

**DECLARATION FOR  
NORTH FREDERICK  
LAND CONDOMINIUM**

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THIS DECLARATION FOR NORTH FREDERICK LAND CONDOMINIUM ("Declaration") is made this 18<sup>th</sup> day of July, 2015, by Ganze Macher LLLP, a Maryland limited liability limited partnership, which hereby declares as follows:

**RECITALS**

A. Declarant (as such term is defined below) is the owner of a fee simple interest in certain land and premises, and all easements, rights and appurtenances belonging thereto (hereinafter called the "Property") located in Frederick County, Maryland, and more particularly described in Exhibit "A" attached to and made a part of this Declaration.

B. Declarant now desires to subject the Property to a land condominium regime pursuant to the Maryland Condominium Act.

C. Prior to the recordation of this Declaration, Declarant has filed for record in the Land Records, certain condominium plats entitled, "NORTH FREDERICK LAND CONDOMINIUM" dated July, 2015 (hereinafter referred to as the "Condominium Plat"), which Condominium Plat (consisting of one (1) sheet) is recorded among the Land Records as Condominium Plat No. 95-134.

NOW, THEREFORE, Declarant hereby submits the Property to the provisions of the Maryland Condominium Act and this Declaration.

**ARTICLE 1  
DEFINITIONS**

Unless the context shall plainly require otherwise, the following terms when used in this Declaration and all exhibits attached to this Declaration shall have the following meanings:

**Section 1.1.** "*Association*" means the unincorporated entity comprised of all Unit Owners known as "The Council of Unit Owners of North Frederick Land Condominium" and is sometimes also referred to as the "*Council of Unit Owners*".

**Section 1.2.** "*Building Condominium*" means any condominium regime (other than the land condominium established pursuant to this Declaration), which may be established with respect to one or more Land Units and/or Land Unit Buildings pursuant to the Maryland Condominium Act.

**Section 1.3.** "*Building Condominium Association*" means the council of unit owners of any Building Condominium.

**Section 1.4.** "*Building Condominium Board*" the board of directors of a Building Condominium Association or its duly authorized representative.

**Section 1.5.** “*Bylaws*” means the Bylaws attached to this Declaration as Exhibit “B”, as amended from time to time.

**Section 1.6.** “*Common Elements*” means all of the Property other than the Land Units and the improvements constructed on the Land Units. Common Elements may also include such areas specifically designated as such in writing by Declarant from time to time and to the extent such Common Elements are part of any Land Unit, then the written consent of the Owner of the affected Land Unit shall be required, provided, however, such consent shall not be unreasonably withheld, delayed or conditioned.

**Section 1.7.** “*Common Expenses*” means any expenses associated with the Condominium as may be established from time to time by the Council of Unit Owners in accordance with Article 5 of the Bylaws.

**Section 1.8.** “*Condominium*” means the condominium regime created by the recordation of this Declaration, the Bylaws, and the Condominium Plat, as any of the foregoing may be amended from time to time, and includes the Property and Buildings, together with all improvements, fixtures, and structures erected thereon or therein, and all rights, ways, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining, including all space in, upon, above or below the foregoing, all, however, subject to the following:

(a) Cost Sharing Agreement For Regional Storm Water Management Facility dated July 6, 1998, and recorded among the Land Records in Liber 2446, folio 221 et seq. (the “Agreement”); and

(b) Easement and Maintenance Agreement For Stormwater Management Facility dated July 6, 1998, and recorded among the Land Records in Liber 2446, folio 234 et seq. (the “E&M Agreement”); and

(c) Inspection and Maintenance Agreement of Private Stormwater Management Facilities dated July 2, 1998, and recorded among the Land Records in Liber 2446, folio 247 et seq. (the “Inspection Agreement”).

(d) Easements, agreements, conditions and other matters of public record.

**Section 1.9.** “*Condominium Instruments*” means this Declaration, the Bylaws, and the Condominium Plat, as the same may be amended from time to time.

**Section 1.10.** “*Condominium Plat*” has the meaning ascribed to it in Recital “C” of this Declaration.

**Section 1.11.** “*Council of Unit Owners*” means the unincorporated entity comprised of all Unit Owners and is sometimes also referred to as the “*Association*”.

**Section 1.12.** “*Declarant*” means Ganze Macher LLLP, a Maryland limited liability limited partnership and its successors and assigns, provided, that all of Declarant’s rights under the Condominium Instruments shall remain in full force and effect until the expiration of the Declarant Control Period.

**Section 1.13. "Declarant Control Period"** means that period commencing on the date hereof and expiring the later of: (i) the date upon which the Declarant no longer owns any interest in the Property, or (ii) December 31, 2040; provided, however, Declarant, in its sole and absolute discretion, may decide at any time to terminate the Declarant Control Period earlier than provided in this Section 1.13. (i) and (ii), and in such event, the decision shall be evidenced by a written instrument signed by Declarant and recorded in Land Records.

**Section 1.14. "Declaration"** means this document and all exhibits attached hereto, as amended from time to time.

**Section 1.15. "General Common Elements"**, if any, shall be comprised of those areas which may be depicted on the Condominium Plat, saving and excepting the areas shown as a Land Unit or any areas shown as Limited Common Elements (if any), and includes those areas identified as a General Common Element in Article 2.5. of this Declaration.

**Section 1.16. "Land Records"** means the Land Records of Frederick County, Maryland.

**Section 1.17. "Land Unit"** means a three-dimensional area, as described in this Declaration and as shown on the Condominium Plat, and includes all Land Unit Buildings and other improvements contained within such area unless expressly excluded in this Declaration or on the Condominium Plat. "Land Unit" is sometimes also referred to as a "Unit".

**Section 1.18. "Land Unit Building"** means the building or, collectively, the buildings, erected or to be erected within any Land Unit.

**Section 1.19. "Land Unit 1"** means the Unit designated as "Land Unit '1'" on the Condominium Plat.

**Section 1.20. "Land Unit 2"** means the Unit designated as "Land Unit '2'" on the Condominium Plat.

**Section 1.21. "Limited Common Elements"** shall mean the areas, if any, described in Article 2.5 in this Declaration.

**Section 1.22. "Majority of Owners"** has the meaning ascribed to it in Section 3.5 of the Bylaws.

**Section 1.23. "Manager"** means the person, firm or corporation from time to time employed by the Association to administer or supervise the Condominium.

**Section 1.24. "Mortgage"** means any deed of trust, mortgage, and other security instrument constituting a lien against any portion of a Land Unit as well as any leasehold mortgage.

**Section 1.25. "Mortgagee"** means the holder of or beneficiary under a Mortgage.

**Section 1.26. "Officers"** means any persons appointed as officers of the Association in accordance with Article 4 of the Bylaws.

**Section 1.27. "Owner" and "Unit Owner"** mean any natural person, group of persons, corporation, partnership, limited liability company, association, trust, or other entity, or any combination of such entities, legally capable of holding title to real property, that owns fee simple title to a Land Unit; provided, however that any person, group of persons, corporation, partnership, limited liability company, association, trust, or other legal entity, or any combination of such entities, that holds such an interest solely as security for the performance of an obligation shall not be an Owner solely by reason of that interest. The terms "Owner" and "Unit Owner" shall also refer to the Building Condominium Association of each Building Condominium provided, however, that all rights and obligations of such Building Condominium Association in its capacity as a Unit Owner are hereby assigned to and shall be binding upon and exercisable solely by the Building Condominium Board of such Building Condominium, or such Building Condominium Board's designated representative.

**Section 1.28. "Percentage Interest"** means the undivided percentage ownership interest appurtenant to each Land Unit with respect to the Common Elements, and also represents that Unit Owner's percentage liability for Common Expenses and voting percentage on the Council of Unit Owners, as set forth in Exhibit "C" attached hereto.

**Section 1.29. "Percent of the Owners"** means, for any specified percentage, the Owners of Land Units to which that percentage of the aggregate votes in the Association appertain.

**Section 1.30. "Property"** has the meaning ascribed to it in Recital "A" of this Declaration and includes all of the Units and any Common Elements.

**Section 1.31. "Tenant"** means any person, firm, corporation, trustee or other legal entity, or combination thereof, holding leasehold title to a Unit, whether by lease, sublease, ground lease or otherwise, and includes, but is not limited to, the sublandlord and subtenant, if any, of a Unit.

