

**FINAL DRAFT**

**DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR TRESTLE RIDGE ESTATES PLAT 5, ANKENY, IOWA**

**Recorder's Cover Sheet**

**Preparer Information:** Scott Hall, Carney Appleby Law  
303 Locust Street, Des Moines, Iowa 50309

**Taxpayer Information:** N/A

**Return Document To:** Preparer

**Grantor:** Absolute Farms, LLC

**Grantee:** N/A

**Legal Description:** See page 2.

**Document or instrument number of previously recorded documents:** N/A

NOTE: THIS COVER PAGE IS PREPARED IN COMPLIANCE WITH IOWA CODE SECTION 331.606B. THIS COVER PAGE IS PROVIDED FOR INFORMATION PURPOSES ONLY.

**DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR TRESTLE RIDGE ESTATES PLAT 5, ANKENY, IOWA**

**THIS DECLARATION** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by **ABSOLUTE FARMS, LLC**, an Iowa limited liability company (the “Declarant”).

**WHEREAS**, Declarant is the owner and developer of certain real property legally described as follows:

Lots 1 through 48, inclusive, in TRESTLE RIDGE ESTATES PLAT 5, an Official Plat, included in and forming a part of the City of Ankeny, Polk County, Iowa;

AND

Street Lots A and B and OutLot Z in TRESTLE RIDGE ESTATES PLAT 2, an Official Plat, included in and forming a part of the City of Ankeny, Polk County, Iowa.

**WHEREAS**, Declarant is desirous of protecting the value and desirability of the Plat.

**NOW, THEREFORE**, Declarant hereby declares that all Lots within the Plat shall be held, sold and conveyed and be subject to the following restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of the Plat and shall run with the land and shall be binding on all parties having any right, title or interest therein or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Lot Owner thereof.

**I. DEFINITIONS.**

For the purpose of this Declaration, the following terms shall have the following definitions, except as otherwise specifically provided:

- A. “Association” shall mean the Trestle Ridge Estates Homeowners Association, a nonprofit corporation organized under The Revised Iowa Nonprofit Corporation Act, Chapter 504 of the Iowa Code (2017), and its successors or assigns.
- B. “Building Lot” shall mean and refer to one or more Lots, or one or more Lots and the portion or portions of adjacent platted Lots in the Plat, used for the construction of one Dwelling as herein permitted.
- C. “City” shall mean the City of Ankeny, Iowa.
- D. “Common Elements” shall mean any additional real estate, improvements, or personalty the Association may own or manage, from time to time, if any.

- E. “Covenants” or “Declaration” shall mean this Declaration of Covenants, Conditions, and Restrictions for Trestle Ridge Estates Plat 5, Ankeny, Iowa, as filed for record in the Office of the Recorder for Polk County, Iowa, as the same may be amended from time to time by an amendment thereto approved as provided in this Declaration and filed for record in the Office of the Recorder for Polk County, Iowa.
- F. “Declarant” shall mean and refer to Absolute Farms, LLC, an Iowa limited liability company, and its successors or assigns. At the time that Declarant no longer owns any numbered Lots in the Development, the rights and powers of the Declarant hereunder shall vest in the Association.
- G. “Dwelling” shall mean and refer to any house, residence or Dwelling place constructed or placed upon the Property.
- H. “Family” shall mean one or more persons occupying a single Dwelling unit provided that, unless all members are related by blood, marriage or adoption, no such Family shall contain more than six (6) persons.
- I. “Finish Grades” shall mean the top surface of a Lot after construction is completed.
- J. “Lot” shall mean and refer to Lots 1 through 48, inclusive, within the Plat, and any Lots designated by number as Lots for occupancy created in any replat of the Plat or any portion thereof.
- K. “Lot Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the legal title to any Lot or Building Lot that is a part of the Plat.
- L. “Outbuilding” shall mean an enclosed, covered structure (other than a Dwelling or the attached garage), such as a tool shed or garden house.
- M. “Plat” shall mean and refer to the real property described heretofore.

## **II. DESIGNATION OF USE.**

- A. All Building Lots shall be known and described as residential Lots and shall not be improved, used or developed for more than one single Family Dwelling on each such Building Lot. No full-time or part-time business activity may be conducted on any Building Lot or in any Dwelling or structure constructed or maintained on any Building Lot except those activities permitted under the terms of the zoning ordinance of the City.
- B. Notwithstanding the foregoing, the Declarant and any home builder who purchases a Lot from the Declarant for the purpose of building a Dwelling to be sold to its first occupant may use a Dwelling constructed on any Lot for a temporary sales and

display office or as a model home, for marketing of its firm, the Lot, other Lots within the Plat, or the sale of other existing or built-to-sit homes, and may have agents and employees located in such temporary sales office or model home.

