

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

FIRST AMENDMENT

(Lots 261 through 347, inclusive, and Outlot G, in Falling Waters)

THIS First Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Falling Waters – Phase III (“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 III dated November 20, 2018, and recorded as instrument #2018092436 in the Register of Deeds Office of Douglas County, Nebraska on November 21, 2018 (the “Declaration”), covenants, conditions, restrictions and easements were imposed on Lots 261 through 347, inclusive, and Outlot G, 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 III 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 III 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

