

**DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR *THE ACRES SUBDIVISION***

THIS DECLARATION OF RESTRICTIVE COVENANTS, made and entered into this 21 day of April, 2022, by **VENTURE COMMERCIAL LLC**, of PO Box 1316, Dickinson, ND 58602 hereinafter called the “**Declarant**”;

WITNESSETH, THAT WHEREAS, the above-named entity is the legal title owner of record of the following described real estate, hereinafter referred to as “Property” situated in Stark County, North Dakota, to-wit:

Lots 1-17, Block 1, AND Lots 1-9, Block 2, of The Acres Subdivision located in the East Half of the East Half of the Southwest Quarter (E½E½SW¼) of Section Twenty (20), Township One-Hundred Forty North (T140N), Range Ninety-Six West (R96W) of the Fifth Principal Meridian (5th P.M.) Stark County, North Dakota,

and

WHEREAS, the aforesaid Declarant and title holder of said premises does state and declare that it would be desirable and proper to have certain limitations and restriction on the use by the future owners of the afore-described premises, to insure the proper use of said area as a residential area, to provide for the common good and to obtain the most beneficial use of the afore-described premises:

NOW, THEREFORE, the aforementioned parties do hereto covenant and agree, that they, their heirs, executors, administrators and assigned are firmly bound, that the following restrictions and limitations (“**Restrictive Covenants**”) shall continue as hereinafter set forth on the aforementioned premises, to-wit:

Article 1 - Construction

1.1 Dwellings

All Lots within the Property are designated for residential development and use and shall be subject to these Covenants, unless otherwise noted.

1.2 Buildings

Buildings shall be constructed in accordance with the following guidelines:



- a. No structure shall be erected on any Lot other than one detached single family dwelling not to exceed two (2) stories in height, with a minimum of a two stall garage, and maximum of one outbuilding per Lot, with construction of the outbuilding to match the single family residence in regards to shingles, siding, windows, doors and any other building materials. The outbuilding shall have a maximum size of one thousand two hundred (1,200) square feet per City of Dickinson zoning ordinance. Additionally, the front of the outbuilding shall not be closer to the dedicated right of way than is the front of the primary structure's garage. Roofing material shall be limited to cedar shakes, cedar shingles or earth-toned colored shingles approved by the declarant. External siding on all buildings shall be of engineered wood siding, hardboard, stucco, brick or stone. The front (street side) shall have a minimum of 20% coverage of brick and/or stone.
- b. No building shall be erected on any Lot nearer than forty (40) feet nor farther than seventy-five (75) feet from the front lot line, nor nearer than fifteen (15) feet to any side lot line. In all instances, any construction must comply with the requirements of the City of Dickinson.
- c. No building shall be erected on any Lot unless the design and location is in harmony with existing structures and locations in the tract and does not violate the Restrictive Covenants. - In any case, no dwelling shall have an above ground floor square foot area of less than one thousand three hundred (1,300) square feet in case of a rambler or bi-level style home, no less than one thousand five hundred (1,500) square feet in the case of a slab-on-grade structure, or no less than one thousand eight hundred (1,800) square feet in the case of a two-story structure.

1.3 Completion

- a. All single family structures and outbuildings shall be completed according to plans and specifications and all permits, codes, standards, rules, and regulations applicable thereto, both as to the exterior and interior, and shall be completed within one year from the date a building permit is issued. The exterior of any single family detached structure, garage or permitted outbuilding shall be completely finished within six (6) months of start of construction. The above-ground living area of any single family structure, garage, or permitted outbuilding shall be finished within twelve (12) months of start of construction. No dwelling shall be occupied until a Certificate of Occupancy is issued by the governing agency. Any dwelling built on speculation for sale shall be completed within this same timeframe, including the completion of the exterior finishing, interior finishing, and landscaping of all yard areas.
- b. Within one hundred twenty (120) days after the issuance of a certificate of occupancy for the residential structure on a Lot, if such issuance occurs on or between February 1st



through September 30th, or within two hundred ten (210) days, if such issuance occurs on or between October 1st and January 31st, all yard areas shall be landscaped, including sod and/or hydroseeding and a minimum of three (3) deciduous trees with a minimum caliper size of two (2) inches. The landscaped ditch between the front property line of each Lot and the edge of the paved street within the subdivision right-of-way shall be maintained by the adjacent Lot owner.

