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Wilderness Estates
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATIONS FOR

BH DEVELOPMENT, L.L.C.

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND RESERVATIONS FOR WILDERNESS ESTATES is made and entered into this 15th day of May 2007, by BH Development, L.L.C. with a mailing address at 405 W. 34th Street, Sioux Falls, South Dakota 57105-4810, hereinafter referred to as “Declarant”.

ARTICLE I. INTRODUCTION:

The Declarant is the owner of the following described property:

Plat of Tract A of Wilderness Estates consisting of the Nile, Cairo, Cairo No.2, Cairo No. 5, and O.B. Fraction Lode of M.S. 1834; the Massachusetts, Oneida, Brown, Brown Fraction Lode Mining Claims of M.S. 1195; the Andes, Treber Fraction, Bonapart, and Bismark Lode Mining Claims of M.S. 1159. All located in the SE ¼ of Section 7, W ½ of Section 8, NW ¼ of Section 17, T4N, R3E, B.H.M, Lawrence County, South Dakota (HEREINAFTER REFERRED TO AS THE “DEVELOPMENT”),

And makes the following declaration as to limitations, restrictions and uses of the real property. Specifically, these declarations constitute covenants to run with the land as provided by law. They shall be binding on all parties and all persons claiming ownership of interest in the Development 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. "Covenants" shall mean the Covenants, Conditions, Restrictions and Reservations set forth in this Declaration.
2. "Declarant" shall mean BH Development, LLC, a South Dakota Limited Liability Company, with its principal office at 405 W. 34th Street, Sioux Falls, SD 57105-4810, its successors and assigns.
3. "Development" means all of the real property legally described above and any subdivision or re-plat of any portion thereof.
4. "Lots": Lot shall mean and refer to any tract or parcel of land designated as a lot shown upon any recorded plat or subdivision map of the property.
5. "Owner" shall refer to the record owners 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.

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

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.
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 of rear of the home. No satellite dishes larger than 28" in diameter shall be allowed.
3. Building Setbacks: The minimum building setbacks for all structures on any Lot shall be according to the ordinances and requirements of Lawrence County or as otherwise set forth in the plat of Wilderness Estates.
4. 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 of not less than 576 sq. feet. One outbuilding of not more than 832 sq. feet (12' maximum high sidewalls) will be allowed, with all exterior to match house, including siding, logs, stain color and roofing:

Ranch Style home	1,200 sq. ft. (Main floor)
One and One-half story home	1,000 sq. ft. (Main floor)
	600 sq. ft. (Second floor)
Two Story Home	1,000 sq. ft. (Main floor)
	600 sq. ft. (Second floor)
Tri-level or More	1,000 sq. ft. (Avg. per floor)

All plans for construction must be submitted for written approval to the Declarant or its representative. Prior to obtaining any building permits, blueprints and designs, along with color selection, must be submitted to the Wilderness Estates building review committee and receive approval.

All buildings shall be of new materials, new construction, and set on a permanent foundation. No houses shall be moved onto any Lot from any other location. Mobile, single, modular or doublewide home are not permitted.

