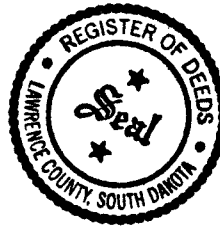


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Davida D. Hansen
Lawrence County Register of Deeds
Fee: \$ 30.00

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

ARTICLE I. INTRODUCTION

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS for Deer Mountain Village is made and entered into this 4th day of October, 2023, 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 ("Covenants") hereby identifies the properties that are, or shall be, within the Deer Mountain Village which shall be a gated community and subject to these Covenants relating to construction and development within the Deer Mountain Village.

Deer Mountain Village will be developed in phases. The initial phase of Deer Mountain Village is designated as "Block A" and is legally described on Exhibit A attached hereto and by such reference incorporated herein. Declarant currently contemplates incorporating into Deer Mountain Village land west of Terry Summit Road to be designated as Block B and Block C and land east of Terry Summit Road to be designated as Block D.

Declarant makes the following declaration as to limitations, restrictions and uses of the real property described above and any future phases of Deer Mountain Village that are incorporated into these Covenants. These Covenants 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" or "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Reservations for Deer Mountain Village.
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 additional Lot, tract, or 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, whether one or more persons or entities, of fee simple title of each Lot 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" or "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. Dog owners must pick up after their dogs throughout the Development. Each Owner with a dog is responsible to pay for and repair any damage (outside of normal wear and tear) caused by the dog. Owners shall ensure that excessive barking, howling, or whining cannot be heard on any Lot other than their own. Owners are responsible to ensure that their renters comply with this requirement.

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 500 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 the greater of (a) twenty-five feet (25') from the edge of the road fronting the Lot, ten feet (10') from the center of easements within the Development, and ten feet (10') from all other Lot lines, (b) the setbacks required by the ordinances and requirements of Lawrence County, and (c) the setbacks set forth on a plat of subdivision affecting the Development.

5. Dwelling: No dwelling shall be constructed, erected, or maintained without a minimum of 2,200 sq.ft. Multi-level homes shall have a first floor footprint of at least 1,200 sq. ft.

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 1,500 sq. ft. (16' maximum high sidewalls) will be allowed, with the exterior to match the exterior of the house, including siding, logs, stain color and roofing.

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.

6. Exterior Colors: All exterior color combinations must be approved in writing by the Developer or the ARC prior to construction. The color combination of exterior materials must be subtle and tasteful to blend with the environment. Earthen tones in shades of brown or gray are encouraged. Extreme contrasts in color of paints, stains, and masonry are discouraged. Roofing materials must be of darker tones; no red or green roofing is permitted. No prefabricated metal siding building or other tin sided building or structure shall be built or erected on a Lot, and no vinyl siding is permitted.

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; however a skeet or trap range may be allowed at Developers discretion on the western portion of 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, subject to prior approval by the Developer or the ARC.



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 Requirements: No more than one (1) single-family dwelling may be constructed on any lot or combination thereof. The hours of construction are limited to 7:00 a.m. through 5:00 p.m. Monday through Friday. The plot plan for the construction of each dwelling must be approved in writing by the Developer or the Board prior to applying for a building permit.

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 within the Development are permitted in Block A and Block D, east of Terry Summit Road, for a minimum of three (3) consecutive nights with no maximum number of days per year. In Block B and Block C, to be located west of Terry Summit Road, vacation home rentals within the Development will be allowed for a minimum of six (6) consecutive nights. Renters of vacation homes within the Development will be allowed full access to the clubhouse and mountain amenities. Vacation home renters within the Development will share the same rights as the owners. Up to 6 vacation home renters from each vacation home within the Development will be allowed to use the amenities at one time, with more being allowed if capacity permits.

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. No Street Parking: There shall be no on-street parking in the Development.

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 above.

