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**THIRD AMENDMENT TO  
DECLARATION OF COMMON INTEREST COMMUNITY**

**FOR**

**Falling Water**

**a residential Planned Community in  
Monongalia County, West Virginia**

THIS THIRD AMENDMENT DECLARATION OF COMMON INTEREST COMMUNITY FOR FALLING WATER, effective the ~~27~~<sup>28</sup>th day of February, 2009, by Backwater Properties, LLC, a West Virginia limited liability company, (hereinafter referred to as "DECLARANT"), both in its capacity as Declarant of the Subdivision, and also in its capacity as owner of 64 of 79 Units in the Subdivision, the owner of certain real estate and improvements for itself and its grantees and assigns, hereby make the following amendment to the Declaration of Common Interest Community for Falling Water Subdivision which is dated July 22, 2007, and is recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Deed Book No. 1347 at Page No. 169, and Amendments thereto recorded in Deed Book 1356 at Pages 586 and 593 ("Declaration").

Whereas, it was ascertained by resurvey of the Subdivision that there are certain discrepancies shown, depicted, described and set forth on that certain map or plat entitled Falling Water Subdivision, Phase I, Sections A, B, C, D, prepared by David L. Graham, LS 2117, of Stantec Consulting, Inc., dated June 2007, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Map Cabinet 3, Envelopes 226A, through 229A, inclusive and Declarant desires to correct said Plat by recordation of a revised Plat as dedicated by this instrument.

**WITNESS**, the undersigned, Backwater Properties, LLC, both as Declarant of the Subdivision and also as Owner of 64 of 79 Units therein which constitute ownership of 81% of all Units and votes allocated thereto, hereby amends the Article III of the Declaration to provide for recordation of a revised Plat of the Subdivision resulting from a recent survey and certain modifications to the boundaries depicted and shown on the original record plats.

Phase 1, of the Subdivision is hereby revised and re-dedicated as depicted and shown on that certain Map or Plat entitled, Revised Subdivision Plat, Falling Water Subdivision, Phase I, Sections A, B, C, D, prepared by Ronald A. Talkington, PS # 876, of Triad Engineering, Inc., dated February, 2009, and recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Map Cabinet 5, Envelope 56A, which said map or plat is incorporated herein by reference for descriptive and all other pertinent purposes ("Plat"). For the purposes of amendments to this instrument the term "Plat" shall include not only the original drawings as aforesaid but also any amendments or modifications thereto by the Declarant or its agents. With the exception of the revisions shown on said Plat which affect only certain Units in Falling Water Subdivision, all provisions of the former maps or plats shall remain in full force and effect and all notes, disclaimers and disclosures set forth on the prior plats are incorporated to the above referenced February 2009 Plat, and also into this instrument, by reference.

Except for the amendment provisions of Article III, as expressly modified hereby, all provisions of the Declaration shall remain in full force and effect.

1380-727

Witness this 3<sup>rd</sup> day of February, 2009: March

Declarant: Backwater Properties, LLC, a West Virginia limited liability company,

By: [Signature]

Manager by virtue of that Standing Resolution dated December 30, 2008, which is recorded in the Office of the Clerk of the County Commission of Monongalia County, West Virginia, in Book 119 at Page No. 272.

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to-wit:

This instrument was acknowledged before me, the undersigned Notary Public, this 3<sup>rd</sup> day of February, 2009, by JAMES L. ESTEP, in his capacity as manager of Backwater Properties, LLC, a West Virginia limited liability company.

My Commission Expires: June 1, 2014

[Signature]  
Notary Public



Retus to:

This instrument prepared by Steven M. Prunty  
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