### **III. BUILDING RESTRICTIONS AND REQUIREMENTS.**

- A. No building or structure shall be constructed, altered, or maintained on any Building Lot other than one detached Dwelling with an attached private garage, and such other structures customarily incidental and subordinate to a Dwelling, unless prohibited or otherwise regulated by this Declaration.
- B. With the exception of temporary sales offices placed by Declarant or its agents; there shall be no occupancy of temporary structures or partially completed structures. Except as permitted in Paragraph III D.6 or Paragraph III N, no Dwelling or other building or structure of any kind shall be moved onto any Lot.
- C. The construction of any building or structure on any Building Lot shall be performed utilizing then acceptable construction methods and procedures, including (but not limited to) on-site “stick-built” construction and/or off-site modular or panelized construction.
- D. All Dwellings and construction on the Lots shall meet the following:
  - (1) One story Dwellings must have not less than 1,400 square feet of finished floor area.
  - (2) One and one-half story Dwellings must have not less than 1,600 square feet of finished floor area. This also applies to all split level and split entry Dwellings.
  - (3) Two story Dwellings must have not less than 1,700 square feet of finished floor area, with a minimum of 850 feet on the ground floor.
  - (4) All Dwellings shall have at least a two car attached garage. GARAGE SHALL BE LOCATED ON THE SIDE OF THE LOT WITH HIGHER ELEVATION UNLESS APPROVED IN WRITING BY DECLARANT.
  - (5) No more than thirty (30) vertical inches of concrete block or poured concrete foundation shall be exposed on any building, excepting the rear of a walkout type residence or of a daylight type residence, and any such exposed materials shall be painted or covered with brick or stone veneer in accordance with this Declaration regarding material and allowable paint colors.
  - (6) Each Dwelling shall have (a) a roof pitch of 4.5/12 or greater and any gable roof should have a minimum of one dormer, (b) a minimum of eight foot sidewalls per story, (c) a minimum of a 12 inch wide soffit, (d) a minimum of a 12 inch wide overhang on all gable ends, and (e) a full basement.

- (7) In computation of finished floor area the same shall not include porches, breezeways, attached or built-in garages, or finished basement areas.
- (8) Roof material shall be slate, tile, cedar shakes, or composition shingles. Composition shingles shall be architectural grade with a minimum of a twenty-five year warranty. Shingle colors shall be muted earth tones and be compatible with and complimentary to the exterior materials and colors. White, white blend, and solid black roof shingles are not acceptable. All flashing and vents shall closely match or blend with the surrounding roof area. All vents and other roof penetrations should be located on the rear elevation wherever possible. Gutters should be part of the fascia detailing. Gutters and downspouts shall closely match the colors of the surfaces to which they are attached.
- (9) Decks attached to a Dwelling must be built from cedar, redwood, treated lumber, composite decking material, or other products approved by Declarant. Unpainted wood decks are not acceptable as front entry porches. Front entry porches should be designed as an integral, yet dominant feature, that invites entrance into the Dwelling. Columns supporting porch roofs should be massive in scale (minimum 6" x 6"). Built up box columns or tapered round columns are encouraged. Handrails shall match the architectural style of the Dwelling. All steps to front porches must be cast in place concrete. No wood steps or precast concrete steps to front porches are permitted.
- (10) The Finished Grades for Dwellings shall be established to permit positive drainage away from such Dwelling and shall conform to the as built grades on file with the City, unless changes to such as built grades are approved by the City.
- (11) No Dwelling shall be erected on any Lot outside of the building setback lines as shown on the recorded Plat, unless approved by the City.
- (12) Siding material variations on the elevation for accent purposes are encouraged, but the overall character and predominant siding must be consistent on all four elevations for the structure. Siding shall not have a reveal of greater than eight inches (8"). Exterior colors shall be earthtones.

No siding of bright colors of any kind are permitted. Exterior materials may be pre-finished.

- (13) All Dwellings shall have a minimum of 32 square feet of the building facing any street covered with brick, stone, stone veneer, or other similar material, and shall be pre-approved by Declarant in writing.
  - (14) All Dwellings shall have a basement, with poured or cinder block walls, and concrete floor. No slab on grade foundations are allowed. The basement shall, at a minimum, extend under the entire living area (not necessarily and attached garage) of the ground level (exterior finished grade) portion of the Dwelling.
  - (15) No factory manufactured, prefabricated or modular housing shall be permitted unless it conforms with this Declaration.
- E. No Lot shall be subdivided so as to be reduced in size to be less than the greater of (a) the minimum Lot size required under the applicable zoning ordinance of the City, or (b) 95% of the original platted Lot, unless all portions of such subdivided Lot are added to and made part of an adjacent Building Lot.
  - F. All structures built in the Plat shall blend in with the terrain, rather than contrast with it.
  - G. The use of natural materials is encouraged, i.e. stained wood, stone, brick, as well as soft earth tone colors. No Dwelling shall be painted in bright colors (for example, and not by way of limitation, orange, purple, mint green, bright blue or other colors that cannot be characterized as earth tone).
  - H. No fences shall be built forward of the centering line of the Dwelling built on a Lot or Building Lot. Rear yard fencing is discouraged. There shall be no fencing or other obstructions on any conservancy district easement, overland flowage easement or other easement, unless allowed in writing by all municipalities, persons, or other entities to whom the benefit of such easement runs. All fences shall be black chain link, or vinyl that is natural in color, or wood that is stained or painted in soft earth tone colors so as to blend in with the terrain, and not more than six feet in height. The fence fabric or fence screening material shall be mounted on the exterior face of the fence posts or fence framing. All fences shall be kept in good repair and attractive appearance.
  - I. Notwithstanding anything in this Declaration to the contrary, no Lot Owner shall have the right to erect a fence within or across any easement area shown upon the Final Plat of Trestle Ridge Estates Plat 5 without the prior consent of the City of Ankeny or the utility company or companies for whose benefit such easement runs. Any fence erected within or across an easement area without such consent may be taken down by the person for whose benefit such easement runs in the exercise of any rights granted by such easement without any obligation to such Lot Owner to restore or repair such fence.

