

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS OF  
FALLING WATERS – PHASE II, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA

FIRST AMENDMENT

(Lots 173 through 259, inclusive, and Outlot F, in Falling Waters)

THIS First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Falling Waters – Phase II (“First Amendment”) is made effective as of the date hereof by FALLING WATERS – PHASE II HOMEOWNERS ASSOCIATION (the “Declarant”)

RECITALS

By Declaration of Covenants, Conditions, Restrictions and Easements of Falling Waters – Phase II dated March 5, 2015, and recorded as instrument #2015016179 in the Register of Deeds Office of Douglas County, Nebraska on March 6, 2015 (the “Declaration”), covenants, conditions, restrictions and easements were imposed on Lots 173 through 259, inclusive, and Outlot F, in Falling Waters, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Article V, 2 of the Declaration provides as follows:

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Declarant, or any person, firm, corporation or partnership, or entity designated in writing by Declarant in any manner which it may determine in its full and absolute discretion for a period of ten (10) years from the date hereof. Thereafter, this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

WHEREAS Declarant desires to amend the Declaration to set forth an effect for any non-compliance with said covenants, conditions, restrictions and easements.

WHEREAS Declarant desires to amend the Declaration clearly grant authority to the FALLING WATERS – PHASE II HOMEOWNERS ASSOCIATION as well as Declarant and any owner of a Lot named therein, to enforce any provisions of the Declaration.

NOW, THEREFORE:

Article III of the Declaration of Covenants, Conditions, Restrictions and Easements of Falling Waters – Phase II is hereby amended as follows:

17. Determination of Fines for Noncompliance with Covenants, Conditions, Restrictions and Easements. The Board of Directors may assess fines against the Owner of any Lot who is in violation of the terms and conditions of the Declaration, as amended from time to time, in the amount of \$50.00 for the initial violation, whether one or more, and \$15.00 per day after the date of the notice of the violation to the Owner and an opportunity to be heard. Fines will accrue interest at 16% per annum until fully paid. If the violation pertains only to leaving trash cans out (also known as garbage bins), the initial fine is \$25.00, and all other penalties set forth herein shall apply to trash can violations.

18. Burden of Proof of Resolution. The Board may assign the burden of proof of resolution of any violation to the Owner of any Lot who is in violation of the terms and conditions of the Declaration, as amended from time to time. It shall be the obligation of the Owner of the Lot who has been notified by the Board of a violation to notify the Board in writing that the violation has been remedied and provide verifiable evidence of such remedy.

19. Costs of Enforcement. The Board shall be entitled to recover any costs and reasonable attorney fees incurred by the Board in connection with enforcing compliance with covenants, conditions, restrictions and easements. The costs and reasonable attorney fees incurred by the Board in connection with enforcing compliance with covenants, conditions, restrictions and easements shall be the obligation of the Owner of the Lot in violation.

Paragraph 1. Of Article V of the Declaration of Covenants, Conditions, Restrictions and Easements of Falling Waters – Phase II is hereby amended and restated in its entirety as follows:

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or its assigns, the Association, or any owner of a Lot named herein shall have the right to enforce by proceeding at law or in equity, all covenants, conditions, restrictions and easements, now or hereafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of

same, or to recover damages or other dues for such violation. Failure by the Declarant, the Association or by any owner to enforce any covenant, condition or restriction shall in no event be deemed a waiver of the right to do so thereafter.

Except as provided in this First Amendment, all other terms and conditions of the Declaration remain unchanged, in full force and effect, and enforceable in accordance with the laws of the State of Nebraska and the terms of the Declaration as amended.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed on the 23<sup>rd</sup> day of August 2024.

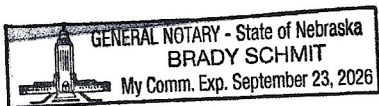
FALLING WATERS – PHASE II  
HOMEOWNERS ASSOCIATION

BY: J. Foland  
JENNIE FOLAND, President

STATE OF NEBRASKA    )  
  ) SS:  
COUNTY OF DOUGLAS    )

The foregoing instrument was executed before me, a notary public in and for the State of Nebraska by JENNIE FOLAND on behalf of and as the duly authorized representative of the FALLING WATERS – PHASE II HOMEOWNERS ASSOCIATION, and she acknowledged that the execution of the foregoing is her voluntary act and deed in her authorized capacity on behalf of the Declarant. Such representative is personally known to be me or was identified to me through satisfactory evidence to be the identical person executing this instrument.

Wherefore I set my hand and seal this 23<sup>rd</sup> day of August 2024.



Brady Schmit  
NOTARY PUBLIC