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DATE <u>2-15-19</u>	TIME <u>1:32</u>
BOOK <u>33289</u>	PAGE <u>351</u>
STAMPS	REC FEE <u>26.00</u>
<small>FREDERICK SMITH REGISTRY &amp; DEEDS MECKLENBURG COUNTY, NC</small>	

PREPARED BY AND MAIL TO:

Irvin Law, PLLC (SK1)  
19726 Zion Avenue  
Cornelius, NC 28031

### SHARED COST AGREEMENT

**THIS SHARED COST AGREEMENT** (“**Agreement**”) is entered into effective June 5, 2018 (“**Effective Date**”) by Whitehall Professional Center Property Owners’ Association, Inc., a North Carolina non-profit corporation (the “**Association**”), Whitehall Development LLLP, a North Carolina limited liability limited partnership (the “**Declarant**”) and Whitehall Crossing Apartments, LLC, a North Carolina limited liability company (the “**Apartments**”).

A. Apartments is the owner of the property described on Exhibit A (“**Apartment Property**”).

B. Whitehall Professional, LLC did execute and record that one certain Declaration of Protective Covenants and Easements for Whitehall Professional Center recorded in Book 18242, Page 325, Mecklenburg County Public Registry (“**Registry**”), as supplemented by Book 20303, Page 142 of the Registry, by Book 21400, Page 280 of the Registry, by Book 24439, Page 496 of the Registry and by Book 26539, Page 877 of the Registry, and as affected by Assignment of Declarant Rights to Whitehall Development LLLP, a North Carolina limited liability company (“**Declarant**”) recorded in Book 26539, Page 890 of the Registry (collectively, and as thereafter amended, supplemented, or modified, the “**Professional Center Declaration**”), which provides for ingress and egress and for parking within Whitehall Professional Center; and

C. By deed recorded in Book 30491, Page 755 of the Registry, Declarant did convey the Apartment Property to the Apartments together with the easements set forth in the Professional Center Declaration.

D. The Professional Center Declaration provides that the dues paid by the members of the Association shall be used to pay the costs of maintaining, repairing and replacing the Common Areas described therein, including the parking areas and driveways and the sewer, water and drainage lines and other costs deemed necessary by the Association.

E. The Apartments will generate traffic that will cause wear and tear on portions of the Common Areas and therefore the Apartments have agreed with the Association that the Apartments shall pay the Association each year an amount determined to address such use.

F. The Apartments obtain water through the meter that serves the Whitehall Professional Center. The Apartments and the Association have agreed that the water that serves the Apartments shall be measured through a submeter (the "Apartment Submeter") which has been installed by the Apartments and that the Apartments shall reimburse the Association on a monthly basis for such water usage.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Association, Declarant and Apartments agree as follows:

1. **Shared Common Area Costs.** The Apartments shall pay to the Association on or before January 1<sup>st</sup> of each year a contribution which represents its share of the costs to maintain, repair and replace the Common Areas (the "Yearly Common Area Contribution"), except that the initial Yearly Common Area Contribution for 2018 shall be due on the Effective Date of this Agreement. The initial Yearly Common Area Contribution for 2018 shall be in the amount of Two Thousand and No/100 Dollars (\$2,000.00). The Yearly Common Area Contribution shall increase annually at a rate of Three Percent (3%) compounded annually, so that, by way of example, the Yearly Common Area Contribution for 2019 shall be Two Thousand Sixty and No/100 Dollars (\$2,060.00) and the Yearly Common Area Contribution for 2020 shall be Two Thousand One Hundred Twenty-One and 80/100 Dollars (\$2,121.80).

2. **Reimbursement of Submeter Costs.** The Apartments shall reimburse the Association for all bills received by the Association for water usage measured by the Apartment Submeter (the "Submeter Reimbursement"). Such reimbursement shall be due and payable to the Association within ten (10) days after receipt by the Apartments from the Association of a copy of the invoice evidencing such costs. The Association may deliver such invoice to the Apartments by email transmission to the email address for the Apartments provided in Paragraph 3 or the Association may deliver such invoice in accordance with the notice provision of Paragraph 3 hereof.