5. Exterior Colors: The color combination of exterior materials must be subtle and tasteful to blend with the environment. Exterior earthen tones are required. Extreme contrasts in color of paints, stains, and masonry are discouraged. Roofing materials must be of darker tones.
6. Fences: The construction of any type of fence must have written approval of the Declarant or its representative.
7. Firearms: No firearms shall be discharged within the Development.
8. Garbage and trash: No garbage or trash shall be maintained on any Lot so as to be visible from another Lot or the roadway. All garbage and trash will be placed in tight garbage cans of the type normal use in the locality and shall be disposed of at least every seven (7) days. No refuse pile, garbage or unsightly objects are allowed on any Lot.
9. Fireplaces (outdoors) and Fires: No outdoor fires, incinerators, open fire pits, or related structures or devices shall be operated except as permitted by applicable State or Federal Laws.
10. Gardens: All gardens shall be set back at least thirty (30) feet from any Lot line.
11. Landscaping: All landscaping must be completed within six (6) months after substantial completion of the dwelling. The Lot owner shall determine the extent of landscaping. Ground disturbed by construction shall be returned to a natural condition of landscaped within six (6) months.
12. Tree Thinning/Logging: Tree thinning will be completed to establish a firebreak at the sixty-six (66) foot road right-of-ways and as a method of reducing fuels and keep fire from crowning by spreading out the tree canopy. All fuel on the ground will be removed in conjunction with the thinning of the trees. All purchasers of Lots will receive a copy of the Wildfire Safety Guidelines booklet.
13. Maintenance: Lot owners shall continue to maintain their lots to keep fuels down and the tree canopy open. Firebreaks will be maintained on the sixty-six (66) foot access road right-of-ways and around structures built on the lots. Lot owners shall maintain all public right-of-ways including access to emergency routes. Lot owners shall maintain an area of defensible space by thinning continuous trees and brush cover to meet county specification on all sides of structures.
14. Water Storage: Each lot owner is encouraged to install and maintain on the lot, a storage tank of at least 1,000 gallons of water.
15. Lot Size: No lot within the subdivision shall be further subdivided. Two or more adjacent lots may be combined into one lot and conveyed as 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 or minerals of any kind.
18. Nuisances: No owner shall permit anything to be done or kept on or within his or her 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 Development. Use

and enjoyment include freedom from unreasonable noise and barking dogs. No owner may permit any nuisance nor commit or allow any illegal act to occur on their lot.

19. Outdoor Storage: No outdoor storage of any material, firewood containers, automotive accessories, equipment or other items shall be kept or stored between the homes and the roadway(s) fronting the property.
20. Residential Use: Each lot shall be used only for single-family residential purposes. No Lot may be used for business or commercial purposes in which the public is invited to the property except for rental of the property to third parties and except for the use of a model home(s) by the developer.
21. Safe Condition: Without limiting any other provisions in this article, each owner shall maintain his or her lot in a safe, sound, sanitary manner and in good repair at all times. Owners shall correct any condition and refrain from any activity, which might interfere with other owner's rights.
22. Sewage Disposal Systems: Only sewage disposal systems designed and approved by a licensed engineer shall be permitted in the development.
23. 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.
24. Temporary Structures: No trailer, basement, tent, shack, garage, barn, or other outbuilding shall be built or placed on any lot for use as a residence, either temporarily or permanently.
25. Vehicles: No more than one 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(s) fronting the property. No campers or recreational vehicle shall be maintained on a lot as a residence for more than thirty (30) consecutive days.
26. Violation of Law: No owner shall permit anything to be done or kept on his or her lot, which would be in violation of any local, state, or federal law.
27. 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 State and Federal laws.
28. Fire Protection Plan: The owner of any lot shall comply with the County Fire Protection Plan on file with the Lawrence County Planning and Zoning Office.
29. Building Materials:
 - (a) Lot owners shall construct roofs and overhanging eave soffits with non-combustible materials, i.e., no wood shingles. Fire resistant draperies, non-flammable shutters and other ignition-resistant construction should be used.
 - (b) Lot owners shall follow Building Code recommendations to construct exterior walls of buildings of structures with ignition resistant materials with a minimum one (1) hour fire-resistive construction on, or constructed with, approved noncombustible materials. The exception is heavy timber or log wall construction, which by definition complies.
 - (c) Gutters and downspouts shall be constructed of noncombustible materials.
 - (d) Exterior doors shall be approved noncombustible construction solid core wood not less than 1-³/₄ inches thick, or have a fire-protection rating of not less than 20 minutes. Vehicle access doors shall be the exception.

- (e) Exterior windows, window walls and glazed doors, windows within exterior doors, and skylights shall be tempered glass or multi-layered glazed panels, glass block or have fire-protection rating of not less than 20 minutes.
- (f) Buildings or structures shall have all under floor areas enclosed to the ground. Unenclosed accessory structures attached to buildings with habitable spaces and projections, such as decks, shall be a minimum of one (1) hour fire resistive construction, heavy timber construction or constructed with approved noncombustible materials.
- (g) All exterior applications of all homes must be a Wilderness Log Homes tm, Yellowstone Log Homes tm, or equivalent brand as approved by the developer, product which includes full log, half log and cedar siding with log accent construction. Real and cultured stone/rock is also an acceptable accent.