- J. No satellite dish or parabolic device used to receive television signals from satellites shall be located on any Lot unless it satisfies the following conditions:
- (1) It shall not be mounted on a trailer or other temporary or portable device, but shall be permanently installed pursuant to this Declaration;
  - (2) If at all possible, it shall be located so that no part of the dish is in front of the Dwelling it serves;
  - (3) It shall not exceed two feet in diameter, or such larger size as may be required by the Federal Communications Commission;
  - (4) It shall be black or gray in color or, to the extent technically feasible, be painted to match the color of the Dwelling it serves; and
  - (5) It shall be appropriately landscaped and screened with shrubs, bushes or appropriate fencing.
- K. No exterior towers or antennas of any kind shall be constructed or permitted on the ground of any Lot or Building Lot. Reasonable television or radio antennas are permitted on the Dwelling or garage.
- L. No light poles shall be used or placed upon any Lot or Building Lot that extend more than 10 feet above grade, except for those used to light tennis courts. All light poles shall be of residential design. All light poles, external security lighting and external decorative lighting shall be located, positioned and directed so that the light shines on the Lot or Building Lot on which the light is constructed and does not provide direct lighting onto adjoining Lots and does not constitute a nuisance to any adjoining Lot Owner.
- M. All utility connection facilities and services shall be underground. Utility meters shall be hidden architecturally or through the use of remote reading devices. No individual water supply system or individual sewage system shall be permitted on any Lot or Building Lot. No window mounted heating or air conditioning units are permitted.
- N. Playhouses, pool houses, utility buildings, storage sheds, or other similar Outbuilding structures shall be permitted provided that the structure does not exceed 144 square feet; the exterior and roof of any such structure shall be constructed of the same material, color, and appearance as the Dwelling on the Lot; and the structure is located entirely within the rear area of the Lot and behind the Dwelling. The same shall also be in compliance with any City of Ankeny or other applicable codes or regulations.
- O. No trash receptacles or garbage cans shall be permitted or placed upon a Lot outside a Dwelling, garage or Outbuilding unless hidden by an attractive screen or landscaping of suitable height and density, and shall be at least twenty (20) feet from any side or rear Lot line. However, unscreened trash in proper containers and/or bags shall be allowed to be placed on a Lot outside a Dwelling, garage or Outbuilding at the place designated for trash pickup no earlier than the evening prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the screened area, or inside a Dwelling, garage or Outbuilding, within twelve (12) hours following the scheduled pick up of such trash.

- P. Firewood shall not be stored on the front or side of a Dwelling. Stacked firewood in excess of four (4) feet long by three (3) feet high shall be adequately screened from view and must be stacked in the rear yard and at least twenty (20) feet from any side or rear Lot line.
- Q. No material of any kind whatsoever may be stored in the front yard or side yard of a Dwelling, except that garden hoses may be stored in a side yard adjacent to an outside faucet if neatly coiled or contained on a hose reel, and no material may be stored in a rear yard unless appropriately covered or screened from view by neighbors. No clotheslines shall be permitted. No clothing, rugs, or other items shall be hung on or from any railing, landscaping or window.
- R. Hot tubs and below-ground swimming pools are allowed provided that any hot tubs that are not below ground are skirted in stained, treated, or painted wood or other materials approved in writing by Declarant and such skirting material and finish is kept in good condition and repair. All swimming pools and hot tubs shall be located only in rear yards and screened by a privacy fence or hedge, and all outdoor hot tubs must be fully located within ten (10) feet of the Dwelling. No above-ground swimming pools are allowed.
- S. No foil or other reflective materials visible from outside the Dwelling shall be used on any windows or on any sunscreens, blinds, shades or for any other purpose.
- T. All buildings, structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.
- U. Animal runs, animal houses and animal shelters shall not be permitted unless they are located at the rear of the Dwelling or garage and extended toward the rear of the Lot from that portion of the Dwelling or garage which is closest to the rear Lot line. All animal houses, animal runs and animal shelters shall be screened with landscaping so that they are not visible to neighbors or from the street. All animal houses shall have the same external appearance, color and roof material as the Dwelling situated on the Lot. No animal house, animal shelter or animal run shall exceed twenty (20) square feet in area. Any animal house, animal shelter or animal run shall be at least twenty (20) feet from any side or rear Lot line.