**Section 1.32. "Unit"** has the meaning ascribed to it in Section 1.17. above.

**Section 1.33. "Unit Development"** has the meaning ascribed to it in Article 4 of this Declaration.

**Section 1.34. "Unit Occupant"** means an occupant of a Land Unit or a Land Unit Building including, without limitation, ground lessees, Tenants of commercial rental units in Land Unit Buildings and owners of commercial units in any Land Unit Building which is a separate condominium.

**Section 1.35. "Unit Owner"** has the meaning ascribed to it in Section 1.27. above.

## ARTICLE 2 CREATION OF CONDOMINIUM REGIME

**Section 2.1. Name of Condominium.** This Condominium shall be known as "North Frederick Land Condominium."

**Section 2.2. Submission of Property to the Maryland Condominium Act.** The Property is hereby subjected to, and shall hereafter be held, conveyed, divided, subdivided,

leased, rented, occupied, improved, and encumbered in accordance with the Maryland Condominium Act and the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges, and liens set forth in this Declaration, including the Bylaws (a copy of which is attached to and made a part of this Declaration as Exhibit "B"), all of which are declared and agreed to be in aid of a plan for the division of the Property into a condominium pursuant to the Maryland Condominium Act, and all of which shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by any person or entity acquiring or owning any interest or estate in the Property, including, without limitation, all present and future Owners, Unit Occupants and Mortgagees. All present and future Owners and Unit Occupants shall be subject to, and shall comply with, the provisions of this Declaration and the Bylaws, as either may be amended from time to time. The acceptance of a deed of conveyance, the entering into of a lease or the entering into occupancy of any portion of a Land Unit shall constitute an agreement that the provisions of this Declaration and the Bylaws, as either may be amended from time to time, are accepted and ratified by such Owner or Unit Occupant and all of such provisions shall be enforceable equitable servitudes and covenants running with the land and shall bind any person having at any time any interest or estate in such Land Unit or portion thereof, as though such provisions were recited and stipulated at length in each and every deed of conveyance or lease thereof.

**Section 2.3. Units; Percentage Interests.** Attached to and made part of this Declaration as Exhibit "C" is a list of the Land Units and the Percentage Interests of each Land Unit. Each Land Unit shall have, as an appurtenance to that Land Unit, a voting interest in the Council of Unit Owners equal to the Percentage Interest for such Land Unit. The locations of the Land Units are shown on the Condominium Plat. Each Land Unit consists of the area so identified on the Condominium Plat.

**Section 2.4. Dimensions of Units.** The dimensions of the Land Units are as shown on the Condominium Plat, as may be amended from time to time. The vertical boundaries of each Land Unit shall be vertical planes extended to intersections with each other and with the upper and lower boundaries of that Land Unit, as indicated on the Condominium Plat. The upper and lower boundaries of each Land Unit shall be horizontal planes extended to intersect the vertical boundaries of the Land Unit, as indicated on the Condominium Plat. The elevations of such horizontal planes shall be as described on the Land Condominium Plat.

**Section 2.5. Common Elements and Assessments.**

(a) Ownership. Each Owner of a Land Unit shall be the owner of an undivided interest as a tenant-in-common in the Common Elements, in accordance with such Owner's Percentage Interest.

(b) Common Elements. The Common Elements shall consist of Limited Common Elements, consisting of the land below the lower boundary of the Land Units and the airspace located above the upper boundary of each Land Unit, which lower and upper boundaries are described on the Land Condominium Plat.

(c) Common Expense Liability.

(i) Each Owner of a Land Unit, in proportion to its Percentage Interest, shall contribute toward payment of the Common Expenses (if any), and Owners of each Land Unit shall not be exempt from contributing toward said Common Expenses either by waiver of the use or enjoyment of the Common Elements, or any of them, or by the abandonment of its Land Unit. The contribution of each Unit Owner of a Land Unit toward Common Expenses shall be determined, levied and assessed as a lien, all in the manner set forth herein and in the Bylaws, recorded simultaneously herewith. All Common Expenses (if any), including, but not limited to, expenses of maintenance of any General Common Elements and of the operation of the Condominium, the cost of any insurance carried by the Council of Unit Owners for the Condominium, its management expenses and the cost of any Common Element utility services in the Condominium, shall be assessed to all Condominium Units in proportion to their respective Percentage Interests, except as provided in Article 2.5. (c) (ii) below.

(ii) The cost of water serving Land Units 60 and 64 shall be allocated by the Council and assessed as follows:

- (a) The cost of water as reflected by the sub-meter for Land Unit 60 shall be the responsibility of the Owner of Land Unit 60 as well as all costs of maintenance and repair of the sub-meter serving Land Unit 60.
- (b) The balance of the cost of water shall be the billed to the Owner of Land Unit 64.

### **ARTICLE 3** **EASEMENTS AND RIGHTS**

#### ***Section 3.1. Utilities and Improvements on Land Units.***

(a) The Condominium Land, including the Land Units are encumbered by the Agreement, E&M Agreement and Inspection Agreement which, among other things, include certain easements and rights of adjoining owners and the City of Frederick affecting storm water management facilities located on the Condominium Land and/or serving portions of the Condominium Land as well as the obligations relating to such storm water management facilities, including liability for costs of maintenance of such facilities.

***Section 3.2. Non-Interference; Further Assurances.*** None of the Owners shall use or allow any use of its Land Unit that would obstruct or interfere with the easement rights established under this Article 3, the Agreement and/or the E&M Agreement and/or Inspection Agreement. Each of the Owners shall promptly execute and deliver such further assurances as may be necessary or reasonably desirable to give further evidence of the easements established under this Article 3, the Agreement and/or the E&M Agreement and/or Inspection Agreement.

***Section 3.3. Special Declarant Rights.*** The following Special Declarant Rights are reserved in this Declaration. If not exercised prior to June 1, 2050, these Special Declarant Rights shall terminate. If exercised, such rights shall be permanent.

The Special Declarant Rights include the right to use, grant and reserve easements

and rights of way (subject to the reasonable approval of the location by the Owner of the Land Unit upon which such easements and rights-of-way are located) through, under, over and across the Property for the installation, maintenance, inspection, repair and replacement of lines and appurtenances for public or private sewer, water, drainage, gas, electricity, telephone and other utilities such as, but not limited to, a master television antenna system, internet, cable television system, security system or any other technical devices of any type. If damage is inflicted by the Declarant in the exercise of the easements and rights granted by this Section, it shall promptly repair such damage to the condition existing prior thereto and further, provided, that the Declarant, in the exercise of the easements described in this Section 3.3. (a) shall use its best efforts not to materially and adversely impact the use of any affected Land Unit.

**Section 3.4. Right of Entry.** The Council of Unit Owners, acting through any designated agent or employee, shall have an irrevocable right and an easement to enter Land Units to make repairs to the Common Elements; provided, however, that reasonable efforts shall be used to avoid and/or minimize any adverse impact on access to and the operation of businesses located on the Land Units.

**Section 3.5. Repair, Condition and Appearance of Units and Common Elements.** The Unit Owners shall be responsible for maintaining their Unit and Limited Common Elements appurtenant to their Unit in good order, repair and in an attractive appearance. The maintenance of the General Common Elements (if applicable) shall be performed by the Association in accordance with the provisions of this Declaration.

**Section 3.6. Easement and Emergency Access.** The Declarant, on behalf of itself, and its successors and assigns, hereby reserves unto itself, and grants an easement to: (1) all police, fire, ambulance and other rescue personnel over and through all or any portion of the Property for the lawful performance of their functions during emergencies; and (2) the Association, over and through all Land Units, if emergency measures are required over, upon, under or through any Land Unit to reduce a hazard thereto or to any other portion of the Property. The Association is hereby authorized, but not obligated, to take any such measures.

#### **ARTICLE 4**

#### **UNIT DEVELOPMENT AND COOPERATION; SUBDIVISION AND CONSOLIDATION OF UNITS**

##### **Section 4.1. Unit Development and Cooperation.**

(a) Each Unit Owner may construct, reconstruct, repair and/or modify a Land Unit Building and other improvements upon its Land Unit to the extent permitted by and in strict accordance with the provisions of this Declaration, the Bylaws and the Agreement and the E&M Agreement. The entire Land Unit Building and all other improvements constructed, reconstructed, repaired and/or modified upon any Land Unit shall become part of that Land Unit as and when constructed, reconstructed, repaired and/or modified. No part of the Land Unit Building or other improvements located on a Land Unit shall be considered to be part of the Common Elements of the Condominium, unless specifically agreed to herein or otherwise in writing by all Owners.