ARTICLE IV. GENERAL:

Section 1: Association Membership. 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, while they continue to own a Lot, a member of the Wilderness Estates Homeowners Association, Inc. and shall be bound by all rules and regulations as may be promulgated and approved by said Association including but not limited to the By-Laws of the Association.

Section 2: Administration. The Board shall administer covenants. The Board is empowered and has the right to implement, provide, perform, and to enforce any or all of the following within the Development:

- a. All of the provisions in this Declaration of Restrictive Covenants, the Articles of Incorporation, and the By-Laws of Wilderness Estates Homeowners Association, Inc.
- b. Reasonable rules and regulations, which Owners, their families, guests, and visitors shall comply with.
- c. Maintenance of all roads 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.

Section 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 Declarant, its legal representatives, successors and assigns Owner(s) and adjoining property owners. During the twenty (20) year period following the filing of these Covenants with the Lawrence County Register of Deed's Office, these Covenants may not be amended except

upon the consent of two-thirds of the then Owners and the Declarant. Thereafter, this Declaration may be amended at any time, except where permanent easements or other permanent rights of interests 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 Declarant at least thirty (30) days prior to action being taken on the proposed amendment. No change of circumstances or conditions shall amend any of the provisions of this Declaration, which may be amended only in the manner described. None of the provisions of this Declaration shall be construed as a condition subsequent or as creating a possibility of reverter.

Section 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 restriction. Failure to do so shall not be deemed to defeat, alter or terminate any of these covenants, conditions, and restrictions.

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

Section 6: **Enforcement:**

- a. If any person violates any of the provisions of this document it shall be lawful for the Declarant, the Wilderness Estates Homeowners Association or any Lot Owner in the Development to initiate proceedings to enforce the provisions of this document, to restrain the person violating them and recover damages, actual and punitive.
- b. The Declarant, the Association, or any Lot Owner may enforce these covenants and restrictions. Enforcement of these covenants and restrictions shall be by legal proceedings against any person violating any covenant or restriction either to restrain or enjoin violation or to recover damages. Enforcement may also be against the property of any Lot Owner to enforce any lien created by these covenants. The failure of the Association to enforce any covenant or restriction shall in no event be deemed a waiver or work as an estoppel of the right to do so on the part of any Lot Owner or Declarant.
- c. If an assessment is not paid within 30 days after the due date, the Association may bring action against the Owner. The Association may also foreclose a lien against the Lot in the amount provided by law. In either event, the 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 his 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.
- e. Invalidation of any of the covenants by court order shall not affect any of the remaining covenants, which shall remain in effect.

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

Section 8: **Binding Effect and Compliance:** Each Owner, the Owner's heirs and assigns or any person acquiring any rights or privileges there from 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.

Section 9: These covenants are in addition to the Articles and By-Laws of the Wilderness Estates Homeowner's Association.

ARTICLE V. COVENANTS FOR ASSESSMENT:

Section 1: **Determination by Board.** It is the duty of the Board of Directors of the Association to determine the amount of the general assessment for each Lot subject of 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.

Section 2: **Owner Responsibility.** Each Owner, whether or not it is expressed in any deed or document of conveyance, agrees to pay the Association general assessments or charges levied on a monthly, quarterly, or annual basis, and special assessment 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.

Section 3: **Purpose.** General or special assessments shall be used to promote the welfare and safety, and to protect the investment of the Owners and residents of the Development. Assessments shall be used for, but not be limited to maintenance and repair of roads, snow removal, septic system oversight of pumping and inspections, enforcement of the covenants, and any other expense included in the By-Laws and approved by the Board of Directors.

Section 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, and 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.

DATED this _____ day of _____, 2007.

Declarant:
BH Development, LLC

By: Greg Kaschmitter
Its: Chief Manager

State of South Dakota)

County of Minnehaha)

On the ____ day of _____, 2007, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of BH Development, L.L.C., and that he, as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such _____.

(SEAL)

Notary Public*South Dakota
My Commission Expires: _____