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PREPARED BY:  
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State of South Dakota  
County of Fall River

Filed For Record  
12<sup>th</sup> Day of November, 2009  
at 1:00 P M, and recorded in  
Book 179 M Page 301 thru 304  
M. Jody Cengelstrom  
Register of Deeds

Recording 16.00 CK  
FEES Non Std  
Transfer  
Key Number 33468  
Return To: BH Land Co.

### DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on this 9th day of November, 2009 hereby modifies, amends and replaces in it's entirety that one certain Amended Declaration of Covenants, Conditions and Restrictions dated the 17th day of September, 2009 and filed with the Register of Deeds for the County of Fall River at Book 179 of Misc, page 215-218 on September 18, 2009 and replaces all further Declarations, Conditions and Restrictions prior thereto concerning the Red Canyon Subdivision and the following described real property:

#### RED CANYON SUBDIVISION:

Plat of Lots 1 through 35 of Red Canyon Subdivision located in the E1/2 of the NE1/4 of Section 9, the NW1/4 of Section 10, and a portion of the S1/2 of the SW1/4 Section 3, T7S, R3E, B.H.M. Fall River County, South Dakota.

This amendment is hereby made and executed in accordance with Paragraph 11 of the Amended Declaration of Covenants, Conditions and Restriction requiring it to be signed by not less than seventy-five (75%) of the record owners of the lots. The undersigned constitute greater than 75% of said owners.

It is hereby declared that, from and after the recording of this Declaration, all the above-described property shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, which are declared to protect the value and desirability of, and which run with, the real property and be binding on all parties having any right, title or interest in the above-described lots or any part hereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

1. A. **ZONING RESTRICTIONS.** All lots shall be governed by the rules and regulations imposed by the appropriate county planning and zoning authority. Any and all improvements and structures placed on any lots and other development of any lot shall comply to with such zoning requirements.

**B. DWELLINGS.** Each dwelling on Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19, 20, and 21 shall be of new construction and consist of a minimum of **One Thousand (1,000.00)** square feet of living space, not including an enclosed garage, car port, decks, porches, attached structures used for storage, or guest house. Such dwellings shall be of quality construction and shall harmonize with other structures and the surrounding terrain.

No mobile home may be placed on Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19, 20, and 21. New modular homes, placed on a permanent foundation are permitted. Mobile Homes of not more than 20 years of age, and in good repair, with a minimum square footage of 750 sq. ft. may be placed on Lots 10, 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35.

Motor Homes and Travel Trailers in good repair, may be placed on Lots 10, 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 and the construction of shelters, parking slabs, garages or other supporting out buildings are permitted in connection therewith.

**C. RESIDENTIAL.** Each lot shall be used for residential purposes. Non-offensive home based businesses are permitted. Camping, including the use of Motor Homes and Travel Trailers, is allowed by owners and their guests. Motor Homes and Travel Trailers are not permitted to be used as a permanent residence except on Lots 10, 11, 12, 13, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35.

2. **APPEARANCE AND IMPROVEMENTS.** All structures and improvements on each lot shall be maintained in a state of good repair, and shall be neat and well-kept in appearance.
3. **ANIMALS.** **Grazing animals** are permitted within each lot, and shall be confined upon the owner's property. All **grazing animals** shall be properly taken care of and maintained in a healthy and sanitary environment. No other animals are permitted, except domestic pets.
4. **GARBAGE AND REFUSE DISPOSAL.** No lots shall be used or maintained as a dumping ground for old vehicles, junk or rubbish. No garbage and other waste shall be kept, except in sanitary containers, prior to removal. Individual owners shall remove garbage from their lot within a reasonable time, or use a garbage pickup service.
5. **FENCES.** Rail, barbed wire and plain wire fences are permitted, if they are kept in a state of good repair and do not interfere with access to any easement for utilities or roadways.

6. **SEWAGE DISPOSAL.** Sewage disposal for each lot shall be accomplished by individual septic tanks. All septic tanks and disposal fields must be approved by the appropriate health authority. No cesspools or outside toilets are permitted.
7. **PROPERTY OWNER'S ASSOCIATION.** Every owner of a lot shall be a member of the **Property Owner's Association**. An annual membership fee of Two Hundred Dollars (\$200.00) will be assessed to all members, except the Declarant, for snow removal and maintenance of subdivision roads.
8. **ENFORCEMENT.** Any owner of a lot shall have the right to enforce, by any proceeding at law in equity, all covenants, conditions, restrictions, liens, and charges now, or hereafter, imposed by the provisions of this Declaration. Failure by any owner to enforce any covenants or restrictions contained in this Declaration shall not be deemed as a waiver to enforce such covenant or restriction in the future.
9. **SEVERABILITY.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision of the Declaration, which shall remain in full force and effect.
10. **DURATION.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of Twenty (20) years from the date of recording of this Declaration, after which time they shall be automatically extended for successive periods of Ten (10) years.
11. **AMENDMENT.** This Declaration may be amended during the first Twenty (20) year period by an instrument signed by not less than Seventy-Five percent (75%) of the record owners of the lots and recorded in the office of the Register of Deeds of Fall River County, South Dakota. Thereafter, this Declaration may be amended by an instrument signed by not less than Sixty-Six and Two-Thirds percent ( $66 \frac{2}{3}$ ) of the record owners of the lots and recorded in the office of Register of Deeds of Fall River County, South Dakota.

Executed the day and year stated in the acknowledgment.

RED CANYON RANCH, L.L.C.

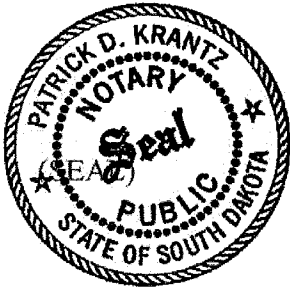


BY: Dan Kelley

STATE OF SOUTH DAKOTA )  
 )SS  
COUNTY OF CUSTER )

On this the 9<sup>th</sup> day of November, 2009, before me, the undersigned officer, personally appeared Dan Kelley, who acknowledged himself to be the President of Red Canyon Ranch, L.L.C., a limited liability company, and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as President.

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



Patrick D. Krantz  
Notary Public - South Dakota  
My Commission Expires: 2-16-2010