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**DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
LONE TREE ESTATES**

ALLEN DEVELOPMENT, LLC, a South Dakota limited liability company (the "*Developer*") hereby this 21<sup>st</sup> day of July, 2026 declares and establishes upon the real property legally described as follows (the "*Development*"):

LOTS 3-5 IN BLOCK 1, LOTS 8-10 IN BLOCK 2, LOTS 1-8 AND 20-23 IN  
BLOCK 3, LOTS 6 AND 7 IN BLOCK 4, LOTS 5-8 IN BLOCK 5, LOTS 1-4, 18,  
23 AND 24 IN BLOCK 8 AND LOTS 8-10 IN BLOCK 10 OF LONE TREE  
ADDITION TO THE CITY OF HARRISBURG, LINCOLN COUNTY, SOUTH  
DAKOTA,

the following covenants, restrictions, easements, reservations and requirements (together the "*Covenants*") upon the use and development of Lots within the Development commonly known as "Lone Tree Estates."

**Section 1  
Purposes**

Developer intends by these Covenants to encourage and assure:

**1.01** *Consistency and Compatibility.* The most desirable and proper development of the Development with a compatible mix of residential uses in conformity with uniform standards modified only by those exceptions which are consistent with or promote the other intents of these Covenants.

**1.02** *Value.* The highest value of Lots, Home sites and Homes in the Development.

**1.03** *Quality of Improvements.* Protection against Homes and Improvements of poor construction, design or quality and usage of attractive and compatible architectural, engineering, planning and construction standards and materials of good quality and pleasing appearance appropriate to the uses of the Development.

**1.04 *Benefits to Occupants.*** An aesthetically pleasing, balanced and compatible place of living for owners, their families and invitees.

**1.05 *Open Spaces.*** Visibility and substantial green spaces, and avoidance of congestion, unattractive density of Homes, and on-street parking.

**1.06 *Requirements of Law.*** Compliance with all applicable federal, state and local laws, rules, ordinances and other governmental requirements.

**1.07 *Maintenance.*** The ongoing care and maintenance of developed and undeveloped portions of the Development.

**1.08 *Protection of Adjoining Property.*** That the development and maintenance of each Lot and structure thereon is appealing to, and does not interfere with, cause harm to or otherwise discourage existing or potential adjoining owners.

**1.09 *No Nuisances.*** Protection of the Development from danger of fire, explosion, toxic and noxious matter and other hazards, offensive noise, vibration, smoke, dust, odorous matter, nuisances and other objectionable influences.

**1.10 *Homeowner's Association.*** To provide for the creation and maintenance of the Association and providing that Owners are Members of the Association.

**1.11 *Certain Maintenance Services.*** To provide for certain maintenance services to be provided to Common Property through the Association.

## **Section 2 Definitions**

The following terms shall have their assigned meanings when used in these Covenants:

**2.01** "*Association*" or "*HOA*" means a non-profit homeowner's association whose legal name is (or will be) "Lone Tree Estates Homeowner's Association, Inc." a South Dakota non-profit corporation.

**2.02** "*Association Rules*" means any rules regulating the ownership of property within the Development, consistently with the Association's Articles of Incorporation and Bylaws.

**2.03** "*Common Expense*" means an expense incurred or estimated to be incurred by the Association in its operations or in upkeeping Common Property and for the benefit of Home Owners in general, including any reasonable reserve found to be necessary, but not including any expenses incurred by Developer in the original construction of Homes or installation of infrastructure, unless approved by a vote of the Members, excluding any votes the Developer is entitled to cast.

**2.04** "*Common Property*" means all property owned by the HOA or maintained by the HOA, including retention, detention, "best manage practice" and other ponds designed to collect surface water runoff, and other drainage features and structures located within the Development, median, landscaping, signs, and other real or personal property like or unlike any of the foregoing and intended by the Developer for the common good and benefit of Lots or the Development generally. Common Property may be temporary in nature, such as a Lot which is temporarily used for sediment control. The initial Common Properties will be Lot 23, Block 3, and Lot 1, Block 8, each of which contains a pond and Lot 5, Block 5, and Lot 10, Block 10, each of which contains inlets and outlets to a pond, and also the median landscaping located within the north end of Lone Tree Avenue located within the Development. Any such Common Property shall cease to be Common Property at such time as the City of Harrisburg or other public agency formally assumes responsibility for the upkeep of such lot or tract.

**2.05** "*Covenants*" means this Declaration of Covenants and Restrictions.

**2.06** "*Developer*" means Allen Development, LLC, which term includes its successors and assigns.

**2.07** The "*Development*" includes the land legally described above and such other land as Developer may add by amendment to these Covenants filed with the Lincoln County Register of Deeds office and so providing.

**2.08** "*Home*" means any structure for the support, shelter, enclosure or occupancy of persons, animals or movable property and attached to a fixed location on land.

**2.09** "*Improvement*" means any physical alteration of, change or addition to any Lot, excluding any Home, but including, without limitation, Landscaping, sidewalks, parking, ramps, driveways, curbs, signs and Yard lighting.

**2.10** "*Landscaping*" means any systematic or designed combination, grouping or arrangement of plants, trees, other vegetation (except lawn grass), mulch, rock, bricks, timbers or other decorative stone or aggregate.

**2.11** "*Lot*" means any parcel of the Development drawn and identified by separate number or letter in any plat of the Development or any portion thereof which is now or hereafter signed by the Developer, other than Common Property.

**2.12** "*Member*" means and refer to all those Owners who are members of the Association as provided herein.

**2.13** "*Owner*" means the record owner of the fee simple title to any Lot within the Development, whether one or more persons or entities, including Developer.

