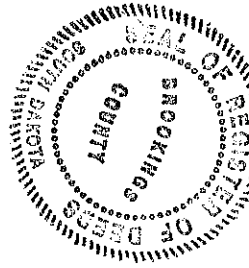


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**STATE OF SOUTH DAKOTA**  
**Brookings County**

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*Devin Chapman* Register of Deeds  
By \_\_\_\_\_ Deputy

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF DECLARANT  
TURTLE BAY, LLC**

This declaration of restrictive and protective covenants is made by **TURTLE BAY, LLC**, a South Dakota Limited Liability Company, with a registered office at 621 Sixth Street, Brookings, SD 57006, hereinafter referred to as Declarant.

**W I T N E S S E T H:**

**WHEREAS**, the Declarant intends to develop and improve said tract of land and desires to offer for sale the lots in said plat along with additional lots, and desires to subject said tract of land, together with all the other Properties (hereinafter defined), with this Declaration of Covenants, Conditions and Restrictions.

**NOW, THEREFORE**, Declarant hereby declares that all of said property is hereby made and shall hereafter be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, liens, charges, and uses hereinafter set forth. Said covenants, conditions, restrictions, reservations, liens, charges and uses shall run with the real property described herein, shall be binding upon all parties having and/or acquiring any right, title or interest in the said real property or in any part thereof, and shall inure to the benefit of each and every person or entity from time to time owning or holding an interest in said real property.

**ARTICLE I  
GENERAL PURPOSE OF COVENANTS**

The real property described heretofore is subject to the covenants, restrictions, conditions, reservations, liens and charges hereby declared to insure the best use and the most appropriate development and improvements of each building site thereof; to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to preserve, so far as practical, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned

structures built of improper or unsuitable materials; to insure the best development of said property; to encourage and secure erection of attractive structure and landscaping thereon, with locations thereof on building sites; to prevent haphazard and inharmonious improvements of free space between structures, and in general to provide adequately for a high type and quality of improvements in said property, thereby to enhance the values of investments made by lot owners of building sites therein.

## ARTICLE II PROPERTY SUBJECT TO DECLARATION

The real property subject to this Declaration is described as:

**Turtle Bay Addition Located in the South 1/2 of Gov't Lot 1 in the Northeast 1/4 of Section 29, T109N, R50W of the 5th P.M., and in a portion of the Northeast 1/4 of the Southeast 1/4 of Section 29, T109N, R50W of the 5th P.M., and a portion of Gov't Lot 2 in the Southwest 1/4 of Section 28, T109N, R50W of the 5th P.M., INCLUDING Lots 29 and 30 of Turtle Bay Addition, EXCEPT Government Lot Two (2) of Section Twenty-eight (28), Township One Hundred nine (109) North, Range Fifty (50), West of the 5<sup>th</sup> P.M., all in Brookings County, South Dakota.**

Additional real property and personal property including individual lots, commercial lots or common property out of, adjacent to or in the immediate vicinity of the land may be added to the Properties by the Declarant and the association shall accept, personal property and fee title, leasehold, or other property interest in any real property, improved or unimproved. Upon Declarant's written request, the association shall reconvey to Declarant any unimproved portion of the common area conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to adjust the lot size and property lines.

## ARTICLE III TURTLE BAY HOMEOWNERS ASSOCIATION

Section 1. Membership. Every Owner, including the Declarant, shall be a Member of the TURTLE BAY HOMEOWNERS ASSOCIATION, (hereinafter called "Association"), and by acceptance of a deed acknowledges the authority of the Board and the Association as herein stated, and agrees to abide by and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association. The Declarant intends to create and organize the TURTLE BAY HOMEOWNERS ASSOCIATION, a South Dakota nonprofit corporation, as the Association. Turtle Bay, LLC, the "Developer" shall have the right to adopt by-laws for the Association and amendments thereto to implement the provisions of these Covenants. In addition to the foregoing, the family guests, invitees and tenants of the Owners shall, while in or on the properties, abide and be bound by the provisions of this Declaration, the Articles of Incorporation, the By-Laws and other rules and regulations of the Association.

Section 2. Allocation of Voting Rights.

