



COVENANTS, CONDITIONS & RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by RED CANYON CONSERVATION COMPANY , LLC of 3100 West Lake Street, Suite 404, Minneapolis, Minnesota 55416, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the Owner of certain property in the County of Custer and State of South Dakota, which is more particularly described as:

S1/2SW1/4 OF SECTION 12; NW1/4 OF SECTION 13; NE1/4, S1/2NW1/4, S1/2 OF SECTION 14; SE1/4NE1/4, S1/2 OF SECTION 15; N1/2N1/2, S1/2NE1/4, NE1/4SE1/4 AND S1/2SE1/4 OF SECTION 22; ALL OF SECTION 23; NE1/4 OF SECTION 26; NE1/4, NE1/4NW1/4, S1/2SE1/4, N1/2SE1/4 OF SECTION 27; ALL LOCATED IN TOWNSHIP 6 SOUTH, RANGE 3 EAST OF THE BLACK HILLS MERIDIAN, CUSTER COUNTY, SOUTH DAKOTA. (2,680 acres):

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I: DEFINITIONS

Section 1. "Association" shall mean and refer to the Canyon Rim Ranch Homeowners Association, Inc., its successors and assigns.

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area will be conveyed or dedicated to the Association prior to the conveyance of the first Lot. The Common Area shall consist of all of the property described above except for the Lots described on Exhibit A attached hereto and by this reference incorporated herein. The Common Area is intended for use by the Homeowners for specific types of recreation, transport

through the property, and wildlife habitat. Such areas are not dedicated hereby for use by the general public but are dedicated to the common use and enjoyment of the Homeowners in Canyon Rim Ranch, as more fully provided by this Declaration of Covenants, Conditions and Restrictions. Declarant reserves the right to transfer unsold Lots from those described on Exhibit A to the Association and to obtain a deed back from the Association for alternate Lots selected by the Declarant, provided that this process shall not increase the total number of Lots over the initial number of thirty-nine (39), and further provided that the new Lots created by this process are consistent in size with the transferred Lot(s).

Section 3. "Declarant" shall mean and refer to Red Canyon Conservation Company, LLC. and its successors and assigns.

Section 4. "Developer" shall mean and refer to Red Canyon Conservation Company, LLC., and its successors and assigns.

Section 5. "Lot" shall mean and refer to any Lot of land shown on Exhibit A and as conveyed as a home site Lot by Developer, and shall include and be any alternate Lots as may be selected by Declarant per Section 2, above, with the exception of the Common Areas.

Section 6. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Properties" shall mean and refer to that certain real property described and known as Canyon Rim Ranch, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II: PROPERTY RIGHTS

Section 1. Owners' Easements of Access and Enjoyment. Every Owner shall have a right and easement of access over and across Common Area in the location of the common roads and for driveway and utility access purposes to each parcel described in Exhibit A, which roadways shall be established by the Declarant, or failing same, by the Association and the Owner. Every Owner shall further have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any Assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to Assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to Assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot .

Class B. The Class B member(s) shall be the Declarant and shall initially be entitled to thirty-nine (39) votes, one for each Lot owned. The transfer of title of any Lot from Declarant to an Owner will reduce the total votes outstanding in the Class B Membership at a rate of one vote per Lot sold. For the purposes of these Covenants, the "Control Period" shall be defined to mean that period of time, for however long it continues, during which there is Class B Membership. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or
- (b) On January 1, 2013.

The Declarant may reconfigure unsold Lots of the property consistent with Article I, Section 2 of these Covenants and the development objectives of the Declarant, providing that the reconfigured Lot's building envelope is identical to that of the abandoned (or replaced) Lot and provided the Declarant obtains the approval of the Association (whose approval will not unreasonably be withheld). Declarant may provide easements for utilities for reconfigured Lots (for example, Declarant may provide road access and power across the common areas as has been provided to all other Lots). In any case the Declarant has the unalterable right to develop a total of thirty-nine (39) Lots.

Section 3. The Association shall have two classes of non-voting membership:

Honorary Members. The initial Honorary Member shall be the Current owner(s) of the following described real estate in the County of Custer, State of South Dakota: S1/2SE1/4 OF SECTION 3 AND S1/2SE1/4 AND NW1/4NE1/4 AND N1/2N1/2NE1/4NE1/4 AND N1/2N1/2SW1/4NE1/4 OF SECTION 10, AND SE1/4SW1/4 AND SW1/4SW1/4 OF SECTION 11 AND NE1/4NW1/4 AND SW1/4SW1/4 OF SECTION 14 AND NE1/4NW1/4 AND NW1/4NE1/4 AND NE1/4NE1/4 OF SECTION 15, TOWNSHIP 6 SOUTH, RANGE 3 EAST, OF THE BLACK HILLS MERIDIAN, CUSTER COUNTY, SOUTH DAKOTA, hereafter "RCR". For the purposes of these Covenants, the Current Owner of RCR shall be defined to be the active, title-holding owner of RCR at the time Honorary Member rights are being exercised or requested. Said Current Owner(s) shall be entitled to access to the common area under the same restrictions as apply to Owners. In the event of subdivision of RCR, up to three additional Honorary

Memberships will be given by the Association at the request of the Current Owner. Honorary Members are required to pay twenty-five percent (25%) of the prevailing Annual Assessment and will have no vote in the Association. Any Honorary Member that is in default of the Annual Assessment shall have no rights or access to the Properties or its amenities under this clause until said breach or default shall be fully satisfied and accepted by the Board of Directors of the Association.