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 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 Homeowners 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. Resale Restriction. The Owner of each Lot that is acquired directly from the Developer is hereby restricted from further conveying that Lot as Undeveloped Property during the Restriction Period, unless a waiver of this restriction, executed by Declarant, is recorded concurrently with the deed making such conveyance. Any conveyance made in violation of the foregoing restriction shall be null, void, and without force and effect. This restriction is made for the benefit of Developer and Developer shall have the right and authority to enforce the provisions of the foregoing restriction by all remedies available at law or in equity. The restriction set forth in this paragraph 37 shall, as to each Lot, expire at the end of the Restriction Period for that Lot without the need for any party to take any further action or record any further document. As used in this paragraph 37, the term "Owner" means only the first Owner that receives a deed for the Lot in question from Declarant and not any subsequent Owner of that Lot; the term "Restriction Period" means, with regard to each Lot, the period beginning on the date of the recording of the deed for the conveyance of that Lot by Developer and expiring twenty four (24) months after the recording of that deed; and the term "Undeveloped Property" means a Lot that has not been issued a building permit for the construction of a residence on that Lot.

38. Sex Offender Prohibition Clause. No Owner nor any occupants or guests of any Lot shall include any individual who is registered as a sex offender under applicable federal, state, or local laws and regulations. The Developer and the Board reserve the right to enforce this provision.



39. 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 affect 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. Amenities. The Developer intends to convey to the Association all amenities (including, but not necessarily limited to, snow skiing, snow tubing, and mountain bike trails) constructed and developed within the Development. Thereafter, the Association



shall be responsible for the maintenance and administration of such amenities conveyed to it. Notwithstanding the Association's ownership of the amenities, patrons of any hotel or residents of any condominium complex that is either located within the Development or is located adjacent to the Development and owned by Declarant, its successors or assigns, shall be permitted to use such amenities upon the payment of a daily use fee. The initial "daily use fee" shall be \$50/person/day for the first year such hotel or condominium complex is open. Thereafter, the daily use fee shall be increased 2% annually. This agreement shall remain in effect perpetually unless otherwise agreed to between the Association and the owner of the hotel (as to a hotel) or between the Association and the condominium association (as to a condominium). The provisions of this paragraph may, but need not be, documented in a separate agreement between the Developer or Association on the one hand and the owner of the hotel or condominium association on the other, which agreement may be recorded in the Lawrence County Register of Deeds Office.

4. Duration and Amendments.

(a) 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, and the 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 by the Owners of two-thirds of the Lots within the Development then existing 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 Lots within the Development then existing (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.

(b) Notwithstanding anything in subsection (a) above or anything else in this Declaration to the contrary, until the last Lot in the Development (as it may be expanded) is sold, Declarant shall have the unilateral right to amend this Declaration by recording an executed amendment in the office of the Lawrence County Register of Deeds Office, unless such amendment would materially and adversely affect any Lot not owned by Declarant, in which case such amendment shall require the consent of the Lot Owner so materially and adversely affected, and such amendment shall be of full force and effect, valid and binding upon the execution thereof, notwithstanding that the not every Owner of a Lot at the time of such amendment consented to, joined in, or executed the same. Without limiting the generality of the foregoing, (a) Declarant reserves to itself the right to amend this Declaration to create, grant, make, define or limit easements affecting a Lot for the benefit of the Development as a whole if Declarant determines that same are necessary or desirable for the efficient operation of the Development, and the establishment and maintenance of such easements shall not be deemed to materially and adversely affect a Lot so long as (i) the easement does not touch any building site on the Lot, (ii) the easement does not adversely affect the view from the Lot of surrounding areas, and (iii) the easement does not adversely affect ingress to or egress from the Lot or other easements that benefit the Lot; (b) Declarant reserves to itself the right to amend this Declaration to remove portions of the Development from the provisions of this Declaration or to incorporate additional property into the Development and subject said property to the requirements of this Declaration, and same shall not be deemed to materially and adversely affect a Lot, so long as same does not materially and adversely affect ingress to or egress from that Lot or easements granted for the benefit of that Lot.