3. **Address for Payment and Notices.** The Yearly Common Area Contribution and the Submeter Reimbursement shall be delivered to the Association in accordance with the below provisions.

All notices and communications hereunder shall be in writing and all payments, notices and communications shall be deemed to have been duly given if delivered in person or by an overnight service, such as Federal Express, or deposited in the United States mail by registered or certified mail, postage prepaid, properly addressed as follows:

If to Declarant, to:

Whitehall Development LLLP  
c/o MPV Properties, LLC  
2400 South Boulevard, Suite #300

Charlotte, North Carolina 28203  
Attn: Ken Chapman  
Email: kchapman@mpvre.com

cc: Irvin Law, PLLC  
Mailing: P.O. Box 2376, Davidson, NC 28036  
Office: 19726 Zion Avenue, Cornelius, NC 28031

If to Association, to:

Whitehall Professional Center Property Owners' Association, Inc.  
2400 South Boulevard, Suite #300  
Charlotte, North Carolina 28203  
Attn: Ian Bruce  
Email: ibruce@mpvre.com

If to Apartments, to:

Whitehall Crossing Apartments, LLC  
14120 Ballantyne Corporate Place, Suite 575  
Charlotte, NC 28277  
Attn: Bradley Parker                      Maureen Bates                      Dave Swindell  
Email: bparker@greenwayllc.net      MBates@greenwayllc.net      DSwindell@wxzdevelopment.com

4. **Binding Effect.** This Agreement shall run with the land, and shall bind and inure to the benefit of Association, Declarant, and Apartments and their successors and assigns.

5. **Amendment.** Except as otherwise expressly provided in this Agreement, this Agreement may not be amended without the prior written consent of Association, Declarant, and Apartments.

6. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable, then the validity and enforceability of the remaining provisions hereof shall not be affected. Furthermore, in lieu of such invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be reasonably possible.

7. **Estoppels.** Association, Declarant, and Apartments shall, upon not less than thirty (30) days from receipt of written notice from the other, execute and deliver to such requesting Association, Declarant, and Apartments a certificate stating that (i) either this Agreement is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the actual knowledge the requesting party is in default in any respect under this Agreement and if in default, specifying the alleged default; and (iii) whether, to the actual knowledge, the requesting party owes any amounts pursuant to this Agreement and, if so, specifying such amounts.

8. **Enforcement.** This Agreement shall be enforceable by Association, Declarant, and Apartments, by all remedies available at law and in equity. No breach of the provisions of this Agreement shall entitle Association, Declarant, or Apartments to cancel, rescind or otherwise terminate this Agreement, but the foregoing limitations shall not affect any other rights or remedies which Association, Declarant, and Apartments may have under this Agreement for such breach. Any Yearly Common Area Contribution or Submeter Reimbursement, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Apartment Property. Any Yearly Common Area Contribution or Submeter Reimbursement not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of five percent (5%) per annum or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is less. In addition to such interest charge, a late charge of the greater: of (i) five percent (5%) of the delinquent amount and (ii) Two Hundred and Fifty and No/100 Dollars (\$250.00) shall be due and payable to defray the costs of late payment. The Association, its agent or representative, may bring an action at law against the Apartments to pay the same or foreclose the lien against the Apartment Property, and interest, late payment fees, costs and reasonable attorneys' fees of such action or foreclosure shall be added to the amount due.

9. **Waivers.** No delay or omission by Association, Declarant, or Apartments in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Agreement by any other shall be construed to be a waiver thereof. A waiver by Association, Declarant, or Apartments of any obligation of any other shall not be construed to be a waiver of any subsequent breach of such obligation, or a waiver of any breach of any other terms, covenants or conditions of this Agreement.

10. **Attorneys' Fees.** If any action, suit, arbitration or other proceeding is instituted to remedy, prevent or obtain relief from any default in the performance by Association, Declarant, and Apartments of its obligations under this Agreement, the prevailing party shall be reimbursed by the other party for all of its costs and expenses, including reasonable attorneys' fees, incurred in each such action, suit, arbitration or other proceeding. As used in this Agreement, the term "reasonable attorneys' fees" shall be deemed to mean the actual costs of any legal services actually performed in connection with the matters involved, calculated on the basis of the usual fee charged by such attorneys, as opposed to any statutory presumption that may then be in effect in the State of North Carolina.