#### **IV. REVIEW OF BUILDING AND SITE PLANS.**

- A. No Dwelling, Outbuilding, or structure, nor any addition or alteration thereof, shall be constructed or substantially altered on any Building Lot unless and until a design plan and a site plan (collectively the, "Plans") have been submitted to and approved by Declarant. The Plans shall contain details of design, color scheme, elevation, site grade, landscaping, fencing, roofing, sidewalks, driveways and other similar matters. The Plans shall also state the type of construction, including external details and materials. Declarant shall, within thirty (30) days from the date of



submittal of the Plans, deliver to the Owner written approval or rejection of, or required changes to, the Plans. The intent of this provision is to insure that buildings and structures are developed in reasonable harmony within the Plat and that the covenants, restrictions and conditions contained herein are met in connection with such development. Declarant may terminate the requirements of this provision at any time, in its sole and absolute discretion, by recording notice of such termination. The requirements of this provision shall terminate once all Lots or Building Lots have a completed and occupied Dwelling located thereon.

- B. Buyer will also obtain and/or maintain a valid NPDES General Permit #2, and a valid Stormwater Pollution Prevention Plan during any construction, renovation, or other activity requiring the same, all according to Article XIII of the Declaration.

#### **V. DRIVEWAYS.**

All Dwellings shall have a Portland cement concrete driveway not less than 17 feet in width and running from the City street to the garage. All driveways shall provide off-street parking for at least two vehicles outside of the garage.

#### **VI. TEMPORARY OR MODULAR STRUCTURES; RECREATIONAL VEHICLES AND WORK EQUIPMENT.**

- A. Except as permitted in Paragraph III D.6 or Paragraph III N, no temporary, manufactured, or modular Dwelling, Outbuilding, or structure shall be built or maintained on any Lot. All such structures shall otherwise be built on-site; and no such structure shall be moved onto any Lot from outside Trestle Ridge Estates Plat 2. No camper, motor home, watercraft, boat, trailer, unfinished Dwelling basement, tent, shack, garage, or Outbuilding shall be used at any time as a Dwelling.
- B. No vehicle with a gross vehicle weight greater than 7,000 pounds, and no camper, motor home, watercraft, boat, snowmobile, trailer, work van, work truck or mechanical equipment or similar property (hereinafter, "Recreational Vehicles and Work Equipment") may be parked or maintained on any Lot or on the public street for more than thirty (30) consecutive days at any time or for more than thirty (30) days in the aggregate during any calendar year, unless the same is located within a garage or unless the same is parked in a side yard on a concrete driveway extension and is completely screened from view at ground level from other Lots and from the public right-of-way by shrubbery (with or without leaves) or opaque fencing (otherwise in compliance with this Declaration) which provide no gaps through which the object being screened can be seen; provided that this restriction shall not apply to what are customarily considered sport utility vehicles, passenger vans or "conversion vans," or to trucks, equipment or trailers used in connection with and during the construction or rebuilding of a Dwelling on any Lot. At no time may any

Recreational Vehicles and Work Equipment, or any automobile, motorcycle, or other vehicle be parked or maintained in the yard of any Lot. At no time shall any Recreational Vehicles or Work Equipment, or any automobile, motorcycle or other vehicle be disassembled, repaired or serviced on any Lot, except inside a garage or Dwelling.

**VII. NOXIOUS ACTIVITIES, LIVESTOCK & CERTAIN ANIMALS PROHIBITED.**

No noxious or offensive activity, noise or odors shall be permitted on or to escape from any Lot, nor shall anything be maintained or done thereon which is or may become an annoyance or nuisance, either temporarily or permanently. No animal, livestock, pigs (including pot bellied pigs), or poultry of any kind shall be raised, bred or kept on any Lot; except that dogs, cats and other small commonly accepted domestic pets may be kept so long as they are not kept, bred or maintained for commercial purposes or sale to the public. No more than two (2) dogs and two (2) cats may be kept at one time. All animals shall be tied, kept on a leash, fenced, confined by an underground electrical fence or kept in an animal run at all times.

**VIII. SOD AND LANDSCAPING.**

- A. The Lot Owner is required to plant at least one tree on such Lot, within ninety (90) days of occupancy, such trees to be chosen at the Lot Owner's discretion from the following list of acceptable tree species: Red Maple (*Acer rubium*), Norway Maple (*Acer platanoides*), Crimson Maple, Sugar Maple, Northern Red Oak (*Quercus borealis*), English Oak, Burr Oak (*Quercus macrocarpa*), Little Leaf Linden (*Tilia cordata*), or any other species constituting an overstory hardwood tree as determined by the City of Ankeny. At least one tree (the, "Front Yard Tree") shall be placed in the front yard of the Lot, outside the public right-of-way, but within any street tree easement, if any, upon such Lot. If there is not a street tree easement, the Front Yard Tree should be planted as near to the right-of-way as possible and not within an easement area without the consent of the easement holder. Front Yard Trees shall be a minimum of two (2) inch caliper in trunk diameter, ten (10) to twelve (12) feet in height, and have a minimum spread of four (4) feet at the time of planting.
- B. All Lots shall be sodded, including the front, side and rear yards. All placement of sod shall be completed at the time of issuance of the Certificate of Occupancy and thereafter maintained (except where the topography, conservancy districts, creek slopes or tree cover does not permit such sodding). If weather conditions make this requirement impossible to meet, Declarant shall establish a reasonable period of time for compliance, but in no event shall this be more than eight (8) months from the date of the issuance of the building permit.