1.4 Mobile & Manufactured Homes

No trailer, basement, tent, shack, garage, barn or other building erected in the tract shall at any time be used as a residence temporarily or permanently nor shall any residence of a temporary character be permitted. Campers, travel trailers, mobile homes, or other temporary type facilities may not be used as a residence.

The Lots shall be for stick built new construction only. Mobile or manufactured homes will not be permitted, and no old house may be moved in on any of the Lots.

1.5 Good Repair

No dwelling, structure, or other improvements which are located upon the Lots shall be permitted to fall into disrepair and all such residences and other improvements shall be maintained in good condition.

1.6 Signs

No signs of any kind shall be displayed to the public view on any Lot except for the following:

- a. No more than one printed sign no larger than four square feet advertising the property for sale. The Declarant shall be exempt from this size restriction.
- b. No more than one sign of reasonable size and appearance identifying the occupants of a residence
- c. Political signs as defined in NDCC§24-17-02 may not be displayed on Lots earlier than sixty (60) days before an election and more than ten (10) days after an election.
- d. Administrative and directions signs during development, caution and danger signs, and any such sign as may be required by law.

1.7 Fuel & Water Tanks

No above-ground tanks including, but not limited to, tanks for storage of fuel, propane, gas, or water, will be allowed on any Lot. The foregoing shall not apply with regards to any tanks or cisterns placed by any utility provider at the Declarant's consent.

1.8 Towers



No exterior TV, CB, or ham radio antenna or tower of any kind shall be placed on any Lot or structure; however, satellite dishes are permitted but shall not exceed eighteen (18) inches in diameter and must not project higher than the roof line of any building. Conventional TV antennas shall be mounted within the attic of the structure.

1.9 Fences

Any fences must be constructed of wood, composite material, metal, black chain link, or vinyl, and final approval of such material types and layouts is subject to the written approval of the Declarant. Chain link fences of any color other than black and pressure treated fences are not allowed. Fences shall be no closer to the dedicated right-of-way than the front of the primary structure's attached garage. Fences may not exceed 6 feet in height.

1.10 Driveways & Parking Pads

All driveways must be concrete within 30' of the front of any attached garage. The remainder of the driveway which connects to the subdivision right-of-way may be concrete, asphalt, crushed asphalt, or crushed concrete. Driveways within the subdivision road right-of-way must have a minimum width of 14 feet and a maximum width of 30 feet. Driveways shall be located no closer than ten (10) feet from the adjacent Owner's lot line. Each lot shall be permitted no more than two (2) approaches off the subdivision right-of-way. Each approach must contain a steel culvert with a minimum diameter of twelve (12) inches with flared ends to provide for unrestricted flow of surface water. Parking pads shall be no closer to the subdivision right-of-way than the front of the primary residential structure's attached garage with any driveway leading to a parking pad being composed of one of the previously stated acceptable driveway materials. Parking pads may be concrete, asphalt, crushed concrete, or crushed asphalt so long as they are kept in good condition.

1.11 Easements

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no such structures, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

1.12 Advance Approval by Declarant

During the period of Declarant Control, all building plans must be pre-approved, in writing, by the Declarant. The Declarant shall have the right, but not the obligation, to review, approve, and



comment on the architectural design of any proposed new construction. Declarant's approval shall not be unreasonably withheld. Plans must be emailed to venturehomesnd.aaron@gmail.com at least 14 days prior to beginning construction. Declarant shall have 10 days to provide comments. If no comments are received from Declarant within 10 days of plan submission, it shall be assumed that the Declarant approves of said plans and construction may begin

