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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATIONS FOR DEER MOUNTAIN VILLAGE**

**ARTICLE I. INTRODUCTION**

THIS DECLARATION OF PROTECTWE COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS for Deer Mountain Village is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by KR Deer Mountain Club 2021, LLC, a South Dakota limited liability company d/b/a Deer Mountain Village with its principal office at c/o Keating Resources, 107 South Main St., PO Box 130, Atkinson, NE (hereinafter, “Declarant”). This Declaration of Protective Covenants, Conditions, Restrictions, and Reservations for Deer Mountain Village hereby identifies the properties that are, or shall be, within the Deer Mountain Village which shall be a gated community and subject to these protective covenants, conditions, restrictions, and reservations ("Covenants), relating to construction and Development within the Deer Mountain Village as set forth in the following legal descriptions and shown on Exhibit A, attached hereto and by such reference incorporated herein, to wit:

**See attached Exhibit A**

(hereinafter Property) and makes the following declaration as to limitations, restrictions and uses of the real property. Specifically, these declarations supersede and succeed any prior covenants and constitute covenants to run with the land as provided by law. They shall be binding on all parties, their heirs, successors, and assigns, and all persons claiming ownership of interest in the Development and shall run with the land as long as these declarations remain in effect.

**ARTICLE II. DEFINITIONS**

For the purposes of this Declaration, the following words or terms shall be defined as follows:

1. "Association" shall mean and refer to the Deer Mountain Village Homeowners Association, Inc.
2. "Board" or "Board of Directors" shall mean the Board of Directors of the Association to be created.
3. "Covenants" shall mean the Covenants, Conditions, Restrictions and Reservations set forth in this Declaration.
4. "Developer/Declarant" shall mean KR Deer Mountain Club 2021, LLC, a South Dakota limited liability company, with a mailing address of c/o Keating Resources, 107 South Main St., PO Box 130, Atkinson, NE, its successors and assigns.
5. "Development" means all of the real property legally described above and any individual phased future development within the Deer Mountain Village or re-plat of any portion thereof.
6. "Lots" or "Lot" shall mean and refer to any tract or parcel of land designated as a lot shown upon any recorded plat, preliminary plat or phase map of the property.
7. "Owner" shall refer to the record owner of each Lot, whether one or more persons or entities, of the fee simple title of any of the property within the Development. In the case of a contract sale, the contract purchaser shall be deemed for purposes of this Declaration to be the owner. The term shall not include those having such interest solely as security for the performance of an obligation. Any other party or entity may exercise the rights of the owner if such party or entity has the express written consent of the owner.
8. "Member" shall mean and refer to every person or entity that holds ownership in the Association. Multiple members owning a lot shall be entitled to one (1) vote per lot owned regardless of the number of individuals holding an interest in said lot.
9. "Architectural Review Committee ("ARC") shall mean and refer to those persons appointed initially by the Developer and ultimately by the Board of Directors to maintain control and consistent high quality of all buildings, structures, and improvements including all new construction, additions, and alterations within the Development.

NOW THEREFORE, the undersigned Declarant declares the following covenants and restrictions as to the property described above, to wit:

#### ARTICLE III. RESTRICTIVE COVENANTS

1. Animals: No more than a total of three (3) of any combination of dogs and cats for

household enjoyment and not for commercial purposes shall be allowed. Dogs must be kept on a leash or in a safe and properly maintained kennel when outdoors.

2. Antenna and Satellite Dishes: Television and radio antennae and satellite dishes are to be located as inconspicuously as possible. They shall be located at the side or rear of the home. No satellite dishes larger than 28" in diameter shall be allowed.

3. Propane Tanks: Propane tanks shall be buried and must be a minimum size of 1,000 gallons. Standard small tanks for gas grills and fire pits are acceptable.

4. Building Setbacks: The minimum building setbacks for all structures on any Lot shall be according to and in compliance with the existing ordinances and requirements of Lawrence County or as otherwise set forth in the plat or established ordinance by the Developer, whichever is greater.