Reciprocal Members. Reciprocal Members may be admitted upon approval of the Class A Members or upon Approval of the Class B Members during the Control Period. The Reciprocal Members shall be those property Owners that own property in the vicinity of the Canyon Rim Ranch and grant a reciprocal right to members of the Association to ride on designated areas or trails on their property. No membership fee shall be assessed to a Reciprocal Member. Reciprocal Members shall have no vote in the Association.

ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments or charges (hereafter, the "Annual Assessment(s)"), and (2) Special Assessments for capital improvements and services (hereafter, the "Special Assessment(s)") to be established and collected as hereinafter provided. The Annual and Special Assessments, together with interest, costs and reasonable attorney's fees (together and hereafter, the "Assessment(s)"), shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) Annual Assessments may be used for the improvement and maintenance of the roads, common area, maintenance of the equestrian center/clubhouse, fire suppression and to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area including but not limited to:

- (1) All operating expenses of the Association including services furnished, such as snow removal, watering, mowing, forestry management and general landscape care, and other services the Association may determine to furnish; and
- (2) The cost of necessary management and administration, including fees paid to any Management Agent by the Association; and
- (3) Taxes and assessments levied against the Association or upon any

- property which it may ultimately come to own or otherwise is required to pay; and
 - (4) The cost of fire and extended liability insurance on the property and the improvements and the cost of such other insurance as the Association may procure; and
 - (5) The cost of furnishing road maintenance, common area maintenance and improvements, maintenance of the common stables building/clubhouse, corrals, fences, snow and garbage removal; and
 - (6) The cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and/or a reserve for replacements.
- (b) In the event that while a Class B membership exists, assessed fees collected for the Association fail to adequately meet Association expenses, then the Declarant must pay sufficient capital up to the full assessed share applicable to the Lots still retained. In determining Developer's Assessment liability, Developer shall be credited for the cost of insurance maintained on the premises during the construction period and sales period and any maintenance or landscaping services furnished by Developer.
- (c) Annual Assessments have been initially established and disclosed by the Developer at \$95.00 per month, based upon the anticipated costs of services and maintenance provided for herein. A capital contribution to fund the Association is required of each Lot Owner at closing equivalent to 6 (six) month's Assessment or \$570.00 (five hundred seventy and 00/100 dollars).
- (1) Beginning with January 1, 2005 the Board of Directors shall set the first Annual Assessment based upon actual budgeted costs for services provided for herein.
 - (2) From and after January 1, 2006, and each January 1 thereafter, the Annual Assessment may be increased each year—which increase shall not exceed the previous Annual Assessment by more than five percent (5%).
 - (3) From and after January 1, 2006 the Annual Assessment may only be increased above that established by Article IV, Section (2c)(2) by a vote of two-thirds (2/3) of the Class A Members and Class B Members.

Section 3. Special Assessments.

- (a) Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two thirds (2/3) of the votes of each class

of members who are voting in person or by proxy at a meeting duly called for this purpose.

- (b) Services. In addition to the Annual Assessments authorized above, the Association may levy Special Assessments to defray the cost of providing services. In the event the Association's Board of Directors, in its sole discretion, shall determine that such Special Assessments are necessary to meet the costs for such services as fire suppression, nature and habitat enhancement, snow removal, or similar items, the same shall be due immediately upon levy by the Board of Directors; provided the same shall not exceed in any month the actual cost incurred by the Association in excess of regular Assessment payments.
- (c) Horse Barn/Owner's Clubhouse Assessments. Assessments for horse barn use are applicable only to Association members who choose to board horses at the facility. Stalls are allocated first to Association members and on a first-come basis. In a case where two or more Owners request stalls simultaneously (requests come within two days of each other), and where there are not enough open stalls to accommodate all Owner requests, the Owner whose purchase agreement date is earliest shall be given preference. Each Lot shall be limited to two (2) stalls in the barn. Lot Owners shall not have the right to sublet the stalls. Canyon Rim Ranch Owner's Association can deny a contract based on poor credit rating, criminal history or other evidence of misbehavior. The Declarant shall construct the initial horse barn/clubhouse at a net cost not to exceed seventy thousand and 00/100 dollars (\$70,000.00). Following initial construction, the Association becomes the Owner of the horse barn/clubhouse and is fully responsible for its upkeep, maintenance, operation and any additional construction as authorized by the Association. Special Assessments for horse barn construction or maintenance after initial construction is completed, for improvements that inure to the benefit of all Owners (rather than solely for the benefit of horse barn users) may also be levied. Ongoing horse barn construction or maintenance Assessments shall apply to all Owners.