Article 2 - Use/Restrictions

2.1 Use

- a. No Lot shall be used or maintained as a dump ground for rubbish, trash, garbage, or other waste. No rubbish, trash, garbage, or other waster shall be kept upon any Lot except in sanitary containers. No incinerators or trash burners shall be installed or erected on any unit. All other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Only within twenty-four (24) hours of regular trash pickup will storage containers be permitted to be placed outside of the garage/structure on driveways. Garbage containers shall be concealed by means of hedging, brushes, approved fencing or within the garage.
- b. No vehicles, trucks, machinery, equipment or like property shall be parked, kept, or stored on the premises except for personal automobiles or pickups used by residents or guests of the residents.
- c. No snowmobiles, ATVs or other recreational vehicles, except the following: motorcycles, watercraft not exceeding thirty (30) feet in length, and campers/motorhomes not exceeding forty (40) feet in length, may be stored, kept, or maintained on any lot and must at all times be housed. Snowmobiles, ATVs, and recreational vehicles, excluding motorcycles and motorhomes, may not be operated on any roadway within the subdivision.
- d. Any vehicle including cars, buses, trucks, tractors, trailers, boats, or any part thereof that is not in operational condition and in average use shall not be parked or stored in public view. All inoperable or unused vehicles must be removed from the premises or placed within an enclosed permanent structure (garage).
- e. Except during the period of construction, any equipment and material, including garden and maintenance machinery and equipment, garbage cans, sanitary containers, lumber, construction materials, and any other like equipment and materials shall be kept at all times, except when in use, within a garage or in an enclosed structure which is maintained in good condition. Firewood for personal use may be stored outdoors provided it is stacked neatly in one location.



2.2 Mining

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind will be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot. Declarant reserves the right to extract gravel, sand, and topsoil for development or any other purpose on property owned by the Declarant.

2.3 Pets, Animals, Horses

No animals, livestock, or poultry of any kind shall be raised, bred or kept, on any lot, except dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. An owner may have a maximum of four (4) household pets on the premises. Dogs must be kept on a leash or confined within an Owner's Lot by means of a fence or an electric fence. Barking dogs must be muzzled. Kennels must not be readily visible from the roads and the location, size, and materials must be approved by the Architectural Review Committee prior to construction.

2.4 Conformity with Zoning Rules and City Ordinances

Each Lot shall conform to applicable zoning regulation and rules, and all Ordinances of the City of Dickinson and Stark County as applicable. If these covenants contain restrictions greater than applicable regulation, rules, and ordinances, then these covenants shall take precedence.

2.5 No Noxious Activities/Weeds

No noxious or offensive trade shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Each Lot shall be maintained in such condition that it is free of noxious weeds whether or not the Lot is occupied.

2.6 Parking

No parking on the road or common areas is allowed unless otherwise permitted by the City of Dickinson or Stark County. All trailers, recreational vehicles (RV's)-including motorhomes and campers, boats (motorized and non-motorized), jet skis, all-terrain vehicles, golf carts, snowmobiles, and similar vehicles shall be parked in garages, except for one such vehicle/trailer kept in clean, well-maintained, working order shall be allowed to be parked on a parking pad adjacent to and fully within twenty (20) feet of the side of the garage and behind the front building line of the garage in the Lot's side or rear yard. Exterior parking of automobiles in normal running condition and in average use is permitted only in accordance with the ordinances



of Stark County of the City of Dickinson, as applicable, and on paved driveways located within the Lots.

2.7 Firearms

Guns, rifles, shotguns, pistols, muzzle loaders, and any other type of firearm may not be discharged on the Property.

2.8 Lot Splitting

No Lot shall be subdivided or re-platted into additional lots with the following exception. Lot 1, Block 2 shall have the ability to split the one foot strip of property that runs parallel to the subdivision right-of-way into a separate parcel.

Article 3 - Easements and Common Improvements

3.1 Easements

All easements as depicted on the Plat or as hereafter granted of record by the Declarant or *The Acres Subdivision* Homeowner's Association, in its sole discretion, shall be binding upon each Owner and the Owner's Lot. Owners of easement lands shall allow in perpetuity the Declarant and the Homeowner's Association to construct thereon, and thereafter reconstruct, increase the capacity of, operate, inspect, protect, maintain, repair, replace, and remove or abandon in-place such improvements that the Declarant or Homeowner's Association may from time to time require and other facilities used in the construction, operation, maintenance, increasing the capacity of, repair, replacement, and removal of said improvements, upon, over, under, and across the easements as shown by the Plat. The Owner shall allow for the right of ingress and egress at all reasonable times over and across the easement lands, to and from said strip of land for the purpose of exercising the rights herein granted, and to place surface markers within said strip. The Owner agrees not to build, create or construct or permit to be built, created, or constructed, any obstruction, building, engineering works or other structures upon, over, or under the strip of land herein described or that would interfere with the herein stated uses, or the Declarant's or Homeowner's Association rights hereunder. Fences may be constructed on drainage easements, however, if drainage easement shall require maintenance, the Owner of such fence shall be required to remove the fence to allow for the maintenance to be completed at the same Owner's expense.