11. **Private Agreement.** This Agreement shall not be construed to grant any rights to the public in general.

12. **No Partnership.** The provisions of this Agreement are not intended to create, and shall not be interpreted to create, a joint venture, a partnership or any similar relationship between Association, Declarant, and Apartments.

13. **Counterparts.** This Agreement may be executed in multiple counterparts which, when assembled, shall constitute one original.

**[SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES]**

IN WITNESS WHEREOF, Association, Declarant and Apartments have executed this Agreement as of the Effective Date.

Association:

Whitehall Professional Center Property Owners' Association, Inc., a North Carolina non-profit corporation

*Ian Bruce*

By: \_\_\_\_\_  
Ian Bruce, Vice President

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, *Paula Winkler*, a Notary Public for the County and State aforesaid, certify that Ian Bruce personally came before me this day and acknowledged that he is of Whitehall Professional Center Property Owners' Association, Inc., a North Carolina non-profit corporation, and that he, being authorized to do so, executed the foregoing on behalf of the non-profit corporation in the capacity therein stated.

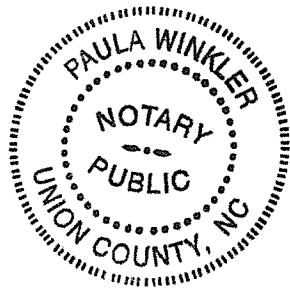
*2/5/19*, ~~2018~~  
*PW*

*Paula Winkler*  
(Official Signature of Notary)

Notary's printed name: *PAULA Winkler*  
Notary Public

My commission expires: *12/6/2021*

STAMP/SEAL



**Declarant:**

**Whitehall Development LLLP,**  
a North Carolina limited liability limited partnership,  
f/k/a Whitehall Development Limited Partnership

By: CPEH XI, LLC, a North Carolina limited liability  
company, its General Partner

By: Crosland Interests, LLC, a North Carolina limited  
liability company, its Manager

By: *James E. Merrifield*  
Name: James E. Merrifield  
Title: Manager

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, *Paula Winkler*, a Notary Public for the County and State aforesaid,  
certify that James E. Merrifield personally came before me this day and acknowledged that he is  
Manager of Crosland Interests, LLC, a North Carolina limited liability company, Manager of  
CPEH XI, LLC, a North Carolina limited liability company, General Partner of Whitehall  
Development LLLP, and that he, being authorized to do so, executed the foregoing in the capacity  
therein stated.

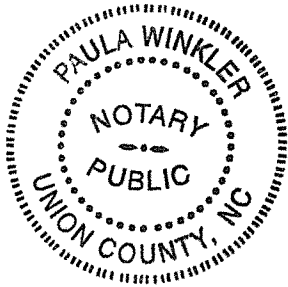
*2/5/19*, ~~2018~~  
*PW*

*Paula Winkler*  
(Official Signature of Notary)

Notary's printed name: *Paula Winkler*  
Notary Public

My commission expires: *12/6/2021*

STAMP/SEAL

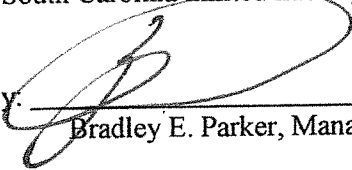


Apartments:

**Whitehall Crossing Apartments, LLC,**  
a North Carolina limited liability company

By: Whitehall Crossing Associates, LLC,  
a North Carolina limited liability company, its Managing  
Member

By: Greenway Residential Development, LLC,  
a South Carolina limited liability company, its Manager

By:   
Bradley E. Parker, Manager

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, S. Keren Janssen, a Notary Public for the County and State aforesaid,  
certify that Bradley E. Parker personally came before me this day and acknowledged that he is  
Manager of Greenway Residential Development, LLC, a North Carolina limited liability company,  
Manager of Whitehall Crossing Associates, LLC, a North Carolina limited liability company,  
Managing Member of Whitehall Crossing Apartments, LLC, a North Carolina limited liability  
company, and that he, being authorized to do so, executed the foregoing in the capacity therein  
stated.