5. 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.

6. 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.

7. 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 fails to/or refuses 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.

8. 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.

9. 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, shall also be a joint and several personal obligation of the person, group of persons, or entity who was the Owner of such Lot at the time when the assessment became due and payable or who acquired ownership thereafter.

3. Purpose. General or special assessments and fees shall be used to promote the public welfare and safety and to protect the investment of the Owners and residents of the Development. Assessments and fees shall be used for, but not be limited to maintenance and repair of roads, snow removal, community structures, if any, and the water treatment system, enforcement of the covenants, and any other expenses approved by the Board.

4. Breach of Payment. Any general or special assessment not paid on the date due shall be deemed delinquent, shall accrue interest at the statutory rate of interest for judgments in South Dakota, and it, with the cost of collection shall become a continuing lien on the Lot. The assessment shall be binding upon the Lot Owner, his heirs, devisees, personal representatives, and assigns. The obligation of an Owner to pay an assessment shall remain his or her personal, joint and several obligations.

[The Signature Page Follows]

EXHIBIT A
LEGAL DESCRIPTION

Lots 10 through 30, 32 through 67 and 75 through 100, all of Block A of Deer Mountain Village, being a portion of the Hanify No. 6, Hanify No. 7 Lodes of Mineral Survey No. 1204; and all of the Foster Fraction, Gamba Fraction, Addie, Eva and Lovisa Lodes of Mineral Survey No. 1221; portions of On Time No. 1, On Time No. 2, On Time No. 3 and On Time No. 4 Lodes of MS 1158; Havana No. 1, Havana No. 2, Havana No. 3, Havana No. 4, Havana No. 5, Havana No. 6, Havana No. 7, Havana No. 8, Havana No. 9 and Havana No. 10 Lodes of MS 1210; Jupiter, Deer Mountain, Evarts, Fairview, World's Fair, Bangor No. 1, Bangor Fraction No. 2, Monte Carlo, St. George No. 1 and St. George No. 2 Lodes of MS 1209; Bryan and Doze Lodes of MS 1217; Palmetto, Deadwood Lodes of MS 1152; all located in Section 13, T4N, R2E; BHM, Lawrence County, South Dakota, according to plat recorded as Document No 2023-04212;

and

The remainder of Block A of Deer Mountain Village, which includes all of the Hanify No. 6, Hanify No. 7 Lodes of Mineral Survey No. 1204; and all of the Foster Fraction, Gamba Fraction, Addie, Eva and Lovisa Lodes of Mineral Survey No. 1221; and the remainder of the Mystic Miner Tract; and all of Lots 1, 2, 3, 4, 5 and 6, Block 2 and Lot 1A, Block 4 of Mystic Miner Subdivision located in Mystic Miner Tract, all including portions of: Boston Lode of MS 1152; On Time No. 1, On Time No. 2, On Time No. 3 and On Time No. 4 Lodes of MS 1158; Havana No. 1, Havana No. 2, Havana No. 3, Havana No. 4, Havana No. 5, Havana No. 6, Havana No. 7, Havana No. 8, Havana No. 9 and Havana No. 10 Lodes of MS 1210; Deer Mountain, Evarts, Fairview, World's Fair, Bangor No. 1, Bangor Fraction No. 2, Monte Carlo, St. George No. 1 and St. George No. 2 Lodes of MS 1209; Bryan and Doze Lodes of MS 1217; Palmetto, Deadwood, Welcome, and Derby Lodes of MS 1152; Evangeline No. 8 and Black Thunder Lodes of MS 1158; Jupiter Lode of MS No. 1209; all located in Section 13, T4N, R2E; and W1/2 Section 18, T4N, R3E, BHM, Lawrence County, South Dakota, according to Plat Document No. 2021-11919.