(b) Subject to any applicable provisions of this Declaration, the Bylaws and the Agreement, the E&M Agreement and Inspection Agreement, each Unit Owner may construct, reconstruct, repair and/or modify a Land Unit Building and other improvements upon its Land Unit, and each Unit Owner shall have the right to conduct future construction and development activities and/or make changes in the use of the Land Unit Building and other improvements within its Land Unit (referred to collectively as "Unit Development" herein), provided, however, that (i) such Unit Development shall not have an adverse and material impact upon any other Land Unit or Unit Owner and shall occur only during reasonable hours, and (ii) all applicable land use and zoning requirements applicable to any such Unit Development shall be fully satisfied by utilizing the development rights, density, floor area ratio, parking capacity, open space and the like (collectively, the "Development Rights") of the Land Unit upon which such Unit Development has occurred or is planned to occur. If any proposed Unit Development shall utilize, directly or indirectly, any Development Rights of any other Land Unit (the "Affected Land Unit"), such Unit Development shall not be permitted without the prior written consent of the Unit Owner of the Affected Land Unit, which consent may not be unreasonably withheld (except as hereinafter set forth); provided, however, if the Declarant is requesting consent from any other Owner of an Affected Land Unit, then such other Owner may not unreasonably withhold its consent from Declarant (except as hereinafter set forth) and further, provided, that if an Owner (other than Declarant) is requesting consent from Declarant pursuant to this Section 4.1.(b), then Declarant may withhold its consent in its sole discretion. This Section is intended to require that all Unit Development regarding each Land Unit shall generally be subject to the same land use and zoning requirements as would be applicable if such Land Unit was a separate subdivided parcel, except to the extent agreed otherwise in writing by the Unit Owner of the Affected Land Unit.

(c) Subject to the provisions of this Declaration and the Bylaws, Owners shall cooperate with Declarant at no additional out-of-pocket expense to such Owner (excluding any expense of a third party review of documents which shall be at the cooperating Owner's expense) if Declarant is an Owner at such time, in any construction, reconstruction, improvement, subdivision or consolidation of any Land Unit owned by Declarant, which is in accordance with the Maryland Condominium Act, this Declaration, the Bylaws and all other applicable laws and regulations. Without limiting the generality of the foregoing, upon written request by Declarant (the "Requesting Owner"), any other Owner (the "Cooperating Owner") shall execute, join in, and in good faith support, any and all applications, approvals, permits, easements, right-of-ways, and other instruments of any kind whatsoever as may be deemed necessary or desirable by the Requesting Owner, in its sole discretion, in connection with the Requesting Owner's Unit Development; provided, however, that (i) the Requesting Owner shall defend, indemnify and hold the Cooperating Owner harmless from and against any and all liability, cost and expense in connection therewith, (ii) such cooperation shall not cause the then existing or proposed Unit Development of the Cooperating Owner to be in violation of or otherwise not in conformance with zoning requirements and applicable laws and regulations, and (iii) such cooperation shall not materially and adversely interfere with the planned or actual use or operation of the Common Elements, Land Unit Building or other improvements within the Cooperating Owner's Land Unit.

(d) Subject to the provisions of this Declaration and the Bylaws, each Owner shall cooperate with each other Owner in connection with any and all amendments to this

Declaration, the Bylaws or the Condominium Plat as may be necessary to reflect any Unit Development done in accordance with this Article and as may be deemed necessary or desirable by the Unit Owners to properly reflect the agreement of the Unit Owners with respect to the ownership, maintenance, operation and use of the Property (the "Unit Development Amendments"). Each Mortgagee of a Unit shall be deemed to have consented to and approved any and all such Unit Development Amendments as may be deemed necessary or desirable by the Unit Owners.

**Section 4.2. Subdivision and Consolidation of Units.**

(a) Subject to the express requirements of this Declaration and the Bylaws, an Owner may subdivide or consolidate any Unit it owns from time to time, in accordance with the procedures set forth in the Maryland Condominium Act. Upon such subdivision or consolidation, as the case may be, the Percentage Interest appurtenant to such Unit shall be recomputed in accordance with the procedures set forth in the Maryland Condominium Act.

(b) If any Units are consolidated or subdivided as set forth above, the Unit Owner and the Association shall amend the Declaration and Condominium Plat to reflect such consolidation or subdivision, as the case may be, in accordance with the applicable provisions of the Maryland Condominium Act. Further, the party seeking to consolidate or subdivide Units shall pay all costs incurred in connection with the amendment to Declaration and Condominium Plat, including reasonable attorney's fees.

(c) Upon the subdivision or consolidation of any Unit, the Percentage Interest and votes appurtenant to each of the resulting Units, identical for the Percentage Interest in the Common Elements and the percentage interest in the Common Expenses, shall be adjusted in accordance with the provisions of Section 11-107 (d) of the Maryland Condominium Act. For example, if two (2) Units are consolidated, then the Percentage Interest and votes shall be equal to the sum of the Percentage Interest assigned to each Unit as described in Exhibit "C" to this Declaration or alternatively, if a Unit is subdivided, then the Percentage Interest and votes for such Unit shall be reduced so that the Percentage Interest and votes assigned to each of the subdivided Units, when taken in total, shall equal the Percentage Interest and votes assigned to the original Unit under Exhibit "C", attached hereto. The Declarant shall be the authorized designee of the Council of Unit Owners for all purposes under Section 11-107(d) of the Maryland Condominium Act until Declarant no longer owns any interest in Land Unit 1 or Land Unit 2.

**Section 4.3. Declarant's Power of Attorney.** Notwithstanding any provision of the Condominium Instruments, there is hereby reserved unto the Declarant (or such other party as may be designated by the Declarant in writing) an irrevocable power of attorney, coupled with an interest, for the purpose of executing, acknowledging and delivering on behalf of all Unit Owners, contract purchasers of Units, Mortgagees, other lienholders, and any other parties having any legal or equitable interest in any portion of the Property (collectively "Interested Parties" and individually an "Interested Party"), any and all zoning approvals, preliminary plans, site plans, subdivision plats, public works agreements, dedication deeds and agreements, development agreements, applications, permits, easements, licenses, amendments to the Condominium Instruments, for purposes of subdividing or consolidating any Unit(s) pursuant to

Section 11-107(d) of the Maryland Condominium Act and any other instruments as may from time to time be deemed necessary or desirable by the Declarant, in its sole discretion, in connection with (a) any development matters relating to the Property, (b) any requirements of any governmental authorities, or (c) requirements of a lender or secondary mortgage agency. Each Interested Party shall be deemed to have consented to all such instruments and shall be deemed to have granted unto the Declarant (or such other party as may be designated by the Declarant in writing) an irrevocable power of attorney, coupled with an interest, to effectuate, execute, acknowledge and deliver any such instruments. Further, each Interested Party shall be deemed to have agreed and covenanted to execute such further assurances and instruments, if any, as may be required by the Declarant and its successors or assigns, to properly accomplish such purposes.

**Section 4.4. Reconfiguration of Land Unit.** Without limitation to the rights otherwise reserved to the Declarant pursuant to this Article 4 or the Condominium Instruments, there is hereby reserved unto Declarant (or such other party as may be designated by the Declarant in writing) during any time when Declarant has an interest in the Property, the unilateral right to reconfigure, combine, subdivide, and/or modify the dimensions or boundaries of the Property or any Land Units as deemed necessary or desirable by the Declarant, in its sole discretion, to properly reflect: (a) the development plans; (b) the boundaries and dimensions of the Property or any such Land Unit; and/or, (c) the size, dimensions and locations of any Land Unit Building and/or other improvements built, or anticipated to be built within the Property. The subdivision and/or consolidation of any Land Unit by the Declarant shall only require the consent of the Owner of the Land Unit to be subdivided and/or consolidated and the Declarant is hereby solely authorized to consent to such consolidation or subdivision on behalf of the Council of Unit Owners. All actions of the Declarant pursuant to this paragraph shall not be subject to the requirement of Article 6 of this Declaration.