**Section 3**  
**Platting and Easements; Entire Platted Development**

**3.01** *Authority.* The Developer shall have the exclusive authority and discretion:

- (a) to plat and replat the Development into Lots, roadways, easements and Common Properties and to replat or subdivide Lots and to vacate any such plat or portion thereof;
- (b) to grant any easements or rights-of-way for utilities, drainage or other services necessary or convenient to the Development or any Lot in the Development;
- (c) to prepare, submit for approval and obtain approval for any planned unit development, zoning, rezoning, site plans or any other plan, document or procedure customary, required or desirable to accomplish the Developer's intent for the Development; and
- (d) to dedicate for public or governmental use all streets, highways, rights-of-way and detention facilities.

**3.02** *Means.* Any or all of the foregoing may be accomplished solely by the act, instrument, signature and consent of the Developer without necessity for joinder, consent, approval or signature of any Owner. Neither this Section or Section 3.01 shall authorize the Developer to do any of the foregoing as to a particular Lot not owned by Developer without the consent of the Owner of that Lot.

**3.03** *Restrictions on Owners.* No Owner may subdivide, replat or sell in parcels any Lot without the prior express written consent of the Developer.

**3.04** *Owners' Cooperation.* Each Owner acquiring an interest in one or more Lots shall cooperate with the Developer in any way reasonably requested by the Developer, including, but not limited to, the execution of all written instruments which may be necessary or desirable for any of the purposes described herein.

**3.05** *Plat of Entire Intended Development.* Developer intends to develop the Development in phases. The legal description of the Development contained at the outset of this Declaration contain only the initial lots to be included in Phase 1 of the Development. Developer currently intends that the following Lots will be included in Phase 1 of the Development:

Lots 3-11 in Block 1, Lots 1-10 in Block 2, Lots 1-23 in Block 3, Lots 1-14 in Block 4, Lots 1-12 in Block 5, Lots 20-28 in Block 7, Lots 1-25 in Block 8, Lots 1-12 in Block 9, and Lots 1-28 in Block 10 of Lone Tree Addition to the City of Harrisburg, Lincoln County, South Dakota.

No unplatted lot shall become a Lot for purposes of this Declaration until it is added to the Development by amendment to this Declaration. Any change in the treatment of any such Lot added to this Declaration in the future which may vary from the treatment of such unplatted Lot contained in this initial Declaration shall also be set forth in such amendment.

#### **Section 4** **Residential Covenants**

**4.01** *Land Use and Building Type; Temporary Rentals.* No Lot shall be used except for single-family owner-occupied residential purposes exclusively; provided, however, that a Lot and Home may be rented on a temporary basis (i) by an Owner who is temporarily absent or (ii) pending active efforts to sell the Lot and Home. Except where expressly allowed by these Covenants, no building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family dwelling, which dwelling shall not exceed two stories in height from the street level.

**4.02** *Zoning Ordinances and Setbacks.* No building, accessory building or other structure shall be erected, placed or altered on any Lot nearer to the street than the minimum building setback as provided below.

**4.03** *Setbacks for Single-Family Detached Zoned R-1.* Minimum setback requirements for a single-family detached Lots zoned R-1 are set forth below in this Section. Yard measurements shall be made from the Lot line to the edge of a Home. Values shown for lot area, lot width, and setbacks are minimum values.

#### **Lots Zoned R-1**

Lots 6 and 7, Block 4, Lots 6-8, Block 5, Lots 2-4, 18, 23 and 24 in Block 8, and  
Lots 8 and 9, Block 10 of Lone Tree Addition to the City of Harrisburg, Lincoln  
County, South Dakota in this initial Declaration are zoned R-1

The following Lots within the entire intended Development as described in Section 3.05 also are intended to be zoned R-1 and subject to the following requirements, when added to the Development by an amendment hereto.

| <u>Lot Area</u> | <u>Lot Width</u> | <u>Front Yard</u> | <u>Side Yard</u> | <u>Rear Yard</u> | <u>Maximum Height</u> |
|-----------------|------------------|-------------------|------------------|------------------|-----------------------|
| 6,500 sq. ft    | 65 ft.           | 25 ft.            | 7 ft.            | 25 ft.           | 35 ft.                |

Additional terms for double-frontage Lots and corner Lots:

There shall be a front yard on each street side of a double-frontage Lot. A "double-frontage Lot" is a Lot which abuts a street on two opposite ends and is not a corner Lot.

(i) There shall be a front yard on each street of a corner Lot, one front yard setback may be reduced to twenty feet. A “corner Lot” abuts two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

**4.04** *Setback for Single-Family Detached Residential Compact Zoned R-1C.* Minimum setback requirements for a single-family detached Lots zoned R-1C for purposes of these Covenants are set forth below in this Section. Yard measurements shall be made from the Lot line to the edge of a Home. Values shown for Lot area, Lot width, and setbacks are minimum values.

#### Lots Zoned R-1C

Lots 3-5, Block 1, Lots 8-10, Block 2, Lots 1-8 and 20-22, Block 3, Lone Tree Addition to the City of Harrisburg, Lincoln County, South Dakota in this initial Declaration are zoned R-1C

The following Lots within the entire intended Development described in Section 3.05, are also intended to be zoned R-1C and subject to the following requirements, when added to the Development by an amendment hereto.

| <u>Lot Area</u> | <u>Lot Width</u> | <u>Front Yard</u> | <u>Side Yard</u> | <u>Rear Yard</u> | <u>Maximum Height</u> |
|-----------------|------------------|-------------------|------------------|------------------|-----------------------|
| 5,000 sq. ft    | 50 ft.           | 20 ft.            | 5 ft.            | 20 ft.           | 35 ft.                |

Additional terms for double-frontage Lots and corner Lots:

- (i) There shall be a front yard on each street side of a double-frontage Lot.
- (ii) There shall be a front yard on each street side of a corner Lot, but one front yard may be reduced to twenty feet on corner lots.