Prepared by:
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SoDak Title

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

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS (this "Amendment") is made and entered into this 14 day of November, 2024, by KR DEER MOUNTAIN CLUB 2021, LLC, a South Dakota limited liability company (the "Declarant"), with its principal office at c/o Keating Resources, 107 South Main St., PO Box 130, Atkinson, NE 68713.

RECITALS

A. Declarant executed that certain Declaration of Protective Covenants, Conditions, Restrictions and Reservations for Deer Mountain Village dated October 4, 2023 and recorded in the Office of the Lawrence County Register of Deeds on October 10, 2023 as Document No. 2023-04365. (the "Declaration").

B. The Declaration affects the property on the east side of Terry Summit Road legally described on Exhibit A and designated as "Block A" of Deer Mountain Village ("Block A").

C. Declarant desires pursuant to the rights granted or reserved to Declarant in the Declaration to amend the Declaration as more particularly set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant hereby amends the Declaration as follows:

1. **Recitals; Defined Terms.** The recitals set forth above are restated by this reference. All initially capitalized terms in this Amendment, not otherwise defined herein, shall have the same meanings as defined in the Declaration.

2. **Incorporation of Block "B".** Immediately prior to Declarant's execution of this Amendment, the Development consisted solely of Block A. Declarant hereby incorporates into the Development the land west of Terry Summit Road that is legally described on Exhibit B of this Amendment and that, as of the date of this Amendment, is designated to as "Block B" of Deer Mountain Village ("Block B"). Block B is accordingly made subject to the provisions of the Declaration as hereby amended.

3. **Components of Development.** The Development is commonly known as and is sometimes referred to in the Declaration as hereby amended as, "**Deer Mountain Village**". Declarant currently intends that Deer Mountain Village consist of Block A and Block B. References in Article I of the Declaration to Block C and Block D are deleted.

4. **Reservation of Access Easement.** Declarant reserves, for the benefit of the Owners and their respective agents, employees, contractors, representatives, tenants, occupants, and invitees, a non-exclusive, perpetual easement for pedestrian and vehicular ingress and egress over, through and across the portion of Block A depicted as "66' Foot Private Access and Utility Easement" on Exhibit C.

5. **Amendments to Restrictive Covenants.** Article III of the Declaration is hereby amended as follows:

(a) *Architect and Engineer:* Supplementing Article III of the Declaration, home plans must be stamped by an architect and a structural engineer, both licensed in the state of South Dakota. The Developer and/or the Architecture Review Committee (ARC) will not review or consider plans until this requirement is met.

(b) *Animals:* Supplementing Section 1 of Article III of the Declaration, each Owner is responsible and liable for actions by any dog residing at or visiting its Lot.

(c) *Landscape Plans:* Supplementing Section 13 of Article III of the Declaration, home plans must include a general landscape plan. The use of underground lawn sprinklers, native grasses, native flowers, and native trees is encouraged.

(d) *Tree Thinning, Logging, and Maintenance/Fire Mitigation:* Supplementing Section 14 of Article III of the Declaration, Lot owners are required to maintain trees and ground debris to the standards adopted by the Association from time to time and in compliance with Lawrence County requirements. Those requirements currently stipulate that no conifer (e.g., ponderosa or spruce) shall be closer than 30 feet from another in maximum groups of three, and that branches on all conifers must be trimmed to 10 feet above the ground. It is also recommended that no conifer be located within 100 feet of a home.

(e) *Lot Size:* Section 15 of Article III of the Declaration is hereby deleted and replaced with the following: "15. Lot Size. Multiple Lots shall not be combined, merged, or otherwise consolidated into a single Lot, and no Lot shall be subdivided, divided, or otherwise altered into two or more lots or parcels. Each Lot as originally platted and recorded with the Lawrence County Register of Deeds shall remain an individual, separate parcel of land. This prohibition includes any attempt to combine or divide lots for the purposes of property tax assessments, zoning compliance, or any other legal or regulatory requirement.

