 5/8" rebar with cap;

THENCE S 83°03'30" E for a distance of 359.08 feet to a 5/8" rebar with cap;

THENCE S 06°56'32" W for a distance of 226.08 feet to a 3/4" rebar set with cap;

THENCE S 26°20'28" E for a distance of 99.80 feet to the True Point of Beginning;

CONTAINING 3.558 Acres

R&R: Daniel K. Mannion, Esq.  
Hancock Estabrook, LLP  
100 Madison Street, Suite 1800  
Syracuse, New York 13202

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

W. John Schaffer, Town Supervisor  
 Town of Vestal  
 605 Vestal Parkway West  
 Vestal, New York 13850



9590 9402 7629 2122 7821 12

Article Number (Transfer from service label)  
**7020 0640 0000 3304 8173**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

**X**

- Agent
- Addressee

B. Received by (*Printed Name*)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLDED DOWN LINE

**CERTIFIED MAIL**



7020 0640 0000 3304 8173  
 7020 0640 0000 3304 8173

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Certified Mail Fee	\$
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$
<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and	\$

120349-01 DKM

Postmark  
 Here

Sent To

W. John Schaffer, Town Supervisor  
 Town of Vestal  
 605 Vestal Parkway West  
 Vestal, New York 13850

Street and Apt. No.

City, State, ZIP+4

PS Form 3800, A

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

W. John Schaffer, Town Supervisor  
 Town of Vestal  
 605 Vestal Parkway West  
 Vestal, New York 13850



9590 9402 7629 2122 7821 12

7020 0640 0000 3304 8173

PS Form 3811, July 2020 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X JKunz

Agent

Addressee

B. Received by (Printed Name)

TAMMUNZ

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)

Priority Mail Express®

Registered Mail™

Registered Mail Restricted Delivery

Signature Confirmation™

Signature Confirmation Restricted Delivery

Domestic Return Receipt

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Certified Mail Fee

- Extra Services & Fees (check box, add fee as appropriate)
- Return Receipt (hardcopy) \$
  - Return Receipt (electronic) \$
  - Certified Mail Restricted Delivery \$
  - Adult Signature Required \$
  - Adult Signature Restricted Delivery \$

Postage

Total Postage and

Sent To

Street and Apt. No.

City, State, ZIP+4

PS Form 3800, A

120349-01 DKM

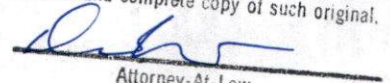
Postmark Here

W. John Schaffer, Town Supervisor  
 Town of Vestal  
 605 Vestal Parkway West  
 Vestal, New York 13850

7020 0640 0000 3304 8173



The undersigned, an attorney admitted to practice in the Courts of the State of New York, hereby certifies pursuant to CPLR §2105 that he has compared the foregoing copy with the original thereof which was recorded in the County Clerk's Office and has found such copy to be a true and complete copy of such original.

  
Attorney-At-Law

DANIEL K. MANNION  
dmannion@hancocklaw.com

December 4, 2023

W. John Schaffer, Town Supervisor  
Town of Vestal  
605 Vestal Parkway West  
Vestal, New York 13850

**Re: Environmental Easement – 3201 Stewart Road, Vestal, New York 13850**

Dear Supervisor Schaffer:

Attached please find a copy of an environmental easement granted to the New York State Department of Environmental Conservation (“DEC”) on November 6, 2023 and recorded in the Broome County Clerk’s Office on November 14, 2023, by Downside Risk, Inc. for property at 3201 Stewart Road, Vestal, New York 13850, Tax Map No. 158.11-1-15, DEC Site No: 704007.

This Environmental Easement restricts future use of the above-referenced property to commercial or industrial uses. Any on-site activity must be done in accordance with the Environmental Easement and the Site Management Plan, which is incorporated into the Environmental Easement. Department approval is also required prior to any groundwater use.

Article 71, Section 71-3607 of the New York State Environmental Conservation Law requires that:

1. Whenever the department is granted an environmental easement, it shall provide each affected local government with a copy of such easement and shall also provide a copy of any documents modifying or terminating such environmental easement.
2. Whenever an affected local government receives an application for a building permit or any other application affecting land use or development of land that is subject to an environmental easement and that may relate to or impact such easement, the affected local government shall notify the department and refer such application to the department. The department shall evaluate whether the application is consistent with the environmental easement and shall notify the affected local government of its determination in a timely fashion, considering the time frame for the local government's review of the application. The affected local government shall not approve the application until it receives approval from the department.

{H4773827.1}

An electronic version of every environmental easement that has been accepted by this Department is available to the public at: <http://www.dec.ny.gov/chemical/36045.html>. Please forward this notice to your building and/or planning departments, as applicable, to ensure your compliance with these provisions of New York State Environmental Conservation Law. If you have any questions or comments regarding this matter, please do not hesitate to contact me.

Very truly yours,

**HANCOCK ESTABROOK, LLP**



Daniel K. Mannion

DKM/lmb  
Enc.

cc: Doreen A. Simmons