A. Members of the Association shall be allocated votes as follows:

Class A. Class A Members shall be all Owners of Lots. Class A Members shall be allocated one vote for each Lot in which they hold the interest required for membership by Article III Section 1 of this Declaration. As long as Declarant holds Class B status, however, Declarant shall have no Class A voting power on account of Lots Declarant owns.

Class B. The Class B Member shall be the Declarant or its successor. The Class B Member shall be allocated a number of votes equal to three times the total number of Class A votes at any time, provided, that the Class B membership shall cease and become converted to Class A membership entitled to one (1) Class A vote on the happening of the following events, whichever occurs earlier:

- (a) upon voluntary conversion to Class A;
- (b) when 100% of the Lots (as amended and supplemented from time to time) have been conveyed by Declarant to other Owners.

B. Within four (4) months after the conversion of Class B Member status, the Declarant shall conduct a turnover meeting for the purposes of electing directors.

C. For purposes of determining voting rights hereunder the membership roster shall be set as of fifteen (15) days prior to each meeting of Members.

Section 3. Change of Membership. Change of Membership in the Association shall be established by recording in the Brookings County Register of Deeds a deed and by the delivery to the Association a copy of such recorded instrument. The owner designated by such instrument shall, by acceptance of such instrument, become a Member of the Association, and the membership of the prior Owner shall be terminated. In the event a copy of the said instrument is not delivered to the Association, said owner shall become a Member, but shall not be entitled to voting privileges enjoyed by his or her predecessor in interest until delivery of a copy of the conveyance instrument to the Association. The foregoing shall not, however, limit the Associations powers or privileges and the new Owner shall be liable for accrued and unpaid fees and assessments attributable to the Lot acquired. The interest, if any, of a Member in the funds and assets of the Association shall not be assigned, hypothecated, or transferred in any manner except as an appurtenance to the Owners real property. Membership in the Association by all Owners shall be compulsory and shall continue, as to each Owner, until such time as such Owner of record transfers or conveys his or her interest in the real property upon which his or her membership is based or until said interest is transferred or conveyed by operation of law, at which time the membership shall automatically be conferred upon the transferee. Membership shall be appurtenant to, run with, and shall not be separated from, the real property interest upon which membership is based.

Section 4. Declarant Rights in the Association. The Declarant shall appoint all members of the Board of Directors of the Association (Board) for as long as Class B membership continues.

Section 5. Indemnification of Officers, Directors, and Others. Subject to South Dakota law, the Association shall indemnify every officer, director and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit or other proceedings (including settlement of any suit or proceedings if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this section. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be members of the Association). The Association shall indemnify and forever hold such officers, directors and committee members harmless from any and all liability to others on account of any such contract, commitment, or action. The right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a common expense, maintain adequate and general liability in officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 6. Release, Waiver and Assumption of Risk. Access to any use of all Common Property shall be at the sole and complete risk of the individuals using them and neither Developer or the Association nor any of their officers, directors, shareholders or members, nor any individual Lot Owner shall have any liability, whatsoever for any damage, injury or death to or of any person using any Common Property. Everyone using the Common Property assumes all such risk and fully and forever releases and discharges all such persons and firms from any liability for property damage, injury or death arising from the use or condition of Common Property.

#### **ARTICLE IV FUNCTIONS OF ASSOCIATION**

Section 1. Functions. The association shall have the power to perform the following functions:

A. The Association shall provide maintenance of all Parks, Open Space, Surface Water Management Systems, Common Property and any property or facilities Declarant owns or makes available, on a temporary or permanent basis, for the primary use and enjoyment of the association and its members.

B. The Association shall provide maintenance of any real property located within the real property described above or as amended, which the Association has accepted an easement for said maintenance.

C. The Association may provide insect, pest, and aquatic control where necessary or desirable in the judgment of the association to supplement the service provided by the state and local governments. The Association reserves a perpetual right on, over and under all Properties to dispense pesticides and take other action, which in the opinion of the Association is necessary or desirable to control insects and vermin. The provisions of this paragraph shall not be construed as an obligation on the part of the Association to provide such services.