**4.05** *Minimum Standards and Specifications.* The minimum square footage for any Home, exclusive of garage, porches, etc., for all Lots in the Development, shall be as follows:

(a) Minimum square footage of Homes constructed on Lots 2 through 4, Lot 18, and Lots 23 and 24, Block 8 (currently platted lots adjacent to a Lot containing a Pond):

|              |                                                |
|--------------|------------------------------------------------|
| 1600 sq. ft. | Main floor of a single story                   |
| 1600 sq. ft. | Main floor of a multi-level                    |
| 2200 sq. ft. | Main and upper floor of a one and a half story |
| 2400 sq. ft. | Main and upper floor of a two story            |

Developer intends to add currently unplatted Lots abutting Lot 1, Block 8 Common Property pond to this Section 4.05(a); specifically, by adding Lots 5-17, Lots 19-22, and Lots 25 and 26, Block

8, to the Development by amendment to this Declaration.

(b) Minimum square footage of Homes constructed on Lots 8 and 9, Block 10:

|              |                                                |
|--------------|------------------------------------------------|
| 1400 sq. ft. | Main floor of a single story                   |
| 1400 sq. ft. | Main floor of a multi-level                    |
| 2000 sq. ft. | Main and upper floor of a one and a half story |
| 2200 sq. ft. | Main and upper floor of a two story            |

Developer intends to add currently unplatted Lots to this Section 4.05(b); specifically, by adding Lots 8-14, Block 4, Lots 20-28, Block 7, and Lots 1-12, Block 9, Lots 1-7 and 11-23, Block 10, to the Development by amendment to this Declaration.

(c) Minimum square footage of Homes constructed on Lots 3-5, Block 1, Lots 8-10, Block 2, Lots 1-8 and 20-22, Block 3, Lots 6 and 7, Block 4, and Lots 6-8, Block 5:

|              |                                                |
|--------------|------------------------------------------------|
| 1350 sq. ft. | Main floor of a single story                   |
| 1350 sq. ft. | Main floor of a multi-level                    |
| 1800 sq. ft. | Main and upper floor of a one and a half story |
| 1800 sq. ft. | Main and upper floor of a two story            |

Developer intends to add currently unplatted Lots to this Section 4.05(c); specifically, by adding Lots 6-11, Block 1; Lots 3-7, Block 2, and Lots 12-19, Block 3, Lots 1-5, Block 4, and Lots 1-4 and Lots 9-12, Block 5 to the Development by amendment to this Declaration.

**4.06** *Garages and Driveways.* All garages shall be attached to the Home and be a minimum of 500 sq. ft. Lots that exceed 80 ft. in width shall have garages with sufficient space for at least three automobiles and have at least three separate overhead doors or one double overhead door and one single overhead door. All driveways and approaches to garages shall be made of concrete. Driveways shall not exceed the width of the garage, without the prior written approval of the Developer.

**4.07** *Outbuildings.* No more than one shed or other outbuilding may be located on a Lot. Each such shed or outbuilding must be single story, placed on a permanent foundation, and not exceed 200 sq. ft. (measured using exterior dimensions). The roofing material and other exterior surfaces of sheds and other outbuildings shall match those of the Home constructed on such Lot.

**4.08** *Temporary Structures.* No structures of temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

**4.09 Removal of Soil.** No soil may be removed from the Development resulting from any excavation without the prior written approval of the Developer.

**4.10 Fences or Hedges.** No fence or hedge shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line as provided by these covenants, except for the rear of Lots bordered by streets on both the front and rear sides. Fences constructed of ornamental iron, 100% vinyl, or black, vinyl dipped chain link will be permitted, provided they are black in color and the superior side is facing the outside of the Lot. Galvanized chain link fencing will not be allowed. In no event shall any fence be designed or constructed so as to block or impede drainage. All fencing within the development must comply with city ordinances and be permitted by the city of Harrisburg prior to installation. Lots abutting ponds are subject to special rules regarding fencing contained in Section 11.17(c) below.

**4.11 Livestock and Poultry.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. In the event dogs are kept in any Lot, the Lot shall contain invisible fencing or other fencing structures adequate to restrain all dogs from all streets, sidewalks and neighboring Lots. Each Owner shall be responsible to keep dogs from excessive or incessant barking.

**4.12 Dog Kennels.** All pet kennels must be kept inside the garage or adjacent to the Home's structure and shielded from view by privacy enclosure, opaque fencing materials or landscaping.

**4.13 Trash Receptacles.** No outside storage of trash or trash receptacles.

**4.14 Nuisances.** No noxious or offensive trade or activity, as defined by law, shall be carried on upon any Lot in said subdivision, nor shall anything be done which may be or become an annoyance or nuisance, as defined by law, to the neighborhood or individuals residing or owning property therein.

**4.15 Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

**4.16 Signs.** No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five square feet advertising a residence for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

**4.16 Trees and Lawn.** No box elder, ash, poplar, cottonwood, or elm shall be planted on any Lot in the addition. Each Lot must have (i) an underground lawn sprinkler system, (ii) initial sodding, and (iii) an established lawn within six months of substantial completion of the Home on such Lot.

**4.17 Construction Methods.** All Homes shall be constructed completely on site, except for portions (such as roof and floor trusses and wall sections) that are typically manufactured or assembled by a truss manufacturer. Modular, manufactured or factory-built homes are not permitted. Package homes assembled on site must have the Developer's prior written approval.

**4.18 Brick or Stone.** Each Home constructed on a Lot zoned R-1 shall contain a minimum of 100 square feet of brick on the front exterior wall surface facing the street (front street of Homes constructed on corner lots). Each Home constructed on a Lot zoned R-1C shall contain a minimum of 50 square feet of brick on the front exterior wall surface facing the street (front street of Homes constructed on corner lots).

**4.19 Completion.** Each Home must be completed within eight months of the beginning of its construction, unless the Developer consents in writing otherwise.

**4.20 Shingles.** Each Home shall have laminated shingles or other material approved by the developer that is comparable or better in quality and appearance.