5. Dwelling: No dwelling shall be constructed, erected, or maintained without a minimum of the following finished square footage (excluding garages and porches). Each dwelling must have at least one (1) double garage with the option of having not more than one stall capable of parking a recreational vehicle with the maximum height of 16' for the RV stall. A variance may be permissible subject to Developer approval. One outbuilding of not more than 1200 sq. feet or not more than 1,500 sq. ft. if built on a lot at least 1 acre in size (16' maximum high sidewalls) will be allowed, with the exterior to match the exterior of the house, including siding, logs, stain color and roofing: .

Ranch Style Home	1,200 sq. ft.	(Main floor)
One Story with Loft	1,400 sq. ft.	(Total both floors)
One and One-half Story Home	1,600 sq. ft.	(Total both floors)
Two Story Home	1,800 sq. ft.	(Total both floors)
Bi/Tri-level or More	1,200 sq. ft.	(Main floor)

All plans and specifications for new construction or exterior remodeling/additions must be submitted in writing for written approval to the Developer or the ARC. Prior to

obtaining any building permits, blueprints and designs, along with color selection, must be submitted to the Developer, KR Deer Mountain Club 2021, LLC or the ARC and receive written approval prior to an owner commencing construction.

Home numbers must be identified by 911 numbering and conspicuously placed on home/property within ten (10) days of completion of construction.

All buildings shall be new construction, which shall be completed within eighteen months from the date of initial start of construction, unless a longer construction time is approved by the Developer, and set on a permanent foundation or concrete slab. No houses shall be moved onto any Lot from any other location. Mobile, single or double-wide homes are not permitted. Pre-built or manufactured homes are allowed within the Development subject to prior written approval by the Developer.

6. Exterior Colors: All exterior color combinations must be approved by the Developer or the ARC prior to construction.

7. Fences: The construction of any type of fence must have written approval of the Developer or the ARC. Recommended fence locations are areas out of sight of roadways.

8. Firearms, Hunting, and Fireworks: No firearms or fireworks shall be discharged within the Development. Hunting within the Development is prohibited.

9. Garbage and Trash: No garbage or trash shall be maintained or kept on any Lot so as to be visible from another Lot or the roadway, except for day of pick up. All garbage and trash will be placed in tight and secure garbage containers with closed lid, the type normally used in the locality and shall be disposed of at least once every seven (7) days. No refuse pile, garbage or unsightly objects are allowed on any Lot. The Board shall have the option to select the garbage service provider for the Development. At that time, all residences within the Development shall contract with the garbage/trash service collector that provides such service to the Development.

10. Fireplaces (outdoors) and Fires: No outdoor fires, incinerators, open fire pits, or

related structures or devices shall be operated unless the fuel source is natural gas or propane.

11. Gardens: All vegetable gardens shall be set back at least ten (10) feet from any Lot line and no larger than three hundred (300 sq. ft.) square feet, unless otherwise approved by the ARC.

12. Towers: No free-standing towers (e.g. radio, cell phone, wind generator towers) are allowed within the Development.

13. Landscaping and Post-Construction Cleanup: All post-construction cleanup, landscaping and/or reclamation of ground disturbed by construction must be completed within thirty (30) days following the completion of construction of the dwelling, weather permitting. The Lot owner shall determine the extent of landscaping.

14. Tree Thinning, Logging and Maintenance: Lot owners shall continue to maintain their lots to keep fuels and fire danger down and the tree canopy open. Firebreaks will be maintained on the access road right-of-way and around structures built on the lots. Lot owners shall maintain an area of defensible space by thinning trees and brush cover to meet county specification on all sides of structures and in accordance to the Firewise recommendations/requirements. Lot owners shall be responsible for control and timely removal of any diseased, dead or insect-infested trees.