D. The Association shall have the power to take all actions necessary to enforce all covenants, conditions and restrictions affecting the Properties and to perform any of the functions of services delegated to the Association in any covenants, conditions, or restrictions applicable or in the Articles or By-Laws.

E. The Association shall have the power to conduct the business of the Association, including but not limited to administrative services, such as legal, accounting, and financial, and communication services informing Members of activities, notice of Meetings and other important events. The Association shall have the right to enter into management agreements with companies affiliated with the Declarant to provide its services and perform its functions.

F. The association may provide general liability insurance for any common area and may purchase directors and officer liability insurance if it so chooses.

G. The Association shall establish and operate the Design Review Committee.

H. The Association may adopt, publish, and enforce such Rules and Regulations as the Board deems necessary.

I. The Association may conduct improvements on Common Property and easements as may be required to provide the services authorized in this document.

J. In addition to maintenance herein provided, the Association may provide exterior maintenance to any structure which, in the Association's opinion, requires such maintenance because such structure is being maintained in a sub-standard manner. The Association shall notify the Owner in writing, specifying the nature of the condition to be corrected, and if the Owner has not corrected such condition within fifteen (15) days after the date of said Notice, the Association (after approval of a majority affirmative vote of the Board) may correct such condition. Such maintenance shall include but not be limited to painting, repairs, replacement and maintenance of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. The cost of such maintenance shall be assessed against the Member upon which such

maintenance is performed and shall not be considered part of the annual maintenance assessment or charge.

K. The Association may promulgate rules and regulations respecting the use of Common Property and regulate the use by non-members.

L. The Association may perform general maintenance on the private roadway located on or near the property including contracting for snow removal and road maintenance including the section line road providing access to the property.

M. The Association may carry out any of the functions and services to the extent such maintenance and services can be provided with the proceeds from annual assessments and, if necessary and appropriate, from special assessments. The functions and services carried out or offered by the Association at any time shall be determined by the Board taking into consideration the proceeds of assessments and the needs of the Members. The functions and services which the Association is authorized to carry out or provide, may be added to or reduced at any time upon the affirmative vote of a majority of the Board. The Association may provide the permitted services by contract with third parties, including agreements with applicable governmental agencies.

N. The Association may exercise self-help or taking action to abate in the violation of the governing documents in a non-emergency situation and may exercise self-help in an emergency including, but limited to, the towing of vehicles that are in violation of the covenants, conditions and restrictions.

O. The Association may set and revise at any time a community-wide standard of conduct, maintenance, or other activity generally prevailing at TURTLE BAY, or the minimum standards established pursuant to the architectural guidelines, restrictions and rules, and board resolutions, whichever is a highest standard. Declarant shall establish initially such standards that it may contain both objective and subjective elements. The community-wide standards may evolve as the development progresses and as the needs and desires within TURTLE BAY change.

Section 2. Conveyance to Association. The Association shall be obligated to accept any and all conveyance to it by Declarant of fee simple title, easement or leases to open space, parks, surface waters management systems, sewer system, private drive or private road or common property.

## **ARTICLE V ASSESSMENTS**

Section 1. Covenants to Pay Assessment. Each Owner of any Lot shall by acceptance of a deed therefore covenant and agree to all the terms and provisions of this Declaration and shall pay the Association: (1) annual assessment, (2) special assessments, and (3) individual assessments; all fixed, established and collected from time to time as hereinafter provided. Each such assessment, together with such interest thereon as may be provided for herein and costs of collection, shall also be the personal obligation of the

person who was the Owner of such real property at the time when the assessment first became due and payable. The liability for assessments may not be avoided by waiver of (1) voting rights, or (2) the use or enjoyment of any Common Property, or (3) by the abandonment of the property against which the assessment was made. In the case of co-ownership of a Lot, all co-owners shall be jointly and severally liable for the entire assessment.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for the improvements and maintenance of the common areas and to provide services which the Association is authorized or required to provide including, but not limited to, the payment of taxes and insurance on common areas, construction, repair or replacement of improvements, payment of the costs to acquire labor, equipment, materials, management and supervision necessary to carry out its authorized functions including lawn care of common areas and ditches and snow removal and road maintenance of the private roadway, the access road to the property, and maintenance of any drainage on said property. The Association may establish reasonably necessary reserve funds for: (a) major rehabilitation or major repairs to Common Property that must be replaced on a periodic basis; (b) emergency and other repairs as a result of storm, natural disaster or other casualty loss; and (c) insurance premiums and taxes.