**4.21 Roof Pitch.** Each Home shall have a 6/12 pitched roof or greater. Homes may have a lower pitched roof with written approval of Developer.

**4.22 Vinyl Siding.** Vinyl and steel siding will not be allowed. Metal soffit, fascia, and siding accents are allowed.

**4.23 Large Vehicles.** No buses, campers, large recreational vehicles, commercial trailer or oversized commercial or business vehicles shall be stored outside on any Lot or on any Common Property or street in the Development. Outside presence for more than 3 consecutive days or any repetition presence in one year shall be considered storage. Outside storage of boats should be limited to a total of 30 days per year.

**4.24 Front Porches and Stoops.** Front porches and stoops shall be constructed of concrete, except that covered front porches may be largely entirely constructed of wood or synthetic wood, with prior Developer written approval.

## **Section 5**

### **Construction of Homes and Other Improvements**

**5.01 Approval of Plans.** No Home building, fence, wall, other structure, Landscaping or other Improvement shall be commenced, erected or maintained, nor shall any addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, location and approximate cost thereof shall have been submitted to and approved in writing by the Developer.

**5.02 *Approval Criteria.*** Approval or disapproval shall be based, among other things, upon: the adequacy of Home site dimensions and setbacks; the conformity and harmony of exterior design with neighboring or expected Homes; balance, proportion and material transitions; exterior materials colors; use, location, height, elevations and alignments in relation to topography, neighboring Lots, neighboring structures and nearby streets; adequacy and attractiveness of Landscaping; and compliance with these Covenants.

**5.03 *Approval Procedure.***

(a) In the event the Developer fails to approve or disapprove the Plans in writing within 30 days after the same have been submitted to the Developer, then such Plans shall be deemed to have been approved.

(b) Unless any deviation from, violation of, or nonconformity with these Covenants is specifically described in a separate writing included with the Plans, no approval of, or failure to disapprove, any submitted Plan shall constitute a waiver of any of these Covenants.

(c) The Developer shall have the right, but shall not be obligated, to approve a variance from these Covenants which does not, in the sole reasonable judgment of Developer, violate the spirit and intent of these Covenants. No such approval shall be binding unless in writing signed by the Developer.

**5.04 *Effect of Approval.***

(a) After approval of the Plans by Developer, no deviation shall be made during construction which would change the scope of the Home or Improvements or alter their exterior or visible quality or appearance without the prior written approval of Developer.

(b) Once the Owner has complied with the requirements of this section and the Developer has approved Plans in writing for a Home or other Improvement and such Home or Improvement has been constructed in conformity with such Plans, the approval shall not be withdrawn and such Home or Improvement shall thereafter be deemed to be in compliance with these Covenants as then in effect or thereafter amended.

**5.05 *Drainage and Topography.*** Each Lot Owner shall be solely responsible, at the Owner's expense: (i) for taking all action and executing all documents to comply with all erosion control and drainage laws, rules and ordinances; (ii) for connecting to any sump pump collection system for the Development or a portion of the Development that includes the Owner's Lot; (iii) for inspecting the Lot and adjoining Lots as to all drainage patterns and issues; (iv) for causing all construction and grading to be accomplished so as to avoid altering city-approved drainage of the Lot in a manner that is detrimental to any other Lot; (v) for avoiding any landscaping, grading, modification, improvement, addition, installation, topographical change or other activity or construction that alters city-approved drainage patterns, flow or plan to the detriment of any other Lot; (vi) to indemnify, defend and hold the Developer and its successors and assigns harmless from

and against all claims, demands, actions, liability, damages, costs, fees and expenses including attorney's fees and expenses arising directly or indirectly from the Lot Owner's breach of any obligation hereunder. The Developer makes no warranties or representations, and assumes no responsibility, with respect to the foregoing.

#### **5.06 Construction.**

(a) All materials and equipment used or incorporated into construction on any Lot shall be stored on the Lot only for such periods as are reasonably necessary during diligent progress of construction, shall be adequately protected, shall be arranged in an orderly fashion, shall be kept off streets, common properties and other Lots, shall not block any access and shall not be permitted to be carried by the elements or human activity to any other portion of the Development. All Trash shall be placed in adequate containers and be removed from the Lot on a timely basis.

(b) Each constructed Home shall be shingled, enclosed and sided within six (6) months of commencing initial excavation on the Lot. In the event of a violation of this requirement, the Developer may cause the completion of such omitted items at the Owner's expense upon 30 days prior written notice to the Lot owner and any mortgagee. Such expense shall be a lien on the Lot, Home and Improvements prior to any mortgage or other lien recorded after these Covenants.

(c) Any damage to, defacing or destruction of roadways, curbs, gutters, properties and adjoining Lots and Home and Improvements thereon, including Landscaping, caused by such construction activity shall be promptly repaired at the sole expense of the constructing Lot Owner.

### **Section 6 Lot, Home, and Improvements Maintenance**

**6.01 Homes and Improvements.** The exterior surfaces of Homes and other Improvements, including all paved areas, must be kept in a good condition and state of repair, reasonably free from snow and ice and otherwise in conformity with the intent of these Covenants. Such exteriors shall be maintained and renewed or replaced as necessary to keep them consistent with the Plans originally approved by the Developer. The color or finish of exterior surfaces shall not be materially changed except upon the prior express written approval of the Developer.

**6.02 Landscaping.** All landscaped Yards shall be maintained in a neat and adequate manner, which shall include mowing of lawns, trimming of hedges, fertilizing, watering when needed, removal of weeds from planted areas, replacement of all plant material and trees included in any approved Plan.

**6.03 Undeveloped Lots.** Weeds and undergrowth on all unimproved Lots must be kept mowed to a height of not more than 6 inches.