(f) *Vacation Home Rentals:* Section 19 of Article III of the Declaration is hereby deleted and replaced with the following: "19. Vacation Home Rentals: Vacation home rentals within the Development are prohibited, except to the Owners of other Lots within the Development using a rental agreement approved by the Association."

(g) *Trailer Parking:* Section 26 of Article III of the Declaration is hereby amended to provide that, in order to maintain aesthetics, safety, and liability standards, trailers, including those used for ATVs and snowmobiles, are prohibited from being parked on the Lots. Parking for trailers owned by the Owners and their guests will be provided at no cost in a fenced and illuminated area designated by the Association.

(h) *Water:* Supplementing Section 31, of Article III of the Declaration, Deer Mountain Village obtains its water from the Deer Mountain Sanitary District ("DMSD"), a public entity established pursuant to South Dakota law. DMSD will install a water meter at each Owner's expense upon completion of a home and will invoice the Owner on a monthly basis for water usage. Water allocation by DMSD is based on each home having up to four bathrooms. Home designs must accommodate this allocation. Should a homeowner desire more than four bathrooms, appropriate on-site water storage must be integrated into the home design and illustrated in the home plans. Given the importance of water conservation, the installation of water-efficient bathroom fixtures is strongly encouraged.

(i) *Building Materials:* Supplementing Section 32 of Article III of the Declaration, The Deer Mountain Village community advocates for the use of building materials that can help reduce property insurance costs. Lot owners are encouraged to use materials recommended by the National Fire Protection Association.

(j) *Light Pollution:* All exterior lighting must be designed and installed to be "dark sky compliant" and/or consist of "full cutoff" fixtures. For the purposes of this Section 5(j), "full cutoff" fixtures are defined as fixtures where no light is emitted at or above a horizontal plane drawn through the bottom of the fixture, and no more than 10% of the lamp's light intensity is emitted at or above an angle of ten degrees below that horizontal plane, measured at all angles around the fixture. This requirement does not apply to emergency lighting, low-level landscape lighting, or path lighting.

6. **Share of Assessment.** Supplementing Article V of the Declaration, Each Lot's share of general assessments shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the number of Lots existing in the Development from time to time. The current expectation of the number of Lots in the Development is 187 Lots, consisting of 83

Lots situated on Block A and 104 Lots situated on Block B. The Association may take into account various factors such as Lot size, location, or specific benefits received by each Lot when assessing special assessments.

7. Suspension or Termination of Amenity Rights.

(a) The right of any Owner and its invitees (including family members and guests) to use community amenities may be suspended or terminated if the Owner or its invitees engages in offensive behavior. For purposes of this Section 7, "offensive behavior" means any behavior that is unlawful, disruptive, threatening, abusive, harassing, or that creates a hostile or unsafe environment. This includes but is not limited to (i) physical altercations or threats of violence; (ii) physical damage to, or destruction of, property; (iii) verbal abuse, including derogatory or discriminatory comments; (iv) disorderly conduct or actions that interfere with the enjoyment of community amenities by other residents; or (v) violation of rules or policies governing the use of community amenities.

(b) Upon receipt of a complaint or observation of behavior, the Board will conduct an investigation to substantiate the claim. If the investigation demonstrates that a hearing on the matter is warranted, then the Board will issue a written notice to the Owner detailing the allegations against the Owner and establishing a hearing to determine whether a suspension or termination of amenity rights will be applied. The notice shall be sent to the Owner's address of record at least fifteen (15) days prior to the scheduled hearing date. The hearing will be conducted in a fair and orderly manner. The Board will present its rationale for initiating the proceedings and will provide the Owner with an opportunity to present its case, including any evidence, witnesses, or arguments. The Board shall issue a written decision within ten (10) days of the hearing. This decision will detail the Board's findings and any suspension or termination of amenities rights that will be imposed. Subject to the appeal right provided for in Section 7(d) below, the Board's decision shall be final.