Section 3. Special Assessments. In addition to the annual assessment, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any acquisition, construction and reconstruction, unexpected repair or replacement of a described capital improvement upon Common Property or easements, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of a majority of the votes of Class A Members at a meeting duly for that purpose.

Section 4. Individual Assessments. The Association may impose an individual assessment upon any Owner whose use or treatment of Common Areas or Lot does not conform with the standards adopted by the Association, or which unduly increases the maintenance cost to the Association. The Association may also impose an individual assessment upon any Owner receiving exterior maintenance as contemplated in these Covenants, Conditions and Restrictions. The amount of such assessment shall be equal to the cost incurred, plus 10% of the cost for administration, and may be enforced in the manner provided for any other assessment.

Section 5. Maximum Annual Assessments.

A. During the period commencing January 1, 2026, and ending December 31, 2026, the assessment shall be Five Hundred Dollars (\$500.00) per sold Lot, plus amounts assessed under Special Assessments. No assessment shall be due for 2025.

B. From and after the expiration of the period stated above, the maximum annual assessment (as distinguished from special assessments) may be increased each year without a vote of the Class A Members by a sum not exceeding twenty (20%) of the maximum assessment for the previous year.

C. The maximum assessment may be increased above the stated value by a majority vote of the Class A Members.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The annual assessment provided herein shall be due and payable in full by January 20<sup>th</sup> of each year due. The Board, pursuant to the By-Laws, shall determine any changes and notify the Lot owners in writing within twenty (20) days of the due date.

Section 7. Due Date of Special Assessments. Except as otherwise expressly provided herein, the due date of any special or individual assessment shall be fixed in the resolution authorizing such assessment.

Section 8. Effect of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of Association. If any of the assessments set forth above are not paid on or before the due dates, the entire aggregate amount of such unpaid assessments shall, together with the interest thereon and costs of collection thereof as hereinafter provided, be deemed delinquent and in default and shall be a charge and continuing lien on the Lot of the Owner against whom each such assessment is made, such Owners heirs, devisees, personal representatives and assigns. The obligation to pay such assessments, together with interest thereon and costs of collection, however, shall remain a personal obligation of the Owner of such Lot at the time when the assessments fell due. The association may record a notice of lien for delinquent assessment or in the alternative file a civil action requesting a judgment and may foreclose the lien in the same manner as a mortgage.

If the assessments are not paid within thirty (30) days after the delinquency date a late charge of five (5%) of the assessment shall be due and payable and the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner to foreclose the lien against the property, and the Lot owner shall be required to pay attorney fees and costs of the action.

Section 9. Subordination of the Lien. The lien of the assessment provided for herein is subordinate to the lien of any first mortgage now or hereafter placed upon a Lot and to any easement of record prior to the date of recordation of this Declaration

Section 10. Cost of Collection. The Association shall be entitled to its costs of collection and attorney fees from any Owner against whom and assessment must be enforced.

## **ARTICLE VI EASEMENTS**

Section 1. Appurtenant Easements. Declarant grants to all Owners (and their guests, lessees and invitees) as an appurtenance to and as part of the ownership held by such Owner, but subject to this Declaration, the Articles and By-Laws of the Association and the rules promulgated by the Association, a perpetual non-exclusive easement for ingress and egress over, across and through and for the use and enjoyment of all property marked on the master plat, as may be amended from time to time, as Common Property, which Common Property is an intrinsic and appurtenant part of the value of the Lots; such use and enjoyment to be shared in common with the other Owners, their guests, lessees and invitees.

