

**AMENDMENT TO RESTRICTIVE COVENANTS
CLEAR SKY ADDITION**

FRF Investments, LLP, a North Dakota limited liability partnership (“Declarant”), recorded the Restrictive Covenants for Clear Sky Addition as Document 896352 on January 24, 2020, with said Restrictive Covenants applicable to, and restrictions upon, the following parcels of real property (“Property”), located in the County of Burleigh, State of North Dakota, as follows:

Clear Sky Addition, located in part of Government Lots 6 and 7, and part of the East Half of the Southwest Quarter (E1/2SW1/4) including Lot 1 of Lot “A” and Lot 2 of Lot “A” of said Southwest Quarter, all in Section 6, Township 138 N., Range 79 W., including the following lots:

- Lots 1 through 51, Block 1
- Lots 1 through 11, Block 2
- Lots 1 through 22, Block 3
- Lots 1 through 15, Block 4
- Lots 1 through 16, Block 5
- Lots 1 through 16, Block 6
- Lots 1 through 16, Block 7
- Lots 1 through 21, Block 8
- Lots 1 through 29, Block 9
- Lots 1 through 16, Block 10
- Lots 1 through 16, Block 11.

WHEREAS, under the provisions of Paragraph 5.1 of the Restrictive Covenants, Declarant retained the right, as long as the Declarant owns at least 25 lots within the Property, “to unilaterally make amendments to these covenants for the purpose of correcting clerical errors, for the purpose of making change to Declarant’s development plans, or for the purpose of updating the covenants to address circumstances which could compromise the reasonable and effective development of the Property”; and

WHEREAS, the Declarant owns more than 25 lots within the Property; and

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WHEREAS, certain circumstances have arisen, and have been the subject of requirements by the City of Bismarck, which could compromise the reasonable and effective development of the Property,

NOW, THEREFORE, Paragraph 6, and the subparagraphs thereof, of the Restrictive Covenants are amended so that, after amendment, said Paragraph 6 shall read, as follows:

6. CLEAR SKY HOME OWNERS ASSOCIATION.

6.1. The Declarant plans (a) to place certain signs within the Landscape Easement areas set forth in the plat of Clear Sky Addition, (b) to place buffer fences upon portions of the west boundary of Clear Sky Addition, and (c) to place buffer fences along the Sight Distance Triangle lines set forth in the plat of Clear Sky Addition. The Declarant hereby provides for the Clear Sky Home Owners Association (herein the "Association") for the purpose of maintaining, repairing, and replacing said signs and fences, in order to reasonably present an appealing impression to Clear Sky Addition. The Declarant shall have the right, at any time prior to the conveyance of the last remaining lot owned by Declarant, to establish the Association and to retain control of the Association until all lots, owned by the Declarant, have been sold. In furtherance of the rights of the Declarant and the Association regarding the buffer fences upon portions of the west boundary of Clear Sky Addition, the Declarant declares and reserves to itself, and to the Association, a 99-year easement, allowing the placement of a buffer fence upon or near the west boundary of the following lots, and allowing a right of ingress and egress upon the west 20 feet of the following lots for the purpose of maintenance, repair, and replacement of the buffer fence:

Lots 2,3,4,5,6,7,8,9, and 10, Block 2, Clear Sky Addition
Lots 2,3,4,5, and 6, Block 9, Clear Sky Addition

Also, in furtherance of the rights of the Declarant and the Association regarding the signs and buffer fences, the Declarant declares and reserves to itself, and to the Association, a 99-year easement, allowing (a) the placement of a buffer fence upon or near the west boundary of the following lots, (b) the placement of a buffer fence either upon or near the Landscape Easement line or the Sight Distance Triangle line upon the following lots, as such line may be selected by the Declarant or the Association, and as both easements are set forth in the plat of Clear Sky Addition, (c) the placement of signs within the area of the Landscape Easement upon the following lots, as set forth in the plat of Clear Sky Addition, and (d) a right of ingress and egress within the Landscape Easement areas, as shown in the plat of Clear Sky Addition, and also upon areas of the following lots within 20 feet of the aforementioned easement lines, all upon the following lots, for the purpose of maintenance, repair, and replacement of the signs and buffer fence: provided, to the extent that the owners of the following lots incur any liability or expense, arising directly or indirectly from the placement of the improvements identified herein, from encroachment of such improvements into public right of ways, from the expense of placing, maintaining, repairing, or removing such improvements, from any requirements imposed by the City of Bismarck (including but not limited to that Agreement and

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Waiver which the lot owners were required to execute and deliver to the City of Bismarck), and from any other source relating to the improvements identified herein, the Developer and the Association, jointly and severally, agree to indemnify and hold the lot owners, and their successors and assigns, harmless from any such liability or expense, including but not limited to attorney fees and legal expenses.

