

4. **Grantee Rights.** Grantee shall have the right to:
- a. access Property to inspect to ensure compliance;
 - b. post signs on Property indicating the nature and extent of the restrictive use;
 - c. remove any structure or vegetation that is in violation of this Restrictive Use Agreement;
 - d. grant additional uses of Property not specifically listed herein; and
 - e. do all things reasonably necessary to effectuate the purpose of this Easement.
5. **Use of Property.** In accordance with Ellsworth Air Force Base Air Installation Compatible Use Zone (AICUZ) guidelines, the Property may only be used for the following purposes as defined within the Standard Land Use Coding Manual, US Department of Transportation (SLUCM) with the maximum floor area ratio listed:

SLUCM Code	Land Use Description	Maximum Floor Area Ratio (FAR)
51	Wholesale trade	0.28
521	Retail trade of lumber and building materials	0.20
525	Retail trade of hardware and farm equipment	0.12
55	Retail trade of automotive, marine craft, aircraft and accessories	0.14
637	Building services - warehouse and storage services	1.00
64	Repair services	0.11
66	Contract construction services	0.11

6. **General Restrictions.** The Grantors agree to keep the easement area free of the following:
- a. structures (permanent or temporary) that might create glare or contain misleading lights;
 - b. fuel handling and storage facilities;
 - c. smoke generating activities;
 - d. creation of any means of electrical interference that could effect the movement of aircraft over the easement area; and
 - e. anything that may interfere with the unobstructed use and passage of all types of aircraft in and through the airspace at any height or altitude above the surface of the land.
7. **75-80 db Sound Contour:** In addition to the restricted uses, Grantors shall achieve a noise level reduction of 30db in the design and construction of portions of any buildings where the public is received, office areas, noise sensitive areas, or where the normal noise level is low.

8. **Air Navigation.** Prior to commencing any construction on, or alteration of, the Property, the Grantor covenants to comply with all applicable laws including 14 C.F.R. Part 77 entitled "Objects Affecting Navigable Air Space," or under the authority of the Federal Aviation Act of 1958, as amended.

9. **Overhead Aviation** Grantor acknowledges that all types of aircraft shall have unobstructed use and passage in and through the airspace at any height or altitude above the property and that the right of said passage includes, but is not limited to: noise, vibrations, fumes, deposits of dust, fuel particles (incidental to the normal operation of aircraft); and incidental fear, interference with sleep or communication, and any other effects associated with the normal operation of aircraft taking off, landing or operating in the vicinity. Grantor waives any and all claims and/or causes of action associated with any of the above activities or consequences of overhead aviation.

10. **Law.** Nothing shall be constructed and no use shall be permitted on the property unless it is in full compliance with all applicable city, county, state, federal, codes, ordinances and statues, as may be amended from time to time. This includes, but is not limited to, S.D.C.L Title 50 - Aviation. The Grantor will comply with all such applicable laws including, but not limited to, 14 C.F.R. Part 77 entitled "Objects Affecting Navigable Air Space", and Ellsworth Air Force Base Air Installation Compatible Use Zone (AICUZ) guidelines, all as may be amended from time to time.

11. **Compliance.** Grantor shall have one (1) year from the date of this Easement to bring the Property into compliance with this Easement. Once Property is in compliance, any material change(s) in use must be approved in writing by the South Dakota Ellsworth Development Authority (Authority) or its assigns / successors.

12. **Default.** Grantor shall promptly pay, upon demand, Grantee the costs and expenses incurred in enforcing compliance with this restrictive easement. Grantee shall be entitled to its attorneys' fees and costs incurred in enforcing this Easement.



13. **Definitions:**

- a. **SLUCM** - Standard Land Use Coding Manual, US Department of Transportation
- b. **FAR** – Floor Area Ratio – the ratio between the square feet of floor area of the building and the gross site area. It is customarily used to measure non-residential intensities.
- c. **Aircraft** - any and all types of aircraft, whether now in existence or hereafter manufactured and developed, to include jet, propeller-driven, civil, military or commercial aircraft; helicopters, regardless of existing or future noise levels, for the purpose of transporting persons or property through the air, by whoever owned or operated.

Dated this 20 day of December, 2012.

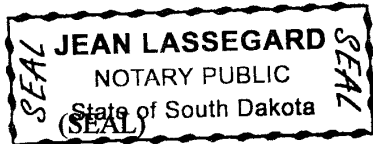

 Daniel D. Ellefson



 Lori M. Ellefson

STATE OF SOUTH DAKOTA:
 SS
 COUNTY OF PENNINGTON:

On this the 20th day of December, 2012, before me, the undersigned officer, personally appeared Daniel D. Ellefson and Lori M. Ellefson, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the foregoing instrument and acknowledged that they executed the same for the purposes therein contained.

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




 Notary Public
 My Commission Expires: 9-19-2013