- C. The Lot Owners are responsible at all times for the maintenance of the trees, sod and other landscaping and the maintenance and repair of any stone wall that may exist on such Lot.

#### **IX. SIDEWALKS.**

Pursuant to the City of Ankeny codes and regulations, sidewalks are required along public streets. At the time a Dwelling is built upon a Lot, the Lot Owner shall be responsible for construction of the public sidewalk along each street frontage, according to City specifications. Declarant has no obligation to Lot Owner or builder to install sidewalks. All sidewalks shall be constructed within eight (8) months of issuance of building permit. Only Declarant may grant an exception to this rule.

Lot Owner agrees to complete construction of public sidewalks within twelve (12) months from the date a Lot Owner is deeded a Lot from the Declarant. In the event the Lot Owner does not complete construction in the twelve month period, the Lot Owner agrees to obtain a sidewalk bond which will meet the City requirements, and will keep the bond in force until the sidewalk has been installed and the bond is released by the City.

#### **X. EASEMENTS.**

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat and/or as separately recorded. The Lot Owner and/or occupant of each Lot, jointly and severally, shall at the expense of such Lot Owner and/or occupant, maintain, keep, and preserve that portion of the easement within the Lot at all times in good repair and condition and shall neither erect nor permit erection of any building, structure or other improvement of any kind within the easement areas (except customary ground cover) which might interfere in any way with the use, maintenance, replacement, inspection or patrolling of any of the utility services and drainage facilities within such easements areas. Any berm and/or swale constructed for drainage purposes shall be preserved and maintained to accomplish the purposes for which it was constructed.

#### **XI. WEED, RUBBISH AND DEBRIS CONTROL AND MAINTENANCE.**

Whether vacant or improved, the Lot Owner shall keep the Lot free from rubbish, weeds, and debris, and keep the lawn and landscaping well maintained and healthy, including (but not limited to) maintaining the lawn at a height not to exceed six (6) inches. The Lot Owner shall be responsible to maintain the exterior of any Dwelling, the driveway, fence, screening and all other improvements.

## **XII. CONSTRUCTION CLEAN UP AND MAINTENANCE.**

During Construction, each Lot Owner shall confine all construction activities related to the construction, repair, alteration, or demolition of any improvements on such Lot Owner's Building Lot solely to its Building Lot, shall keep its construction site clean, shall prevent any damage to any public streets, sidewalks, public utilities or easements granted in connection with the Plat or to any other Lot or improvements located thereon, and shall prevent any dirt, soil, construction debris or other material from its Lot being washed, blown, thrown, deposited, tracked and or otherwise getting into the storm sewers, any storm water detention ponds, any overland flowage ways, the public streets, the public sidewalks or trails or onto any other Lot in the Plat. The Lot Owner shall provide trash dumpsters of sufficient size to handle the trash from its work and shall clean up and remove all trash and debris weekly. No trucks delivering cement to the construction site on any Lot or for any sidewalk adjacent to such Lot shall be washed out or leave the excess cement deposited on any portion of the Plat. By Friday afternoon of each week during such work, any dirt from such work that is tracked into the public street or onto any public sidewalk shall be removed and the street or sidewalk cleaned. During initial construction of a Dwelling on a Lot or during any subsequent construction that will disturb the soil on the Lot, the Lot Owner shall install and maintain silt fences or equivalent erosion control in good working order and in compliance with all applicable permits and laws. When construction of the Dwelling is complete the Lot on which the Dwelling has been built, as well as all adjacent Lots on which the Finish Grades have been disturbed by the Lot Owner's home builder or contractors, must be restored to the Finish Grades shown on the original engineering design of the Plat. All adjacent Lots must be reseeded for soil stabilization and any silt fences must be restored to their original condition. Lot Owners are responsible for their contractors, subcontractors and material suppliers. Such Lot Owner shall promptly repair any damage caused to and shall restore all such facilities, other Lots, or public streets, public sidewalks, utility facilities and any other property of others damaged thereby to its condition immediately prior to such damage, destruction, or deposit of dirt, construction material, or debris.

## **XIII. STORM WATER DISCHARGE PERMITTING REQUIREMENTS.**

- A. Any construction or earth moving on any Lot shall be in compliance with all laws relating to storm water discharge permitting. Lot Owner shall obtain their own NPDES Storm Water Discharge Permit No. 2. The Lot Owner shall be solely responsible for compliance with respect to such Lot with all terms, provisions and requirements of any NPDES Storm Water Discharge Permit No. 2, any City permit, and any storm water pollution prevention plan which includes the Lot, and shall be deemed to be the assignee of any such state or City permit holder and the sole party responsible for performance of all obligations under any such permit, storm water pollution prevention plan or federal, state or local law with respect to such requirements as they affect the Lot.
- B. During the ownership of the Lot, the Lot Owner shall protect, defend, indemnify and hold the Declarant and other Lot Owners harmless from any and all damages,

claims, liabilities, fines, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to (i) any discharges of soil, silt; sediment, petroleum product, hazardous substances or solid waste from the Lot, and/or (ii) any alleged violation of any NPDES, city storm water and/or erosion control permit, storm water pollution prevention plan, or storm water discharge law, statute, ordinance, rule or regulation.