Section 2. Utility Easements on Common Property. The Declarant reserves to itself, its successors or assigns, the right to grant easements to any private company, public or private utility or governmental authority providing utility and other services within the Common Property upon, under and across the Common Property and the Properties owned by Declarant including the private drive. Said easements shall provide for the purpose of maintenance, installation, repair, replacement, alteration and operation of sewer lines, waterlines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, pipes, wires, power lines, electrical lines, telephone service, gas lines, valves, gates, pipelines, cable television services, alarm systems and all machinery and apparatus appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to Owners, the Properties and Common Property. The size, width and location of all such easements shall not unreasonably interfere with the use of any improvements.

Section 3. Utility Easements. The Declarant, its successors or assigns, reserves an easement both under and over ground covering a strip of land twenty (20) feet at the back or front of each Lot platted, as it abuts the private drive, for maintenance, installation, repair, replacement, alteration and operation of sewer lines, waterlines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, pipes, wires, power lines, electrical lines, telephone service, gas lines, valves, gates, pipelines, cable television services, alarm systems and all machinery and apparatus appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities and providing services to the Lot owners, the Properties, and Common Property. The size, width, and location of all such easements shall not unreasonably interfere with the use of any improvements.

Section 4. Declarant Easement. The Declarant, its successors or assigns, reserves a perpetual easement, privilege and right in and to, over, under, on and across the Common Property and Private Roadway for ingress and egress as required by its officers, directors, employees, agents, independent contractors, invitees and designees; provided, however, that such access and use shall not unnecessarily interfere with the reasonable use and enjoyment of these properties and facilities by the Owners.

## ARTICLE VII ARCHITECTURAL CONTROL

Section 1. Establishment of Design Review Committee. There is hereby established a Design Review Committee (DRC). The purpose of the DRC shall be to review and approve plans for improvements on the Lots to assure; 1) that homes or structures are in compliance with all restrictions and protective covenants, and 2) that all structures and yards are compatible, consistent and otherwise harmonious with the Covenants. This is done in an effort to preserve the value of the Lots, Residences, Structures, and investments of the Owners, transferees and successors thereof.

Section 2. Duties of and Functions of DRC. The duties, powers and responsibilities of the DRC shall be as follows:

- A. The initial DRC shall be the Declarant. The Declarant shall serve perpetually but may relinquish his seat to any third-party or to the association.
- B. The Declarant may also appoint others to work with or assist the Declarant.
- C. A record of the Members of the DRC shall at all times be kept at the offices of the Declarant and such information shall be provided to any Owner or prospective purchaser of any Lot upon request.

At such times as Declarant has sold 100% of the Lots within the Properties, as shown in the preliminary plat approved by Brookings County (or earlier at the Declarants option), the Declarant shall assign to the Association by an instrument in writing the rights, powers, duties, and obligations of the DRC, whereupon the Board shall appoint the Members of the DRC, set the number of Members of the DRC, and shall provide for the terms of the Members of the DRC. Members of the DRC need not be officers, directors, or members of the Association.

D. The duties of the DRC shall include the specific approval or veto of all architectural, engineering, platting, planning, landscaping aspects and approval of general contractors, builders and sub-contractors of any improvement or development of individual units or buildings as well as the general plan for development of any individual lot, tract or parcel of land within the Properties. The DRC may also, in its sole discretion, impose standards of architectural and landscaping design, elevation, building setback lines or the general plan for development, which standards are greater or more stringent than standards prescribed in applicable building, zoning, planning or other local governmental codes.

E. No building, sign, outside lighting, fence, wall, walk or other structure shall be constructed, erected, removed, planted or maintained, nor shall any addition to or any change or alteration therein or thereto be made until the plans and specification showing the nature, kind, shape, height, materials, floor plans and specifications showing

the nature, kind, shape, height, materials, floor plans and the location of same shall have been submitted to and approved in writing by the DRC. Refusal of approval of plans, specification or location may be based upon any grounds, including purely aesthetic consideration, which the DRC, in its sole and uncontrolled discretion, deems sufficient.

F. As part of the application process, a complete set of plans and specifications prepared by an architect or other person found to be qualified by the DRC shall be submitted for approval by written application on such form as may be provided or required by the DRC. In the event the information submitted to the DRC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information. The name, address and phone number of the general contractor and list of main sub-contractors shall be provided with the required plans and specifications.