(c) The suspension of amenity rights will be for a specific duration. The first suspension for particular conduct shall not exceed thirty (30) days. The Board may establish a longer suspension period for a repeated or severe violations. A decision of termination of amenities rights will be limited to the most severe situations, such as (i) engaging in physical violence, such as assaulting another resident or guest, within the amenities, (ii) deliberately destroying or vandalizing Association amenities, (iii) engaging in reckless behavior that endangers the safety of others, (iv) making credible threats of violence or harassment against other residents or Association staff, (v) engaging in inappropriate or unwanted sexual behavior or harassment within the amenities, (vi) persistently violating Association rules and policies despite multiple warnings or suspensions, particularly when such violations are serious in nature, or (vii) creating severe disturbances that significantly impact other residents' enjoyment of the amenities.

(d) An Owner who disagrees with a decision made by the Board may appeal the decision a special committee established to review and adjudicate the appeal of the Board's decision in a fair and impartial manner (the "**Committee**"). The Committee shall be formed upon the filing of a written appeal with the Board. The Committee shall consist of at least three (3) and

no more than five (5) individuals, who are Owners in good standing and not then serving on the Board. The members of the Committee will be selected from volunteers or nominees submitted by the general membership. Members of the Committee must not be involved in the original decision being appealed. The Committee shall be established to ensure impartiality and fairness in the review process. To initiate an appeal, the affected Owner must submit a written request for appeal to the Board within fifteen (15) days of receiving the Board's decision. The request must include a detailed statement of the grounds for the appeal and any supporting documentation. The Board shall acknowledge receipt of the appeal request in writing within five (5) business days and shall proceed to establish the Committee. The Committee shall schedule a hearing within thirty (30) days of its formation. The affected Owner shall be notified of the date, time, and place of the hearing at least ten (10) days in advance. During the hearing, the affected Owner shall have the opportunity to present its case, including any evidence or witnesses. The Board may present its rationale for the original decision. The hearing will be conducted in an orderly manner, and both parties will be given equal time to present their arguments. The Committee shall deliberate in private after the hearing to make its decision. Committee shall issue a written decision within ten (10) days of the hearing. The written decision shall be sent to the affected Owner and the Board, outlining the Committee's findings and the final determination regarding the appeal. The decision of the Committee shall be final and binding. The Board and the affected Owner shall adhere to the Committee's decision.

(e) During the period of suspension or following termination of amenity rights, the affected Owner shall remain obligated to pay all assessments as stipulated by the Board and the Declaration. The obligation to pay assessments is unaffected by the status of amenity rights.

(f) An Owner whose amenity rights have been terminated may petition for reinstatement no earlier than one hundred eighty (180) days after the enactment of the termination. Reinstatement will be contingent upon Board approval and may include criteria such as demonstrating remorse, completing community service, or undergoing counseling. The Board will review the petition and make a decision based on the criteria outlined.

(g) The termination or suspension of amenity rights does not transfer with the sale of a Lot. However, the new Owner will be bound by the terms of this Section 7 upon acquiring the Lot.

(h) Until ninety percent (90%) of all Lots are sold, exclusive authority to determine termination or suspension rests with the Developer, and, during that period, any reference to the "Board" in this Section 7 shall be deemed to mean the Developer.

8. Miscellaneous.

a. Effect of Amendment; Entire Agreement. Except to the extent amended or modified by this Amendment, all other terms, conditions and provisions of the Declaration are, and shall remain, in full force and effect and are ratified and confirmed. This Amendment, together with the Declaration, sets forth the entire agreement between the parties with respect to the subject matter set forth in this Amendment. In case of any inconsistency between the

provisions of the Declaration and this Amendment, the provisions of this Amendment govern and control.


b. Counterparts. This Amendment may be executed in one or more counterparts, each of which taken together shall constitute one original document.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS.]**

IN WITNESS WHEREOF, Declarant has executed this Amendment as of date first set forth above.