#### **XIV. SURFACE WATER.**

The topography of the Plat is such that surface water may flow from certain Building Lots onto other Building Lots. In regard to all matters concerning surface water, each Building Lot shall be subject to and benefited by such easements as may exist from the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time; and all Lot Owners shall have such rights and obligations with respect thereto as may be provided by such laws.

#### **XV. MAILBOXES.**

Neighborhood mailbox cluster units may be installed by the Declarant according to United States Postal Service (the, "USPS") regulations, which cluster mailbox, upon installation, shall remain the property of the United States Postal Service without further deed, notice, or transaction. Should the USPS remove or fail to maintain its cluster mailbox, any Lot Owner may erect an individual mailbox exclusively serving that Lot Owner's Lot. In addition to any rules or regulations set forward by the City of Ankeny, the USPS, or any other governing authority, such individual mailbox shall meet the following requirements: (i) be located at least six (6) inches set back from the street curb; and (ii) be located in the public right-of-way on the side of the street on which mail delivery is made, being either the right-of-way located in or adjacent to the Lot or in the right-of-way located in or adjacent to a Lot immediately across the street. An individual mailbox not located on the Lot Owner's Lot shall be maintained, repaired, and replaced by the Lot Owner such individual mailbox services. The Lot Owner and/or occupant of the Lot(s) on which any mailbox of any kind is located shall be responsible for removal of snow and ice which would obstruct access to the mailbox cluster units by the mail carrier and other Lot Owners.

#### **XVI. SIGNS; HOLIDAY DISPLAYS.**

- A. Signage within the Plat impacts the aesthetics of the neighborhood and property values. No sign of any kind shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except as permitted below and in strict compliance with the requirements and restrictions applicable to such signage.

Declarant, may, but is not required to, erect a Plat identification sign within an OutLot or an easement area reserved by Declarant on a Lot for that purpose. Any such Plat identification sign shall constitute a Common Element and be maintained by the Association.

- B. In connection with the development of the Plat, or any replat of any portion thereof, Declarant, or any other developer of a particular plat, may erect project signage, real estate signage, financing signage, contractor, supplier or subcontractor signage related to the construction and financing of such plat development, and sale of Lots within the Plat; provided, however, all such signage shall be in accordance with the size, location, supports, and material standards established by the Declarant, or shall otherwise be approved in writing by the Declarant.
- C. In connection with the construction, alteration, repair or replacement of any Dwelling upon any Building Lot, the Lot Owner or person performing such work may erect builder identification signage, real estate signage, financing signage, contractor, supplier or subcontractor signage related to the construction and financing of such work, and sale of such Dwelling; provided, however, all such signage shall be in accordance with the size, location, supports, and material standards established by the Declarant, or shall otherwise be in writing approved by the Declarant.
- D. Once a Dwelling is sold and occupied as a residence, signage on that Lot shall be limited to (i) address signage; (ii) owner identification signs; (iii) signs advertising the real estate for sale (the, "For Sale Signs"); (iv) signs for garage sales (the, "Garage Sale Signs"); (v) signs for special events, such as birthdays, graduations, anniversaries, or other similar events that do not re-occur frequently (the, "Event Signs"); (vi) signs for political campaigns and public voting matters (the, "Political Signs"); and (vii) other signs approved in writing by Declarant. For Sale Signs shall only be displayed while the applicable Dwelling is for sale and must be removed the day after the closing of the sale. Garage Sale Signs and Event Signs shall only be displayed one (1) day before the sale or event and must be removed by no later than the day following the sale or event. Political Signs not related to an election shall only be displayed as permitted by law. Other signs permitted by Declarant shall only be displayed for such time as authorized by Declarant. All of the foregoing described signs shall be limited to no more than a 36 inches wide by 24 inches tall yard sign, and shall be professionally printed and constructed. No hand painted signs will be allowed. Except for address and owner identification signs, no signs shall be erected on any building elevation or erected so that it is visible through any window or glass opening, or, except for vehicles with professionally made business signs on the vehicle, attached to any vehicle while parked within the Plat.

No exterior holiday displays shall be erected more than six (6) weeks prior to the holiday, and all exterior holiday displays shall be removed within three (3) weeks following the holiday or shall be removed as soon after as weather reasonably permits, provided they are no longer lit or otherwise operated after said three (3) week period.

