

Prepared By;
Rafter Properties, LLC
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**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR AR RANCH ESTATES PHASE II**

This Declaration of Covenants, Conditions, and Restrictions (this "Declaration") is made this ____ day of _____, 2021, by Rafter Properties, LLC, a South Dakota limited liability company (hereinafter referred to as "Declarant"), which is the fee owner of the following described real property (the "Property"):

LOTS 1-35, GREEN SPACE LOT 1, AND DEDICATED PUBLIC RIGHT-OF-
WAY FOR 220 ST., CONESTOGA LOOP, CAVESSON WAY, WRANGLER
COURT, AND GOODNIGHT COURT OF AR RANCH ESTATES PHASE II;
and

WHEREAS, Declarant desires for a uniform scheme of development for the preservation and enhancement of the Property;

WHEREAS, the Declarant has formed (or shall form) a South Dakota non-profit corporation known as "AR Ranch Estates Phase II Homeowners Association, Inc." (the "HOA") which will have the power of enforcing the covenants, conditions and restrictions herein created; and

WHEREAS, until such time as the HOA has been formed, the Declarant will have the exclusive power of enforcing the covenants, conditions, and restrictions herein created (collectively, the "Covenants");

NOW THEREFORE, the Declarant does hereby declare that from and after the recording of this Declaration, the Property shall be held, sold, administered, maintained, transferred, occupied and conveyed subject to the easements, restrictions, covenants, conditions, and liens herein set forth, which covenants are designed for the purpose of keeping the Property uniform and to ensure the highest and best residential development of the Property. This Declaration and the covenants, conditions, and restrictions contained herein shall constitute covenants to run with the land and shall be binding upon all parties having a right, title, or interest in Property, their heirs, successors, and assigns and shall ensure to the benefit of each owner thereof.

1. **DEFINITIONS.** Captions, titles, and headings in this Declaration are for convenience only and do not expand or limit the meaning of the provisions herein. Whenever the context permits, the singular shall include the plural, and the plural shall include the singular. The following terms shall have the meanings in this Declaration:
 - a. “Common Areas” shall mean any Lot or other area within the Property that is dedicated for the common use of the Owners, whether such Common Areas are owned by the HOA or publicly dedicated. As of the date of this Declaration, it is the intent of the Declarant that Green Space Lot 1 will be eventually transferred to and owned by the HOA.
 - b. “Declarant” shall have the meaning ascribed to it in the initial paragraph of this Declaration, and shall specifically include Rafter Development, LLC, a wholly owned subsidiary of Rafter Properties, LLC. It is anticipated that following the recording of this Declaration, Declarant may transfer ownership of some or all of the Lots owned by Rafter Properties, LLC to Rafter Development, LLC. Any such transfer shall not be considered a transfer to a third party for any of the purposes of this Declaration. Rafter Properties, LLC and Rafter Development, LLC shall have equal authority as Declarant hereunder.
 - c. “Lot” shall mean and refer to any plat of land shown upon any recorded plat or subdivisions map of the Property. As to any unplatted area, “Lot” shall mean a contiguous parcel of real property on the Property owned by an Owner.
 - d. “Owner” shall mean the record owner, whether one or more persons, trusts, or entities, of a fee or undivided fee interest to any Lot, including contract sellers.
 - e. “Phase II” shall mean the initial real property subject to this Declaration. For the avoidance of confusion, Declarant has already developed Phase I of AR Ranch Estates (“Phase I”), which Phase I is subject to separate covenants and under the authority of a separate homeowners’ association. It is anticipated that Declarant may annex additional real property in AR Ranch Estates, which shall be described as Phase III. Declarant anticipates making Phase III subject to this Declaration and under common governance of Phase II’s HOA.
 - f. “Property” shall have the meaning ascribed to it in the initial paragraph of this Declaration and shall include any and all other real property that may later be annexed into AR Ranch Estates and made subject to this Declaration.
2. **USE.** The Property shall be improved, used and occupied for residential purposes. Any commercial or business activity that is conducted on any portion of the Property must be approved by the Declarant.
3. **CONSTRUCTION.** All construction shall be original or stick built, must be new and must be in harmony with the surrounding area. No dwelling shall be constructed or placed on any of the Property that does not have a minimum living area of one thousand

one hundred (1,100) square feet on the main level. "Barn-Dominiums" (a structured barn – house combination) may be permitted upon the prior approval of the Declarant. No mobile home or modular home shall be moved on to any Lot from any other Lot or from outside the subdivision. All exterior construction must be completed within one year after being commenced, including construction of driveways, walks and lawns. Any driveway that blocks a roadway or drainage ditch must have a culvert installed of adequate size to allow passage of water to avoid erosion of the roads.