## **ARTICLE 5** **MORTGAGES**

**Section 5.1. Unit Mortgages.** Each Unit Owner may mortgage, encumber or otherwise grant a security interest in its Land Unit, subject to the limitations and other terms and conditions hereof.

**Section 5.2. Subordination and Mortgagee Protection.** Notwithstanding any other provisions to the contrary, the lien of any assessment levied upon any Unit pursuant to this Declaration or the Bylaws (and any penalties, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Unit pursuant to foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser of the Unit at such sale from liability for any Condominium assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided in the Bylaws.

**Section 5.3. Approval of Mortgagees.** This Declaration and the Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such

provisions are to be construed as covenants for the protection of such Mortgagees on which they may rely in making loans secured by Mortgages.

**ARTICLE 6**  
**INDEMNITIES**

Each Unit Owner and each Unit Occupant (an "Indemnitor") shall defend, indemnify and hold harmless, at its expense, the Association and any other Unit Owner or Unit Occupant (individually and collectively the "Indemnitee") against and from all claims, demands, liabilities, penalties, damages, actions, suits, expenses and judgments, including reasonable attorneys' fees, which may be imposed upon or incurred by or asserted against any such Indemnitee (i) arising out of the development, construction, use, operation or maintenance by such Indemnitor of any portion of the Property, unless such damage or injury shall have been caused by the negligence or willful act or omission, in whole or in part, of such Indemnitee or any tenants, employees, invitees, contractors or agents of such Indemnitee; or (ii) by any architect, contractor, sub-contractor, engineer, attorney, real estate broker, supplier or any other employee or agent of the Indemnitor, except for specific work or services provided pursuant to a written contract therefor between the Indemnitee and such employee or agent of the Indemnitor.

**ARTICLE 7**  
**AMENDMENTS TO DECLARATION**

This Declaration may be amended in accordance with the Maryland Condominium Act and with the consent of one hundred percent (100%) of the Owners; provided that no amendment may be made to this Declaration without the prior written consent of Declarant, which may be withheld in Declarant's sole discretion for as long as Declarant is a Unit Owner, and further, provided, the Declarant (or the Council of Unit Owners with the Declarant's prior written consent) may unilaterally amend this Declaration and other Condominium Instruments to correct any mathematical mistakes, inconsistencies or scrivener errors, engineering errors, or any erroneous or incomplete information based upon any objectively verifiable fact. Any amendment to this Declaration shall become effective upon its recordation in the Land Records. Notwithstanding the above, each Unit Owner and each Unit Occupant of a Building Condominium acting through its Building Condominium Board, covenants and agrees to execute any amendment to this Declaration which is requested by the Declarant in order to effectuate the use and development of the Property.

**ARTICLE 8**  
**TERMINATION OF CONDOMINIUM**

In addition to termination of the Condominium provided in Article 8 of the Bylaws, the Condominium may be terminated if one hundred percent (100%) written consent has been obtained from Owners. In the event of termination, this Declaration, the Bylaws and the Condominium Plat shall be of no further force and effect. In the event the Condominium is terminated in accordance with this Article and any real property formerly included within the Condominium has been subjected to one or more separate condominium regimes, ownership of such real property shall be in accordance with the condominium documents for the condominium regime or regimes that include such real property; provided, however, the easements and any

rights described in this Declaration for Declarant's benefit (and its successors and assigns to whom such easements have been specifically assigned in writing), shall survive termination of this Declaration.

(a) Declarant hereby reserves for itself, its successors, transferees and assigns, the right to execute on behalf of all contract purchasers, Unit Owners, Mortgagees, and other lienholders or parties claiming a legal or equitable interest in the Condominium (including, without limitation, any Land Unit), any such declarations, agreements, documents and other instruments as may be necessary or desirable to terminate the Condominium in accordance with the foregoing. By acceptance of a deed to any Land Unit or by acceptance of any other legal or equitable interest in the Condominium, each and every such contract purchaser, Unit Owner, Mortgagee or other lienholder or party having a legal or equitable interest in the Condominium (including, without limitation, any Land Unit) consents to termination of the Condominium in accordance with the foregoing and does automatically and irrevocably name, constitute, appoint and confirm Declarant, its successors, transferees and assigns, as attorney-in-fact for the purpose of executing any such declaration, agreement, document and other instruments as may be necessary or desirable to effect the foregoing.

(b) The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Land Units and be binding upon the heirs, personal representatives, successors, transferees and assigns of any of the foregoing parties. Said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power of attorney.

## **ARTICLE 9**

### **MISCELLANEOUS**

#### ***Section 9.1. Construction and Enforcement.***

(a) The provisions of this Declaration shall be liberally construed to achieve the purpose of creating a uniform plan for the development and operation of the Property as a condominium. Subject to Section 9.3. of the Bylaws, the Declarant, the Council of Unit Owners, any Owner, and any Unit Occupant shall have the right to enforce this Declaration and the Bylaws by any proceeding at law or in equity against any person or persons violating any of the same, either to restrain or enjoin violation and/or to recover damages, including reasonable attorneys' fees, and against any Unit to enforce any lien created pursuant to this Declaration or the Bylaws. Any breach or violation by any employee, agent, contractor, invitee, tenant, or guest of a Unit Owner or a Unit Occupant shall be deemed a violation or breach by and enforceable against such Unit Owner or Unit Occupant. The failure or forbearance to enforce this Declaration or the Bylaws shall in no event be deemed a waiver of the right to do so thereafter.

(b) There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the provisions of this Declaration or the Bylaws, as either may be amended from time to time, cannot be adequately remedied by action at law or exclusively by recovery of damages.

**Section 9.2. Real Estate Taxes and Assessments.** All real estate taxes, governmental assessments and other public charges (collectively "Taxes") relating to any Land Unit including, without limitation, any Land Unit Buildings or other improvements constructed thereon, shall be the sole responsibility of and shall be paid prior to delinquency by the Owner of the Land Unit. If any Land Unit is part of a Land Unit with a building condominium, the individual owners of condominium units in the building condominium shall be responsible for the payment of Taxes in accordance with the governing documents for such building condominium.

**Section 9.3. Severability.** The provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof unless such invalidity or unenforceability shall adversely and materially alter the operation of the Condominium.

**Section 9.4. Headings.** The headings used in this Declaration are used solely for convenience and shall not be relied upon or used in construing the effect or meaning of any of the provisions of this Declaration.

**Section 9.5. Applicable Law.** This Declaration shall be governed by and construed according to the laws of the State of Maryland.

**Section 9.6. Effective Date.** This Declaration shall become effective when it and the Condominium Plat have been recorded among the Land Records.

**Section 9.7. Notices.** Except as otherwise provided in this Declaration or the Bylaws, all notices, demands, bills, statements, or other communications under this Declaration and the Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or three (3) business days after sent by first-class mail (or otherwise as the Maryland Condominium Act may permit), (i) if to an Owner, at the Owner's Unit address or such other address as the Owner may designate in writing to the Association, or (ii) if to the Council of Unit Owners, at the principal office of the Association, (iii) if to a Unit Occupant, at the single address which the Unit Occupant shall designate in writing with the Building Condominium Association having jurisdiction over such Unit Occupant, or if no such address is designated, at the address of such residential unit; or (iv) if to a Building Condominium Association or Building Condominium Board, at the principal office of such Building Condominium Association, or at such other address as shall be designated by written notice to the Association in accordance with this Section.

**Section 9.9. Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawfully void or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Section 9.10. Exhibits.** All exhibits attached to this Declaration are incorporated into and made a part of this Declaration.

**Section 9.10. Building Condominium Regimes.** The provisions of this Declaration and the Bylaws shall be applicable to all Unit Occupants and to all Building Condominiums as may

be established within the Property in accordance with the Maryland Condominium Act. The Percentage Interest and voting rights appurtenant to any Land Unit or portion thereof which is subjected to a Building Condominium are hereby assigned to and shall be exercisable solely by the Building Condominium Board of such Building Condominium.