Section 4. Notice and Quorum for Any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 5. Uniform Rate of Assessment. Both Annual and Special Assessments must be fixed at a uniform rate for all Lots. Monthly horse barn or stable rental shall be exempt from this requirement.

Section 6. Date of Commencement of Annual Assessments; Due Dates. The Annual Assessments provided for herein shall commence as to all Lots on the first day of the month

following transfer of the first Lot. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall be charged interest at the Annual percentage rate specified by law upon unpaid judgments. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the Assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

In addition to the remedies herein provided for a lien, the Association Board of Directors shall have the right upon non-payment of its lien to terminate Common area privileges at the barns and stable facilities of the Association, requiring the member to cease and desist from use thereof and to vacate any portion of the same occupied by the defaulting member upon seven (7) days notice of the same given by personal delivery or certified mail, return receipt, and in the event that the water service is terminated pursuant to this Section, the same shall not be reinstated except upon payment of the arrearage and payment of a sum sufficient to reimburse the Association for the cost of collecting the delinquency including any attorney fees incurred.

Section 8. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

ARTICLE V: INSURANCE

Section 1. Common Insurance. The Association may purchase insurance as trustee for the benefit of the Association, Owners and their mortgages, as their interest may appear. Provisions shall be made for the issuance of certificates of mortgage endorsements through the mortgages of the units.

Section 2. Authorized Coverage. Insurance may be purchased to cover the following:

- (a) All Risk Insurance. All improvements owned or operated and maintained for the benefit of the Association in an amount equal to the insurable replacement value, as determined Annually by the Board of Directors of the Association, which coverage shall afford protection against "all risks" or direct physical damage or loss with such deductible as deemed appropriate.
- (b) Liability Insurance. A general liability policy may be purchased by the Board

of Directors in such coverage amounts as the Board of Directors shall deem necessary.

- (c) Fidelity bond of the Association directors, fiscal officers, and agents in an amount as the Board of Directors shall determine from time to time, and workmen's compensation as required by law.
- (d) Such other insurance as the Board of Directors of the Association shall determine necessary.

Section 3. Trust for Proceeds. All insurance policies purchased by the Association shall provide that proceeds covering property losses shall be paid to the Association

ARTICLE VI: USE, COVENANTS, AND RESTRICTIONS

Section 1. General Intent. The purpose of these restrictions is to insure the use of the property in a manner which will require minimum impact to the environment and sensitive living and home building, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and thereby secure each site Owner the full benefit and enjoyment of his home, with no greater restrictions upon the free and undisturbed use of a site than is necessary to insure the same advantages to other site Owners. Anything tending to detract from the attractiveness and value of the property for residential purposes, in the opinion of the Canyon Rim Ranch Homeowners Association or the provisions detailed here, will not be permitted. Covenants are amendable with a 2/3rds majority vote unless otherwise identified as non-amendable, or "NA."

Section 2. General Covenants. All Lots included within the Properties shall be used only for single family residential purposes, and no other structures shall be erected, placed or permitted on Lots other than individual family dwellings having living space of no less than 1,500 square feet on the first level, except where written permission is granted by the Declarant, or where temporary housing may be occupied for an 8 month construction period, but only during construction of the permanent residence. Other related outbuildings incidental to residential use of said Lots, including guest houses, garages and/or storage buildings, may be placed on the premises provided that outbuildings are of similar construction and appearance to the residence, consistent with the building material and design provisions hereinafter detailed. A maximum of three (3) related out-buildings, not including a detached garage structure, may be placed on each Lot.

- (a) Owners are free to use their property at any time after closing so long as such use does not violate the covenants. Owners may occupy their Lot using temporary shelters such as a recreational vehicle, camper, or other appropriate temporary structure set up for that purpose (hereafter, "Temporary Rights"). This includes camping on site, use of a RV or other shelter that is not permanent provided that such shelter is not present on the Lot for a contiguous period of more than three weeks, and then provided that such shelter is removed from the Lot for a period of not less than thirty (30) days prior to any subsequent placement of the same—or any other appropriate temporary shelter—on the Lot. In any case, temporary shelters must be removed from the Lot when not in continuous use. If construction is commenced on the Lot, "Temporary Rights" shall be extended for this special purpose, and shall continue for a period of up to eight (8) months during construction, provided that the