February 1, 201<sup>9</sup><sub>8</sub>

S. Keren Janssen  
(Official Signature of Notary)

Notary's printed name: S. Keren Janssen  
Notary Public

STAMP/SEAL

My commission expires: 12-17-2022

S. KEREN JANSSEN  
NOTARY PUBLIC  
MECKLENBURG COUNTY  
NORTH CAROLINA  
MY COMMISSION EXPIRES 12/17/2022

Exhibit A

**PARCEL ONE:**

LYING AND BEING IN THE CITY OF CHARLOTTE, MECKLENBURG COUNTY, NORTH CAROLINA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING REBAR ON THE NORTHERLY MARGIN OF THE RIGHT-OF-WAY OF WEST ARROWOOD ROAD WHERE SAID ROAD CROSSES COFFEY CREEK, SAID REBAR HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N:514,336.42 E:1,423,651.32 (CF:0.99985098); THENCE FOLLOWING THE NORTHERLY MARGIN OF WEST ARROWOOD ROAD WITH AN ARC TO THE LEFT HAVING A RADIUS OF 998.50' AND A LENGTH OF 190.40' AND BEING CHORDED BY A BEARING OF S 89°18'01" W AND A DISTANCE OF 190.11' TO AN EXISTING REBAR; THENCE LEAVING SAID RIGHT-OF-WAY AND FOLLOWING THE COMMON LINE OF LOT 3 AS SHOWN ON MAP BOOK 43, PAGE 271 WITH A BEARING OF N 7°27'29" W AND A DISTANCE OF 134.35' TO AN EXISTING REBAR; THENCE CONTINUING WITH THE COMMON LINE OF LOT 3 WITH A BEARING OF N 53°51'09" W AND A DISTANCE OF 107.37' TO AN EXISTING REBAR, ALSO BEING THE COMMON CORNER OF LOT 4 AS SHOWN ON MAP BOOK 47, PAGE 183; THENCE FOLLOWING THE COMMON LINE OF LOT 4 WITH THE FOLLOWING THREE (3) CALLS: (1) WITH A BEARING OF N 47°43'02" W AND A DISTANCE OF 85.74' TO AN EXISTING REBAR; (2) WITH A BEARING OF S 82°55'53" W AND A DISTANCE OF 130.68' TO AN EXISTING REBAR; (3) WITH A BEARING OF S 7°27'29" E AND A DISTANCE OF 65.69' TO AN EXISTING REBAR, ALSO BEING THE COMMON CORNER OF LOT 1 AS SHOWN ON MAP BOOK 47, PAGE 183; THENCE WITH A BEARING OF S 82°32'31" W AND A DISTANCE OF 303.16' (PASSING AN EXISTING REBAR AT 269.16') TO A POINT; THENCE WITH A BEARING OF S 82°32'31" W AND A DISTANCE OF 49.63' TO A POINT; THENCE WITH AN ARC TO THE RIGHT HAVING A RADIUS OF 757.02' AND A LENGTH OF 60.92' AND BEING CHORDED BY A BEARING OF S 87°01'03" W AND A DISTANCE OF 60.90' TO AN EXISTING REBAR, BEING THE COMMON CORNER OF LOT 2 AND LOT 5 AS SHOWN ON MAP BOOK 49, PAGE 185; THENCE FOLLOWING THE COMMON LINE OF LOT 5 WITH AN ARC TO THE RIGHT HAVING A RADIUS OF 757.02' AND A LENGTH OF 163.13' AND BEING CHORDED BY A BEARING OF N 84°29'45" W AND A DISTANCE OF 162.81' TO AN EXISTING NAIL, BEING THE COMMON CORNER OF THE PROPERTY OF GATEWAY PROPERTIES, LLC (NOW OR FORMERLY) RECORDED IN DEED BOOK 29559, PAGE 1888; THENCE FOLLOWING THE COMMON LINE OF GATEWAY PROPERTIES, LLC WITH THE FOLLOWING FOUR (4) CALLS: (1) WITH A BEARING OF N 77°53'14" W AND A DISTANCE OF 11.51' TO AN EXISTING NAIL; (2) WITH A BEARING OF N 11°39'30" E AND A DISTANCE OF 48.10' TO AN EXISTING NAIL; (3) WITH A BEARING OF N 11°04'57" E AND A DISTANCE OF 97.29' TO AN EXISTING NAIL; (4) WITH A BEARING OF N 50°36'08" W AND A DISTANCE OF 96.69' TO AN EXISTING PIPE WITH NAIL, BEING THE COMMON CORNER OF YFP DEVELOPMENT, LLC (NOW OR FORMERLY) RECORDED IN DEED BOOK 17961, PAGE 697; THENCE FOLLOWING THE COMMON LINE OF YFP DEVELOPMENT, LLC WITH A BEARING OF N 28°58'37" E AND A DISTANCE OF 1194.54' TO A POINT IN COFFEY CREEK, ALSO BEING A COMMON CORNER OF THE PROPERTY OF MECKLENBURG COUNTY (NOW OR FORMERLY) RECORDED IN DEED BOOK 12996, PAGE 566 AND SHOWN ON MAP BOOK 34, PAGE 605; THENCE FOLLOWING THE COMMON LINE OF THE MECKLENBURG COUNTY PROPERTY THE FOLLOWING THREE (3) CALLS: (1) WITH A BEARING OF S 13°23'14"