- 4. PETS AND OTHER ANIMALS:** Except as hereinafter specified, no animals, equine, or livestock of any kind shall be raised, bred, or kept on any Lot. Dogs and cats may be kept, provided they are not kept, bred, or maintained for any commercial purpose. The number of dogs, cats, or other domestic animals kept shall be limited to three (3) unless approved by the HOA. One dog kennel run shall be allowed per Lot. Dog kennel runs shall be a maximum of 120 square feet and shall be located in an inconspicuous place. All animals shall be confined to the Owner's Lot.
- 5. STRUCTURES.** The exterior surfaces of all structures shall be neutral or earth tone in color and include a minimum of 25% stone or brick on the front elevation. No pastel colors shall be allowed. Outbuildings shall have the same color scheme as and, except as provided in Section 3 above, be a separate structure than the principal residence. The provisions of Section 3 above apply to the construction of all dwellings and outbuildings. An enclosed storage shed with a color scheme matching the principal residence and meeting the provisions of Section 3 shall be allowed. Prior to the construction of any residence, outbuilding, or installation of any fence or storage shed, the Owner shall submit detailed plans concerning the proposed construction or installation to the Declarant for approval. The Declarant shall have 15 days from plan receipt in which to either approve, reject, or suggest modifications. In the event the Declarant has not responded to the Owner within 15 days of receipt of the submission, the plans shall be deemed to be rejected in their entirety. Declarant's failure to respond to plans submitted for approval shall in no event be deemed a waiver of any portion of these Covenants and Owner shall at all times be required to comply with the Covenants. Furthermore, approval of plans submitted to Declarant for approval which are later determined to violate these Covenants shall not be interpreted as a waiver of the Covenants. It shall be the responsibility of Owner to at all times ensure compliance with these Covenants.
- 6. FENCES.** The Owners shall have the responsibility to construct and maintain proper fences and appropriately confine all animals. The provisions of Section 3 herein apply to the construction of all fences. No 'cyclone' fence to be allowed. Chain link fence may be constructed so long as it is coated (not galvanized) and maximum height does not exceed 4ft, except as otherwise provided in Section 4 above.
- 7. TEMPORARY STRUCTURES:** No structure of a temporary character, including but not limited to basement, tent, trailer, shack, garage, bam or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently, unless otherwise approved by the Declarant.

8. **SIGNS:** Except as hereinafter specified, no signs of any kind shall be allowed to be erected upon any of the Lots. One "For Sale" sign advertising the Lot (or home) or Lots (or homes) for sale, a driveway entrance sign approved by the Declarant, and address signage approved by the Declarant may be allowed on individual Lots.
9. **VEHICLES:** No vehicles, including cars and trucks, shall be allowed to be placed upon any Lot unless said vehicle is in running condition. No more than three (3) vehicles, in running condition, may be parked outside overnight. All other vehicles must be housed within a completely enclosed building structure. Provided, however, a motor home, travel trailer or similar recreational vehicle, that is in current operating condition and currently licensed and/or an operational, boat on a trailer, or operational snowmobiles on a trailer, will be allowed in a parking area that is parallel with and within twenty-five feet (25') of the garage or outbuilding.
10. **NOXIOUS WEEDS AND GRASS.** No noxious weeds, as defined by South Dakota statutes, shall be allowed to grow on any of the Lots. Grass within a fifty-foot (50') radius of the principal residence must be kept mowed to a height of less than five inches (5") at all times in order to avoid a fire hazard.
11. **SUBDIVISION OF LOT.** No Lot may be subdivided without the express written consent of the Declarant. Any approved subdivision must not conflict with Meade County's Subdivision Ordinances or the County's Zoning Rules and Regulations.
12. **NUISANCES.** No noxious or offensive trade or activity, as defined by law, shall be carried on upon any lot within the development, nor shall anything be done which may be or become an annoyance or nuisance, as defined by law, to the development or individuals residing or owning property therein.
13. **GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers. No trash, garbage, rubbish or other waste shall be burned upon any Lot. The Lot Owner shall provide their contractors, and subcontractors appropriate containers for trash and debris during their construction period.
14. **UNIMPROVED LOTS:** Owners of unimproved Lots must keep them neat and clean in appearance.
15. **CONNECTION TO COMMUNITY WATER SYSTEM.** All Lots shall receive water service from the central water system servicing the Property as established by the Declarant. The Declarant shall determine the terms and conditions of the privilege of receiving water from the system, including, but not limited to, the permissible uses of the water, the hookup fee to be charged, any maintenance fees to be charged, etc. No individual water wells or systems shall be permitted, unless otherwise approved by the Declarant.