- construction is diligently pursued.
- (b) No residence may be placed or constructed outside the legally described deeded acres purchased, designated by the developer as part of the purchase agreement. All home site locations, including building height, must be approved by the Declarant so as to ensure that the home site will not adversely affect the view of any subsequent buyers. **NA**
 - (c) Power must be underground to the home from the access point provided as part of the power infrastructure development funded through property sales. **NA**
 - (d) No further subdivision of any Lot located in the Canyon Rim Ranch acreage, including the common acreage, is allowed. **NA**
 - (e) No store or business or commercial enterprise shall be carried on or conducted on said property unless such business is approved by the Declarant and where the business is phone-based without requiring drive up or walk-up traffic. This prohibits Bed & Breakfast operations or Inns. Property may be rented, either through a rental management service or directly, as long as such rentals, or renters, do not in any way violate the covenants. **NA**
 - (f) Animals shall not be kept or allowed on the premises, for extended periods, or more than 24 consecutive hours except for household pets and riding animals, where pets are boarded indoors and within deeded boundaries, and where riding animals are within properly fenced areas. Riding animals can not be permanently sheltered or held in pasture on the deeded residence for periods up to twenty-one (21) continuous days subject to Association rules regarding the same. Owners may construct horse feeding and shelter structure, not to exceed 10' X 15' upon their Lot, provided that the same shall be consistent with the architectural design of the residence and shall have been approved by the Architectural Control Committee.
 - (g) No fencing of an area greater than the deeded Lot is allowed. Design and materials must be approved by Declarant.
 - (h) "Riding rights" as it relates to horseback riding are granted to each Lot Owner and guests and invitees, along with "walking rights", through the common area and through other Owner's deeded acreage but not within two hundred fifty (250) feet of any home, unless said riding or walking is done on a common roadway, or on the rider's or walker's own Lot (deeded acres). Specifically for the purpose of these Covenants, "Riding Rights" and "Walking Rights" as they pertain to any acres deeded specifically and solely to another Owner pertain strictly to the activity of passing through without stopping. Other than those Rights granted by the Owner of the Dwelling Site, no Owner or any other person has any "Riding Rights" or "Walking Rights" on any acres that are specifically deeded solely to one Dwelling Site and if said acres are enclosed by a fence. ATVs, and motor vehicles of any kind, are only allowed on easement roads and established ATV trails which have been identified and approved by the Association or within deeded property boundaries.
 - (i) No light should be emitted from any property which is unreasonably bright or causes unreasonable glare, in the opinion of the Declarant or the Architecture Committee established by the Association. Outdoor lighting shall be of a type approved by the Declarant or the covenants relating to this issue. Outdoor lights are to be downward directed, no higher above ground than three feet, unless attached to a home and

- sheltered by a roof overhang. NA
- (j) No sound shall be emitted from any property which unreasonably loud or annoying; and no odor shall be emitted from any home site property which is noxious or offensive to others, in the opinion of the Declarant or the majority view of the Association. NA
- (k) No unsightliness shall be permitted on any property. All unsightly structures or facilities or equipment or conditions shall be enclosed within an approved structure compatible with the residence. Vehicles, boats, snowmobiles, all terrain vehicles, recreation vehicles, machinery, trailers, garden and maintenance equipment shall be kept at all times, except when in use, in an enclosed structure unless within the allowed construction period of the residence. Refuse, garbage and trash shall be kept at all times in a sanitary container and such container shall be kept within an enclosed structure. No lumber, grass, shrubbery, tree clippings, other than fire wood--though not larger than 20' x 4' x 5', or unlicensed automobiles or other motor vehicles, shall be kept, stored or allowed to accumulate longer than one week, and not more than 3 total weeks per year. NA
- (l) No vehicles shall be parked in the open, for longer than twelve (12) hours of any 24 hour period, without permission from the Association except during periods of temporary shelter as permitted herein above. No commercial vehicles are allowed for any period of time, other than to accept or pick-up deliveries relative to home operation, without written authorization. ATVs are excluded but must feature standard muffler systems.
- (m) Waste disposal and water systems shall be constructed in compliance with the rules and regulations, ordinances and statutes of the County of Custer, and State of South Dakota. Cisterns must be maintained, at all times, with enough capacity for 1,800 gallons of water. Such systems, or wells, must be accessible to authorized fire preventative or fire fighting crews. NA
- (n) No firearms, or weapon(s), shall be discharged, unless in the act of self-defense. No hunting is allowed on any part of Canyon Rim Ranch, whether private deeded acreage or common acreage.
- (o) No cutting or harvesting of trees shall occur except pursuant to the following terms and conditions:
1. Maintenance of meadows in order to preserve the natural state.
 2. Clearing for improvements as reasonably necessary to clear for an approved building sites, as approved by the Declarant or the Architecture Committee.
 3. Pruning as necessary to thin clumps to improve growth of existing trees and to remove dead or fire-hazard trees such as "wicks" or broken trees or limbs.
- NA
- (p) There shall be no open exterior fires except where a UL approved barbeque or grill is used or where a protective screen surrounds the entire fire and flame area on all sides, or where a permit has been granted by the Black Hills National Forestry Office. NA
- (q) The Owner of each Lot and/or home site shall bear and pay his pro rata share for access road maintenance, of not less than \$20/month, per Owner, as part of the Road District that is established. Each Owner covenants and agrees to consent to and vote for the formation of such a district by acceptance of a deed to property in the

subdivision. In the event that tax revenues are insufficient, the Association may levy such road maintenance cost Assessments as it shall require. All Homeowners shall also pay a monthly association dues of not less than \$95/month. **NA**

- (r) No subdividing of any Lot or common area, owned by the Association or any entity, where such land was originally sold as Canyon Rim Ranch is allowed. **NA**
- (s) All new construction landscaping must be complete within six months of the date the roofing is on any home under construction. A minimum of \$1,000 must be expended in materials cost to bring the area back to its previous vegetation density unless waived by the Architecture Committee.