G. The DRC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonable or capriciously withheld. The DRC shall further have the right to refuse to approve the general contractor, builder and subcontractors provided such approval is not unreasonable or capriciously withheld. In approving or disapproving such plans, applications, contractors, builders, and sub-contractors the DRC shall consider the suitability of the proposed building, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property and past experience with the abilities of the contractors, builders and sub-contractors.

H. There is specifically reserved unto the DRC the right of entry and inspection upon any Lot for the purpose of determination by the DRC whether there exists any construction of any improvement which violates the terms of any approval by the DRC or the terms of this Declaration or of any other covenants, conditions, and restrictions. The DRC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event, it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, and if successful the Declarant or the Association shall be entitled to recovery of all court costs, expenses and reasonable attorney's fees in connection therewith. The Association shall indemnify and hold harmless the DRC from all costs, expenses, and liabilities, including attorney fees, incurred by virtue of any member of the DRCs service as a member of the DRC.

I. The DRC has the right, but not the obligation, to grant waivers for minor deviations and infractions of this Declaration. The granting of any waiver for any portion of the Properties may be given or withheld in the DRCs sole discretion and a prior grant of a similar waiver shall not impose upon the DRC the duty to grant new or additional requests for such waivers.

J. The Association, Declarant, the DRC or any officer, employee, director or

Member thereof shall not be liable for damages to any person submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval, or failure to approve any plans and specifications. Each person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that the copies of all such plans and specifications shall be the property of the DRC and the Association and that it will not bring any action or suit against the Association, Declarant or DRC to recover any such damages.

## **ARTICLE VIII RESTRICTIONS AND COVENANTS**

Section 1. Compliance by Owners: Restrictions and Covenants. Every Owner shall comply with the restrictions and covenants set forth herein and all rules and regulations adopted by the Board.

Section 2. Residential Use. The property described in herein is hereby restricted to residential usage only, and in no manner may be used for any commercial purposes or for any type of equipment or material storage, except that lots described as 'Lake View Lots' said lots not containing lake shore may be approved for storage units, commercial storage units or approved garages, as approved by the Developer and the DRC. Home offices are acceptable provided the business shall not involve continual visits by walk-in customers or the public, there is no external evidence of a business operation, and there is minimal additional vehicular traffic as a result of the business.

Section 3. Mobile Homes, Temporary or Incomplete Structure. No mobile or manufactured home shall be allowed on any lot. Factory-built structures, or package homes built off-site in segments and assembled on site must have the DRC's prior approval. All residences must be completed on the outside in accordance with the original plans and specifications, including finishing, treating, or painting of all exterior surfaces before occupancy. The developer may place a temporary structure on the property for construction and lot sales process.

Section 4. Nuisance. All lots shall at all times be kept in a neat, clean and sightless condition. All lots shall be mowed at a minimum of once a month. Weeds and undergrowth on all unimproved Lots must be kept mowed to a height not more than 6 inches, or such shorter length as required by Brookings County weed control ordinances, rules or laws. No trash, rubbish, machinery, inoperable or junk vehicles, building materials or appliances shall remain exposed on any lot as to be visible from other property or roadways. No part of any lot shall be used as a dumping ground for junk, trash, sewage, rubbish, or garbage. Machinery trailers, garden and maintenance equipment shall be kept at all times, except when in use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a sanitary container and said containers shall be kept in an enclosed area and placed onto the pickup area trash day or the day prior and removed within 24 hours of pickup. No lumber, shrub or tree clippings, or plant waste or metals or bulk material or scraps of refuse or trash or

unlicensed automobiles, parts, machinery, or equipment shall be kept, stored, or allowed to accumulate on any of the lots. The Design Review Committee, of its own motion, or the committee's designee, may enter on a lot to remove any of the foregoing and the cost of such removal shall be chargeable to the owner of the offending lot. Any such entry shall not be deemed a trespass. Further, the owner of any lot shall not suffer or permit any noxious, dangerous, or offensive activity to be conducted, carried on, or practiced in any dwelling, building, or on any of the lots of the real property.