E AND A DISTANCE OF 180.80' TO A POINT; (2) WITH A BEARING OF S 10°25'07" W AND A DISTANCE OF 432.38' TO A POINT; (3) WITH A BEARING OF S 38°36'34" E AND A DISTANCE OF 206.21' TO A POINT, SAID POINT BEING THE COMMON CORNER OF THE PROPERTY OF GROVE ASSOCIATES LIMITED PARTNERSHIP; THENCE FOLLOWING THE COMMON LINE OF GROVE ASSOCIATES LIMITED PARTNERSHIP THE FOLLOWING FOUR (4) CALLS: (1) WITH A BEARING OF S 50°46'21"W AND A DISTANCE OF 30.59' TO A POINT; (2) WITH A BEARING OF S 37°50'45" E AND A DISTANCE OF 360.60' TO A POINT; (3) WITH A BEARING OF S 52°45'13" E AND A DISTANCE OF 319.88' TO A POINT; (4) WITH A BEARING OF S 6°16'52" W AND A DISTANCE OF 129.52' TO AN EXISTING REBAR; BEING THE POINT OF BEGINNING AND CONTAINING 12.740 ACRES, MORE OR LESS, AS SHOWN ON A SURVEY BY CAROLINA SURVEYORS, INC. DATED NOVEMBER 10, 2015 AND LAST REVISED DECEMBER 14, 2015.

**PARCEL TWO: EASEMENTS**

EASEMENTS SET FORTH IN THE DECLARATION OF PROTECTIVE COVENANTS AND EASEMENTS FOR WHITEHALL PROFESSIONAL CENTER, RECORDED IN BOOK 18242, PAGE 325 AND SUPPLEMENTED IN BOOK 20303, PAGE 142, BOOK 21400, PAGE 280, BOOK 24439, PAGE 496 AND BOOK 26539, PAGE 877, MECKLENBURG COUNTY PUBLIC REGISTRY, AS ASSIGNED BY THE ASSIGNMENT OF DECLARANT RIGHTS, RECORDED IN BOOK 26539, PAGE 890, MECKLENBURG COUNTY PUBLIC REGISTRY.