ARTICLE VII: APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE

Section 1. Structure and Design Approval. No building, including a storage building or a shed of any kind, shall be erected, placed or altered on any Lot until the construction, plans and specifications, and the plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures and as to location with respective topography and finished grade elevation as well as compliance with the design requirements set forth in these covenants.

Section 2. Final Plans. A set of final plans, including but not limited to the following, shall be submitted to the Architectural Control Committee for approval prior to construction. These plans will be retained by the Committee if the plans are approved.

- (a) Front view, right or left and rear exterior views of the home showing the house as it will fit into the topography of the Lot, as well as exterior siding design (colors and materials) for all sides.
- (b) Site plan showing exact placement of home consistent with the approved "view position" marked as part of the original home site identification published by the Declarant. Elevation of finished basement floor relative to street elevation must also be provided.
- (c) Standard construction drawings showing floor plans and all dimensions. Siding and painting schemes for all exterior surfaces along with a landscape plan for the site.

Section 3. Composition of the Architectural Control Committee. The Architectural Control Committee will be composed of Declarant until authority is transferred to the Homeowner's Association as provided in Article III. Thereafter, the Board of Directors of the Association shall appoint the Architectural Control Committee of three members. The terms of the committee members shall be for a period of two (2) years, with the initial members terms staggered so that one member's term shall expire each calendar year. Eligibility shall be limited to Owners and members including the Declarant. In the event of death or resignation or ineligibility of any member of the committee, the remaining members shall have full authority to designate a temporary successor until the Board of Directors for the Association appoints a successor. The majority of the committee may designate an architect to act for it subject to standards adopted by the committee and approved by the Board of Directors. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant at any time. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its

designated representative fails to approve or disapprove plans submitted to it within thirty (30) days after such submission, or in any event if no suit to enjoin the construction has been commenced prior to the completion of construction, approval will not be required and the related covenants shall be deemed to have been fully complied with unless such construction is of a type that was completed in less than 15 days.

Section 4. Design Guidelines. These guidelines are intended to guide the Architectural Control Committee and the Association in development and maintenance of the Canyon Rim Ranch property to insure the preservation of the natural environment and balance of the site, and maintain throughout the development the high quality that has been established as the standard.

- (a) The natural condition of the property shall be maintained except where there are improvements to be constructed. This natural condition is defined as a combination of indigenous plant material, trees, topsoil's rock formations and natural terrain that exist before construction on or around the site.
- (b) Maintenance Responsibilities. Common area landscaping, where applicable, shall be maintained by the Association. However, each individual Owner shall be responsible for maintenance of landscaping and other landscape related improvements within the residential Lot. Each property Owner shall diligently maintain, cultivate, husband, protect and preserve plant materials, materials, and manage the removal of any material, which may create a fire hazard. Each Owner shall cooperate with the Homeowners association in its brush clearing and fire protection husbandry program for reduction of fire hazard within common areas. In the absence of a Architectural Control Committee-approved landscape plan, building sites must be brought back to their original state except where construction has been finished and permanent.
- (c) Common Area Landscaping. To enhance the existing natural landscape, any proposed vegetation should compliment native species and be compatible with existing environmental and ecological conditions. Added materials shall be planted in informal groupings as the existing natives. Maintenance of existing native landscaping and additional complimentary plant material shall be done with care to avoid an over-manicured appearance. Maintained landscaping planted by individual Homeowners shall not be permitted within the common open space areas. These common areas are defined as all property in the subdivision outside of platted residential Lots and are intended for Homeowner use, trail corridors and vegetated buffers between buildings to enhance privacy and to maintain view corridors.
- (d) All common areas disturbed by construction shall be restored with indigenous plant materials or similar species adapted to the Black Hills mountain environment. The plants shall be drought tolerant species, which require minimal amounts of water.
- (e) Preservation of Existing Conditions.
 - 1. No Owner or contractor shall interfere with or direct the natural course of any drainage and runoff. No improvements or landscaping shall be placed which would alter the existing condition of any drainage pattern or runoff from its natural flow onto or across the land of another except to the extent that such alteration in drainage pattern or runoff is approved in writing by the Architectural Control Committee, and any other public authority having jurisdiction.
 - 2. Improvements shall be located on the site where they least alter the natural terrain and tree cover. NA