**Section 9.11. Estoppel Certificate.** The Association, any Unit Owner, or any Unit Occupant, upon request of any other such party, shall execute and deliver an estoppel certificate, to those parties as are reasonably requested (including a Mortgagee, prospective purchaser, or lessee), at any time and from time to time, upon not less than ten (10) business days prior request. If applicable, the estoppel certificate shall include a statement certifying that this Declaration, the Bylaws and/or the Condominium Plat are unmodified (except as identified in the estoppel certificate) and in full force and effect, describing the dates to which assessments and/or maintenance fees and/or other charges have been paid, representing that, to such party's actual knowledge, there is no default (or stating the nature of the alleged default) and indicating such other matters with respect to this Declaration, the Bylaws and/or the Condominium Plat as may reasonably be requested.

**Section 9.12. Non-Merger.** Notwithstanding that Land Units may be owned by the same entity, all of the rights, easements and other provisions of this Declaration shall not be deemed to be extinguished by merger.

**Section 9.13. Power of Attorney.** Each Unit Owner, for himself, his heirs, representatives, successors and assigns, is deemed to grant, and does hereby grant, to Declarant a power of attorney, coupled with an interest, to grant such easements as may be provided for herein and to execute such other deeds and documents necessary or appropriate to carry out the intent of the matters set forth herein.

**Section 9.14. Certain Supplements.**

(a) At any time before Declarant conveys any Land Unit to another party, Declarant shall be entitled, in its sole discretion, by an amendment or supplement to this Declaration signed by Declarant, recorded before the deed of conveyance is recorded, and identifying such Land Unit by reference to the Condominium Plat, to (i) expressly modify or waive any provision of this Declaration, as the same may apply to such Land Unit, provided that such modification or waiver does not materially and adversely impact such Land Unit or any Land Unit that has been conveyed by Declarant to another party, and thereafter (ii) such modified provisions shall thereafter apply to such Land Unit as so modified, and (iii) such waived provisions shall not apply to such Land Unit, and/or (iv) subject the title to such Land Unit to any other provision of this Declaration, or impose additional restrictions on its use, and thereafter such other covenants shall apply to such Land Unit. In the event any or all provisions are modified and/or waived with respect to any particular Land Unit, and such Land Unit is subsequently subjected to a separate condominium regime, ownership of such Land Unit, as the case may be, shall also be governed by such separate condominium regime documents, except in the case of withdrawal of a Land Unit and in such case, that Land Unit will solely be governed by the separate condominium regime documents for the affected Land Unit. No Owner, other than Declarant or any party to whom Declarant assigns the rights enumerated under this Section

9.14 (a), which assignment is in writing and recorded in Land Records, shall have the right to withdraw any Land Unit from the operation and effect of this Declaration.

(b) In the event Declarant decides to withdraw a Land Unit or other land owned by Declarant from the operation and effect of this Declaration and Bylaws ("Withdrawn Land"), including, but not limited to, any Land Unit or Common Element, Declarant shall execute and record in Land Records a supplement to this Declaration describing the Withdrawn Land which specifically refers to this Section 9.14. Upon the execution and recording of such supplement, the Withdrawn Land shall no longer be subject to the covenants, conditions, restrictions and other provisions of this Declaration and the Bylaws except (i) as may be otherwise specified by Declarant in such supplement, such as any rights, easements, reservations, interests, exemptions, powers or privileges reserved to the Declarant pursuant to this Declaration or the Bylaws which affect the Withdrawn Land, or (ii) as the withdrawal of such land may materially and adversely impact any Land Unit not owned by Declarant, such as by affecting easements that benefit such Land Units.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned, being Declarant herein, has caused this Declaration to be executed and delivered in its name and on its behalf as of this 17<sup>th</sup> day of June, 2015.

WITNESS/ATTEST:

DECLARANT:  
GANZE MACHER LLLP

[Signature]

By: [Signature] [SEAL]  
Steven Nagel, General Partner

[Signature]

By: [Signature] [SEAL]  
Alan Nagel, General Partner

STATE OF MARYLAND, COUNTY OF Frederick TO WIT:

I HEREBY CERTIFY, that on this 17<sup>th</sup> day of June, 2015, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Steven Nagel, General Partner of Ganze Macher LLLP, and he acknowledged the foregoing Declaration to be the act and deed of said entity.

AS WITNESS my hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: 1/15/16

STATE OF MARYLAND, COUNTY OF Frederick TO WIT:

I HEREBY CERTIFY, that on this 17<sup>th</sup> day of June, 2015, before me, the subscriber, a Notary Public of the State of Maryland, personally appeared Alan Nagel, General Partner of Ganze Macher LLLP, and he acknowledged the foregoing Declaration to be the act and deed of said entity.

AS WITNESS my hand and Notarial Seal.

[Signature]  
Notary Public

My Commission Expires: 1/15/16

**ATTORNEY CERTIFICATION**

I HEREBY CERTIFY that this Declaration was prepared by me or under my supervision, and that I am an attorney duly licensed to practice before the Court of Appeals of Maryland.



---

Rachel M. Hess

**EXHIBIT "A"**

**Legal Description of the Property Subjected to Declaration**

All that land shown as "Land Unit 60" and "Land Unit 64", on the plat entitled, "NORTH FREDERICK LAND CONDOMINIUM" dated July, 2015, which consists of one (1) sheet, which Plat is recorded among the Land Records of Frederick County, Maryland as Plat No. 95-134.

**EXHIBIT "B"**

**Bylaws of the Condominium**

**Bylaws  
of  
North Frederick Land Condominium**

## Bylaws of

## Council of Unit Owners of North Frederick Land Condominium

## ARTICLE 1

PLAN OF CONDOMINIUM OWNERSHIP

**Section 1.1. The Condominium.** The Condominium has been established by subjecting the Property described in Exhibit "A" of the Declaration for North Frederick Land Condominium (the "Declaration") to a condominium regime pursuant to the Maryland Condominium Act. These Bylaws are attached to and made part of the Declaration as Exhibit "B" and are intended by the Declarant to set forth, among other things, a plan by which the affairs of the Condominium shall be administered and governed by the Council of Unit Owners pursuant to the Maryland Condominium Act.

**Section 1.2. Definitions.** In these Bylaws, all capitalized terms shall have the same meanings as designated in the Declaration unless otherwise expressly provided or apparent from the context.

**Section 1.3. Applicability of Bylaws.** These Bylaws are applicable to the Association and to the Condominium. All present and future Unit Owners, Unit Occupants and any other persons who may use any portion of the Condominium in any manner, are subject to the Declaration and these Bylaws. The acceptance of a deed of conveyance to any portion of a Land Unit or a Land Unit Building shall constitute an agreement that these Bylaws and the Declaration, as either may be amended from time to time, are accepted, ratified, and will be complied with.

## ARTICLE 2

THE ASSOCIATION IN GENERAL

**Section 2.1. Purpose and Status of the Association.** The purpose of the Association shall be to operate the Condominium for the benefit of the Unit Owners and to exercise the powers conferred upon it by the Maryland Condominium Act, the Declaration, and these Bylaws. The Association shall be an unincorporated entity.

**Section 2.2. Name and Mailing Address.** The Association shall be known as "The Council of Unit Owners of North Frederick Land Condominium". The office and mailing address of the Association shall be Kline Scott Visco Commercial Real Estate, Inc., 117 West Patrick Street, Frederick, Maryland 21701, or as otherwise determined from time to time by the Council of Unit Owners.

**Section 2.3. Powers of the Association.** Subject to the limitations set forth in the Declaration and these Bylaws, the Council of Unit Owners shall have those powers enumerated in Section 11-109(d) of the Maryland Condominium Act, as the same may be amended from time to time.

**ARTICLE 3**  
**COUNCIL OF UNIT OWNERS**

**Section 3.1. Members.** The Council of Unit Owners shall have as its members all of the Unit Owners.

**Section 3.2. Meetings of the Council of Unit Owners.** Meetings of the Council of Unit Owners shall be held as agreed upon by all of the Unit Owners unless otherwise required to be held otherwise under the Maryland Condominium Act.