DECLARANT:

KR DEER MOUNTAIN CLUB 2021, LLC,
a South Dakota limited liability company

By: 
Name: Gerard J. Keating
Title: Manager

STATE OF Florida)
COUNTY OF Miami Dade) SS.

On this the 14 day of November, 2024, before me, the undersigned officer, personally appeared Gerard J. Keating, who acknowledged himself to be the manager of KR DEER MOUNTAIN CLUB 2021, LLC, a South Dakota limited liability company, and that he, as such manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as manager.

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



Notary Public

My Commission Expires: _____

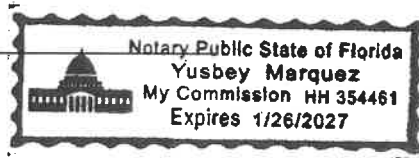


EXHIBIT A

LEGAL DESCRIPTION OF BLOCK A

Lots 10 through 30, 32 through 67 and 75 through 100, all of Block A of Deer Mountain Village, being a portion of the Hanify No. 6, Hanify No. 7 Lodes of Mineral Survey No. 1204; and all of the Foster Fraction, Gamba Fraction, Addie, Eva and Lovisa Lodes of Mineral Survey No. 1221; portions of On Time No. 1, On Time No. 2, On Time No. 3 and On Time No. 4 Lodes of MS 1158; Havana No. 1, Havana No. 2, Havana No. 3, Havana No. 4, Havana No. 5, Havana No. 6, Havana No. 7, Havana No. 8, Havana No. 9 and Havana No. 10 Lodes of MS 1210; Jupiter, Deer Mountain, Evarts, Fairview, World's Fair, Bangor No. 1, Bangor Fraction No. 2, Monte Carlo, St. George No. 1 and St. George No. 2 Lodes of MS 1209; Bryan and Doze Lodes of MS 1217; Palmetto, Deadwood Lodes of MS 1152; all located in Section 13, T4N, R2E; BHM, Lawrence County, South Dakota, according to plat recorded as Document No 2023-04212;

and

The remainder of Block A of Deer Mountain Village, which includes all of the Hanify No. 6, Hanify No. 7 Lodes of Mineral Survey No. 1204; and all of the Foster Fraction, Gamba Fraction, Addie, Eva and Lovisa Lodes of Mineral Survey No. 1221; and the remainder of the Mystic Miner Tract; and all of Lots 1, 2, 3, 4, 5 and 6, Block 2 and Lot 1A, Block 4 of Mystic Miner Subdivision located in Mystic Miner Tract, all including portions of: Boston Lode of MS 1152; On Time No. 1, On Time No. 2, On Time No. 3 and On Time No. 4 Lodes of MS 1158; Havana No. 1, Havana No. 2, Havana No. 3, Havana No. 4, Havana No. 5, Havana No. 6, Havana No. 7, Havana No. 8, Havana No. 9 and Havana No. 10 Lodes of MS 1210; Deer Mountain, Evarts, Fairview, World's Fair, Bangor No. 1, Bangor Fraction No. 2, Monte Carlo, St. George No. 1 and St. George No. 2 Lodes of MS 1209; Bryan and Doze Lodes of MS 1217; Palmetto, Deadwood, Welcome, and Derby Lodes of MS 1152; Evangeline No. 8 and Black Thunder Lodes of MS 1158; Jupiter Lode of MS No. 1209; all located in Section 13, T4N, R2E; and W1/2 Section 18, T4N, R3E, BHM, Lawrence County, South Dakota, according to Plat Document No. 2021-11919.