3. Preservation of existing native species is paramount and all plans for improvements must respect existing tree location especially mature specimens. Intentional or unintentional removal of or damage to any trees other than those specifically approved by the Architectural Control Committee for removal is a violation of these guidelines and all appropriate remedies may include the replacement of such plant material with like species, size and quantities or be subject to fines. **NA**
 4. No grading shall take place within the drip-line of trees to be preserved unless approved by Declarant. Sensitive root systems fall within these areas and must be protected. Temporary fencing at the drip-line of the trees or groups of trees to remain on site shall be provided prior to any construction. The temporary fencing will help prevent alteration of grades and damage to branches, roots and foliage by equipment during construction. Such fencing shall remain in place until such time that the construction is complete. There shall be no outdoor storage of any building materials within the fenced area. **NA**
 5. If necessary, retaining structures shall be constructed to protect trees and maintain grade near adjoining roads or other graded areas. No roots shall be exposed or fill dirt placed against the trunks of trees. Any structures used as retaining walls to maintain existing grades proximate to vegetation to be saved shall be constructed of natural materials in accordance with the architectural guidelines for the property.
- (f) Approval/Review Process
1. A building and landscape plan shall be submitted to and approved by Architectural Control Committee with work commencing within 90 days from the building plan approval date. The plan must be completed within 8 months from the time of commencement, except for those elements labeled as future or potential on the plan, or where an extension has been granted by the Architectural Control Committee.
 2. Unless otherwise waived or modified by Architectural Control Committee, the landscape plan shall be submitted on the architectural site survey as a base. The plans shall include the following information:
 - a) Existing site improvements
 - b) Existing Tree locations and species
 - c) New plant locations, edging and mulches
 - d) Turf seeded areas including type of seed mix
 - e) Walkways and patios, decks, gazebos, walls, fences and other proposed landscape features and materials
 - f) Special features
 - g) Method of irrigation
 - h) Soil preparation specifications for turf areas and other areas
 - i) Driveway surface material
 - j) Transitional apron on drive and walks adjoining street
 - k) Landscape integration with common area
 - l) Areas to be restored with approved natural grass and wildflower mix
- (g) Design Criteria for Landscape Plans. In consideration of the design on individual

building envelopes the following items shall be pursued:

1. Try to use native species wherever possible, (if not exclusively). Naturalize the site so that it might appear that the native forest was never disturbed.
 2. The selection and placement of trees and shrubs should be carefully considered to provide privacy, year round seasonal interest and shade as well as to create a sense of space for each of the future home sites.
 3. Tall grasses and underbrush around larger trees should be removed. The lower dead wood on tree trunks, especially common on larger pines should be removed.
 4. Formal exotic specimen and vegetable gardens if approved by the Committee must be screened from general view from surrounding areas. The screening itself must be unobtrusive.
 5. Yards and terraces should be designed so as to be an extension of the architecture while also responding to the land form. The landscape should provide a key element in a comprehensive design that integrates man-made features with the natural terrain and vegetation. Care should be taken on upper hillside sites to aesthetically consider the underside of decks and terraces as well as their surfaces. Natural materials should be used as a transition to more contained man-made landscape among natural open spaces.
 6. Outdoor lighting will be carefully reviewed to assure that neighboring properties are protected from the view of bright lights. Subtle lighting of architectural elements will be encouraged while more ornate lighting types such as tree uplifts and colored lights, etc. are not supporting of the natural quality. No up-lighting or white light is allowed.
 7. It is the goal of Declarant to limit the impervious cover of the ground. Materials for driveways, paths, steps, patios, and other areas should be flat stone, crushed rock or wood and of a dull, non-reflective surface and with color that blends well with the natural surroundings. Paving—in general—is discouraged. Any paving requires Architectural Control Committee approval.
 8. A limited use of lush manicured turf such as bluegrass sod and non-native plant material (especially deciduous trees) which provides a typically suburban landscape appearance and which does not blend well with the natural environment must be limited to an area no larger than 1,000 sq ft.
 9. Use trees which are consistent with the species native to the area.
- (h) Site planning & preparation
1. No buildings shall be constructed on any Lot except in the exact location of the pre-determined building site determined by Declarant as indicated by its coordinates published as part of the sale unless otherwise approved by the Architectural Control Committee. Buildings must be sensitively sited with regard to grade, vegetation and views. All building plans must be approved in writing by Declarant or the Architecture Control Committee before construction begins.
 2. The standards, procedures and information that follow are intended to formulate and define the means by which homes can be built on the Properties The standards will form the basis of architectural control imposed by the Architectural Control Committee. Compliance with these standards is required. Any additional standards, guidelines and rules to further define and implement these guidelines

must be approved by the Declarant or the Architecture Control Committee or a majority vote of the Association, when established, provided such changes do not undermine the points detailed here.