The term of the easements shall be indefinite and shall continue until revoked by the mutual agreement of the Declarant or *The Acres Subdivision* Homeowner's Association, as applicable, and all Owners or their heirs, successors, or assigns. Said easements are intended to and shall run with the land and the benefits and burdens of the easements herein created shall pass to the heirs,



successors, and assigns of the parties in and to their respective properties benefited and burdened by the easement.

Additional provisions for each easement depicted by the Plat are outlined as follows:

- a. Drainage Easement: This easement shall allow for the construction and maintenance of a drainage way to convey stormwater runoff from certain areas of the subdivision. Declarant shall be responsible for the initial construction and maintenance of this drainage way during the period of Declarant Control as defined below. Owner shall be responsible for general day to day maintenance of the lands within this easement to include items such as lawn care and weed removal. Owner agrees not to change the direction of flow, obstruct, or retard the flow of water through this easement. After the period of Declarant Control, the Homeowner's Association shall perform maintenance within this drainage way to include sediment removal that may naturally accumulate with this drainage and repair of erosion issues within the easement.
- b. Utility Easement: This easement shall allow for the construction and maintenance of a water system, natural gas system, and underground power system as necessary to provide such utilities to the Property. The Declarant shall be responsible for the initial construction and maintenance of these utility systems during the period of Declarant Control. Owner shall be responsible for general day to day maintenance of the lands within this easement. The Homeowner's Association shall be responsible for maintenance, repair, and replacement of the utility systems after the period of Declarant Control.
- c. Monument Sign Easement: This shall allow for the construction and maintenance of a monument sign for the subdivision. The Declarant shall be responsible for the initial construction and maintenance of this sign system during the period of Declarant Control. Owner shall be responsible for general day to day maintenance of the lands within this easement to include items such as lawn care. The Homeowner's Association shall be responsible for maintenance, repair, and replacement of the monument sign after the period of Declarant Control.

3.2 Common Improvements

The items designated as Common Improvements in this Declaration shall forever remain in common use by all Owners. This shall include any improvements associated with the construction, maintenance, and replacement of the following: the road located within the right-of-way shown on the Plat, the monument sign within the Monument Sign Easement depicted on the Plat, the street lighting system within the Utility Easement and right-of-way depicted on the plat, the water system within the Property and up to the initial connection point to the existing Southwest Water Pipeline but excluding the individual service lines to the Lots and community mailboxes.



3.3 Maintenance

Maintenance, repair, and replacement of the aforementioned Common Improvements shall be the Declarant's responsibility during the period of Declarant Control. After the period of Declarant Control, this Homeowner's Association shall assume this responsibility along with associated costs and expenses. Except as to any damage attributable to any Owner, or his or her tenants, invitees, guests, or agents, which damage shall be repaired at the sole cost of such Owner, or except for any additional assessments imposed as described in Section 5.3, below, the costs of such maintenance shall be paid equally by the Owners as provided. If there is a disagreement concerning the maintenance of Common Improvements, such disagreement shall be resolved by a vote in accordance with the By-Laws.

Article 4 - Enforcement

4.1 Enforcement

The provisions of this Declaration may be enforced by any proceeding at law or in equity, including but not limited to injunctive relief, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by any person to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter. Any matter relating to this declaration shall be exclusively venued in a court of competent jurisdiction. Each Owner hereby makes himself, herself, or itself available to the jurisdiction of said Court for the purposes of the enforcement of this Declaration and consent to personal jurisdiction in said Court. Should the Declarant or the Homeowner's Association be the prevailing party in any action or proceeding brought pursuant to Section 4.1, then, and in that event, the Owner or member against whom such action or enforcement proceeding is maintained shall be responsible to reimburse and indemnify the Declarant or Homeowner's Association for any and all reasonable and necessary attorney's fees, costs, expenses, expert fees, witness fees, investigation, and research fees, or anything of such nature or remedy which may otherwise be granted. All such expenses and fees shall become the individual financial responsibility of the Owner or member to the Declarant or Homeowner's Association and shall be enforceable in any manner authorized by North Dakota law.