## **XVII. ENFORCEMENT OF COVENANTS.**

- A. This Declaration shall be deemed to run with and be a burden upon the land to which they apply and all improvements thereon, and for so long as the Declarant owns any Lot or Building Lot within the Plat, the Declarant, or thereafter, the Association or the Lot Owner of any Lot or portion thereof to which this Declaration and restrictions apply, may bring an action in any court of competent jurisdiction to enforce this Declaration and to enjoin their violation, mandate their compliance, or to recover damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity. If any violation of any of the provisions of this Declaration is established, then the person or persons found violating such provisions, in addition to any other applicable remedy or relief, shall be liable to the person bringing such action for the reasonable attorney's fee and expenses incurred by the person bringing such action.
- B. Once the Declarant has sold all Lots in this Plat and the rights of the Declarant have not been assigned to a successor Declarant, then the Association's consent shall be required for any action under this Declaration that requires approval by the Declarant, and the Declarant shall have no further right to enforce this Declaration.
- C. No delay or omission on the part of the Declarant, Association, or any Lot Owner in exercising any right, power or remedy herein allowed shall be constructed as a waiver or acquiescence thereof. No right, claim or action shall accrue to and no action or claim shall be brought or maintained by anyone against Declarant or any officer, employee or agent thereof on account of any action or inaction under this Declaration.
- D. If a Lot Owner fails to perform an obligation or violates any terms or provisions of this Declaration (hereinafter, "breach"), the Lot Owner in breach will be subject to the following enforcement procedures.
- (1) If a Lot Owner in breach has received written notice from Declarant or any Lot Owner within seven hundred (700) feet of such Lot, stating the Lot Owner is in breach of the Declaration, such Lot Owner shall have seven (7) days to remedy the breach.
  - (2) If such breach is not remedied within the seven (7) day period, then the person giving such notice shall have the right and easement to enter upon the Lot to remedy the breach at the expense of the Lot Owner in breach. The person giving such notice shall have a right of action against the Lot Owner in breach for collection, plus reasonable costs and attorney's fees incurred collecting such amount, if such amount is not paid within three (3) days of demand for reimbursement, plus interest on all such amounts at the lesser of (a) twelve percent (12%) per annum, or (b) the maximum rate allowed by law, from the date such cost is incurred until paid in full. The person giving such notice shall have a lien against such Lot from the day an

affidavit reciting the giving of such notice, the performance of such work and the cost thereof, is filed in the Office of the Recorder for Polk County, Iowa, and until such amounts are paid in full.

#### **XVIII. AMENDMENTS OF COVENANTS.**

This Declaration may not be altered, amended, modified, supplemented or terminated, in whole or in part, except in writing and as provided in this Article. This Declaration may be altered, amended, modified, supplemented or terminated, in whole or in part, from time to time with the approval of not less than two-thirds (2/3) of the Lot Owners, and, until the Declarant has sold all of the Lots, with the consent of the Declarant. The Owner of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until the Declarant has sold all of the Lots, it may make amendments or modifications to this Declaration without the consent of any other Lot Owners or other party. No such amendments or modifications of the Declaration shall be effective until the date the amendment or modification has been filed with the Recorder for Polk County, Iowa.

#### **XIX. PERIOD OF COVENANTS.**

This Declaration shall run with the land and shall be binding upon all Lots and Lot Owners for the maximum period allowed by law, subject to the right of the Lot Owners, or any of them, under Section 614.24 of the Iowa Code to file a verified claim in the office of the Polk County, Iowa Recorder to extend the effectiveness of this Declaration for successive periods of twenty-one (21) years each on or before the twenty-first (21) anniversary of the filing of this document and prior to the twenty-first (21) anniversary of the filing of the last filed verified claim.

#### **XX. ENFORCEMENT AND WAIVER.**

- A. In the event that any one or more of the foregoing Covenants, conditions or restrictions shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate, or nullify any of the Covenants, conditions and restrictions, and all portions of any particular covenant, condition or restriction, not so expressly held to be void, and the remaining Covenants, conditions and restrictions, or portions thereof, shall continue unimpaired and in full force and effect.
- B. The Development Shall also be subject to any and all regulations of the City of Ankeny, Iowa and any other governmental entities having jurisdiction, including, but not limited to, zoning ordinances, subdivision ordinances, building codes and other such regulations. Whenever there is a conflict between provisions of this Declaration, the Bylaws, and the ordinances, statues or regulations of the City, County, State, Federal or other applicable governmental entity having jurisdiction over the Development, that provision which is most restrictive shall be binding. However, and specifically, any restrictions within the Declaration that conflict with the Planned Unit Development requirements for Plat 4 are hereby superseded



by the Planned Unit Development requirements. In the event the Declaration includes provisions not addressed by the Planned Unit Development Requirements, The Declaration controls.

- C. This Declaration shall not be applicable to Lots, outLots, or other property dedicated to the City, and the City may allow appropriate public use on City-owned property within the Plat.

## **XXI. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION.**

### **A. Membership and Voting.**

Every Lot Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated and ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. Subject to provisions of Section B of this Article, the Lot Owners shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

### **B. Declarant as Sole Voting Member.**

The Declarant, its appointees, successors or assigns shall serve as the Board of Directors and shall be the sole voting member of the Association until such time as Declarant no longer owns an interest in any of the Lots or until such time as Declarant waives, in writing, its right to be the sole voting member. Upon Declarant terminating or waiving its right to be the sole voting member, Declarant shall elect the initial Board of Directors. Until such time as Declarant establishes a Board of Directors, all required submittals shall be made to the Declarant and Declarant shall have sole authority of approving or disapproving all required submittals and shall be given full authority established herewith. Each Lot Owner by acceptance of a deed to a Lot shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

### **C. Board of Directors.**

Once the Declarant establishes the Board of Directors, it shall consist of five (5) members initially appointed by Declarant, its appointees, successors or assigns. Subsequently, the voting Members shall elect a Board of Directors as prescribed by the Bylaws of the Association. The function of the Board shall be to interpret, apply and enforce this Declaration and to approve or disapprove all new construction, remodeling, modification, improvement or alteration on or to any residential Lot within the Plat. In addition, the Board of Directors shall carry out and manage the affairs of the Association and providing for the maintenance of the Common Elements.