Section 5. Restrictions against pollution of Water. In the interest of public health, sanitation, protection of the water supplies, recreation, wildlife, and protection of Lake Campbell, no owner shall use, for any purpose, the described real property in such a manner that may result in the pollution of the lake or any waterway that flows through or adjacent to such property with refuse, sewage, or material that might tend to pollute the waters or otherwise impair the ecological balance of the surrounding land.

Section 6. Water and Sewer. All residential dwellings shall connect to a septic system, or if created in the future a common or public sewer system, and to Rural Water. At the time of formation of these covenants Lake Campbell does not have a common sewer system. Installation of an Individual Wastewater System must be in compliance with all laws and administrative rules of the State of South Dakota and County of Brookings.

Section 7. Livestock and Poultry. No horses, cows, other animals, or poultry of any kind shall be raised, bred, or kept on any lot except for a reasonable number of domestic household pets, such as dogs and cats, may be kept, provided they are not maintained for commercial purposes, and do not make objectionable noises or become an annoyance or nuisance of any sort to the neighborhood.

Section 8. Fences. No fence or hedge shall be erected, placed or altered on any lot. In the event dogs are kept in any Lot, the Lot may contain invisible fencing.

Section 9. Shoreline Stabilization. No rock, concrete, metal or other foreign object shall be erected for purposes of shoreline stabilization or landscaping along the shoreline unless approved by the Design Review Committee.

Section 10. Height and Grade. No grantee or owner or any person or persons claiming under him shall or will at any time raise the grade of any lot within the real property, above the grade established at the time of initial transfer by the Grantor unless approved by the Design Review Committee.

Section 11. Signs. No signs for advertisement of any kind shall be displayed on any lot to the public except as follows:

- A. One sign bearing the name of the occupant.
- B. One sign advertising the property for sale or rent.

- C. Necessary street number or other identification numbered signs.
- D. Signs used by builders or the Declarant to advertise the property during the construction, development, and sales period.

Section 12. Trees and Shrubbery. Natural beauty, wherever possible, shall remain. No box elder, cottonwood, elm, or other such noxious trees shall be planted on any part of the development. Upon the initial sale of a lot the buyer shall plant within 24 months of purchase and maintain a minimum of six (6) trees on the lot.

Section 13. Vehicle Parking. No bus, campers, large recreational vehicles, commercial trailer or oversized commercial or business vehicles shall be stored outside on any Lot or on any Common Property Street in the development. Outside presence for more than 6 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. No unregistered or inoperable motor vehicle may be disassembled, serviced, repaired, or stored on any street or on any of the lots except in an enclosed garage.

Section 14. Completion of Construction. All exterior construction of the primary residential structure, garage, porches and any other appurtenances or appendages of every kind and character on any Lot shall be completed not later than twelve (12) months following the commencement of construction.

Section 15. Placement back from High Water Mark. No attachment, extension or part of any permanent structure shall be permitted within 100 feet of the high-water mark as defined and shown in the Master Plan and the Plat of record, except with approval of the DRC. Decks may be within 100 feet if approved by the DRC. The placement of any house and structure on any lot must be approved by the DRC.

Section 16. Silt Fencing and Construction. It is the responsibility of the owner of the Lot and / or the contractor to provide and install any necessary silt fencing that may be required while the structure is under construction. The owner shall include a drive off rock area while under construction and always keep the street clean and repair any damage caused to the street. Upon construction on a lot the owner shall install a driveway made of hard surface including a driveway made of concrete, brick, asphalt or other material if approved by the DRC.

Section 17. Mailboxes. The style, location, size and appearance are determined by the DRC and the US Postal Service. Permanent mailboxes will be installed by the Lot Owner and placed in a location pursuant to the rules of the US Postal Service.

In the event the US Postal Service requires mail to be delivered to common Cluster Box Units, rather than to individual mailboxes or individual Lots, such common mailboxes shall be considered Common Property of the Association. The cost of the purchase and installation of Cluster Box Units, maintenance, improvement, repair and

replacement shall be the sole right, obligation and responsibility of the Association, and the Declarant shall have no such obligation, responsibility or liability whatsoever.

Section 18. Removal of Soil. No soil may be removed from the Development resulting from any excavation without the prior approval of the DRC.