4.2 Enforcement by Declarant

Declarant shall have the power to enforce this Declaration during the period of Declarant Control.



4.3 Form of Transfer of Authority

At the end of the period of Declarant Control, Declarant will file a written recordable instrument with the Register of Deeds evidencing such transfer and the recording of the same shall be sufficient notice in all respects as to its legal effect and notice to third parties.

4.4 Enforcement by *The Acres Subdivision Homeowner's Association*

Following the period of Declarant Control, *The Acres Subdivision Homeowner's Association* shall be vested with the full power and authority to enforce and carry out the provisions of the Declaration.

4.5 Time Limitations

The covenants, conditions, and restriction of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which said covenants shall be automatically extended for successive period of ten (10) years. *The Acres Subdivision Homeowner's Association* shall have the power to renew or restate this Declaration prior to or subsequent to this Declaration's expiration.

4.6 City or County Enforcement

In addition to the above remedies, the provision of this Declaration may be enforced by the City of Dickinson and Stark County in accordance with their ordinances.

Article 5 - *The Acres Subdivision Homeowner's Association*

5.1 Membership

Each Owner of a Lot shall be a member of *The Acres Subdivision Homeowner's association*, to be formed at a later date. Membership voting rights shall be determined by the By-Laws of the *The Acres Subdivision Homeowner's Association*.

5.2 Fees

An annual membership fee (based upon lot ownership, with or without a constructed residence) shall be assessed to all members on the first (1st) day of January of each calendar year. The per lot membership fee amount will be established annually by the governing board of the Homeowner's Association and shall be due on the fifteenth (15th) of January. All late fees and penalties shall be established annually by the governing board of the Homeowner's Association. Any unpaid annual fees, plus late fees, and collection costs including reasonable attorney's fees incurred in collecting delinquent fees shall be a continuing lien on the owner's Lot and the



personal obligation of the Lot's owner at the time the fee became delinquent. During the period of Declarant Control, the Declarant shall be exempt from the obligation or duty to pay or be liable for any membership fees or late fees.

5.3 Use of Fees

The membership fees and late fees shall be used to enforce and carry out this Declaration, to maintain and improve common areas, and to do such things as authorized by the By-Laws of *The Acres Subdivision* Homeowner's Association. The annual assessment may include, without limitation, the estimated cost of (a) administering, servicing, conserving, managing, maintaining, repairing, or replacing the Common Improvements, including but not limited to snow removal, landscaping, care of grounds; (b) maintenance, repair, restoration, and replacement of the roads as shown on the Plat including possible snow removal; (c) premiums for insurance coverage as deemed desirable or necessary for the Homeowner's Association; (d) all expenses incurred by the Homeowner's Association in administering and managing the Homeowner's Association; and (e) all other expenses incurred by the Homeowner's Association in any other activities undertaken for the common benefit of all or some of the Owners. The Homeowner's Association budget may include an amount for replacement reserve. The Homeowner's Association may use the reserve for any purchase, including normal operations, to the extent so determined by the Homeowner's Association.

The Homeowner's Association may establish additional special assessments as needed for capital improvements, extraordinary repairs, or other generally non-recurring expenses. No additional special assessments shall be levied unless approved by vote according to the By-Laws of the Homeowner's Association. During the period of Declarant Control, no special assessment shall be levied without the written consent of the Declarant.

5.4 Collection

Declarant may collect and disburse membership fees and late fees during the period of Declarant Control. At the end of the period of Declarant Control, Declarant will pay all such funds to the Homeowner's Association and *The Acres Subdivision* Homeowner's Association shall then be vested with full authority regarding the collection and disbursement of fees and late fees. In the event of any such collection actions which result in litigation, the prevailing party shall also be entitled to an award of reasonable attorney fees, costs, and sales tax as part of the party's remedies.