15. Lot Size: No lot within the Development shall be further subdivided, except by the Developer or with the approval of the Developer, and subject to county zoning regulations and approval. Two or more adjacent lots may be combined into one lot and conveyed as one lot except separate utility hook-up fees still apply to both lots. In addition, a one year assessment will need to be paid in advance for the 2nd lot. Then, going forward, the yearly assessment will apply to the one (combined) lot vs 2 lot assessments. As an example: if a lot owner combines two (2) or more lots into one (1) lot, the owner shall still be obligated to pay the one-time tap fees for both lots, along with 1 full year's general and special assessment charges on the 2nd lot. Thereafter, general and

special assessment charges will be at the regular rate for one lot.

16. Lot Restrictions: No more than one (1) single-family dwelling may be constructed on any lot or combination thereof.

17. Mining: No portion of the Development shall be used to explore for or remove oil, gas or minerals of any kind.

18. Nuisances: No owner shall permit anything to be done or kept on or within a Lot, or on or about the Development which will obstruct or interfere with the rights of other Owners, occupants, or other authorized persons to use and enjoy the property. Use and enjoyment include but are not limited to, freedom from unreasonable noise. No owner may permit any nuisance nor commit or allow any illegal or prohibited act to occur on their Lot.

19. Vacation Home Rentals: Vacation home rentals are permitted on Tracts A and D, east of the Terry Summit Road for a minimum of two (2) consecutive nights with no maximum number of days per year. On Tracts B and C located west of the Terry Summit Road, vacation home rentals will be allowed for a minimum of six (6) consecutive nights and a total of 120 days per calendar year.

20. Outdoor Storage: No outdoor storage of any rubbish, waste, refuse, trash, discard, scrap, salvage, wreckage, or other similar materials including but not limited to large firewood containers, inoperable automobiles or automotive accessories, equipment or other items shall be kept or stored on any lot or property.

21. Street Parking: There shall be no on-street parking between the hours of 10:00 p.m. and 8 a.m.

22. Residential Use and Home Occupations: Each lot shall be used only for residential purposes. No Lot may be used for business or commercial purposes in which the public is invited to the property to conduct business, except for vacation home rental pursuant to

paragraph 19 abover.

23. Safe Condition: Without limiting any other provisions of these Covenants, each owner shall maintain his or her Lot in a neat, orderly, safe, sound, sanitary condition and in good repair at all times. Owners shall timely correct any condition and refrain from any activity, which might interfere with other owner's rights.

24. Signs: No signs, billboards, or other advertising devices shall be used on any Lot except for identification of a residence, road name, speed, direction or sale. Signs may be directive or informative and shall be removed by the day of the closing of the sale.

Notwithstanding any of the limitations herein, the Developer may erect a sign for marketing purposes for sale and identification of properties within the Development. A builder or contractor may erect temporary, self-advertising signs during construction. All other signs must comply with State and County sign ordinances.

25. Temporary Structures: No temporary structures, including but not limited to a basement, tent, or other outbuilding shall be built on any Lot for use as a residence, except that a pre-approved garage structure may be built on the property provided construction of a permanent residence is also commenced and both structures completed in eighteen months from the commencement of construction.

26. Vehicles: Excluding ATVs or snowmobiles, no more than two<sup>2</sup> properly licensed motor vehicle, trailer, camper or RV or other type of motorized or non-motorized vehicle, not in normal daily use may be kept on any Lot. Equipment of this type shall not be kept between the home and roadway fronting the property. No campers or recreational vehicle shall be maintained on a Lot and used as a temporary or long term residence for more than thirty (30) consecutive days.

27. Snowmobiles/ATVs: Snowmobiles/ATV's shall only be operated on designated trails/access trails (or roadways leading to designated trails within the Development) to the State trail system. ATVs are not to be ridden off-road within the Development or

Development boundaries, except on designated trails within the Development area.

28. Violation of Law: No owner shall permit any activity or conduct to be done or kept on any Lot, which would constitute a violation of any local, state, or federal law.