Section 19. Drainage and Topography. Each Lot Owner, and each person or firm performing work on or improving a Lot that affects drainage, shall be solely responsible, at the Owner's expense for 1) taking all action and executing all documents to comply with all erosion control and drainage laws, rules and ordinances; 2) for inspecting the Lot and adjoining Lots as to all drainage patterns and issues; 3) for causing all construction and grading to be accomplished so as to avoid altering drainage of the Lot in a manner that is detrimental to any other Lot; 4) to indemnify, defend and hold the Declarant and its successors, owners, agents, employees 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; and 5) pay all reasonable costs, fees or expenses of the Declarant in exercising discretion to rectify any breach on such Lot or in any other portion of the Development affected by any of the foregoing. The Declarant makes no warranties or representations, and assumes no responsibility, with respect to the foregoing.

Section 20. Prohibited Structures – Lake Shore Lots. All dwellings and structures on 'Lake Shore Lots' shall be used for single family residential purposes, or duplex if the size of the lot permits and conditional use is approved by Brookings County permitting a duplex. All houses and structures constructed shall be of new construction. Factory-built structures, or package homes built off-site in segments and assembled on site must have the DRC prior approval. Turtle Bay does not have a minimum square footage restriction as all homes will be reviewed by the DRC based on the lot the home will be constructed on to maintain the harmony of the development. An DRC review on all plans and materials on the outside of the home or structure must have approval in writing by developer or review committee.

Section 21. Prohibited Structures – Lake View Lots The lots described as 'Lake View Lots', said lots contained no shoreline, are permitted for metal buildings including clear span buildings, workshops, garages, storage units, shop houses, homes, or other similar structures utilizing steel framing, structural steel framing and pre-engineered metal buildings, and all designs are subject to the approval of the DRC to maintain the harmony of the development. The DRC will evaluate proposals to ensure the buildings harmonize with the overall aesthetic of the development, maintain property values, and align with any established architectural guidelines. All exterior materials, colors, and finishes must complement the overall development. Construction or placement of any structure without prior written approval from the DRC is prohibited.

**ARTICLE IX  
GENERAL PROVISIONS**

Section 1. Duration. The covenants, conditions and restrictions shall run with and bind the Properties and shall inure to the benefit of and be enforceable by the Association, the Declarant and any owner, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period the covenants, conditions and restrictions shall be automatically renewed and extended for successive ten (10) years periods. The number of ten (10) year renewal periods hereunder shall be unlimited with the covenants, conditions and restrictions being automatically renewed and extended upon the expiration of each ten (10) year period for an additional ten (10) year period; provided however, that the covenants, conditions and restrictions may be amended or terminated and released at any time upon the vote of, two-thirds (2/3) of the votes cast by each Member at a duly held meeting of Members. In addition to specific amendment rights granted elsewhere in this declaration, until termination of the class "B" membership, Declarant may unilaterally amend this declaration for any purpose.

Section 2. Enforcement. Enforcement of the covenants, conditions and restrictions shall be by any proceeding at law or in equity and may be instituted by the Declarant, its successors or assigns, the Association, its successors and assigns, or any Owner against any other lot owner violating or attempting to violate or circumvent any covenant, condition or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration.

Section 3. Reasonable Rights to Develop. No rule or action by the Association or Boards shall unreasonably impede Declarant's right to develop TURTLE BAY.

IN WITNESS WHEREOF, the owner executed this Declaration on this 24<sup>th</sup> day of January 2025.

DECLARANT:  
TURTLE BAY, LLC

By: *Tim Hogan*  
Tim Hogan, Its Manager

STATE OF SOUTH DAKOTA     )  
                                          : SS   **LLC ACKNOWLEDGEMENT**  
COUNTY OF BROOKINGS     )

On this the 24<sup>th</sup> day of January, 2025, before me, the undersigned officer, personally appeared TIM HOGAN, who acknowledged himself to be the Manager of TURTLE BAY, LLC, a South Dakota Limited Liability Company, and that he, as such Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as Manager, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

(SEAL) 

"OFFICIAL SEAL" Emily Solum Notary Public State of South Dakota
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*Emily Solum*  
Notary Public

My Commission Expires: 06/29/2027