**6.04 Trash, Etc.** No trash, debris, litter or other objectionable materials ("Trash") shall be permitted on any Lot, except as stored for removal and conformity with these Covenants. No

open burning of Trash shall be permitted. Use of any incinerator must have the prior written consent of the Developer. Each Lot Owner is responsible for keeping other Lots and Common Property free of Trash originating from the Owner's Lot. Any necessary cleanup expense shall be reimbursed by the neglecting Owner.

**6.05 Damage.** All Homes, structures, Landscaping and other improvements that are damaged by the elements, by fire or other casualty or occurrence, or by vehicles or human cause shall be repaired or completely demolished (and the Home site on the Lot leveled) as promptly as possible.

**6.06 Expense.** The maintenance of each Lot in conformity with these Covenants shall be the sole responsibility of each Owner, jointly and severally, of each Lot at each Owner's sole expense. No occupation or tenancy of any Lot or portion thereof by any third party shall relieve any Owner of its responsibilities hereunder.

**6.07 Easements.** Each Owner of each Lot in the Development shall at his own cost and expense keep and preserve that portion of all easements and rights of way within his own property line at all times in a good condition of repair and maintenance and neither erect nor permit erection of any building or structure of any kind, nor permit any growth or accumulation of any kind, within said easement which might interfere in any way with the proper maintenance, use, operation, repair, reconstruction and patrolling of any of the utility services located therein.

## **Section 7**

### **Right of Repurchase**

**7.01 Construction Delay.** If, after the expiration of 18 months from the date of the original fee simple conveyance by the Developer of any Lot within the Development, any Owner (or anyone claiming under such Owner) shall not have commenced diligently and in good faith to construct a Home and Improvements upon such Lot in conformity with these Covenants, the Developer may, following the expiration of such 18<sup>th</sup> month period, at its option, require the Owner to reconvey the Lot to the Developer, free and clear of all liens, charges, encumbrances, tenancies and other title exceptions. Any party claiming an interest in such Lot, including any mortgagee or other encumbrancer, shall take subject to the provisions of this Section, and any interest in the Lot claimed by such parties, shall be fully subordinate to the rights of the Developer hereunder. At any time, however, the Developer may extend, in writing, the time in which such Home and Improvement will be commenced.

**7.02 Price.** At closing of such repurchase, the Developer shall refund to the Owner the original purchase price less any damages sustained by the Developer due to the Owner's failure to comply herewith, including attorney's fees, and any sums otherwise due the Developer hereunder. Upon tender of payment, the Developer may enter into sole possession of the repurchased Lot.

**7.03 Enforceability.** Such right to repurchase shall be an additional material consideration to the Developer for conveyance of any Lot. No deed or contract for sale shall

supersede, eliminate or extinguish by merger the Developer's rights hereunder, regardless of whether notice of Developer's rights under this Section 7 are expressly included in any such contract or deed.

## **Section 8**

### **Authority; Enforcement and Remedies**

**8.01** *Developer's Authority.* The Developer shall have the authority and discretion:

(a) to exercise authority explicitly granted to the Developer elsewhere in these Covenants;

(b) to enforce these Covenants by resort to legal and equitable remedies described elsewhere in these Covenants, the expenses and costs of which shall be paid or reimbursed by assessments;

(c) to interpret these Covenants, to establish rules and regulations of further specificity for implementation and enforcement of these Covenants; and to grant variances, waivers or approvals in instances determined by the Developer in its reasonable discretion to be consistent with, or not violative of, the spirit and intent of these Covenants;

(d) to establish rules and regulations for use of Common Property and standards for maintenance of Common Property; to levy assessments against the Lots for purposes permitted by these Covenants; to maintain bank accounts and make deposits and debits to such accounts for the same purposes as assessments are permitted hereby;

(e) to exercise all powers, rights and remedies now or hereafter granted to a developer by city ordinance with respect to planned development districts generally or to any such district comprising or including the Development;

(f) to exercise all powers and remedies necessary or desirable to carry out the spirit and letter of these Covenants, even though such powers and remedies are not specifically granted herein;

(g) to amend, supplement, vacate, terminate or replace these Covenants from time to time as to Lots or unplatted portions of the Development for which record title has not been transferred by the Developer;

(h) to delegate or assign the Developer's authority under these Covenants to the HOA or other third-party; provided, however, that no deed, lease or other record instrument or document shall constitute any such delegation or assignment unless it expressly so states.

**8.02** *Limitations on Enforcement by Others.* These covenants may be enforced solely by the Developer (while he is an Owner of at least one Lot), any other Owner, or the HOA. No

family member, occupant, invitee, agent, contractor or employee of any of the foregoing shall have any right, individually or in concert with any others, to enforce these covenants..

**8.03 No Liability.** The Developer shall not be liable for damages to any Owner or any other person or firm whomsoever as is affected by these Covenants, by reason of mistaken judgment or interpretation, negligence, omission or nonfeasance or arising out of or in connection with the exercise or failure to exercise any authority, right or remedy under these Covenants.

**8.04 Remedies.** Upon violation or threatened or expected violation of any of these Covenants, the failure to make any payment or perform any obligation or covenant hereunder, the Developer, HOA, or enforcing Owner may, as against the Owner or any other person or firm causing or liable for any such violation or breach:

- (a) Cure any such default, make any such payment, or perform any such obligation or covenant and recover as damages all costs, fees, and expenses, including attorney's fees, relating to the same;
- (b) Obtain any court order or judgment to enjoin or restrain the same, before or after its occurrence, it being expressly agreed and understood that every act, omission to act, or condition which violates or likely will violate these Covenants shall constitute a nuisance;
- (c) Exercise any other right or remedy available at law or in equity;
- (d) Recover all attorney's fees and expenses in the enforcement of the foregoing.