29. Weed Control: The owner of any Lot shall be responsible for the control of weeds and noxious plants on their property. Such weed control and weed control products shall be in accordance with appropriate local, state and federal laws.

30. Fire Protection Plan: The owner of any Lot shall comply with a current county-approved Fire Protection Plan for the Development.

31. Water and Sewer: All dwellings or residences shall connect to the community's water facilities and pay applicable fees. Septic systems shall be engineered and approved pursuant to county ordinance and the Board. Septic tanks shall be pumped and inspected by licensed personnel at least every 5 years with satisfactory proof of such pumping and inspection filed with the Board.

32. Building Materials:

(a) Lot owners shall follow the Building Code adopted by Lawrence County and in existence at the time of construction.

(b) Gutters and downspouts shall be constructed of noncombustible materials.

(c) All exterior materials of residences must be cedar siding or comparable natural siding or maintenance-free materials with a wood/rustic metal appearance, along with log or similar material/rustic accent construction as approved by the Developer or as approved by the ARC, Real and cultured stone/rock is also an acceptable accent.

33. Architectural Review Committee ("ARC"): Developer will initially appoint the ARC who shall serve until the Board of Directors of the Homeowners Association selects their replacements as provided herein. After 90 percent of the Lots shall have been sold, the



ARC shall be selected by the Board of Directors of the Homeowners Association once formed. All actions taken by the ARC shall require the affirmative vote of a majority of its members present at a meeting of the ARC. Initially, the Developer may appoint lot owners owning property in the Development to the ARC. Upon the incorporation of the Home Owners Association and the election of the Board of Directors, the Board shall select the members of the ARC.

34. Variance: A variance may be requested by any Lot owner. Variance requests shall be acted on by the Board of Directors within a reasonable time, but not more than sixty (60) days from the date of receipt of a request for a variance. A copy of the variance request shall be submitted in writing to all adjacent property owners at least thirty (30) days prior to final action on the request by the Board of Directors. The Board shall take into consideration the comments and/or concerns of the adjacent property owners and existing or amended county ordinances prior to making any decision on the request. The intent of these covenants shall be the guiding factor in the Board's decision.

35. Driveways, Approaches and Drainage: A proper approach shall be constructed at the commencement of any construction upon a Lot in order to protect the shoulders of the roads and the natural vegetation and drainage and to prevent tracking mud and debris onto the roads of the Development. The Owner shall direct all vehicular traffic, for construction purposes or otherwise, to enter and exit only upon said approach. All Owners shall construct approaches and driveways accessing any public street with appropriate gravel, asphalt or concrete of sufficient depth to provide a safe, stable, clean driving surface in all weather. All drainage of water from any Lot shall be managed to eliminate standing water and runoff in a way that will not permit erosion or cause damage to neighboring properties or streets.

36. Clean Construction Site and Post-Construction Cleanup: An Owner must insure during construction and afterwards that the Lot is kept as neat and clean and free of debris as possible. All debris, rubbish, rubble, trash, waste, including but not limited to leftover construction material on site or related or associated with construction of any

structures on any given lot or adjacent property, must be cleaned up and removed by the contractor or lot Owner daily and final cleanup is to be completed within five (5) days of the completion of construction. The property Owner shall inform and advise the contractor of this covenant and requirement.

For new construction, the Lot Owner shall be responsible for informing and ensuring that their building contractor is aware of this requirement and that it is strictly complied with so that cleanup of the construction site is done daily to ensure construction waste and debris is not deposited on neighboring properties during construction.

If the Board or Developer implements or adopts Construction Rules and Policies, Owner shall be responsible for and ensure compliance with such Rules and Policies by their Contractor.