EXHIBIT B
LEGAL DESCRIPTION OF BLOCK B

Lots 102 through 113 and Lots, 116, 119, and 142 through 148 of Block B of Deer Mountain Village, located in Bismark No. 1, Bismark No. 2, Bismark No. 3, Crown Point, Crown Point No. 1, Crown Point No. 2, Crown Point No. 3, Crown Point No. 4, Crown Point No. 5, Hanify No. 2, Hanify No. 3, Hanify No. 4, Hanify No. 5, Hanify No. 6 and Hanify No. 7 of Mineral Survey No. 1204; and War Eagle No. 5, War Eagle No. 7, War Eagle No. 9 of Mineral Survey 1356, and St. George No. 1 of Mineral Survey 1209, all located in the SW1/4 of Section 12, the W1/2 of Section 13, T4N, R2E, BHM, Lawrence County, South Dakota, according to Plat Document No. 2024-04911.

and

Block B of Deer Mountain Village, Including Bismark No. 1, Bismark No. 2, Bismark No. 3, A portion of Crown Point, Crown Point No. 1, Crown Point No. 2, Crown Point No. 3, Crown Point No. 4, Crown Point No. 5, a portion of Hanify, a portion of Hanify No. 1, Hanify No. 2, Hanify No. 3, Hanify No. 4, Hanify No. 5, Hanify No. 6 of Mineral Survey No. 1204; and including a portion of Block A of Deer Mountain Village, located in a portion of Hanify No. 6 and Hanify No. 7 of Mineral Survey 1204; and including Mystic Miner Tracts; Tract A-2, Tract A-3, Tract A-4, Tract A-5, Tract CR, Tract E Revised, Tract G, Tract H, Tract I, Tract J, Tract K, Tract L, Tract M, Tract N, Tract O, Tract P and Raspberry Tract of Mystic Miner Subdivision, located in Gertie No. 1, Lord Byron No. 2, Lord Byron No. 4, Lord Byron No. 6, Lord Byron No. 8, Lord Byron No. 9, War Eagle, War Eagle No. 1, War Eagle No. 5, War Eagle No. 7, War Eagle No. 9, War Eagle No. 11, Lincoln No. 1, Lincoln No. 3, Chester, Chester No. 2 and Chester No. 3 of Mineral Survey 1356, and a portion of St. George No. 1 of Mineral Survey 1209, and Rinaldo Millsite Mineral Survey No. 410B, all located in the SE1/4 of Section 11, the SW1/4 of Section 12, the W1/2 of Section 13 and Section 14, T4N, R2E, BHM, Lawrence County, South Dakota, according to Plat Document No. 2024-02293, LESS AND EXCEPT Platted Lots.

EXHIBIT C
DEPICTION OF ACCESS EASEMENT

[See Attached]

EXHIBIT B SHOWING 66' FOOT PRIVATE ACCESS AND UTILITY EASEMENT, LOCATED IN BLOCK A OF DEER MOUNTAIN VILLAGE,

Including All of the Hanify No. 6, Hanify No. 7 Lodes of Mineral Survey No. 1204; And All of the Foster Fraction, Gamba Fraction, Addie, Eva and Lovisa Lodes of Mineral Survey No. 1221; And the Remainder of the Mystic Miner Tract; And All of Lots 1, 2, 3, 4, 5 and 6, Block 2 and Lot 1A, Block 4 of Mystic Miner Subdivision located in Mystic Miner Tract, All Including Portions of: Boston Lode of MS 1152; On Time No. 1, On Time No. 2, On Time No. 3 and On Time No. 4 Lodes of MS 1158; Havana No. 1, Havana No. 2, Havana No. 3, Havana No. 4, Havana No. 5, Havana No. 6, Havana No. 7, Havana No. 8, Havana No. 9 and Havana No. 10 Lodes of MS 1210; Deer Mountain, Evarts, Fairview, World's Fair, Bangor No. 1, Bangor Fraction No. 2, Monte Carlo, St. George No. 1 and St. George No. 2 Lodes of MS 1209; Bryan and Doze Lodes of MS 1217; Palmetto, Deadwood, Welcome, and Derby Lodes of MS 1152; Evangeline No. 8 and Black Thunder Lodes of MS 1158; Jupiter Lode of MS No. 1209; All Located in Section 13, T.4N., R.2E.; and W1/2 Section 18, T.4N, R.3E., B.H.M., Lawrence County, South Dakota.