- 16. MEMBERSHIP IN WATER ASSOCIATION.** Declarant or its successor or assignee, shall be the owner of the central water system serving the Lots and water line distribution system. Each Owner shall be responsible for maintenance of the service line to the improvements located upon his/her respective Lot from the main line. Each Owner shall enter into a standard Water Users Agreement with Declarant or its successor, in a form substantially similar to that attached as Exhibit A. Declarant reserves the right to update the Water Users Agreement from time to time in Declarant's discretion.
- 17. UTILITIES.** All utility lines constructed on any Lot after this Declaration is recorded with the Register of Deeds Office of Meade County, South Dakota shall be placed completely underground, unless otherwise approved by the Declarant.
- 18. MEMBERSHIP IN HOMEOWNERS ASSOCIATION.** The HOA may be formed any time by the Declarant. If Declarant has not formed the HOA at such time as thirty-three percent (33%) or more of the Lots have been transferred by Declarant to third parties, the Owners may form the HOA. Each Owner, by accepting title to a Lot, agrees to become a member of the HOA. Each Lot shall have one vote concerning all matters voted on by the HOA. The HOA shall have the right to assess fees for maintenance of the Common Areas (including the roads and the green space), snow removal, and collect monies for the enforcement of this Declaration. The HOA shall be authorized to established committees to carry out HOA obligations, including, but not limited to a Design Committee to enforce the covenants and restrictions contained herein. Any such committee shall be established by a vote of 75% of the Owners. The Bylaws of the HOA will provide that in the event an Owner fails to pay the fees assessed by the HOA, the HOA shall have the right to place a lien upon the defaulting Owner's Lot. Provided, however, this lien shall be subordinate to any first mortgage lien upon the defaulting Owner's Lot. Prior to the establishment of the HOA, all Lots that have been transferred to a third party by Declarant or by Declarant's affiliate, Rafter Development, LLC, may be assessed a thirty-five dollar (\$35.00) monthly fee per Lot for road maintenance and snow removal, to be paid directly to Declarant or its assignee.
- 19. ANNEXATION OF ADDITIONAL PROPERTY TO THESE COVENANTS.** The Declarant reserves the right to plat additional phase(s) to AR Ranch Estates. The Declarant may, but is not obligated to, file a document with the Register of Deeds Office in Meade County entitled "Notice of Annexation of Declaration of Covenants, Conditions and Restrictions" which document shall provide that the real property located within such additional phase(s) shall also be subject to this Declaration the same as if said real property had been included within Phase II. Provided, however, nothing herein shall prevent the Declarant from modifying in total or in part any of the Declaration of Covenants, Conditions and Restrictions pertaining to additional phase(s).
- 20. COMMON AREAS.** The HOA shall be responsible for the upkeep and maintenance of all Common Areas, including the roads within the subdivision and any dedicated green space within the Property, including, but not limited to Green Space Lot 1. The HOA shall assume ownership of Green Space Lot 1 and shall not be permitted to convey this

Lot for development or to subdivide the Lot. Assignment to another non-profit or governmental entity may be permitted if such assignment would not violate any county rule, requirement or regulation.

21. ROAD DISTRICT. Notwithstanding anything to the contrary above, at such time as thirty-three percent (33%) of the Lots in Phase II have been transferred to third parties, the Declarant and/or the Owners may file the documents required to form a road district (whether separately or in conjunction with the HOA and Owners of Phase I of AR Ranch Estates).

22. AMENDMENTS OR CHANGES TO COVENANTS. The conditions, restrictions, stipulations, and covenants contained herein shall be in full force and effect and binding as aforesaid and shall not be waived, changed, abandoned, terminated, or amended, except by an instrument duly acknowledged and recorded in the Register of Deeds Office of Meade County, South Dakota, and executed by seventy-five percent (75%) of the then Owners of the Lots within the Property, provided at least 90% of the Lots have been transferred by Declarant or its affiliates to third parties.