37. Right of First Refusal. For 24 months following Declarant's sale of any Property subject to these Covenants, Declarant reserves a first right of refusal to repurchase Undeveloped Property, as defined herein, in the event the then Owner receives a bona fide offer to purchase which Owner intends to accept. In that event, Owner shall provide Declarant with a copy of such bona fide purchase offer, and shall grant to Declarant the right to exercise this right of first refusal to purchase such Undeveloped Property subject to the bona fide purchase offer for a period of thirty (30) days following Declarant's receipt of a copy of the bona fide purchase offer (such period, the "ROFR Election Period"). At any time within the ROFR Election Period, Declarant may elect to purchase the Undeveloped Property on the same terms and conditions as the bona fide offer. Any election by Declarant to purchase the Property shall be set forth in a written notice provided to Owner prior to the expiration of the ROFR Election Period (such written notice, an "Election Notice"). Upon the exercise of this right of first refusal, the closing for the sale and purchase of such Undeveloped Property shall occur not later than thirty (30) days following the date Owner receives the Election Notice unless the bona fide offer purchase offer provides for a different closing date. In the event Declarant shall fail to elect to purchase such Property subject to the bona fide offer prior to the expiration of the ROFR Election Period, the right of first refusal granted to Owner as to such Property shall lapse and be null and void, and Owner, and all successors and assigns of the

Property shall be free to sell such property interest without any further restriction of the right of first refusal in favor of Declarant. Any failure of the part of Declarant to exercise the right of first refusal granted herein shall not, however, excuse Owner from again extending the right of first refusal to Declarant if Owner and its bone fide buyer agree to sell such Undeveloped Property on terms and conditions which differ materially from those contained in the bona fide purchase offer. In such event, Owner shall be required to provide Declarant with a copy of such different terms and conditions and Declarant shall be granted a right of first refusal to purchase the Property interest on such different terms and conditions in accordance with this paragraph. "Undeveloped Property" shall mean property which has not been built upon .

38. Invalidity of Covenants: The invalidation of any one of the covenants, conditions, restrictions, or reservations herein by judgment or court order shall in no way effect any other provision which shall remain in full force and effect.

#### ARTICLE IV. GENERAL

1. Association Membership. For the purposes herein, a Homeowners Association may be formed after ninety (90%) percent of the Lots subject to these Covenants have been sold. Each person who purchases a Lot or enters into a Contract for Deed to purchase a Lot as described above, shall automatically become and thereafter continue to be, so long as they own a Lot, a member of the Deer Mountain Village Homeowners Association, and shall be bound by all rules and regulations as may be promulgated and approved by said Association including, but not limited to, the Bylaws of the Association.

2. Administration. The Board shall be responsible for the administration and the enforcement of these covenants as provided herein. The Board is empowered and has the right to implement, provide, perform, and to enforce any or all the following within the Development:

- a. All the provisions in this Declaration of Restrictive Covenants.
- b. Reasonable rules and regulations, which Owners, their families, guests, and visitors shall comply with.

- c. Maintenance and drainage areas in the Development.
- d. Penalties for violations of rules, regulations, and failure to pay assessments.
- e. Contract with third parties for necessary services.
- f. Determine the amount, payment period, payment schedule, and levy assessments pursuant to these covenants.

3. Duration and Amendments. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer, the Homeowners Association created pursuant to these Covenants, its legal representatives, successors and assigns, owners and adjoining property owners. During the twenty (20) year period following the filing of these Covenants with the Lawrence County Register of Deeds Office, these Covenants may not be amended except upon the consent of two-thirds of the then Lot owners and the Developer. Thereafter this Declaration may be amended at any time, except where permanent easements or other permanent rights of interest are created or rights or interests are created in third persons by an instrument signed by owners of a majority of the real estate described within the Development (one vote per Lot) and placed on record where this Declaration is recorded. No such amendment shall be effective unless written notice of the proposed amendment is sent to every owner and Developer at least thirty (30) days prior to action being taken on the proposed amendment or all of the Lot owners in a particular phase of the Development consent to the amendment in writing. No change of circumstances or conditions shall amend any of the provisions of this Declaration, which may be amended only in the manner described.