## **Section 9**

### **Duration, Priority, Enforcement and Non-waiver**

**9.01 Duration.** These Covenants are to run with the land and shall be binding on Developer and on all parties and all persons claiming under Developer for a period of forty (40) years from the date these Covenants are filed with the Lincoln County South Dakota Register of Deeds Office, after which time these Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by not less than a majority of the Owner of Lots within the Development is filed for record, agreeing to terminate this Declaration upon the expiration of the initial forty year period or ten year renewal period. The forgoing time limitation applies only to the terms of this Declaration which regulate and restrict use of the Lots as described in SDCL 11-5-1. In all other respects, including the creation of any easement, this Declaration is enforceable according to its terms for the longest period allowed by law, including as to all easements created hereunder.

**9.02 Superiority.** These Covenants shall be deemed prior and superior (except as described in Section 11.14) to all mortgages, contracts for deed, options, leases and other instruments hereafter executed with respect to any land subject to these Covenants and shall survive any foreclosure, transfer, trust, devise, intestate succession, platting, replatting or vacation

of a plat, and shall be fully binding upon all successors, assigns and transferees to the same extent as any original Owner.

**9.03 *Nonwaiver.*** The failure of the Developer, or other party entitled to enforce these Covenants, to take any action to enforce any of these Covenants or to enjoin their violation shall in no event, regardless of passage of time, be deemed an estoppel or waiver of its right to subsequently do so, nor shall it be deemed a waiver of any subsequent default or violation or the continuation of any existing default or violation. If notwithstanding the forgoing a court of competent jurisdiction holds otherwise, then such waiver applies in that specific instance only and shall not be a waiver of any subsequent default by any party bound hereby.

**9.04 *Invalidation.*** Invalidation of any part or parts of these Covenants by court action or otherwise shall in no way affect any other provision which shall remain in full force and effect.

## **Section 10**

### **Notices**

**10.01 *Methods.*** All notices, consents, approvals or other communications (a "Notice") required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered personally or by courier or sent by regular, registered or certified mail, postage prepaid. The Association may provide for providing Notices to its members via email, in any manner compliant with then-applicable law.

**10.02 *Addresses.*** Notices to the Developer shall be delivered to the address described below. Notices to any Owner shall be sent or delivered to the address specified in the deed from the Developer to the Owner or at such other address as is furnished to the Developer in a Notice complying with the requirements of this section or to the street address of the Lot. Any party may change the address to which Notices are to be sent or delivered by giving Notice in a manner complying with this section. The Developer shall not be bound by any change in record ownership of any Lot until it has been given Notice of such change. Developer's address for Notices is: 3800 E. Iron Bridge Pl., Sioux Falls, SD 57108.

**10.03 *Effective Date and Time of Notice.*** Notice by personal delivery or courier shall be effective when delivered. Notice by U.S. mail, postage prepaid, shall be effective upon two days following the properly post-marked date of mailing.

## **Section 11**

### **Owners' Association**

**11.01 *HOA Organization.*** Developer will incorporate the Association by filing Articles of Incorporation with the South Dakota Secretary of State's office, and adopting bylaws of the Association and such other organizational documents as Developer deems appropriate.

**11.02 Membership.** All record Owners of Lots in the Development shall be members of the owners' association, and shall be bound by its by-laws, rules, regulations, decisions and assessments.

**11.03 Common Property.** The Association shall keep all Common Property in a good state of repair, including mowing, cleaning, treating water, dredging, re-lining, fencing (if the Association deems appropriate), otherwise maintaining the Common Property and taking such action as is required to have the Common Property comply with all laws, and to keep persons safe from risks caused by the Common Property. The Developer may deed Lots containing ponds and other property to the HOA, which will make such property Common Property. The Developer may also designate property it owns within the Development to be Common Property.

**11.04 [RESERVED.]**

**11.05 Assessments for Common Expenses; Common Properties Maintenance.** Each Owner of any Lot, whether or not it is expressed in such Owner's deed or other instrument of conveyance to such Lot, is deemed to covenant and agree to pay to the Association annual assessments or charges levied by the Association as reasonably required in the judgment of the Association's Board of Directors to perform its obligations under this Declaration to maintain Common Properties and pay Common Expenses. The amount of each annual assessment shall be determined by the Association's Board of Directors, except that the initial annual assessment for the years 2026 and 2027 shall be \$40. The Association shall separately account for assessments it collects under this Section and maintain such funds in a separate deposit account not comingled with other Association funds, including other assessments the Association collects under this Declaration. Such assessments shall be due each year by the date determined by the Association's Board of Directors, after providing notice to such Owners. No assessments shall be made under this Section for any period in which there are no Common Properties, or the Association is relieved from the obligation to maintain all of the Common Properties due to the assumption of such obligation by a public authority.

**11.06 Special Assessment.** In addition to the annual assessment the Board may, at any time, levy a special assessment against all Owners for Common Expenses; provided, however, prior to becoming effective any special assessments shall be approved by the affirmative vote of at least two-thirds of the votes represented in person or by proxy at a special or annual meeting of the Members duly called for the purpose. Special Assessments shall be for unexpected or irregular costs incurred by the Association.

**11.07 Specific Assessment.** Association may also levy a specific assessment against any Owner of a Lot described in Section 11.18 due to such Owner's failure to perform the Owner's obligations as described in Section 11.18.

**11.08 Due Dates of Assessments; Prorations Upon Transfers of Lots.** The annual assessment shall be due and payable at intervals determined by the Board of Directors of the Association. The payment due date of any special assessment or specific assessment shall be as

indicated by the resolution authorizing such special assessment. The pro-ration of assessments shall be negotiated between the transferor and transferee of Lots within the Development. Sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

**11.09 *Written Notice of Assessments.*** At least thirty (30) days prior to the due date of the assessment, the Association shall provide Owners with written notice of the amount of the annual or special assessment due. Notice shall be deemed to have been duly given when mailed, postage prepaid, to the last known address of the person who appears as Owner on the records of the Association at the time of the mailing or hand delivered and left in a conspicuous spot in the entry way of any residence constructed upon such Lot. Failure to provide such notice shall not invalidate any assessment. No such notice need be given to any Owner who waives such notice in writing at any time.