**Section 3.3. Notice of Meetings.** It shall be the duty of the Secretary of the Association or other person designated by the Council of Unit Owners to provide notice of each meeting of the Council of Unit Owners at least ten (10) days, but not more than ninety (90) days, prior to such meeting, stating the purpose thereof as well as the time and place at which it is to be held. Meeting notices shall be mailed or personally delivered to the address of each Unit Owner of record as shown on the Association's roster of Unit Owners. If the purpose of any meeting shall be to act upon a proposed amendment to the Declaration or to these Bylaws, the notice of meeting shall be mailed or personally delivered at least thirty (30) days prior to such meeting. The mailing of a meeting notice in the manner provided in this Section shall be considered service of notice as of the date of such mailing. A meeting notice that is personally delivered shall be served as of the date of such delivery. Service of notice shall be proven by affidavit of the person serving such notice. Attendance by a Unit Owner at a meeting of the Council of Unit Owners in person or by proxy shall constitute waiver of notice of the time, place, and purposes of such meeting.

(a) Notwithstanding language contained in the Condominium Instruments to the contrary, the Secretary may provide notice of a meeting or deliver information to a Unit Owner by electronic transmission if:

(1) The Officers give the Council of Unit Owners the authority to provide notice of a meeting or deliver information by electronic transmission;

(2) The Owner gives the Council of Unit Owners prior written authorization to provide notice of a meeting or deliver information by electronic transmission; and

(3) The Secretary certifies in writing that the Council of Unit Owners has provided notice of a meeting or delivered material or information as authorized by the Unit Owner.

(b) Notice or delivery by electronic transmission shall be considered ineffective if:

(1) The Council of Unit Owners is unable to deliver two consecutive notices; and

(2) The inability to deliver the electronic transmission becomes known to the person responsible for the sending of the electronic transmission.

(c) The inadvertent failure to deliver notice by electronic transmission does not invalidate any meeting or other action.

**Section 3.4. Voting.** Each Owner shall be entitled to cast the votes appurtenant to that Owner's Unit at all meetings of the Council of Unit Owners. Such voting interest is set forth on Exhibit "C" to the Declaration, as amended from time to time.

**Section 3.5. Majority of Owners.** As used in these Bylaws, the term "Majority of Owners" shall mean those Owners having more than fifty percent (50%) of the total voting interests of all Land Units.

**Section 3.6. Open Meetings.** All meetings of the Council of Unit Owners and Officers shall be open to all members of the Association (and other interested parties in the discretion of the Officers or as required by law). Meetings of the Officers shall be held in accordance with the provisions herein.

**Section 3.7. Quorum.** The presence in person or by proxy of Owners having at least fifty-one percent (51%) of the total authorized votes of all Owners constitutes a quorum at all meetings of the Council of Unit Owners.

**Section 3.8. Majority Vote.** The vote of a Majority of Owners shall be binding upon all Owners and Unit Occupants for all purposes except to the extent the Declaration, the Maryland Condominium Act, or these Bylaws otherwise expressly require a higher percentage vote.

**Section 3.9. Action Without Meeting.** Any action by the Council of Unit Owners required or permitted to be taken at any meeting may be taken without a meeting if all the Owners shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Association.

**Section 3.10. Liability of the Council of Unit Owners; Defense of Claims.**

(a) Members of the Council of Unit Owners acting on behalf of the Association and Officers shall not be liable to the Owners Unit Occupants for any mistake of judgment, negligence, or otherwise, except for their own individual fraud, willful misconduct or gross negligence or actions taken in bad faith or knowingly outside the scope of their authority.

(b) No member of the Council of Unit Owners acting on behalf of the Association nor any Officer shall be liable for injury or damage to persons or property from any cause whatsoever unless in each such instance such injury or damage has been caused by such member's or Officer's own fraud, willful misconduct or gross negligence or actions taken in bad faith or knowingly outside the scope of their authority.



(c) Members of the Council of Unit Owners acting on behalf of the Association and Officers shall have no personal liability in contract to any Owner/Unit Occupants or any other person or entity under any agreement, check, contract, deed, lease, Mortgage, instrument, or transaction entered into by them on behalf of the Association in the performance of their official duties, except for their own individual fraud, willful misconduct or actions taken in bad faith or knowingly outside the scope of their authority.

(d) Members of the Council of Unit Owners acting on behalf of the Association and Officers shall have no personal liability in tort to an Owner, Unit Occupant or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for such member's or Officer's own willful misconduct or gross negligence in the performance of their duties.

(e) Complaints brought against the Association, members of the Council of Unit Owners, Officers, or employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Council of Unit Owners, which shall promptly give written notice thereof to the Owners and such complaints shall be defended by the Association. The Owners, Unit Occupants and their respective Mortgagees shall have no right to participate in such defense other than through the Council of Unit Owners, unless such Owner, Unit Occupant or Mortgagee is named as a defendant in such action. Complaints against one or more but less than all Owners shall be defended by such Owners themselves and, if the complaint relates to the Condominium, such Owners shall promptly give written notice of the institution of any such suit to the Council of Unit Owners.

#### **ARTICLE 4**

#### **OFFICERS AND MANAGEMENT AGENT**

**Section 4.1. Appointment of Officers.** Subject to Section 4.4. of these Bylaws, the Council of Unit Owners shall appoint such Officers of the Association as may be required by applicable Maryland law or as otherwise may be deemed necessary by the Council of Unit Owners. Officers are not required to be Unit Owners.

**Section 4.2. Compensation of Officers.** No Officer shall receive any compensation from the Association for acting as such; provided, however, that Officers may be reimbursed for sums which they may reasonably expend on behalf of the Association, provided that such expenses are approved by the Council of Unit Owners.

**Section 4.3. Designation.** The principal Officers of the Council shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by the Council. The President and Vice President may also serve as the Secretary and/or Treasurer provided, however the offices of President and Vice President may not be held by the same person.

(a) The President shall be the Chief Executive Officer of the Council. He shall preside at all meetings of the Council. He shall have all of the general powers and duties which are usually vested in the office of president of a corporation, including but not limited to, the power to appoint committees from among the Owners, or other persons whom he feels are

qualified, from time to time, as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Council.

(b) The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the remaining Officers shall appoint some other Officer to do so on an interim basis.

(c) The Secretary shall keep the minutes of all meetings of the Officers and the Council; he shall have charge of the "ownership" and such other books and papers as the Officers may direct; and he shall, in general, perform all of the duties incidental to the office of Secretary, including counting the votes at meetings of the Council. In the Secretary's absence, the President shall designate some other person to perform these duties.

(d) The Treasurer shall have responsibility for Council funds and securities, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Council. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Council in such depositories as may from time to time be designated by the Officers. The Officers may delegate any or all of these duties to a Management Agent or banking institution.

***Section 4.4. Declarant Power of Attorney to Appoint Officers.***

(a) Unless otherwise prohibited by applicable law, Declarant hereby reserves for itself, its successors, transferees and assigns, the right to appoint the Officers of the Association on behalf of all Unit Owners until the earlier to occur of: (i) the date Declarant decides, in its sole and absolute discretion, that it no longer desires to appoint the Officers and such decision is evidenced in writing to the Association, or (ii) ten (10) years from the date the Declaration is recorded in Land Records. By acceptance of a deed to any Land Unit each and every Unit Owner does automatically and irrevocably name, constitute, appoint and confirm Declarant, its successors, transferees and assigns, as attorney-in-fact for the purpose of electing the Officers of the Association.

(b) The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Land Units and be binding upon the heirs, personal representatives, successors, transferees and assigns of any of the foregoing parties. Said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power of attorney.

***Section 4.5. Management Agent.*** During the Declarant Control Period, the Declarant may employ for the Council a Manager at a rate of compensation established by Declarant and in the amount which is considered reasonable and customary for the type of project, to perform such duties and services as the Declarant shall authorize, including, but not necessarily limited to, the duties of the Council and Officers other than those duties reserved to the Council or Officers by

the Declaration, Condominium Bylaws or Maryland Condominium Act, or the Council may undertake "self-management", which decision may be made by Declarant alone during the Declarant Control Period. Any professional management company employed must have and maintain adequate fidelity bond coverage. Upon the expiration of the Declarant Control Period, then the Officers may employ a Manager acceptable to the Council under the terms hereof or "self-management". Notwithstanding the foregoing, if an affiliate of the Declarant, any Officer, or any Unit Owner is employed as the Manager, then the compensation due to such Manager shall not be in excess of the prevailing market rates for similar services provided in Frederick County, Maryland. Other than as set forth herein, the Council shall not be required to employ a professional management company.