Lots 1 and 11, Block 2, Clear Sky Addition

Finally, in furtherance of the rights of the Declarant and the Association regarding the buffer fences, the Declarant declares and reserves to itself, and to the Association, a 99-year easement, allowing (a) the placement of a buffer fence upon or near the west boundary of the following lots, (b) the placement of a buffer fence upon the Sight Distance Triangle line upon the following lots, as set forth in the plat of Clear Sky Addition, and (c) a right of ingress and egress within 20 feet of the aforementioned easement line, all upon the following lots, for the purpose of maintenance, repair, and replacement of the buffer fence:

- Lot 1, Block 1, Clear Sky Addition
- Lot 1, Block 9, Clear Sky Addition

6.2. Upon establishment of the Association, all lot owners shall be deemed to be members of the Association and shall be bound by the provisions herein. Membership in the Association shall be appurtenant to each lot, and each succeeding owner of a lot shall replace the prior owner as a member of the Association.

6.3. The initial organizational documents, including bylaws, shall be created and declared by the Declarant, prior to establishment of the Association. Thereafter, the Declarant shall transfer management of the Association to the lot owners, who shall have the right to elect a board of directors in accord with the provisions of the bylaws.

6.4. The authority of the Association shall be limited to the maintenance, repair, and replacement of the signs, buffer fences, or other improvements at the entrances and to the maintenance, repair, and replacement of the buffer fences along portions of the west boundary of Clear Sky Addition. In order to defray the expenses of such maintenance, repair, and maintenance, including but not limited to the obligation of indemnify the owners of Lots 1 and 11, Block 2, Clear Sky Addition, as set forth in Paragraph 6.1 above, the Association shall have the authority to levy assessments, on an annual basis, or on such other basis as determined appropriate by the board of directors. The assessments shall be levied on a "per lot" basis, so that each lot shall be responsible for an equal fractional share of the total assessment. The initial annual assessment due from each lot shall be \$100; however, the Association shall have the authority to increase the dollar amount of the annual assessment, as determined appropriate by the Association.

6.5. All owners of a lot shall be personally responsible for the payment of all assessments. In the event that an owner fails to pay an assessment, when due, interest at the legal rate shall accrue from and after the due date. The purchaser of a lot, upon

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acceptance of a deed of transfer, agrees to personal responsibility for all assessments, including but not limited to those assessments which first became due prior to the date of transfer; provided, the purchaser at a sheriff's foreclosure sale, or a lender who accepts a deed in lieu of foreclosure, shall not be responsible for assessments which first became due prior to purchase at the foreclosure sale or acceptance of the deed in lieu of foreclosure, as applicable. In the event that a lot owner fails to pay the assessment, the lot owner shall be obligated to pay to the Association the amount of the assessment, interest, and any legal fees and expenses incurred by the Association in attempting to seek payment of the assessment. In addition to the personal responsibility of the lot owner, the Association shall also have a lien against the lot for the aforementioned amount of the assessment, interest, and any legal fees and expenses incurred by the Association in attempting to seek payment of the assessment. The Association, at its option, may file a document, evidencing the lien against the lot, with the Burleigh County Recorder, and, in such event, the lien shall also cover the expenses incurred by the Association in filing the lien. Each lot owner, by accepting title to a lot, agrees that such lien shall be a valid and enforceable lien against the title to the lot; said lien can be enforced by any procedure available at law or in equity, including but not limited to the procedure for foreclosure of a mortgage. The lien shall always be subordinate to a mortgage created in favor of a bona fide lender. The provisions for a lien notwithstanding, the Association shall always have the right, either exclusively or concurrently, to seek a personal judgment against a lot owner for the amounts due.

6.6. The provisions herein notwithstanding, the Declarant shall not be responsible for assessments, even after creation of the Association.

EXCEPT AS SET FORTH ABOVE, all other provisions of the Restrictive Covenants shall remain unchanged.

IN WITNESS WHEREOF, FRF Investments, LLP, in its capacity as Declarant, and further in its capacity as the Clear Sky Home Owners Association, has signed this document on this 21st day of August, 2024.

FRF Investments, LLP

By: 
Matt Geiger
Its: Managing Partner

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