3. The residences will have exterior elevations, roofs, and details that will be coordinated and consistent in their architectural treatment as defines and illustrated in these regulations. Care should be given to proportion, scale and massing qualities.
 4. It is required that all home site Owners use the assistance of a registered and accredited architect in designing their residences. All plans must be approved by the Declarant or the Architectural Control Committee as to their conformity with these covenants and requirements and signed approval must be issued per the Covenants Approval Checklist.
 5. "Off the Shelf" or stock plans are acceptable design solutions for improvements of Lots with approval of plans by Declarant or Architectural Control Committee.
 6. "Street-oriented" façade design and "theme" design transplanted from another time or area, such as chalet, hacienda, colonial or Tudor will not be acceptable.
- (i) Design Philosophy. It is intended that the architecture of the homes in the Canyon Rim Ranch development address a graceful horizontal, organic architectural solution. All structures should blend with the natural setting, considerate to the existing landscape, vegetation and any adjacent structures. The architecture should address the following:
1. The house should appear to be naturally integrated with the site. The home should utilize simple sloping roofs with low proportions, broad sheltered overhangs, low terraces and outreaching landscape walls. The number of floors allowed for construction is determined by the type of building site purchased.
 2. Special consideration will be given to the sitting of the building with emphasis on the relationship to existing grades, preservation of natural site features, trees, plants and relationship to the neighboring sites and vistas.
 3. Materials shall be those allowed by the covenants.
- (j) Building Walls
1. Acceptable Materials:
 - a) Logs
 - b) Wood shingles
 - c) Natural wood siding
 - d) Native stone (w/ mock-up panel)
 - e) Board & Batten
 - f) Exposed architectural concrete will be considered at the discretion of the committee when stained, sand blasted, and/or textured
 - g) Stucco
 2. No plywood siding, metal siding, synthetic siding, ferro cement siding, concrete block, brick, unit masonry, adobe, contrasting light or dark grouts or mortars.
- (k) Foundations
1. Native stone and river rock are preferred.
 2. Exposed concrete may not be used for foundation walls unless covered with an approved material (rock, wood, stucco).

(l) Acceptable Configurations:

1. Combined materials on wall surfaces may not exceed two in number and may only be placed in horizontal relationships to one another (i.e. a stone base with a stained wood wall surface). A vertical combination of materials is not allowed. Elements such as fireplaces are acceptable with approval from the project architect relative to their purpose and structural fire safety.
2. All exposed metals such as fascias, flashing, wall vents, roof vents, metal enclosures, chimneys, shall be painted or stained an approved color unless natural in condition, such as copper or rusted metal.

(m) Acceptable Techniques:

1. Board & batten. Siding will either be applied horizontally or vertically, no diagonal or other patterns.
2. Board & batten shall not exceed 10" and 2" running alternately. Clapboard shall be 4" to 8" to the weather.
3. Board trim at corners = no more than 1" x 4" to the weather applied flush with wall surface.

(n) Building Elements

1. Acceptable Materials. Columns, posts, beams & bay windows are to be constructed of wood, log or stone or some combination, stained in earth tones or scheme approved by Declarant or Architectural Control Committee. Additional materials may be approved on a case-by-case basis. Railing(s) may be constructed of wood or metal. Perimeter Lot fencing must be of wood construction and approved design.
2. Acceptable Configurations. Posts used for structural support shall be placed in groupings wherein visual massing is not less than 12". Exterior arches will be allowed if they meet the following criteria:
 - a) Construction is of load bearing masonry.
 - b) The span does not exceed 9'.
 - c) Segmental, Parabolic & Jack arches are allowed. No Tudor, Elliptical, Gothic, Roman, or other style of arch is allowed.
 - d) Columns shall be 12" in cross section (minimum) pine peeler poles with a maximum height of 12'.
 - e) No Victorian, Doric, Tuscan, Marble or other style/material of column is allowed.

Other configuration restrictions include:

- f) Spindles and balusters on decks not to exceed 4" width.
 - g) Bay windows shall be habitable spaces carried to the ground (no cantilever or other projections will be allowed unless they contain a "window seat" or some other "habitable" space).
 - h) Porches shall be unglazed, covered and contiguous to the interior space of the home.
3. Acceptable Techniques:
 - a. Lighting. Exterior lighting should be used only to illuminate pedestrian areas. Light sources should be indirect and care taken to protect neighboring properties from glare. Lighting should be only bright enough to provide for

safe movement on paths and stairs. Lighting must be downward directed and stand no taller than three feet from the ground unless attached, under an overhang, from the main dwelling. Light colors other than amber or pale yellow will require approval by the Architectural Control Committee.

- b. Signage. Address and directional signage within the development will be designed and installed by the Declarant. It will be harmonious with the natural landscape and consistent to all home sites in treatment, therefore no private signage will be allowed.

(o) Roofs

- 1. Acceptable Materials. Metal roofing is the preferred material though wood shingles and shakes are possible if approved by Fire Department and Declarant or Architectural Control Committee. **NA**

- (a) Composition roofing.

- 1. Built up roofing of approved finish will be allowed on small, flat connecting roofs only.
 - 2. Use of composition shingles is subject to approval by the Declarant or the Architectural Control Committee after considering viability and appropriateness.

- 2. Acceptable Configurations.

- (a) No roof shall be constructed with a pitch less than 4:12 or greater than 12:12.

- (b) Roof forms shall utilize symmetrical gable configuration with sheds and dormers. Opposing slopes sharing a common ridge shall have identical slopes.

- (c) NO MANSARD, GAMBREL, A-FRAME roof forms are allowed. Flat roofs may be used for "linking" purposes and as a minor design element.

- 3. Acceptable Techniques. In cases where exposed rafters are used, the exposed tails shall be finished.

- 4. Molding. No decorative or applied motifs are allowed. Gable end trim should not exceed a total width (in elevation) or 12".

(p) Windows & Doors

- 1. Acceptable Materials.