5.5 Additional Members

Declarant shall have the perpetual right, but no obligation, to add additional members to *The Acres Subdivision* Homeowner's Association upon development of additional lots on land



adjacent to the Property. Additional members may also be added by a two-thirds ($\frac{2}{3}$) vote by existing members.

Article 6 - Architectural Review Committee

6.1 Committee Composition

The Homeowner's Association may form and oversee an Architectural Review Committee. The powers, composition of, and membership in the Architectural Review Committee shall be set forth in the By-Laws and/or Articles of the Homeowner's Association. Until such time as the Homeowner's Association has formed the Architectural Review Committee, the Declarant shall have and exercise all authority of the Architectural Review Committee set forth in Section 6.2.

6.2 Authority

The Architectural Review Committee shall have those powers given to it by *The Acres Subdivision* Homeowner's Association as may be modified, enlarged, or restricted from time to time. The Architectural Review Committee may be vested with the authority regarding:

- a. Acceptability of proposed structure and its colors and exterior surfaces;
- b. Acceptability of construction plans and specifications as to workmanship, materials, harmony with existing structures, location of buildings on Lots, size, and height of sidewalls;
- c. Acceptability of trees and hedges as to location, size, height, and variety of species including fire protection issues
- d. Acceptability of signs.

In all other respects, however, the Architectural Review Committee shall lack the authority or power to independently modify, enlarge, or amend this Declaration. Approval from the Architectural Review Committee as to any matter within the authority of said committee shall not be unreasonably withheld. The Architectural Review Committee shall not have any power to disapprove of landscape, design, or other elements within their authority once it has granted an approval with regard to any particular Lot or Owner regarding the same.

6.3 Declarant

Declarant shall be the sole member of the Architectural Review Committee until such time as it relinquishes that role in a signed writing. Such a relinquishment shall be revocable unless otherwise designated in writing.

Article 7 - Variance

7.1 Variances



Variations shall only be permitted by a request to vary from these covenants, and as these covenants are modified accordingly. Variations may be granted based upon majority vote of the Architectural Review Committee. If a variation is denied by the Architectural Review Committee, the applicant may appeal that decision to *The Acres Subdivision* Homeowner's Association Board of Directors, whose decision shall be final.

Article 8 - Lot Appearance Maintenance Requirement

8.1 Pleasing Appearance

It is the intent of the Declarant that the Lots shall retain a pleasing and well-maintained appearance.

8.2 Maintenance

Accordingly, the Declarant reserves the right to undertake or contract for necessary maintenance, landscaping, lawn watering, tree, bush, or shrub trimming, snow removal, and lawncare which is not adequately provided by a Lot Owner upon notice to the Lot Owner. The Declarant or its agents are vested with the right to enter upon any Lot (with the exception of entering into any structure or dwelling without consent) without liability of trespass to correct any such deficiencies. The cost of such corrected deficiencies will be paid by a Lot Owner within thirty (30) days. Unpaid amounts may be filed as a mechanic's lien against any Lot. This Section 8.2 in no way obligates the Declarant to do or perform any maintenance whatsoever.

8.3 Surface Drainage

The surface drainage on each Lot shall not adversely affect adjacent properties.

Article 9 - Miscellaneous

9.1 - Definitions

Captions, titles, and heading 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 following meanings in this Declaration.

- a. **Declaration** - shall mean this Declaration of Covenants, Conditions, and Restrictions for *The Acres Subdivision*, as it may be amended from time to time.
- b. **Plat** - shall mean the final plat map of *The Acres Subdivision* recorded with the office of the Clerk and Recorder of Stark County, North Dakota.
- c. **Home Occupations** - means a business professional or other activity conducted for financial gain excepting such activities which will not result in any increased noise or



activity visible from a neighboring Lot or Road, nor result in any increased traffic on the Property. By way of illustration, Home Occupations include private daycare centers and hair salons if such activities result in discernable increased noise, activity, or traffic.