**Section 4.6. Powers and Duties.** The Officers shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not, by law or by these Bylaws, directed to be exercised and done by the Council of Unit Owners.

**Section 4.7. Regular Meeting.** At least annually, the Officers shall send each Unit Owner notice of its meetings. All meetings of the Officers shall be open for Unit Owners (except as provided in the Condominium Act) to attend in accordance with Section 3.6. of these Bylaws. Regular meetings of the Officers may be held at such time and place as shall be determined from time to time by a majority of the Officers, but at least one (1) such meeting shall be held during each fiscal year.

(a) Notice of meetings of Officers may not be given on less notice than required by Section 11-109 (c) of the Condominium Act.

(b) The Council shall maintain a current roster of names and addresses of each Unit Owner to which notice of meetings of the Officers shall be sent at least annually.

(c) Each Unit Owner shall furnish the Council of Unit Owners with his name and current mailing address. A Unit Owner may not vote at meetings of the Council of Unit Owners until this information is furnished.

**Section 4.8. Waiver of Notice.** Before or at any meeting of the Officers, any Officer may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by an Officer at any meeting of the Officers shall be a waiver of notice by him of the time, place and purpose thereof.

**Section 4.9. Quorum.** At all meetings of the Officers, a majority of the Officers shall constitute a quorum for the transaction of business, and the acts of the majority of the Officers present at a meeting at which a quorum is present shall be the acts of the Association. If any meeting of the Officers has less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such meeting, following an adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 4.10. Liability and Indemnification of Officers.** The Council of Unit Owners shall indemnify every Officer of the Council of Unit Owners against any and all expenses, including attorneys' fees, reasonably incurred or imposed upon any Officer in connection with any action, suit or other proceeding, including the settlement of any such suit or proceeding, if approved by the then Officers, to which he may be made a party by reason of being or having been, an Officer, whether or not such person is an Officer at the time such expenses are incurred. The Officers shall be liable to the Council and the Unit Owners for any gross negligence, including their own individual willful misconduct or bad faith, but shall not be liable for mistakes of judgment or otherwise if made in good faith nor incur any personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Council of Unit Owners (except to the extent that such Officers may also be Unit Owners), and the Council of Unit Owners shall indemnify and forever hold each such Officer free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any Officer of the Council, or former Officer, may be entitled.

**Section 4.11. Other Interests.**

(a) The Officers shall exercise their powers and duties in good faith and with a view to the interest of the Council of Unit Owners.

(b) No contract or other transaction between the Council of Unit Owners and any corporation or other entity or person and no act of the Council of Unit Owners or Officers shall in any way be affected or invalidated by the fact that any member of the Association or an Officer is pecuniarily or otherwise interested in, or is a director or officer of such other corporation or entity; any Officer individually, or any firm of which any Officer may be a member, may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction with the Council of Unit Owners provided that the fact that he or such firm is so interested shall be disclosed and shall have been known to the Officers or a majority thereof; and any Officer of the Council of Unit Owners who is also a director or officer of any such other corporation or who is so interested may be counted in determining the existence of a quorum at any meeting of the Council of Unit Owners or the Officers thereof which shall authorize any such contract or transaction, and any such contract or transaction shall be valid if approved by a majority vote of disinterested Officers, even if the disinterested Officers constitute less than a quorum.

**ARTICLE 5**  
**CONDOMINIUM ASSESSMENTS**

**Section 5.1. Common Expenses and Assessments.** Common Expenses (if any) may include, but not be limited to, the costs and expenses for maintaining, replacing, repairing and insuring the Common Elements and may be assessed for the operation of the Condominium by the Officers and/or any costs which the Council of Unit Owners may be liable for under applicable law, the Agreement and/or E&M Agreement and/or Inspection Agreement (as such

terms are defined in the Declaration). Further, the cost of water serving the Land Units shall be allocated and assessed by the Council as set forth in Article 2.5. (c) (ii) of the Declaration.

**Section 5.2. Insurance.** Commencing no later than the time of the first conveyance of a Unit to a person other than Declarant, the Council of Unit Owners if required by law or if the Council of Units Owners determines to do so, shall maintain, to the extent reasonably available as well as obtainable at reasonable rates:

(a) Property insurance on any of the General Common Elements in amounts and types usual to these General Common Elements;

(b) Comprehensive general liability insurance, including medical payments insurance, covering all occurrences arising out of or in connection with the use, ownership, or maintenance of any of the Common Elements or activities or responsibilities of the Association in limits of at least Five Hundred Thousand Dollars (\$500,000.00) for injuries or damages sustained by one or more persons in any one accident, and One Hundred Thousand Dollars (\$100,000.00) for property damages; and

(c) Any other insurance required by law applicable Maryland law.

**Section 5.3. Payment of Any Assessments; Lien.**

(a) Any assessments for Common Expenses levied and assessed against each Land Unit shall constitute a lien against the Land Unit from the date of assessment until the date of full payment, provided that the requirements of the Maryland Contract Lien Act have been fulfilled. Assessments for Common Expenses shall be paid according to each Unit Owner's respective Percentage Interest, except as otherwise provided in Section 2.5. (c)(ii) of the Declaration and/or unless otherwise determined by the Council of Unit Owners. At the option of the Council of Unit Owners, the Common Expenses may be payable in annual, quarterly, monthly or other convenient installments, to the Council of Unit Owners or to such person or entity who or which the Council of Unit Owners shall designate.

(b) No Owner shall be liable for the payment of any part of the Common Expenses assessed against its Unit subsequent to the date of recordation of a conveyance by such Owner of fee simple title to the Unit. Prior to or at the time of such conveyance, all liens, unpaid charges, and assessments shall be paid in full and discharged. The purchaser of a Unit shall be jointly and severally liable with the selling Owner for any unpaid assessments against the selling Owner for the selling Owner's proportionate share of the Common Expenses and any amounts due for water usage up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor, provided, however, that no purchaser from a selling Owner shall be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments greater than the amount set forth in any resale certificate provided by the Association (which certificate shall be provided by the Council of Owners no later than thirty (30) days after written request therefore by any Owner). The conveyance of a Unit shall not affect any lien established by the Association against such Unit. Notwithstanding anything contained herein to the contrary, if a Mortgagee comes into possession of a Unit by

virtue of foreclosure of a Mortgage or a deed or other conveyance in lieu of foreclosure, such Mortgagee shall take the Unit free of any liens or claims for unpaid assessments or charges against such Unit which accrue prior to the time such Mortgagee comes into possession thereof. The sale or transfer of a Unit by virtue of foreclosure of a Mortgage or a deed or other conveyance in lieu of foreclosure shall not relieve the Mortgagee, the purchaser at such sale or transfer, or any subsequent Owner from liability for any assessments thereafter coming due, nor from the lien of such subsequent assessments, which lien, if any, shall have the same effect and may be enforced in the same manner as provided herein. The lien of the Association against any Unit shall be subordinate to the Mortgage against such Unit.

(c) No amendment to this Section shall affect the rights or obligations of any Mortgagee under a Mortgage recorded prior to recordation of such amendment unless the Mortgagee shall join in the execution of such amendment.

**Section 5.4. Collection of Assessments.** The Council of Unit Owners shall take prompt action to collect any assessments due from any Owner which remain unpaid for more than thirty (30) days after the payment due date. Upon default in the payment of any one or more installments of any assessment levied pursuant to the Declaration or these Bylaws, and such failure shall continue for ten (10) days after the Council of Unit Owners shall deliver written notice thereof, the entire balance of said assessments may be accelerated at the option of the Council of Unit Owners and be declared due and payable, in full, together with interest thereon at the maximum rate permitted by law at the time the assessment became due.

**Section 5.5. Default in Payment of Assessments.** The lien for unpaid assessments for Common Expenses and any amounts due for water usage may be enforced and foreclosed in such manner as may from time to time be provided in the Maryland Condominium Act and the Maryland Contract Lien Act. Any assessment, until paid, may at the election of the Council of Unit Owners bear interest at the maximum rate permitted by law at the time the assessment became due or, if there is no such maximum rate, at such rate as is determined by the Council of Unit Owners. In addition, the Council of Unit Owners may impose late charges and/or the costs of collection (including reasonable attorneys' fees), if any, with respect to any assessment which has not been fully paid when due. Such late charges, attorneys' fees and other costs shall not exceed the permissible amounts provided for in the Maryland Condominium Act, and shall otherwise comply therewith. All such interest, late charges, attorneys' fees, and other costs shall constitute a lien upon the Land Unit until fully paid.