## CONSENT AND SUBORDINATION

First Citizens Bank & Trust Company, a North Carolina banking corporation ("**Lender**"), owner and holder of the Note secured by Deed of Trust ("**Deed of Trust**") dated October 18, 2016, recorded in Book 31264, Page 893, in the Mecklenburg County Register of Deeds ("**Registry**"), hereby consents to the terms and provisions of the above Easement Agreement between Whitehall Professional Center Property Owners' Association, Inc., a North Carolina non-profit corporation ("**Association**"); Whitehall Development LLLP, a North Carolina limited liability limited partnership ("**Declarant**"); and Whitehall Crossing Apartments, LLC, a North Carolina limited liability company ("**Apartments**") ("**Agreement**"). Lender agrees that the lien of the Deed of Trust is subordinate to the Agreement, and that any subsequent foreclosure of the Deed of Trust shall not extinguish the Agreement.

This Consent and Subordination is binding upon the Lender, its successors and assigns.


[SIGNATURE PAGE FOLLOWS]

W  
1/25/14

IN WITNESS WHEREOF, the undersigned has duly executed this Consent and Subordination as of this 25<sup>th</sup> day of JANUARY, ~~2018~~: 2019. D

**Lender:**

First-Citizens Bank & Trust Company, a North Carolina banking corporation

By:  D  
Print Name: DOUGLAS E. BYRON  
Print Title: SVP

State of North Carolina  
County of ~~Mecklenburg~~ Wake

I, Janet J. Stradley, a Notary Public for ~~Mecklenburg~~ Wake County, State of North Carolina, do hereby certify that Douglas E. Byron ("Signatory") personally appeared before me this day and acknowledged the execution of the foregoing instrument in the capacity indicated.

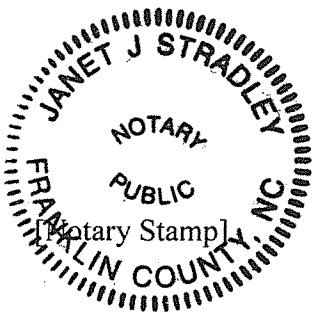
I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

(I have personal knowledge of the identity of the Signatory); or  
 (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)

a driver's license or  
 in the form of \_\_\_\_\_); or  
 (a credible witness has sworn to the identity of the Signatory).

Signatory acknowledged to me that he voluntarily signed the foregoing instrument for the purpose stated and in the capacity indicated.

Witness my hand and official stamp or seal this January 25, 2018<sup>9</sup>.



Janet J. Stradley  
Notary Public  
Printed Name: Janet J. Stradley  
My Commission Expires: March 24, 2021

## CONSENT AND SUBORDINATION

The Community Development Trust, LP, a Delaware limited partnership (“**Lender**”), owner and holder of the Note secured by Deed of Trust (“**Deed of Trust**”) dated recorded in Book 31264, Page 956, in the Mecklenburg County Register of Deeds (“**Registry**”), hereby consents to the terms and provisions of the above Easement Agreement between Whitehall Professional Center Property Owners’ Association, Inc., a North Carolina non-profit corporation (“**Association**”); Whitehall Development LLLP, a North Carolina limited liability limited partnership (“**Declarant**”); and Whitehall Crossing Apartments, LLC, a North Carolina limited liability company (“**Apartments**”) (“**Agreement**”). Lender agrees that the lien, operation and effect of the Deed of Trust and the interest of Lender therein, are subject and subordinate, in all respects, to the terms and provisions contained in the Agreement, and that any subsequent foreclosure of the Deed of Trust shall not extinguish the Agreement.

This Consent and Subordination is binding upon Lender, its successors and assigns.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has duly executed this Consent and Subordination as of this 31<sup>st</sup> day of January, 2019.

**LENDER:**

**THE COMMUNITY DEVELOPMENT TRUST, LP**, a Delaware limited partnership

By: **THE COMMUNITY DEVELOPMENT TRUST, INC.**, a Maryland corporation, its General Partner

By: Desiree Fisher  
Desiree Fisher  
Senior Vice President

**ACKNOWLEDGMENT**

State of New York )  
County of ) ss.:

On the 31<sup>st</sup> day of January in the year 2019, before me, the undersigned, personally appeared Desiree Fisher, 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 signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

B. Gallagher  
Notary Public

**BRIAN GALLAGHER**  
Notary Public, State of New York  
No. 01GA4792519  
Qualified in New York County  
Commission Expires Mar. 30, 2019