- d. Homeowner's Association: "Homeowner's Association" means *The Acres Subdivision* Homeowner's Association, a North Dakota non-profit corporation, at such time an entity is formed.
- e. Livable Floor Area - means covered areas within a dwelling exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, attics, and basements.
- f. Lot - shall mean and refer to any plot of land shown upon *The Acres Subdivision* plat drawing. As to any unplatted area, "Lot" means a contiguous parcel of real property on the property owned by an owner.
- g. Owner - shall mean the record owner, whether one or more persons, trusts, or entities, of a fee or undivided fee interest to any Lot, excluding roads or common areas, which is part of the Property, including contract sellers, but excluding those having such interested merely as a security for the performance of an obligation. Where a Lot is owned jointly or as tenants in common by more than one individual, trust, or entity, the Lot shall be considered to have one Owner for purposes of voting, and membership, and all such joint owners may only submit one vote jointly. Neither *The Acres Subdivision* Homeowner's Association nor the Declarant shall have any obligation to mediate or resolve internal disputes with regard to voting rights between joint owners of a Lot. Each Lot shall be counted as a separate Lot for purposes of Owner rights. Accordingly, by way of example, if an individual owns two (2) lots, that individual shall have two (2) votes and two (2) memberships in *The Acres Subdivision* Homeowner's Association.
- h. Road: means a road designated as such by the Declarant or dedicated as such on any plat upon or across the Property.
- i. Structure: means any residence, garage, shed, or related thing other than trees, landscaping, and movable things, the placement of which is upon or within a Lot.
- j. Period of Declarant Control: shall mean the period beginning on the date this Declaration is first recorded in the office of the Clerk and Recorder of Stark County, North Dakota, and ending on the earlier of: (a) the date on which the Declarant has sold 20 of the 26 Lots within *The Acres Subdivision*, or (b) the date on which Declarant notifies the Homeowner's Association in writing that Declarant has elected to terminate the Period of Declarant Control. After the termination of the Period of Declarant Control, Declarant, if still an Owner, will continue to have all the rights and duties ordinarily given to Owners under this Declaration.
- k. Common Improvements: means the infrastructure to be owned by the Homeowner's Association, and/or held in common by the Owners and maintained by the Homeowner's Association. Also included in the definition of "Common Improvements" for purposes of maintenance obligations of the Homeowner's Association, is the maintenance and



payment for repair and/or operation expenses for the Common Improvements as provided within this Declaration.

10.2 Cumulative

Each of the conditions, covenants, restrictions, and provisions of this Declaration are cumulative and independent of each other and if any are held to be or become waived, invalid, or otherwise unenforceable, the remaining provisions shall be in no way affected or impaired but shall remain in full force and effect.

10.3 Limitation of Liability

The Declarant, its members, shareholders, officers, directors, trustees, agents, or employees, shall not be liable to any party whatsoever for any act, decision, or omission unless the act, decision, or omission was in bad faith, fraud, or malice.

10.4 Amendments

This Declaration may be amended by an instrument signed by a two-thirds ($\frac{2}{3}$) of the Lot Owners subject to this Declaration. Any amendment must be properly recorded in the office of the Register of Deeds. As to each amendment of this Declaration, each Owner of a lot shall be entitled to one (1) vote. If a Lot is owned by more than one party, those parties must decide among themselves how to cast the vote entitled to said Lot. Fractional voting will not be allowed. Owners of more than one Lot shall be entitled to one vote for each Lot owned.

10.5 Future Use

The Property is being developed by the Declarant. The Declarant reserves the right to amend this Declaration consistent with its development plan in accordance with this Declaration's provisions regarding amendments. The Declarant also reserves the right to alter and amend this Declaration so as to permit different development uses with different areas and on different sets of Lots and to specify the application of different covenants, restrictions, conditions, and easements in different areas of the Property. The Declarant reserves the right to re-plat any of the Property and add additional members to *The Acres Subdivision* Homeowner's Association. .

10.6 Nonapplication to Declarant

Except as may be otherwise provided, this Declaration shall not apply to the Declarant or any Lots owned by the Declarant and none of the provisions herein may be enforced against the Declarant in the interests of allowing the Declarant to develop the Property.





RETURN TO:

VENTURE HOMES LLC
PO BOX 1316
DICKINSON, ND 58602

Kimberly Kasian

3172078

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Restrictive Covenants \$65.00 Venture Homes Llc
Kimberly Kasian, Stark County, ND Recorder