A preliminary platted lot shall be treated the same as a platted lot for purposes of voting, but not for purposes of assessment and charges.

4. Incorporation by Reference on Resale. If any Owner sells or transfers property within the Development, any deed affecting the transfer shall contain a provision incorporating these covenants, conditions, and restrictions. Failure to do so shall not be deemed to defeat, alter or terminate any of these covenants, conditions, and restrictions.

5. Notice. Any notice required to be sent to any Owner of a property within the Development, Declarant or any mortgagee, shall be deemed to have been given when mailed by first class mail.

6. Enforcement:

a. If any person violates any of the provisions of this Declaration it shall be lawful for the Developer, the Homeowners Association or any Lot Owner in the Development, to initiate proceedings pursuant to these Covenants, to enforce the provisions of these covenants, to restrain the person violating them and recover damages, actual and punitive, including reasonable attorney's fees and expenses incurred in the enforcement of these Covenants.

b. The Board and/or the Developer may enforce these covenants and restrictions. However, in the event the Board or the Developer fail to/or refuse to do so, any Owner may seek enforcement of these Covenants after giving written notice to the Board of his/her intention to do so. Enforcement of these covenants may be by Association proceedings as set forth in its bylaws, by administrative proceedings, or by legal proceedings against any person violating any covenant or restriction, either to restrain or enjoin a violation or to recover damages, and be a lien against the Property or any Lot. The failure of the Board or the Developer to enforce any provisions of these Covenants shall in no event be deemed a waiver or work as estoppel of the right to do so.

c. If an assessment is not paid within 30 days after the due date, Developer or Association may bring an action against the Owner. The Developer or Association may also foreclose a lien against the Lot in the amount provided by law. In either event, the Developer or Association shall recover from the Owner or out of the proceeds of a foreclosure, accrued interest of collection, including but not limited to reasonable attorney's fees. No Owner may waive or otherwise escape liability for assessments provided for in the Declaration by non-use or abandonment of a Lot.

d. In a voluntary conveyance of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the Lot.

7. Invalidity and Severability. All of these covenants, conditions, and restrictions are deemed severable. In the event any one or more of these covenants, conditions, and restrictions are declared invalid, all remaining covenants, conditions, and restrictions shall remain in effect.

8. Binding Effect and Compliance. Each Owner, the Owner's heirs and assigns or any person acquiring any rights or privileges therefrom shall be fully bound by and shall comply with the provisions of this Declaration and any amendment adopted to these covenants. Failure to comply with these provisions shall be grounds for action for injunctive relief.

#### **ARTICLE V. COVENANTS FOR ASSESSMENT**

1. Determination by Board. It is the duty of the Board to determine the amount of the general assessment for each Lot subject to assessment. General assessments are due and payable on dates specified by the Board. The Board shall make reasonable efforts to determine the amount of the general assessment and to give written notice of the assessment for each Lot to the Owner with the due dates of annual or periodic installments to be paid. The Board shall maintain a roster of the Lots and general assessments due and shall make the roster available for the inspection of a member upon request. Assessments may be collected on a monthly, quarterly, semi-annual or annual basis at the discretion of the Board.

2. Owner Responsibility. Each Owner, whether or not it is expressed in any deed or document of conveyance, agrees to timely pay the general or special assessments or charges levied on a monthly, quarterly, or annual basis, and special assessments or charges to be fixed, established, and collected from time to time as hereinafter provided. The general assessments, together with interest thereon at the statutory judgment rate, from and after the date the same becomes due and payable, together with costs of collection, shall be a charge on each Lot subject to assessment and shall be a continuing lien against the Lot upon which such assessment is made. Each assessment, together with interest thereon and costs of collection, in addition to becoming a lien against each Lot,



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

(SEAL)

\_\_\_\_\_  
Notary Public  
My Comm. Expires: \_\_\_\_\_