**11.10 *Delinquent Assessments.*** All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner of the Lot against which such assessment is made shall be in default.

(a) If any installment of an assessment or charge is not received by the 10th day of the month due or if any other charge is not received within ten days of its due date, a late charge equal to the greater of \$20.00 or 10% of the amount not received or such other amount as may be permitted by law may be imposed without further notice to the delinquent Owner and interest as provided for below.

(b) If assessment or other charges or any part thereof due from and Owner remain delinquent for a period greater than thirty (30) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment or charge is not received within ten days from the date of notice of delinquency, the Board of Directors may accelerate and declare immediately due all of the Owner's unpaid installments of the annual assessment for that fiscal year.

(c) If assessments or other charges or any part thereof remain outstanding for more than thirty (30) days after first becoming delinquent, the Owner shall be liable for interest on all delinquent amounts until fully paid as well as all costs and expense, including attorney fees, incurred as a result of the delinquency, and the Association, acting through its Board of Directors, may institute suit to collect all amounts due and suspend the Owner's right to use any benefits or services provided by the Association (provided, however, the Board may not restrict ingress or egress to or from a Lot), whether or not a notice of delinquency has been sent as provided above. The rate of interest charged under this subsection (c) shall be the lower of (i) 18% or (ii) the highest rate allowed by law. The Association may immediately file a notice of lien as provided herein. No such lien filing is required to enforce the lien against the Owners of the Lot as of the date of the delinquency for which the lien arose.

**11.11 *Date of Commencement of Annual Assessments.*** The annual assessments provided for herein shall initially become effective as to each Lot at the time the Certificate of

Occupancy is issued for the Lot by the appropriate governmental authority. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commenced on the Lot.

**11.12 *Covenant to Pay Assessment.*** The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No Owner may waive or otherwise exempt himself from liability for the assessments provided herein including by the Association or abandonment of the Lot.

**11.13 *Lien for Assessments.*** The annual or any special assessments together with interest thereon and costs of collection thereof, shall be a charge on the assessed Member's Lot and shall be a continuing lien upon the Lot against which each such assessment is made if the assessment is not paid when due. In addition, the annual and special assessments together with interest thereon shall be the personal obligation of the Owner of the Lot when the assessments fall due.

**11.14 *Subordination of Lien.*** Liens for assessments shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed on a Lot, subject to the assessment.

**11.15 *Terms Regarding the Association***

(a) ***Membership in the Association.*** Every person who is the Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any land in the Development.

(b) ***Voting Rights in General.*** There shall be one class of membership in the Association. Except as provided in Subsection (c) immediately below, each Member shall be entitled to one vote for each Lot in which the Member holds the interest required for membership. Notwithstanding the fact that a Lot may be owned in undivided interests or be subject to a contract for deed, no more than one vote may be cast with respect to any one Lot. The vote for such Lot shall be exercised as the Owners of such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

(c) ***Additional Developer Voting Rights.*** Until the earlier of (i) the seventh anniversary of the date these Covenants are filed for record with the Lincoln County Register of Deeds office, (ii) the date Developer has assigned its rights and obligations hereunder to the Association as provided under Section 11.17(a) below, or (iii) Developer no longer owns any Lot, Developer shall be entitled to seventy (70) votes in addition the number of votes provided the Developer as Owner.

**11.16 [RESERVED.]**

### **11.17 *Obligations of Association; Assumption of Certain Developer Rights.***

(a) *The Association.* The Association shall assume its rights and obligations under these Covenants as to Common Properties, as soon as Developer has deeded any Common Property to the Association. The Association shall assume its other rights and obligations under these Covenants at the earliest to occur of the following: (i) Developer no longer owns any land subject to this Declaration, or (ii) the date Developer has assigned its rights and obligations hereunder to the Association and filed a document with the Lincoln County Register of Deeds office so providing. Such assignment may place limitations on certain powers of the Developer hereunder which are not delegated and may not be exercised by the Association. Unless so restricted, the Association shall have the rights of the Developer set forth in Sections 8.01(b),(c), and (d), Sections 5.01 through 5.04, 6.04 and Section 11.17(d). The decision of the Association's Board of Directors above, (or decision of the architectural or other committee to which the Association's Board may elect to delegate decisions) shall control except to the extent not made in good faith. Developer may attempt to notify all Owners at such time, or Developer may inform the Board of Directors to notify Owners. Such assignment and delegation shall release Developer of any obligations of Developer under these Covenants which arise after such assignment and delegation.

(b) *Lawn Watering.* If the Association so determines from time-to-time, Owners of waterfront Lots 2 through 9, 11 through 14, and 6 through 23 in Block 3 and Lots 2 through 12 and 14 through 25 in Block 8 will be allowed to install private lawn irrigation systems that draw water from adjacent ponds located on Common Property to water the Owner's Lot adjacent to the pond. The equipment required by these systems such as pumps, pressure tanks, water pipes, and power supply must be installed in a discreet manner with care taken to shield the equipment from view as much as possible. The ponds in Lone Tree are supplied with water from a storm water collection system installed within the streets and throughout the Development. This system, along with the substantial storage capacity of each pond should be sufficient to support the lawn watering but may not during a prolonged period of drought. The Developer has the right to exercise water restrictions when upon the Developer's inspection and discretion it is found that lawn watering runoff is creating a nuisance to other property Owners downstream or adjacent in the Development.

(c) *Fencing on Pond Lots.* Owners of Lots 2 - 26 in Block 8 and Lots 2 - 22 in Block 3 are allowed to fence these Lots but are limited to using ornamental iron or coated chain link, black in color. Galvanized chain link and wood, vinyl or solid privacy type fencing will not be allowed. In no event shall any fence be designed or constructed so as to block or impede drainage.