D. Suspension of Voting Rights.

The Association shall suspend the voting rights of a member for any period during which any assessment hereunder against the member's Lot remains unpaid, and for a period not to exceed sixty (60) days for each and any infraction of this Declaration or the published rules and regulations of the Association.

E. Notice of Meetings of Members.

Unless the Articles of Incorporation or the Bylaws otherwise provide, written notice stating the place, day and hour of the meeting and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the member at his/her/its address as it appears on the records of the Association, with postage thereon prepaid.

F. Duration.

No dissolution of the Association shall occur without the prior approval and consent of the City of Ankeny, Iowa.

**XXII. COVENANT FOR MAINTENANCE ASSESSMENTS.**

A. Creation of the Lien and Personal Obligation of Assessments.

The Lot Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) annual assessments or other charges,
- (2) special assessments for capital improvements, operating deficits, or Stormwater Facility Easement costs or obligations, all as to be established and collected as hereinafter provided.

The annual and special assessments or other charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment shall also be the joint and several personal obligation of each person who was the Lot Owner of such Lot at the time when the assessment became due.

B. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Lots, for the improvement and maintenance of the Common Elements, and for carrying out the business of the Association as well as other purposes specifically provided herein. More specifically, the Association shall be responsible for maintaining the sidewalks and landscaping (including regular snow removal and lawn maintenance to the extent they constitute Common Elements), and any maintenance of the Common Elements and facilities the Association is tasked with maintaining, together with any other real estate or improvements the Declarant or Association may own or manage, from time to time: this may include, without limitation, that certain Stormwater Management Facility Maintenance Covenant and Permanent Easement Agreement (“Stormwater Facility Easement”) filed January 15, 2018, at Book 16792, Page 808, and affecting Trestle Ridge Estates, Plat 1.

C. Assessments.

The Assessment shall be One Hundred Twenty Dollars (\$120) per year per Lot, payable in full on or before January 10<sup>th</sup> of each year. Thereafter, the assessment, and the frequency of installment payments, may be adjusted on an annual basis by the board of directors and as specified in the Bylaws. The association and Declarant are not required to submit statements for assessments to any Lot Owner. All annual assessment payments shall be paid in advance on or before January 10<sup>th</sup> of each year without any further notice other than this Declaration. Limited by:

- (1) A portion of such annual assessments may be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Elements and any capitol improvements that the Association is required to maintain.
- (2) At the initial closing of a Lot purchased from Declarant, either by transfer of title or in event of aa contract sale, the prorated annual assessment shall be due from the Purchaser. Prorations shall occur on a full-month basis, i.e. a full month’s assessment is due for any month in which the Purchaser has owned the property for any one day in that month.
- (3) Declarant shall not be liable for annual or special assessments upon Lots owned by it. Declarant is not responsible for thee establishment of a budget as long as Declarant is the sole voting member of the Association.

D. Assessments for Insurance.

The Association shall purchase a master comprehensive liability insurance policy in such amounts as the Declarant or Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Declarant, Association, its Board of Directors, any committee or organization of the Association, its agents or employees, the Lot Owners, and all other persons entitled to occupy any Lot.

E. Special Assessments for Capital Improvements and Operating Deficits.

In addition to the annual assessment authorized above, the Association may levy a special assessment for the purpose of defraying in whole or part, the cost of any construction, reconstruction, repair or replacement or a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the members who are voting in person or by proxy at a meeting called for this purpose.

F. Uniform Rate of Assessment.

Both the annual and special assessments must be fixed at a uniform rate for all Lots.

G. Effect of Nonpayment of Annual and Special Assessments or Other Charges: Remedies of the Association.

Any assessment or other charges not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Lot Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment or other charges all cost and expenses incurred by the Association in collecting said assessments or other charges, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of the Lot Owner's Lot.

H. Subordination of Assessment Liens.

The lien of the assessments provided herein shall be subordinate to the lien of any Purchase Money Mortgage (as defined in §654.12B).

IN WITNESS WHEREOF, this Declaration of Residential Covenants, Conditions and Restrictions, was made the date first written above by the Declarant.

Dated: \_\_\_\_\_, 2021.

**ABSOLUTE FARMS, L.L.C.**  
**An Iowa Limited Liability Company**

By: \_\_\_\_\_  
Rick Pearson, CFO

STATE OF IOWA    )  
                                  ) ss:  
COUNTY OF POLK )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
by Rick Pearson, CFO of Absolute Farms, L.L.C.

\_\_\_\_\_  
Notary Public in and for the State of Iowa