**Section 5.6. Budget.** During the Declarant Control Period, the Declarant shall make a reasonable effort to cause a copy of the budget (if any), and the amount of the assessments to be levied against each Unit for the following year, to be delivered to each Owner at least thirty (30) days prior to the commencement date of the new assessments. During the Declarant Control Period, the Declarant shall prepare and approve the budget and after the Declarant Control Period, the Officers shall prepare and approve the budget; provided, however, that after the Declarant Control Period, any budget under consideration by the Officers that (i) would result in an increase in the Common Expenses of the Association in excess of fifteen percent (15%) of the

budgeted amount for Common Expenses set forth in the budget for the immediately preceding fiscal year, or (ii) would result in an increase in the annual assessments payable by the Owners in excess of fifteen percent (15%) of the budgeted amount for annual assessments set forth in the budget for the immediately preceding fiscal year, shall be approved by the affirmative vote of Owners entitled to cast not less than sixty-seven percent (67%) of the votes of the Owners present, in person or by proxy, and voting at any meeting of the Association duly called for this purpose. Subject to the foregoing, all budgets approved by the Declarant or Officers, as applicable, shall become effective unless a special meeting of the Association is duly held and at such special meeting the budget is disapproved by a vote of Owners entitled to cast not less than sixty-seven percent (67%) of the votes of Owners present, in person or by proxy, and voting at such meeting. Notwithstanding the foregoing, however, in the event that the membership disapproves the budget or the Declarant or Officers, as applicable, fails for any reason to determine the budget for any fiscal year of the Association, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding fiscal year shall continue for the succeeding fiscal year.

#### **ARTICLE 6** **USE COVENANTS**

Except as specifically provided in the Declaration and these Bylaws, any Unit may be used for any purposes which are compliant with applicable law.

#### **ARTICLE 7** **NO SEVERANCE OF OWNERSHIP**

Except as may be provided in the Maryland Condominium Act, no Owner shall execute any Mortgage, bring an action in partition, or otherwise convey or encumber its Unit without including therein any of the appurtenant Common Elements, it being the intention of this Article 7 to prevent any severance of such combined ownership. Any Mortgage or instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant Common Elements of any Unit may be sold, transferred, or otherwise disposed of, except as part of a sale, transfer, or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer, or other disposition of such part of the appurtenant Common Elements of all Units.

#### **ARTICLE 8** **CONDEMNATION PROCEEDS**

In the event of a taking in condemnation, or by purchase in lieu thereof, of a Unit or any part of a Unit and any Common Elements above or below such Unit or portion thereof, all proceeds for such taking or purchase in lieu shall be distributed to the Owner of the Land Unit that is the subject of such taking or purchase in lieu. If the entire Condominium is taken or condemned or sold or otherwise disposed of in lieu or in avoidance of condemnation, the Condominium shall terminate, and the condemnation award shall be apportioned among the

Owners and Mortgagees on the basis of the Percentage Interest in the Common Elements appurtenant to the Unit in which such Owners and Mortgagees have an interest.

## **ARTICLE 9**

### **DISPUTE RESOLUTION**

**Section 9.1. Fine Imposition Procedure.** The Association shall be entitled to impose a reasonable fine against a Unit Owner or Unit Occupant for the violation of any of the use restrictions set forth in the Declaration or any violation of these Bylaws, provided the Association follows the procedure set forth in Section 11-113 (or any successor provision) of the Condominium Act (the "Fine Imposition Procedure").

**Section 9.2. Enforcement.** Any use restrictions shall be held and construed to run with and bind the Common Elements and all Units located within the Condominium and all Unit Owners and Unit Occupants, forever, all except as otherwise expressly set forth in the Declaration. Said use restrictions shall inure to the benefit of and be enforceable by the Association and Officers against anyone violating or attempting to violate any of said use restrictions by any means available in law or in equity.

**Section 9.3. Mediation.** Other than matters dealing with payment of assessments and notwithstanding any provisions in these Bylaws, or the Declaration or as otherwise required by applicable law, in the event a dispute arises between the Owners and at least one (1) of the Owners has requested mediation, the parties agree to participate in at least four (4) hours of mediation. The Owners agree to share equally in the costs of the mediation. The mediation shall be administered by a civil mediator from the list of Frederick County Circuit Court-approved list of mediators. If the Owners cannot agree to a mediator, then each Owner shall choose a Court-approved mediator and those two (2) mediators shall choose the final mediator. Mediation involves each side of a dispute sitting down with an impartial person, the mediator, to attempt to reach a voluntary settlement. Mediation involves no formal court procedures or rules of evidence, and the mediator does not have the power to render a binding decision or force an agreement on the parties.

If mediation has been requested pursuant to the procedures set forth herein, the Owners agree that their respective good faith participation in mediation is a condition precedent to pursuing any other available legal or equitable remedy, including litigation, arbitration or other dispute resolution procedures.

Either Owner may commence the mediation process by providing to the other party written notice, setting forth the subject of the dispute, claim or controversy and the relief requested. Within ten (10) days after the receipt of the foregoing notice, the other Owner shall deliver a written response to the initiating Owner's notice. The initial mediation session shall be held within thirty (30) days after the initial mediation notice. The Owners agree to share equally the costs and expenses of the mediation (but such costs and expenses shall not include any expenses incurred by a party for legal representation in connection with the mediation).



The Owners further acknowledge and agree that mediation proceedings are settlement negotiations, and that, to the extent allowed by applicable law, all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties or their agents shall be confidential and inadmissible in any arbitration or other legal proceeding involving the parties; provided, however, that evidence which is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

The provisions of this Section 9.3. concerning the use of mediation may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including reasonable attorneys' fees, to be paid by the party against whom enforcement is ordered.

## **ARTICLE 10** **MISCELLANEOUS**

**Section 10.1. Notices.** Except as otherwise provided herein, notices under these Bylaws shall be given in accordance with Section 9.7 of the Declaration.

**Section 10.2 Invalidity.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws.

**Section 10.3. Captions.** The captions and section headings in these Bylaws are included only for convenient reference, and in no way define, limit, or describe the scope or intent of these Bylaws.

**Section 10.4. Waiver.** No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**Section 10.5. Amendments to Bylaws.** Except as otherwise provided herein or in the Declaration, any amendment to these Bylaws shall require the written consent of all Unit Owners, and further, provided, that Declarant has provided written consent until such time as Declarant no longer owns any portion of a Land Unit.

**Section 10.6. Conflicts.** In case any part of these Bylaws conflicts with the Maryland Condominium Act or the Declaration, the provisions of the Maryland Condominium Act and Declaration, as the case may be, shall control.

**END OF BYLAWS**

## EXHIBIT "C"

## Schedule of Percentage Interests and Votes

The Percentage Interests in the Common Elements, Common Expenses and Votes appurtenant to each Land Unit are as follows:

| <u>Unit Designation</u> | <u>Percentage Interests</u> | <u>Votes</u> |
|-------------------------|-----------------------------|--------------|
| Land Unit 60            | 33 1/3 %                    | 33 1/3       |
| Land Unit 64            | 66 2/3%                     | 66 2/3       |
| TOTAL                   | 100%                        | 100          |

AFTER RECORDATION, PLEASE RETURN TO:

Rachel M. Hess, Esquire  
WINEGRAD, HESS, FRIEDMAN & LEVITT, LLC  
400 Redland Court, Suite 212  
Owings Mills, Maryland 21117

LR - Covenant  
 Recording Fee 75.00  
 Declarant Name: ganze  
 macher LLP  
 Reference/Control #:  
 10631/313  
 LR - Covenant  
 Surcharge 40.00  
 =====  
 SubTotal: 115.00  
 =====  
 Total: 115.00  
 07/01/2015 09:39  
 CC10-KL  
 #4475024 CC0601 -  
 Frederick  
 County/CC06.01.03 -  
 Register 03

DOCUMENT VALIDATION

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CIRCUIT COURT FOR FREDERICK COUNTY

SANDRA K. DALTON  
100 WEST PATRICK STREET  
FREDERICK, MD 21701

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301-600-1976