23. ENFORCEMENT. If any Owner shall violate or threaten to violate any of the provisions of this Declaration and the covenants and restrictions contained herein, any Owner, the Declarant, or the HOA may enforce this Declaration and the covenants and restrictions contained herein and may institute proceedings at law or in equity to enforce the provisions of this Declaration to restrain the violator or threaten violator and recover damages, actual and punitive, for such violation. If the Declarant, the HOA or any Owner shall be successful in such proceedings, the violating Owner shall also be liable to the enforcing party in such action for all attorneys fees, costs and expenses incurred.

24. SEVERABILITY: Invalidation of any of the provisions of this Declaration by judgment or court order or decree shall in no way affect any of the other provisions which shall remain in full force and effect.

25. DESIGNATION OF DUTIES. At any time, Declarant may assign its rights and obligations hereunder as Declarant (and not as Owner) to the HOA. This shall be achieved by filing with the Meade County Register of Deeds a document entitled "Assignment of Rights and Obligations" and providing written notice of such assignment to the HOA.

Dated this _____ day of _____ 2021.

DECLARANT:

Rafter Properties, LLC

By: _____
JD Hewitt, Authorized Member

**MIDDLE FORK WATER COMPANY, LLC
WATER SERVICE AGREEMENT
(SAMPLE)**

CUSTOMER NAME: _____

PROPERTY ADDRESS: _____

DATE SERVICE BEGINS: _____

This Agreement made and entered into by and between MIDDLE FORK WATER COMPANY, LLC (“Middle Fork”) and _____, (“Customer”) for the delivery and acceptance of potable water for domestic purposes shall be governed as follows:

1. **Connection Fee:** Customer agrees to pay to Middle Fork an initial connection fee of Three Thousand Five Hundred and no/100 (\$3,500.00), which shall be payable prior to connection to the water system.
2. **Meter Fee:** In addition to the initial connection fee, the Customer shall be required to install, at Customer’s expense, an approved meter and meter pit within the utilities easement at the property boundary. The location of the meter pit shall be subject to Middle Fork’s advanced approval. Service shall be delivered to the meter at the property line closest to the service line. All lines extending from meter pit to point of use shall be inspected by Middle Fork, or its designee, prior to backfill.
3. **Service Fees:** As of the date of this Agreement, the Customer shall be assessed a monthly service fee of \$60.00, which shall be subject to adjustment from time to time. Any increase in Service Fee shall require a thirty-day advanced notice. The Service Fee shall be a monthly minimum charge and shall include the use of 3,000 gallons per month. Additional usage shall be billed at the rate of \$5.00/1000gallons used. The Service Fee shall be due the 1st day of each month. If not paid by the 10th day of the month the Customer shall be assessed a \$10.00 late fee. Any account that remains unpaid by the 15th day of each month shall be subject to being disconnected. A \$50.00 re-connect fee shall apply to all re-connections.
4. **Easements:** The Customer hereby grants to Middle Fork, utility and construction easements along the interior of the lot lines as outlined on the Plat of AR Estates.
5. **Wells:** The parties acknowledge that Middle Fork shall own all wells used in servicing Customer’s property and that, unless otherwise agreed in writing, no well shall be drilled or shall be allowed to be drilled on the Customer’s property.
6. **Waste:** Customer shall not allow leaks or breaks on lines extending into the property to remain untended or unrepaired. Middle Fork retains the right to terminate the flow of water to lines with breaks or leaks.
7. **Delivery:** Middle Fork shall provide water, sufficient for normal residential consumption, including the watering of lawns, which meets or exceeds all safe drinking water standards as set forth by the South Dakota Dept of Environment and Natural Resources.

8. **Maintenance:** Middle Fork, or its designee, shall be responsible for maintaining all well(s), pumps, storage reservoirs and service lines (water main). Customer shall be responsible for maintaining the service line to the improvements located upon Customer's property from the main line.
9. **Assignment:** This agreement shall not be assignable by Customer.

Dated this ___ day of _____, 20__.

CUSTOMER:

Signature: _____

Printed Name: _____

MIDDLE FORK:

MIDDLE FORK WATER COMPANY, LLC

By: _____

Its: _____