- a) Insulated glass windows made of wood or clad wood. NO reflective/mirrored glass.

- b) Doors:

- 1. Solid core wood, plank, or hollow metal doors are acceptable for exterior doors.

- 2. Any painted doors must be of an approved color by Declarant or Architectural Control Committee and relate to the surrounding natural colors. Prefabricated bay window units will not be allowed.

- 2. Acceptable Finishes

- a) Transparent finishes that enhance the natural materials are preferred. No windows shall be permitted with white exterior casements or trim. Semi-transparent stains are permitted over natural wood with approval of Declarant or Architectural Control Committee.

- b) All exposed metals, sheet metals, or primed woods shall be painted unless

copper or rusted metal.

3. Acceptable Configurations

- a) Windows may be square, triangular or rectilinear in proportion.
- b) Door openings/landings are to be covered and recessed in conjunction with a designed porch area or deck element.
- c) Maximum garage door width shall be 10' (doors are to be recessed) unless configuration is double stall (or larger) type of garage.
- d) NO shutters are allowed. Canvas awnings will be considered on a case-by-case basis. Other shading devices such as trellises or integral roof overhangs are encouraged.

4. Acceptable Techniques. The following window types are allowed:

- a) Awning units, fixed and operable
- b) Casement units, fixed and operable
- c) Double hung units

(q) Landscape Walls.

1. Acceptable Materials:

- a) Wood
- b) Stone
- c) Stucco
- d) Custom Metal

To be compatible with adjoining exterior finish material of the house. NO CHAIN LINK or BRICK will be allowed.

2. Acceptable Configurations:

- a) Garden walls or fences are allowed with approval by Architectural Control Committee and should be integrated with building design.
- b) Approved fencing should be connected to home and should contain exterior spaces integral to interior spaces of the home.
- c) Maximum landscape wall/fence height shall not exceed 54".

3. Acceptable Techniques:

- a) Stone fencing and stucco landscape walls should have pre-cast or stucco caps.
- b) The under croft of decks shall be enclosed by wood lattice or material compatible with the primary residence.

ARTICLE VIII: MISCELLANEOUS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The obligations, provisions, covenants, restrictions and conditions of this declaration shall further be enforceable by any Owner of any property subject to this declaration by proceeding for prohibitive or mandatory injunction or by suit or action to recover damages for so long as any person or entity fails to comply with the obligations or covenants herein undertaken. Those who are a part of such proceedings, any person or entity bringing such corrective action,

where the action is found to be just, will be entitled to all court costs, legal and personal expenses associated with bringing the action. No violation or breach of any provision, restrictive or covenant herein set forth shall defeat or render invalid or impair the lien of any mortgage taken in good faith and for value perfected by the recording prior to the time of the breach of this agreement. Invalidity or unenforceability of any provision of this declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this declaration. Failure to enforce any provision, restriction or covenant in this declaration shall not operate as a waiver of any such provision, restriction or covenant.

In the case of any violation of the provisions hereof, the Owners of a Lot may, in addition to the other remedies of law, or in equity, including an action of damages, have such violation enjoined, or in any case of the erection or maintenance of any building, structure, or thing in violation of any of the provisions hereof, may have the building, structure, or thing removed by proper legal procedure. Any violation of the provisions, conditions or restrictions contained herein shall warrant application by the Owner or Owners of any Lots, or its designee to any Court of law having jurisdiction thereof for an injunction, damages or other proper relief in order to enforce the same in Court. The Court in its discretion may reward Plaintiff Court costs, expenses and reasonable attorney's fees.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no ways affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. Prior to the conveyance of the first Lot, Tract or Unit Declarant may unilaterally amend this Restated Declaration. After such conveyance, the Declarant may unilaterally amend this Restated Declaration at any time during the Control Period, if such amendment is necessary to bring any provision into compliance with any applicable government statutes, rule or regulation or judicial determination or necessary to enable any title insurance company to issue title insurance on any Lot. So long as it still owns any property described in Exhibit "A", the Declarant may unilaterally amend this Restated Declaration for any other purpose, provided the amendment has no material adverse effect upon the right of any Owner.

After the expiration of the Control Period, this Declaration may, except as to those provisions which are not amendable as indicated by the "NA" at the end thereof, be amended in whole or in part by an instrument signed by not less than a majority of the Members of the Association.

Section 4. Annexation. Additional residential property and common area, other than above described, may be annexed to the Properties with the consent of two thirds (2/3) of each class of members, provided that any development of the annexed area shall limited in density similar to the density of Canyon Rim Ranch development and subject to all of these covenants.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this _____ day of _____, 2003.

Red Canyon Conservation Company, LLC

By: _____
James W. Farmer

Its: Operating Manager

State of _____)
County of _____) ss:

On this _____ day of _____, 2003, before me, the undersigned officer, personally appeared James W. Farmer who acknowledged himself to be the Operating Manager of Red Canyon Conservation Company, LLC, a limited liability company, and that he, as such Operating 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 Operating Manager.

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

(SEAL)

Notary Public, _____
My Commission Expires: _____