(d) *HOA Membership and Maintenance of Common Property.* A primary function of the HOA is to manage and maintain the Common Property within the Development, excepting only those areas of ponds which adjacent Owners are obligated to maintain under Section 11.18 below. This HOA maintenance obligation includes sediment removal, rip rap replacement and erosion control of ponds, and mowing, fertilizing, weed control, and general clean up of Common Properties where Lot owners are not specifically required to perform such services under these Covenants. Prior to completion of the Development, Developer will deed ponds "A" (Lot 23,

Block 3) and “B” (Lot 1, Block 8) along the supporting storm water discharge and detention areas located on Lot 10 in Block 10 and Lot 5 in Block 5. Developer will deed Pond “C” (Lot 1, Block 6) to the City of Harrisburg. After such transfer Pond Lot “C” will no longer be a Common Property and maintenance related to Pond “C” will be the city’s responsibility.

(e) *Lone Tree Median Maintenance.* The Association will install, replace as necessary, and maintain a variety of low-maintenance, visually appealing landscaping within the median area.

#### **11.18 *Adjacent Owner’s Obligation to Maintain Pond Shorelines.***

(a) *Maintenance of the Shore Areas by Adjacent Owners.* Owners of waterfront Lots (Lots 2 through 12, 14 through 25 in Block 8; Lots 1 through 7, 10 through 13, and 16 through 22 in Block 3) are responsible for the common maintenance and upkeep of the shoreline area within the Lot containing the pond that starts at each Owner’s respective rear Lot line and extends to the water’s edge within the area of each Owner’s side Lot lines extended to the water (each such area is sometimes referred to herein as a “Shore Area”). Common maintenance consists of items such as, but not limited to, mowing, weed control, trash cleanup, brush, volunteer tree removal and any other upkeep reasonably required to maintain each Owner’s Shore Area in a uniform, clean and aesthetically pleasing manner. These Shore Areas will fluctuate in size based on the water levels in each pond. To control erosion and weed growth within this area, these Lot Owners may install a 2-to-3-foot-wide strip of field stone along their rear Lot line and seed the balance of the area with water tolerant grasses.

(b) *Limitation of Structures within Shore Areas.* There shall be no installation or construction of temporary or permanent structures within the Shore Area, such as fences, docks, retaining walls, beach sand, or patios.

**11.19 *Pond Water Levels.*** The Common Property ponds located within the Development are designed and built primarily as storm water collection areas, as flood control features and to create aesthetically pleasing open spaces. These ponds rely solely on “Mother Nature” to fill and recharge their water levels. It may take several years for the ponds to fill after their initial construction. The water level of the ponds will be affected by above or below average-level rainfall. Developer makes no guaranty, representation or warranty of any kind that any of the ponds will contain any specific water level at any time. The HOA, by accepting delivery of a deed to any Common Property containing a pond agrees to indemnify and hold harmless Developer, its successors, and all the foregoing’s members, owners, managers, employees, independent contractors and agents from and against any claim that any pond should have a different water level than may be alleged.

## **Section 12 General Provisions**

**12.01 *Enforcement.*** Enforcement of these Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation and/or to recover damages.

**12.02** *Coordination with Law; Severability.* The provisions of Sioux Falls, South Dakota, Ordinances, Building Code or other applicable laws control over conflicting provisions of this Covenants to the extent of any such conflict. Invalidation of any one of these Covenants or provisions by rule of law, judgment or court order shall not affect any of the other Covenants or provisions of these Covenants, which shall remain in full force and effect.

**12.03** [RESERVED]

**12.04** *Assignability of Developers Rights.* All rights of Developer hereunder are fully assignable, and shall inure to the benefit of Developer's successors and assigns.

**12.05** *Addition of Lots to and Removal of Lots from the Development.* Developer may add Lots to the Development by filing an amendment to these Covenants expressly referencing these Covenants and identifying the legal description of the land which is to become a Lot(s). Developer may also remove from these Covenants any Lot or other land subject to these Covenants to which Developer retains title at the time of such removal. Such removal may be made by an amendment to these Covenants or other instrument executed by Developer and filed for record with the Lincoln County, Register of Deeds office.

**12.06** *Not a Condominium.* This Declaration does not create a "condominium" within the meaning of SDCL ch. 43-15A.

**12.07** *Miscellaneous.* The term "including" when used in this Declaration means "including, but not limited to."

**12.08** *Amendment of Covenants.* Subject to the restrictions below in this Section, this Declaration may be amended by Declarant in any manner which it may determine in its full and absolute discretion by a filing made any time Declarant owns a Lot. Thereafter, this declaration may be amended by an instrument signed by the Owners of not less than seventy (70%) percent of the Lots. Notwithstanding any other provision contained herein, any amendments made pursuant to this Section shall not (without the consent of the affected Lot Owner(s)) (i) significantly adversely affect or impair any existing use of a Lot which was consistent with the terms of this Declaration when the Owner acquired its interest in such Lot, or (ii) require altering the construction of a Home or other material improvement lawfully constructed on any Lot consistently with the terms of this Declaration applicable at the time of such construction. Further, any amendments to Developer voting rights or this Section 12.08 must be signed by all Owners then members of the HOA.

IN WITNESS WHEREOF, Developer has executed these Covenants as of the day and year first above written.

Developer  
ALLEN DEVELOPMENT, LLC  
a South Dakota limited liability company  
By: Allen Homes, Inc.  
A South Dakota corporation  
Its: Member

By: Douglas R. Allen  
Douglas R. Allen  
Its: President

STATE OF SOUTH DAKOTA)  
COUNTY OF LINCOLN ) : SS

On this 21<sup>st</sup> day of July, 2026, before me, the undersigned officer, personally appeared Douglas R. Allen, President of Allen Development, LLC, a South Dakota limited liability company, and as Member of Allen Homes, Inc., a South Dakota corporation, on behalf of said limited liability company being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as a President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Douglas R. Allen  
Notary Public - South Dakota

(SEAL)

My commission expires: 11-16-30

